

JANUARY 23, 2001

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 36, 49, 54, 68, 101, 124, 138, 173, 177
194, 197, 198, 222, 496, 563
LR 15

SPEAKER KRISTENSEN PRESIDING

SPEAKER KRISTENSEN: Good morning and welcome to the George W. Norris Legislative Chamber. This morning our chaplain for the day is Father Tom Ryan, from St. Mary's Cathedral in Grand Island, which is Senator Aguilar's district. Father.

FATHER RYAN: (Prayer offered.)

SPEAKER KRISTENSEN: I call the fourteenth day of the Nebraska Unicameral Legislature to order. Members, please record your presence. Roll call.

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

SPEAKER KRISTENSEN: Thank you, Mr. Clerk. Any corrections?

CLERK: I have no corrections, Mr. President.

SPEAKER KRISTENSEN: Any reports, messages or announcements?

CLERK: Mr. President, your Committee on Enrollment and Review reports LB 177, LB 222, LB 49, LB 54, LB 68, LB 138, LB 36, LB 194, LB 197, and LB 198 to Select File, some of those bills having Enrollment and Review amendments. Mr. President, the Revenue Committee reports LB 124 to General File; and LB 173 to General File. Senator Robak has selected LB 563 as her priority bill for this session. Mr. President, a hearing notice from the Education Committee signed by Senator Raikes. I have a motion from Senator Tyson to be printed (re LB 496). And finally, Mr. President, LR 15 is ready for your signature. (Legislative Journal pages 371-374.)

SPEAKER KRISTENSEN: While the Legislature is in session, I propose to sign and do hereby sign LR 15. We next move to General File. Mr. Clerk, LB 101.

CLERK: Mr. President, LB 101, a bill by Senator Hartnett. (Read title.) The bill was introduced on January 4 of this year, referred to the Urban Affairs Committee, advanced to General File. I do have committee amendments, Mr. President.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 101

(AM0017, Legislative Journal page 353.)

SPEAKER KRISTENSEN: Senator Hartnett, you're recognized to open on LB 101.

SENATOR HARTNETT: Mr. Speaker, members of the body, I'm here to introduce LB 101. This bill deals with the Metropolitan Utility District. There's only one MUD, it's...it serves the Omaha metropolitan area with water and natural gas, with an operating revenue of \$162 million. Essentially, this bill does what we did for the directors of OPPD and NPPD when we adopted LB 901, last year. The salary changes proposed in this bill are identical to those authorized for OPPD and NPPD in LB 901; and you see, from the chart that I passed out. The reason that we...pass...I want to call that to your attention, before...prior to LB 901, OPPD and NPPD directors had a salary of \$800, the same thing as MUD directors. And one...the electrical utility compensation is on an annual basis, and they had an annual salary of \$9,600, and MUD directors had a \$9,600. Last year, when we passed LB 901, we raised the monthly salary to \$11,120 (sic), and the annual salary of \$13,440. We do the same thing with this bill. We raise the MUD directors' salaries to an annual salary of \$13,440. The salary changes represents the only...the sixth increase in salary limit since 1913, when MUD was created, and the first since 1989. Historically, the ceiling has been adjusted periodically to take inflation into account. The United States Department of Labor calculations shows that in 19...since 1989, wages and salaries in private industry in the Midwest have gone up 48.6 percent. The proposed change in this bill is for an increase of 40 percent...the permanent salary lid. Salary is not automatic. The board would have to vote to raise the current salary of its members, and the change cannot take effect until the next election after November 2002. The bill would authorize the director to participate in the health and dental insurance plan offered to district employees, authorizing the district to make expenditure for this participation without counting the resulting costs against the salary cap. Finally, the bill would declare the obsolete provision requiring service district directors to post a \$5,000 bond.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 101

SPEAKER KRISTENSEN: Are you finished with your opening, Senator Hartnett? Thank you. There are committee amendments. Senator Hartnett, you're recognized to open on the committee amendments.

SENATOR HARTNETT: What the committee amendment does is strikes the new subsection (3) dealing with the authority of MUD directors to participate in the medical and the dental program offered to regular employees. The committee was concerned about the possible constitutional problem with this section. This section provides that the board may use district funds to finance the cost of insurance. It also states the dollar amount of an insurance premium paid for the benefit of the board members may be in addition the amount of compensation authorized under the salary cap (sic--cap). Currently, the MUD allows the directors to pay the full cost of participating in their health insurance program, and the cost of that insurance is subtracted from the compensation paid for the director. An example would be if one member took the insurance and the policy was \$200, they would get the salary...annual salary...monthly salary is \$800, they would get a salary of \$600, and another member did not participate, they would get the full \$800. The committee believed that the proposed new subsection and application could result in a different level of compensation between those board members who did not...who did and did not take advantage of the insurance option. More importantly, annual adjustment in insurance premium costs might result in an increase or decrease in compensation during the term of office of a sitting board member. This might be considered a violation of Article III, Section 19 of the state Constitution. The constitution provisions state that compensations of any public official shall not be exercised...increased or lowered during the term of office. Because health insurance generally involves annual adjustment in premium costs as well for benefit changes, there is the potential for constitutional problems when the cost of insurance is taken outside the general compensation cap. Be glad to answer any questions.

SPEAKER KRISTENSEN: You've heard the opening on the committee amendments. Now debate on the committee amendments. Senator Connealy.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 101

SENATOR CONNEALY: Thank you, Mr. Speaker. I want to explain my vote in committee on the committee amendments. I don't necessarily disagree with the outcome of the committee amendments not offering the board insurance, if that's what we do...we want or if the board agrees with that. But I do disagree with the premise that this is unconstitutional. I think if you take this to a logical end, it could call into question a lot of insurance that we apply to elected officials all across the state from...and also to judges. And I don't think that that's good policy, and I don't think that it's unconstitutional as we look at compensation. This is normally taken as a benefit and not regarded in the same way as we regard compensation under the Constitution. Thank you.

SPEAKER KRISTENSEN: Senator Bourne.

SENATOR BOURNE: Thank you, Mr. President and members. Senator Hartnett, could I ask you a couple questions?

SPEAKER KRISTENSEN: Senator Hartnett, would you respond?

SENATOR HARTNETT: Yes.

SENATOR BOURNE: Reading the committee statement, and it indicated that this bill is similar to LB 901, which was passed last year that had a provision for the board to let their members have or participate in the insurance program? Is that correct?

SENATOR HARTNETT: Yes, that's correct.

SENATOR BOURNE: So, we did that for the public power districts, but then we discovered that this possibly could be...or is someone suggesting that this is unconstitutional, if we allow members of an elected board to have insurance benefits or participate in the insurance plan?

SENATOR HARTNETT: That's our belief, yes.

SENATOR BOURNE: And that's based on...

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 101

SENATOR HARTNETT: Ah, Article III of Section 19 of the Constitution, Senator Bourne.

SENATOR BOURNE: You know, I was reading the committee statement this morning, and then I kind of looked at Section 19, Article III, Section 19, and it seems there's a clear exception in that provision when it says, "the compensation of any public officer", et cetera, "shall not be increased except members elected or appointed to the Legislature or the judiciary, or officers elected or appointed to a board having more than one member". So, it seems to me that there's a clear exception in Section 19 that would allow for this kind of thing that you're talking about. I guess, my point is that I don't think it should be the policy of this state to deny anyone access to insurance benefits. There's nothing in this bill that says that the board must provide these benefits to the board members, it just simply offers the board the option to allow the board members to participate in this plan. These are elected officials. I would assume that if they did this and it was contrary to public opinion, then they would be voted out of office. There is accountability here. My thought is that we should allow the raise, because it's not a mandatory raise either. The board has to vote on this. So, personally, I'm going to support the bill, which gives them the flexibility to award additional income. I'm not going to support the committee amendments because I think it should be the policy of this state to allow everybody to have access to insurance. We shouldn't deny that to anyone. Thank you.

SENATOR HARTNETT: You want me to answer (laugh)?

SPEAKER KRISTENSEN: Senator Hartnett.

SENATOR HARTNETT: Senator Bourne, they do have the right to take insur...they do right now, the members do.

SENATOR BOURNE: Right.

SENATOR HARTNETT: It's...it's...it's within the compensation cap.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 101

SENATOR BOURNE: So,...

SENATOR HARTNETT: And that's where we put it back again, as the...is the present practice.

SENATOR BOURNE: So, as I understand it though, this bill mirrored LB 901 in which we allowed the public power districts to participate in the insurance plan and not consider that as income.

SENATOR HARTNETT: That's correct, yeah.

SENATOR BOURNE: So, basically, what we're saying is if we leave this provision in the bill that these people could participate in the insurance plan as if they were an employee of the utility district.

SENATOR HARTNETT: Under the...under the salary cap, yes.

SENATOR BOURNE: I see.

SENATOR HARTNETT: Yeah.

SENATOR BOURNE: So, if this...if the provision remains and if the committee amendments are not adopted, then the people can participate, the directors can participate in the plan, and it won't be considered income.

SENATOR HARTNETT: Yeah, that's correct, yes.

SENATOR BOURNE: Okay.

SENATOR HARTNETT: Yeah.

SENATOR BOURNE: And again, I don't see how that conflicts with the constitution. Because, if you read Section 19, there's a clear exception for officers elected or appointed to a board or commission having more than one member. So, it seems to me that the policy of this state should be that anyone should be able to get insurance, and we should do everything we can to encourage people to obtain insurance. Thank you.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 101

SPEAKER KRISTENSEN: Senator Hartnett, you're next.

SENATOR HARTNETT: I think what we did, I think, is good public policy, I think, as far as the MUD board is concerned. I think that that...I think it's a fair policy to keep it in. I think there are still constitutional questions, and I think that it has never been raised in court, Senator Bromm. So I simply ask for the support of the committee amendments and the bill.

SPEAKER KRISTENSEN: Senator Redfield.

SENATOR REDFIELD: Thank you, Mr. Speaker. Members of the body, I would like to bring to your attention that I was the author of the amendment in the committee. And the reason that I brought that amendment was the fact that in current practice two of the board members on the MUD board are currently using the insurance policy. The other members of the board have insurance through other providers. With this provision allowing them to pay at the employee rate in fact rather than the full compensation, as we do here as legislators, if we want insurance, we have the access, but we have to pay 100 percent of the premium. In allowing them to pay the employee rate in fact what we would be doing is compensating two of those board members at a different rate than the other board members. And I felt that that would be a compensation issue of equality, which I didn't support as a committee member. And that's what I want to bring to your attention, that this is not a matter of access. All of the board members currently have access to insurance, all of them would continue to have access to insurance. The difference would be whether some board members would in fact have extra compensation in the form of an insurance premium paid by the company as opposed to paid by themselves. So we would have an unequal distribution of benefits there amongst the board members. I support the committee amendment, I hope that the rest of the body does because I believe that, if we're going to move forward with the bill, it's absolutely essential that we look at the equality of the compensation issue. However, I will tell you that I did not support the bill out of committee in its entirety because, as we look at the cost of natural gas rates right now, I don't believe that I could put an added burden on

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 101

the payers of those rates in the Omaha area and ask them to increase compensation to the board members. Right now they are currently compensated at \$800 a month; they attend two meetings. They do some outside research, just as you and I do, but I think that \$800 is enough compensation for two meetings a month in a day and age when people are suffering to pay the increase in their natural gas rates. Thank you.

SPEAKER KRISTENSEN: Senator Schrock.

SENATOR SCHROCK: Mr. Speaker, members of the Legislature, I am going to oppose the committee amendments. I carried LB 901 last year, and we did that discussion on benefits. I came to the conclusion, on the question of whether we should offer benefits or not, that we should be consistent. Now, if these people who are elected to public office, we entrust them to handle these duties for us, we pay them a salary and we offer them benefits. Now, what can we compare this to? Go look at your county board. Most county boards, if not all of them, offer benefits. Are these people any different than our county boards? I know that two years ago, or three years ago, Senator Shelley Kiel carried a bill that would have done away with benefits for county board members. And that bill did not get out of committee. I was one of them that cosigned onto it and got all my county board members mad at me. But let's look at the fairness issue here. If you're going to do benefits for county board members, do benefits for other publicly elected officials who serve on these boards. If you're going to do away with benefits, do away with benefits for all of them, but let's be consistent. And I think, if we're going to be consistent, we should oppose the committee amendment and advance the bill, and that's the way I'm going to vote.

SPEAKER KRISTENSEN: Senator Schrock, are you...thank you. Further debate? Senator Hartnett, you're recognized to close on the committee amendments.

SENATOR HARTNETT: Mr. Speaker, members of the body, simply, we're not really talking about insurance at all. They have the right to purchase insurance. And what we're simply saying, with the committee amendments, insurance has to be under the salary

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 101

cap, not outside the salary cap. And we think that there is some constitutional problem with doing it, except...except...I think the exception that Senator Bourne talked about was during the election cycle, not the exception for compensation. So, I simply ask you to support the committee amendment because it does state that they do have the right for insurance. Thank you.

SPEAKER KRISTENSEN: You've heard the closing. The question before the body is the adoption of the committee amendments. All those in favor vote aye; all those opposed vote nay. Have you all voted? Senator Hartnett, for what purpose do you rise?

SENATOR HARTNETT: I don't...I think we'll just accept the vote as it is. (Laugh) I didn't count.

SPEAKER KRISTENSEN: Have you all voted who care to? Please record.

CLERK: 17 ayes, 23 nays on the committee amendments.

SPEAKER KRISTENSEN: The committee amendments are not adopted.

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

SPEAKER KRISTENSEN: We're now debating advancement. Senator Hartnett.

SENATOR HARTNETT: I simply would ask for the advancement of the bill. I simply voted for the committee amendments in committee. I think it's a good public policy and I would simply ask you to support the bill as it is and try to look at the issue a little deeper as we go along.

SPEAKER KRISTENSEN: Senator Chambers.

SENATOR CHAMBERS: Mr. Speaker and members of the Legislature, I would like to have Senator Hartnett improve my education on this issue, if he will.

SPEAKER KRISTENSEN: Senator Hartnett, would you respond?

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 101

SENATOR HARTNETT: Yes, try to.

SENATOR CHAMBERS: Senator Hartnett, what is the term of office for each one of these individuals?

SENATOR HARTNETT: Four years.

SENATOR CHAMBERS: Do you know how many times they meet per month, or whatever the regularity of their meetings would be?

SENATOR HARTNETT: I think, at least probably twice a month, Senator Chambers.

SENATOR CHAMBERS: Do they meet any more than twice a month, ordinarily?

SENATOR HARTNETT: Probably...they probably have committee meetings that meet more than twice a month.

SENATOR CHAMBERS: So, how many committee meetings do you think they might have?

SENATOR HARTNETT: Oh, I...probably four or five. I really don't know, Senator Chambers.

SENATOR CHAMBERS: So, if they had say four committee meetings and two general meetings, that would be six meetings a month.

SENATOR HARTNETT: That's correct.

SENATOR CHAMBERS: And they would carry this on for a 12-month period.

SENATOR HARTNETT: Correct.

SENATOR CHAMBERS: So that would be 72 meetings a year.

SENATOR HARTNETT: Um-hum.

SENATOR CHAMBERS: How much will their yearly salary be, if

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 101

LB 101 is enacted into law?

SENATOR HARTNETT: Their yearly salary or their monthly salary?

SENATOR CHAMBERS: Yearly, was it \$13,000 something?

SENATOR HARTNETT: Fourteen...fourteen, \$13,440.

SENATOR CHAMBERS: Thirteen thousand (mumbling).

SENATOR HARTNETT: Thirteen thousand four hundred and forty dollars, Senator Chambers. (Laugh)

SENATOR CHAMBERS: Oh, okay. I just like to accurately quote people when I'm going to quote them. So, how much is the salary for a member of the Legislature, Senator Hartnett?

SENATOR HARTNETT: I believe it's \$12,000, unless we have changed this since last year.

SENATOR CHAMBERS: Which is...which is less than that of what one of these directors will receive.

SENATOR HARTNETT: That's correct.

SENATOR CHAMBERS: Is that correct?

SENATOR HARTNETT: Yeah.

SENATOR CHAMBERS: What is the budget of MUD, if you know?

SENATOR HARTNETT: They have a...

SENATOR CHAMBERS: Does it...

SENATOR HARTNETT: ...operating revenue...they have an operating revenue, Senator Chambers, of \$162 million.

SENATOR CHAMBERS: A hundred and sixty-three million dollars?

SENATOR HARTNETT: Yeah, \$162 million, excuse me.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 101

SENATOR CHAMBERS: A hundred and sixty-two...do you, offhand, have a rough estimate of what the budget is that the Legislature deals with?

SENATOR HARTNETT: I don't.

SENATOR CHAMBERS: Is it more than \$163 million?

SENATOR HARTNETT: Yes. (Laugh)

SENATOR CHAMBERS: More than \$500 million?

SENATOR HARTNETT: Five million, yeah.

SENATOR CHAMBERS: Could it be a billion dollars?

SENATOR HARTNETT: Could be, um-hum.

SENATOR CHAMBERS: Senator Hartnett, members of the Legislature have more committee meetings to attend than those directors. Is that true?

SENATOR HARTNETT: During our period of time that we're in the...you know, in session, Senator Chambers.

SENATOR CHAMBERS: And if you added that to that the number of days, then we certainly have more times when we are in operation than those directors. Is that true?

SENATOR HARTNETT: Possibly.

SENATOR CHAMBERS: And we deal with a larger budget than they deal with. Is that true?

SENATOR HARTNETT: Yes, that's true.

SENATOR CHAMBERS: Does our jurisdiction cover more geographic territory and more individuals than the jurisdiction of MUD?

SENATOR HARTNETT: Yes, it does, Senator Chambers.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 101

SENATOR CHAMBERS: Is a measure of the value that this society places on its public servants determined, to some extent, by the compensation those servants receive?

SENATOR HARTNETT: I think so.

SENATOR CHAMBERS: So, if we go by what this bill will do and arrive at a final result, it will mean that the commissioners, I meant the directors on the MUD board are worth about \$1,300 a year more than a member of the Legislature. Is that correct?

SENATOR HARTNETT: That's correct.

SENATOR CHAMBERS: If you had the power to suggest legislation that did not require it to take the form of a constitutional amendment submitted to the public, would you offer or support legislation that would increase the salary of members of the Legislature?

SENATOR HARTNETT: Yes, I would, Senator Chambers.

SPEAKER KRISTENSEN: One minute.

SENATOR CHAMBERS: Senator Hartnett, you get an A for our catechism this morning. (Laughter)

SENATOR HARTNETT: Thank you.

SPEAKER KRISTENSEN: Further debate on advancement? Senator Hartnett, you're recognized to close on the advancement of the bill.

SENATOR HARTNETT: Simply, what this does it simply keeps the MUD board of directors' salary in line with what we had done last year, with LB 901, with OPPD and NPPD. And I simply would ask you to advance the bill.

SPEAKER KRISTENSEN: You've heard the closing. The question before the body is the advancement of LB 101. All those in favor vote aye; all those opposed vote nay. Have you all voted?

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 101, 122

Please record.

CLERK: 33 ayes, 4 nays, Mr. President, on the advancement of LB 101.

SPEAKER KRISTENSEN: LB 101 advances. (Doctor of the day introduced.) We next move to LB 122, Mr. Clerk.

CLERK: LB 122, a bill by Senator Wickersham. (Read title.) The bill was introduced on January 4, referred to Revenue, advanced to General File. I have no amendments to the bill.

SPEAKER KRISTENSEN: Senator Wickersham, you're recognized to open on the bill.

SENATOR WICKERSHAM: Thank you, Mr. Speaker. Members, this is an annual bill that we bring to you to update references, in Nebraska's statutes, to the Internal Revenue Code adopted by the federal government. We can't have an automatic adjustment of the references in our state statutes to incorporate any changes that might have occurred in the underlying sections of the federal Internal Revenue Code, due to a delegation of powers issue that is constitutional for the state of Nebraska. So we're required to, on an annual basis, update those references in a fashion that incorporates the most recent enactments of the federal government concerning the Internal Revenue Code. That's what this bill does and I would ask your indulgence and support in advancing it this year again.

SPEAKER KRISTENSEN: Debate on the bill? Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, this is not exactly in the nature of debate but for elaboration. And I would like to ask Senator...well, I shouldn't call him the wizard this early in the session because he hasn't demonstrated those capabilities yet. Senator Wickersham, would you respond to a question or two?

SENATOR WICKERSHAM: Certainly.

SENATOR CHAMBERS: Senator Wickersham, you correctly pointed out

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 122

that we cannot, as the Legislature, unconstitutionally delegate to any other body, agency or individual our power to legislate. If references are going to be made to a federal statute, even if it's other than the IRS Code, is it necessary that this type of specific established...this establishment of a specific point at which we are making that adoption would have to be utilized?

SENATOR WICKERSHAM: Yes, if there are changes in the underlying text of the federal section that's being referenced, we don't automatically incorporate the changes into our law without this kind of a process.

SENATOR CHAMBERS: And if...what would happen if there were just a statement in a statute, forgetting what the subject would be, referenced to some existing federal law, and the statute would say words to the effect as contained in Chapter 28 of the federal statutes. Would that by itself stand, or would it be necessary to use language similar to what you're using here, that particular provision of the federal statute as of the effective date of the Nebraska statute?

SENATOR WICKERSHAM: Senator, I think the answer to your question is, yes, because we would have at that time passed a piece of state law that incorporated the provisions of federal law as it existed at that time.

SENATOR CHAMBERS: Thank you. And that's all that I have. Mr...but, I want to make another comment of mine; that's all that I have of Senator Wickersham. I would like to suggest that my colleagues on the...on various committees review some of the bills that come before us that make numerous references and incorporations, references to and incorporations of federal statutes without designating a point at which that statute is to apply. There often are references just to the section, the chapter, even the name of a particular federal act, but it does not say as of the date of this...the effective date of this statute that is proposed, or as of a certain date as that federal statute existed. In other words, what we accept by incorporation must be that which exists at the time we incorporate, because our power to legislate can do that. But if it's open-ended and we draft the statute in such a way that our

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 122, 169

mere reference to that federal law would suggest that when that law at the federal level is changed by Congress, then the Nebraska law changes along with it,...

SPEAKER KRISTENSEN: One minute.

SENATOR CHAMBERS: ...that cannot stand. So, care should be taken. Committee counsels should note these references and be sure that language, if not exactly the same as what Senator Wickersham is offering, very similar to that and which accomplishes that purpose. Maybe some members of the Business and Labor Committee might like to look at a bill or two and just see if we might have a bit of additional work to do. Maybe we don't, but, since we're unsure, it won't hurt us to look. Thank you, Mr. Speaker.

SPEAKER KRISTENSEN: Further debate on the advancement of the bill? Senator Wickersham, you're recognized to close on LB 122. He waives closing. The question before the body is the advancement of LB 122 to E & R Initial. All those in favor vote aye; all those opposed vote nay. Please record.

CLERK: 34 ayes, 0 nays, Mr. President, on the advancement of LB 122.

SPEAKER KRISTENSEN: LB 122 advances. We next move to LB 169, Mr. Clerk.

CLERK: LB 169, introduced by the Revenue Committee and signed by its members. (Read title.) The bill was introduced on January 4, referred to the Revenue Committee, advanced to General File. I have no amendments at this time to the bill, Mr. President.

SPEAKER KRISTENSEN: The Chair of the Revenue Committee, Senator Wickersham, you're recognized to open on the bill.

SENATOR WICKERSHAM: Mr. Speaker, (cough) excuse me. This is a bill that was introduced by the Revenue Committee as a result of suggestions from the Department of Revenue for various changes in our tax structure. The one that is perhaps the most

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 169

interesting, although the others have points of interest, it's an entirely new section that creates the option, and I want to emphasize that it creates the option, the option for certain sales taxpaying purchasers to enter into agreements with the Department of Revenue for a kind of streamlined audit process, or really, if you will, an avoidance of an audit process as they pay sales tax. Now if it sounds unusual to you to hear that some people pay sales tax directly to the Department of Revenue and that they get audited on their purchasers...purchases, that is strange, and that is different than the experience that you and I usually have, at least the level of purchases that I've become accustomed to since being in the Legislature. Because you and I pay the sales tax to the seller and the seller pays the sales tax to the Department of Revenue. But there are certain purchasers, those who purchase over \$3 million in goods or services that are subject to sales tax that can pay their sales tax directly to the Department of Revenue. Now if you pay your sales tax directly to the Department of Revenue rather than a seller, then obviously we have to have an audit process for those sales. We audit sellers to determine if they've collected sales tax, we have to audit these special classes of purchasers who acquire more than \$3 million worth of goods or services subject to sales tax in a given year, we have to audit what they have purchased and make sure that they have remitted the proper amount of sales tax. Those audits are difficult both for the Department of Revenue and they are difficult for the persons, for the entities, typically, that qualify for that direct payment treatment. What is proposed in this bill is to give those purchasers an option. This isn't something that the Department of Revenue can impose on them, this is an option. And if they exercise the option, then the Department of Revenue will enter into an agreement with them that is based on a statistical analysis of their purchases and the level at which they're purchasing, and that will allow them to determine their sales tax liabilities based on that kind of a process. Now it won't be a process where we get down to the last nickel or the last penny that somebody owes us. They might pay us too much and they might pay us too little based on this analysis. But either way it's probably going to be beneficial to the state and it's going to be beneficial to the persons who participate, because we will have a far less expensive process to undergo in

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 169

their auditing, they will have a far less burdensome process from their standpoint and there should be a net gain to all of us, even if we haven't gotten down to the last penny or the last nickel to satisfy a more exacting audit. So this is a...this is a proposal that would kind of let us, if you will, fuzz the audit procedure a little bit to save everybody time and money and still get to a result that is fair within the boundaries of the amount that the companies or these very large purchasers would typically owe. And again, I will emphasize that it is an option, it is not something we're going to require them to do. If they want to go through the full-blown audit, if they want to go to the trouble of proving down to the last penny, nickel, dime what they owe, fine, we'll do that. But this gives them an option to do something else. The other change in the bill, and this one generates a revenue loss, at least as estimated in the fiscal note. This is a change to what most people would consider to be the...or two changes, really, to LB 270 credits; LB 270 was an economic development act adopted in the late eighties, along with the more famous perhaps LB 775. These things have names, by the way, other than just these bill numbers. But don't ask me to recite the names, I never can remember the names. You probably wouldn't either after I gave them to you. So they're always referenced by the bill numbers. But the bill numbers, LB 270 was the small business one, this affects the small business one as it applied in Enterprise Zones, and in respect to the minimum employment that is required under that act. With regard to Enterprise Zones we've, in the past, had to keep track of whether an employee lived within the district or didn't live within the district. That has been burdensome to keep track of the provisions that would do that. Particularly when you have an employee that gets replaced. You have somebody that was originally living in the district, they cease employment, then the requirement that you reemploy the...employ a new person who also resides in the district is a bit complicated, those provisions are removed. There is also the possibility for fluctuation in the level of employment under the LB 270 credits. Those requirements of tracking worked to the disadvantage of the employers, and those are changed so that you can still maintain the credit. You have to maintain the minimum increases in level of employment over a period of time rather than from day-to-day. Those are the changes as best I

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 169

can suggest them to you. If you have any questions, I'll be happy to try to respond.

SPEAKER KRISTENSEN: Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, I want to help Senator Wickersham and my colleagues with the names of these bills, because there is a general name that fits all of them--the plundering the treasury and gouging the individual taxpayer bills. Members of the Legislature, and this does not go directly to what Senator Wickersham's bill is talking about. I'll probably support it, maybe I won't. I read in the newspaper where Union Pacific, the largest railroad in the world, they did a merger, a blending, a bleeding together or whatever term you want to use to suggest what they did that made them the giant, the unmanageable, inefficiently operated giant that they are, is wielding a club over the head of the Legislature saying that if the Legislature will knuckle under one more time, crawl on its knees, and Union Pacific will provide custom made kneepads for each senator to provide the maximum in comfort. And for those who don't just crawl on their knees but believe in creeping and will put their hands down, they will provide palm and finger protection also so that the creeping can be done on all fours. If the Legislature knuckles under, they will bring 500 jobs to Nebraska, they will construct a huge building in downtown Omaha. To show how little respect they have for the members of the Legislature and the public in Nebraska, they make those kind of statements. If a corporation as large as Union Pacific is thinking about making a change and constructing a building, they either are going to construct that building or they are not. These big shots concerned about investors, competitors, federal regulations and the multitude of other things that they are required to look at are not going to sit down at one of their skull sessions and say, now, we're going to put all of our plans on hold contingent upon what the Nebraska Legislature does in giving us a few million dollars that their other taxpayers will have to make up. If it is in the plan of Union Pacific to construct that building, that plan will not be put together after the Legislature knuckles under and promises to give them tax incentives. That building is in the plans and they are going to construct it. Somebody with the

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 169

Omaha Chamber of Commerce, if they didn't think of it themselves, told UP representatives that you can do what you want to do and get those chuckleheads down in the Legislature to help fund it for you. Look what they're doing for the arena? Look what they did for FDR, not Franklin Delano Roosevelt, and FDR stuck it to the people in Omaha. There is a packing plant in Omaha which was raided by the INS and has been found to be...which has been found to have been doing unlawful things, and they got some benefits illegally that had to be rescinded. You all don't follow these things, but I do, because I'm concerned about the public being gouged and cheated by these corporations. If the Union Pacific has 500 jobs they're going to transfer to Omaha, does that mean they're going to bring 500 people from St. Louis? Or does it mean that they're simply going to leave St. Louis in the lurch as they will Omaha when it meets their purposes and they're going to bring 500 slots, which will be filled by 500...

SPEAKER KRISTENSEN: One minute.

SENATOR CHAMBERS: ...people in Omaha or Nebraska? You all don't care about those things. You're bedazzled, you're intimidated and you're frightened. But what I want Union Pacific and all those other people to know, there's going to be at least one person who will stand in front of the train, who will fight them and I intend to fight them tooth and nail and I will use every tactic at my disposal; they are using theirs. The World-Herald will come out with their editorials in favor of it. The water carriers will begin to surface. Either Union Pacific's plans call for a building to be constructed in Omaha or they don't, and I believe their plans do. And this talking about getting the tax incentives from the Legislature...

SPEAKER KRISTENSEN: Time.

SENATOR CHAMBERS: ...came as an afterthought.

SPEAKER KRISTENSEN: Senator Chambers, you can continue.

SENATOR CHAMBERS: I'm not going to talk Senator Wickersham's bill to death, but every time I get an opportunity on these

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 169

subjects and the discussion is germane that I will bring forth, I'm going to do it. And germaneness, as beauty, is in the mind of the beholder. Some people will try to intrude in the activities of the Legislature and will be more successful than others. If you have rag-tag, bobtail ordinary citizens coming down here, they may get short shrift and they may not, depending on the whim of the legislator or the Legislature, depending on the point of contact for that ragtag and bobtail group of ordinary, garden variety citizens whose interests we are supposed to be representing. But you let Union Pacific speak, you let Micron speak, and what's that company that had Nebraska jumping when LB 775, the granddaddy of the gouging bills, was before us? ConAgra, and the first part of their name tells you what they are--con, c-o-n. What does con mean? If a con person approaches you, that means you have a trickster, you have a schemer, you have a wily seeker after tax incentives from a Legislature which will roll over. If taxes are to be paid and a certain amount of tax revenue is needed to operate a government and carry out its necessary functions, if A, B, C, and on through the alphabet are to pay taxes, but somehow A, J, and K are able to be removed from the obligation of paying taxes, their removal does not diminish the amount of tax revenue that's needed, it simply means that somebody else is going to pay more because A, J and that other one are going to pay none. So, while we're talking this session about fairness and being concerned about the public and our constituents, we need to apply that concern when the big shots, when the deep pockets come down here and shake a fist, rattle the cage and jerk the chains of our colleagues who are at the other end of those chains. Not all of us are subject to that kind of threatening and intimidation. So I want Union Pacific to know that, although I'm but one out of forty-nine, they're going to have a struggle getting what they want. But do you think Union Pacific cares? No, because Union Pacific is not going to be down here struggling. Not one of the people who is on their payroll, as far as I know, is a member of the Legislature; so they'll be standing outside the glass, sending in messages, making phone calls and giving directives to people on this floor. The members of the Legislature are the ones who are going to labor through that battle and other battles that may turn out to be related to it. We have, what we have been told in the

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 168, 169

newspapers, are important issues, and some of those may suffer if we don't budget and manage our time and resources wisely. That's all that I have to say on that subject this morning.

SPEAKER KRISTENSEN: (Visitors introduced.) Further debate on the advancement of LB 169? Seeing none, Senator Wickersham, you're recognized to close. He waives closing. The question before the body is the advancement of LB 169 to E & R Initial. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record.

CLERK: 36 ayes, 0 nays, Mr. President, on the advancement of LB 169.

SPEAKER KRISTENSEN: LB 169 advances. LB 168, Mr. Clerk.

CLERK: LB 168, introduced by the Revenue Committee, Mr. President. (Read title.) The bill was introduced on January 4, referred to the Revenue Committee, advanced to General File. I do have committee amendments, Mr. President. (AM0024, Legislative Journal page 353.)

SPEAKER KRISTENSEN: Chair of the Revenue Committee, Senator Wickersham, you're recognized to open on LB 168.

SENATOR WICKERSHAM: Mr. Speaker, members, this is a bill that was brought to the Revenue Committee based on suggestions by division of the Department of Revenue for the Collection of Motor Fuels Taxes. I hope that they find favor. They are going to, in part, eliminate a current permit process which seems to have caused difficulty for various persons who purchase fuel that is not subject to the tax. If you are aware of it, at the moment, you're required to file an application for an exempt purchasing permit. That costs you \$10. If you do not have your permit, you're not allowed to claim on your income tax return the credit for the tax that you would have paid on those exempt purchases. We have come to the point where we can eliminate the requirement that you file the permit application and simply provide the information that we would normally ask in support of the permit on your income tax return when you claim the credit. So we are able, at this point, without jeopardizing either the

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 168

states revenues or the ability of persons who are eligible for a credit, to claim the credit. We're going to actually eliminate a permit, and we're going to eliminate a \$10 fee, both of which have proven over time to be somewhat troublesome to people. I might also note that the credit program has become less important over time, probably due in a large part to the conversion of many agricultural uses to diesel fuel rather than to gasoline. But at any rate, we're able to limit that permit and fee. I think that is something that we should do if we're able to do. We, as I noted, what you would do is basically provide the information that you need to claim the credit on your tax return and that is, I think, enough. There are various changes in the bill that are largely technical concerning reporting periods and the date that you file and pay the tax. We have developed electronic means to pay the tax and make the filings. That has improved our system. We're able to make some changes in that regard. All in all, it will work to the advantage of persons...to our constituents, and persons who have to pay in the gas tax or have wanted, in the past, to claim the gas tax credit on their income tax returns. There will be a fiscal note, or there will be an A bill that accompanies this, but I think that will turn out to be favorable. With that, Mr. Speaker, if there are questions, I'd be happy to try to respond to those. But as the Clerk noted, there is a committee amendment.

SPEAKER KRISTENSEN: Senator Wickersham, you're recognized to open on the committee amendments.

SENATOR WICKERSHAM: Mr. President, the committee amendment eliminates a provision in the bill which would have simply moved language, old language from...around in the statutes. As the committee began to examine the old language, however, we didn't see why it couldn't be eliminated entirely. And the language that we wanted to eliminate was language that concerned the necessity to report whether the claimant for a gas tax credit owned a tractor, engine, or machinery that was included in the claimants personal property tax list. Or if you didn't own such an item, you had to report that you didn't own such an item. And that had an old, old origin in our statutes. The committee didn't see why we couldn't eliminate that language altogether.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 126, 168, 278, 295, 302

There...it doesn't serve any useful function in terms of being able to audit or to enforce the personal property tax structure that we now have in place in the state of Nebraska. The sources that we primarily rely upon for that auditing and enforcement provision are the income tax returns filed by individuals and the depreciation schedules that accompany them. As you're aware, it's only depreciable personal property that is taxed. That all shows up on an income tax return. We don't really need to have this relationship at all with the gas tax. So we're...the committee's proposal is to simply eliminate that language from our statutes.

SPEAKER KRISTENSEN: Debate on the committee amendments? Senator Wickersham, you're recognized to close. He waives closing. The question before the body is the adoption of the committee amendments. All those in favor vote aye; all those opposed vote nay. Please record.

CLERK: 34 ayes, 0 nays, Mr. President, on adoption of committee amendments.

SPEAKER KRISTENSEN: The committee amendments are adopted.

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

SPEAKER KRISTENSEN: Debate on advancement? Senator Wickersham, you're recognized to close. He waives closing. The question before the body is the advancement of LB 168 to E & R Initial. All those in favor vote aye; all those opposed vote nay. Record.

CLERK: 36 ayes, 0 nays, Mr. President, on the advancement of LB 168.

SPEAKER KRISTENSEN: LB 168 advances. Items for the record?

CLERK: Mr. President, your Committee on Natural Resources reports LB 126 to General File with amendments. General Affairs reports LB 278 to General File, and LB 295, General File with amendments. Education reports LB 302 to General File with amendments. Those reports signed by respective committee

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 130
LR 27

chairs. Senator Cunningham offers a new resolution, LR 27, extending the Legislature's sympathy to the family of Daniel Gardner. Hearing notices from Health and Human Services, three separate notices; that signed by Senator Jensen as Chair. Mr. President, the Education Committee will have an Executive Session now underneath the north balcony. Education Committee, underneath the north balcony immediately. (Legislative Journal pages 374-377.)

Mr. President, LB 130 by Senator Schrock. (Read title.) The bill was introduced on January 4, referred to the General...Natural Resources Committee, advanced to General File. I have no committee amendments, Mr. President.

SPEAKER KRISTENSEN: Senator Schrock, you're recognized to open on LB 130.

SENATOR SCHROCK: Mr. Speaker, members of the Legislature, LB 130 is a bill brought to us by the Natural Resources...by Game and Parks; it has seven sections. And I believe Senator Chambers is going to offer an amendment to delete the seventh section, but I will tell you about the first six sections. Section 1 provides statutory authority for private wildlife management; Section 2 allows the commission to promulgate rules and regulations for private wildlife management permits, and the best example I can give you of that is if Game and Parks decides to renovate a lake or a pond, they can only remove the beneficial fish, the good species, and take them to another lake under scientific or educational purposes. And they have been doing that when necessary. But this clarifies that they don't have to do it for those reasons. And, of course, those are just...so this clarifies that, it gives them a little more authority to deal with issues such as that. Section 3 clarifies the number of fishing lines and hooks that a person may use. Under present law you can have two lines with two hooks each on it. Well, they had a case where someone was being prosecuted and the judge said, well, you didn't say anything about having three lines with one hook each. So, under the present authority they have, you may go fishing and probably have 100 lines, as long as you don't have more than one hook on it. So this clarifies that. Certainly they thought you were in violation if

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 130

you had more than two lines out, but the two-hook issue came into play and so Section 3 would clarify that. Section 4 clarifies the authority of the commission to promulgate rules and regulations concerning deer, antelope or elk causing damage to real personal property and the disposal of such animals. This gives them authority to deal with issues such as what happened in Lincoln where they found a deer in a swimming pool. They really didn't have the authority to remove that deer, I guess nobody did. But they did go in and remove it and this lets them offer that, and then they can use the meat for beneficial purposes, if at possible. Section 5 adds "sell or purchase" to the list of those in possession of wildlife contrary to the game law being liable for damages. The example I can give for this is somebody was catching more fish than they were allowed, but somebody else was an agent and selling them for them, but never really handled the fish. Well, they couldn't prosecute the person selling the fish because he never had them in possession. So this would allow them to prosecute someone who is selling or purchasing too many species of something illegally. Section 6 allows the credentialing of federal agents of the U.S. Fish and Wildlife Service who are certified as federal law enforcement officers to be also credentialed as conservation officers of the commission. So, if a federal wildlife agent comes to the state of Nebraska, they can be credentialed to do the things that a Game and Parks law enforcement official can do. It limits the activities of those agents to the same activities that are under the authority of the Game and Parks commissioners at the present, or wildlife enforcement officers now. It does not expand on any of their duties. There is some question on that. Section 7, which I believe Senator Chambers has an amendment on to remove, and I will vote for that amendment, includes Game and Parks Commission officers under the definition of peace officer and removes the limiting language regarding where the Game and Parks Commission conservation officer may enforce the law. Currently, the limitation in area... area is under the control of Game and Parks Commission. That is a summary of LB 130. It should not be a controversial bill, with the exception of Section 7. We will examine Section 6 a little closer between now and Select File. If you have any questions, I will try to answer it; if not, that concludes my opening comments.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 130

SPEAKER KRISTENSEN: (Visitors introduced.) Mr. Clerk.

CLERK: Senator Chambers would move to amend the bill, Mr. President, by striking Section 7. (FA6, Legislative Journal page 377.)

SPEAKER KRISTENSEN: Senator Chambers, you're recognized to open on your amendment.

SENATOR CHAMBERS: Mr. President and members of the Legislature, Section 7 would expand the power of these game and conservation officers. Currently they are not peace officers; they are authorized, under the existing law, to enforce game laws on the property owned or controlled by the commission. The recommended change in LB 130 which I want to strike would make them peace officers for all purposes. They'd be on the same footing as a sheriff, State Patrol, local police, town marshals, and the National Guard during times of civil disorder. I think Game and Parks officers should do what the statute has laid out for them to do, what they have been doing down through the years. This expansion is not necessary and I think it is not desirable anyway. I'm not blindsiding Senator Schrock with this amendment; we've talked about it. And I even talked to a representative of the Game and Parks Commission. They drive pickup trucks and they have little lights that flash in the grill, and they might even have what's called that Kojak light that they can stick up on the...on the dash. So, here you are, driving down the highway, a pickup truck pulls in behind you and lights start flashing in the grill, and then somebody sticks a Kojak light on the dash and they expect you to stop, when not only in other parts of the country but in Omaha and Bellevue they've had problems with people imitating police officers. I told this gentleman that I would not stop for a pickup truck; if it said Game and Parks, I still wouldn't stop. And I don't think we should have a multiplicity of vehicles, people in different types of uniforms being authorized to stop individuals on the highway and function as peace officers. It would be easy for any person to rig lights in the front part of the truck, they may not even be in the grill, and flash them; get a flashlight and put a red lens on it and just hold it in the

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 130

front windshield and click it on and off. It is too hazardous a circumstance. There, in my opinion, is already an over abundance of irresponsible officers running up and down the road chasing people, killing people, running people into houses and all other types of things. That is not why the Game and Parks people want this legislation. But I see too many opportunities for abuse; it is not essential for them to carry out their duties that they have this. They are hired to deal with the territory owned or controlled by the Game and Parks Commission. Let that be their limits. So I'm asking that you adopt my amendment which would strike Section 7, leave the law as it exists. Even though Senator Schrock said he will support it, I wanted to give for the record the reasoning behind my opposition to expanding this authority of Game and Parks officers. If you have any questions, then I'm prepared to answer them.

SPEAKER KRISTENSEN: Senator Schrock.

SENATOR SCHROCK: Senator Chambers, as I indicated, I will support your amendment and ask the legislative body to do also. But I would like to clarify a little bit this statute only allowed them for traffic control purposes. It did not let them be drug agents and so on and so forth. And I understand your concern. Any time you have a law enforcement official, whether it be Game and Parks, or whether it be a sheriff, or a state patrolman, I can understand where there's room for abuse. I don't think Game and Parks wants to get in the business of giving speeding tickets, but I can see in a situation where if someone was driving, a drunk, where it would be beneficial for someone from Game and Parks to stop them. Nevertheless, I think your concerns are probably well-founded and we need to look at this further. So I think that will be another time and another day. So at the present time I will ask you to support the Chambers amendment. And, like I said, if there is any question on Section 6, Senator Chambers, we can deal with that on Select File.

SPEAKER KRISTENSEN: Further debate on the Chambers amendment? Seeing none, Senator Chambers, you're recognized to close.

SENATOR CHAMBERS: Mr. President, members of the Legislature, as

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 130, 134

I read this section of statute which is being amended, Section 60-646, it doesn't limit what these people embraced in this statute can do to enforcement of traffic matters. I'm sure that the National Guard, during times of emergency, would do more than enforce traffic regulations, the sheriff, town marshal and all these other people. But that is something that can be talked about later. And I do want to tell Senator Schrock that as far as Section 6 is concerned, I've had a chance to look at that. It is restrictive and limited in terms of what it will allow these federal officers to do. So you need not undertake any additional work on my account. If this amendment is adopted, I will be through with LB 130 for all purposes.

SPEAKER KRISTENSEN: You've heard the closing on the amendment. The question before the body is the adoption of the Chambers amendment to LB 130. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record.

CLERK: 35 ayes, 0 nays on adoption of Senator Chambers' amendment.

SPEAKER KRISTENSEN: The Chambers' amendment is adopted. Anything further on the bill?

CLERK: Nothing further on the bill, Mr. President.

SPEAKER KRISTENSEN: Debate on advancement of LB 130? Senator Schrock, you're recognized to close on advancement. He waives closing. The question before the body is the advancement of LB 130 to E & R Initial. All those in favor vote aye; all those opposed vote nay. Record.

CLERK: 36 ayes, 0 nays, Mr. President, on the advancement of LB 130.

SPEAKER KRISTENSEN: LB 130 advances. LB 134.

CLERK: LB 134, a bill introduced by Senator Schrock. (Read title.) The bill was introduced on January 4, referred to Natural Resources, advanced to General File. I have no amendments to the bill, Mr. President.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 101, 134

SPEAKER KRISTENSEN: Senator Schrock, you're recognized to open on LB 134.

SENATOR SCHROCK: Mr. Speaker, members of the Legislature, LB 134 is a bill brought to us by the Association of Natural Resource Districts. And it's a little ironic that we had LB 101 this morning, because this is somewhat similar but not the same, Senator Hartnett. LB 134 would raise salaries for members of our NRD boards. At the present time their salaries are \$50,000...or \$50 per diem per diem, not to exceed \$2,000 a year. Don't go home and file for the NRD board, Ray; you're not going to get wealthy serving on one of these boards, I should say, Senator Janssen. It would increase their salary on a per day basis from \$50 to \$70, and their...let's see, and their per diem for \$70 a day, not to exceed \$2,800 a year. So it would increase their salary to \$70 per day and their per diem to \$50 a day, not to exceed \$2,800 in one year. It's been ten years since our NRD has had a salary increase. This goes from \$50 to \$70 a day; it's very much conforms with the 40 percent increase we've given our public power boards. It does not include any benefits, for the record. And I think there's good public policy for not including benefits, and I would say it's because they don't meet as often, they have smaller budgets. But I do think it's necessary to recognize that these people serve us well and it's probably time for them to do that. They cannot...they have to vote their own raise in, it has to be after the next election, so there may be some NRDs that choose not to vote the increase in. I understand there are NRDs out there that take no salaries at all now. So it has to be invoked by the NRD after we pass the bill, and it has to be after the next election. If there's any questions, I would try and answer them.

SPEAKER KRISTENSEN: Debate on advancement? Senator Chambers.

SENATOR CHAMBERS: Senator Schrock, I've enjoyed working with you so much this morning that I have to continue. Did you say that there are some NRDs that don't grant themselves any salary at all?

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 134, 136

SENATOR SCHROCK: That is correct.

SENATOR CHAMBERS: All I can say to that is what we used to say about barbers who did not want to vote an increase in prices. Each person knows what he or she is worth. (Laughter)

SPEAKER KRISTENSEN: Further debate? Senator Schrock, you're recognized to close on advancement.

SENATOR SCHROCK: It increases salaries for NRD board members from \$50 a day to \$70 a day, and they have to vote it in themselves, and it has to be after the next election. I would ask you to consider voting yes on this bill.

SPEAKER KRISTENSEN: You've heard the closing. The question before the body is the advancement of LB 134 to E & R Initial. All those in favor vote aye; those opposed vote nay. Record.

CLERK: 33 ayes, 0 nays, Mr. President, on the advancement of LB 134.

SPEAKER KRISTENSEN: LB 134 advances. LB 136.

CLERK: LB 136, Mr. President, introduced by the Natural Resources Committee. (Read title.) The bill was introduced on January 4, referred to the committee, advanced to General File. I have no amendments to the bill, Mr. President.

SPEAKER KRISTENSEN: Senator Schrock, as Chair of the committee, you're recognized to open.

SENATOR SCHROCK: LB 136 is actually LB 1327 from last session. Last year, LB 1327 was advanced by the Natural Resources Committee with unanimous approval. This bill actually came to us from John Thorburn, from the Tri-Basin Natural Resource District, which is...which is centered in Holdrege, Nebraska. So it is my natural resource district that brought this issue to us. And it concerned...this bill allows natural resource districts to alter existing improvement projects area boundaries and the appropriate...and after an appropriate public hearing. Current law does not allow for altering existing improvement

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 136, 137

project area boundaries; it requires a new improvement project area to be established rather than simply altering an existing one. In the Tri-Basin NRD area they have four drainage project districts and, if they want to expand that project area, and drainage is important in my area of the state, they have to...they have to close the current improvement project area and have a new one. This one would allow them to expand one that is already in existence. However, it has to have a public hearing. Now existing of other improvement project areas might be a water district, where there's areas of the state where they don't have water and they have to have a water district. You could build levies with an improvement project area, and you can have flood control projects. I believe there are two levies that have been built under this authority. So this is not a big change, but it would allow NRDs to alter existing improvement project areas, because in the past, if they wanted to change one, they had to dissolve the old one and create a new one and that was quite cumbersome. If you have any questions, I will try to answer them.

SPEAKER KRISTENSEN: Debate on advancement of LB 136? Senator Schrock, you're recognized to close. Waives closing. The questions before the body is the advancement of LB 136 to E & R Initial. All those in favor vote aye; all those opposed vote nay. Record.

CLERK: 30 ayes, 0 nays on the advancement of LB 136, Mr. President.

SPEAKER KRISTENSEN: LB 136 advances. LB 137.

CLERK: LB 137, by Natural Resources Committee. (Read title.) Introduced on January 4, referred to Natural Resources, advanced to General File. I have no amendments to the bill, Mr. President.

SPEAKER KRISTENSEN: Senator Schrock, as Chair of the Natural Resources Committee, you're recognized to open.

SENATOR SCHROCK: Mr. Speaker, members of the Legislature, LB 137 is somewhat the same story as the last bill. It was

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 135, 137

LB 999 last session. It was advanced from your committee with unanimous approval. LB 137, we tried to find a place for it last year and just couldn't. This bill was presented to the committee by the Nebraska Propane Gas Association. The statutes governing the propane gas industry have not been updated since the 1950's and there have been several changes in the industry. By changing certain definitions we are bringing our definitions into conformity with the United States Trans...Department of Transportation specifications and we're eliminating all archaic language. This bill was, once again, advanced by unanimous voice or by unanimous vote in the committee. One of the questions in the bill had to do with a cylinder and a container for propane natural gas, and there are certain regulations that regulate natural gas, for example, or propane, for example, if you have a propane tank and you're heating your home with it or you're heating a hog shed or a livestock facility with it, the person...the company that owns that tank is the only one that can fill it. It is against the law for someone else to fill it. And that is done primarily for safety reasons. If you want to change your suppliers then your new supplier will have to get permission from the old supplier to fill that tank or will have to provide their own tank. So, basically this is a housekeeping bill. If you have any questions on LB 137, I will try and answer them.

SPEAKER KRISTENSEN: Debate on advancement of the bill? Seeing none, Senator Schrock, you're recognized to close. Waives closing. The question before the body is the advancement of LB 137 to E & R Initial. All those in favor vote aye; all those opposed vote nay. Record.

CLERK: 33 ayes, 0 nays, Mr. President, on the advancement of LB 137.

SPEAKER KRISTENSEN: LB 137 advances. LB 135.

CLERK: LB 135, by the Natural Resources Committee. (Read title.) The bill was introduced on January 4, referred to Natural Resources, advanced to General File. I do have committee amendments, Mr. President. (AM0019, Legislative Journal page 355.)

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 135

SPEAKER KRISTENSEN: Chair of the Natural Resources Committee, Senator Schrock, you're recognized to open on the bill.

SENATOR SCHROCK: Mr. Speaker, members of the Legislature, LB 135 is actually LB 904 from last session. It was advanced by your committee with unanimous approval. This bill allows natural resource districts in ground water management areas to limit or prevent the expansion of irrigated acres. It permits them...it allows them to close all or a portion of a management area to the issuance of additional permits or may condition the issuance of additional permits so long as a determination is made by the district that the impact on surface water supplies or the depletion or contamination of the ground water supply cannot be protected through implementation of other reasonable controls. This bill was brought to us by the Upper Republican NRD and our Natural Resources Commission. It removes the requirement that different water allocations for different irrigation districts...distribution systems be for a period of no more than five years. So, if they want to allocate water or want to have a different way of distributing water in their natural resource district, they can do it for more than a period of five years. At the present time they cannot exceed five years. It allows ground water users to use his or her allocation on all or any part of the irrigated acres to which the allocation applies, or in any other manner approved by the district. A lot of times people may irrigate 160 acres, but they may use more than...more water on one half of it than the other half. It removes the requirement that the district at least once every three years review any allocation rotation or reduction controls; it allows the district to determine how often such reviews are necessary. And, as I said, this bill was brought to the committee on behalf of the natural resource districts, more specifically the Upper Republican NRD. And the Upper Republican NRD is in Senator Baker's district; it is an area of the state where they have had significant groundwater declines. It is the area of Benkelman, Grant and Imperial. If you have any questions, I'll try to answer that. And even though this NRD is the one that is really concerned about this now, I would anticipate in the future more NRDs will be involved with these regulations.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 135

SPEAKER KRISTENSEN: Senator Schrock, you're recognized to open on the committee amendments.

SENATOR SCHROCK: Mr. Speaker, there was some concern that if a natural resource district wanted to put a moratorium on wells that the proper hearing process may not have been gone through. So this committee amendment says, if the district has included the provisions contained in Section 46-656.25 in its management area plan but has not implemented those provisions within two years of the initial public hearing, before the district may implement those provisions the district shall hold a public hearing conducted pursuant to this section. So if, after they've adopted these regulations, two years has passed before they put a moratorium on wells, they must have another public hearing before they do the moratorium on wells. This was brought to us at the committee by the public. It seemed like it was a good idea, because anytime you can notify the public of what's going on in a natural resource district it is a good idea. So that is the amendment. I would ask you to adopt the amendment at this time.

SPEAKER KRISTENSEN: Debate on the committee amendments? Seeing none, Senator Schrock, you're recognized to close on the committee amendments. He waives closing. The question before the body is the adoption of the committee amendments to LB 135. All those in favor vote aye; all those opposed vote no.

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Have you all voted? Record, please, Mr. Clerk.

ASSISTANT CLERK: 33 ayes, 0 nays on the adoption of committee amendments, Mr. President.

SENATOR CUDABACK: The committee amendments are adopted. Senator Schrock. Senator Schrock waives...Senator Beutler, your light is on.

SENATOR BEUTLER: Mr. President, members of the Legislature, I

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 135

just wanted to speak momentarily in support of this particular bill. I'm delighted that Senator Schrock has brought it forward. It's absolutely essential, in my opinion, that we proceed with this piece of legislation because this is the piece of legislation that will be key in the resolution of the Kansas-Nebraska lawsuit and the dispute over the water in the Republican River Valley. This legislation allows an NRD to take the measures that are described in the bill not only for reasons of groundwater depletion or contamination but also for surface water depletions, and that particular provision allows it to be operative in the Republican River controversy. So...and I might note also how the boundaries on conjunctive use are starting to break down now, apparently with less controversy than ten years ago when it was...seemed a matter of life and death to people that we did not look at things in terms of conjunctive use. Now we have a conjunctive use bill that nobody seems to question anymore, and that's progress and that's good. But I might say to you this...the immediacy of the situation is clear. The Attorney General, for a number of years, tried to impress upon us that groundwater was not going to be touched or affected by the lawsuit with Kansas and now we know quite clearly, from the rulings of the master, that, in fact, groundwater will be included and there will be a decision by the federal court adverse to our position on whether groundwater should be included in the decision. That little bit of reality, I don't know if it's struck home yet in the Republican Valley, it should have been acknowledged many, many years ago because, in my opinion, the law was clear in analogous cases in Colorado and in New Mexico. Be that as it may, the time is coming shortly when one of two things will happen, or maybe both. The first thing that will happen is that groundwater use in the alluvial plain in the Republican River will have to be curtailed, and it's too bad we didn't negotiate it instead of having it forced down our throats by the federal courts here shortly. The second thing that may happen is that there may be some claim for back damages against the state of Nebraska for not having done this sooner, and that's why a number of years ago I suggested that what we should have done was not expand any further any use of groundwater on the alluvial plain until we knew whether there would be back damages claimed and paid for water used by Nebraska that, arguably, we should not have used. But I guess

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 135

that's water over the dam or water down the river or whatever. We must await the situation now. And I suppose at this point in time it...it's kind of sad to say, but the moment for gaining our best advantage has probably passed us because now the court has essentially, for all practical purposes, ruled that groundwater will be included and that was one of our biggest bargaining chips. But it's past. So the best we can do now is to give the NRDs the authority to curtail further development in the alluvial plain, awaiting the results of the court case. I hope they do it before the results of the court case,...

SENATOR CUDABACK: One minute.

SENATOR BEUTLER: ...but most certainly after the results of the court case this measure will be needed. I'm sorry to...to make a speech that's so pessimistic on something that's so important to us, but I just feel drained because this whole situation, despite the knowledge of knowledgeable people in the state, got away from us. It really got away from us. Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. We are discussing the advancement of LB 135. Seeing no further lights, Senator Schrock, do you wish to close?

SENATOR SCHROCK: Senator Beutler, thank you for those comments. I have been in the Legislature eight out of the last ten years and I'm not going to explain to you what happened those two years, but it's something we'll deal with towards the end of the session, I think. Senator Beutler, you're one of those who sat out a spell also. The Republican River Basin is interesting. I have represented them the past six years in the Legislature, or at least the lower portion of it, and attitudes are changing. The farmers in that area are really concerned about what this lawsuit with Kansas means towards their economic future. I don't think we know the outcome of that. There are some people very knowledgeable who claim we've not been overusing water according to the compact we've signed with Kansas. I'm not quite sure what year that was, but it was at least fifty-plus years ago. And there's some who think we've been overusing the water. I don't know what the outcome of that would be. I don't think it was a surprise to most of us that groundwater was

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 135, 247

included in that. We all know that when you pump water from the ground that it impacts something. The water has to come from somewhere. So your comments are very well taken. The issue is grave and serious in that part of the state, and I think Senator Baker will tell you that in the Upper Republican NRD they're real concerned about the outcome, more so concerned I think than in the area of my...of the state I represent. But we're all waiting to see what's going to happen. It's going to take some time, but that Special Master McKusick has this on a fast track and so it may not take as long as we think. We've been in negotiations with Wyoming for thirteen years. It's been suggested that this might be over with in three or four years. Hopefully, it will be resolved in a just manner that will let us continue to have irrigated agriculture in the Republican River Basin and there will be adequate water, although I think it will be regulated water. Thank you, Mr. President. I ask you to support and advance LB 135.

SENATOR CUDABACK: Thank you, Senator Schrock. You've heard the closing on LB and advancement of LB 135. All those in favor of advancing of LB 135 to E & R Initial vote aye, opposed nay. Have you all voted who care to? Record, please, Mr. Clerk.

ASSISTANT CLERK: 35 ayes, 0 nays on the motion to advance the bill, Mr. President.

SENATOR CUDABACK: LB 135 does advance. Mr. Clerk, LB 247.

ASSISTANT CLERK: Mr. President, LB 247 was introduced by Senator Bromm. (Read title.) The bill was read for the first time on January 5th. The bill was referred to Health and Human Services Committee. That committee reports the bill to General File with no committee amendments.

SENATOR CUDABACK: Senator Bromm, you're recognized to open on LB 247.

SENATOR BROMM: Thank you, Mr. President. This bill is fairly clear, I believe, and it deals with just one issue. In the past, the Public Service Commission has inspected modular housing units that are constructed or manufactured in the state

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 247

and offered for sale with the exception of those that are constructed or manufactured by a school district or a community college. Community colleges or in some cases, a couple of cases, school districts undertake as a project the construction of one of these modular housing units. They use it for learning purposes, instructional purposes, and then when it's done they hope to recover at least the cost of the materials and...and, in order to do that, they have to sell it. This bill would allow a school district or community college, if they chose to do so, don't have to but if they chose to do so they could ask that the Public Service Commission inspect that modular housing unit once it has been constructed to see if it complies with the construction standards that are appropriate as far as compliance with building codes and safety codes and all of those things, which would make the home able to be bought and...and put into certain areas of the state that might require an inspection like that before they allow such a home to be placed on a foundation or placed in their community. So that's all it does, is it allows, on a permissive basis, the school district or community college to request this inspection if they want to do so to help facilitate them to be...to be assuring people that this unit meets the codes, this unit will be acceptable to your building inspector, and makes it more salable. So it's...that is it. Doesn't change anything else. The bill was advanced by the Health and Human Services Committee without any dissenting votes. There were no opponents at the hearing. I would ask your support in advancing the bill.

SENATOR CUDABACK: Thank you, Senator Bromm. You've heard the opening on LB 247. We're open for discussion. Senator Vrtiska.

SENATOR VRTISKA: Thank you, Senator Cudaback. A question for Senator Bromm.

SENATOR CUDABACK: Senator Bromm, would you yield to a question, please?

SENATOR VRTISKA: Senator, I don't know...

SENATOR BROMM: Yes.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 247

SENATOR VRTISKA: ...if you have the answer or not, but have you had any indication that normally the school or the community college would, in fact, ask for an inspection? I see you're saying that they still have the option. Do you know whether they've done this in cases, or is it just something that came to your mind that should be...have the option? They could do it anyway, couldn't they?

SENATOR BROMM: The...they could have some inspection by some other authority. The Public Service Commission right now doesn't have the authority to do the inspection, so this would give the Public Service Commission the authority to do that inspection if requested.

SENATOR VRTISKA: Okay. I just wanted to find out. I wasn't sure...I wasn't clear about that, so appreciate your answer. Thank you.

SENATOR CUDABACK: Thank you, Senator Vrtiska. Senator Janssen, you're recognized.

SENATOR JANSSEN: Thank you, Senator Cudaback. Members of the Legislature, might...one of my school districts or two of them in the past have made these types of homes through their vocational training classes. About fifteen years ago one school would turn out one home a year, and at that time they used the...either the...the local building inspector or the county building inspector to come in and...and make sure that everything was up to regulation, and so on and so forth. I think this is a good bill that Senator Bromm has brought before us. It would allow someone to use the PSC as...to check with the regulations, and so on and so forth. But this has been in place for quite some time that you had to have a local building inspector or someone from the county in order that you could resell this home. It had to be inspected as it went along. The plumbing, the structural, appearance of the home and so on had to be up to specifications. But it's a good bill and I will give it my support. Thank you.

SENATOR CUDABACK: Thank you, Senator Janssen. Seeing no further lights on to discuss advancement of LB 247, Senator

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 67, 247

Bromm, to close. Senator Bromm waives closing. The question before the body is advancement of LB 247 to E & R Initial. All in favor vote aye, opposed nay. Have you all voted who care to? Record, please, Mr. Clerk.

ASSISTANT CLERK: 34 ayes, 0 nays on the motion to advance the bill.

SENATOR CUDABACK: LB 247 does advance to E & R Initial. Mr. Clerk, LB 67.

ASSISTANT CLERK: LB 67 was introduced by Senator Kristensen. (Read title.) The bill was read for the first time on January 4th, referred to the Government Committee. That committee reports the bill to General File with no committee amendments.

SENATOR CUDABACK: Senator Kristensen, to open on LB 67.

SPEAKER KRISTENSEN: Thank you, Mr. President and members of the Legislature. This bill, I will offer no excuses for it or other agendas other than it is a direct reflection and a result and a reaction from what occurred this fall with the presidential election and, in particular, the Florida presidential election experience. I don't believe there's any state in the country who would have wanted the spotlight placed on their election process that Florida had put on theirs. Certainly, at times, that was a disgraceful civics lesson--behavior of individuals, supporters on both sides, the national media certainly should be included. But what has occurred as a result of the Florida experience is occurring in almost every state legislature across the country and in some of our national organizations, and that is a call to begin to study the election process before the next time. That's what LB 67 does. There are a number of election bills that are in the hopper this year, some that we'll debate sooner, others that we may not get a chance to look at at all, and my suggestion would be, before we jump into any conclusions, that we should take a chance and survey what our election process is, what our methods for contest, for recall, for challenging votes, what those definitions of votes are. We should look at how we vote and to take a survey of those. Why

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
ELCQR DEBATE

January 23, 2001 LB 67

is that important? Well, one of the reasons are that Congress certainly is beginning, and there's a number of requests from many legislators in Congress, to look at a uniform system of voting. We need to be prepared in this state to respond to that and keep track of what they're doing in Congress. We need to know exactly what types of voting that we have. Most of us think that there's only an election in this state every two years. In reality, there's an election every ten days in this state with the number of elections that we have. They come from villages, boards, cities. All sorts of various elections occur frequently. Our election process includes all of those. What I would propose to do, and the Government Committee unanimously sent out, is a process that would be a task force for a two-year examination to see what kind of process we have. This would be comprised, obviously, of the people who were involved in the elections--from the state level, the Secretary of State; we would put in the Chairperson of the Government Committee; someone from the Governor's Office; the election commissioner from a large county, an election commissioner from a small county and one from a medium-sized county to give us various perspectives on how our process works. A lot of people in Nebraska have no idea of the various methods we have of voting. Certainly, as we respond to requests from Congress, we want to make sure that we're ahead of the game so we know what some of their proposals...what impact that may have on us financially, procedurally, and as just a practical impact on our citizens. Right now we don't have a very good handle on that. I think this task force would be able to report back to us, take its time for two years, and one of the concepts are that they could monitor the next election cycle that will be in two years. That would give us a chance to look at how that election is run. We may want to monitor that more closely or in some other terms, and then the changes can come back to us in the year 2003 so we could be ready for the 2004 presidential election. It really will take us four years to get ready for any of those changes. NCSL has aggressively began to address this. They have a task force on election reform and I believe that a number of other states are going to try to do this. One is that there are also a lot of people who are concerned about the process and is it fair. Does it actually do what we want it to do? These task force also serve a purpose. They're to restore people's faith

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 67

that someone is looking at it. It's much better to look at it now than to wait till we have a problem in our next election. I would suggest to you that we could expand this task force. We could include a lot of politically correct things to put into it, but, quite frankly, the bottom line is we need people who have looked, who have run our elections to sit down and take a careful examination and then report back to us what we really have, and before we even have any knee-jerk reactions or before we move on to other areas that we think need to be addressed, I think it's wise to use this study and put all those into one format and get a uniform report so we can look at the results at one time. Mr. President, I'd be happy to answer any questions. I appreciate the Government Committee's time and patience that they took with this bill and that they put it out early. Thank you.

SENATOR CUDABACK: Thank you, Senator Kristensen. Before we discuss advancement of LB 67, Mr. Clerk, for announcements.

ASSISTANT CLERK: Thank you, Mr. President. General Affairs will meet at eleven o'clock under the north balcony; that's General Affairs at eleven o'clock, north balcony.

SENATOR CUDABACK: Thank you, Mr. Clerk. We're now discussing the advancement of LB 67 to E & R Initial. Senator Schimek, on the advancement.

SENATOR SCHIMEK: Yes, thank you, Mr. President and members of the body. I rise in support of the advancement of the bill and I must say I think it is the...absolutely the right way to go to have a thorough examination. We could nitpick the statutes to death and you could have hundreds of election bills in here, but I really do think that this is a good approach. As Senator Kristensen mentioned, not only is it an examination happening at the NCSL level but, as some of you know, I'm going to chair the Midwest Legislative Conference next year and I've asked that we have a special task force set up to deal with these same kinds of questions. So I think we're going to...I think the Secretaries of State also will be thoroughly examining. So we'll have a lot of different groups with tie-ins to different groups that will...will sort of have a network working on this

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 67, 252

problem. So I'm fully supportive and would encourage you to vote for advancement of this bill. Thank you.

SENATOR CUDABACK: Thank you, Senator Schimek. For discussion, advancement of LB 67? Senator Kristensen, seeing no further lights on, did you wish to close on the advancement?

SPEAKER KRISTENSEN: I'd waive my closing.

SENATOR CUDABACK: Senator Kristensen waives closing. The question before the body is advancement of LB 67 to E & R Initial. All in favor vote aye, opposed nay. Have you all voted who care to? Record, please, Mr. Clerk.

CLERK: 30 ayes, 0 nays, Mr. President, on the advancement of LB 67.

SENATOR CUDABACK: LB 67 does advance to E & R Initial. Mr. Clerk, LB 252.

CLERK: LB 252, introduced by Senator Schimek, relates to elections. (Read title.) Bill was introduced on January 5 of this year, referred to the Government Committee for public hearing. The bill was advanced to General File. I have no amendments at this time to the bill, Mr. President.

SENATOR CUDABACK: Senator Schimek, you're recognized to open on LB 252.

SENATOR SCHIMEK: Yes, thank you, Mr. President and members. I think I can be brief because there...this is a very simple concept in this bill. It has been adopted by, I believe, forty-eight other states and Nebraska is among the last to adopt. But the purpose of this bill is to allow write-in votes for the offices of President and Vice President. Currently, our statutes do not make that provision. And one of the reasons that the Secretary of State's Office approached me about introducing this bill again, and we actually introduced it last year but, for lack of time, it...it didn't go anywhere, but the reason is that the Secretary of State has been sued by an individual Nebraska citizen for not providing this write-in

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 252

space and, even though that citizen wasn't successful on the grounds that he sued on at that time, the Secretary of State's Office thinks it's conceivable that we could be sued again, and every time we're sued it costs money. It costs \$10,000, it costs \$20,000, and it's really probably something that we should be doing anyway. Now, the bill does provide guidelines for determining whether to accept or reject the write-in vote for President and Vice President. If a first or generally recognized name and last name of a person is written on the lines and the oval has been clearly marked, the vote is valid. If only the last name of a person is written and there is no recognized candidate for President and Vice President with that name, the ballot is rejected. So I believe that is a concise but correct explanation of the bill. If you have any questions, I would be happy to answer them.

SENATOR CUDABACK: Thank you, Senator Schimek. You've heard the opening on advancement of LB 252. Open for discussion. Senator Kristensen.

SPEAKER KRISTENSEN: Thank you, Mr. President. Senator Schimek, could you help me with what the current law is today with regards to write-ins. Let's say that Senator Hartnett wants to run for President. What...what does he want...what does he need to do to run for President in the state of Nebraska?

SENATOR CUDABACK: Do you yield to a question, Senator Schimek?

SENATOR SCHIMEK: Yes. Well, Senator Kristensen, if he belongs to a recognized party then he goes on the ballot, and a recognized party is a party that got a certain percentage of the vote in the last election.

SPEAKER KRISTENSEN: Okay.

SENATOR SCHIMEK: And I think that is the only provision for getting on the ballot.

SPEAKER KRISTENSEN: So...

SENATOR SCHIMEK: And the Secretary of State has a certain

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 252

flexibility in designating who the candidates are in the primary election.

SPEAKER KRISTENSEN: Let's talk about the primary. If we've got...then this time we had, what, seven or eight people running for President in the general election in Nebraska?

SENATOR SCHIMEK: In the primary election.

SPEAKER KRISTENSEN: In the...in the primary election.

SENATOR SCHIMEK: Yes.

SPEAKER KRISTENSEN: Those were determined by a set of existing guidelines.

SENATOR SCHIMEK: That is correct.

SPEAKER KRISTENSEN: What...and there's no provision then for me to write in Senator Hartnett.

SENATOR SCHIMEK: That is correct. And I...and I might point out that for every other office that is on the ballot there are provisions for write-ins, so it is only for President and Vice President that we don't allow that.

SPEAKER KRISTENSEN: And you made mention of a suit. Is there pending litigation or litigation that occurred?

SENATOR SCHIMEK: There is litigation that occurred, Senator, and it was in 1998. It was filed by a Randy K. Jensen of Douglas County and...and he wasn't successful. But the Secretary of State's Office feels that we might be...could be subject to another lawsuit at another time if we don't change our statutes.

SPEAKER KRISTENSEN: There's not a...there's not a...any constitutional right to be a write-in candidate. Is that correct?

SENATOR SCHIMEK: That is correct and, as I understand it, the

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 252

state has some flexibility in deciding what its election laws are with regard to those ballots. They have...I mean they...I haven't read the case, but I...they generally have to be reasonable.

SPEAKER KRISTENSEN: If...if we have 25 people that want to get their name on the ballot for publicity purposes, if this bill passes can they then get their names on to be eligible to be write-in candidates?

SENATOR SCHIMEK: This allows them to be write-in candidates, yes. I mean...

SPEAKER KRISTENSEN: It doesn't put...

SENATOR SCHIMEK: ...this allows them to have their names written in.

SPEAKER KRISTENSEN: Okay.

SENATOR SCHIMEK: And if they are not a recognized candidate for President or Vice President, their names will not be counted.

SPEAKER KRISTENSEN: Do we open ourselves up for a lot more work and a lot more headaches by allowing more people to register to put their names in, because then we go to count those votes we've just got that many more people we have to consider and count?

SENATOR SCHIMEK: Oh, I...I think definitely so, yes. I...I mean, and one of the things that...that I don't like about this approach is that it offers the opportunity for people to write in Mickey Mouse and Daffy Duck and...and...

SPEAKER KRISTENSEN: Right.

SENATOR SCHIMEK: ...do those kinds of things which...that concerns me.

SPEAKER KRISTENSEN: Well, I think it...it bothers me that it would allow a mockery of the system, but it also makes it more

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 252

difficult to count votes for those people who are counting because all...all of those...

SENATOR CUDABACK: One minute.

SPEAKER KRISTENSEN: ...write-ins have to be done literally by hand. So if you're using optical scanners or you're using all those things, those votes all get taken out to the side. If you have more people who have registered for...because they want to gain some publicity, it just gives them a forum. They...they truly aren't going to be competitive if they're not having their name for President in our state. They're going to do it for other reasons, to make statements and to do those things. They're free to do that but, in terms of making the election process work, actually they're encumbering the process. Wouldn't I be better off to put this into the study that we just advanced?

SENATOR SCHIMEK: It could certainly be done that way, it certainly could. And we're talking about having the results at the end of 2002 and then, of course, you could have bill introduction in the year 2003.

SENATOR CUDABACK: Time.

SENATOR SCHIMEK: That would always be a possibility.

SENATOR CUDABACK: Thank you, Senator Kristensen. We're open for discussion on advancement of LB 252. Senator Vrtiska.

SENATOR VRTISKA: Thank you, Mr. President and members of the body. It was interesting to listen to the conversation between our Speaker and Senator Schimek. Some of the things that were discussed here were discussed in the committee, and I thought it was interesting because we know today that we have an awful lot of the things that were discussed. Mickey Mouse and Pluto and Daffy Duck are written in on a lot of these and it is troubling. I sat on an election board many years ago and that was probably the hardest part of...of the whole process, was to sit and enumerate all those people who were put on there that really weren't going to get anywhere anyway. And when I first saw this

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 252

bill I thought Senator Schimek had gone over the edge. Why, nobody could ever get elected as Vice President or President by a write-in, even if the space was provided. But when the Secretary of State (sic)...Neal Erickson came down and explained to us about the lawsuit and provided a copy, then decided that maybe it's something we should look at. However, I do think that the discussion about perhaps putting this in a study might be the way to go in order to make a thorough study of how would...we should best approach this and, at the same time, hopefully, not be involved in lawsuits that only cost the state money. It appears to me that either way you go it's going to cost something because it does take the time and energy and efforts, and particularly with the areas where they have scanners it's going to make it even worse. So I think that the idea of putting into a study is probably the right way to go and I don't know what Senator Schimek wants to do or what the process here is, but at the present time I would certainly urge everybody to support this, at least to get the issue out there so that we can have more discussion on it. With that, thank you for your time.

SENATOR CUDABACK: Thank you, Senator Vrtiska. Senator Kristensen, followed by Senator Brashear. Senator Kristensen, you're recognized.

SPEAKER KRISTENSEN: Thank you, Mr. President, members of the Legislature. Senator Schimek, I guess I'm not convinced that I want to put that write-in spot just yet and make that policy till we've looked at it. That's the reason I like the study. At the same time, I don't want to kill the bill and make a statement by the Legislature that we reject the concept, because that's one of the methods you could do that. Would you be amenable to including this in the study at some...as it goes through the process? I...Mr. President, I'd like to ask her a question, please.

SENATOR CUDABACK: Would you yield, Senator Schimek?

SENATOR SCHIMEK: Well, Senator Kristensen, I'm certainly willing to talk about that possibility. I...I...can I respond a little bit more...

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 252

SPEAKER KRISTENSEN: Sure.

SENATOR SCHIMEK: ...than that?

SPEAKER KRISTENSEN: Sure.

SENATOR SCHIMEK: One of the things that...that I don't think will happen is I don't think you're going to have tons of names written in, simply because people, when they go to the polls on a presidential election, particularly if it's an election like we had this year, they're not going to want to waste their vote. Secondly, there's a provision here that says unless they're a recognized candidate they're not going to get counted anyway. And we know that the election commissioners will, for the most part, in most counties, this will all be done by machine. Those will be pulled out, those that have the write-in line filled in. So then you have a small group of ballots to thumb through and you can quickly discern whether very many of those are the kinds that you would count or not. I don't foresee that this would be a great, huge effort on the election commissioner's part. But, having said that, I would be willing to think about that and, you know, we could...we could send it over to Select and you and I maybe could visit with this...visit about this a little more, visit with the Secretary of State's Office, and then either not put the bill up again or decide between the three of us perhaps that it should go back up.

SPEAKER KRISTENSEN: Thank you. I...that's helpful to me. I may, depending on what other discussion there is today, also consider a bracket motion at some point in time to just hold the bill in abeyance and so we can see what we want to do with it. But I guess what I don't want to do is encourage a lot of frivolous names being written in and giving the people who are counting the votes just that many more problems when I really know that for this large election that...that is not going to have any impact. Now, some of these smaller elections those write-ins really are important because there aren't that many people voting and I don't want to discourage those write-ins in some of these other areas, but for the office of President it seems that, for national attention or for local attention, they

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 252

could abuse that process and just cause us more problems in counting other votes. So, with that, I'll wait and see how others feel, but I would imagine that if it does advance to Select File I'll probably file a bracket motion at that point in time. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Kristensen. We are discussing the advancement of LB 252 to E & R Initial. Senator Brashear, followed by Senator Schimek. Senator Brashear.

SENATOR BRASHEAR: Mr. President, members of the body, Senator, I'm wondering if Senator Schimek would yield to inquiry, please.

SENATOR CUDABACK: Senator Schimek, would you yield to a question, please?

SENATOR SCHIMEK: Yes.

SENATOR BRASHEAR: Senator Schimek, I...I'm reluctant about this bill and my reaction is tell me what happened in the states where the lawsuits occurred. And I...to help you out, I'm saying who cares what happened? I don't think we should run from every lawsuit. And then I'll further amplify after you respond.

SENATOR SCHIMEK: And...and I...and I can't tell you what happened in other states, but I...

SENATOR BRASHEAR: They did...

SENATOR SCHIMEK: ...know that other states have been sued and...and I know that...I agree with you, we can't run from lawsuits, but this was brought to me by the Secretary of State and they felt that it would be a good thing to do.

SENATOR BRASHEAR: Okay. I'm not in any way faulting you. I understand that when you're Chair of a committee people bring you legislation in the area. I think it's fine. I just...when we start talking about write-ins, worrying about write-in candidates, given the very low probability that...that there's anything of substance involved and somebody trying to use it

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 252

symbolically, it bothers me. And when I heard that we're doing it under threat of litigation, I'm saying, so what was the result of the litigation that occurred and do we care? People can sue you for any reason or no reason at all, and if there's no consequence to it, if we're not going to invalidate any election of that kind, why, I'm not certain that's a reason to do it. I would also like to technically point out, because I...I'm try...I want to be cooperative here in the spirit of this, so I'm not...I'm not out to vote red and kill the bill or anything else, but I do want to point out if this, for the record, if this bill is going to advance, I think there's a problem with it and that is that if you look at 32-620 of the Nebraska Revised Statutes it says, "Partisan candidates for the office of President and Vice President", et cetera, et cetera, and in subpart (d) it says: shall file the names and addresses of persons who will represent the applicant as presidential elector candidates. It says "partisan". My question would be, the way the bill is drafted, the way the statute reads, there's no vehicle for an independent, nonpartisan candidate to designate any electors, and I think that would be a hole if we were to advance and ultimately enact the bill, and I wanted to give you a chance to respond to it and make sure it was a part of the record so we could deal with it, if this is going to...if this does better than my bill in your committee to extend polling hours.

SENATOR SCHIMEK: (Laugh) Were you wanting a response from me at this point, Senator Brashear?

SENATOR CUDABACK: Are you finished, Senator Brashear? Thank you. Senator Schimek, on the advancement of LB 252.

SENATOR SCHIMEK: Mr. President, is mine the last light that's on, or is there another light?

SENATOR CUDABACK: Yes, it is, Senator.

SENATOR SCHIMEK: So will this be my closing?

SENATOR CUDABACK: If you wish it to be.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 111, 252

SENATOR SCHIMEK: Well...

SENATOR CUDABACK: Are you ready...are you ready to close?

SENATOR SCHIMEK: I think so. I guess what I would like to say is that in some ways I think it would be important to decide on this policy before 2003, in some respects, because the presidential election, of course, will be in 2004. But it's possible that...that it could sit and it could go to the task force. One of the things that might be helpful that we could find out is how does it work in other states. I don't believe we have any information on the numbers of write-ins, for instance, that come from...that are on the ballot in other states who do have this provision. I would like to have a chance to think about this and talk with the Secretary of State's Office and perhaps Senator Kristensen, perhaps Senator Brashear, and come back to you either with a few more answers or we'll just let it sit or bracket it and send it to the task force. But, at this point, I would like to go ahead and advance it with that assurance that we will do some thinking about it before it comes up again on the agenda. Thank you.

SENATOR CUDABACK: You've heard the closing on advancement of LB 252. All those in favor of advancement vote aye, opposed nay. Have you all voted who care to? We're voting on the advancement of LB 252 to E & R Initial. Have you all voted? Record, please, Mr. Clerk.

CLERK: 29 ayes, 2 nays, Mr. President, on the advancement of LB 252.

SENATOR CUDABACK: LB 52 (sic--252) does advance to E & R Initial. Mr. Clerk, LB 111.

CLERK: LB 111, a bill by Senator Baker. (Read title.) Bill was introduced on January 4, referred to Natural Resources, advanced to General File. I do have committee amendments, Mr. President. (AM0035, Legislative Journal page 356.)

SENATOR CUDABACK: Senator Baker, you're recognized to open on LB 111.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 111

SENATOR BAKER: Thank you, Senator Cudaback and members. This bill does create several new areas in statute with the Game and Parks, and I'm sure your constituents are going to have questions about this, so if you'd lend an ear, why, it would help. To begin with, all people...all youngsters in in...out-of-state youngsters under the age of 16 had to buy a nonresident hunting permit as the statutes now exist, and this bill reduces the fee for a nonresident under 16 year of age youth to a resident permit, which saves them a considerable amount of money. What brought this about was I had people come to me who were nonresident, under 16-year-old Colorado residents who had taken the hunter training course in Colorado and ended up having to pay a nonresident fee to hunt a half a day with their granddad in Hayes County. Cost them \$65.50. This reduces it down as though they were residents. It allows a...the hunter education course to be some home study or self-study. Now, in our areas where they were so isolated out there, some of these youth are having to travel a great distance to take the hunter training course. This would allow a good part of that to be done as self-study through VCR tapes and so on, although they would still have to go through the actual testing and whatnot in person with a person approved to present these hunter training safety courses. It would create the lifetime habitat stamp. As you well know, we have a lifetime fish permit, a lifetime hunting permit, but no provisions in the statutes to obtain a lifetime habitat stamp. This would allow for that. It'd be twenty times the annual fee. I think it's a good idea. And the last thing that this creates is a nonresident landowner's permit process where a nonresident person who owns 320 acres or more, that's one of the changes we made in the committee amendment, they have to own it, they can't lease it, but if they own 320 acres or more, are a nonresident, they can obtain a deer permit. The problem we've had out in western Nebraska is those permit areas have been sold out and there were never any opportunities for a nonresident landowner to even hunt on their own property, and it seemed like we should change that so that somebody who did own 320 or more acres could obtain this permit even though they're a nonresident. So we worked out a...some language here that would allow them to apply. They'd obviously, if they applied and qualified, they would get the permit, but it would

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 111, 131

cost one-half of the out-of-state permit, which would be \$87.50, I believe, cost to them. It is an issue out in our area. These people are living just across the state line. Kansas does it now, Colorado is working on a bill that's a reciprocal situation, so it seemed like the thing to do and, with that, I have nothing else. We'll...we do have the committee amendments. Thank you.

SENATOR CUDABACK: Thank you, Senator Baker. Senator Schrock, as Chairman of Natural Resources Committee, you're recognized to open on the committee amendments to LB 111.

SENATOR SCHROCK: Mr. President and members of the Legislature, Senator Baker has brought to the Natural Resources Committee a good bill, and we advanced it unanimously. This bill deals with hunter education, resident fee and nonresident landowner fees, and increased duplicate fees for if you lose your license and you want to get a duplicate, it would increase the cost of that fee. The committee amendments deal specifically with the out-of-state landowner who would like to hunt. It removes the language of the leases. We thought there was room for abuse there because let's say I have a son who lives out of state and he wants to come back home and hunt. I could say, if a game commissioner or game officer wanted to arrest that person for hunting or if he wanted to get a permit, I could just say, well, I'm going to lease my son 320 acres for a dollar, and so we thought there was room for abuse there and so we...so they actually have to own land in the state of Nebraska. And the question was how many acres they should own--320? I would like to read into the record now that 320 acres is adequate probably, but if you go to the courthouse, and those of you who are attorneys know that a lot of times your legal description on a tract of land is 320 acres, more or less. So if a half-section of land only has 200 or 317 acres in it, it is still considered 320 acres for purposes in this bill. It also...the amendment also removes Section 10 because it deals with the State Boating (sic--Boat) Act and we put it in LB 131, which is the next bill coming up. So, Senator Baker, you brought...brought to us a good bill. The Game and Parks did support the bill and it's obvious you worked with them on the bill, and I will support the bill and I think so will...okay, the amendment also changes the

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 111, 131

effective date because there are some people who have gotten their licenses and it wouldn't be fair for this to become effective July 1st of the year 2001, so this will become effective January 1, 2002. So three items: It deletes the word "leases"; and it removes Section 10 and puts it in another bill, because it deals with the State Boating (sic--Boat) Act; and it changes the operative date from July 1st to January 1, 2002.

SENATOR CUDABACK: Thank you, Senator Schrock. You've heard the opening on the committee amendments to LB 111. Open for discussion. Seeing no discussion, Senator Schrock. The question before the body is the advancement of the committee amendments to LB 111. All in favor vote aye, opposed nay. Have you all voted? Record, please, Mr. Clerk.

CLERK: 34 ayes, 0 nays, Mr. President, on the adoption of committee amendments.

SENATOR CUDABACK: Committee amendments are adopted to LB 111. We're open for discussion now, the advancement of LB 111 to E & R Initial. Seeing no lights, Senator Baker, did you wish to close?

SENATOR BAKER: Very briefly. I appreciate the work that the committee did on this and I think the amendments we adopted were great. I think it's a good bill and would simply ask for advancement to Select File. Thank you.

SENATOR CUDABACK: Thank you, Senator Baker. The question before the body is advancement of LB 111 to E & R Initial. All in favor vote aye, opposed nay. Have you all voted who care to? Record, please, Mr. Clerk.

CLERK: 33 ayes, 0 nays, Mr. President, on the advancement of LB 111.

SENATOR CUDABACK: LB 111 does advance. Mr. Clerk.

CLERK: LB 131, Mr. President, by Senator Schrock. (Read title.) Bill was introduced on January 4, referred to the Natural Resources Committee, advanced to General File. I do

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 Lr 131

have committee amendments. (AM0034, Legislative Journal page 356.)

SENATOR CUDABACK: Senator Schrock, you're recognized to open on LB 131.

SENATOR SCHROCK: Mr. President, members of the Legislature, LB 131 deals with the State Boat Act. Section 1 clarifies existing law regarding where boat manufacturers and dealers make application for certificate of numbers for vehicles. Applications are made to the counties and not to the Game and Parks Commission on forms provided by the commission or prescribed by the commission. So you need to apply for your license for your boat at the county level, but they have to be on forms provided by the Game and Parks Commission. Section 2 clarifies that the information on the registration is transmitted to the commission and not the actual registration. Section 3 deletes the requirement that horsepower information be included on the certificate because it's very possible that you could remove the motor and put a different motor in it, with all the outboard motors we have in this state. Section 4 changes the hours that someone may operate a personal watercraft from one-half hour after sunset through one-half hour before sunrise to simply "from sunset to sunrise", and that conforms with our state law on boats. At the present time, you cannot drive a boat on the waters of the state before sunrise or after sunset, and so that takes the half hour and conforms the personal watercraft with our laws on boats. You can drive a boat at nighttime or after sun...sundown or before sunrise if you have the proper lights. We don't want people putting lights on watercraft. Let's don't go that direction. Section 5 changes the amount of property damage from \$100 to \$500 which triggers the requirement the report of a collision must be made to the commission. So if Senator Pederson has a dock out there and the neighbor's boat gets loose and runs into the dock and knocks it over and it's \$125 damage, he doesn't have to report it now, or the person who owns the boat doesn't have to report it. It has to be over \$500 damage. So if there is an accident or property damage and it's less than \$500, you don't have to report it if we pass section...if we pass this bill. Before it was \$100 and we feel that that needs to be updated because \$100 is not a lot

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 131

of money anymore when you're dealing with...when you're dealing with collision of watercraft with each other or with another object. Section 6 and 7 are just a repealer. If you have any questions, I'd be try to...glad to answer them. We do have an amendment.

SENATOR CUDABACK: Thank you, Senator Schrock. As Chairman of Natural Resources Committee, you're recognized to open on the committee amendments to LB 131.

SENATOR SCHROCK: The committee amendment just establishes that the commission may establish a fee of not more than \$5 for a replacement certificate of numbers, and removes the statutory reference. Right now, they can charge \$1.50. That doesn't cover the cost. They can still charge \$1.50 if they choose to, but this would allow them to go to \$5. If you need a...if you lose your licenses or your certificate of numbers and want to replace them, they may charge you \$5 now instead of \$1.50. That's all the amendment does.

SENATOR CUDABACK: Thank you, Senator Schrock. We're discussing the committee amendments to LB 131. Any wishing to discuss? I see no lights. Senator Schrock, you wish to close? We are voting on the committee amendments to LB 131. All in favor vote aye, opposed nay. Have you all voted who care to? Record, please, Mr. Clerk.

CLERK: 28 ayes, 0 nays, Mr. President, on the adoption of committee amendments.

SENATOR CUDABACK: The committee amendments are adopted to LB 131. We're now open for discussion of advancement of LB 131 to E & R Initial. Seeing no lights, Senator Schrock, did you wish to close?

SENATOR SCHROCK: Brief overview. This was brought to us by Game and Parks. It's mainly a clean-up bill. I would ask you to advance LB 131.

SENATOR CUDABACK: The question before the body is advancement of LB 131 to E & R Initial. All in favor vote aye, opposed nay.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 118, 131

Have you all voted who care to? Record, please, Mr. Clerk.

CLERK: 28 ayes, 0 nays, Mr. President, on the advancement of LB 131.

SENATOR CUDABACK: LB 131 does advance. Mr. Clerk, LB 118.

CLERK: LB 118, by Senator Wickersham. (Read title.) Bill was introduced on January 4, referred to the Revenue Committee, advanced to General File. I have no amendments to the bill, Mr. President.

SENATOR CUDABACK: Senator Wickersham, you're recognized to open on LB 118.

SENATOR WICKERSHAM: Mr. President, thank you. LB 118 is a simple bill that solves a problem with regard to tax deeds. Tax deeds are issued by county treasurers as the last step in the process of foreclosing a tax lien. In this instance, the deed would be issued at the request of an individual holding a tax sale certificate. A problem has arisen in that process because the holder of the tax sale certificate has a very limited amount of time in which to undertake a variety of steps to actually acquire the right to request the tax deed. They have to send notice to the owner of the property, et cetera, and they have a very short time frame to accomplish those steps in. Occasionally, occasionally, circumstances have arisen in which the holder of a tax certificate, going through the final steps to foreclose and actually obtain title to the property on which they paid taxes, has not been able to receive the treasurer's deed within the six-month window that is provided for that purpose. Now, it hasn't been because the holder of the certificate hasn't done everything else that they're supposed to have done. They would have sent the notices, they would have requested the deed, but if the deed hasn't been delivered by the county treasurer within that six-month period, we have, in some places in the state, judges saying that that's not a valid foreclosure and you would literally, if you were the holder of the tax sale certificate, have to start all over and lose your investment. That isn't the result that we would intend and the bill simply solves that issue by saying to the holder of the tax

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 118, 156

sale certificate and the treasurer and to everybody else, if you have done everything you need to do to properly request the deed but the deed is not delivered to you within the six-month period, that's okay. If the treasurer delivers it to you six months and two days after the window opened, that's okay. If the treasurer delivers it to you six months and a week after, that's okay. You still have the responsibility to do everything that you're supposed to do--give your notices, ask for the deed within the six-month period--but we're not going to hold you responsible for the actions of an elected official, who is not under your direct control and who is not directly responsible to you, for whether or not they get the deed in your hands within the six-month period. And, of course, we can all imagine circumstances under which a treasurer might not be able to validly comply with a request within the...within the time frame. We didn't...the committee didn't think that was fair, I didn't think that was fair, to the holder of the tax sale certificate. It's an issue that's out of their control and if they've done everything they need to do prior to the expiration of the time period, they ought to have a valid deed from the treasurer, whether it's issued immediately or a little bit later. Thank you.

SENATOR CUDABACK: Thank you, Senator Wickersham. We're discussing the advancement of LB 118 to E & R Initial. Seeing no lights, Senator Wickersham, did you wish to close on the advancement? Senator Wickersham waives closing. The question before the body is, shall LB 118 be advanced to E & R Initial? All in favor vote aye, opposed nay. Have you all voted who care to? Record, please, Mr. Clerk.

CLERK: 28 ayes, 0 nays, Mr. President, on the advancement of LB 118.

SENATOR CUDABACK: LB 118 does advance. Mr. Clerk, LB 156.

CLERK: LB 156, by Senator Baker. (Read title.) Bill was introduced on January 4, referred to the Revenue Committee, advanced to General File. I have no amendments to the bill, Mr. President.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 156, 365

SENATOR CUDABACK: Senator Baker, you're recognized to open on LB 156.

SENATOR BAKER: Thank you, Senator Cudaback and members of the Legislature. A very simple bill here. What this does is places sole responsibility to publish the assessment roll with the county assessor. Right now, as the statutes read, either the county assessor or the county clerk shall cause to be published. What this bill does is strike the or the county clerk. It is determined by the county assessor and we feel that the county assessor should be solely responsible for the printing of this. It does not change the printing requirements, the dates or anything else. It was supported in committee by the Property Tax Administrator. This is where the responsibility belongs and I would ask that we advance the bill to Select File. Thank you.

SENATOR CUDABACK: Thank you, Senator Baker. We're now open for discussion on advancement of LB 156. There are no lights on. Senator Baker, did you wish to close? Senator Baker waives closing. The question before the body is, shall LB 156 be advanced to E & R Initial? All in favor vote aye, opposed nay. We are voting on advancement of LB 156 to E & R Initial. Have you all voted who care to? Have you all voted? Record, please, Mr. Clerk.

CLERK: 26 ayes, 0 nays, Mr. President, on the advancement of LB 156.

SENATOR CUDABACK: LB 156 does advance. Mr. Clerk, next agenda item.

CLERK: Mr. President, LB 365 is a bill by Senator Raikes. (Read title.) Introduced on January 8, referred to the Revenue Committee, advanced to General File. I have no amendments to the bill at this time, Mr. President.

SENATOR CUDABACK: Senator Raikes, you're recognized to open on LB 365.

SENATOR RAIKES: Thank you, Mr. President and members of the Legislature. Statute currently requires that the Revenue

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 275, 365

Committee hold a hearing on or before January 15th of each year to receive and consider testimony, evidence, and report regarding the base limitation rate. If the base limitation rate is to be changed, a bill would have to be introduced and a hearing would be held to receive that same information. Therefore, this requirement for a hearing is redundant and this bill would simply eliminate that requirement. It was advanced unanimously from the Revenue Committee, I think both last session and this session, so I would ask for your support. Thank you.

SENATOR CUDABACK: Thank you, Senator Raikes. We're now open for discussion on the advancement of LB 365. Anybody wishing to discuss advancement? Seeing no lights on, Senator Raikes, did you wish to close on advancement? Senator Raikes waives closing. The question before the body is, shall LB 365 be advanced to E & R Initial? All in favor vote aye, opposed nay. Have you all voted who care to? Record, please, Mr. Clerk.

CLERK: 29 ayes, 0 nays, Mr. President, on the advancement of LB 365.

SENATOR CUDABACK: LB 365 does advance to E & R Initial. Mr. Clerk, next agenda item.

CLERK: LB 275, a bill by Senator Vrtiska. (Read title.) Introduced on January 5, referred to the Revenue Committee, advanced to General File. I do have committee amendments, Mr. President. (AM0032, Legislative Journal page 357.)

SENATOR CUDABACK: Senator Vrtiska, you're recognized to open on LB 275.

SENATOR VRTISKA: Thank you, Mr. Speaker, members of the body...or Mr. President, members of the body. LB 275 is a bill that was brought to me by the Nebraska Association of County Officials and I need to tell you it's a fairly simple and straightforward bill. It...basically purpose is to extend the deadline for county assessors to file their certificate of levies levied from November 27th to November (sic--December) 5th. There...the bill was advanced out of

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 275

committee with...without any objections, but there is a committee amendment, as the Speak...as the Clerk has indicated, but it was...it was agreed upon by the committee to attach this particular amendment to change the date to...from December 5th to December 1st. Some of the history behind this proposal is that there's been some changes over the years in how we have allowed or required assessors to certify their tax lists and, in the past, it has changed from December 1 to...in 1997 it was changed to December 5th, and even though there was a move at that time to make it the first of January, which wasn't practical. But in 1998, a complete overhaul of the property tax calendar was adopted by LB 306, which at that time included moving the deadline, filing a certificate of tax levies, to November 27th, and that's where it is right now. One of the problems, and a couple assessors came in and testified. One of the problems is, that because that particular period, between there is Thanksgiving comes in and there's some time when the courthouse is closed, so it puts the assessors under a difficult time frame in order to get the taxes certified and get it to the Property Tax Administrator in time to be taken care. So they're just asking for this...this slight change in the time frame as to when they certify this tax list to put it forward. And, as I said at the outset, this is certainly a straightforward and a simple bill that really doesn't do anything except make a few extra days for the assessors to...to certify their taxes. I think it's important because, as the assessors there testified, it takes time to make sure that these are correct, and that's what they want to do, and so we're giving them a few extra days to make sure they're able to recheck their figures and...and get the right numbers in. So with that explanation then I would ask you to support the bill.

SENATOR CUDABACK: Thank you, Senator Vrtiska. Senator Wickersham, as Chairman of the Revenue Committee, you're recognized to open on the committee amendments to LB 275.

SENATOR WICKERSHAM: Yeah, Mr. President, members of the body, as Senator Vrtiska indicated, the committee amendment simply changes the December 5th deadline proposed in the bill to a December 1st deadline, and even at December 1st there is the differential between November 27th and December 1st in which the

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 275

assessors would have additional time to complete the certificate of taxes levied. Most people believe that the completion of the certificate of taxes levied is the last step in the process for determining...for in that long process that begins in January each year in the assessment and taxation process, and certainly, as Senator Vrtiska noted, there is interest in making sure that that's all done accurately. I would note that levies would have been determined before the date in question, budgets would have been determined before the date in question, and the process that we're talking about is largely one of data compilation. Although even at that late date you may find some errors, you're not going to be able to correct them because the dates for correcting levies would have gone past. It is an issue of when we get that process completed, however, and I believe and the committee believes that we have an interest in making sure that that happens in as timely and as early a fashion as it can be. It becomes also an interest of obtaining information for ourselves and for the public because the certificate of taxes levied is then used by the Property Tax Administrator's Office to complete the reports, which I hope you're examining as they come out each year. So we do have an interest in receiving the information in a timely fashion at the state Property Tax Administrator's Office, but we do also have an interest in seeing that it is accurate. We're hopeful that the extra days that would be granted with the adoption of the committee amendment and Senator Vrtiska's bill would be adequate to meet both objectives--receiving timely information and receiving timely accurate information. Thank you.

SENATOR CUDABACK: Thank you, Senator Wickersham. We're open for discussion on the committee amendments to LB 275. Seeing no lights, Senator Wickersham, do you wish to...he waives closing. The question before the body is the committee amendments to LB 275. All in favor vote aye, opposed nay. We are voting on the committee amendments to LB 275. Have you all voted who care to? Record, please, Mr. Clerk.

CLERK: 26 ayes, 0 nays, Mr. President, on the adoption of committee amendments.

SENATOR CUDABACK: The committee amendments are adopted. We're

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 209, 275

now open for discussion on advancement of LB 275. Seeing no lights, Senator Vrtiska, did you wish to close on the advancement?

SENATOR VRTISKA: Just one comment. I wanted to thank Senator Wickersham for his assistance in bringing this together so that both sides of this are resolved that it's a good idea and it will not, in fact, cause any problem with anybody. So, with that remark, I would ask you to advance LB 275 to...

SENATOR CUDABACK: Thank you, Senator.

SENATOR VRTISKA: ...E & R.

SENATOR CUDABACK: Thank you, Senator Vrtiska. The question before the body is advancement of LB 275 to E & R Initial. All in favor vote aye, opposed nay. Have you all voted who care to? Record, please, Mr. Clerk.

CLERK: 27 ayes, 0 nays, Mr. President, on the advancement of LB 275.

SENATOR CUDABACK: LB 275 does advance. Mr. Clerk, next agenda item.

CLERK: LB 209, a bill by the Health and Human Services Committee, signed by its membership, relates to health and human services. (Read title.) Introduced on January 4, referred to the Health Committee, advanced to General File. I have no amendments to the bill, Mr. President.

SENATOR CUDABACK: Senator Byars, I understand that you're, as Vice Chairman of the committee, you're authorized to handle this bill, right?

SENATOR BYARS: That is correct, Mr. President.

SENATOR CUDABACK: You're recognized.

SENATOR BYARS: Thank you, Mr. President and members. This bill is...is unique in that the...the contents of the bill are

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 209

far-reaching, but it actually had its birth in last year's, in the 2000 Session, and were...were part of the Health Committee's clean-up bill at the end of the session which, unfortunately, we were unable to take action on. So, in an unusual process, all of these...the items contained in LB 209 have had not but one but two public hearings, and at both of those hearings these particular changes were noncontroversial, brought to the committee by professional and other organizations, and unanimously were supported. And I will briefly go through those changes and answer any questions if members of the body have any. Basically, LB 209 clarifies provisions relating to licensure of physician assistants, and it provides for a biennial renewal of those licenses. Number two, the bill says that you do not have to be charged for a corrected birth or death certificate if the Bureau of Vital Statistics makes a mistake that requires you to have a corrected certificate. Number three, the bill requires training for foster parents of Native American children. Number five, it provides for a temporary licensure for the practice of audiology and speech language pathology, and makes technical changes also to the Nebraska Cosmetology Act. The bill changes continuing education provisions for optometrists, provides a new continuing education requirement for both physical therapists and physical therapist assistants. It changes provisions relating to dental examination, authorize the practice of dental hygiene on patients by dental hygiene students; and the bill outright repeals three acts that are in one way or another obsolete. Those are the Parkinson's Disease Registry Act, the Community Health Care Act, and the statutes relating to the Human Genetic Technologies Commission. And, in brief, Mr. President, this is what LB 209 does. As I said earlier, there has been no controversy and no negative testimony regarding any of these issues and there is agreement. I would urge your advancement of LB 209.

SENATOR CUDABACK: Thank you, Senator Byars. We're open for discussion on advancement of LB 209 to E & R Initial. Seeing no lights, Senator Byars, did you wish to close? Senator Byars waives closing. The question before the body is advancement of LB 209 to E & R Initial. All in favor vote aye, opposed nay. Voting on advancement of LB 209. Have you all voted who care

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 209, 214

to? Record, please, Mr. Clerk.

CLERK: 26 ayes, 0 nays, Mr. President, on the advancement of LB 209.

SENATOR CUDABACK: LB 209 does advance. Mr. Clerk, next agenda item.

CLERK: LB 214, by Senator Jensen. (Read title.) Introduced January 4, referred to Health and Human Services, advanced to General File. I do have committee amendments, Mr. President. (AM0020, Legislative Journal page 357.)

SENATOR CUDABACK: Senator Byars, I understand you're authorized to handle this for Senator Jensen.

SENATOR BYARS: That is correct, Mr. President.

SENATOR CUDABACK: You're recognized to open.

SENATOR BYARS: Thank you, Mr. President and colleagues. LB 214 is the annual clean-up legislation brought to the Legislature by the Nebraska Health and Human Services System. The bill, as introduced, essentially addresses three separate topics, and there is also a committee amendment to the bill. First, the bill provides access by the Department of Health and Human Services Regulation and Licensure to records of abuse for purposes of licensing childcare providers. When the licensure of childcare providers was moved from the Department of Health and Human Services, the Department of Regulation and Licensure, the statutes weren't amended to allow Regulation and Licensure to access those abuse records, which are housed in different agencies within the HHS System. Secondly, the bill replaces the term "health maintenance activities" with the term "noncomplex nursing interventions" for purposes of the Health Care Facility Licensure Act, and permits such interventions to be performed in an assisted-living facility licensed by the state. We will deal with that particular part of the bill in the committee amendment. The third portion of the bill finally changes provisions relating to the rural health systems and Professional Incentive Act. First, it strikes language providing for the

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 214

appropriation of General Funds to the Rural Health Professional Incentive Fund, which is a Cash Fund. Dental students are added to student loan provisions of the act, and advanced practice registered nurses and physician assistants are added to student loan repayment provisions of the act. We had no opposition to the bill, with the exception of the "health maintenance activities" being replaced with the term "noncomplex nursing interventions", and I'll deal with that in the committee amendment. But this basically is the...is the bill, LB 214, Mr. President.

SENATOR CUDABACK: Thank you, Senator Byars. As Vice Chairman of the Health and Human Services Committee, you're recognized to open on the committee amendments.

SENATOR BYARS: Thank you, Mr. President. The committee amendment simply deletes the noncomplex nursing intervention provisions found in Sections 3 and 5 of the bill. We found that this...this particular area of the bill needed more study. There was some...some objection to how that language was written so I would ask at this time that you approve the committee amendment to delete those provisions found in Sections 3 and 5 of the bill.

SENATOR CUDABACK: You've heard the opening on the committee amendments to LB 214. Any discussion on those committee amendments? Seeing none, Senator Byars. He waives closing. The question before the body is advance...or the committee amendments to LB 214. All in favor vote aye, opposed nay. We are voting on the committee amendments to LB 214. Have you all voted who care to? Record, please, Mr. Clerk.

CLERK: 25 ayes, 0 nays on adoption of committee amendments, Mr. President.

SENATOR CUDABACK: The committee amendments are adopted to LB 214. We're now open for discussion on advancement of LB 214 to E & R Initial. Seeing no lights, Senator Byars, did you wish to close on the advancement? Senator Byars waives closing. The question before the body is advancement of LB 214 to E & R Initial. All in favor vote aye, opposed nay. We're voting on

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 23, 2001 LB 54, 71, 105, 159, 168A, 214, 252, 313
362, 590

the advancement of LB 214. Have you all voted who care to?
Record, please, Mr. Clerk.

CLERK: 25 ayes, 0 nays, Mr. President, on the advancement of
LB 214.

SENATOR CUDABACK: The bill does advance. Items for the record,
Mr. Clerk.

CLERK: Senator Landis, amendments to LB 54; Senator Chambers,
LB 71; Senator Kristensen to LB 252 to be printed. Notice of
hearing from the Urban Affairs Committee. New A bill, LB 168A
by Senator Wickersham. (Read by title for the first time.)
Mr. President, Banking Committee reports LB 105 to General File
and LB 362 to General File; and Education Committee reports
LB 313 to General File with amendments, those reports signed by
their respective committee Chairs. Senator Dierks would like to
withdraw LB 590. That will be laid over. Senator Dwite
Pedersen would like to add his name to LB 159. A Reference
Committee meeting upon adjournment, Mr. President; Reference
Committee, upon adjournment. That's all that I have.
(Legislative Journal pages 380-383.)

SENATOR CUDABACK: Senator Don Pederson, would you make a motion
to adjourn, if you wish.

SENATOR D. PEDERSON: Mr. President, I move that we adjourn
until 9:00 a.m. tomorrow morning.

SENATOR CUDABACK: The motion is to adjourn until January 24th
at 9:00 a.m. All in favor say aye. Opposed nay. We are
adjourned.

Proofed by: Kathleen Higley