

JANUARY 31, 2005

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

January 31, 2005 LB 92, 234

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Good morning. Welcome to the George W. Norris Legislative Chamber. Our acting chaplain this morning is Senator Engel, from the 17th District. Senator Engel.

SENATOR ENGEL: (Prayer offered.)

SENATOR CUDABACK: Thank you, Senator Engel, for acting as the chaplain. We appreciate it. I call the seventeenth day of the Ninety-Ninth Legislature, First Session, to order. Senators, please check in. Record please, Mr. Clerk.

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

SENATOR CUDABACK: Thank you, Mr. Clerk. Any corrections for the Journal?

CLERK: I have no corrections, Mr. President.

SENATOR CUDABACK: Messages, reports, or announcements, please.

CLERK: Mr. President, your Committee on Urban Affairs, chaired by Senator Friend, reports LB 92 to General File with committee amendments attached; and LB 234 to General File with committee amendments attached; those two reports signed by Senator Friend, as Chair. Hearing notices from the Transportation and Telecommunications Committee, and from the Education Committee, signed by their respective Chairs. I have a communication from the Governor, regarding the appointment of Mr. Rick Sheehy as Lieutenant Governor, as well as the Oath of Office, Mr. President, to be inserted in the Journal. And finally, Mr. President, I have a communication from the Douglas County Board of Commissioners. That will be on file in the Clerk's Office. That's all that I have. (Legislative Journal pages 385-388.)

SENATOR CUDABACK: Thank you, Mr. Clerk. Speaker Brashear, you're recognized to speak.

SPEAKER BRASHEAR: Mr. President, thank you. Good morning,

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

January 31, 2005

members. Welcome back. I thought I would share a few brief thoughts, if I could, as has become my practice. I've told the Chairs, but I need to tell all of you, that the calendar as you have it, as it was presented, is final. And as I explained to those who asked me to reconsider, if I could have done anything to have eliminated the entirety of the week of the 31st, I would have. But it would have taken so many recess days, that it doesn't make sense, in my opinion, to take the Monday holiday, then come back for Tuesday, and then to adjourn. So it is as printed and distributed for you. I lost...I don't know about you, but as the week drags on and I get tired, why, sometimes I lose some of my vision. I wanted to share with you that this morning will be an exception. As a part of our trying to be kinder and gentler, and do things the way some of the rest of the people in the big, adult world of legislation do it, it will be my practice to begin...until it doesn't work and we need more time, it will be my practice in the future to begin on Mondays at 10:00 a.m. It's a little extra time. I don't know about you; my work is piling up. I suspect yours is. And we need extra time for something I'll mention last. When we're out of committee hearings, then on Friday we'll try to have a kinder and gentler world, too, as long as it works. And that brings me to...we're beginning to get, as I call it, our sea legs under us, and handle the floor. And I'd like to respectfully suggest how I'm going to try and facilitate that, as I told you I would when we talked about it during the interim. If you're advocating an idea and you're the proponent of an idea and it's your bill, then I expect you know your friends and you know your foes. And they're still your friends. You know the people who are opposed to your idea. I have never found anybody in the body with whom I could not communicate, even if we disagreed. And I'm going to expect that when I come to somebody who's sponsoring a bill, they can tell me who the opponents are and how they've dealt with them and how their ideas have been considered. I'm not suggesting every idea can be compromised. It can't be. But to have not had communication and consideration of differing points of view before we get to the floor, I think, would not...does not serve the process well. And I'm going to try and come to the sponsors when we begin to have some difficulty, as I did a little bit last week, and say, all right, where are we, what can we do, how can I help this

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

January 31, 2005

process? I think that's my job. I hope that's acceptable to you. If it isn't, you'll tell me so. Have a good week. Thank you very much.

SENATOR CUDABACK: Thank you, Speaker Brashear, for your comments. The body appreciates it. Next General...item on the agenda is legislative confirmation reports. Mr. Clerk.

CLERK: Mr. President, the first report, by Natural Resources, offered by Senator Schrock, involves the appointment of Ken Kunze to the Nebraska Power Review Board.

SENATOR CUDABACK: Senator Schrock, as Chairman of the Natural Resources Committee, you're recognized to open.

SENATOR SCHROCK: Mr. President, members of the Legislature, Mr. Kunze appeared before the committee for his confirmation hearing on January 21. He has already served four years on the board, on the Power Review Board, and is the layperson representative on the board. Ken is a graduate of the University of Nebraska at Kearney, and is a real estate broker. He served as the mayor of York from 1988 to 1996, and was president of the League of Nebraska Municipalities from 1995 to 1996. The committee's vote for Ken Kunze was unanimous.

SENATOR CUDABACK: Thank you, Senator Schrock. You've heard the opening, confirmation report offered by Senator Schrock. Open for discussion. Senator Stuhr.

SENATOR STUHR: Thank you, Mr. President and members of the body. Mr. Kunze is from my district. He lives in York, Nebraska. He's a very reputable citizen in the community, and I think that he will continue to do a fine job serving on the Power Review Board. Thank you.

SENATOR CUDABACK: Thank you, Senator Stuhr. Further discussion, confirmation report offered by the Natural Resources Committee? Seeing no lights on, Senator Schrock, did you wish to close on your report? Senator...he waives closing. The question before the body is, shall the confirmation report offered by the Natural Resources be adopted? All in favor vote

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

January 31, 2005

aye; opposed, nay. The motion before the body is the confirmation report offered by the Natural Resources Committee. Have you all voted who care to? Record please, Mr. Clerk.

CLERK: (Record vote, Legislative Journal pages 388-389.) 35 ayes, 0 nays, Mr. President, on the adoption of the confirmation report.

SENATOR CUDABACK: The motion was successful. The report has been adopted. Mr. Clerk, next report.

CLERK: Mr. President, second report by the Natural Resources Committee, chaired by Senator Schrock. It reports on the appointment of Donald Kohtz, K-o-h-t-z, to the Nebraska Power Review Board.

SENATOR CUDABACK: Senator Schrock, you're recognized to open on your second report.

SENATOR SCHROCK: Mr. President, members of the Legislature, I do commend the Clerk for his pronunciation of these names. That's very correct, Mr. O'Donnell. Don Kohtz appeared before the committee on January 26. Don is a new appointment to the board, and is the attorney representative on the board. Don is a graduate of Wayne State and the University of Nebraska Law College. He is an attorney with the Central States Health and Life Company in Omaha. He previously has worked for the Department of Insurance's insurance fraud prevention division, and the Attorney General's Office. Don is on the board of directors of the Nebraska Crime Stoppers, and the Heartland Chapter of the Association of Certified Fraud Examiners. The vote by the committee was unanimous, and I recommend his confirmation to the full body.

SENATOR CUDABACK: Thank you, Senator Schrock. You've heard the opening on the report offered by the Natural Resources Committee. Open for discussion on that report. Senator Raikes.

SENATOR RAIKES: Thank you, Mr. President, members. As Senator Schrock pointed out, the Power Review Board has five members appointed by the Governor to serve four-year terms, and the

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

January 31, 2005

makeup of the board must include an engineer, a lawyer, an accountant, and two other members of the public. Mr. Kohtz, if confirmed, will become the attorney on the board. Mr. Kohtz is a resident of Waverly, which is in Legislative District 25. Although I was unable to attend his confirmation hearing before the committee last Wednesday, I reviewed his application packet and the statement he prepared for the hearing. He is obviously, being a resident of District 25, highly qualified for this position, with a very respectable background in the practice of law. And he's impressed me with his motivation to serve. I'm pleased to lend my support to his appointment to the Nebraska Power Review Board. Thank you.

SENATOR CUDABACK: Thank you, Senator Raikes. Further discussion of the confirmation report? Seeing no lights on, Senator Schrock, did you wish to close on your report? You may close.

SENATOR SCHROCK: Mr. President, notwithstanding the district that Mr. Kohtz lives in, I still recommend the confirmation. (Laughter)

SENATOR CUDABACK: Thank you. You've heard the closing on the report. The question before the body is, shall the confirmation report offered by the Natural Resources Committee be adopted? All in favor vote aye; opposed, nay. We're voting on the confirmation report offered by the Natural Resources Committee. Have you all voted who care to? Record please, Mr. Clerk.

CLERK: (Record vote, Legislative Journal pages 389-390.) 34 ayes, 0 nays, Mr. President, on the adoption of the confirmation report.

SENATOR CUDABACK: The motion was successful. The report has been adopted. Mr. Clerk, next report.

CLERK: Mr. President, a report from the Nebraska Retirement Systems Committee, involving the appointment of John Maddux to the Nebraska Investment Council.

SENATOR CUDABACK: Thank you, Mr. Clerk. Chairperson Stuhr,

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

January 31, 2005

you're recognized to open on your report.

SENATOR SCHROCK: Good morning, Mr. President and members of the Legislature. The Nebraska Retirement Systems Committee recently held a confirmation hearing, on January 25, 2005, for Mr. John Maddux. He had been reappointed by the Governor to serve a five-year term on the Nebraska Investment Council. Mr. Maddux is a former investment banker who has over 11 years of investment experience. He worked on Wall Street during this time, but returned to Nebraska roots in order to ranch cattle. The vote from the Retirement Committee was unanimous. We believe that Mr. Maddux will continue to serve as a conscientious member on the council, helping to safeguard and maintain the financial soundness of the funds invested by the state of Nebraska. We appreciate Mr. Maddux's commitment to public service, and ask for your support in his reconfirmation to the Nebraska Investment Council. Thank you.

SENATOR CUDABACK: Thank you, Senator Stuhr. You've heard the opening on the report offered by the Retirement Systems Committee. Open for discussion on that report. Senator Baker.

SENATOR BAKER: Thank you, Mr. President, members. John Maddux is a constituent of mine. I know him very well. I'm grateful for him taking the time of serving the state of Nebraska in this capacity. He does an excellent job. He has a wealth of experience. I've tried to get him to advise me on some of my things, and he won't help me much with that. But they've got a...have an excellent track record. I certainly urge everyone to support the reappointment of John Maddux to this board. Thank you.

SENATOR CUDABACK: Thank you, Senator Baker. Further discussion on the report offered by the Retirement Committee? Seeing no lights on, Senator, did you wish to close? She waives automatically to close. The question before the body is, shall the report offered by the Retirement Committee be adopted? All in favor vote aye, opposed nay. The question before the body is the report offered by the Nebraska Retirement Systems Committee. Have you all voted who wish to? Record please, Mr. Clerk.

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

January 31, 2005

CLERK: (Record vote, Legislative Journal page 390.) 34 ayes, 0 nays, Mr. President, on the adoption of the confirmation report.

SENATOR CUDABACK: The motion was successful. The report has been adopted. Mr. Clerk, next confirmation report.

CLERK: Mr. President, the next report, offered by the General Affairs Committee, involves a series of appointments to the Nebraska Arts Council.

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Janssen, you're recognized to open on the confirmation report offered by the General Affairs Committee.

SENATOR JANSSEN: Thank you, Senator Cudaback, members of the Legislature. On January 24, the General Affairs Committee held hearings for the confirmation and appointment to the Nebraska Arts Council. We had five new appointments, and one reappointment. The first appointment is a new appointment, Vicki Bromm. Her son, Jaron, testified on her behalf, and has a deep appreciation and understanding of the arts. The next new appointment was Mr. David Catalan. He is from Omaha, has extensive involvement in the community and civic activities in his area. The third new appointment was Mr. Murray H. Newman. He is from Omaha. He's retired. He's a member of the board of trustees of many local organizations. The next new appointment was Germelina Salumbides, and is a new appointment. She is a neighbor, I believe, of Senator Joel Johnson's, and he was there to testify on her behalf. She is from the Philippines, and is very...has a very extensive background in a variety of cultural activities. The next new appointment was Mr. Richard J. Vierk. He has extensive community involvement in many areas. He is from Lincoln. He is a past member of the Lincoln Symphony Orchestra. The last appointment is a reappointment. And that is Mrs. Donna Woods. And she was unable to be there. But Senator Schimek gave a very good testimony on her behalf. And she is from Lincoln, and is involved in the Lincoln Arts Council, and many other community activities. The committee voted unanimously to advance all of these appointments. With that, I ask you for a favorable consideration of the

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

January 31, 2005 LB 119

confirmation reports. Thank you.

SENATOR CUDABACK: Thank you, Senator Janssen. You've heard the opening on the confirmation report. Open for discussion. Anybody wishing to discuss the confirmation report? Senator Janssen, there are no lights on. He waives the opportunity to close. The question before the body is the General Affairs Committee confirmation report. All in favor of the report vote aye; opposed, nay. The motion before the body is adoption of the confirmation report offered by the General Affairs Committee. Have you all voted on the report who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: (Record vote, Legislative Journal pages 390-391.) 36 ayes, 0 nays on the adoption of the report, Mr. President.

SENATOR CUDABACK: It was successful. The confirmation report has been adopted. We now go to General File, LB 119. Mr. Clerk, where were we on LB 119?

ASSISTANT CLERK: Mr. President, LB 119 was introduced by the Banking, Commerce and Insurance Committee. (Read title.) The bill was read for the first time on January 6 of this year, referred to the Banking, Commerce and Insurance Committee. The bill was considered on January 27, at which time the committee amendments were adopted. When we left the bill, an amendment from Senator Beutler, FA3, was under consideration, Mr. President.

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Mines, would you like to give us a minute or two review on what the bill actually does?

SENATOR MINES: Thank you, Mr. President, colleagues. Let me review where we ended last week. This is LB 119. It is...if you will remember, it is a bill that addresses 17 different points by the Nebraska Department of Insurance. The members of the Banking, Commerce and Insurance Committee, as well as the industry and the department, have spent time on this, a great deal of time, and have offered this for your consideration. The

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

January 31, 2005 LB 119

17 points, very quickly, include a pre-need act; credit for reinsurance; separate account; TMJ--and that's tempo...temporal mandibular, thank you, Senator Hudkins, temporal mandibular. There's a section on breast reconstruction after a mastectomy mandated benefits; holding company statement filing date; liquidating trusts; clearing corporations. We pulled...we amended out the Investment Code changes. We are...a Utilization Review Act clarification; a section on surplus lines licenses...licensees, excuse me, in state records requirement; Mutual Holding Company Act revision. The one that we had discussion, great discussion on, Property and Casualty Rate and Form Act, which would be the file and use provision; interstate life insurance policy compact; a retaliatory application of Nebraska health insurance mandates; P & C actuarial opinion model; and then workers' compensation residual pool rulemaking authority. So Mr. President, that's where we left it. This is the Banking bill. And I will...with that, I will close my introduction.

SENATOR CUDABACK: Thank you, Senator Mines, for the review. Senator Beutler, would you like to give us a quick review on the...on your amendment itself? Then we'll go...it will not be timed.

SENATOR BEUTLER: Senator Cudaback, in order to save a little time, I would simply notify you at this time that I would withdraw the amendment, in favor of more refined amendments.

SENATOR CUDABACK: Okay. The amendment is withdrawn. Mr. Clerk.

ASSISTANT CLERK: Senator Beutler, the next amendment I have is offered by you. That is FA4. (Legislative Journal page 391.)

SENATOR CUDABACK: Senator Beutler, you're recognized to open on FA4 to LB 119.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, over the weekend I had a chance to look at other provisions of this bill. And I want to discuss with you today a provision of the bill that appears on page 33, if you want to...if you're

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

January 31, 2005 LB 119

interested in turning to it. It's actually on lines 5 through 9 on page 33 of the bill. This is a huge bill. As Senator Mines has indicated, there are 17 different parts. You know, logically, in the old days, when we processed things a little faster, there would be 6 or 7 or maybe even 17 different bills, and we would discuss them one by one. Now they...in later years here, they've been kind of packaged all together, in order to enable us to get more done in the time that we have. And so we spend, obviously, a little more time discussing these large bills, which I think is quite appropriate, because it's really a large number of bills dealing with a broad cross-section of proposed reform in, in this instance, the general area of insurance. So I've indicated to Senator Mines, in fairness to him and his efforts, that what I would like to do is get on the table those things in the bill that, at least from my personal perspective, I would hope they would take a second look at, discuss each one of them, lightly, I guess I would say, and not have an extended debate that takes us all morning. And in that spirit, Senator Mines has indicated that we can sit down after General File and discuss off the floor, get some insurance people in so we have a sounder foundation for some of the answers that we need, and see if there's not some compromise we can reach on Select File, and hopefully not take a whole lot more of your time in floor debate. Having said that, let me indicate to you the nature of this particular amendment. And I seize upon it, in all probability, because of my prior experience in the title insurance industry. And this particular provision that I'm suggesting that you strike is a very unusual, and I have a question as to whether it's even a workable provision, relating to the filing of liens. It all relates to a section, starting on page 31 of the bill, which has to do and empowers insurers to invest in notes or bonds secured by second mortgages or other second liens, including wraparound mortgages. And then it sets forth certain conditions in order to do that. And I want to come back to that at some point in time. But then it goes on to say that the instrument evidencing the lien or mortgage that's established in this case has to be recorded and insured under a policy of title insurance in an amount not less than the total amount of the obligation. Then, with regard to recording--and recall that these kinds of instruments need to be recorded in the office of the register of deeds in each and

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

January 31, 2005 LB 119

every one of your counties, in the county where the real estate is located. So it says that the insurer's alternatives with respect to recording are the following. You can file for record in the office of the recorder a request for a copy of any notice of default or sale. And that seems appropriate. And then it says, otherwise arranges with a recorder of any county in which the real estate is located, otherwise arranges to be advised in the case of a filing for record of any notice of default or a sale in respect to any obligation. And then it also states the obvious, that is, if you're entitled to it under applicable law, you would get the notice of default on a prior obligation. These notices are very important because we're talking here about second mortgages. So they would be situations in which there are first mortgages existing, and if that first mortgage is defaulted upon, it's very important. Now, maybe the reason that this is so loose is that it's seen as a benefit to the holder of the second mortgage, and it's not seen as necessary to protect them. But nonetheless, the provision I'm talking to makes a requirement...or arguably, suggests that the recorder of...the register of deeds can make some alternative procedure other than what I've described, which are the normal procedures. It says that the insurer can otherwise arrange with the recorder of any county in which the real estate is located to be advised in case of the filing for record of any notice of default or sale with respect to any obligation secured. What I don't want to happen, and what I would think you would want not to happen, is to have a variety of arrangements out there that individual register of deeds in different counties may see fit to make, and then have those individual register of deeds go out of office, new ones come in, they may or may not know about some sort of specific arrangement with some insurer about giving notice of default. I mean, normally this kind of thing is not the obligation of the register of deeds. Their obligation is simply to record a matter. And if you want to know what's on a piece of property, you come in and look at their records. So if we're envisioning that one or more register of deeds would have the option of creating some sort of record that's peculiar to a particular loan or to a particular lender, and if there is some obligation inferred on the part of the register of deeds, that would not be a good thing, in my opinion. Now, having said that, I would invite Senator Mines or others to suggest what may

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

January 31, 2005 LB 119

be the purpose of this arrangement which would justify those imperfections that I see with such a provision. So all my amendment does is to suggest that we strike subsection (B), starting on line 5, through the end of line 9, and leave in place the standard recording devices that we use generally in these situations. Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. You heard the opening on the Beutler amendment, FA4. Open for discussion of the amendment to LB 119. Open for discussion on the Beutler amendment. Senator Mines, you're recognized.

SENATOR MINES: Thank you, Mr. President, colleagues. Senator Beutler, I understand that the language between lines 5 and 9 in the section is reasonably...is standard language nationwide, or a national standard, because insurance companies do file...or provide these insurance policies in more than one state, so they need a...some type of a baseline language. And apparently, this is what that is. Now, you would certainly know better than I if there are exceptions that need to be offered. But that's...I just understand that it's...this is a standard kind of language throughout the country.

SENATOR CUDABACK: Senator Beutler, would you respond? Was that a question, Senator Mines?

SENATOR MINES: Yes.

SENATOR CUDABACK: Senator Beutler.

SENATOR BEUTLER: Senator Cudaback, I would...I don't understand that the language could be so broad in its application. Are you talking, Senator, about filings that...what...how would this real estate lien be filed? Maybe...I'm not...you know, it's standard, but...you say, but it doesn't...as I'm understanding the language, it doesn't relate to present law in Nebraska. And I'm wondering, what specifically is the situation that would be covered here? Are we talking about a situation where there's real estate in more than one county? Is that what we're getting at here?

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

January 31, 2005 LB 119

SENATOR MINES: Senator, I'm told that this is what financial advisors will look at. And in filing, an insurer will do one of the three, (A), (B), or (C), but not all three, if that answers your question.

SENATOR BEUTLER: Well, I think that perhaps I...further information is what is needed. They can do all three, but is...or are all three proposed to be alternatives that they can choose in every situation, or just in one particular type of situation?

SENATOR MINES: I believe they have to do one of the three. They don't necessarily have to do all three of the (A), (B), or (C).

SENATOR BEUTLER: Okay.

SENATOR CUDABACK: Senator Mines, are you...completed your time?

SENATOR MINES: Yes, I am, Mr. President.

SENATOR CUDABACK: Thank you. Further discussion on the Beutler amendment, FA4? Senator Beutler, there are no further lights on. Did you wish to close?

SENATOR BEUTLER: Senator Cudaback, with that, I would withdraw that amendment, in accordance with the course that's been discussed with Senator Mines.

SENATOR CUDABACK: It is withdrawn. Mr. Clerk, next amendment.

ASSISTANT CLERK: Mr. President, the next amendment I have is offered by Senator Beutler. Senator, this is AM0158. (Legislative Journal page 391.)

SENATOR CUDABACK: Senator Beutler, you're recognized to open on AM0158 to LB 119.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, you may recall that we had a discussion, a fairly extended discussion, on Friday with respect to the compact that we've

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

January 31, 2005 LB 119

been...we are about to enter into, and specifically with regard to the question of whether under that compact, prior to the issuance of what's defined as a product there, that product being certain kinds of insurance policies, whether the product needs to be approved as satisfying an applicable uniform standard before it can be in use. And this amendment would simply confirm what was represented on the floor on Friday, which is, there would be prior approval with regard to the review taking place under this compact. And then further, you may also recall that we discussed whether the Director of Insurance, who under this statute is proposed to be the lawmaker, the one who's going to make decisions on behalf of Nebraska, which decisions will be...have the full force and effect of law in Nebraska, whether that person shouldn't have...be in some more direct contact with the Committee on Banking and Insurance, as opposed to simply abdicating to the executive branch of office, essentially, a lawmaking power. So this provision in its second part would require the director to consult with the Banking, Commerce and Insurance Committee prior to voting on the adoption or modification of the uniform standard. That would give the Legislature at least some input. I'd feel more comfortable if it were even stronger. But we can leave that for further debate. Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. You've heard the opening, AM0158. Open for discussion. Senator Redfield, on AM0158. On. Sorry about that.

SENATOR REDFIELD: Thank you, Senator Cudaback, members of the body. We did have some discussion on Friday about the whole purpose behind the interstate compact, and the issue of federal preemption. I have here, actually, in my hand a copy of the draft that is being circulated on Capitol Hill. It has been written by Chairman Oxley of the House of Representatives, and also sponsored by Baker of Louisiana. And in the terms of that, I would tell you that the act would preempt all state prior approval rating laws, that it would create a seven-member state-national insurance coordination partnership to determine whether states have met the uniformity requirements under the act, to help resolve conflicts over government insurance policies, and to facilitate coordination of financial and

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

January 31, 2005 LB 119

international trade issues affecting insurance. Notably, state legislators have no role in the partnership. The partnership would be comprised of three state insurance commissioners, one each from a small, medium, and large state; a designee from the SEC, a designee from the U.S. Treasury Department, a designee from the board of governors of the Federal Reserve, a member nominated by the State Insurance Commissioners and appointed by the President, who would serve as the chair of the partnership. As part of that bill, they actually want to create a separate interstate compact for the approval of all nonlife insurance and nonpersonal lines P/C insurance products. But I would remind everyone here that in fact Nebraska would lose all of its authority as a Legislature to regulate insurance. So we don't want this to happen. That is the whole intent of the interstate compact. And I would remind you also that if the interstate compact is adopted, it would require 26 states to have joined, and most states would have to comprise 40 percent of the premium volume for the product lines involved. So if this compact comes to pass and our Insurance Commissioner goes to cast the vote for us, we can still opt out of any particular uniform standard via statute or regulation, if the uniform standard does not provide reasonable protection to the citizens of Nebraska. So I understand that you would want communication between the Insurance Commissioner and the legislative committee for Banking, Commerce, and Insurance. And I think that that communication is important. But I think that we are not always in session, and that committee might not always be available to meet at a short-term notice before he might cast a vote on any particular modernization aspect. So I would be very uncomfortable with the limitations of this language, unless it was general that he would meet with us and get a general feel of where we would want to go, on an annual basis. But to ask him to come before that committee before he cast any vote that we might not be able to predict would come up nine months hence, I would be uncomfortable. Thank you.

SENATOR CUDABACK: Thank you, Senator Redfield. Further discussion on the Beutler amendment? Seeing no lights on, Senator Beutler, you're recognized to close.

SENATOR BEUTLER: Senator Cudaback, again, I would withdraw the

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

January 31, 2005 LB 119

amendment, pending further discussions.

SENATOR CUDABACK: AM0158 is withdrawn. Mr. Clerk, next amendment.

ASSISTANT CLERK: Mr. President, Senator Beutler would move to offer AM0159. (Legislative Journal page 392.)

SENATOR CUDABACK: Senator Beutler, you're recognized to open on AM0159 to LB 119.

SENATOR BEUTLER: You may recall in the prior discussion that the question of prior approval came up in a couple of different contexts. One was the context of the compact that was being suggested to you in the latter part of LB 119. And the other area where it came up was with respect to taking that section of the bill, Section 28, I think it was, that took out of the bill certain lines of insurance with respect to the requirement that there be prior approval on those lines of insurance. These were lines of insurance that were not affected by the compact. But basically, the effort was to end prior approval for some of those personal lines of insurance that remain the prerogative of...would remain, after this bill, the prerogative of this state alone. And you may recall that from the business side of the perspective, prior approval is perceived as being too slow. And what this amendment does is to indicate that prior approval would not be necessary in order to put a line of insurance into effect. But within 90 days of the filing, the Department of Insurance is obligated to review the filing. And if it turns out that the filing is not appropriate, then they can take effective action at that point in time. The thrust of the amendment is to accommodate the insurance companies in allowing them to make their filings and proceed ahead to put them in use, but at the same time, not to abandon the consumer, to require the Insurance Department to review them, so that there is some fixed accountability and response necessary from the insurance company, and by that means, hopefully, accommodate both the interest of the consumer in not having a bad product out there for a long period of time, anyway, and accommodate the insurance company's desire to file and use and move forward without unnecessary delays in anybody's insurance department. So that's

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

January 31, 2005 LB 119

the third proposal that will be part of the discussion subsequent to this floor debate.

SENATOR CUDABACK: Thank you, Senator Beutler. You've heard the opening on AM0159. Open for discussion on that amendment to LB 119. Senator Mines.

SENATOR MINES: Thank you, Mr. President, colleagues. Senator Beutler brings up probably one of the two or three keys in the bill. This is indeed changing a public policy. And rightfully, we've had discussion about file and use. I think great discussion. Senator Beutler's proposal has merit, significant merit. And in fact, I think before we come next on Select File, we can work this out so that in fact the consumer has the protections that Senator Beutler has discussed, as well as a process that works for the industry as well. So with that, Mr. President, thank you.

SENATOR CUDABACK: Thank you, Senator Mines. Further discussion on the Beutler amendment? There are no lights on, Senator Beutler. You're recognized to close on AM0159.

SENATOR BEUTLER: Senator Cudaback, again, I withdraw the amendment. And it will be subject to discussion.

SENATOR CUDABACK: AM0159 is withdrawn. Back to discussion of the advancement of LB 119 itself to E & R Initial. Senator Beutler, you're recognized.

SENATOR BEUTLER: Senator Mines, at this point I would like again to have a dialogue with you on sections of the bill that were not discussed previously. And as I indicated to you earlier, it's not my intent to talk this to death. But I want to have some feel for whether it seems appropriate, in my opinion, to look deeper into certain parts of the bill, or whether maybe there's some information that you can supply me right off the bat that would solve the problem. The next section of the bill that I wanted to bring to your attention actually has implications in a couple of different sections of the bill, at least. And it's on page 29, Section 16. And it says here, the old law said, that an insurer may vest in bonds

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

January 31, 2005 LB 119

or notes secured by a first mortgage--so we're talking about investments and real estate again--together with any amount secured by an equal security interest. So it limits the amount that they can invest in, because it says that the amount shall not exceed 75 percent of the appraised value of the real estate and improvements at the time of making the investment. Here's how I want to frame the question. And I would be interested both in what you know of the history of this matter and in what your feeling is with regard to safe practices in this day and age.

SENATOR CUDABACK: Senator Mines, would you yield?

SENATOR BEUTLER: Back in the 1980s, we had a go-around with savings and loan companies, and many of them went bankrupt around the nation. And the taxpayers of the United States of America, to the tune of hundreds of millions of dollars, made up, essentially, for those problems that came with the busting of the real estate bubble at a certain point in time in the 1980s. And part of the problem was high loan to valuation rates, and part of the problem was simply the fact that appraisals were not independent...as independent, and as professionally done, as we now require. And so appraisals were way off the mark with some of these savings and loans, because they wanted them to be off the mark. Everybody was very positive about the increasing value of real estate. Didn't seem to be reasonable to people to have these loan ratios that were...that required a margin of safety. But lo and behold, the real estate bubble did burst in certain parts of the country. Real estate values fell fairly rapidly. Appraisals were inadequate, and the loan to value ratio did not support and bear up these companies enough, the result of which was widespread bankruptcies, consumers hurt, and most of all, taxpayers forced to bail out savings and loan companies. I hope I'm remembering all of that right. I think I am. In any event, the current language changes...

SENATOR CUDABACK: One minute.

SENATOR BEUTLER: ...the percentage from 75 percent to 80 percent. Is...does this change affect the situation that I'm

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

January 31, 2005 LB 119

describing? And do you have any history on what that percentage has been over the last 20 or 30 years? Those would be my questions, Senator Mines.

SENATOR CUDABACK: You have 28 seconds, Senator Mines.

SENATOR MINES: Thank you, Mr. President. Senator Beutler, the...as you've...I'll turn on my light as well. As you've mentioned, the loan to value ratio is currently 75 percent, and this bill would increase that to 80 percent. I don't have a history of background on how we've evolved into the 75 percent number. However, the 80 percent...

SENATOR CUDABACK: You're now on your time, Senator Mines.

SENATOR MINES: Thank you, Mr. President. The 80 percent is a national standard, or becoming the national standard now. And in my opening, I said that large states, like California, Illinois, Iowa--Iowa is not necessarily a large state--but Iowa, New York, Texas, New Jersey, and many others, whatever "many others" means, are transitioning into this standard of 80 percent. Understanding your concern about the failures in the eighties, I think this deserves discussion as well. And we can either do it on the floor, or we can do it as we're retooling this between now and Select. But I think it does deserve some conversation at some point.

SENATOR CUDABACK: Senator Beutler.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, I appreciate the openness to a conversation on this. And I appreciate the pressure that's represented by a statement with respect to a national standard in this area where we're groping for control. On the other hand, I think we would all agree that a national standard of 100 percent, for example, is simply unreasonable and dangerous. And what I'm fearful of...it almost goes back to the same line of thought I have with regard to business incentives. Whether you're talking about business incentives or whether you're talking about advantageous loan structures for all businesses or certain types of businesses, I think there's a very grave danger that in our effort to be

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

January 31, 2005 LB 119

competitive, that we will tend, once again, as we have historically done in several cycles now, to run it to the bottom, so that, in effect, not just one or two states have standards that are inadequate, but all the states have a standard that's inadequate. And if we allow ourselves to be driven to that situation, then we will be compounding the catastrophe that results if in fact we make a bad judgment. Because if the standard is going to be national, that means that the harm will be not only in one or two areas of the country, but will be across the country. And if the taxpayers are forced once again to bail out the corporations, then the damage, the amount of money that will be necessary to bail out corporations could be compounded several times over, and be far larger than anything we've experienced in the past. So that would be my concern. In another place in the bill, it talks about, if I'm remembering correctly, the application of this standard, Senator Mines, is also being raised, and would be applicable to financing packages that included not only first mortgages, but second mortgages. One might argue that second mortgages,...

SENATOR CUDABACK: Senator Mines, your time is up.

SENATOR BEUTLER: ...as long as they're...

SENATOR CUDABACK: But your light is on, Senator Beutler. You may continue.

SENATOR BEUTLER: One might argue that second mortgages, as long as they're under the 80 percent limitation, are no different than first mortgages. On the other hand, the second security interest is always the more vulnerable. And should there be some kind of collapse, it will be those who are heavily invested in securities, that include second mortgages, I would think, that would be even more vulnerable. And so in the context of that discussion, I think it would make sense to discuss, if I'm reading the bill right, how it is that that particular part of the industry should also be included under the same kind of limitation. A third area that...now, related to this discussion, there's another provision, Senator, on page 34 of the bill that deals with mezzanine real estate loans. It's up on lines 4 and 5 and 6 of page 34. And with respect to a

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

January 31, 2005 LB 119

mezzanine loan that's made in conjunction with a first mortgage, it indicates that that kind of loan can be made so long as it does not exceed 100 percent of the value of the real estate. Now, granted, there's a further limitation in here with respect to an insurer's investments in these types of securities, indicating that they shall not exceed 3 percent of its admitted assets. But I'm very interested in knowing why these kinds of loans can be at 100 percent. I've read the definition of a mezzanine real estate loan. That's a new term to me. I don't pretend to understand that definition entirely, and its implications. But I do understand that it relates to a pledge of a direct or indirect equity interest, in terms of making up for some extended security with regard to the loan-value ratio. And I'm just not altogether confident that an equity interest in these kinds of companies in hard times is going to be of that much additional value. And so again, along the same lines of the security that we statutorily are requiring, I would very much like that to be a part of the discussion.

SENATOR CUDABACK: Senator Mines.

SENATOR MINES: I'm sorry. Thank you, Mr. President. Senator Beutler, mezzanine loans are indeed new to me as well. But as I understand it, they are commercial loans for large commercial developments. And why the bar is set at 100 percent, I don't know that. And I think we do need to follow up. I don't know.

SENATOR BEUTLER: Okay. Senator Mines, I appreciate the candidness of your answer. Senator Cudaback, I would end my inquiries with regard to this bill at this point. Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler.

SENATOR BEUTLER: And I'd like to thank the members of the Legislature for putting up with some arcane discussion. But I think it's important for the record. Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. Further discussion on the advancement of LB 119? Senator Mines, there are no lights on. You're recognized to close on the amendment, if you care to.

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

January 31, 2005 LB 119

SENATOR MINES: Thank you, Mr. President, colleagues. Again, in review, LB 119 is the Banking Department bill, 17 sections. There are still unanswered questions. And Senator Beutler, along with the department and the industry and certainly our committee, have agreed to come together and talk about the very issues that Senator Beutler has raised, between now and Select File. We will work those out. And at this point, I ask your indulgence and I ask your approval to move LB 119 to Select File. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Mines. You've heard the closing on the advancement of LB 119. The question before the body is, shall LB 119 advance? All in favor vote aye; opposed, nay. Senator Mines, did you...?

SENATOR MINES: Call of the house, please.

SENATOR CUDABACK: There has been a request for a call of the house. All in favor of the house going under call vote aye; those opposed, nay. Record please, Mr. Clerk.

ASSISTANT CLERK: 22 ayes, 0 nays, to go under call, Mr. President.

SENATOR CUDABACK: The house is under call. All unexcused senators, please return to the Chamber. Unauthorized personnel, please leave the floor. The house is under call. Members, please check in, please. The house is under call. Senator Johnson, Senator Fischer, would you please check in. Senator Fischer, would you check in, please. Thank you. Senator Synowiecki, Senator Chambers. Senator Kopplin, would you check in, please. Senator Connealy, Senator Kruse, Senator Raikes. The house is under call. Senator Kruse, would you check in, please. Senator Raikes, Senator Kopplin. Senator Raikes, Senator Kruse, Senator Chambers. Senator Raikes. Senator Mines, did you wish to be recognized?

SENATOR MINES: Mr. President, we could take the vote now, if you'd proceed.

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

January 31, 2005 LB 33, 119

SENATOR CUDABACK: You wish to go by a board vote?

SENATOR MINES: Please.

SENATOR CUDABACK: The question before the body is, shall LB 119 advance to E & R Initial? All in favor vote aye; opposed, nay. Have you all voted who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: 41 ayes, 0 nays, on the motion to advance the bill, Mr. President.

SENATOR CUDABACK: LB 119 does advance. I do raise the call. Mr. Clerk, next LB 33.

ASSISTANT CLERK: Mr. President, with respect to LB 33, it was legislation offered by Senator Schrock. (Read title.) The bill was read for the first time on January 6, referred to the Natural Resources Committee. That committee reports the bill to General File with no committee amendments.

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Schrock, to open on LB 33.

SENATOR SCHROCK: Mr. President, members of the Legislature, LB 33 is a continuation of our litter recycling program that we have in this state. It was presented to the Legislature. And it extends the termination date of the Nebraska Litter Recycling Fund. It extends the date from the year 2007 to the year 2010. To give you a little background on the bill--I'm getting my thoughts straight here--the Nebraska Department of Environmental Quality is...the program is run by the Department of Environmental Quality, and it awards grants. There's a tax on manufactured goods in the state of Nebraska, and it amounts to \$175 per \$1 million of sales. Now to put that in perspective, 1 percent of \$1 million is \$10,000. So the tax is only \$175 per \$1 million of sales. So it's really a very small fee. It's paid by everybody who resales manufactured goods. Of course, the big generators of this would be our people like Wal-Mart and that type of thing. It isn't...the original recycling bill was passed in response to the fact that the retailers in this state didn't want to have...didn't want to pay or collect a deposit

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

January 31, 2005 LB 21, 33

fee on pop bottles and that type of thing. For example, they didn't want to collect them because it's dirty, it's inconvenient. And so they agreed to step up to the plate and have a fee in place for recycling. This fee generates about \$1.2 million annually. It's used to give...it's used for grants. And there's three kinds of grants. There can be public education grants, there can be recycling grants, and then there's cleanup grants. And they award approximately \$1.2 million annually, which is the amount of money that's generated annually from this tax. The bill extends the date for the litter reduction from 2007 to 2010. So it extends it another three years. If there's any questions, I'd be glad to try and answer them. Thank you for listening.

SENATOR CUDABACK: Thank you, Senator Schrock. You've heard the opening on the advancement of LB 33. Open for discussion on that motion. Anybody wishing to speak to the advancement of LB 33? Senator Schrock, there are no lights on. You're recognized to close if you care to. You waive closing? Senator Schrock waives closing. The question before the body is, shall LB 33 advance to E & R Initial? All in favor vote aye; opposed, nay. The question before the body is the advancement of LB 33. Have you all voted who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: 33 ayes, 0 nays, on the motion to advance, Mr. President.

SENATOR CUDABACK: LB 33 does advance. Mr. Clerk, next legislative bill, LB 21.

ASSISTANT CLERK: Mr. President, LB 21 was introduced by Senator Erdman. (Read title.) The bill was read for the first time on January 6, referred to the Natural Resources Committee. That committee reports the bill to General File, with committee amendments. (AM0027, Legislative Journal page 313.)

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Erdman, you're recognized to open on advancement of LB 21.

SENATOR ERDMAN: Thank you, Mr. President, members of the Legislature. LB 21 is a technical correction to a bill that was

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

January 31, 2005 LB 21

passed, LB 305, a couple of years ago. And before I get too far, there was a number of individuals that were a part of that original effort--Senator Foley and Senator Jensen and Senator Stuhr. And we never had an opportunity, at the time when the bill passed, to thank them. And so I wanted to publicly thank them. LB 21 would remove a provision in the leased part of the boat safety act, which would allow for the operation by leased vehicles for individuals between the ages of 14 and 18. The way that the law is currently written, an individual could borrow a jet ski from a neighbor. Maybe their parents even own one. They would be allowed to operate that watercraft if they would pass the boater safety course that's authorized in Section 37-1241.06. Under the law as it stands now, in that same scenario, if you leased a vehicle--say it's at Lake McConaughy or one of the facilities throughout the state that leases personal watercraft--the state prohibits that in the current law. LB 21 is simply designed to bring the leased...the livery portion of the state watercraft law into line with the ownership portion. There is a committee amendment, which adds the emergency clause. It's our intent, after having many discussions and meetings with individuals across the state on this issue, to have this go into effect before the rental season for this next year. And I would encourage your support of both the bill and the committee amendment. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Erdman. Senator Schrock, you're recognized to open on the committee amendments.

SENATOR SCHROCK: Mr. President, members of the Legislature, the committee amendments are simple. It adds the emergency clause. If Senator Erdman's bill passes, it would not be effective for this summer. And I think that would be his intention. So it would be practical to use it for this summer. So that's what it does. Without the emergency clause, I don't believe the bill would become enacted until October of this fall.

SENATOR CUDABACK: Thank you, Senator Schrock. You've heard the opening on the committee amendments offered by the Natural Resources Committee. Open for discussion on that motion. There are no lights on, Senator Schrock. Did you wish to...he waives closing. The question before the body is, shall the committee

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

January 31, 2005 LB 21

amendments offered by the Natural Resources Committee be adopted to LB 21? All in favor vote aye; opposed, nay. The question before the body is the Natural Resources Committee amendments, AM0027 to LB 21. Have you all voted who wish to? Record please, Mr. Clerk.

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

SENATOR CUDABACK: The motion was successful. The committee amendments have been adopted. Back to the discussion of the advancement of the bill itself. Senator Schrock.

SENATOR SCHROCK: Mr. President, members of the Legislature, just want to lend my support to what Senator Erdman is trying to do here. I think this is an unintended consequences of a...what happened. Right now, if you are 14 years old, 14 through 18, and you have taken a safety course on how to operate a jet ski, you can operate a jet ski. Trouble is, it didn't apply to people who were renting jet skis. And so it's a concern that Senator Erdman brought to us. I think it's a legitimate concern. If you're...and Senator Erdman can expound on this. But I think what he's bringing to us is reasonable, and I hope that you will support him in his endeavors.

SENATOR CUDABACK: Thank you, Senator Schrock. Further discussion on the advancement of LB 21? Senator Erdman, there are no lights on. You're recognized to close on advancement, if you care to.

SENATOR ERDMAN: Thank you, Mr. President, members of the Legislature. Thank you, Senator Schrock, for your assistance in this. I think it is a fair proposal. There also is an amendment that's been filed for Select File that's intended to clarify some of the new language. But we are in discussions about that, and wanted to let people know that that was out there. It's just intended to further clarify what's going to be proposed. And I would encourage your advancement of LB 21.

SENATOR CUDABACK: Thank you, Senator Erdman. You've heard the closing on the advancement of LB 21. The question before the

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

January 31, 2005 LB 21, 261

body is, shall LB 21 advance to E & R Initial? All in favor of the motion vote aye; those opposed, nay. The question before the body is the advancement of LB 21, offered by Senator Erdman, to E & R Initial. Have you all voted who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: 31 ayes, 0 nays, on the motion to advance, Mr. President.

SENATOR CUDABACK: LB 21 does advance. Mr. Clerk, LB 261, when you get time.

ASSISTANT CLERK: Mr. President, LB 261 was offered by Senator Stuhr. (Read title.) The bill was read for the first time on January 10, referred to the Revenue Committee. That committee reports the bill to General File with no committee amendments.

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Stuhr, to open on advancement of LB 261.

SENATOR STUHR: Thank you, Mr. President and members of the body. I come before you today to introduce LB 261, which would eliminate the agriculture and horticultural land valuation boards and land manual areas. These boards were created in 1994, with the purpose of equalizing land valuation of adjoining counties. In 1995, the Tax Equalization and Review Commission was established. It is my understanding that the decisions of TERC now take precedence over the decisions of the LV boards and any county board of equalization. Therefore, I believe that the agriculture and horticultural land valuation boards are an extra layer of government, and have outlived their original purpose. Much has changed since these boards were established ten years ago, especially in the area of technology, which has been a great help to the county assessors. I do want to give you some history on this legislation. I did introduce a similar provision in 2000, and again last year. But this is the first time that we've had an opportunity to have it debated on the floor. I firmly believe that it is time to move this bill forward, as we look at ways to find efficiency and cut costs at all levels of government. We contacted the Nebraska Association of County Officials last year, and NACO conducted a survey on

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

January 31, 2005 LB 261

this topic. They found in their survey, which was answered by a vote of the county boards, that 67 percent of the respondents were in favor of doing away with the LV boards. Most people who contacted me personally indicated what I have long believed, that since the creation of these boards, and with the Tax Equalization Review Commission, that these boards do not serve the purpose that they once intended. It has also been expressed that the responsibilities and the duties of the agriculture and horticultural land valuation boards have never been clearly defined, which has led to inconsistency from district to district. I do not believe that the current system is working as was intended. Today, we have a much more sophisticated and complicated system. The TERC makes the final decisions on valuations, and has the expertise to do so. We already have assessors, county board of equalization, and TERC. And I therefore feel these boards could be eliminated. I would urge the advancement of LB 261 to Select File, and would be happy to answer any questions. Thank you.

SENATOR CUDABACK: Thank you, Senator Stuhr. You've heard the opening on advancement of LB 261. Senator Stuhr, your light was on. Did you mean for that to be? Okay. Thank you. Next speaker will be Senator Stuthman, followed by Senators Baker, Hudkins, and Loudon. Senator Stuthman.

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. In my previous political life, I served on a county board of supervisors. I never did serve on those land valuation boards. Another member of the board of supervisors served on that. Realistically, in my opinion, these boards, on the onset of this, had some value to them, because of trying to equalize the difference in valuations between counties, county lines, and those different jurisdictions where there really wasn't a set guideline as how to set valuations just because of a county line. We worked those out in our local county by trying to mesh the values from one county into another by developing another area. But I think that the time for those boards is of value at that time, but now, at the present time, I don't think there is a value of those boards. I know there are some counties that still would like to see those boards in existence, but I really don't know why. Maybe it's just that they got another board

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

January 31, 2005 LB 261

meeting that they can go to and get paid from the county funds for attending that board meeting. But I think with the technology that we have at the present time, and with TERC, I don't think they're of value anymore. So I would like to thank Senator Stuhr for bringing this bill. I think it is time to eliminate those boards, and move on with the process that we're trying to do now with trying to make the value...land valuations more equal throughout the state. So with that, I'll return the balance of my time to the Chair. Thank you.

SENATOR CUDABACK: Thank you, Senator Stuthman. Senator Baker, on the advancement of LB 261.

SENATOR BAKER: Thank you, Mr. President, members. I stand in support of this bill also. I echo a lot of what's already been said. But here's a chance to reduce bureaucracy out there. I have attended some of these ag land valuation board meetings in years past, out in my area. The state is divided into eight...I believe it's eight areas, regions. So you have eight of these across the state, I believe is what the number is. And when they were formed, there was a purpose for them. And I do remember one time they talked a county into changing some valuations on some pasture land out in my area. But in 1995, TERC was formed, and that would supersede anything that these boards do. And quite honestly, it's difficult now, out in the western end of the state, anyway, to even get these boards together and get a quorum. People realize they have...really their authority has been superseded by TERC. The various county assessors talk to each other. It's not like they're operating in a vacuum in each county. And it's simply time to eliminate these boards, get them out of the statutes, and go on with their work. So I strongly support the bill. I know that NACO does also. And looking down the list of testifiers, quite a large group of supporters. And certainly urge you to go ahead and advance this bill to select file. Thank you.

SENATOR CUDABACK: Thank you, Senator Baker. Further discussion on the advancement, Senator Hudkins.

SENATOR HUDKINS: Thank you, Mr. President and members. I would like to ask Senator Stuhr some questions.

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

January 31, 2005 LB 261

SENATOR CUDABACK: Senator Stuhr, would you respond to a question from Senator Hudkins?

SENATOR STUHR: Yes.

SENATOR HUDKINS: Senator Stuhr, when you say that TERC has taken over the duties and the responsibilities of the ag land valuation board, and that the decisions on valuations are made by that body, how do questions...or, let's say that one county has one valuation, and right across the border, a neighboring county has a different valuation, how does that difference get resolved? Who does that?

SENATOR STUHR: I believe, in the future and right now, the assessors do talk to each other. And as was mentioned before, the technology and the information that the assessors have today is much different than it was ten years ago.

SENATOR HUDKINS: All right. Thank you. Some of you may know--well, probably not, except for Senator Stuhr--my husband does serve on one of these ag land valuation boards. And he certainly does not need more meetings to attend. And Senator Stuthman, they do not get paid. This is a voluntary thing, because they think it's very important that the land values be the same or similar in neighboring counties. Now, is there a difference in land values in the southeast part of the state as compared to the northwest? Well, of course. But you're talking all kinds of different reasons. I think that I will not be supporting this bill, not just because my husband is on the board, but I think that these boards do provide a check and balance system. And I believe that it was the Seward County assessor who brought this to Senator Stuhr's attention, because, again, I believe that it was the Seward County assessor that was not valuing the property like it should have been. And the assessors are not for this, because they don't want the ag land valuation board looking over their shoulder. Yes, we need to get rid of boards that are no longer fulfilling a purpose. But in my opinion, this particular board is. It keeps everybody honest. So thank you, Mr. President. I'll turn the rest of my time back.

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

January 31, 2005 LB 261

SENATOR CUDABACK: Thank you, Senator Hudkins. Further discussion on advancement of LB 261? Senator Louden, followed by Senator Stuhr.

SENATOR LOUDEN: Thank you, Mr. President and members of the body. I myself rise in opposition to this bill. I've talked to our county assessors and the people out in our area. We have 11 counties out there in the western end of the state that belong to this land valuation board. And they're still meeting, and they're still using this board. True, when the TERC committee was built, why, it more or less was supposed to take over the job that the land valuation board did by equalizing valuations between counties. And of course, to me, the jury is still out on the TERC committee, whether they're doing the job like it was intended to or not. So this land valuation boards out there, they don't cost the state any money. People volunteer to go to those things. I don't think they always get the mileage paid. I have attended some of them, and I said probably the biggest thing on the agenda at the end of the day was who was going to pay for the lunch, because everybody had to go dutch, and that sort of thing. But they do meet. And whenever you have county officials meeting, that isn't all bad. They meet, they coordinate some of the valuations and the classifications between counties. It gives them a chance to get together and work on some of the problems on the area. They don't always discuss land valuations of horticultural and agricultural lands. A lot of times, there's other issues that are brought up on taxation and various issues, depending on whether...on who attends those meetings, whether it's mostly county commissioners, or whether it be assessors, or whoever. This is something that's working out there in areas. If the people are using it and making it work, I don't see where we as legislators should take it off of the books just because we have the ability to do so. This is something that is done on a local level, and any time we can encourage work be done and legislation and problems to be solved at the local level, I think we should. They've been in place for several years so it is something that can be used in the local area. They probably...if they were disbanded, I don't know if they would ever need something like that again, but it's a lot harder to organize them once they've

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

January 31, 2005 LB 261

been disbanded. And so since it isn't costing anybody any money, I don't see where we need to work and get involved in what is something that really isn't that important to us. To a matter of striking a few little words out of the statutes is about all it amounts to. If those land valuation boards aren't meeting and doing of any value, I'm sure the people involved will disband them in short order. So I, myself, I think this is something that we don't need to do, so I certainly am going to oppose this bill. Thank you.

SENATOR CUDABACK: Thank you, Senator Louden. Further discussion, Senator Stuhr.

SENATOR STUHR: Thank you, Mr. President and members of the body. Again I want to emphasize that the survey that was done by NACO represented that 67 percent of those that responded were in favor of doing away with the boards. They have...they felt that they really have outlived their usefulness. And I did want to say something about the cost. I believe that some boards do put in for their expenses. There is a provision that says they may. But one of the things that I wanted to emphasize is that since they originated ten years ago, their duties and responsibilities were never clearly outlined. And this is not really a discussion between the assessors and the board of valuation. I do want to also make that clear. I do have a six-year history that we went back to look at the particular boards, and I don't see Senator Louden on the floor right now, but in...between the years 1999 and through 2002, which were four years, there were no adjustments made. In 2004, there were no adjustments made. In the six-year history, they did make one adjustment. The NACO board recently took a position that they unanimously agreed to eliminate the boards, and so I think that sends a pretty strong message that we're all looking to try to find some efficiency in government and that we're looking at this. This is certainly one way that we can accomplish this. Thank you.

SENATOR CUDABACK: Thank you, Senator Stuhr. Senator Hudkins.

SENATOR HUDKINS: Thank you, Mr. President and members. Again I would like to ask some clarifying questions from Senator Stuhr.

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

January 31, 2005 LB 261

SENATOR CUDABACK: Senator Stuhr, will you respond?

SENATOR STUHR: Yes.

SENATOR HUDKINS: Senator Stuhr, I'm sorry. I was involved in another conversation. You had said something about 66 percent of something and 100 percent of something. Can you clarify that, please?

SENATOR STUHR: Sixty-seven percent of the county boards responded and were in favor of eliminating these...the county commissioners were in favor of eliminating the LB boards.

SENATOR HUDKINS: And the 100 percent was the NACO board?

SENATOR STUHR: Yes. The NACO board unanimously decided at their last legislative meeting that they opposed.

SENATOR HUDKINS: I...

SENATOR STUHR: They supported the bill to...

SENATOR HUDKINS: All right. Thank you. Of the 67 percent of the county boards that responded affirmatively, how many responded negatively?

SENATOR STUHR: Let me look. Thirty-three percent.

SENATOR HUDKINS: Okay. I guess I could have done that math. Thank you. Then, just a comment. Again I would like to stress that the reason I think that the desire was to eliminate these boards is that the assessors don't want people looking over their shoulders, second guessing their evaluation systems. I'm sure that most assessors in this state do the best work that they possibly can and are fair in their assessments. But there are others that perhaps don't, and that's what this ag land board of people that are looking at this are looking for. They're looking for why didn't you value this land appropriately. Why did you let this one go at a much lesser level? I think that it is really necessary that we do have

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

January 31, 2005 LB 261

continuation of like values across county lines. Of course, it's going to be different in the eastern part of the state versus the western part of the state. But when you have values that are not within the range of the law, yes, that's going to be taken care of. But when you have ranges of values that are just within the law but don't really reflect the actual values, for whatever reason, then I think this is something that should be looked at, should be corrected, and it's my opinion that the ag land valuation boards do do this. So thank you, Mr. President. I'll return the rest of my time.

SENATOR CUDABACK: Thank you, Senator Hudkins. Senator McDonald.

SENATOR McDONALD: Mr. President and members of the body, I'd like to ask Senator Stuhr some questions.

SENATOR CUDABACK: Senator Stuhr, would you respond.

SENATOR STUHR: Yes

SENATOR McDONALD: After looking at the committee statement, can you tell me, I see various proponents and opponents. And looking at the opponents, I see that Farm Bureau opposed this. Can you tell me their reasoning behind that?

SENATOR STUHR: No, I didn't. I understand that they had several of their members, you know, come that served on their Board of Directors that expressed an opinion.

SENATOR McDONALD: But you don't know why they opposed it?

SENATOR STUHR: No. They said they were not going to vigorously oppose it.

SENATOR McDONALD: Okay. You know, I've had this situation in my district where we have land on both sides of the county, and the only thing that divides it is the county line, and with different valuations. And I'm not sure how that all got resolved. But does this board have the authority to really do anything?

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

January 31, 2005 LB 261

SENATOR STUHR: No, they can actually, you know, bring their request to the county assessor, but the TERC board can override...well, first the board of equalization can override any decision that might be brought to them. The TERC board, which was established after they were...I think there were good intentions of establishing the board, and then as sometimes often happens, another board comes along and this is, of course...the TERC is a statewide board.

SENATOR McDONALD: Who makes up this ag board?

SENATOR STUHR: I believe it is up to the individual counties to select members to serve on that board. And in some counties, it is county commissioners.

SENATOR McDONALD: That serve on that board?

SENATOR STUHR: Yes. Uh-huh. But...

SENATOR McDONALD: But you're saying that TERC...

SENATOR STUHR: ...it doesn't have to be.

SENATOR McDONALD: You say that TERC...

SENATOR STUHR: As I said, it's very...the definitions and responsibilities have never been clearly outlined.

SENATOR McDONALD: But you say TERC still have the final decision?

SENATOR STUHR: Yes. Uh-huh.

SENATOR McDONALD: Do they...by allowing this board to function, do they basically just acknowledge that there's a problem that the TERC board might not know there's a problem? I mean is it a rural voice that's there to tell TERC and, without that, would they not know that there's a problem?

SENATOR STUHR: Well actually, even if we did away with the

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

January 31, 2005 LB 261

board, as I said, which most of the county commissioners throughout the state do feel, there's nothing preventing the boards if they wanted to, you know, continue to meet and bring any discussion that they might have. They could still do that, so this doesn't prevent them from doing it.

SENATOR McDONALD: So what...so what you're telling me, Senator Stuhr, that they can still maintain that board, that it's not mandatory to dissolve it?

SENATOR STUHR: No, they would just...they would have to informally...I mean, they couldn't...it wouldn't be a board but if the members...as they previously said, some of the members wanted to get together. There's nothing that would prevent them from doing that and, you know, bringing any desired change to the assessor or to the county board.

SENATOR McDONALD: So this board takes the information to the county assessors and then they take it to TERC. Is that how that works?

SENATOR STUHR: Well, that depends if there's an adjustment that has to be made. I would assume that they would bring it to the county board of equalization first, if they would have to make some change...

SENATOR CUDABACK: One minute.

SENATOR STUHR: ...within their county.

SENATOR McDONALD: Okay. I'm just not sure exactly how I'm going to vote on this yet. I think I need some more information and clarification if we really need to do away with this board. Lots of times boards are established for various reasons at certain time frames and we don't know whether they're doing the job or if they have any authority, so I think what we need to do is listen to more dialog and make our final decisions later. Thank you.

SENATOR CUDABACK: Thank you, Senator McDonald. Speaker Brashear, you're recognized to speak with the Speaker.

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

January 31, 2005 LB 261

SPEAKER BRASHEAR: Thank you, Mr. President, members of the body. Excuse me, Senator Stuhr. I wanted to share with people that we have been working this morning and, although this is a little different, it is my understanding that in anticipation of the implementation of our new priority bill system, that LB 126 will be designated tomorrow, all members of the committee concurring. And so it will come...we will take it off the agenda now, and I wanted you to have notice of that, and it will come among the first committee priority bills. And I wanted to let you know I think this assists and supports the body in continuing to process those bills that we can and, as I call it, getting our sea legs under us. Thank you very much.

SENATOR CUDABACK: Thank you, Speaker Brashear. On with discussion of advancement of LB 261, Senator Landis. Is Senator Landis on the...he is. Sorry about that.

SENATOR LANDIS: Thank you, Mr. Speaker, members of the Legislature. If you look at your committee statement, you'll see that the Revenue Committee reported this out. I was sensitive last year when this bill came aback about the fear that this was essentially assessors uncomfortable with county boards looking over their shoulders. I thought that that might be the case, and I voted against the bill last year because if it was a fight between local officials, let them have that fight. We don't need to wade in. This year the NACO board comes in, county commissioners and assessors, and says, we don't need this. Now that's not uniformly true. There are areas of the state, there's at least one area of the state, that's pretty darn organized, working hard, and has some good working relationships, and it's essentially in this area of the state. Activists (inaudible) they like meeting, they do it pretty seriously; however, I want to tell you that a lot of county commissioners designate somebody else to do this job. They don't appoint themselves to this board. They'll appoint somebody else to take their place, which I think is a sign that the county commissioners aren't deeply committed to the process. Secondly, this has existed for about ten years, and these boards do have the power to tell a county what to do. It's different than the TERC process, it occurs before the TERC process, and

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

January 31, 2005 LB 261

that in ten years it's probably been done across the state, 93 counties, maybe ten times, maybe once a year. Some place in this state there'll be some kind of adjustment ordered. And by the way, TERC doesn't always uphold this either, because you can bring the case in a TERC action later to undo what this LB board did. If that's the case, it seems to me that we can just streamline the process and this year, given the fact that both the assessors and the commissioners, at least a majority, are on the same side, I think the argument that it's commissioners versus assessors is no longer true. And if it's no longer true and two-thirds of the counties say, we don't need it, that's good enough for me. Do we have to maintain throughout the entire state a set of mechanisms that less than, or about a third, of the county commissioners would say, you know, we could keep these around; and two-thirds of them say, we'd be willing to part with these things, we don't need them, we don't want them, and in fact we don't have a history of them being used particularly well or significantly, and we have an alternative way of getting to the same result, namely, TERC. So in all of that, you got to pick between. Do you want to go with the minority that like to continue because they are active, or the majority who are generally indifferent to the existence of this board? Given where we are right now, and the crush of time, energy and obligation on local officers, if they're willing to part with this obligation, I'm willing to part with it as well. For that reason, I wound up supporting Senator Stuhr. But there are two points of view here and, by the way, there is at least one area of the state who quite actively makes use of this. I will tell you, however, that that group does not have heavy county commissioner participation, that the commissioners have devolved their responsibility to designees, for the most part, who are doing the work. Thank you.

SENATOR CUDABACK: Thank you, Senator Landis. Further discussion on advancement of LB 261, Senator Louden.

SENATOR LOUDEN: Thank you, Senator Cudaback and members of the body. What I get from the people in our area, the county officials, they're still using that board. When I have attended those meetings, it's usually a member of the county commissioners and probably the county assessor. It can vary

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

January 31, 2005 LB 261

from time to time because I don't think they meet every month, they meet on whatever basis they do. I'm not familiar with that anymore when they have, but I know at the time in the 11-county area out there, they meet in various parts of the western end of the state and it's usually an all-day affair in order to go to it because we have went there to discuss property tax valuations in years past. I think these are the ones that there's always discussion on market areas, what was going to happen. Some of the counties have developed market areas, and when you have these boards like this, this is where the discussion comes about to decide what course of action they want to take, and whether there needs to be new classifications. This is where the ideas come from to try and do something about our property taxes and our valuation process. It's not working all that well out in the agriculture part of the countryside. I think by disbanding the thing, it isn't going to improve anything. And by having those people meet on a regular basis whenever they so desire, I think this is something that we should continue to support and let them go about their business. Just because we think nobody uses it in all parts of the state, then I don't really see where there's any point in trying to do away with it when there are areas that probably make some use out of it. If it's being used in some place and doesn't cost anybody anything, so go ahead and do it. I'd have more concern that if it isn't county assessors worrying about the county commissioners looking over their shoulder, I'm more concerned about it...the state property tax administrators and them are having concerns about any organized people out in some of these taxing areas that are looking over the shoulder of the property tax administrator. I think this is something where whenever there's people that are organized on property taxes, I think we should leave it alone. I think it should go and let them do their work because there is where some of your ideas are formed. Ideas aren't always formed here in the Legislature. A lot of the ideas come from out in the countryside, from people that are out there doing the work themselves. So I still do not support this, and I will still vote against LB 261. Thank you.

SENATOR CUDABACK: Thank you Senator Louden. Senator Hudkins, you're recognized, and this will be your third time, Senator.

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

January 31, 2005 LB 261

SENATOR HUDKINS: Thank you, Mr. President and members. Senator Landis made a comment that the majority...I think I've got this right, the majority of the people don't know what the Ag Land Valuation Board does. Well, that's probably...no, that's not what he said. He says...anyway, forget Senator Landis. (Laugh) I'll state what I was going to say. The majority of people don't know what the Ag Land Valuation Board does, and that's probably true. How many of you know what any of your elected officials, county, state, local or otherwise, what they do on a day-to-day basis. If your particular area of the state is fairly valued across county lines, then, yes, your Ag Land Valuation Board won't have anything to do. They won't have any duties, there will be no necessity to meet. But if there are problems for, again whatever reason, if there are values that are significantly higher or lower across county lines, that's where the Ag Land Valuation Board comes into effect. No one knows what they do. They're not at the ag land valuation meetings, but they do serve a purpose. They do make sure that across county lines those values are fairly administered and fairly charged. Again, it's a check and balance system. If you look at the committee statement, you will see who the proponents are: the assessors commission, the county assessors, and a couple of county boards, York and Butler. If you look who is in opposition to the board, it's the Saunders County board; there's some problems that they have recognized; Larry Timm, he's a representative of the Area 5 Land Valuation Board, he has seen that there are some problems, and that board is a very active board; again, Larry Hudkins, who definitely does not need more to do but he said, this is a fairness issue. Also, the Farm Bureau spoke in opposition to this. Farm Bureau is, yes, it's an insurance company, but it does watch out for farmers' issues, and that is what they are saying, that we need to make sure that values across county lines are in line with each other. Just because you live in Lancaster County, which is close to Lincoln, the values of farm ground are so much higher than they would be if you were in Saunders County, for example, simply because of proximity to Lincoln. There are land sales that in Lancaster County are out of sight, just because they are close to Lincoln; or in Saunders County, just because it is a remote area and it has a stream on it and trees and rocks and makes an ideal hunting area. Those sales must be included because they're, I

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

January 31, 2005 LB 261

think the term is "arms-length sales," Senator Landis, because it's a willing buyer and a willing seller. But if the county assessors do not use all of the values, all of the reasons why a piece of property is valued higher or lower, then there's a problem. And we want to make sure that there is a way that the values across county lines are at least somewhat in the same ballpark. And if you eliminate these boards, I'm afraid that's what's going to happen. Nobody knows...

SENATOR CUDABACK: One minute.

SENATOR HUDKINS: Thank you. Nobody knows what the Saunders County Assessor is doing, nobody knows what the Seward County Assessor is doing, or the Lancaster, within those counties. But the Ag Land Valuation Board does know, and it is their responsibility to make sure that things are kept on an even basis, even considering all of the possible circumstances. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Hudkins. Senator Landis, on the advancement of LB 261.

SENATOR LANDIS: Question.

SENATOR CUDABACK: The question has been called. Do I see five hands? I do see five hands. The question before the body is, shall debate cease on advancement of LB 261. All in favor vote aye; opposed, nay. The question before the body is, shall debate cease? Have you all voted on the question who care to? The question before the body is, shall debate cease on advancement of LB 261? Record please, Mr. Clerk.

CLERK: 17 ayes, 12 nays, to cease debate, Mr. President.

SENATOR CUDABACK: Debate (sic) was not successful. Debate does not cease, on with discussion. Senator Stuthman.

SENATOR STUTHMAN: Thank you. Thank you, Mr. President and members of the body. I'm very interested in the discussion that we're having here this morning, so with that discussion I had the opportunity to get ahold of one of the individuals that

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

January 31, 2005 LB 261

serves on this land valuations board; visited with him as to what he really felt would be the value of that board. He says that he was under the opinion that if you eliminated the board would probably be the direction to go. He said that when the board gets together and meets on land valuations, he really says the TERC board didn't listen to them anyway, so he thought there would be no value of that. As far as the valuations, they need to be sent in from the county on April 15 as to what they feel the valuations are. They do not receive back from the TERC board until in July the values that are placed upon the different types of ground. So that is the concern, you know. I have visited with one that serves on the board, he served on it for a number of years. Yes, in certain areas, maybe they feel they have a value to their community. We in our local county worked out the agreement between different valuations between counties and got it approved as to how we feathered those values together. As far as the conversation, a lot of them say that this is a volunteer thing that's done by the people that serve on these boards, and I would have to disagree with that. Most generally, the individual that serves on this board is appointed by the county board. If there is no one from the county board that wants to accept that position, another individual in the court house, probably somebody from the assessor's office, one of the employees that the assessor or the deputy assessor or a person that's very much in charge of those land valuations, goes to that meeting. It is my understanding that whenever a county official is authorized to go to these meetings, they are reimbursed for the meetings. They're reimbursed for the mileage. They can turn that in. Maybe some people don't turn it in, but they have the opportunity to do this. And when they do this, it does become an expense of the county for having that person to serve on it. So realistically, I think it is the time now when we should be, you know, eliminating this board. I wouldn't be making that decision if I felt there was any inkling that there was a value to this. But realistically, the opinions are given by the TERC board as far as valuations are concerned, and a county board...the assessor's office can, you know, give their opinions to the TERC board. So with that, those are some of the things that I want to bring before the body at this time, and I will turn the balance of my time over to the Chair. Thank you.

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

January 31, 2005 LB 261

SENATOR CUDABACK: Thank you, Senator Stuthman. Senator Baker.

SENATOR BAKER: Thank you, Mr. President, members. I guess, judging from the vote on the call the question, we need some more education here, but I'd challenge anybody to say they've been to an Ag Land Valuation Board meeting and actually sat there and listened to what they did because I have and my board out there, I did not hear a word from them. I did hear from some county commissioners out there saying, we need to get rid of this. They...as Senator Stuthman aptly pointed out, there's supposed to be either a commissioner or a representative of the commissioners appointed to this, and I don't think there are very many commissioners want to take the time. Apparently, there's some resistance to eliminating this and I think all he gets is a per diem and mileage, but maybe there's more involved here than I realize because it seems to me like an excellent opportunity to get rid of a level of...a layer of bureaucracy here that we just don't need. Senator Stuhr pointed out in her opening that these were formed in 1994, and it was to provide equalization between counties. Well, there's no equalization between areas. There are eight areas in the state, and I think the bigger question is whether there's equalization between areas. And then after this was formed, in 1995 TERC was placed in the statutes, and that supersedes the authority of Ag Land Valuation Boards. So I, for the life of me, see no reason to maintain both. There's some talk about, well, let's get rid of TERC instead of Ag Land. I don't think we're going to do that today. This is a first step, though, in providing some efficiency in this government, local government, and I find it rather difficult, I guess, to understand the argument we need these because, quite honestly, they have no authority but what is overridden by TERC and, of course, the courts eventually. So I stand in complete support of eliminating these. I'm listening to the argument but some of the arguments actually work in the favor of eliminating. When they are overruled by TERC, it tells you right there that they sometimes haven't done good work and TERC still has authority over them. So to maintain these boards, I think, is simply the wrong direction to go. So I continue to stand in support of Senator Stuhr's bill, and think we should certainly eliminate the Ag Land Valuation Boards.

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

January 31, 2005 LB 261

Thank you.

SENATOR CUDABACK: Thank you, Senator Baker. Senator Schimek, advancement of LB 261. Senator Schimek waives her opportunity to speak. Senator Chambers, you're recognized.

SENATOR CHAMBERS: Mr. President and members of the Legislature, sometimes when the debate is extended, lazy reporters, inattentive senators, and the misinformed and uninformed public will attach the term "filibuster" because they have no understanding or there is laziness or there's misinformation or false information. Many times, extended debate is necessary to inform and educate the legislators, and since our proceedings are carried I believe on the Internet, I'm not up on those esoteric, technological advances, but I've been told that what goes on here is spread through cyberspace all over the universe. So sometimes it's necessary to educate and inform the public. I have never said that a person's attempt to use an extended debate a filibuster. I don't call them that. I say extended debate. And there are senators who take very seriously certain issues, and they will not be put off because their colleagues want to hurry up and get through so they can get to another bill, or in some cases go to lunch, in other cases go to a dinner. We need to stop filling the role of "Captain Hungry" and "Lieutenant Lunch-hunter" and realize that when we come to the floor of the Legislature, there's a job we have to do, and some take the job more seriously than others, which is what you'll find throughout life in every avenue or venture. Somebody said, all rivers and most people are crooked because they follow the path of least resistance. Well, for myself, I believe in launching very strong and strenuous resistance to anything that I believe is inappropriate. I have been listening to this debate in my office because I had other matters that I had to attend to. But just because it does not impact directly anybody in my district, and maybe nobody in Douglas County, it impacts people in this state. I have seen too great an inclination, even on this floor of the Legislature, that says we will decide the validity of an issue by the numbers. If I can get 33 votes, I'm right, no matter what, and I will shut everybody up. When 33 percent of any constituency has concerns about a matter, that is a large enough percentage to take

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

January 31, 2005 LB 261

seriously the fact that the issue is not so clear cut and there is a disagreement. So I would like to ask Senator Stuhr a question or two in order to improve my education. And Senator Stuhr, if people keep running up there, talking about cutting off debate, I'm going to have to put some amendments and motions up there so we can continue. So if you've got some hounds of Heaven who are doing your work, call off the dogs, figuratively speaking. Senator Stuhr, whom do these boards hurt?

SENATOR STUHR: With whom do they hurt?

SENATOR CHAMBERS: Whom do they hurt?

SENATOR STUHR: I would say that sometimes things outlive their usefulness. They were established in 1994 before TERC, so...

SENATOR CHAMBERS: May I ask the question more pointedly? Who is harmed...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...because these boards exist?

SENATOR CUDABACK: Senator Stuhr.

SENATOR STUHR: I believe that it has been stated that they can put in for expenses, there is time involved, if there is an appointment, you know, from the county board. So it's been a unanimous thought that it was time to do away with them. So I think that's what it hurts.

SENATOR CHAMBERS: Senator Stuhr, who is harmed? I'm not interested in how they get per diems or anything else. Who is harmed because these boards exist.

SENATOR STUHR: Well, probably the boards themselves in the fact that it's another commitment, and it's another time commitment for someone to have to serve, so that takes away the time that they might have to serve in another capacity.

SENATOR CHAMBERS: But that's my...so you're saving these people

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

January 31, 2005 LB 261

from themselves?

SENATOR STUHR: That is more or less what they are asking. Yes, they are asking.

SENATOR CHAMBERS: But not all of them.

SENATOR CUDABACK: Time.

SENATOR STUHR: And the taxpayers.

SENATOR CHAMBERS: Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Stuhr, your light is next, and this will be your third time, Senator.

SENATOR STUHR: Okay. Thank you, Mr. President and members of the body. I do want to point out, and I thank Senator Landis for his comments because he has heard the discussion that has taken place the last couple of years in regard to these boards. It is an extra level of government that they, themselves, the county commissioners, feel is no longer necessary. They were established before TERC. TERC now takes precedence over all of their decisions. And I do want to point out that those that came in opposition, four of the opponents were all from the same area. Now that sort of tells a little bit of the story. We received no letters in opposition...yes, no letters in opposition of the bill. The four people that came in were all from the same area. So we know that, yes, there is some support in some of the areas. But we've also found out that, through the years, the responsibilities and the duties have never been clearly cut. And we did a six-year history, just to look back in the six years. And in 2000 in the Area 1 that Senator Loudon represents, four years, there was absolutely nothing that came forth. In fact, only one time did they come forth with a request to change...to make a change. In 2004, there were no adjustments in Area 1. Area 2, no adjustments. Area 3, no adjustments. It appears that there might be one adjustment from one of the areas, possibly each year, but that doesn't even always follow through. There was one area, 7. They didn't even have their organizational meeting by February 10 as required.

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

January 31, 2005 LB 261

Area 8 did not have their organizational meeting. So you can see, when they come back and say, and the organization that represents not only the county commissioners but also the assessors, that board unanimously voted that they would like to see the elimination of this extra level of government that we have right now. So I think that that might address "who does it hurt." Actually the taxpayers. I think we're always looking to find more efficiency in government, and I certainly think that this is one opportunity that we have. Also, as I stated once before, in the last ten years, think of all of the changes that have happened, particularly in technology, that now allows the assessors to get a better picture of the land valuation. So I think these are some of the reasons that I feel it's time. Thank you, Mr. President, and I turn the rest of my time back over to the Chair.

SENATOR CUDABACK: Thank you, Senator Stuhr. Mr. Clerk, motion on the desk?

ASSISTANT CLERK: Mr. President, Senator Chambers would move to indefinitely postpone the bill.

SENATOR CUDABACK: Senator Chambers, you're recognized to open. Senator Stuhr, did you want to take up the motion...

SENATOR STUHR: Yes.

SENATOR CUDABACK: ...opportunity to take it up? Senator Chambers, you're recognized to open.

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, I'm going to make sure that I have the opportunity to say everything that I've got to say. And for the new people who may be tricked into getting into some very foolish positions by colleagues who lack the integrity to be fair and will take advantage of naivete, if you vote to cease debate on this, that does not end debate on the bill because then I will begin to offer amendments. And if you vote to cease debate on the amendment, you still don't get to vote on advancing the bill. If this is such an innocuous little affair, nobody should care how much discussion it takes to reach the conclusion that it is

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

January 31, 2005 LB 261

little in the minds of a majority of the body. The motion to cease debate divided almost evenly on those who wanted to take the lazy way out and those who wanted to pursue the issue because there were comments they wanted to put in the record and questions they wanted to have answered. But since it's early in the session, I want to make it crystal clear to everybody, and you all can chart your course and plot how you're going to deal with me. Any issue that I want to speak on I'm going to, and I will speak as long as I think I need to speak. And if everybody leaves the Chamber and the new senators follow the bad example of your colleagues, and you go stretch out in the senators' lounge or go kick back in your office, what difference does that make to me? Am I embarrassed when the camera shows that the Chamber is empty? Not at all. The question is not asked, why is Chambers there? The question asked is, why is nobody else there? But that's for each person to determine. I have not been told whom this bill hurts. A statement has been made that the taxpayers are hurt. That is a matter of opinion. I want to know whose circumstances are inappropriately worsened, or in other words harmed, because these boards exist. Until this morning, I had not heard anybody crying out to me as the "defender of the downtrodden" that they need help to get rid of these boards because they are imposing a crushing overwhelming burden on the people who serve on the boards. I'm going to ask Senator Baker a question.

SENATOR CUDABACK: Senator Baker, would you respond?

SENATOR CHAMBERS: Well, I guess he's as much here today as he ordinarily is.

SENATOR CUDABACK: I do not see Senator Baker, Senator Chambers.

SENATOR CHAMBERS: Okay. I will ask Senator Stuhr some more questions then.

SENATOR CUDABACK: Senator Stuhr, would you respond.

SENATOR STUHR: Yes.

SENATOR CHAMBERS: Senator Stuhr, you may not watch professional

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

January 31, 2005 LB 261

football, but if there is a play that is completed and a coach thinks that the referee made an incorrect ruling, he will throw a red flag on the field and the referee will go review the films of that play. And sometimes the referee will come back and change it. Sometimes the referee will come back and uphold it. But before he announces his decision, he always says, upon further review. So upon further review, maybe you will follow my questions and I can get a direct answer. Senator Stuhr, whom does this bill harm other than the taxpayers?

SENATOR STUHR: I believe, Senator Chambers, that I mentioned the time factor and the local expense, and that the decisions that the board make are no more...are no longer relevant since TERC was introduced in 1995.

SENATOR CHAMBERS: But there is no group of people who can be identified as being harmed because these boards exist, is there?

SENATOR STUHR: Just the taxpayers, yes.

SENATOR CHAMBERS: Senator Stuhr, are you aware that it costs far more to execute somebody than to keep somebody in prison for life?

SENATOR STUHR: Yes, I am.

SENATOR CHAMBERS: So it costs the taxpayers a lot more to maintain the death penalty, doesn't it?

SENATOR STUHR: Yes.

SENATOR CHAMBERS: And that argument, although shown to be absolutely correct, has never moved this Legislature to abolish the death penalty, has it?

SENATOR STUHR: No, it hasn't.

SENATOR CHAMBERS: Thank you, Senator Stuhr. Members of the Legislature, it is an argument without much force to say that something harms the taxpayers and that alone is the reason a certain action ought to be taken. There are people who, as a

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

January 31, 2005 LB 261

result of action by the Legislature last session, and I was among the so-called "dirty 30" who voted for it, who feel that the increases in taxes, the placing of taxes where they had not been formerly were bad decisions. They were hurtful to the people on whom they impacted. I did not disagree with them in terms of how they feel and whether or not they feel it sincerely. But as a state senator, my duty was uppermost in my mind. Much that I do displeases many people. But when I think something is right, I'm going to do it. In every case that comes before a court, there is a winner and there is a loser. The judge cannot please both sides at the same time. When we make decisions on issues that are hotly argued and disputed about, whichever way we decide to go, the other side is going to be upset. It is not an argument that is persuasive to me to say these boards need to go because they hurt the taxpayers. I'd like to ask Senator Stuthman a question or two.

SENATOR CUDABACK: Senator Stuthman, would you respond to a question of Senator Chambers?

SENATOR STUTHMAN: Yes, it'd be my privilege.

SENATOR CHAMBERS: Senator Stuthman, other than the taxpayers, whom does this...whom do these boards harm by virtue of their being in existence?

SENATOR STUTHMAN: In respect to your question of whom this board harms, I would say there would be no harm done. There would be no harm done to anyone by having these boards.

SENATOR CHAMBERS: Thank you. And the first rule of principle of medicine is what? First do no harm. That's all I will ask you. Thank you, Senator Stuthman. So we're on the road by virtue of the existence of these boards to that which is positive. The boards do not harm anybody. As far as whether they do any good or not, let me draw up a list of the boards and commissions that I think do no good. And if you're going to take my word for it and act on it, I could count the number of people who would be left in this Legislature if I could get everybody out of here who I thought shouldn't be in here, and I could count them on one hand with four fingers missing. The

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

January 31, 2005 LB 261

only one left, moi. I would then be like Louis XIV, known as the the Great or the Sun King--l'etat, c'est moi, I am the State. But that's not going to happen. So these boards are not the types of things that engage any great amount of interest on the part of the public at large. I've listened to some of my colleagues who are not so sure that these boards ought to be abolished. Senator Stuthman has frankly acknowledged, and others have spoken words to that effect, that nobody is harmed by the existence of these boards. I just want to have brought to me an argument as to why we ought to abolish the boards, other than that somebody or some individuals want it abolished. We have more...I'd like to ask Senator Schimek a question if she will respond.

SENATOR CUDABACK: Would you respond, Senator Schimek, to a question of Senator Chambers?

SENATOR SCHIMEK: Thank you. Yes, I'll try.

SENATOR CHAMBERS: Senator Schimek, how many...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...voluntary boards and commissions are there in the state of Nebraska?

SENATOR SCHIMEK: I...right off the top of my head I can't tell you, but I can find out very quickly. You got a big thick book of them, probably a few months ago.

SENATOR CHAMBERS: Yes.

SENATOR SCHIMEK: I'm guessing maybe 250, 300. I'll find out for sure.

SENATOR CHAMBERS: And do you think every one of them does something that is affirmatively beneficial in the minds of most of the people?

SENATOR SCHIMEK: Well, if they aren't doing something beneficial, we hope to find that out in our annual survey but,

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

January 31, 2005 LB 261

frankly, Senator Chambers, even though we get a response from some that seems to justify their existence, there are always questions about that.

SENATOR CHAMBERS: And time is up, so I don't want to cut you off, but I may ask you another question or two. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Louden. Senator Louden, you're recognized to speak if you care to.

SENATOR LOUDEN: Thank you, Senator Cudaback and members of the body. As I was listening to the dialog here, I guess I come to think what brought to mind was that fellow that carried that lantern around, I think Diogenes was his name. He was asking, looking for an honest man. And Senator Chambers was asking the question of what harm does this board do, and I don't know if he ever got his answer or not, and I didn't notice he was carrying a lantern yet. But my estimation is it doesn't do any harm, it never has done harm. It's always done good. This is an organization that was put together back in the 90s there. Shortly after it was formed, two or three years, I think more authority was given to the property tax administrator so some of their authority was cut away from them. So I think that has to be considered. But at the present time, there are still these boards that are still in operation. They meet whenever they're designated to meet. They go over what they're going to do with their valuations, not only valuations; like I said, marketing areas. There's all kinds of topics that are brought up in discussions. The one that we have out there covers 11 counties which intakes the entire panhandle of Nebraska, and this is no small area to get organized and have some people meet on a regular basis, to discuss problems and measures that might arise. And when we get back to it again, there is no harm done. Why are we trying to do away with a board that doesn't cost us anything, doesn't cause anybody harm. And I think we could go back to that Hippocratic Oath that, first of all you do no harm. And I think that's what we have to go from this point forward. I still cannot support LB 261. I would support Senator Chambers' amendment to indefinitely postpone if he so desires to leave it up there. Thank you.

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

January 31, 2005 LB 261

SENATOR CUDABACK: Thank you, Senator Louden. Senator Chambers, on your motion to indefinitely postpone.

SENATOR CHAMBERS: Mr. President and members of the Legislature, it was not my intent to take that motion to a vote, and it is not my intent to do so now, but I had to be sure that I would have the opportunity to say the things that I felt I needed to utter this morning. I've told Senator Stuhr that I'm not going to, at this point, try to stop her bill or hold it up. And she is going to talk to me between whatever happens to this bill today and the time we get to Select File. Excuse me. I want my time to run, Mr. President, but I must enter consultation for a brief time. One other point, when I offer a motion to give myself the opportunity to speak, I will not pull it before others have the opportunity to speak. But the main thing I wanted everybody to understand who might have an interest, I am not going to insist on a vote on this motion. But in order that there will be more time for others to speak who may desire to do so, I'm going to stop at this point. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. On with discussion on the motion to indefinitely postpone, Senator Hudkins, followed by Senator Thompson.

SENATOR HUDKINS: Thank you, Mr. President and members. You know, that was an interesting concept that Senator Chambers made, he would be able to choose who was left in this body and that would be just he and himself and whatever else, so maybe there would be two people there. But can you imagine the schedule that he would have, attending all of the public hearings from 14 committees. That would be interesting. But going back--I regress--I would support the indefinite postponing of this bill. We have had extended debate this morning, and I don't call it a filibuster either because there are definite concerns from a minority of members of the body. Those member...those minority opinions need to be heard. There are questions and concerns both for and against the bill, and hopefully there have been questions raised in your mind as to why this bill needs to be killed. Senator Stuhr referred to decisions that the Ag Land Valuation Board makes that are not

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

January 31, 2005 LB 261

relevant, and so that some decisions when they go to the TERC are overturned. What about the decisions that the Ag Land Valuation Boards make that go to TERC and are not overturned, and that TERC rules in favor of? We're equalizing the property taxes that people pay. We have in the body a Legislative Performance Audit Committee, and that committee looks at the different agencies and bodies and boards. I would like to see perhaps the Ag Land Valuation Board studied, to see if they're doing the job. That board was put into statute ten years ago, Senator Stuhr, ten years ago, and so maybe we do need to look at it to see if they are, in fact, doing their job. Senator Schimek's committee, the Government Committee, looks at boards and commissions, but the ones that are on the local level, not necessarily the ones on the state level. And maybe her committee, although it would be a lot more work for her and her committee, maybe they should look at some of these state-sanctioned committees. The board was created by state statute a number of years ago, and it has been doing its job, notwithstanding the county assessors' opinions. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Hudkins. Senator Thompson, on the motion to indefinitely postpone.

SENATOR THOMPSON: Thank you, Mr. Speaker, members of the body. I've been listening to the debate this morning on this issue and, you know, I don't have a dog in this fight, but I'm listening and making a decision on how I want to vote, based on the discussion and the recommendation of the committee. But what I'm struck by is what happens to us over and over and over again here in the Legislature and in the state. Once you start something, you never can end it. We've been hearing from the Governor about efficiency in government. I think there probably isn't a person here who ran for office without using that word as one of the ways that we were going to address tax issues, how we were going to make government better. We were going to make it more efficient. So we have on the books something that was created not that long ago, and then since that time we do things a bit differently. And Senator Stuhr had the guts to come out and say, well, maybe we ought to get rid of something that isn't that important. We keep hearing this, do no harm. Well, what

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

January 31, 2005 LB 261

about doing some good? I mean, what about the size of government, how we spend our time, how we spend our energy, how we expect the volunteers that we may ask to do this instead of the commissioners to be spending their energy; what's important, what's a priority? We can't just keep doing things because we've done them that way. I think when the question, who is harmed comes up, it's the Legislature. We're not willing to take on...I mean, I took on eliminating a few commissions a couple of years ago and filled the hallways and caused a lot of late night meetings for people. It's really tough to reorganize and reinvent. I think this may be the first volley that we have this session in a series of things that we have to look at because of the way we structure government, and the way we're going to have to say, what is a priority, what is most important, how do we spend our time? Maybe we've got a little bit of mileage in there, but I'm telling you, I sat on a county board and chaired the budget committee for six of the eight years I was there, and we looked at every nickel and dime that we spent. What is a priority? The counties are telling us, you know, from county government, their governing board is saying we shouldn't need to do this anymore. We continually, on the committee I serve on, ask people to tell us what don't you need to do anymore, what is not a priority, what is not important. They tell us that and then, you know, we've got to hesitate and we're going to have different opinions on it and some of you have heard from different people. But I think the bigger issue here is how are we going to reorganize and be a more efficient government? How are we going to take these proposals as they come forward and say, is this the best way we should be operating? I think we need to streamline. I think we need to become more efficient. We don't need to bog down. I'm going to support Senator Stuhr in her efforts.

SENATOR CUDABACK: Thank you, Senator Thompson. Senator Chambers, there are no further lights on. Do you wish to close on your motion?

SENATOR CHAMBERS: Mr. President, I'm going to close in on something before I pull that motion. If we really want to streamline government, we know how to do that. We don't even have to think about it. We could take that book that Senator

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

January 31, 2005 LB 261

Schimek gave us and just tear out every other page, and the pages that are left are the ones we'll allow to continue to exist, and I assure you the state will not fall off the face of the earth. The public at large will not be aware of it. Here's what I'm going to watch. When the Governor comes in here and tries to add a dozen state troopers, now I'll speak against that but how many of you will? That's a substantial amount of money, but it's not politically acceptable, and that's why I'm out of step so much of the time. It doesn't take guts, with all due respect to Senator Thompson and Senator Stuhr, to bring a bill like this. Senator Thompson showed some moxie when she wanted to go into the Roads funds, didn't you?

SENATOR THOMPSON: Yes, I did. I don't know about the moxie.

SENATOR CHAMBERS: Yes. See, that is something. That takes some backbone. But this little nibbling around the edges is of no great consequence to anybody. Kill this process that these boards are a part of, and what have you done? How many people on this floor even knew the boards existed? Do you think there's going to go up a great shout of hosanna around this state because this board has been abolished and now taxes are going to go down? I couldn't quite hear you? (Laugh) See, I use that for a point. I heard very well, I just couldn't distinguish what was being said. People are not precise in what they say. Sometimes I'm giving a talk and I won't use a microphone and I'll say, can you hear me in the back, and they'll say no. I say then, how could you answer the question if you couldn't hear me? People just don't think. When I was up there presiding and some people noticed that I didn't bow my head or close my eyes. Well, their heads had to be unbowed and their eyes unclosed to see what I was doing or not doing, didn't they? And while I'm on this, you all ought to stop that preaching which every senator does, now. The preachers don't want to be talking to an empty Chamber, but now it's even more amusing than it was before because I get to turn on my set and watch my colleagues speak to an empty room, praying. Who are they inspiring, the tables, the microphones? The lights don't shine any brighter. When the sky is overcast, the sun does not come out. Sometimes the prayer does not exemplify in his or her conduct on the floor the principles that were being articulated

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

January 31, 2005 LB 261

in the prayer. I'm going to stay on that as long as you all do it every morning. I'm going to find something each day to say about it that is negative. It doesn't belong here. I'm rather you'd get up there and talk about Mickey Mouse, Donald Duck, Petunia Pig and Goofy. I know who they are. I have seen representations of them. And if you go to Disneyland, you'll see them walking around. These other fellows you all pray to and pray about I've never seen them and neither have you. They have no impact on anything. Why don't you all concentrate and tell whoever it is you're praying to to stop my mouth so I cannot talk, to make my right arm lose her cunning, to make my tongue cleave to the roof of my mouth? Do it. You know you're not going to do it and you know there's nothing to it, but you're going through this charade. So as long as we're going to engage in charades on the floor of the Legislature, maybe you ought to let these little boards alone. They're not harming anybody. But wars have been prosecuted because of the things you all talk about...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...up there every morning. Mr. President, I want to withdraw that motion, and I want to thank you.

SENATOR CUDABACK: It is withdrawn, Senator Chambers. Mr. Clerk, motion on the desk?

ASSISTANT CLERK: Mr. President, Senator Hudkins would move to indefinitely postpone the bill.

SENATOR CUDABACK: Senator Hudkins, you're recognized to open on your motion to indefinitely postpone. Senator Stuhr, did you wish to take this up? Yes, Senator Hudkins. You're recognized to open on your motion to indefinitely postpone LB 261.

SENATOR HUDKINS: Thank you, Mr. President and members. I appreciate all of the discussion that we have had this morning. Even though we don't agree with each other on all issues, at least we can disagree agreeably. I told Senator Stuhr early on, I says, Elaine, I'm sorry, I have to do this, but are we still friends? And she says, yes, friends forever. So this is not a

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

January 31, 2005 LB 261

personal thing. It is just an idea that the Legislature put into effect a number of years ago and now some people think that it is no longer a good idea, and there are those of us who disagree with that. Senator Thompson said that efficiency in government is good and that we should do everything we can to maintain efficiency. Well, I agree with that. And it's my contention that the Ag Land Valuation Board is doing its job. The property tax values across county lines are more in tune with each other where they most likely or perhaps would not have been with the county assessors acting independently. I introduce this IPP motion to decide right now rather than keep on debating whether the members want to pass this bill. If the bill is IPP'd at this point, I would introduce a request to the Performance Audit Committee to do a study on whether the bill is needed. And if they find that the Ag Land Valuation Board is not fulfilling its original purpose, then I would sign onto any bill that Elaine would...or that Senator Stuhr would introduce in the future with this purpose in mind. I will not speak again on this particular motion, but I think that if we would put it aside for not, we could do this study and then we can decide if, in fact, this is one of the boards that is fulfilling its original purpose. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Hudkins. Senator Stuhr, on the motion to indefinitely postpone.

SENATOR STUHR: Thank you, Mr. President and members of the body. I have appreciated the discussion this morning. I am opposed to the indefinitely postponed motion, however, and I did want to just give you a little bit of background, and I believe I stated that earlier that I did introduce this bill in 2000, and at that time it did not come out of committee. But we asked the boards then come forward with some ideas, how can you improve; if you want to continue, what are some things that you are interested in doing to help make this a better board. There was no ideas that came forward at that time, and that is why...I think that we've had a lot of dialog on this issue, and that is why last year when the bill was introduced, we did take...or NACO, which is the Nebraska Association of County Officials, and they are...they represent not only assessors but county commissioners and treasurers and all of the offices of the

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

January 31, 2005 LB 261

county. They did a survey among their group and it was then at that time that 67 percent of them felt that these boards were an extra level of government. They weren't efficient. They were no longer doing what they had intended to do. As I said before, they were created in 1994. TERC came along in 1995. They take precedence over all of the decisions that are made by this board. It is no longer a priority for that group. It is something that they have all decided that...or the majority of them have decided that, and again, those that did come in opposition were all from the same area. And I think I pointed that out previously that the current system just isn't working. So I would hope that you would vote against this motion. Thank you.

SENATOR CUDABACK: Thank you, Senator Stuhr. Senator Hudkins, there are no further lights on. You may close on your motion to indefinitely postpone if you care to.

SENATOR HUDKINS: Thank you, Mr. President. Again, I would renew my offer that if this is indefinitely postponed at this time, that we could do a study. We could do an interim study, we could do a Performance Audit Committee study, whatever study that is necessary and is needed, to look into the issues of this bill and not just taking a majority vote of the county boards or the county assessors. We need to talk to more people than just the ones that testified at the hearing. So with that, I would return the rest of my time, and I would request your voting to indefinitely postpone this bill.

SENATOR CUDABACK: You've heard the closing on the motion to indefinitely postpone LB 261. The question before the body is, shall LB 261 be indefinitely postponed? And it does require a simple majority. All those in favor vote aye; opposed, nay. The motion before the body is to indefinitely postpone LB 261. Have you all voted on the motion to indefinitely postpone who care to? Have you all voted who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: 5 ayes, 27 nays, on the motion to indefinitely postpone, Mr. President.

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

January 31, 2005 LB 169, 261

SENATOR CUDABACK: The motion was not successful. Back to discussion of the bill itself. There are no lights on. Senator Stuhr, you're recognized to close on the motion to advance to E & R Initial.

SENATOR STUHR: Thank you, Mr. President and members of the body. Again, I would urge your support for this bill. I think that you have heard all of the discussion this morning and I do appreciate that. Thank you.

SENATOR CUDABACK: Thank you, Senator Stuhr. You've heard the closing on the motion to advance LB 261 to E & R Initial. The question before the body is, shall LB 261 advance? All in favor vote aye; opposed, nay. The question before the body is the advancement of LB 261 to E & R Initial. Have you all voted on the question who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: 29 ayes, 5 nays, on the motion to advance the bill, Mr. President.

SENATOR CUDABACK: LB 261 advances to E & R Initial. Mr. Clerk, LB 169, when you get time.

ASSISTANT CLERK: Mr. President, LB 169 was introduced by Senator Landis. (Read title.) The bill was read for the first time on January 7 of this year, referred to the Urban Affairs Committee. That committee reports the bill to General File with committee amendments attached. (Re. AM0013, Legislative Journal page 315.)

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Landis, you're recognized to open on the advancement of LB 169.

SENATOR LANDIS: Thank you, Senator Cudaback, members of the Legislature. Cities, municipalities have the power to issue revenue bonds. Revenue bonds are different than general obligation bonds in that the taxing authority of the jurisdiction is not at play with a revenue bond. What is at play is a revenue stream from a facility, an operation, could be a swimming pool or a hospital or something else, that generates money. And the facility needs the bond to have the capital

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

January 31, 2005 LB 169

necessary to operate. So we have general statutes that allow cities to have revenue bonds based on a revenue-generating facility. We have some language in the existing law that says, "any city or village has the power to issue revenue bonds for the purpose of acquiring, constructing, reconstructing, improving, extending, equipping, or furnishing a revenue-producing facility." And you might think that would be just all that you needed to have because if you take a look at that language--constructing, reconstructing, improving, extending, equipping or furnishing--you'd think that just about everything would be covered, but the truth of the matter is that you have to enter the twilight zone of the bond attorney world to understand what's wrong with that language. This is a place that has not three dimensions, as our universe does, but has six or seven dimensions and a perception of reality far beyond what we normally do. Bond counsel are like lawyers to the third power. They are precisians. They would say, gosh, I don't see that the word "repair" is in here. You might say, well, it says you can reconstruct, but is that repair; improve, yes, but aren't you just repairing and getting back to where you were; extending, well, there's not an extension; equipping, yes, but we already have that so I'm not sure it's a repair. That's the kind of thing that we pay hundreds of dollars an hour to bond counsels to tell us, that the word "repair" is not encompassed or is ambiguous with respect to reconstructing, improving, extending and equipping. They exhaust us. So here's what the Lincoln Electric System, who has such a bond counsel, suggested. What if we say, "a city and a village has the power to issue new revenue bonds in connection with, or relating to, any revenue-producing facility within or without its corporate limits that the municipality has the power to acquire, construct, reconstruct, extend, equip, improve...". What about if you own it, you can have a revenue bond to make it work. That's about what this bill says. We do have one amendment that I think the Urban Affairs Committee rightly appended to the bill, and I think Senator Friend will explain in a moment, and that is to say that a municipality is bounded by the need to make sure that this fulfills a public purpose. But to the extent you have a public purpose and a revenue-generating facility, you got to have a revenue bond to make it work. Let me tell you a couple of places where it would apply. First, it

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

January 31, 2005 LB 169

would apply in the area of repairs, major equipment repairs. The second place it could apply is, for examine in the case of the Lincoln Electric System, the buying at the right time of cheap energy so that over time it would be available when the prices went up. They'd like to buy that and be able to buy it in volume and to buy it at the right time, and to do that, they'd like to have the capital available. It is a revenue-generating facility. It is an end towards which lower costs and lower rates hopefully are achievable, and for that reason, I agreed with Lincoln Electric System to introduce the measure, and I would ask for its eventual adoption. Thank you.

SENATOR CUDABACK: Thank you, Senator Landis. You've heard the opening on advancement of LB 169. Open for discussion on that motion. Senator Friend, you're recognized to speak to the motion.

SENATOR FRIEND: Thank you, Mr. President.

SENATOR CUDABACK: Senator Friend, there are committee amendments.

SENATOR FRIEND: Yes, that's correct, Mr. President. The Urban Affairs Committee has submitted...if you have the bill in front of you, members of the Legislature, Section 18-1803. It's a fairly straightforward amendment. Any city or village shall have the power to issue revenue bonds for any public purpose in connection with, or relating to, any revenue-producing facility within or without its corporate limits, and so on. That terminology "for any public purpose" was actually added. Those essentially are the...is the committee amendment. Now part of the reason and part of the discussion related to, as far as the language is concerned, related to adding efficiency, probably trying to be a little more descriptive as to what we were dealing with in that entry level language and, hence, hopefully providing some more effectiveness to the statute. I would ask for the...I would ask for the adoption of AM0013 and eventually the adoption of LB 169, the advancement of LB 169. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Friend. You've heard the

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

January 31, 2005 LB 169

opening on the committee amendments offered by the Chairman of the committee, Urban Affairs Committee. Open for discussion on those. Senator Redfield.

SENATOR REDFIELD: Thank you, Senator Cudaback, members of the body. I do have a couple of questions for Senator Landis, if he could respond. Senator Landis, I agree with the committee amendment clarification, that it would be for a public purpose, but within the amendment I don't see any kind of limitation for the term of the bond or for actually purchase of consumables. You used that illustration in your opening. You were talking about the fact that they might purchase energy ahead of time when the rates were low. But what would be the term for these bonds? Are we talking long term, 15 years, 30 years?

SENATOR CUDABACK: Senator Landis, you're...

SENATOR LANDIS: Revenue bonds are like others. They have a variation: 5, 10, 15 years are not uncommon in a revenue bond. They don't have a tendency to be quite as long as some of the general obligations, but there is no limitation in our existing statute nor is there proposed in this bill.

SENATOR REDFIELD: So they could actually purchase a consumable and it could be consumed within a year or two, but the public could be paying these bonds off and the interest therewith for a term of 5 or 10 or 15 years. Is that correct?

SENATOR LANDIS: Within the terms of that hypothetical, the answer is yes, it's possible. Understand that the bonds are essentially the creation of a municipality. Those are elected officials and they will bear the burden of their choices that they make.

SENATOR REDFIELD: Do you have any discomfort with that, or do you feel that it should be limited to something that has a long-term value?

SENATOR LANDIS: Yeah. I would suggest that I'm not uncomfortable. We have not had, to my knowledge while serving here, difficulty with the use of revenue bonds and an argument

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

January 31, 2005 LB 169

that they were extending too long or were inappropriately used, and that the city's authority to use revenue bonds should be curtailed. One of the reasons is a revenue bond doesn't go against taxes, it goes against the stand-alone revenue-generating practice of the city, so it has a tendency to be somewhat like a business. And to my knowledge, we've had no difficulty with cities who are managing the business-like operation of the revenue-generating facility and a revenue bond.

SENATOR REDFIELD: So currently we have municipalities that are using revenue bonds for operating expenses?

SENATOR LANDIS: If we are, I'm not familiar with it. The existing language would say...the existing authority that they have would say that they could have used it for acquiring, constructing, reconstructing, improving--I'm not sure exactly what that means, that's existing law--extending, equipping or furnishing. So the language that we have now is ambiguous, I think, at best. I do not know of expenses for operations currently, but they may exist.

SENATOR REDFIELD: Thank you very much. Thank you, Senator Cudaback. I return my time to the Chair.

SENATOR CUDABACK: Thank you, Senator Redfield. We're discussing the committee amendments to LB 169. Senator Friend, there are no lights on. You're recognized to close on those amendments, AM0013, if you care to. He waives closing. The question before the body is, shall the committee amendments offered by the Urban Affairs Committee be adopted to LB 169? All in favor of the motion vote aye; those opposed, nay. The question before the body is adoption of committee amendments. Have you all voted on the question who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: 38 ayes, 0 nays on the adoption of committee amendments, Mr. President.

SENATOR CUDABACK: The motion was successful. The amendments have been adopted. Anything further on the bill, Mr. Clerk?

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

January 31, 2005 LB 7, 20, 21, 51, 54, 59, 69, 70, 88, 118
121, 155, 169, 232, 242, 246, 248, 253, 456
498, 555

ASSISTANT CLERK: I have nothing further at this time.

SENATOR CUDABACK: Discussion of the bill itself, advancement to E & R Initial? There are no lights on. Senator Landis, you're recognized to close on the advancement of LB 169. He waives his opportunity to close. The question before the body is, shall LB 169 advance to E & R Initial? All in favor vote aye; those opposed, nay. The question before the body is advancement of LB 169. Have you all voted who care to on advancement of LB 169? Record please, Mr. Clerk.

ASSISTANT CLERK: 38 ayes, 0 nays, on the motion to advance the bill.

SENATOR CUDABACK: LB 169 does advance. Mr. Clerk, do you have items for the record or messages?

ASSISTANT CLERK: Mr. President, I do. Your Committee on Enrollment and Review reports LB 20, LB 51, LB 59, LB 88, and LB 118 to Select File, some with amendments. Your Committee on Government reports LB 242 to General File with amendments. Revenue reports LB 248 to General File with amendments, and LB 155, LB 253, LB 456, and LB 555 as indefinitely postponed. A series of notices of committee hearings: Senator Mines for the Banking Committee; Senator Engel for the Executive Board; Senator Cunningham, Business and Labor; and Senator Raikes for the Education Committee. Amendments to be printed: Senator Schrock to LB 121, Senator Erdman to LB 21, Senator Cunningham to LB 54. A series of name adds: Senator Howard to LB 7; Senator Erdman to LB 69 and LB 70; Senator Redfield to LB 232; Senator Burling to LB 246; and Senator Pahls to LB 498. (Legislative Journal pages 395-403.)

Mr. President, a priority motion. Senator Pahls would move to adjourn until Tuesday, February 1, 2005, at 9:00 a.m.

SENATOR CUDABACK: You've heard the motion to adjourn till February 1, 9:00 a.m. All in favor of the motion say aye. Opposed to the motion say nay. We are adjourned.

Proofed by: Bernie Ward