

**MAY 9, 2005**

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May 9, 2005

LB 38, 382, 551, 683A

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Good morning. Welcome to the George W. Norris Legislative Chamber. Our acting chaplain this morning is Senator Deb Fischer. Senator.

SENATOR FISCHER: (Prayer offered.)

SENATOR CUDABACK: Thank you, Senator Fischer, for doing that for us. Senator Fischer represents the 43rd District. I call the seventy-fifth day of the Ninety-Ninth Legislature, First Session, to order. Senators, please record your presence. (Recorder malfunction, quorum present, no corrections to the Journal, Legislative Journal page 1417.) Any messages, reports, or announcements?

ASSISTANT CLERK: One item, Mr. President. LB 38, LB 382, and LB 551 have been received by the Governor, and they were signed and delivered to the Secretary of State. (Legislative Journal page 1417.)

SENATOR CUDABACK: Thank you, Mr. Clerk. We now move to General File, members, appropriation bill. Mr. Clerk, LB 683A.

ASSISTANT CLERK: Mr. President, LB 683A was introduced by Senator Schimek. (Read title.) The bill was read on May 5. I do have an amendment pending, Mr. President.

SENATOR CUDABACK: Thank you, Mr. Clerk. Members, it's a little hard to hear up here, and hear your other...out of respect for your other members, please try to keep the buzz down. Thank you very much. Senator Schimek, to open on LB 683A.

SENATOR SCHIMEK: Yes, thank you, Mr. President and members. This is the A bill for the increase in salaries for the elected constitutional offices, and you will notice that...on the bill's fiscal note that, with all the kinds of things like retirement and other extra charges, that the total bill will actually come to \$143,058. And the original fiscal note was written to reflect that; however, in the years 2006-2007, it's only going to be in effect for half a year. So the fiscal note needs to be

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

May 9, 2005

LB 683A

cut in half. So that's what the amendment will do; it will cut that, cut the A bill in half, down to \$71,529 for that biennium. So with that, Mr. President, thank you.

SENATOR CUDABACK: Thank you, Senator Schimek. Mr. Clerk, that amendment.

ASSISTANT CLERK: Mr. President, Senator Schimek would offer AM1494. (Legislative Journal pages 1418-1419.)

SENATOR CUDABACK: Senator Schimek, you can officially open on the amendment now.

SENATOR SCHIMEK: Yes. Thank you, Mr. President. I did just explain the amendment. It just cuts in half the A bill, because, for the year 2006-2007, it doesn't actually go into effect till the beginning of 2007, so it cuts that fiscal note in half. Thank you.

SENATOR CUDABACK: Thank you, Senator Schimek. You've heard the opening on AM1494 to LB 683A. Open for discussion. Seeing no lights on, Senator Schimek, did you wish...Senator Schimek waives closing. The question before the body is, shall AM1494 be adopted? All in favor vote aye; those opposed vote nay. Voting on the adoption of the Schimek amendment, AM1494, to the A bill, LB 683A. Record please, Mr. Clerk.

ASSISTANT CLERK: 33 ayes, 0 nays on the adoption of Senator Schimek's amendment.

SENATOR CUDABACK: The amendment has been adopted. Anything further on the bill, Mr. Clerk?

ASSISTANT CLERK: I have nothing further pending.

SENATOR CUDABACK: Back to discussion of LB 683A. Senator Schimek, there are no lights on. Senator Schimek waives closing. The question before the body is, shall LB 683A advance to E & R Initial? All in favor of the motion vote aye; those opposed, nay. The question before the body is advancement of LB 683A. Record please, Mr. Clerk.

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

May 9, 2005

LB 82, 161, 683A

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

SENATOR CUDABACK: LB 683A does advance. We now move on to Final Reading. Members, please take your seats, prepare for Final Reading. As mentioned, motions to strike the enacting clause will be passed over. Members, please take your seats. We will now continue with Final Reading. The first vote will be to suspend the at-large reading on LB 82. All in favor of suspending the at-large reading vote aye; those opposed, nay. Record please, Mr. Clerk.

ASSISTANT CLERK: 39 ayes, 1 nay to dispense with the at-large reading, Mr. President.

SENATOR CUDABACK: The motion was successful. The at-large reading has been dispensed with. Mr. Clerk, please read the title, LB 82.

ASSISTANT CLERK: (Read title of LB 82.)

SENATOR CUDABACK: All provisions of law relative to procedure having been complied with, the question is, shall LB 82 pass? All in favor vote aye; those opposed vote nay. (Visitors introduced.) Record please, Mr. Clerk.

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1419-1420.) Vote is 43 ayes, 0 nays, 1 present and not voting, 5 excused and not voting, Mr. President.

SENATOR CUDABACK: LB 82 passes. Mr. Clerk, LB 161. Pursuant to Rule 6, Section 8, the first vote will be to suspend the at-large reading. All in favor vote aye; those opposed vote nay. Record please, Mr. Clerk.

ASSISTANT CLERK: 36 ayes, 3 nays to dispense with the at-large reading.

SENATOR CUDABACK: The motion was successful. Mr. Clerk, please read the title to LB 161.

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

May 9, 2005

LB 161, 401, 682

ASSISTANT CLERK: (Read title of LB 161.)

SENATOR CUDABACK: All provisions of law relative to procedure having been complied with, the question is, shall LB 161 pass? All in favor vote aye; those opposed vote nay. Record please, Mr. Clerk.

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1420-1421.) Vote is 40 ayes, 2 nays, 2 present and not voting, 5 excused and not voting, Mr. President.

SENATOR CUDABACK: LB 161 passes. Mr. Clerk, LB 401. Pursuant to Rule 6, Section 8 the first vote will be to suspend the at-large reading. All in favor of the motion vote aye; those opposed, nay. Record please, Mr. Clerk.

ASSISTANT CLERK: 33 ayes, 4 nays to dispense with the at-large reading, Mr. President.

SENATOR CUDABACK: The motion was successful. Mr. Clerk, please read the title to LB 401.

ASSISTANT CLERK: (Read title of LB 401.)

SENATOR CUDABACK: All provisions of law relative to procedure having been complied with, the question is, shall LB 401 pass? All in favor vote aye; those opposed to the motion vote nay. Record please, Mr. Clerk.

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1421-1422.) Vote is 39 ayes, 0 nays, 5 present and not voting, 5 excused and not voting, Mr. President.

SENATOR CUDABACK: LB 401 passes. Mr. Clerk, LB 682.

ASSISTANT CLERK: (Read LB 682 on Final Reading.)

SENATOR CUDABACK: All provisions of law relative to procedure having been complied with, the question is, shall LB 682 pass? All in favor vote aye; those opposed vote nay. Have you all

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

May 9, 2005

LB 48, 682, 748

voted on the question who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1422-1423.) Vote is 42 ayes, 0 nays, 2 present and not voting, 5 excused and not voting, Mr. President.

SENATOR CUDABACK: LB 682 passes. Members, that does complete our Final Reading for today. (Visitors introduced.) As stated, we're now on General File. Mr. Clerk, LB 748.

ASSISTANT CLERK: Mr. President, LB 748 was introduced by Senators Bourne, Kremer, Synowiecki, and Janssen. (Read title.) Bill was read for the first time on January 19 of this year, referred to the Urban Affairs Committee. That committee reports the bill to General File. There are committee amendments. (AM0435, Legislative Journal page 678.)

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Bourne, you're recognized to open on LB 748.

SENATOR BOURNE: Thank you, Mr. President, members. I'm sure many of you have heard about LB 748 and the following bill, I guess it's LB 48. It's trying to make sense out of the gas situation in the state of Nebraska and I think it'd be fair to characterize it as pitting, perhaps, the public utility versus the investor-owned utilities, and, quite honestly, I'm not sure that either one of those bills is the right answer, but there's where we are. I'll tell you what LB 748 does. It was brought to me by the League of Municipalities, the cities of Hastings, Central City, the Nebraska Power Pool, and the Metropolitan Utility District in Omaha. The purpose of LB 748 is to ensure that Nebraskans continue to receive the quality service and low rates that they have come to expect from locally governed utilities. LB 748 seeks to accomplish this and clarify the laws that govern local utilities. First, the bill makes clear that a natural gas utility owned by a city, village, or metropolitan utilities district is not subject to the State Natural Gas Regulation Act. These entities are already governed by local boards and councils. Second, the bill makes clear that utilities owned and operated by political subdivisions are not under the jurisdiction of the Public Service Commission. These

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

May 9, 2005

LB 748

utilities do not have to have PSC certification in order to exercise their ability to market the product. Third, the bill repeals the Municipal Natural Gas System Condemnation Act. The bill provides that condemnation of a natural gas utility by a municipality would be done by the general eminent domain procedures and would be subject to a vote of the people through a limited referendum. Fourth, the bill ensures that all utilities are able to bring their product to the distribution systems. The bill broadens the Metropolitan Utility District's power of eminent domain. Currently, these powers do not extend beyond Omaha's corporate limits; however, MUD's boundaries already go beyond these limits. I do want to make clear that the committee amendment will change this slightly in that it will not allow MUD to acquire an existing utility's facility through condemnation if the facility is already within the jurisdiction of a city or a village. That will come in the committee amendment. Finally, the bill clarifies that if a city or village is annexed, the customers in that territory become the customers of the municipal system, and it would provide municipalities with the right of first refusal in cases where a natural gas service decides to dispose of all or part of a system. And again, that provision there, the right of first refusal, is also struck in the committee amendment. This has been going on as long as I've been in the Legislature. It seems every year there's a bill that either the private investor-owned or the public companies are pushing, and every year it seems to be fairly contentious. And again, I've been here six years and every year there's a significant bill that changes the policy. I have a few amendments filed to the bill and, in a spirit of our process, I tend to be responsive. If people have a concern or a complaint about a particular bill or a measure, similar to what we did earlier this year with the methamphetamine bill, I try to be responsive. And the bill, it simply is trying to add parity. I can give you examples of cities--Hastings, Central City--who again were part of the coalition that brought this bill to me, who have tried to do things in their communities with utilities with investor-owned utilities, and by the way the system is set up these utilities can be, in my opinion, fairly unresponsive and these communities are basically stuck or held prisoner, in my opinion. So that's what LB 748 does. I hope we'll have an extensive debate. I am not an expert in this

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

May 9, 2005

LB 748

area, nor do I want to be, Senator Howard, but I do think that this is a fairly logical, consistent, common-sense approach to sorting out who can do which, which utility can do what. And with that, I would be happy to answer any questions. Again, I'm not an expert in this area. However, if you have questions, I cannot answer them, I will get answers for you. But hopefully we can have an extensive debate about this very important subject natural gas, that obviously each and every one of our citizens needs. Thank you.

SENATOR CUDABACK: Thank you, Senator Bourne. You've heard the opening on LB 748. As stated by the Clerk, there are Urban Affairs Committee amendments. As Chairman of the committee, Senator Friend, you're recognized to open on AM0435.

SENATOR FRIEND: Thank you, Mr. President. Members of the Legislature, good morning. LB 748, committee addressed it and obviously we've got amendments that do essentially three things. First, while...ostensibly, while the...while there continues to be provision for the cities, villages and metropolitan utility districts to serve, I guess, as competitive natural gas marketers, if you will, the amendments would now require that they be certified to do so by the Public Service Commission under existing requirements of the State Natural Gas Regulation Act. The second piece, Section 1 of the original bill, which essentially created the municipal right of first refusal when a natural gas system, owned by and operated by a jurisdictional utility, is being sold is stricken from the bill. And finally, the expanded authority to condemn natural gas system property granted to a metropolitan utilities district is made subject to formal city or village approval when the property sought by that utility district is located within the corporate boundaries or extraterritorial zoning jurisdiction of a primary, first-, or second-class city or village, or when the facilities are located on property owned or leased by such entities. That's really it, as far as the committee amendments go. Obviously, that is about as short-winded I guess I will be on this subject and future subjects, but with that (laugh)...with that, I would ask for the...I would ask for the adoption of AM0435 to LB 748. Thank you, Mr. President.

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

May 9, 2005

LB 748

SENATOR CUDABACK: Thank you, Senator Friend. You've heard the opening on the committee amendments to LB 748 by Senator Friend. Mr. Clerk, amendment to that amendment?

ASSISTANT CLERK: Mr. President, the first amendment to the committee amendments is offered by Senator Bourne, AMI493. (Legislative Journal page 1423.)

SENATOR CUDABACK: Senator Bourne, to open on AMI493 to the committee amendment.

SENATOR BOURNE: Thank you, Mr. President. Members, as I mentioned in my opening, I think that the Legislature is a process and we try to be responsive. You know, we have committee hearing. We take input. I think we're probably one of the most accessible and responsive bodies in the country when it comes to legislatures. I've received a lot of correspondence after this bill came out of the Urban Affairs Committee and I have drafted several amendments that is my attempt to alleviate concerns with the bill. And I think we're going to hear from Senator Landis. It appears that he's filed an indefinitely postpone motion on the bill. I guess we'll get to that when we get to that. But what I'm trying to do is be responsive to the input that I have received from various parties regarding LB 748. I will be honest with you, I don't believe a lot of the letters and e-mails. I think it's more a fear of change than it is a legitimate concern that their world is coming to an end, but again, I am trying to be responsive. I've handed out to you an editorial from the city of Omaha, and I do want to make clear at the onset, and keep this in your minds, if you will, this bill is not just about the Metropolitan Utility District in Omaha. This bill is a comprehensive approach that's designed to help cities, villages, cities of the second class and pretty much every city, including the Metropolitan Utility District. But one of the criticisms that I heard and one of the things that they laid out in the editorial was that this would allow the municipal gas company or, excuse me, the Metropolitan Utility District in Omaha to basically provide gas to McCook or Chadron, and that is not the intent of the legislation. And this amendment changes it and modifies where the Metropolitan Utility District can go and it simply adds the words that they

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

May 9, 2005

LB 748

can go in areas adjacent to facilities of the Metropolitan Utility District. So the point is, is that, in my opinion, the Metropolitan Utility District in Omaha and every city or municipality owned utility should be able to grow and expand with the city. I don't believe that they should be able to hopscotch and go clear out to Chadron. So what I tried to do, again, in this amendment was simply limit their growth to those areas that are adjacent to the facilities of the Metropolitan Utilities District. And again, you'll see this amendment only applies to the Metropolitan Utility District. This does not apply to the cities or the other municipally owned entities. But again, I think that this goes...it's my attempt to try to alleviate some of the concerns that the Metropolitan Utility District would try to go out to Chadron or McCook and offer gas out there. Now I will tell you also, from a consumer's perspective, those folks in Chadron or McCook would probably rejoice if the Metropolitan Utility District were to come out there because I have charts that show that their rates are actually lower than any other utility in the state. So again, this is a...try to...it's trying to control growth. It's trying to respond to those criticisms that the Metropolitan Utility District can reach farther than its intent, or should be allowed to, and that's what this amendment does. With that, again, I'd be happy to answer any questions. Thank you for your interest.

SENATOR CUDABACK: Thank you, Senator Bourne. You've heard the opening on AM1493 to the committee amendments to LB 748. (Visitors introduced.) On with discussion of the Bourne amendment, AM1493. Senator Beutler, followed by Senator Friend and others.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, I don't know about you, but I'm having trouble getting my hands around this whole thing and so, Senator Bourne, if we could, I'd like to go through some basic distinctions to get clear in my mind what's happening here. First of all, we have two separate bills, as I understand it, and the bills deal with the same subject matter to a certain extent. Is that correct? I would yield to Senator Bourne.

SENATOR CUDABACK: Senator Bourne.

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

May 9, 2005

LB 48, 748

SENATOR BOURNE: Thank you. Senator Beutler, I would say that there is a general feeling that there's a problem in how the investor-owned and the publicly owned companies interact with one another as it deals with the territories or the areas in which they serve. And so LB 748, I think would be fair to say that it gives perhaps, I don't want to say an edge, but it's probably drafted so that the municipalities and the publicly owned utilities might have a little bit of an advantage versus LB 48, which in my opinion clearly hamstrings the municipally owned utilities.

SENATOR BEUTLER: Okay. Well, I think the way this is set up, it makes it very hard for those of us who are not familiar with the two bills to deal with them with any sort of finality on General File. And I know for myself, just to forewarn you, Senator, I'm probably going to advance both bills because I want to hear the discussion on both bills before we make a decision. But let me...let me ask you these questions to try to sort through some of this material. One situation you can have is when a system is taken over, the whole system is taken over. And the way it appears to be broken down in the bill, system takeover, if it involves anything but a metropolitan class city, is in one section of statutes under current law right now. Is that right?

SENATOR BOURNE: I believe so, Senator.

SENATOR BEUTLER: Okay. And then the other section...the other question that's involved here, again, relating to all cities of metropolitan cities, is the question of annexation; that is, where you don't take over a whole system but you annex, right? So those are kind of separate categories.

SENATOR BOURNE: I, again, I'm not an expert in this area, but I think what you're saying is accurate.

SENATOR BEUTLER: Okay. And then, in the area of annexation, you have one set of laws that applies to everybody but the metro area, or do you have one set of laws that applies to everybody? Let me back up a little bit more. If you are talking about

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

May 9, 2005

LB 748

annexation in a small town, for example, and you want to annex something that's not served, I assume you can annex it and serve it. Would that...would that be accurate?

SENATOR BOURNE: Well, I don't...I don't think that's accurate. Maybe somebody from Hastings could get up and talk about this because, as I understand it, the city of Hastings annexed an area around it and indicated to the gas company out there that they wanted to now provide municipal service to that annexed subdivision, and they were told no. And again, LB 748 is a response to that type of conduct, as I understand it, and hopefully Senator Friend will interject here if I've said anything inappropriately. But I don't believe that the current statute gives cities enough of a way...

SENATOR CUDABACK: One minute.

SENATOR BOURNE: ...to start delivering gas service once they do annex a particular location.

SENATOR BEUTLER: Okay. I suppose you could have at least two different situations: one where the annexation was of territory that isn't currently served by any public or private; and another might be a situation where...and I thought the Hastings situation involved a situation where a private was serving that Lochland area and another area, and so you had two jurisdictions butting up against one another. So right now, if a public and a private...let's say, for example, that was the case there, without knowing it, but just hypothetically, if a private is butting up against a public, under current law how is that resolved?

SENATOR BOURNE: Well, as I understand it, in my area what happens if the city of Omaha expands, there is a formula in statute that sets a value on...say they...say the city of...

SENATOR CUDABACK: Time, Senator. Thank you, Senator Beutler. On with discussion. Senator Friend, followed by Senator Landis and seven others.

SENATOR FRIEND: Thank you, Mr. President. Again, members of

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

May 9, 2005

LB 48, 748

the Legislature, wanted to quickly try to go through and I think some of Senator Beutler's questions, I can address those if I have enough time here at the end, but I'll push my button again and we can possibly go down that road a little bit later on. LB 748, we're in a unique situation in the state of Nebraska and, in a dysfunctional way, we have public utilities competing, to a degree, against private, investor-owned utilities. Thank you. Now, I'm not a fan or a proponent of an idea of a free market push or promotion of public versus private business, but right now it's decision-making time and what we've got, I think, is a situation where it's virtually impossible to get both entities, the public and the private, competing against each other on a level playing field. I believe that's virtually impossible. Now, they're all monopolies, and there are reasons for that. I had brought that up on the record a few...about a week ago. They're all monopolies, and there are reasons for that. One is for safety purposes. I think it's important to note that I don't think anything that we do here with either LB 748 or, later on, LB 48 is going to change some of the points that I brought up. It's not going to enhance or promote a free market debate. Ironically, I think this is ironic, the bill that comes closest to allowing for a free market system in this business is the bill we're dealing with right now, in a strange way, but we've decided in this state, and LB 790 a couple of years ago was the reason for this, that that's just not safe to do. You can't be duplicate...you can't throw down duplicate pipes. You can't compete in a way that these organizations would have to compete in order to make money. Now, I think the decision about the bills comes down to this, and I think the investor-owned and the municipally owned can, to a degree, provide this in and of their own right. One is for the ratepayers. What's best for the ratepayers? What...I think that some would argue in central and western Nebraska that the best thing and the best approach is going to be a bill like LB 48. Some would argue that. There are some in the eastern part of the state, other areas, even the central part of the state, that would argue that for safety, for the ratepayers, the whole bit, taking out the duplicative piping, that LB 748 is the way to go. So how do we solve it? Where do we go? I think what LB 748 does is rolls us back a degree. It takes LB 384 from a couple of years ago and it pulls us back away from that.

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

May 9, 2005

LB 748

It says we need to allow these public utilities to grow. We've made a decision in this state to allow these public utilities to exist, so we're going to continue to allow them some nominal and sometimes some immense growth.

SENATOR CUDABACK: One minute.

SENATOR FRIEND: Because in a lot of ways...I should say in some ways, the public utilities in this state have proven that they can do it better. We own them, we monitor them, and they've proven in some instances that they can do this job better. Two hundred and fifty thousand ratepayers in Omaha are telling us...I know we don't make policy based on what Omaha does, we don't want to be provincial...two hundred and fifty thousand ratepayers in Omaha, if they know about the issue, I don't think probably a third of them do, they're saying do not put the clamps on this public utility. Now, Senator Landis believes he has an answer for that. Senator Bourne is really coming out with an in-your-face answer. I think we could be out here for a long time. I don't think that's going to be necessary. I think you're all...I think you all think...may believe...

SENATOR CUDABACK: Time, Senator Friend.

SENATOR FRIEND: Thank you.

SENATOR CUDABACK: Thank you. Those wishing to speak are Senators Landis, Baker, Erdman, Mines, Janssen, Connealy, Stuthman, Bourne, and Beutler. Senator Landis.

SENATOR LANDIS: Senator Cudaback, I think we would all probably do well if we simply adopted the Bourne amendments. There are three of them in a row. I'd be happy to do that. It will put the bill in exactly the form that Senator Bourne wants to make his case to the body. We don't have to do it piecemeal. We can do it as expeditiously as possible so that we can then take a look at whether or not we like the idea in LB 748. Senator Friend just described it as, look, if you were trying to get to a free market, this would be as close an idea as to a free market as you could get because you would be trying to take the clamps off public utilities. That's an interesting

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

May 9, 2005

LB 48, 748

characterization. Senator Bourne made a characterization that this was maybe a little bit towards the private...or the public, and LB 48 was more towards the private. Here's where I start my analysis in the whole area. It's stupid to have two pipes running right down next to each other down the street. It's costly. It's dangerous. There's a natural gas leak and you don't know which pipe is causing the leak. It means more easements. It means more ripping up of front lawns. It means more street closings. It means more lost business. The stupidest thing you can have is to have two sets of infrastructure that are not redundant for a purpose but are competitive infrastructures. And you know what? We've had them in this state, last state practically in the country to allow it, but if you take a look at the maps that are over here on this table we have repetitive, redundant, duplicative infrastructure. It's costly enough to pay for infrastructure once, isn't it, than to have ratepayers pay for it twice? That's why you need to have a right of way system to decide who gets to run the pipes, and we don't have one, particularly, in this state right now, and the most critical problem is when a public and a private abut each other. LB 748 basically says if you're a city owned or a MUD, you can go any place you want to, whether you're beyond your city or your jurisdiction or not. Doesn't make a difference; you get to go. Now, we give cities, under state law, an exemption. We don't regulate them because the voter in the city controls the municipality, they control the system. But what happens when they get to grow beyond their zoning jurisdiction and get to go wherever they want to go? Who controls them then? The answer is only the voters in the city, and LB 748 stands essentially for the proposition that municipal and MUD gets to go anywhere they want to go, even though their self-regulator, the voter, is only in the core area that they serve. But they get to go in other areas where the people that are getting the natural gas have nobody that they get to vote for that regulates the natural gas provision that they have. That's wrong. What we need to do is, I think it seems...it seems fair to Senator Bourne, to adopt his amendments and to put the bill in the form he wants us to discuss it, but at the heart of it is that problem. There is no attempt to be rational with respect to double piping. What there is, is advantage seeking by the public sector providers of natural gas with no area of

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

May 9, 2005

LB 48, 748

territories, with no areas of maps that say you are entitled to this area, and you are entitled to that area. It's simply open season on everybody from one side of the spectrum--the public sector providers. It is overreaching. It cuts back on policy this body passed 43 to 3, two years ago, and repeals it with no replacement for the ideas. My suggestion is that we adopt the Bourne amendments on their face, look at where the bill is and you will find the bill is wanting because it is inherently unreasonable and unfair. It is "arational" at best, and irrational from my perspective considerably. It doesn't promote orderly analysis, orderly...

SENATOR CUDABACK: One minute.

SENATOR LANDIS: ...growth, orderly regulation of utilities. That's what this body needs, that's what this state needs, and we're awfully close to it and we'll get to it with the next bill.

SENATOR CUDABACK: Thank you, Senator Landis. (Visitors introduced.) Back to discussion of AM1493, offered by Senator Bourne. Senator Baker, followed by Senator Erdman.

SENATOR BAKER: Thank you, Senator Cudaback and members. What more can I say, if you were listening to Senator Landis? This is a bad bill. We can seek the remedies of what we need to do here in LB 48, not LB 748. This is a bill that is advantage seeking by public utilities. They know what they can do now. LB 384, that there's a lot of new senators in here since we passed LB 384. That was my priority bill a few years ago. We worked, and worked, and worked on that, had a solution and now they're back, the utilities, saying...the public utilities, saying we can't live with it. Well, I'm sorry. That was a lot of work. We'd agreed to it at the time, passed it overwhelmingly, and here we are back trying to throw...just basically throw the entire bill out. So I do not support LB 748. It's a step backward. And it's clear what we're trying to do here. It's to expand service areas of public utilities into what's being privately served now. If you want to socialize state government, this is a big step in that direction. We're just going to turn these companies loose and

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 48, 748

off we go. Senator Bourne mentioned they'd come out to McCook or Chadron. McCook happens to be in my district. I don't think that that's going to happen, but it would allow it. So I can simply sum up what Senator Landis said. We can address our needs in LB 48. I'm going to support the motion to indefinitely postpone LB 748 and we'll go from there. Thank you very much.

SENATOR CUDABACK: Thank you, Senator Baker. Senator Erdman, on AM1493.

SENATOR ERDMAN: Thank you, Mr. President. I yield my time to Senator Friend.

SENATOR CUDABACK: Senator Friend, you have almost five minutes.

SENATOR FRIEND: Thank you, Mr. President, members of the Legislature. Thank you, Senator Erdman. Senator Baker made some good points. I share his fear. I share his fears in regard to a bill like this. Frankly, I...and I think it's a little premature to discuss LB 48, but it is next up on the agenda, and my fears would echo throughout that debate as well on LB 48. But here's the kicker. There is no way...Senator Baker spoke of socializing this business. I don't know how it could become more socialized. One...I really believe we have to proceed with caution, not only on this bill but the next bill, and again I don't want to characterize LB 48. That will have its time. But I think we need to proceed with caution, period, and let me give you a little bit of a background on this. The lobby's hair has been on fire. We all know that. We had probably a week and a half to deal with both of these bills, maybe two weeks to deal with both of these bills in the committee, myself included. I don't know how much of it you can take. Both these bills came out virtually unanimously, and I don't mean to throw a wet blanket over the whole thing, but I don't know if we have the answer here at all. We've studied this some would say for years. I think Senator Landis could probably back that up. I haven't. I don't...you know, I don't think the committee has had a sufficient bite of the apple yet. There are huge concerns that weren't addressed yet in committee with either of these bills, one of them being everybody keeps talking about the investor-owned versus the public utilities and

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

May 9, 2005

LB 48, 748

their battle. Well, guess what? It's not just their battle. And I'm not sure anybody else has had a significant voice in this. Let me give you an example. I can't...I cannot count on five hands the amount of developers who have come out and told me, if you put the clamps on these public utilities who are actually doing business right, the ones that we own and the board members that we elect, you're making a mistake. Now, granted, they have their own private personal reasons for saying things like that, but do they believe it? I mean, it occurred to me that why would they say things like this, why would they approach it from this angle, I mean, if they really didn't have hard-core, hard-line fears about what was going to transpire? I do not want the Metropolitan Utilities District in Omaha dictating the state's natural gas policy. Make no mistake about it, I want it read into the record, I don't want that to happen. But I also don't believe that it's a wise thing to do to take some of the...what I would consider the best players in the business, and maybe LB 748 does not allow for that, to take some of the best players in the business and to handcuff them without having the appropriate consumer, developer, user input that I think is required. And, quite frankly, I don't think we've had that yet. I think that's yet to come. I think Senator Landis may disagree. I think Senator Bourne may even disagree. But guess what? It took years to develop an idea, and late nights to come to a conclusion and to pull LB 790, which is the regulation of the gas industry, together. A lot of people worked real hard on that effort, Senator Landis being one of them, and a lot of folks happen to stand...happen to be standing behind the glass. I don't think we can dismiss that now. I don't think we can dismiss his efforts, Senator Bourne's efforts, Omaha's efforts, Lincoln's efforts and the rest of the state. I would submit this to you. I don't know that we have an answer out here this year. That's my point. We kicked two bills out real fast, you guys can all come to me and blame me for that if you'd like, but I don't know that we have the answer and I don't know if this is it either. But let me tell you this. If we don't step back and proceed with caution, we may get something we don't like and then we're going to be back here. I've had people tell me, if we don't do LB 48, we're just going to be back next year in order to try to accomplish...look, we don't have to do either of these bills, folks. That's the

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

May 9, 2005

LB 48, 748

bottom line. They're going to be out there and they're going to come after us anyway. I think we need to proceed with caution, we need to be deliberate, and we need to find out as a body, Senator Landis is right, adopt these amendments, find out as a body if LB 748 is the way to go or if LB 48 provides a better answer. Me personally, right now at this juncture in this debate, I honestly don't think we have the answer in either of these bills. My yes vote is on both committee amendments. Forty-three years old, like I said last week, sometimes trouble just follows a man. I can't say that I'm the sharpest tool in the shed, but let me tell you this. If we can repair any of the damage that I...that could be perceived that I've done, I'd like to repair it. Thank you, Mr. President.

SENATOR CUDABACK: Members, we had a little glitch in our machinery up here and we do not know who...your lights will not be on. So, Senator Mines, Senator Janssen, Senator Connealy, Senator Stuthman, Senator Bourne, Senator Beutler, Senator Landis, Senator Thompson, Senator Friend, Senator Wehrbein, Senator Erdman, and Senator Kremer, so that's the order. We will go by this order. Senator Mines.

SENATOR MINES: Thank you, Mr. President. Colleagues, I'm going to take just a few minutes on this and then I'd like to turn my time over to Senator Beutler. I was fascinated by the discussion between Senator Bourne and Beutler. After hearing Senator Landis suggest that we adopt the amendments, move this thing to Select and just talk it to death, it makes...oh, you want to keep it here, don't you? Well, let's just talk about the bill. I'd like to hear both bills before I decide to IPP anything. I'm in the state that I think Senator Beutler is. I'm still trying to get my arms around where we're going with this. In principle, I have long believed that boundaries work. I come from a telecommunications background where we do have boundaries. We don't have public entities involved in boundaries, but we do have private, competitive businesses, but they are bound by territories. It makes sense to me. It also makes sense to me to allow utilities of a public nature that are doing a wonderful job to continue to grow, and I think there's a mechanism to accomplish that. I also am concerned by Section 5 in LB 748 that would allow public entities to sell excess

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

May 9, 2005

LB 748

natural gas on the...to...specifically to Nebraska municipalities, Nebraska power, and compete with those private industries, private businesses that are wholesaling that product now. And a little later I'll offer an amendment to strike Section 5 from the bill, not to try and hurt the bill. I'd like to hear everything discussed and brought together, but I do have that concern. With that, Mr. President, I'd like to yield my time to Senator Beutler to discuss with Senator Bourne.

SENATOR BEUTLER: Senator Mines, thank you...

SENATOR CUDABACK: Senator Beutler.

SENATOR BEUTLER: ...very much. Senator Bourne, I want to go back to some of the distinctions that we're talking about here and maybe go back to them in light of Senator Landis' remarks with regard to duplicating services, double piping, that sort of thing. Let's talk about system takeovers first, as opposed to annexation. Your bill would allow for the...for a city to take over its private system and make it public, should they so choose. Is that right?

SENATOR CUDABACK: Senator Bourne.

SENATOR BOURNE: That's correct, Senator Beutler. If a city wanted to take over the provider that's providing gas and become a municipally owned provided gas company, they could do that under LB 748.

SENATOR BEUTLER: Okay.

SENATOR BOURNE: Now, they would have to pay. There's a...in statute already, there is a, of course, a series of statutes that would establish the value, so it's not like they're just taking it. You know, they are paying for the infrastructure.

SENATOR BEUTLER: All right. So, at least as far as takeover is concerned, there's no duplication of services. You're actually buying out the existing infrastructure. Is that right?

SENATOR BOURNE: That's correct. And are you going to ask some

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 748

questions about the double piping, because I think Senator Landis is...is...

SENATOR BEUTLER: Well, let's go to the annexation...

SENATOR BOURNE: Okay.

SENATOR BEUTLER: ...part of it then. There are two parts to this, as I see it always. There's the takeover thing and then there's the annexation thing. Now, if you're in the annexation portion of your bill, and let's talk about all those cities except the metropolitan area. If you go in and annex a subdivision that's currently served by a private entity, am I understanding the bill right that you again buy them out? Is that right?

SENATOR BOURNE: That's correct.

SENATOR BEUTLER: Is there any duplication of services in that process?

SENATOR BOURNE: No.

SENATOR BEUTLER: Okay. Well, then, in fairness, Senator Landis, let me ask...

SENATOR CUDABACK: One minute.

SENATOR BEUTLER: ...you, wherein, in Senator Bourne's bill, do you see the duplication of services?

SENATOR CUDABACK: Senator Landis.

SENATOR LANDIS: Thank you. Senator Beutler, there is no area that the public entity cannot go and there is no area to which the private sector is entitled to exclusive provision of services, which means that rather than annexing a provision, what there isn't in LB 748, you can't find it, is that you could...the public entity could extend its borders out and beyond those borders and parallel, but not annex, somebody else's pipes. What you're talking about is where you go out and

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 748

decide to annex into the city. But on the theory, I suppose, you know, you should be able to control your own city limits, understand LB 790 says, look, city facilities are not regulated.

SENATOR CUDABACK: Time, Senator.

SENATOR LANDIS: So, while annexation makes sense, but if you're going beyond the city...

SENATOR CUDABACK: Time is up, Senator Landis.

SENATOR LANDIS: Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. On with discussion. Senator Janssen, followed by Senator Connealy, Stuthman, Bourne, Beutler, and Landis, and five others. Senator Janssen.

SENATOR JANSSEN: Thank you, Senator Cudaback. Members of the Legislature, you know, I probably have as much knowledge here about city owned gas companies as anyone does, or experiences. Let's put it that way. Fremont is...I heard the statement that, you know, the world is not going to come to an end. Well, Fremont, the city which I represent, their world almost came to an end 25 years ago. The cities don't want to duplicate piping. They just want the existing pipe that's there to be safe, and that was not the case, which brought on the travesty 25 years ago. That company had been bought and sold, or that system had been bought and sold by several different companies throughout, oh, probably the last 30 years prior to what happened 25 years ago. And what happens, what happens if a company goes broke and that system is put up for sale? The same thing could happen that happened in Fremont 25 years ago. They see customers out there. Well, we'll snatch that up and we won't worry about the system; we want to make some dollars; we want to make a bunch of money on that system. I have two, a city and a village, in my district that own their own gas companies. Those people enjoy some very, very low rates. And they're run by the city council, department of utilities, or the village board. If you don't...if you don't think that system is running right, you go to that village board meeting or the city council meeting, get

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

May 9, 2005

LB 748

on the agenda and tell them what's the matter with your service. Among 532 municipalities, cities and villages, that own their natural gas system in this state, among those municipalities there are 14 cities and villages that own their own gas companies. Nebraska City negotiated a purchase in 1941; Hastings in 1942 by eminent domain; Alma in 1946 negotiated the purchase; Ponca in 1951, eminent domain; Central City in 1956 negotiated the purchase; Stromsburg in 1956, eminent domain; Lyons in 1959 by eminent domain; Fremont, 1985 negotiated a purchase; Wisner, 1988, eminent domain; Superior, 1990 negotiated a purchase; Falls City, 1990 negotiated a purchase; Stuart in 1991, eminent domain; Wahoo, '99, eminent domain; and Scribner in 2000, eminent domain. These systems provide a very low rate and excellent customer service. In 2001, a study conducted by the Legislature's Urban Affairs Committee found that the average residential, small commercial, and large commercial customer bill in Nebraska is 8.3 percent to 11.5 percent less expensive in municipally owned and operated natural gas systems. If MUD is included in this comparison, the natural gas rate in publicly owned systems are...

SENATOR CUDABACK: One minute.

SENATOR JANSSEN: ...13 percent to 19 percent less than their investor-owned counterparts. These systems provide local control, and how many times have we stood on this floor and argued about local control? Customers of these systems have direct access to utility management, and if they don't like the direction a utility is headed for they can make...take their concerns to the city government and express their problems. I'm going to listen to the discussion. I still think that LB 748 is the right way to go. I may be impartial because I can...I have seen and witnessed what these companies do that are locally owned. I don't want to see double piping. That's not the situation,...

SENATOR CUDABACK: Time, Senator Janssen.

SENATOR JANSSEN: ...not in my district anyway.

SENATOR CUDABACK: Thank you, Senator Janssen. On with

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

May 9, 2005

LB 748

discussion. Senator Connealy, followed by Senator Stuthman.

SENATOR CONNEALY: Thank you, Mr. President and members. Really, why I'm interested is the discussion that Senator Janssen just covered. You know, we had a classic battle a couple years ago and LB 384 was a big win for the privates, for it restricted the ability for a town to, if they're having problems with the system, if the response and the service isn't up to par or if it believed that it'd be better for the city to own that, we put restrictions in place so that it's tougher now for a community to take over that system. We didn't make it so it's the regular process of condemnation. We put up more hurdles. I'm hearing now that their plan...the Municipal Power Pool says it could be up to five years for a city to go through the process of appeals and the like to take over a public...make a system public. We have now a gas company on a national wide basis that's in trouble. Aquila is selling off systems. They say they aren't going to do it here, that our systems are secure, but what if that system or another system is having financial problems, is not being able to serve their communities as well as they should? We give up the right for our consumers and for us as the public to have the power to make it safer to provide that service. I believe that we ought to look at what we did a couple years ago and say, you know, maybe we went a little bit too far in restricting ourselves, in restricting our consumers and our public entities into making sure that systems are safe and have that incentive out there for these companies to make sure that they do a good job. Otherwise, someone might say, well, we want a different system. I believe that by restricting ourselves we've given these gas companies less of a incentive to do the right thing, and I believe that we ought to change that direction. With that, I'd turn over the rest of my time to Senator Bourne, if he wants it.

SENATOR CUDABACK: Senator Bourne, about 2, 35.

SENATOR BOURNE: Thank you. Thank you, Mr. President, members. You know, as I said in my opening that I am not an expert in this and this bill is actually, I think, my first foray into this area. And I tell you what I'm going to do is illustrate how confusing this is. Senator Landis talked about the double

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

May 9, 2005

LB 748

piping that's going on in the state, and the implication is, is that there's miles and miles of double piping. I had handed out a drawing and at the top it says Prop. MUD and then TBS, which is town border station, at 174th Street and Fairview Road. And if you look at that legend, as I understand it there's about six blocks of double piping and that's simply because they tried to construct this town border station outside the city of Omaha. So I am at a loss to, number one, figure out how LB 748 allows for double piping. I don't see that it does. And, number two, the double piping, while it was a problem, the Legislature a number of years ago, I want to say four years ago, passed LB 78 and, as I understand it, LB 78 stopped the double piping. Now, again, maybe I'm wrong. Senator Landis certainly has a lot more expertise in this area than I do. I'm just simply trying to provide a place at the table for the municipal owned utility companies. If LB 748 is not the answer, help me craft something that is, but I don't believe that this is a double piping bill. This...it absolutely does not do that. We passed...

SENATOR CUDABACK: One minute.

SENATOR BOURNE: ...LB 78 two or three years ago that stopped the double piping and, to my knowledge, that hasn't been repealed and is working. Now, maybe I'm wrong, and I'm sure Senator Landis will correct me if I'm wrong, but I don't think that's an issue. And as I understand it, the maps that Senator Landis is showing over there are from 1999. Now, again, I could be wrong; I don't know. That's what I'm trying to point out with this entire area. It's extremely confusing. I don't believe there's a double piping issue. I do believe LB 748 is a good start. Is it perfect? Perhaps not. Senator Landis wants us to get through these amendments so that he can get on with a kill motion. I don't believe that's what we are here to do. We are here; there's supposedly a problem; let's solve it. I don't think simply putting an IPP motion on the bill solves the problem, whatever the problem may be. And I think Senator Landis would agree with this. The problem is, is that you have two opposing entities that can't...

SENATOR CUDABACK: Time.

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

May 9, 2005

LB 748

SENATOR BOURNE: ...seem to get along and craft an agreement.

SENATOR CUDABACK: Thank you, Senator Bourne and Senator Connealy. Senator Stuthman, followed by Senator Bourne.

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. I've been doing some serious listening and some consideration on this bill. The thing that really does concern me, looking back at the history just three years ago, the bill that was passed, LB 784, 41 to 3, was that a direction that was not the direction to go? I think, you know, there was a lot of time spent at that time, and that was prior to me coming here to the Legislature. But the thing that I'm really upset about is that a lot of time was taken there; the bill was passed. Now we come up with, no, that wasn't good. That wasn't the right thing to do. Those 41 people, that was the wrong thing to do. Maybe it was, I don't know, but I tell you that was...that's a pretty solid vote, in my opinion. I will...I will agree with Senator Landis, you know, that we need to proceed with this thing and see how it comes out. But I would like to engage in a little conversation with Senator Friend, if I may, please. Senator Friend, if he would respond, please.

SENATOR CUDABACK: Senator Friend, would you respond?

SENATOR FRIEND: Yes, I will.

SENATOR STUTHMAN: Senator Friend, with this, the property that is owned by the private sectors, the pipeline that is in these communities, if the cities would take over that, where does that value go then, that asset?

SENATOR FRIEND: Well, it's my understanding that the municipally owned utility would have to...would condemn...would essentially go get that. The asset goes to the...it goes to the publicly owned utility and then I guess, for all intents and purposes, goes to the people of that district.

SENATOR STUTHMAN: Okay, and if it...

SENATOR FRIEND: That's where the asset goes.

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

May 9, 2005

LB 748

SENATOR STUTHMAN: Okay. Thank you. Then, if that would go to the...to the publicly owned...the community, those assets are off of the tax roll, or am I mistaken?

SENATOR FRIEND: Well, they're ratepayers. I mean you're pulling out of a different bucket, okay? Here's my point. If you...if that...if, let's say, Omaha annexes Elkhorn, yeah, there's going to be an effect on the Omaha taxpayer. There's going to be an effect on the Elkhorn taxpayer. But you're talking about a different entity going out and acting as a governmental subdivision and condemning a certain amount of infrastructure. So what I'm saying is I don't think that the degree and the effect on the taxpayer would be the same as it would be if there was, you know, a larger infrastructure and sewers and everything else involved in the situation. And maybe that's an indirect and bad answer to your question.

SENATOR STUTHMAN: Well, in my opinion, that isn't the way that I feel it's going to happen, and I'll use my community as an example, what is providing the natural gas, you know, as a private supplier. They own the pipes. They own the infrastructure. They're paying property tax on that infrastructure. If it is condemned and taken over by the municipality or the city of the first class, then those dollars are off of the tax rolls, that infrastructure part of it. Now, where is that money that is supplied by the private industry...you know, that is not going to be paid to the communities, to the local subdivisions anymore. You know, where is that going to go? That is a concern that I have. I just...I just don't think this is totally the right direction that we should be going at the present time. I am concerned with assets of a private organization paying their fair share of the tax dollars to the communities...

SENATOR CUDABACK: One minute.

SENATOR STUTHMAN: ...in comparison to the community owning the infrastructure, and then there is...it's not on the tax rolls anymore. That's a concern of mine. Another concern is that if we...if we let this to happen, short-term rates will probably be

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

May 9, 2005

LB 748

maybe the same or not any greater anyway, but long term, when you allow, you know, one--the Metropolitan Utility District--to be the supplier of the natural gas, I think in time to come rates are going to be a lot higher, and that's what I'm looking at in the future, you know. What are we really doing? I think and we...three years ago we passed a bill and now we're trying to totally undo that. I'm a person, you know, a spade is a spade. We did it. Maybe that's what we should keep...you know, adhere to what we have done. So I was going to give the balance of my time to Senator Landis, but I don't think I have very many seconds left.

SENATOR CUDABACK: I'm sorry, your time is up, Senator. Senator Bourne, followed by Senator Beutler and 11 others.

SENATOR BOURNE: Thank you, Mr. President. Members, I listened intently to Senator Stuthman and, number one, this does not allow, in my opinion, particularly with the amendment we're discussing, it does not allow the Metropolitan Utility District to serve the entire state. He mentions, and this is a good argument, he mentions that these infrastructures will be off the tax rolls, and I don't know that he's wrong, but I will tell you I can give you a chart that shows the differential in rates and it is significant, and we can go into that a little bit later. Senator Stuthman also mentioned a bill that we put into place, the municipal gas...excuse me, the Municipal Natural Gas System Condemnation Act. That was LB 384. And I have heard this criticism, that we should not be turning that on its head under LB 748, and we do. We eliminate the natural gas...the System Condemnation Act. We eliminate it. But let me tell you what's in that act, and it's a 24-step process whereby the city takes over and operates a gas system. I don't think I can get through this in five minutes, so I'll push my light again. Step one, the members of the governing body or city staff become aware of one or more of the following regarding the utility: the utility is a material threat to public health and safety; there's a failure to meet generally accepted industry standards of customer service; there's excessive rates or financial instability. This takes about 6 to 12 months, according to my chart. Step two, the city collects more information and if the issue is health or safety or customer service, the city, number

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

May 9, 2005

LB 748

one, informs the utility. They wait to see if the utility corrects the situation. If not, the city again informs the utility. The city waits to see if the utility is correct...if the utility corrects the situation. If not, the city either informs the utility and waits, or determines utility has had sufficient opportunities. The amount of time for this, 6 to 15 months. Step three, the governing body votes to prepare a resolution of intent to condemn; takes about a day. Step four, the city staff prepares a resolution of intent to condemn. Required contents of the resolution: number one, a description of the property; one or more of public health and safety, customer service, excessive rates, financial instability...and I'm being succinct here. The resolution may not contain any reference to expected or anticipated revenue to be derived by the city due to condemnation or operation of the gas system. Takes about two to six weeks to do this. Step five, the governing body adopts resolution at regular meeting and sets time for public hearing. They send a copy of the resolution and the city publishes notice; amount of time, 45 to 60 days, 45-day minimum required by statute. Step six, the governing body holds public hearing solely on resolution. The public can comment at that time. The utility may respond to resolution and public comments, and any time prior to adjournment the utility may require the city to include additional portions of gas system and description of the property being condemned. This takes about a day. Step seven, the governing body votes to condemn. This can take anywhere from 0 to 60 days. Step eight, if not a village and mayor vetoes the resolution, the governing body votes to override, that's kind of dismissed there, the clerk then notifies the Chief Justice of the Supreme Court. Step ten, Supreme Court appoints three district judges as a court of condemnation to determine the value of the gas system being taken; 1 to 30 days, 30 days the maximum set by statute. Step 11, the Supreme Court enters order requiring judges to attend as court of condemnation at county seat in which the city is located within such time as may be stated in the order; 0 to 30 days. Step 12...I'm going to go over that one because it's a half page long. Step 13, condemnation of court determines the value of the gas system. Step 14, there's a number of things the city can do. Step 15, generally the utility will appeal. Step 16, is...

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

May 9, 2005

LB 748

SENATOR CUDABACK: One minute.

SENATOR BOURNE: ...an alternative to Step 15. Step 17, the court pronounces judgment. Step 18, the city or utility, if one chooses, files an appeal. Step 19, the Supreme Court hears and determines the appeal. Step 20, the governing body of a city takes action to submit question of condemning the gas system to the registered voters. Then there's Steps 21, 22, 23, Step 24, and at the end of Step 24 the city can now own the municipal gas system. In my opinion, this is cumbersome. As I understand it, it's never been done because it's too cumbersome. And I think, quite honestly, some utilities in the rural part of the state know how difficult this is and, because of that, are unresponsive. They do not listen, particularly the city of Hastings. I think there's a...there's a...Central City, there's an ethanol plant, as I understand there's some issues. So the point that I'm trying to make is this process is cumbersome. And I'm not criticizing if Senator Landis did this or the Urban Affairs Committee, but I think you can see that it's a 20-some...

SENATOR CUDABACK: Time.

SENATOR BOURNE: ...step process that just doesn't work.

SENATOR CUDABACK: Thank you, Senator Bourne. Senator Beutler, followed by Senator Landis and others.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, Senator Landis, if I could exchange a couple ideas with you...

SENATOR CUDABACK: Senator Landis, would you yield?

SENATOR BEUTLER: ...I'd appreciate it.

SENATOR LANDIS: Yeah.

SENATOR BEUTLER: Again, I want to divide this up a little bit and I want to just talk about the takeover of private systems, because it seems like Senator Bourne's bill has two distinct

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

May 9, 2005

LB 748

parts to it. One has to do with the takeover of existing systems, and the other has to do with annexation processes. So let's put aside all that annexation stuff for a minute and talk about the takeover of existing systems. His bill, as he just described, wipes out what some would describe as a very cumbersome process, wipes out all of those statutes and kind of goes to the other extreme and allows these systems to be taken over by eminent domain, as we understand it in many different other areas of municipal application. As I understand what some of these cities want, either they believe in a philosophy of public management of a utility or they want some leverage over private companies by virtue of a perceived reasonable ability, realistic ability to take over the system if they don't respond on rates, if they don't respond on service, if they're getting continual bad service, that sort of thing. First of all, do you think that's a legitimate leverage tool, to have a mechanism in place that creates the reasonable possibility that they might switch if not, or is that detrimental in terms of...the word I want is not encouraging investment? I would just like to hear how you...

SENATOR LANDIS: Sure.

SENATOR BEUTLER: ...how you've analyzed that particular.

SENATOR LANDIS: The pendulum has swung back and forth. LB 384 is less onerous than the bill that was originally introduced. It is a negotiated solution because the momentum to do something more complex was there, because of the most recent example that was available to the body which proved to be very instructive and I think was very influential in the outcome of that issue. If I've got a minute I'll share that example with you. If you'd like to know, it's Neligh. Neligh, in a desire to either lower costs, get revenue, bring the natural gas system into the city, or for whatever reason, went out and did the traditional condemnation procedure, which meant that the city took control after a vote. They voted to condemn. Then they went to the condemnation court to figure out how much they had to pay for what the public had voted for. A vote, of course, is pretty problematical--a lot of costs, a lot of expenses on both sides, very expensive. Then going to condemnation court, also very

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 748

expensive. When the condemnation court came back, the condemnation court said, city, now that you've condemned, you've got to pay \$2,200...\$2,025 per meter for what you're condemning. When Neligh, after having fought about a half...a quarter of a million dollar fight in the voting, fought another \$100,000 fight in court, discovered that they had a system that was too expensive...

SENATOR CUDABACK: One minute.

SENATOR LANDIS: ...for them to take over. They'd fought the condemnation election for both sides, either ratepayers or taxpayers; then they'd fought the court case, either ratepayers or taxpayers, both sides losing those costs; then Neligh said, gosh, we don't want to take over the condemnation. Kinder Morgan, could we simply go back to where we were? After having spent, publicly or privately, what, \$300,000, \$400,000, \$500,000, \$400,000 let's say, we got back to square one because we condemned without knowing the price tag. The old system allows you to condemn without knowing the price tag, and that's the most living recent example of an attempted takeover--\$400,000 of wasted money by ratepayers or taxpayers fighting over a system by which the city condemns without first knowing the price tag. That's why LB 384 had the momentum it had. Could it be cut back? I think so. Is it overreaching? Probably. On the other hand, there's enough of a problem there that you fight, spend, condemn,...

SENATOR CUDABACK: Time, Senator.

SENATOR LANDIS: ...and don't know the cost of what you're buying.

SENATOR CUDABACK: Thank you, Senator Beutler. Senator Landis, followed by Senator Thompson. Senator Landis.

SENATOR LANDIS: It's hard to know where to start because you're not sure where you are when you've done hundreds of hours of fighting on natural gas issues, which is the case for me after 27 years, I mean literally hundreds of hours in rooms negotiating and fighting about these things. It's hard to get

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

May 9, 2005

LB 748

back to what the first principles are for people who don't do that, so let me see if I can get to three principles. Look, here's the system that we now have. It's state regulation. We replaced the last local regulation system in the country, so we're behind other states. We went to state regulation last year; worked well, by the way. We did a rate increase for about \$200,000 bucks. It was a negotiated settlement and all parties were pretty darn happy about it. It worked well this last year, but we left something undone--who gets the right of way to serve in various territories? Let it undone because we couldn't figure out something that everybody could live with last year. Here are the three principles I think that ought to govern, after having done this for hundreds of hours. City systems ought to get the right of way inside the city and the zoning jurisdiction, because that's where they're going to grow. They ought to get the right of way. Their system, if they've got a city owned system, their system should have the right of way and a public...and a private should not go into that territory. And if a city wants to grow and expand its borders, it ought to be able to either buy--willing buyer, willing seller--condemn, or ignore private companies so that it can control its own fate; neutral principle number one, good for cities, better than they get in most jurisdictions. It is a good thing for cities. Secondly, private companies ought to get where they are now. They ought to have a map and where they are now they're entitled to and people shouldn't run into their territory and compete with them because it's best to have one system of pipes, not two. Draw the maps up of where we are now and give the people who are there now the right to stay there, unless they're condemned by a local city; neutral principle number two, good for the privates, generally. It's followed in 39 other states. It's because we're late coming here. It's a neutral principle that's a standard regulatory form so you don't have multiple pipes. Third principle: Where you don't have pipes yet, where there is no private and there is no public, where you've got no man's land, take it to the Public Service Commission and use the tool that we have on the books in which we run five criteria through a system to determine the public interest, and do it before you run a pipe; neutral principle, good for both parties. LB 748 violates every one of those principles. First, it does not say that you get the territory where you are now. It gives

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

May 9, 2005

LB 748

nothing to the privates by way of assurances that their territories are their own. Secondly, it does not limit the right of way to cities to their cities or their zoning jurisdiction. It says they can go anywhere without regulation by state government, including serving people that don't vote for the board. And third, for our no man's land, the one tool that we have to determine the public interest right now, it impliedly...it impliedly repeals it by allowing us to jump around and create town border stations without response to local...without response to the Public Service Commission and, by so doing, it allows us to leapfrog development. LB 748 violates every one of those neutral principles. It's why it is a one-sided bill that's designed to poke the other side in the eye and get advantage. Three neutral principles: You get where you are now; cities get the right of way where cities serve cities; and in no man's land you go to the Public Service Commission and demonstrate public interest before you carve up no man's land. LB 748 violates every one of those principles.

SENATOR CUDABACK: One minute. Thank you, Senator Landis. Senator Thompson.

SENATOR THOMPSON: Thank you, Mr. President. Members of the body, I represent District 14, which is one of the areas of the state that would be in the heart of these kinds of disputes, and just from some practical experience, just to mention one situation we did have, one of my cities did have the double piping issue. Couldn't figure out...there was a fire, an emergency situation; couldn't figure out who was serving the area, whose pipe it was. Spent a lot of time trying to sort through that. We shouldn't have public policy that encourages that. We should have, and I, you know, as someone who's leaving the Legislature, I know that the issue of service territories has been out there forever, but if we're going to have a mixed system of public and private, we really should have service territories, but we didn't get there. So Senator Bourne has introduced this bill, which Senator Friend described as an in-your-face bill, and that's exactly what it is. Senator Baker carried legislation that was...quite frankly, I wasn't...have never been a part of this because I've never sat on the committees that dealt with it, so I've been on it in a periphery

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

May 9, 2005

LB 748

sort of way, which would be descriptive of most of you here. In fact, many of your districts won't ever even meet this kind of a problem. But, unlike Senator Landis, I don't support this first amendment until I understand a little more fully because...what Senator Bourne defines as a facility. But what's happening is the MUD, the Metropolitan Utility District, has been coming into Sarpy County. It's, in their view, a growth area, but bear in mind these are other cities. They have zoning and planning that they do in their extraterritorial jurisdiction. I carried a bill that was supported by...on behalf of the city of LaVista that ran up into opposition by MUD because they wanted to be able to plan in their extraterritorial jurisdiction for how they were going to treat this issue, just as they do all the other issues that they plan for. And that got stomped out by MUD, largely because they were afraid that this might in some way keep them from penetrating into the extraterritorial jurisdiction of the cities of Sarpy County. So I guess, you know, we are going to have two separate bills here. This one is...cobble together lots and lots of different things, lots of people's agendas, MUD's agenda, some of the city agenda on stuff they negotiated on Senator Baker's bill. They're kind of saying, well, forget our negotiation a couple of years ago; as long as we're all going for it and it's an in-your-face bill, we want...we want to grab back what we have. So you have this bill that's kind of that cobbled up thing. You have...you'll have an opportunity to hear Senator Landis' view of things, which I don't think maybe address all the problems that we have in this area, but deal with some of them. I have...I just want you to remember that when...up to this point we've been talking a lot about MUD, but bear in mind there are other cities with elected city councils who are trying to plan or trying to make things work for their citizens in their community. They negotiate contracts. They don't want the Legislature coming in and setting up another situation where they can have this double piping, or for the amendment here that says if you have a facility...and I question, and maybe, Senator Bourne, you could answer this for me now or on your time. Is this...if MUD comes out and builds another station somewhere, now they can proactively build, under your bill. They could...this bill deals with the McCook issue, but it doesn't...how does that impact MUD, anything they would...

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 748

SENATOR CUDABACK: One minute.

SENATOR THOMPSON: ...do in the future, to be able to take...go into the communities of Sarpy County that are currently served by another? Thank you.

SENATOR BOURNE: Senator Thompson,...

SENATOR CUDABACK: Senator Bourne.

SENATOR BOURNE: ...thank you, and I assume you've yielded...

SENATOR THOMPSON: Yeah, I just have a question for you.

SENATOR BOURNE: Thank you.

SENATOR THOMPSON: If you would explain whether future facilities that are built would give, under your amendment, would give them the opportunity to come into these areas.

SENATOR BOURNE: Right. And quickly, because I think you have a minute, if you read the committee amendment, there's language in there that would prevent the Metropolitan Utility District from going into Papillion unless Papillion said, please, we want you. And so if you read the...if you read the committee amendment, it's only...it's only two pages, there's a provision in there which would prevent exactly what you're talking about.

SENATOR THOMPSON: Okay. So your...when the facilities in this amendment then refer to existing facilities and any future ones that would be objected to by the cities.

SENATOR BOURNE: What I'm trying to do is be responsive in that there's an orderly pattern of growth to the Metropolitan Utility District, not that they can reach out and go to McCook. That is not what anybody wants them to do. But, so,...

SENATOR CUDABACK: Time.

SENATOR BOURNE: ...number one, they can't come to Papillion

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 748

unless Papillion asks them.

SENATOR CUDABACK: Time, Senator Thompson. Thank you, Senator Thompson. (Visitors introduced.) On with discussion. Senator Friend.

SENATOR FRIEND: Thank you, Mr. President. Again, members of the Legislature, when I started...when I started speaking this morning, I spoke to what I believed, and I'm not sure anybody at this point probably wants to give it much weight or cares, but if you bear with me, what I thought was the solution or what I believe could be a solution to dealing with an issue like this. We have two options out here, but let me...let me talk to you about an option that people thought about, you know, back in the late nineties and implemented. LB 78, which is now Nebraska Revised Statute 57-1301, here's what it does. In counties where a municipal utilities district and an investor-owned natural gas utility, both, serve or are attempting to serve, neither entity may extend or enlarge its natural gas mains unless it is in the public interest to do so. Here are the criteria, I guess, that must be considered in determining whether that extension is in the public interest: economic feasibility of the extension or the enlargement; impact on existing and future ratepayers; whether the extension or enlargement contributes to the orderly development of natural gas utility infrastructure; whether the extension or enlargement will result in duplicative or redundant natural gas utility infrastructure; and whether the extension or enlargement is applied in a nondiscriminatory manner. Now, guess who hears that information right now. It's the Public Service Commission. In 2001, this Legislature commissioned a report. EFR Limited put it out. In the executive summary, just let me read a few things into the record here: Alternatively, the report recommends a state regulatory board be established. This agency should not have...should have not only traditional regulatory powers over revenues and rates, service and terms and conditions of service, it should be authorized to deal with the changing gas supply. Further, this report does not endorse this assignment of natural gas regulatory authority to any given part of Nebraska state government. Equal consideration should be given to setting up a new agency to regulate Nebraska gas utilities, versus assigning the task to an existing agency.

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 48, 748

Both options should be fully examined. Neither of these bills examines that option, folks, neither of them. And again, I don't want to encroach on LB 48. It will have its day and I'll speak a little more into that. This bill doesn't encroach on that. Solving the problem, I think we can get there, but I'm not sure we can get there now. That report we can encroach on and we can...and we can conclude that business can go on as is, with the following exceptions. You front-load LB 78. You say the bottom line is MUD or any other...any other utility, publicly owned utility, that performs that encroachment, goes out to that board to get permission before any condemnation or piping is put into place. But my opinion is not the PSC. According to this report, we should have created another board to deal with this stuff. I would attribute part of the problems that we have in relationship to this discussion because we didn't adhere to what I believe is a key component of that report.

SENATOR CUDABACK: One minute.

SENATOR FRIEND: Create it, create the board, establish the charter by statute, and monitor and regulate the growth of all of these monopolies. Remember, this is a socialistic business no matter who's running it. These are all monopolies and they have their own little piece of the pie. Let's let that governing board regulate it. If it is the PSC, if the PSC is doing this, then let's create some guidelines for the PSC to use. But two bills, one, as Senator Thompson and I guess I earlier, and I forgot, indicated that this was an in-your-face bill, not that that bill deals with it, not that LB 48 deals with it. I think there's some middle ground here and it's between LB 748 and LB 48, I really do. I've felt that from the beginning. None of the testimony has swayed me and I don't believe that we approached this thing properly and far enough two years ago to deal with it in an appropriate manner. Create the guidelines, front-load LB 78.

SPEAKER BRASHEAR PRESIDING

SPEAKER BRASHEAR: Time.

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 82, 120, 161, 401, 682, 748  
LR 95, 106, 107

SENATOR FRIEND: Thank you, Mr. President.

SPEAKER BRASHEAR: Mr. Clerk.

ASSISTANT CLERK: Mr. President, I do have items for the record. New interim study resolutions: LR 106, LR 107; those will be referred to the Executive Board. I have a Reference Committee report referring LR 98; amendment to LB 120 to be printed by Senator Schrock. That's all I have. (Legislative Journal pages 1423-1427.)

SPEAKER BRASHEAR: Thank you. Members, while the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LB 82, LB 161, LB 401, LB 682. I also propose to sign and do hereby sign LR 95. Mr. Clerk.

ASSISTANT CLERK: A priority motion, Mr. President: Senator Aguilar would move to recess until 1:30 p.m.

SPEAKER BRASHEAR: You've heard the motion to recess. All those in favor signify by saying aye. Those opposed, nay. The ayes have it. We are in recess. Thank you.

RECESS

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Good afternoon. Welcome to the George W. Norris Legislative Chamber. Senators, the afternoon session is about to reconvene. Please check in. Senators, the afternoon session is about to reconvene. Please check in. Record please, Mr. Clerk.

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

SENATOR CUDABACK: Mr. Clerk, are there any announcements or messages?

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 82, 161, 401, 682, 748

CLERK: Mr. President, bills read on Final Reading this morning were presented to the Governor at 12:03. (Re: LB 82, LB 161, LB 401, LB 682.) I have an appointment letter of Mr. Robert Logsdon to the Nebraska Liquor Control Commission. That will be referred to Reference. That's all that I have. (Legislative Journal pages 1428-1429.)

SENATOR CUDABACK: Thank you. Mr. Clerk, inform the body where we left off when we recessed for lunch.

CLERK: Mr. President, the Legislature was discussing LB 748, as offered by Senator Bourne. Committee amendments were presented by Senator Friend. Senator Bourne moved to amend the committee amendments with AM1493.

SENATOR CUDABACK: Thank you, Mr. Clerk. On with discussion of AM1493. Senator Wehrbein, followed by Senator Erdman.

SENATOR WEHRBEIN: Mr. President, members of the body, this...I guess a question for Senator Bourne. And this is simply small potatoes, technical stuff. But I was concerned about the metropolitan utilities district. It's in small caps (sic). I assume, in many of these, it's not "the" Metropolitan Utilities District--or, it is, I guess. In other places in there, it calls it "the." But I'm just concerned, into the future, do you really mean MUD? Or do you mean metropolitan utilities districts across the state?

SENATOR CUDABACK: Senator Bourne, would you...?

SENATOR WEHRBEIN: And I'm not a lawyer, but I...looks like that's a field day for a lawyer.

SENATOR BOURNE: No, I understand. It's metropolitan utility districts across the state. I think there's only one, though, now.

SENATOR WEHRBEIN: Okay, that has that title. But there are city utility...city utilities. And could that be construed to be a city utility district, or whatever?

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 748

SENATOR BOURNE: Well,...

SENATOR WEHRBEIN: I'm just...

SENATOR BOURNE: ...sure.

SENATOR WEHRBEIN: ...I'm just looking down the road, whether you mean MUD here in your amendment. And I admit, it's several places through the committee amendment,...

SENATOR BOURNE: Right.

SENATOR WEHRBEIN: ...and probably in the bill.

SENATOR BOURNE: In the amendment that we're discussing now, it would apply to the Metropolitan Utility District that is there now.

SENATOR WEHRBEIN: In Omaha?

SENATOR BOURNE: Right.

SENATOR WEHRBEIN: Okay.

SENATOR BOURNE: Now, again, what I'm trying to do, Senator Wehrbein, is respond to the concerns that the Metropolitan Utility District would hopscotch and go out and try to serve McCook, for example.

SENATOR WEHRBEIN: Right. And I've heard that discussed.

SENATOR BOURNE: And this amendment would stop that, I believe.

SENATOR WEHRBEIN: Okay. Well, I just kind of maybe wanted for the...actually put it on the record that that's what you're meaning. And you're not talking about the city of "XYZ" somewhere in the state hop...being able to hopscotch because they were left out of here as a metropolitan utility district in Omaha. So I...

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 748

SENATOR BOURNE: That's a very fair question, Senator Wehrbein. The other gas companies are referred to as municipally owned or municipal gas companies. So the other cities other than the Metropolitan Utility District are included in the bill. But I never heard any concern that Hastings, for example, that municipal gas company would go on to try to incorporate some other community. So the other criticism I heard, we don't MUD to hopscotch, and that's what this amendment is trying to prevent.

SENATOR WEHRBEIN: Right. Okay. I just wanted that clear on the record, if nothing else. Thank you.

SENATOR CUDABACK: Thank you, Senator Wehrbein. Further discussion? Senator Erdman. Senator Erdman.

SENATOR ERDMAN: Mr. President, I yield my time to Senator Smith, please.

SENATOR CUDABACK: Senator Smith.

SENATOR SMITH: Thank you, Mr. President and members. I was asked what my position is on these natural gas bills. And I guess it's hard to take a position on a moving target, but I would like to lay out what I think is good public policy, and perhaps gain some clarification on some points that I think are in somewhat of a conflict within the natural gas issues before us. I do have to say up front that I am troubled when a public entity wants to behave like a private entity with all the luxuries of a public entity. And to me, that invites decisions that chase investment out of Nebraska. And with that goes economic considerations that would otherwise make our economy even stronger. Would Senator Bourne yield to a question or two or three?

SENATOR CUDABACK: Senator Bourne, would you yield?

SENATOR BOURNE: Certainly.

SENATOR SMITH: Senator Bourne, I can appreciate your work on this issue. And I know it's a complex issue. And for me to

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 48, 748

gain some clarification, if you don't mind, MUD seeks to operate outside its jurisdiction that currently elects those board members? Is that accurate?

SENATOR BOURNE: I don't know that that's quite accurate, Senator Smith. They already do, actually, operate outside that area now.

SENATOR SMITH: Okay. But they certainly would not support being held to the boundaries that currently exist within their territory. Is that accurate?

SENATOR BOURNE: If you're talking about, would they support LB 48, that sets the territory as where they operated on January 1, 2005, I believe MUD would be opposed to that, as would I.

SENATOR SMITH: Okay. And...but they...with or without LB 48, they could still move with the city boundaries?

SENATOR BOURNE: With or without LB 48, Senator Smith?

SENATOR SMITH: Yes.

SENATOR BOURNE: I don't believe that they could.

SENATOR SMITH: Okay. So if LB 48 passed, then they could not grow with the city limits?

SENATOR BOURNE: Not without further action by the PSC.

SENATOR SMITH: Right. So subject to the PSC, an elected body across the state, they still don't want to be subject to the regulation of the PSC? Is that accurate?

SENATOR BOURNE: No, that's...no, no, that's not accurate at all.

SENATOR SMITH: Okay. So would they support the PSC being able to have the decision-making capacity of drawing the line, okay, here's where MUD can operate, here's where Aquila or otherwise

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

May 9, 2005

LB 748

can operate?

SENATOR BOURNE: Would they support a territory put upon them and deny them the ability to grow with the city? No, they would not support that. Is that your...I'm trying to be responsive, Senator Smith. Is that your...?

SENATOR SMITH: Okay. If MUD wanted to operate in Elkhorn, which is currently outside Omaha city limits, should they have the right to do that without going to the PSC?

SENATOR BOURNE: No.

SENATOR SMITH: They should not have the right to...?

SENATOR BOURNE: Not unless the city of Elkhorn asks them to come in. And there's an amendment in the committee amendment which would...which says...or, excuse me, there's language in the committee amendment that would prohibit MUD from going into another community that has municipally owned gas companies.

SENATOR SMITH: Okay. So if Elkhorn invited MUD to come in,...

SENATOR CUDABACK: One minute.

SENATOR SMITH: ...what happens to the tax base that would go to the schools, if MUD would come in and Aquila would no longer be owning the system?

SENATOR BOURNE: I can't answer that. I can't answer that. As I understand it, the difference in rates that MUD charges versus the rates that the investor-owned utilities charge, as it relates to the taxes, it would be a wash. That's what I was told by the league.

SENATOR SMITH: Okay. So there would still be...I mean, I don't think you'd find the ratepayers just saying, okay, we're going to give this to the schools to support that tax base that used to exist under Aquila operations. I mean, I'm saying that somewhat rhetorically. But that is a concern to me that, you know, basically, a public entity has more discretion than a

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 48, 748

private entity, and they get all the luxuries of a public operation, without..

SENATOR CUDABACK: Time, Senator Smith.

SENATOR SMITH: ...some of the responsibilities that go along with it. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Smith. Mr. Clerk, priority motion.

CLERK: Mr. President, a priority motion: Senator Landis would move to recommit LB 748 to the Urban Affairs Committee.

SENATOR CUDABACK: Senator Landis, you're recognized to open on your motion to recommit.

SENATOR LANDIS: Thank you, Mr. Speaker, members of the Legislature. The last exchange between Senator Smith and Senator Bourne got to an interesting and difficult topic. And it is a gateway to one of the keys of understanding the issue, so I'd like to take this opportunity to consider the recommit motion. Senator Smith was asking, look, is there a possibility of growth for MUD, or not, under LB 748? And Senator Bourne answered, basically, well, we wouldn't support LB 48, (laugh) which was not directly responsive. But the idea was whether or not there could be growth, and if so, what happened to the taxes. Let me tell you what LB 748 does. LB 748 says that MUD gets to grow adjacent to its facilities beyond its legal boundaries, beyond its legal boundaries. Now, let me tell you where I think we ought to have the public policy. Number one, we should leave undisturbed the existing policy that MUD gets to define its own borders, which is exactly the law. This issue is not about where MUD gets to operate inside its borders; it's where MUD gets to operate outside its borders, where people do not vote for MUD board members. That's the fight. You know why it's there? Because it's very rich, virgin territory. It's territory that doesn't cost a lot to put down pipes, because they're open fields. And because of that--they're open fields, low-cost, but nice, new suburbs, big generators of propane--these are the best customers in the world to get. So

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 48, 748

MUD and Aquila want to grow in no man's land, because it's cheap to cost, high return, and allows you to subsidize your other customers. That's why everybody wants to get there. Understand, the public policy of the state of Nebraska should be that MUD grows at its own pace, in its own boundaries. And you know what? That doesn't change in this Legislature, because LB 748 doesn't say...doesn't restrict that, and LB 48 doesn't restrict that. MUD gets to go anywhere it chooses to expand its boundaries. That's not on the table. This is about where they're operating beyond their boundaries, where people are not voting for their members. What about those folks? My answer is, where you're going beyond your own territory, go to the PSC for permission that says it's in the public interest to do so. The response is that this shackles MUD. It doesn't. In fact, we have this system right now. It's called LB 78. In fact, you know, all those maps over here that show the double piping that came to an end in 1999, it came to an end because we passed a bill that says disputing utilities have to go to the PSC. But you know what they get to do? They get to do it after the construction has already occurred. And here's the gateway as to why we should recommit this bill. On exactly the amendment that Senator Bourne has before you, he said MUD should be able to grow anywhere adjacent to its facilities. Let me tell you what they tried to do in 2002. They tried to put a town border station miles beyond their existing system. Now, as you can imagine, it was controversial. And in fact, they built the station at a cost of about \$400,000, at ratepayers' cost. Now, eventually that was...you had to take out of one pocket to get to another one, but eventually, as the PSC says, it was the cost of the ratepayers. Later on, Aquila challenged it, saying, you know, this doesn't meet the existing law that says you've got to have an economic analysis. Well, Mike Friend read you the five criteria in one of his speeches--good for growth, doesn't impact other ratepayers, economically feasible--the five criteria that are in the law. PSC took the case after it had been built. The commission is not swayed by the fact that the 174th and Fairview TBS, the town border station, has already been constructed and must be paid for by MUD. MUD was well aware of Aquila's objections, and was equally aware of the commission's willingness to find that proposed mains are not in the public interest. MUD acknowledged the commission's willingness to

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FLOOR DEBATE

May 9, 2005

LB 48, 748

order the utility to abandon the main. Kept building. Construction of the TBS went forward, at MUD's risk. Unfortunately, MUD took the risk at the expense of its ratepayers. And this finding says, over and over again, MUD did not even analyze or model whether the actual gas flow to the areas would improve the system, but simply took it on a gut feeling. Secondly, that they did no economic modeling as to whether it was cost-effective or not. It finds that it was not in the public interest, three, and perhaps four, different ways. The PSC eventually says that the \$400,000 of construction is not in the public interest, and we had to undo the \$400,000 of public payments. We had to undo \$400,000 of public purchases, under the way we do business now. And you know what LB 748 says? It says, you know, MUD gets to do this anywhere next to their facility. And this was the facility they built and had to get rid of because it wasn't in the public interest. That's the amendment before you. Have you heard one genuinely persuasive reason why LB 748 advances the public interest? We've been at it for nearly two hours, and I haven't heard one. This should be recommitted to the committee. Why? Because it's the way to get to the issue of, look, this isn't ready. And this...LB 748 isn't ready. By the way, I will tell you, it's not ready because it's bad policy. You know what it most undoes? It most undoes the one tool we've got, which is LB 78, which says, in the case of a conflict, take it to the PSC and run it against those five criteria to see if it's in the public interest. That tool we have now. LB 748 essentially repeals that idea and steps back from that idea. As you can see, why would they? Well, sure, they built a \$400,000 facility and had to eat it, and they eventually sold it, because they got their hand caught in this process. Of course they hate this process; look what happened to them. We shouldn't do...we shouldn't make that system null and void. What we should do is to make that system the first stop. Not the last stop, the first stop. We should have the entities go to the PSC and say, look, we're beyond our voters, we're beyond our boundaries, we're into no man's land. If we go into no man's land, is it best that we be the ones to do it? Is that in the public interest? That's what we should do. And it, by the way, happens to be in LB 48. If you've heard a convincing argument for LB 748 as advancing the public interest, keep the bill alive, keep it out here, and grind it

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 48, 748

down to a vote. But if you're like me--and I am a skeptic on this bill--and if you haven't heard a good public policy reason, recommit it. And if I can't give you a good public policy reason for LB 48, do the same thing to my bill. The difference is, I can. By the way, do not characterize my bill as the gas companies' bill, because it's not. You know what, we had two bookends. This was the MUD's city version, and we had the Aquila version, and it was just as bad. It was, poke you in the eye. It was, everything for me and nothing for you. And the Urban Affairs Committee killed it. What we did is we poured out one of the bookends, and the only bill that's in the middle, that has neutral principles on regulation. And LB 748 is not it. We should recommit that bill. And if I can't make the same case on LB 48, then that will be the fate of my bill. But the truth of the matter is, LB 48 contains neutral principles that have something there for everyone, except MUD. And the reason is, MUD has about everything that one entity could possibly have. So there isn't much to benefit them, because the rules essentially serve them well. But it serves the public well. LB 748 does not. It undoes the tool that I just read you, demonstrated that the MUD \$400,000 appropriation was not in the public interest. And the LB 748 answer is, ignore that and don't let the Public Service Commission look at those kind of issues. That's nuts.

SENATOR CUDABACK: One minute. Oh, thank you. I'm sorry, Senator Landis. I didn't see you sit down. Senator Mines, during our little glitch, your light was on. Did you wish to speak? I didn't know whether we took it off accidentally, or...thank you very much. (Visitors introduced.) You've heard the opening on the motion to recommit. The lights were on for the other, AM1493. Senator Beutler, followed by Senator Bourne and eight others.

SENATOR BEUTLER: I'd waive for the moment.

SENATOR CUDABACK: You may. Senator Bourne.

SENATOR BOURNE: Thank you, Mr. President, members. Listen, I don't really know what to think about this recommit to committee motion, to be quite honest with you. I will tell you, if you

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 48, 748

look at the committee statement, Senator Landis voted this bill out. He voted for this bill. The only person on the committee that did not vote for it was Senator Schimek, and she abstained. And I don't know why. It doesn't matter. But two months ago this was good policy, because Senator Landis voted it out, and today it's not. And quite honestly, he says, can...he says, a compelling case has not been made on LB 748. I disagree. Senator Landis wants to make this all about MUD. I personally feel that MUD is a small component of LB 748. And if you talk to the League of Municipalities and the mayors of these cities that have municipal gas companies, they want this bill. They want this. Senator Landis stands up, and he raises his voice, and says, I have 26 years here in the Legislature. And when you speak loudly like that, somehow you exude authority, that your word is the final and last word, that somebody who hasn't served on the Urban Affairs Committee can't possibly understand this issue, that the rest of the members in here can't possibly understand gas. He said there's a double piping issue, and that LB 748 will make that worse. That's not true. There hasn't been double piping since LB 78 passed in 1999. Those maps that Senator Landis has are maps prior to LB 78. LB 748 does not rescind LB 78. It doesn't. Listen to the Chair of the Urban Affairs Committee. He said that himself. It doesn't. There is a legitimate policy reason to pass LB 748. If you want to recommit it to committee because you don't want to spend the time on the floor to do so, go ahead. And then we'll do the same with LB 48. Matter of fact, if Senator Landis would agree to recommit LB 48 to committee, I would probably agree to commit LB 748 to committee. I'm not sure this is the best use of the body's time. But I find it a little ironic that the master negotiator, Senator Landis, who has this reputation as a negotiator, and he's assisted me countless times negotiating, all of a sudden doesn't want to find the answer in this bill. I find that ironic. I'd yield the rest of my time to Senator Friend, if he chooses to have it. I'm sure that the committee would have some comments and words regarding this motion.

SENATOR CUDABACK: Thank you, Senator Bourne. Senator Friend.

SENATOR FRIEND: Yes. Mr. President, how much time?

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 48, 748

SENATOR CUDABACK: About 2, 25.

SENATOR FRIEND: Oh, thank you. Thank you, Senator Bourne. Members of the Legislature, yeah, I got a few words to spew on this one, but I wouldn't even know where to begin. I'm...I'll begin here. The recommit to committee, if anybody has actually been listening to anything I've said today, I don't think it's a half bad idea. But let me tell you something, and I firmly believe this. I've said this from the very beginning. I'll probably say it till Senator Landis is blue in the face on LB 48. We do not have the answer out here. We got two bills that came out of our committee, Urban Affairs, and the answer is not there. I'm convinced of that. Senator Landis said a compelling argument hasn't been made on LB 748. I've been listening to arguments, hasn't been twenty-six years, hasn't even been four years, probably a year and a half to almost two years, on service territories for natural gas. I have not heard a compelling argument yet. As a matter of fact, in committee, I believe it was two years ago, the first year that I was here, I said, I'd like to regulate every one of you. The parade of people coming in, on both sides, unbelievable.

SENATOR CUDABACK: One minute.

SENATOR FRIEND: Welcome to our nightmare, folks. Welcome to Urban Affairs' nightmare. Here's the answer: Send it back to us. I'd love it back. Believe me, I'd love it back. Second chances, everybody gets them once in a while. I want mine now. But if I get LB 748 back, I want LB 48, too. And here's what I think. Senator Landis spoke of the bookends. We did kill two bills that could be considered Aquila bills. Senator Combs over there, I apologized to her on two occasions. But guess what. One of the bookends is LB 748, and one of the instigators, I would say, of LB 748 has 250,000 ratepayers in the state of Nebraska. That's significant. That earns them the right, in my book, to argue public policy for this state. That earns them that right. Not only that, they've been doing it since World War II. They've been providing gas, and we've allowed them to do that, since World War II.

SENATOR CUDABACK: Time, Senator Friend.

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 748

SENATOR FRIEND: Thank you.

SENATOR CUDABACK: On with discussion, the motion to recommit to committee. Senator Smith, followed by Senator Landis and others. Senator Smith, did you wish to be recognized? We will pass over Senator Smith. Senator Landis.

SENATOR LANDIS: Thank you, Mr. Speaker, members of the Legislature. I'll see if I can lower my voice, and then we can all lower our voices. How about that? (Laughter) Two parts to the point that I want to make. Senator Bourne said that LB 748 does not undo the problem of double piping that I think is created, that in fact it leaves us essentially where we are now, or that we have authority. I want to read you two sections of LB 748. One of them says this: "A natural gas utility owned or operated by a city or a metropolitan utilities district shall not be subject to the provisions of the State Natural Gas Regulation Act and the commission shall have no authority under the act over such a natural gas utility or metropolitan utilities district"-- no regulation whatsoever by the PSC; total blanket immunity. Okay? That's one provision. Now, let's take a look at existing law, because this section is not covered by the PSC. It's what we now call our LB 78. It's this tool that we identified when we saw all of this double piping going on that appears on this map in Sarpy County, to try to stop it, where the two complaining parties could take it to the Public Service Commission, not under the natural gasses act, but because of the law that we passed. Here's what the bill has to say about that: Sections 57-1303--this is the LB...old LB 78--shall be applicable to an investor-owned natural gas utility only when it is operating in a county in which there is located the natural gas service area, blah blah blah blah, and to a metropolitan utilities district only with regard to matters arising under any such county, comma, except that such sections shall not apply to a natural gas main extension connecting a border...a town border station to an existing natural gas distribution system--a one-sided exemption for MUD, for any of their town border systems. And, with the section that Senator Bourne is now asking for you, adjacent to any facility, the bill now would say, you can put a town border

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

May 9, 2005

LB 748

station anyplace you want to if you're MUD, only MUD. But if you're MUD, you can put a town border station anywhere, and the area adjacent to their facilities is unregulated by the Public Service Commission. Is that king's X? I think it is. I think it's king's X. And you know, it was the town border station that MUD spent \$400,000 that the Public Service Commission says, there's only one logical rationale for why this is being done, and that is to leapfrog Aquila into new growth areas. And that's why this location is being done. That's essentially what the PSC says. It doesn't meet the five criteria of the law. It was for trying to beat the competition by jumping over them into some virgin territory, and there wasn't a public interest to support it. LB 748 says, MUD can build one of those kinds of stations anywhere, and the Bourne amendment before you says, and any facilities...and any area adjacent to those facilities is MUD territory. That's king's X. It isn't good policy. It doesn't allow planned growth. It doesn't allow the checks and balances on what constitutes the public interest. Look, MUD, by the way, sells the cheapest gas in the state. If that hasn't been said enough, I want to say it again. It's the cheapest gas in the state. Their ratepayers are terrifically well served, inside the city of Omaha, inside the existing boundaries of MUD, very well served. And there's a darn good reason to want to do business with them on a contract basis. Okay. But where you're beyond...

SENATOR CUDABACK: One minute.

SENATOR LANDIS: ...the boundaries, the Public Service Commission should act where there is no man's land. Read LB 748, and it guts the only city or urban growth planning tool we have in this area. It is a gateway to double piping, and it's going to be a return to the kind of mishmash over...that you have here. And remember, double piping isn't just inconvenient, by closing roads and closing sidewalks. It's expensive. And not only that, it's unsafe. We need to do better. And gutting our urban planning tools to make way for one actor isn't good public policy.

SENATOR CUDABACK: Thank you, Senator Landis. Next five speakers are Senator Smith, Schimek, Redfield, Baker, and

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 748

Friend. Senator Smith.

SENATOR SMITH: Thank you, Mr. President and members. As I look at LB 748 and try to study the issues, I acknowledge the fact that Senator Friend has brought up, that we have monopolies throughout the state, even within the private sector. I acknowledge that. Now, there is, however, more risk associated on the part of the private sector across most of Nebraska than MUD has in Omaha. MUD enjoys the wall that keeps other people out, other entities out. But yet, they...this is my sense of it, that MUD wants to grow out into other areas, in the name of being viable and maintaining viability in the long run and maintaining low rates. And that's probably the case. But again, they have some luxuries within their structure that other entities do not enjoy. That concerns me a great deal. I know that there are accusations of cherry-picking. I mean, everyone looks to go gain the best customers possible. But I think back of my first year or two in the Legislature, when LB 78 was an issue. And I thought we had arrived at a conclusion that LB 78 was good. We can address the issues that Senator Landis just mentioned, that LB 78 addressed, with the double piping, whether it's public safety or urban growth. We must do something. And I must say that I'm a little frustrated by this entire process that seems to be an impasse. And perhaps I'm not as frustrated as an Urban Affairs Committee member, Senator Friend. But it's frustrating to see the impasse that we currently are facing, because I think that we could arrive at something where the Public Service Commission has greater scope, at least. I don't buy the fact that MUD should want to resist regulation by the PSC because they have an elected board. Even if they have an elected board, if they seek to grow outside of their boundary, they should fall under the same regulations as anyone else. And that may apply to a municipal, as well. I think that is reasonable. And I hope that we can move in that direction. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Smith. Senator Schimek, followed by Senator Redfield.

SENATOR SCHIMEK: Thank you, Mr. President, members. Senator Smith, you provided me with a nice segue into what I wanted to

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 748

say. I'm a member of the Urban Affairs Committee. I've just come on...back on the committee, after a couple of years' absence, and was thrust immediately into the gas wars question. And I'm sure that's...that many of you feel that way, too, if you haven't served on the Urban Affairs Committee. At some point this year, when one particular lobbyist on the gas question had asked for yet the third appointment to talk about this, and I knew how many there were out there that were going to be continually coming at me on these questions, at some point I said, it's got to stop. I don't have time. There's other questions and other issues that also need to be resolved, and that also need my attention. And so I told that person, I'd be happy to read anything that you have in writing, but I just can't keep meeting time after time. Well, apparently that word got out around the lobby, because nobody else called me for another appointment either. Which was kind of a nice (laugh) position to be in. But I'm not telling you that to tell you that I didn't want to talk to the lobby. I was willing to talk to the lobby. But I think that we've gotten to the point where it needs to be a sit-down discussion by members of the Urban Affairs Committee. And, Senator Bourne, I did not advance...or, vote to advance your bill, because I didn't think we should be advancing two separate bills. I did not vote to advance the Landis bill, because I did not think we should be advancing two separate bills. I thought it should be the work of the committee to try to craft a bill that would fit, and that everybody could at least buy into. Well, of course, the problem with that is, partly, that I think both introducers wanted to still have some amount of control over their bills. And I don't blame them, because they were just having a huge argument. But I think...I still think it needs to be done. And I would vote to recommit to committee, because I think that's where the question belongs. And, Senator Landis, I would vote to recommit your bill to committee, too. Even though, I have to tell you, I tend to think if I had to choose between the two I'd probably choose yours, I think there are some issues that Senator Bourne has that need to be addressed, too. So I'm going to vote to recommit. I think that's where it should have been worked on longer, I know. Some of these bills just seem to take forever. But putting them out here on the floor, two separate bills, makes it very difficult for this body to come to consensus as to

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 748

which approach is the best. So that's my take on it. And if it's right, good. And if it's not right, so be it; you'll decide what to do with these two bills. Thank you.

SENATOR CUDABACK: Thank you, Senator Schimek. (Visitors introduced.) On with discussion of the motion to recommit. Senator Redfield, followed by Senator Baker.

SENATOR REDFIELD: Thank you, Senator Cudaback, members of the body. We are debating a bill that the sponsor has just told us he doesn't understand and is not expert in all of the details and technicalities of the gas wars. I served on the Urban Affairs Committee for four years, I was Vice Chair of that committee, and I can tell you that this has been an ongoing issue. And it is very technical, and it is very difficult. And I don't know that any of us can claim to be a thorough expert in this area. We're also debating a bill for which the committee chair has assured us we are not going to find the answer. And he is actually telling us it might be wise for us to recommit it to the committee. So we're spending a great deal of time talking about a bill that none of us, I believe, is convinced is the answer. And so I am going to support the motion to recommit, so that perhaps the committee can take some time and look at this issue in more depth. There was an argument made that this was the closest we could get to a free market. Not so. Because, in fact, the tax structure within the public sector and the private sector are not identical and, therefore, that does not follow the principles of a free market. We also have the issue of eminent domain. And as long as that authority exists, we know that we're not in a free market situation. And actually, this bill, I believe, would remove the provisions that this body carefully put in place in order to safeguard the property rights in this state. And I believe that those would be jeopardized by this bill. And perhaps the committee would have some time to look at that issue. Senator Friend also talked about this being a better deal for the ratepayers. And as someone who is serviced by Metropolitan Utilities Districts, I'm very appreciative of the rates which we receive in the Omaha area. But I can tell you that that's not the rationale for any public policy in this state, because if it were, we certainly could make a case for taking over all of the grocery stores,

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

May 9, 2005

LB 748

because if we eliminated the middle man and we eliminated the profit and we eliminated the taxes on profit, we could in fact sell groceries for a lower price, and so we could benefit those who consume the groceries. Or the retail market, whether it's blue jeans, or paper, or books. So I don't think the issue here is about the ratepayers getting the lowest price, because if that were our rationale, we would be doing that across the board in a number of other areas that we certainly consider essential. Now, I would agree, utilities are an essential. We have not had this argument in the electric utilities, because, in fact, the entire state is public power, and that works very well for us. We have a problem here because we have two different, very distinct entities trying to coexist in one environment in which the regulation is not universal. So the issue here for me is safety, and it always has been. When I was on the Urban Affairs Committee, I was part of the solution in bringing LB 78 to the floor, and making sure that we did not have situations with double piping in this state. I'm concerned about people in Nebraska being blown up; I hope you are. And I would concur with Senator Landis that in fact I see mischief in this bill to repeal some very essential work that we have done as a Legislature to guarantee that when people dig they know exactly who they're going to call and how they're going to get it fixed, and not worry about whether in fact, once they've identified one main, that, whoops, we didn't know there was a second one, and now we have a fire on our hands. Do no harm. Good public policy does no harm. Senator Stuthman talked about the tax base, the property tax base. Senator Bourne said that actually the city said it might be a wash for them. And that might be true. I don't know for sure. But I know that it wouldn't necessarily be a wash for the other entities that have property tax coming into their doors and supporting the services that they provide to our students, whether it's education, whether it's the counties, the NRDs. So I think that there is some potential damage to the tax base. And that's something I usually worry about. I think that it could eliminate some private industry jobs. And later this afternoon, we're going to be talking about how we can ramp up...

SENATOR CUDABACK: Time, Senator Redfield.

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 748

SENATOR REDFIELD: One minute, did you say?

SENATOR CUDABACK: I said time, Senator. I'm sorry.

SENATOR REDFIELD: Thank you.

SENATOR CUDABACK: Thank you. Senator Baker, followed by Senator Friend.

SENATOR BAKER: Thank you, Senator Cudaback and members. I'm going to get on my soapbox a bit here, I guess. This issue has been hashed out, some people say hours of work--natural gas wars they call them; I don't call them...consider them that--negotiations over the years. And I'm surprised it was brought back so soon. But I suspect that the senators who were elected last election, the freshmen senators--and I'm looking at several of them--I hope they're listening, because I think this is going to come back again and again. And I tell you, we've already been through this ground. We've plowed it, replowed it, we've hashed it out. The process is out there for the MUDs and so on out in the state, but they don't like the process. And with term limits facing us, I bet you it's going to come back. And I hope you have the gumption to say, no, we've gone through that issue in the past. It was...ever since I've been here, it's...like Senator Redfield, it's been an issue, and Senator Schimek, it's been an issue. And with term limits coming down the pike, looking at us straight in the face, it's going to come back again. And I hope that the senators who remain after this first group--and I'm one of them, the 20--say, no, we're not going back. The process is there. They just don't like it. Well, I'm sorry. They're going to have to get used to it. That's my sermon for the day. Specifically, the issue in Fremont...I can counter that. I have a mother-in-law that lives in Hastings, a sister-in-law. I had my wife's aunt lived there. And I'm familiar somewhat with what happened in Hastings years ago. Hastings was listed as one of those communities that has a municipally owned gas system. And those of you recall back in the late seventies, there was a major gas explosion in Hastings on a...late in the evening, or 2:00 in the morning. Thank goodness no one was downtown in those buildings. I don't know how many people it would have killed had that gas blown up

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

May 9, 2005

LB 384, 748

during the day when the businesses were filled with people. But my point is, it's a municipally owned system, had cast iron pipes. And I'm going to quote from a newspaper article here. This particular person said he had smelled gas on various occasions during the past year outside his office on the corner of First and Hastings Avenue, the last time being within ten days prior to the explosion. He said that he called Hastings Utilities, and workers checked his report, but never indicated anything was wrong. And then in the meantime, right after this, there were several buildings simply destroyed. It looked like a center of a bomb blast. And luckily, no one was down in that part of town. No one was injured or killed that I know of. But it blew windows out for blocks around, and so on. And that's a municipally owned gas system, with old cast iron pipes. And they traced it back, of course, to a leaking gas main there. The cast iron pipe was corroded. And who came to their rescue but a private company; came and helped them get this thing put back together. I would assume Senator Bourne, after the beating he's taking...and I'll take mine one of these times, again, from Senator Bourne, but I assume he's about to throw up his hands and say uncle, I would think. If he's not about ready, we'll keep piling on. No, he's shaking his head. He's not ready yet. But he's getting close, I bet. Anyway, I go back to my original statement when I was talking earlier on this bill. This is an issue that we've gone back and forth with over the years. And please, freshman senators--and I hope somebody out there is listening that will be elected in two years, replace me, and the rest of us that are going out--we've hashed this out. Senator Bromm spent weeks--I'm not going to limit it to hours--weeks on this, working with the various parties. We had it hashed out. And I guess they saw a potential friend here in Senator Bourne to carry this thing for them. It's a...not only just a MUD, you know, Metropolitan Utilities District, but as pointed out by several speakers, it's going to apply to any municipally owned gas system. And there are quite a bunch of them out there. And I, for one, just don't think that's the path we want to go down. The vote, as I recall, on LB 384...there's been several bill numbers thrown around there. The one I was familiar with, LB 384, was 43 to 3. We had it worked out. They...

SENATOR CUDABACK: One minute.

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

May 9, 2005

LB 748

SENATOR BAKER: ...saw an opening to bring it back. Senator Bourne agreed to carry it. And I don't know what his attitude is quite yet. He's not ready to throw up his hands, I guess. But if he's not, we better get...he better get ready, because I'm going to support the recommit to committee. I prefer to IPP the bill. But I certainly am going to support the recommit to committee motion. With that, thank you, Senator Cudaback.

SENATOR CUDABACK: Thank you, Senator Baker. On with discussion. Senator Friend, followed by Senator Erdman. Senator Friend.

SENATOR FRIEND: Thank you, Mr. President, members of the Legislature. The...I wanted to continue. I had a couple of minutes, and I just wanted to finish up here, because this is an interesting motion. Like I had mentioned, I would support this because I, with Senator Schimek--and I shared with just about every member on the committee--didn't necessarily believe we did the body any service by kicking two bills out of this nature. Now, that being said, what I do think is that...we discussed the bookends. Senator Landis shaped it very nicely, the bookend type of approach to public policy, as far as natural gas is concerned. These two bills are the bookends. And I don't want anybody...I just don't think I want anybody to make a mistake about that. I believe they are. Senator Landis shakes his head no; he doesn't believe that. LB 748 is a legitimate policy discussion. We're having it right now. I'm willing to have the legitimate policy discussion out here on the floor on Senator Landis', same amount of time or more. He deserves that much. But what I would say is this. I always thought--and I think others believe that it's an oil and water, a bad mix, it will never mix--I believe there is a middle ground between these two bills. And in fairness to myself, when I look in the mirror, I don't believe that I gave it the time and the effort to find that middle ground. So, I'm not asking anybody to play the world's smallest violin for me. But what I am saying is, I do understand the frustration out here, and I do think that, based on what we've been discussing out here this morning, we all have a pretty good understanding of...halfway decent understanding of the problem we now encounter. Again, let me just sum up here.

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

May 9, 2005

LB 48, 748

I believe we ought to give Senator Landis his time with LB 48. But if we recommit this to committee, I have a firm belief that there's middle ground between these two bills. I believe they were the bookends. And I think, I do think, with time--others would disagree--that there is middle ground that could be found. For example, what the, I guess, citizens who are driving a bill like this are really looking for is the authority to grow by eminent domain and condemnation power. That type of stuff--and I've read both bills--that type of stuff isn't incorporated in LB 48. It's incorporated here, but it's on the far end of the, I guess, food chain, or the other end of the spectrum. Too much? Possibly. The other bill, my contention is, it wouldn't offer enough. We've got years and years and years of public natural gas usage and promotion in this state. And what we're doing is saying, bam, here are the handcuffs. And we can shake our head no all we want. But let me tell you this. We create those monopolies, we create those monopolies; what happens to the obligation to serve? Far as I know, a municipality has got that obligation to serve in its extraterrestrial...(laugh) extraterritorial jurisdiction. Thank you. That obligation to serve should apply...a distinct obligation to serve should apply to the investor-owned, as well. If there's a new development in a certain area that hasn't had pipe laid in that area yet, should an investor-owned be able to just opt out and...

SENATOR CUDABACK: One minute.

SENATOR FRIEND: ...say, that's not cost-effective? If we create that monopoly...and I'd like to hear the argument later on, again, or now, as far as what LB 48 is going to create. If it's not a monopoly, if we create that, I'd like to find out what that obligation to serve is, because I don't read it in the statute. So let me clear up one more thing real quick. The duplicative piping thing, what I think I can say is this. LB 748--and I don't know if anybody would disagree with this--in Section 17, 66-1803--it's actually on page 20 of the bill--"A natural gas utility owned or operated by a city or a metropolitan utilities district shall not be subject to the provisions of the State Natural Gas Regulation Act and the commission shall have no authority under the act over such a natural gas utility or metropolitan utilities district." I

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 48, 748

think that that could be deemed...

SENATOR CUDABACK: Time, Senator Friend.

SENATOR FRIEND: Thank you.

SENATOR CUDABACK: Thank you. Senator Erdman.

SENATOR ERDMAN: Mr. President, I yield my time to Senator Preister.

SENATOR CUDABACK: Senator Preister, you have almost 5 minutes.

SENATOR PREISTER: Thank you, Honorable President. Thank you, Senator Erdman, friends all. Got gas? Get Gas-X. If only it were so easy. As Senator Landis said earlier, he's been dealing with these issues between the municipals and the privates for 27 years, I think he said. Others, Senator Redfield, Senator Schimek, talked about being on the committee and how long they've dealt with them. I think we're going to keep seeing competing bills, no matter what we do. As soon as one side gets some advantage, or deems that they need some advantage, they're going to be here trying to get a Legislature to, on their behalf, enact some legislation. We're not going to, with this bill or the following one, resolve those issues. We're not going to keep it from coming back. But from my perspective, rather than have the Public Service Commission less involved, I'd like to see them more involved. And I'm going to support the motion to recommit. I would like to see...since particularly the Chair of the committee, Senator Friend, has stated that he would welcome the opportunity to work on the bills again, I would like to give him that opportunity. Since I don't serve on the committee, that's a lot easier for me to say. However, I think it's also equally fair that LB 48 also get recommitted to the committee. And so I...the bottom line for me is safety, and the double piping issue is a major concern and a major issue. Even though I support our public utilities and I support MUD in having those low rates that Senator Landis talked about, and in providing good, reliable service, and I tend to side with the publics on many of these issues, but I also have a need for fairness. And we go back and forth trying to do

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

May 9, 2005

LB 48, 748

fairness, and we end up advantaging one or advantaging the other, and we keep coming up with dueling bills. I would like to see more of these issues dealt with by the Public Service Commission, where there is more expertise, where they understand the issues in a different way, and where they deal with them day in and day out on a regular basis. So I'm going to support the motion to recommit. I will also support any motion to recommit LB 48. And hopefully, the committee can work more closely with the Public Service Commission, and the Public Service Commission can deal more directly with these issues. Thank you, Mr. President. Thank you, Senator Erdman.

SENATOR CUDABACK: Senator Erdman, did you wish to use the...he waives his time. Next speaker, Senator Burling, followed by Senator Engel.

SENATOR BURLING: Thank you, Mr. President and members of the body. Philosophically, I believe that public policy should encourage a healthy business climate and investments, while protecting public interest. The question here today that I hear debated is, how do we as a Legislature, through public policy, allow municipal utility districts to serve the urban citizens of their area, and at the same time encourage private investor-owned companies to invest in the state of Nebraska, which is terribly important? I believe there's no need for the Public Service Commission to have any oversight regarding controlling how a public provider of natural gas conducts their business, because they're already under an elected board of directors. But boundaries do work, and provide some order. And I believe that the Public Service Commission should be involved in territorial mapping, so that everyone knows ahead of time what the territories are and how to invest. Now, I would welcome correction by Senator Landis or Senator Bourne, either one, if I'm wrong, but in my opinion, neither one of these bills changes the fact that, in the event of annexation, the two companies involved still need to negotiate value of property in question. So I'm listening to the debate. It's been interesting. We're all kind of wanting to go the same direction, but take a different road to get there. And I support the motion to recommit. I yield the rest of my time to Senator Friend, if he would like it.

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

May 9, 2005

LB 48, 748

SENATOR CUDABACK: Senator Friend.

SENATOR FRIEND: Thank you, Senator Burling. Members of the Legislature, I wanted to finish up what I had read, a statute out of, excuse me, on page 20 of the bill, LB 748, Section 17. I had read the underlined. What I wanted to point out is, this could be deemed and I think technically could be a component that would indicate that duplicative piping could be back in force, or it's something that could actually happen that a municipality can use. But I think it's quite inconceivable, because LB 748 offers up an expanded eminent domain and condemnation component that would, for all intents and purposes, make double piping a worthless commodity. I mean, why do it? If you can go out and get the...I mean, way too expensive, inconceivable. But I would have to say, technically, at least from the reading that I have, technically feasible. Let me read it again real fast: Natural gas utility owned or operated by a city or a metropolitan utilities district shall not be subject to the provisions of the State Natural Gas Regulation Act, and the commission shall have no authority under the act over such natural gas utility or a metropolitan utilities district. Now, it's pretty vague. It could apply. What I'm saying is, not realistic. MUD doesn't operate that way. Not...best of my knowledge, nobody does. So...and the duplicative piping thing, just to clear it up, we've already read out of the statute, at least before lunch, that this is not something that's happening anymore. Have people tried to do it? Unfortunately, it's probably happened a couple...or at least that's been the goal, and they've encroached on it. But it hasn't happened. Now, I don't think anybody wants it to happen. But I also don't necessarily believe that LB 48 is transcribing...

SENATOR CUDABACK: One minute.

SENATOR FRIEND: ...that it does. With that, Mr. President, that's all I have right now. Thank you.

SENATOR CUDABACK: Thank you, Senator Friend. (Visitors introduced.) On with discussion. Senator Engel, followed by Senator Connealy and nine others.

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 748

SENATOR ENGEL: Call the question.

SENATOR CUDABACK: The question has been called. Do I see five hands? I do see five hands. Question before the body...

SENATOR BOURNE: (Microphone malfunction)...Senator Connealy.

SENATOR CUDABACK: Didn't I say Senator Connealy, Senator?

SENATOR BOURNE: I'm just trying to clarify who's up next to speak.

SENATOR CUDABACK: Senator Engel,...

SENATOR BOURNE: Okay.

SENATOR CUDABACK: ...followed by Senator Connealy. I'm sorry I didn't make that clear. I don't always speak clearly. Sorry about that. Question before the body is, shall debate cease on the motion to recommit? All in favor vote aye; opposed, nay. Motion before the body is to recommit to the Urban Affairs Committee. Have you all voted on the question who care to? Have you all voted?

SENATOR ENGEL: Cancel that.

SENATOR CUDABACK: I did not hear you, Senator Engel.  
(Laughter)

SENATOR ENGEL: Thank you.

SENATOR CUDABACK: Record please, Mr. Clerk.

CLERK: 25 ayes, 6 nays, Mr. President, to cease debate.

SENATOR CUDABACK: Debate does cease. Senator Landis, you're recognized to close on your motion.

SENATOR LANDIS: Thank you, Senator Cudaback. I'd ask for a call of the house in preparation for a roll call vote,

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

May 9, 2005

LB 48, 748

understanding it counts against my time.

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

CLERK: 34 ayes, 0 nays, Mr. President, to place the house under call.

SENATOR CUDABACK: The house is under call. All unauthorized personnel please leave the floor. Unexcused senators report to the Chamber. The house is under call.

SENATOR LANDIS: Senator Cudaback, I could...

SENATOR CUDABACK: You may...

SENATOR LANDIS: ...proceed? For those of us who had our voices raised a little bit this afternoon, we were taught a good lesson by Senator Burling, who, in a relatively quiet, mild-mannered speech, put his finger on a very important topic. He said a couple of things. Number one, he said, you know, cities ought to be able to operate without oversight from somebody else, because they've got their own city councils. They run these operations. I agree with him. Secondly said, you know, but on the other hand, boundaries are helpful because they allow you to identify where you're going to invest and how much. Agreed with him on that point, too. Very wise. He said, and what I'm looking for is leadership and guidance on what happens when there's conflict between those two. And the answer is that LB 748 doesn't provide the answer to that question at all. It says, there are no boundaries for the public entities, which is why it's overstepping. Now, there is an answer to that question, by the way, in LB 48, but I'll save that for another day. Senator Schimek made a good point, which was, you know, I think there ought to be some way to find to a middle ground. Think Senator Friend said the same thing. I doubt if you will recall this. Twice last session I got up, once early in the session, once late in the session, and I said, you know, we need to do some work in the natural gas area. And there are three principles that we should have. First, cities should get the

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

May 9, 2005

LB 48, 748

right of way for their city and their zoning jurisdictions. Secondly, people ought to get the area where they are now; laid is played. And third, we ought to be able to make LB 78 proscriptive. I said it at the beginning of the session. And then there's a whole controversy. Is it ever going to wind up on a bill? Oh my God, oh my God. Later in the session, I stood up and said the same thing. Those three principles are the basis upon which we should be able to make equal, neutral principles that are good for Nebraska. Said it at the end of last year. I doubt if you remember. In the intervening summer, no one came to see me, from either side. And when the fall came and it was time to draft bills, no one came to see me, either side. When it came time for January, nobody came to see me, on either side. When January came, bookends. Not the bookends that Senator Friend says; that's wrong. The bookends happen to be the Aquila bill and the MUD bill. Those are the bookends. And believe me, they are, poke you in the eye. They are everything that the wrestler, in pro-wrestling, that you boo against, could do, stuck into a bill to get the other side for advantage, are there. And (inaudible) side, nobody came to see me about neutral principles in the middle. You know why? Because they're not very interested. Why are, now, some of the investor-owned supporting LB 48? Because their baby got shot; their bill got killed by the committee. The tool that they wanted to have for their advantage is gone, and the best game in town for them happens to be LB 48. You know why? Because it's neutral. Because they at least get something out of it. Because it announces the same principles that are in 39. Senator Preister, if what it means is that we can't do any decision making this year, and you're going to vote to recommit because we're not going to do anything this year, then don't vote to recommit. The reason to recommit is because this bill isn't ready,...

SENATOR CUDABACK: One minute.

SENATOR LANDIS: ...because this bill isn't well-thought-out, because this bill is one-sided, because this bill doesn't advance public policy. But if it means that you're going to close your ears and I don't get a chance to persuade you that LB 48 is in the public interest, is well-reasoned, is consistent

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

May 9, 2005

LB 425-427, 614, 683A, 748

with good state policy, then don't vote to recommit. I'll take my chances with a kill motion. Don't come to some easy logic that says, a bill that's one-sided and ill thought out should be treated the same thing as neutral principles that are used in other states quite commonly, because those bills aren't the same. And if you're going to use that tool, then don't vote to recommit. But if you have yet to hear a compelling, good argument for LB 748, or if you think that it's overreaching, or if you think that it should be worked by the committee, then vote to recommit. And if I can't meet that standard, kill my bill as well, or recommit it. But don't leap to the conclusion now that we treat them the same, because they're not the same. One happens to be neutral principles in the middle, and one is a bookend designed to advantage one, and only one, side.

SENATOR CUDABACK: Time, Senator Landis.

SENATOR LANDIS: Thank you very much.

SENATOR CUDABACK: Thank you, Senator Landis. Mr. Clerk, would you please read the motion before the body.

CLERK: To recommit the bill to the Urban Affairs Committee, Mr. President.

SENATOR CUDABACK: You've heard the motion. All in favor vote aye; those opposed, nay. I'm sorry. Did call for a roll call vote. Mr. Clerk, call the roll, please.

CLERK: (Roll call vote taken, Legislative Journal pages 1429-1430.) 30 ayes, 6 nays on the motion to recommit, Mr. President.

SENATOR CUDABACK: The motion was successful. LB 748 has been recommitted to the Urban Affairs Committee. I do raise the call. Mr. Clerk, items for the record, please.

CLERK: Mr. President, I do have a few items, and the items are a Reference report, and a series of E & R reports, Mr. President: LB 425, reported to Select File; LB 426, LB 427, LB 614, LB 683A, all to Select File. (Legislative Journal

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

May 9, 2005

LB 748

pages 1430-1433.)

SENATOR CUDABACK: Thank you, Mr. Clerk. Speaker Brashear, would you come forward, please? Items for the record, Mr. Clerk.

CLERK: Mr. President, one additional item. I have a hearing notice from General Affairs Committee. (Legislative Journal page 1433.)

Mr. President, back to LB 748. I have a priority motion. Senator Chambers would move to reconsider the vote to recommit to committee.

SENATOR CUDABACK: Senator Chambers, you're recognized to open on your motion.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I have to express a bit of pride and pleasure in seeing Senator Landis use one of my favorite tactics to get ahead of the game, in the sense of having a priority motion that will put him before everything else that's pending. The debate I was listening to. I was working on other matters. When there is a matter of this kind, where the house is somewhat divided and people are talking, it's not necessary for me to be a part of that discussion. But I think this one was, to use a highfalutin word, prematurely "troon-cated," some people say truncated--cut off too soon. Senator Friend several times mentioned that neither bill has the answer. I kept waiting for him to pose the question, but I didn't hear the question clearly posed. But I decided I should come up here and give the answer anyway. The answer is, no. On this whole area that is being discussed, ...uh, emphasis--I paused like Senator Landis does sometimes, to show that I listen to him also--emphasis must be placed on who it is that a public entity owes first responsibility and duty to, who it is an investor-owned operation owes first responsibility to. The investor-owned operation obviously must be concerned with the investors. Investors are not interested in providing a service; investors are interested in making money. They don't care from whom the money is derived. So if a question would present itself in the

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 748

following way: A decision must be taken at this point--if you decide A, it will be something that will benefit the public, but it may either reduce profits or eliminate them altogether at this point; on the other hand, if you take direction B, you will increase profits, but the public will be harmed--the investors are going to say, take course B. So what would this equate to? If you have an investor-owned operation, where money is the driving force and the only driving force, that operation may go off into other areas which look more lucrative. And if they are wise, or lucky, and make decisions that pay off, their profits are not going to be diminished, but rather, they will increase, and at worst, as they would figure it, at least make it a wash--break even. But if they make a bad decision and they lose money, then their main operation is going to be crippled. The money that that operation was bringing in could support and sustain that operation and provide profit. But when you dip into that bucket of money and take it someplace else, and it fails, and even draws some more money out of that bucket with it, in other words, creates debt against the money in the bucket, then you have doubly lost. The branch that you went into failed, so that money is gone. But it drew additional money out of the bucket, so you lost there also. What is to be done? As soon as possible, find a way to recoup that loss. You cannot make it in this branch you went over into. So, in order not to send good money after bad, to try to cut your losses, you say, if I've got anything over in this branch area that's worth something, I'm going to unload it on whoever will give me some money for it, and I can use that money to at least liquidate the debt created in that branch. And if I realize enough when I unload this, that I'm selling out of the branch area, I may be able to retire some of the debt in the original bucket, in other words, put a little money back in that bucket. If I can't do that, then I've got to focus on this main operation. And if it's a service that I'm selling, I am fortunate if the ones to whom I'm selling that service have come to rely on me and they don't have an easy way out. So I will simply charge them more for the service, and I will charge all the traffic will bear. I will try, in the meantime, to get some of my friends to help prepare the way, and make a tighter likelihood of my gaining something, by ensuring that in this area where my bucket of money is operating, I will be assured of an opportunity to soak

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

May 9, 2005

LB 748

the suckers until I go broke altogether. On the other side, the public side, the interest is the public. Now, in case anybody lost me, the operations represent these gas companies, these sellers of gas. The ones from whom the money will be derived are the ratepayers. The imprudent steward will want to raise the rates on the ratepayers. If, because the bucket of money is at risk and some of the facilities that produce money in that bucket have to be sold also, the buyer is going to ask, if you can't make money, and you've been in the game, how am I supposed to make money going right where you went? The would-be seller says, well, you charge higher rates. That's how you make some money. And the potential buyer says, well, why don't you do that? And the would-be seller says, I'm in such bad shape, I've got to do something immediately. With the investor-owned utilities, the bottom line is profit. Give the investors what they want. They're not volunteers. They're not doing charity work. They're not humanitarians. They are profit seekers, at any and all costs. So gouge the ratepayers. If you set the two operations side by side and you consider the service that is given and what each one is charging, the ratepayers benefit when they have reliable service at a cheaper cost. So I am in favor of MUD in this battle. What now is the question? That term, "the question," has a specific meaning when you talk about the Inquisition, or others who torture. And I'll let you look it up to see what it meant when they used the term "the question." But here we mean there is a query. How should the question be phrased? Well, Shakespeare said, to be or not to be, that is the question. MUD or Aquila, maybe that's the question. But if that's the question, why is that a question? Can they not peacefully coexist in such a way that the ratepayers benefit? Apparently not. And I would say actually not. Aquila is seriously wounded. Aquila is in trouble in a neighboring state. Nebraska can be cherry-picked by...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...Aquila until the hammer falls. And no need in anybody trying to persuade me that Aquila will not raise rates on the ratepayers they still have in order to liquidate some of the debt that they have accumulated through imprudent, inappropriate investments, trying to maximize profits for their

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 312, 748  
LR 108

investors. I think the question is this: Which is more likely to work in the interests of the public--a public utility, or an investor-owned utility? Next time I'm recognized, I'll give you my answer in more detail. And I'll try to be a bit wittier this time; not John Greenleaf Whittier, meaning I won't resort to rhyme, but I will use some reasons. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. You've heard the opening on the motion to reconsider. Mr. Clerk, items for the record, or announcements?

CLERK: Mr. President, a new study resolution, LR 108, by Senator Kremer, will be referred to the Executive Board. And I have amendments to be printed to LB 748: Senator Bourne, Beutler, and Landis. That's all that I had, Mr. President. (Legislative Journal pages 1433-1434.)

SENATOR CUDABACK: Thank you, Mr. Clerk. (Visitors introduced.) It is 3:00, shortly after. As the agenda states, General File, 2005 senator priority bills, Cornett division. We will go there now; General File. Mr. Clerk, LB 312.

CLERK: Mr. President, LB 312 was a bill originally introduced by Senator Landis. (Read title.) The bill was introduced on January 11, referred to the Revenue Committee. The bill was advanced to General File. I do have Revenue Committee amendments, Mr. President. (AM1350, Legislative Journal page 1361.)

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Landis, you're recognized to open on LB 312.

SENATOR LANDIS: Thank you, Senator Cudaback, members of the Legislature. This is a major piece of legislation, designed to revamp our tax incentive program for the encouragement of economic development. It reinstates, with some changes, a couple of provisions that we have already on the books. It adds several provisions that we do not now have on the books, designed to be more flexible and respond to needs that we've seen in the marketplace. It packages some changes in our tax climate with respect to the taxation of manufacturing machinery,

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 90, 312

research and development expenditures, and microenterprises. It is designed to be the next generation of economic development incentives for the state of Nebraska. One of the pieces is this bill. There are elements of the entire package of this agenda in the following bill, Senator Wehrbein's LB 90. And there is also an element of this idea found in Senator Engel's bill with respect to job training. LB 312 came in with the general idea of trying to revamp and restructure what we know as LB 775. And in the intervening time, we've had a lot of work, lot of discussion. And there are significant committee amendments to LB 312 that reshape it. But let me tell you some ideas that are in this general agenda. First, major improvements in disclosure. One of the recurring problems that we've had is whether or not projects will be able to make clear to the public what it is that they've received in the way of state assistance. There has been resistance from the business community, but we have found a way to bridge that difference. And you will find in the committee amendments a form slightly different than that which was originally in the bill, allowing the public to know the per-project contributions, if you will, from state government--disclosure. Number two, a sliding scale with an absolute minimum on job quality. So a job quality minimum, and a sliding scale that rewards companies for making better jobs. Very first aspect of that is an absolute minimum amount, which is 60 percent of the average state wage. Once a job is created under this bill, LB 312, between 60 and 75 percent, they receive a 3 percent job credit; between 75 and 100, a 4 percent job credit; at 100 percent of the state average weekly wage, it's a 5 percent job credit. And by the way, the existing credit is a 5 percent job credit. This means that less than the average job in the state receives less than the existing job credit. An average job gets the credit that we now have. And here's a new addition. At 125 percent of the statewide average, a good job, ahead of the game job, a better than average job, there is a new benefit of 6 percent, so that there is a 6 percent benefit for the best of the job pieces that we have, at 125 percent. Disclosure; sliding scale that responds to the quality of the job, with an absolute job minimum--those are two basic ideas that are carried over in LB 312. A third job...a third idea that's in LB 312 is to make new, flexible changes with respect to what the state incents. One of them is a lower tier, a lower

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 312

tier than where we are now. And it requires the creation of ten new jobs and \$1 million of new investment. An additional aspect is the creation of a job-only tier, so that if 30 jobs are created but there is not a major investment of new money in facilities or machinery, there still is a benefit for the creation of 30 jobs. And with respect to our state investment-only option, which is now a \$20 million of investment, that is raised in the committee amendments to \$30 million. So the investment-only option goes up to \$30 million. Disclosure; sliding scale based on job quality; new, flexible tiers designed to meet changing economic times. A fourth idea that's in LB 312, and that's a way of front-loading the benefits that businesses receive. The reason that we do this is because our current system is based on income tax credits. And income tax credits require the company to have an income sufficient for taxing, from which you can then draw the amount of credit that you receive. That works well for an established company, up and running for 50-60 years, doing well, highly profitable, creating a lot of income from which these credits can be drawn. It does not fit well with start-up companies, new companies, companies that are in difficult economic straits and are fighting for their lives, all of which may well constitute economic activity and growth for the state, but not an income stream sufficient to draw the credit against. This bill allows that the credits can be taken against the withholding of some body of the employees of the corporation or the company, and thereby achieve the credits that they deserve under the bill more quickly than what they now get them under the use of the income tax. So that's a change. Disclosure; sliding scale of job quality; new, flexible tiers for the utilization; up-front money that allows the company to achieve the benefits of the credits earlier in the life cycle of the credits. There are increased fees for the companies to pay. Currently, they pay \$500 to make an application. This raises that, in some cases to \$1,000, and in other cases to \$5,000. So we ask more from companies with respect to that. There are also provisions for exempting from taxation the manufacturing machinery that's used in manufacturing; also, expenses in research and development; also, microenterprise. It is a bill that at this point has elements that probably would only be used in a very high-powered, large company who is making a major

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

May 9, 2005

LB 312

investment. But there are also provisions that could be used in small-town Nebraska, by making LB 608, our existing rural economic development bill, more available in the rural marketplace; also, able to fit the network of "teleworkers" and people who work at home, out of their homes, which fits the profile of rural development very well. One of the things that this bill does is to make that mechanism more easily responded to, with an incentive package for workers who work through their computer, their fax machine, and their telephone line in their home. Do we need to change where we are? Fair question. Our best guess is, yes. And that source comes from several places. First, it comes from the analysis of the growth and spurt that we first experienced when we passed LB 775. If you were to take a look at our historical record, there was an incredible jump in economic activity, and it lasted for five or six years. It's still in the positive.

SENATOR CUDABACK: One minute.

SENATOR LANDIS: We're still making growth, but not on the order that we did when we were first there. Was it one minute?

SENATOR CUDABACK: Yes, sir.

SENATOR LANDIS: Thank you. So we've had a diminution of that growth that we've had when we first passed our tax incentives. That's one indicator that we need it. Secondly, another indicator is our site selection professionals, and our economic development director, who will tell us that while we were in the vanguard 17 years ago, we are no longer in the vanguard. What always got us in the front door 15 years ago no longer gets us in the front door these days, and that when they look into LB 312, they see the opportunity for that. Just today at lunch, my Economic Development director, and yours, Rich Baier, said, this will significantly alter the kinds of people that we get to talk to, to sell Nebraska on growth, and it will open doors for us. The third source of information that tells us that we need to do something about our current set of tax incentives is the KPMG study that was done this last summer.

SENATOR CUDABACK: Time. Thank you, Senator Landis. You've

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FLOOR DEBATE

May 9, 2005

LB 312

heard the opening on LB 312. As stated by the Clerk, there are Revenue Committee amendments. Senator Landis, as Chairman, you're recognized to open on AM1350.

SENATOR LANDIS: Senator Cudaback, I've asked to have the committee amendments divided. I've provided the Clerk with that division. I'd be happy to renew or make that motion at this time, if it requires a motion.

SENATOR CUDABACK: You may. Would you come forward, please, Senator Landis?

SENATOR LANDIS: Sure.

SENATOR CUDABACK: The Chair does rule that the question is divisible. Mr. Clerk, would you please read how the question was divided.

CLERK: Mr. President, Senator Landis has requested four divisions, the first consisting of Sections 3, 4, 5, 6, 12, 16, and 19 through 55, referred to as the Nebraska Advantage Act changes. The second division involves sales tax exemption sections. That includes Sections 7, 8, 9, 10, and 11. Third division would...something characterized as the Employment Expansion and Investment Incentive Act sections. Those would be Sections 17 and 18 of the original committee amendment. And the final component would be the tax credit sections of the original committee amendment, consisting of Sections 1, 2, 13, 14, and 15. I will be distributing, Mr. President, a breakdown of those divisions for the membership.

SENATOR CUDABACK: Thank you, Mr. Clerk. And they will be taken up as read, correct, Mr. Clerk?

CLERK: I understand that's okay with you, Senator Landis.

SENATOR CUDABACK: Senator Landis, was that...?

CLERK: Mr. President, Senator Landis would move to amend with committee amendment FA236. (Legislative Journal page 1435.)

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 312

SENATOR CUDABACK: Senator Landis, you're recognized to open on the first component of the divided committee amendments.

SENATOR LANDIS: Thank you. I've done this because it will allow us to focus our concentration on various parts of this, because there are a number of moving parts. And the first one is the most controversial. It's the one that gets us into the mix. It's the tax incentive package. It...if you were going to call some portion of this bill "son of LB 775," the first one is "son of LB 775." The second portion would be the sales tax exemption for manufacturing machinery. The third would be the change in LB 608, our rural economic development package, to make that more available, and to make it also available for "teleworkers" who live out of their home but are connected by a system. Those kinds of changes are in three. And number four is the research and development, and the microenterprise piece. But it segments our perspective on what these issues are, and for those who want to focus on the LB 775 issues, the first one contains essentially those issues. Now, let me see if I can make an attempt to explain the pieces that are in this section. The first change is what I've told you before, and that's disclosure. Let me tell you what the disclosure provision is. It says, project by project, you tell us, you know, where your project is and what it consists of, and you will lump the income tax, the sales tax credits that you get, and the sales tax that you have had forgiven, you will put them all in one piece. The withholding tax, you'll put them in one number. And you will report that number, by project, every two years. Why every two years? Well, it means that you can't have a source of data that comes right off some company's tax form. But what will happen is you will know, project by project, how much benefit they get. To the extent that the public has wanted to know what's under the hood of tax incentives, they wanted to know how much benefit companies are getting. This will give the answer to that question. It will be done in a lump sum. It won't reveal information, proprietary information, off an income tax form. It will have the sum total of benefit that's received from several different sources. And it will be reported every two years by project. Cumulatively, what that means is we will know what companies get, but it won't be in a form that takes data off tax forms and makes it available to the public in that way.

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FLOOR DEBATE

May 9, 2005

LB 312

So that's the disclosure piece. I described for you the percentages in the job quality scale. Let me describe for you the terms of the new tiers. The first one, as I said, is a \$1 million of investment and ten new jobs. Under this amendment, that applies to manufacturers, R & D or testing businesses, and specific technology related services. It is not available to everyone. It is not available to all of the qualified businesses and the reason is we think, on the committee, that this tier will be used heavily. If it's used heavily, it will have an impact. If that impact is the case, we want it in new and growing, high-priority areas. We don't want it across the board. And in fact, we want it sunsetted after five years, so we can see what happens. So that if there is a lot of growth, which we want, we will also have a handle on how much growth that is. The length of time for entitlement is essentially seven years of entitlement over ten years. You have up to six years to meet the requirements. You get to take these over ten years, but your entitlement period essentially is seven years. You refund half of the sales tax on project purchases. Your sliding scale occurs here, and you get a 3 percent investment credit in this tier; \$1,000 application fee; a four-year attainment period. Our current LB 775 terms of \$3 million of new investment, 30 jobs, we use the existing set of companies for that which qualifies. We make clear that that applies to R & D companies, data processing, telecommunications, insurance and financial services, manufacturing, distribution, headquarters, software development, computer system design, product testing, guidance or surveillance systems design, and technology companies. All those could make use of that tier. For those folks, they get a refund of all sales tax on project purchases. They also have to use the sliding scale of the job credit. And they get a 10 percent investment credit. The application fee is \$2,500. Essentially, they have up to 14 years after the date of application to get their entitlement. And their entitlement is what they've earned over 7 years of entitlement year--the year requirements plus 6 years, totaling 7 years of entitlement, taken over, essentially, 15 years; not sunsetted. A new tier, zero investment with 30 new jobs, it uses the same qualifying list of businesses I just read. It has the same sliding job scale as I just told you, that 3 percent, 4 percent, and 5 percent. The application fee is \$2,500. It is

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 312

a seven years of attainment, up to ten years to get those seven years of attainment, and it sunsets January 1, 2011, or in five years. It's a new idea. We're going to sunset the new ideas in the bill so that we can see what their impact is fiscally. Our current principal of \$10 million of new investment and 100 jobs stays the same, same qualifying businesses as I just read. You get a refund of all sales tax, you get a sliding job scale, you get a 10 percent investment credit, and you get a personal property tax exemption for aircraft or mainframe computers, depreciable property, and ag processing machinery. Seven years of entitlement, a new fee of \$2,500, not \$500. You get 15 years to get your 7 years of entitlements, and it is not sunsetted. And lastly, a new tier, in that it significantly alters our investment-only. Our current investment-only is \$20 million of investment and no new jobs. This says \$30 million. Qualifying companies, the same as I just read, they get a refund of all sales tax on project purchases. They get seven years of entitlement for that. They pay \$5,000 for this application fee. And those are the relevant factors. Those are the new tax incentive tiers. Two of them remain very much like what they are now--the 3 and 30, and the 10 and 100. But they're shortened from 22 years down to 15 years, in the amount of time that the entitlements get. And they get to use the tax withholding mechanism to make sure that they're as up-front as possible. Three new opportunities--a lower tier, limited in who can use it, \$1 million and 10 jobs, 30 jobs and no investment, or \$30 million of investment and no jobs. Those pieces...two of those pieces are sunsetted for five years. One of them replicates what we have now, but it ups the ante by 50 percent. It raises from \$20 million to \$30 million the amount of investment. We ask significant commitment from companies. We tailor what they get in return. We will disclose what they get in return. And our director of Economic Development says this constitutes a shot in the arm for our ability to persuade companies to come here, or, for those companies who are here, to expand in this state rather than to use a sister facility. Thank you.

SENATOR SCHIMEK PRESIDING

SENATOR SCHIMEK: Thank you, Senator Landis. You've heard the

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FLOOR DEBATE

May 9, 2005

LB 312

opening on FA236. Mr. Clerk, are there amendments?

CLERK: Madam President, Senator Chambers would move to amend this component of the committee amendments. Senator, I have FA242, which would strike Section 3 of this component. (Legislative Journal page 1435.)

SENATOR SCHIMEK: Senator Chambers, would you like to open on your amendment?

SENATOR CHAMBERS: Yes. Madam President, members of the Legislature, I have filed motions to strike amendments...I meant, strike sections from this bill. Having just received a copy of Senator Landis' division, I see that some of the sections are not going to be dealt with consecutively. So my first motion, although I filed them consecutively--strike Section 1, 2, 3, and on through--the first one that comes up is number 3. I had begun to work on Section 1. The reason I want to do this is to be able to get a clear understanding of what it is we're doing, not by virtue of a generalized discussion such as Senator Landis gave. When you speak in terms of an overview, it is difficult to tie that to these individual sections. Even where we have the division, the first of which involves Sections 3, 4, 5, 6, 12, 16, and 19 through 55, there is no way to look at all of those sections and determine whether any and everything in them is acceptable. Maybe what the body would want to do is just accept the committee amendments without much in the way of any specific discussion. I have been here since the first time these giveaways were concocted. Nebraska has always been an easy mark, an easy target. With all of the various giveaway programs, the corporate welfare programs, the granting to moneymaking corporations that which would never be granted to individuals, no matter how much their distress, all of that has not appreciably improved the quality of life of the people in this state. There are not 2 million people who live in this state. I think the figure, roughly, is 1,500,000, and I'd stand to be corrected on that. As you increase the amount of money given to these corporations...and I don't care what form it takes--a tax credit, a refund on sales and use taxes, a credit against income tax, a refundable credit to be set off against this or that or the other. It comes down to the same

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FLOOR DEBATE

May 9, 2005

LB 312

thing. You are applying different terms to money that would be revenue for the state to pay the responsibilities of the state, pay for those responsibilities that require the expenditures of money. The wages in Nebraska have not appreciably increased. This state pays notoriously low wages. Many of the people drawing minimum wage are single-parent families, and that single parent happens to be a female. These women are not going to benefit from this bill and the amounts given to these corporations. When those who run these corporations and the high-level people who get the big salaries, and even some of the employees who get large salaries, are going to build their homes, buy their nice cars, do the things with their money which people having a lot of money will do with their money, who can begrudge them? They represent the aspirations of the poor. But the poor in Nebraska are going to remain poor. Not too many days ago, we were talking about the problems of the burgeoning Medicaid rolls. Why is this? Because people don't make enough money to buy insurance to cover their healthcare needs. They work jobs where there are not healthcare benefits that meet the needs of the employee and employee's family. Some companies are very large, and they make it clear that the family members of the spouse are to consider getting on Medicaid. This is what I mean when I talk about looking at these issues in the way you would consider a seamless web. We should not compartmentalize and erase from our minds the other matters in this state, the other activities in this society which are affected by the decisions made on a giveaway bill such as this. It is possible to have too much money, but it is never possible to have enough. No matter how much money a person has, the person wants more and will seek more. As Michael Douglas said in that movie, called...I think it was "Gekko," and he was one of these Wall Street traders, brokers, or some other type criminal who hangs out on Wall Street, "Greed is good." He stated frankly what everybody knows, but which the greedy ones will not acknowledge. They come to states like Nebraska, which are pushover states. Nebraska is not the only one. There is a little state called Delaware, where people like to incorporate, because they get very good concessions if they file their incorporation papers in Delaware. There are little countries, in the Caribbean and other places, which will allow various countries to fly the flag of their country on their ships,

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 312

because of the financial benefits that will accrue. There are companies in America which will have their headquarters in another country, so that they get tax breaks and benefits. In this country, their operations will be given breaks and benefits. But they don't want to be patriots. They don't want to assume their responsibilities. They do not want to pay their fair share. Having observed money sucked from Nebraska, the revenue stream--I hate to use that cliché, as I've said before--is constantly being diminished. But the services government supplies are not diminished. The cost of government increases every year. Every budget cycle, we increase overall budget. But more is being sucked out from the revenue stream. The population is not increasing apace. So, fewer people are paying more taxes to benefit the few. You could say, never have so few derived so much from so many who do not have it to give. And these are giveaway programs. It is not as though these companies do not make enough in profits to pay the cost of their manufacturing equipment plus their sales taxes. It's not as though their executives cannot pay income taxes. It's not as though the corporations don't make enough money to pay their share of the income tax burden. When the "dirty 30," I being one of them, voted to override the Governor's veto of a tax increase bill, I did not vote to increase taxes so that a couple of years down the line, which brings us to today, more giveaways could be given to the corporations. While we were parceling out the pain during that time, the big companies did not want to suffer any of it, and they did not. They are always exempt from the responsibilities of citizenship. They call themselves good citizens, but they are not. They are not...

SENATOR SCHIMEK: One minute.

SENATOR CHAMBERS: ...good neighbors. They are powerful, money-hungry, money-grubbing operations, who care not one whit for the people or the social well-being of this state. You never hear them say anything about the lack of healthcare available to the citizens, or the number of children who are born with various types of ailments, various types of addictions, because of the conditions under which their mothers live. These corporations don't talk about those programs, or alleviating those conditions. They say even change the

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 312

university's model and its mission to provide better workers for these companies. That is very shortsighted. And this bill ought not go anywhere. Thank you, Madam President.

SENATOR SCHIMEK: Thank you, Senator Chambers. Mr. Clerk, is there a motion on the desk?

CLERK: Madam President, a priority motion: Senator Landis would move to bracket LB 312 until January 1, 2006.

SENATOR SCHIMEK: Senator Landis, to open on your motion.

SENATOR LANDIS: Maybe we've screwed up. Maybe we are going down the wrong path, and this is the chance to stop and turn around and send it back to the Revenue Committee. We're on a roll today of recommitting to the committee of origin, and this may be the case. Look, if we're going to do this, let's do it as the whole idea. If we've been too generous, if we've been too stupid, if we've been too craven, if we haven't balanced interests, let us know. Tell us to start over. That's what this motion does. It allows us to have a sense of the body as to whether or not we're overreaching. And we'll be instructed by that. Twenty-five votes, and we go back to the drawing board, and it's all over. I can live with that. There are things I wish I could have in this bill that are not there. There are standards I wish I could raise higher. I...by the way, I think...I have a concern with many of those same people that Senator Chambers does. I wish that I could find tools to get at those problems. And by the way, the kind of problem that we get at there is through a minimum wage law, which we should raise in this state. Senator Beutler should be congratulated for his work in the history of that piece. I will tell you that this...there is a piece that tries to reflect that thinking. And it says, if the job you create is less than 60 percent of a statewide average job, it doesn't count. You don't get an incentive for it. And let me tell you that that's a relatively healthy amount of money. It's still...I mean, it's...I think it's like \$18,000. Working up from there, working up from there, it is a sliding scale, which we do not now have. So the less beneficial the job is, the less credit that you get. However, maybe we should be exacting more. And if we do need to

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FLOOR DEBATE

May 9, 2005

LB 312, 695

exact more, the body will tell us, and you'll send us back to square one. I would yield the balance of my time to Senator Baker. And the reason is, it's entirely possible that we won't get a chance to talk about the sales tax on manufacturing exemption unless Senator Baker gets a chance to do so. I would yield my time to him.

SENATOR SCHIMEK: Senator Landis, did you say to Senator Raikes?

SENATOR LANDIS: No, no, no. I'm sorry. Did I say that? Senator Baker.

SENATOR SCHIMEK: Senator Baker. Oh, I'm sorry, too.

SENATOR LANDIS: Did I say Senator...I don't think so.

SENATOR SCHIMEK: I just didn't hear you.

SENATOR LANDIS: Senator Baker. I apologize.

SENATOR SCHIMEK: Senator Baker, he is yielding his time to you.

SENATOR BAKER: Thank you, Senator Schimek, and thank you, Senator Landis. And he did say Senator Baker, I believe. At least I thought he did. What we're...I want to talk about now is LB 695, which was my priority bill, which we incorporated into LB 312. And it is a tax climate bill, in that it exempts sales tax for machinery and equipment. And I wanted to reiterate what...some of what Senator Landis said. This actually targets rural areas, are going to be the major recipient of this provision within LB 312. And I say that because the large companies now are accessing sales tax exemptions. They have to pay it. But if they're a LB 775 qualifying company, they are reimbursed that sales tax. Not so with the small businesses that typically we see locate in western Nebraska, where that rural component is so important in this bill. Those are areas where jobs typically do not offer benefits, including health insurance, which Senator Chambers has made an issue here. By targeting rural areas with a sales tax exemption on machinery and equipment, those jobs are going to be located in the more rural parts of the state, and thereby

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 312

provide those jobs that will provide benefits, or they won't qualify. And they have to meet that 60 percent status on jobs, and so on. So this is going to be the rural...this is part of the rural component, I should say, of the bill, LB 312, which is going to be such a benefit to the smaller rural counties. I say that...I need to back up and state that sales tax has been quite a burden when you recruit a company to Nebraska. And I sat with a CEO and a president of a company from North Carolina at a meeting. It was this winter, here in Lincoln. One of their questions they asked was, why in the world does Nebraska still have a sales tax on equipment? From North Carolina, and there are only a dozen or so states that still tax...put sales tax on manufacturing equipment, machinery and so on, and Nebraska, of course, is one of those. And it makes it difficult for me to say, you're too small to qualify for LB 775; you're going to have to pay it, I'm sorry, but please still locate in Nebraska. So...and don't sell short the fact that people are watching what we're doing with LB 312 today. I received a phone call this morning from a company looking at the research and development issue, which is also in this bill. I'm straying a bit from sales tax exemptions on machinery and equipment. But they pointed out that Texas had a 5 percent credit on R & D investments; Nebraska, our proposal is very modest, in that it's only 3 percent. So believe me, people are watching what we're doing here today with this bill. Back to the sales tax exemption, 38 other states exempt machinery and equipment from sales tax. Nebraska, the only way you're going to get that now is, of course, qualify as a LB 775 company. Hence, this is a benefit to those small, and the large manufacturers in some cases, across the state. And it's going to be focused more on rural Nebraska, if you will, than on, say, Lincoln and Omaha. The Department of Revenue did a rough estimate for us on the breakdown of who will be using this. And they estimate that roughly two-thirds to three-fifths of the exemption will be used outside of Lancaster and Douglas Counties. And they also included, I think, Sarpy and Cass in that Omaha area. I'll repeat myself. They estimate that roughly two-thirds to three-fifths of the exemption will be used outside of the metropolitan counties in Nebraska. That means counties that might be as large as what I consider very large, metropolitan area of Hastings, Adams County, or Hall County, Buffalo County,

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 312, 695

and so on. But it's also going to target those small industries, that we did convince to locate out in our district, with 15 employees. It's also going to have an impact on them. It's a...this equipment, of course, is going to be still on the tax rolls, as it is now, in personal property tax. But at least we're going to be on a little bit more level playing field with those 38 other states that do in fact exempt manufacturing...or, machinery and equipment used in manufacturing. If you want to refer to the actual bill, I'm sorry, to be in the committee amendments, this is...LB 695, as I said, is in Section 7. This would be the second division of the committee amendments. It's Sections 7, 8, 9, 10, and 11. And if there are questions about the specific descriptions or definitions in there, I'd be glad to answer those questions. The machinery is spelled out as to what qualifies. Those of you who are wondering, agricultural machinery is now exempt from sales tax. What we're doing to the business people, investors, the owners in the state right now, is we're double-taxing that machinery and the manufacturing equipment, in that they're paying a sales tax and a personal property tax on it. So this would help get our foot in the door with some companies that, as I said, when we met with a company from North Carolina, their...one of their questions was, what are you doing in Nebraska that's behind the times? Don't you realize that most other states do not put sales tax on equipment? This is the answer to that. And as I said, it's a tax climate issue. If I had my way, we'd do away with incentives. And I think Senator Redfield is smiling at me. She would, too. We'd do away with this incentive program and improve the tax climate, meaning, we could eliminate corporate income tax, sales tax on business equipment, personal property tax, and the list goes on and on. It would be a simple solution, to me, if we could do it. But that...we don't have the political will, I guess, to actually throw all those taxes out and simply eliminate the incentives. So this is our compromise. We'll go ahead and work at it a bit. I think it's an important part of the package. The fiscal note on it, the first year, I believe was minimal. It's estimated that the full implementation of this...as I say, it's minimal because it would be a part-year. This is effective, I believe, January 1, 2006. So it would be a part of a fiscal year. I believe it's \$8 million. It's bumped up to about \$20 million a year. But I

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FLOOR DEBATE

May 9, 2005

LB 312

want to repeat that the companies now that qualify for LB 775 incentives...

SENATOR SCHIMEK: One minute.

SENATOR BAKER: ...are exempting themselves from this equipment...sales tax on machinery and equipment now. This targets the smaller companies that do not qualify under LB 775 and, hence, would be a tremendous benefit to rural Nebraska. With that, if I have a few seconds left, I would return those to the Chair. Thank you.

SENATOR SCHIMEK: Thank you, Senators Baker and Landis. We are on discussion of the bracket amendment. Senator Connealy, did you wish to speak to the bracket amendment?

SENATOR CONNEALY: Yes, Madam President, members. Of course, I rise in opposition to the bracket amendment...movement. I first served on the Judiciary Committee the first four years I was here in the Legislature. And then a couple of years ago I asked to be switched to the Revenue Committee. And I knew there was going to be a lot of tax bills; that we were in tough times, and I knew there was going to be those decisions to be made. But in reality, you know, what I really wanted to get the Revenue Committee to do was this bill, you know. We've been waiting for this a long time, to redo the way we improve business in Nebraska, to look at it a different way, the way we provide incentives, and try to make it so that this state grows. I believe that this isn't the best that we could do. But I think that it is a good start. I think that we ought to, as a state, continue to look at how we build business. But this gives us some tools to allow us to do that work going forward. The reporting part in this section is actually going to be a tool that Legislatures from here forward are going to have that we haven't had in the past. You know, we're going to be able to take data from a company over a two-year period, and combine all the different programs so that you can't reverse-engineer and figure out what the company is doing. But you take that and you understand, you know, we're going to get this benefit because we gave these credits. I think that's going to be a tool that Nebraska is going to be able to, first, sell incentives and sell

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 90, 312

business growth, and secondly, change them if it's not working. We also have something that a lot of us has been talking about for a long time, is quality jobs in this. There's a standard. You could argue that the standard ought to be someplace different. You know, I'd like to see it higher. I'd like to see benefits and healthcare and all that also. But at least we've got a standard, one we haven't ever had before, and I think that's a great start. I think as we look at what we have in this, on what the public has been asking for, for years, this is a great start. This is a great day to have a discussion about how we grow the state of Nebraska. It is expensive. It's going to work up to \$50 million a year. With the sales tax exemption that's about \$18 million going forward, and the incentive part that we're talking about in this section, it builds up to about \$32 million. So it's about \$50 million a year. And we have to all understand that, that this is an expense that's going to be over and above what we've done before. But I think it's got some value. I believe that we're going to be able to get another shot in the arm, as Senator Landis talked about, how we got a shot in the arm in the past through our new incentives. This is going to give a shot in the arm for the traditional big business growth that has to be an underpinning of our metropolitan areas of the state, has to be part of what the whole package is. Of course, LB 312 is a lot more than that. LB 312, with LB 90, that comes after it, is a pretty well-rounded package. It's not everything that a rural senator would want, but has a lot more rural in it than we've had ever in the past. I believe that LB 312 is a great step for Nebraska. I believe it's going to be something that our Economic Development Department are going to be able to sell going forward, that we're going to have a new day for business growth here in Nebraska. And I'm, once again, rising in opposition to the bracket motion.

SENATOR SCHIMEK: Thank you, Senator Connealy. The next person to speak would be Senator Brown, on the bracket motion.

SENATOR BROWN: Thank you, Madam President and members. Well, I intended to defer a great deal to our fearless Revenue leader. But I will not defer to him in terms of supporting the bracket motion, because I believe in the bill, and I believe that we

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 312

need to do it now. Senator Landis referred to this division, the Nebraska Advantage Act, as "son of LB 775." And in order to determine whether it's a good idea to proceed further, we need to ask ourselves whether we believe that LB 775 worked. And in that regard, I would like to cite a World-Herald article from this weekend, where they analyzed the impacts of LB 775. And they talk about, for the straight years...for ten straight years before the passage of LB 775, Nebraska trailed the nation in growth of private sector wage and salary jobs, at times, by wide margins. But beginning in 1987, there was a reversal of that trend, with the state experiencing ten straight years of growth that exceeded the U.S. average. Compared with all the plains states, Nebraska has consistently had a job growth edge since 1987 that has not abated, topping those neighboring states in all but 4 of the last 17 years. If job growth in Nebraska had simply matched the U.S. rate since 1987, the state would have 67,000 fewer jobs today, and 40,000 fewer if Nebraska had grown at the rate of other plains states. That's pretty impressive information. And the numbers are significant, because we spend a lot of time arguing about whether it's made a difference. Well, this would say that it has made a difference, and that difference is significant. Now, your attitude towards the job development that has occurred because of incentives is your frame of reference. And my frame of reference has been that I have worked with the Omaha Chamber of Commerce on...with site selection individuals. And so I hear what they have to say. And incentives are definitely a part of what they look for. I also worked on this...the establishment of the Caterpillar plant in Sarpy County, and I know that incentives were at least a part of what caused them to locate in Nebraska. And those were all new jobs, and huge new investment for the state. I know that the jobs that were moved from St. Louis for Union Pacific would not have happened were it not for the incentives. So that's my frame of reference. And so I find these numbers compelling and true, because it's true within my frame of reference. And my frame of reference is not just with Omaha and Sarpy County, but also the community that I graduated from high school in, Broken Bow, which has a company, Becton, Dickinson, which has been one of the great success stories of rural economic development, and keeping a company that has been a good member of the community, and really had an impact on a very

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 312

modest-sized community in a very big way. Now, why do we need to...if LB 775 has been so effective, why do we even need to have this discussion?

SENATOR SCHIMEK: One minute.

SENATOR BROWN: Well, I have seen the changes that have occurred just since I've been here in whether people look at our incentives as effective. Our incentives are performance-based. That means that you make the investment, you create the jobs, and then somewhere down the line you can take the credits. A lot of states have moved to incentives that are much more up-front, that are not performance-based. I've had companies talk to me about individuals coming to them literally with suitcases of money, a lot of up-front money. We don't have that, and it has really affected our ability to compete with those states. We have to...I don't ever want to see us go away from a performance-based approach. But we have to make it better, and certainly better in attracting businesses. The environment is one of the things that people look to...

SENATOR SCHIMEK: Time.

SENATOR BROWN: Thank you.

SENATOR SCHIMEK: Thank you, Senator Brown. (Visitors introduced.) The next speaker on the motion to bracket is Senator Redfield.

SENATOR REDFIELD: Thank you, Madam President, members of the body. Usually, when the guys play chicken, the teenage girls stand around and go, ooh aah. But usually, when we grow up, we no longer stand around and go ooh and aah. And I'm not going to support the bracket motion. I've said before, and I'll say it again, I don't think we can say it often enough, that only people pay taxes. If you think that by putting a tax burden on a company that you are freeing the people of the burden of paying taxes, you are sadly mistaken. Because, in fact, every company will pass that on. They will pass it on in the price of the goods and the services that they deliver to the consumer. They will pass it on in the lack of raises that they can offer

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

May 9, 2005

LB 312

to their employees. And ultimately, the only person that can pay a tax is a living, breathing soul. We haven't found a way to make a paper deed pay a tax, and we can't, in fact, make an entity on paper named a corporation pay a tax. It always comes from the people. At the same time, we look at who the investors are. And there's much discussion as to whether we're benefiting the investor. Well, again, the people are the investors. If you have a pension plan where you work, you are an investor, because that pension plan is invested in corporate America, and the health of corporate America will determine whether in fact that pension plan will be solvent and be able to meet your needs in your retirement years. If you are a citizen of the state of Nebraska, you are an investor, because, in fact, we do invest tax receipts as they are collected, so that, in fact, many of the programs that we have can be sustained. And the health and well-being of corporate America actually determines the health and well-being of the pension plans that we have for our own employees here in the state. So we talk about two different entities, and we act as if they are enemies, when we are intricately related. The health of one determines the health of the other. And we can take a purist approach. We can ask these companies to pay up or move out. And I guarantee that they will move out, and we will find our citizens without jobs and without the wherewithal to provide for their families and loved ones. So I am not going to support the bracket motion. I believe it's important for us to be healthy as a state. And that will only be as our industry and jobs are provided for our citizens. Thank you.

SENATOR SCHIMEK: Thank you, Senator Redfield. We are continuing on the bracket motion. Senator Mines, your light is next.

SENATOR MINES: Thank you, Madam President, colleagues. I oppose the bracket. You know, I think we need to move forward with this particular package. The package is far from perfect. In Nebraska's effort to compete nationally, this doesn't put us on top. And I think everyone in this body will agree that economic incentives are a way of life in the United States. Every state has some form of economic incentive to attract business and to grow their own home state businesses as well.

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

May 9, 2005

LB 312

Now, whether you're urban, suburban, or rural, incentives from the state, whether they're sales tax refunds, or they are wage benefits, or whatever kind of credits you might want to talk about, it all works to grow Nebraska's economy. And I think everybody understands that, without those incentives, our economy does not grow. Our population isn't growing. Fortunately, our economy is growing a little bit. Do I...I think everyone in here would also agree that we wish there were no incentives. Wouldn't it be a nice world if none of us had to pay incentives to grow our home state businesses, or to attract business from other states? I heard this afternoon an interesting fact. I wouldn't believe this until I thought about it. Nationally, there are about 250 to 500 businesses that relocate, that move from one state to another, and that's not very many. And I forget that there were tens of thousands of economic development operations and organizations that are out fighting for these 200 to 500 businesses to come to their particular location. And guess what. They all lead with cash. They all lead with incentives to bring business to their location. And Nebraska used to play. Nebraska used to get in...as Senator Landis mentioned, used to get in the door. LB 775, a dozen years ago, was an attractive package for some businesses. And today, our Economic Development Department isn't getting in the door. Now, does that mean we're not growing the economy? No, it doesn't mean that at all. And this body, I think, has been responsive. When Union Pacific asked for consideration to relocate their facility from St. Louis to Omaha, this body responded. This body has long responded to business needs. Now, in my district...I'm going to tell the Cargill story. I've told this thing...this is the third year, and I beg your indulgence, but I'm going to tell the Cargill story again. In 1990, Cargill was looking for a location in this general area for a wet milling corn operation and it came down to two locations--Council Bluffs, and Blair. And they...their promise was, we will create 100 jobs, and we will invest \$100 million to build this engine that takes corn, and through a wet milling process they're able to turn it into a natural product, and then use that product to create ethanol and fructose and lysine and lactic acid and a number of different products. That was in 1990. They came, because of LB 775, to Blair.

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

May 9, 2005

LB 312

SENATOR SCHIMEK: One minute.

SENATOR MINES: They came also to Blair because, locally, Blair citizens voted to assess themselves a half-cent sales tax for three years, buy down the property value that Cargill could get the same property, 652 acres, near Council Bluffs. So the citizens of Blair participated, as well. Today, Cargill's investment is the largest single private investment in Nebraska's history. It exceeds \$1 billion. They employ in excess of 500 people, and their average salary exceeds \$55,000 a year. That's a pretty good deal. They have full benefits. And by the way, they are in this for profit. And that's a good thing. That's fine. That's great. I could, and will, gain a list of the money that they've given, of the time they've given back to community. And the community isn't Blair. The...

SENATOR SCHIMEK: Time.

SENATOR MINES: ...community is all of Nebraska. These corporate...

SENATOR SCHIMEK: Time.

SENATOR MINES: ...citizens...thank you, Madam President.

SENATOR SCHIMEK: Thank you, Senator Mines. Continuing on the bracket motion. Senator Don Pederson, you are recognized to speak.

SENATOR D. PEDERSON: Madam President, members of the Legislature, when we started out in January of this year, I made the statement that I think there are three things we have to do this session. One, we have to provide for the people of our state who can't provide for themselves. I think we've done that in the budget that you advanced last Thursday. I think we needed to provide for the educational opportunities for the people of our state. Once again, we advanced that last Thursday. The other thing that I said was that we need to provide for economic opportunities for our graduates in this state. And I think that's what we're here talking about today.

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

May 9, 2005

LB 312

I don't think we can wait until January 1 of '06. I think this is a matter that we have before us today. And what we have to do is consider, how can we make our state more economically viable? We've carried on with LB 775. And I know there has been opposition to it. It's characterized as corporate giveaway. But it's allowed us to have the opportunity to bring businesses to our state. I can assure you that I know...and just as Senator Mines has talked about, Blair, Nebraska, the opportunities that developed there as a result of economic incentives, that same thing happened in North Platte. We would not have a large economic entity in North Platte that came in three years ago if we had not had a better economic package to present. We were battling, at that point, with western Colorado...eastern Colorado, I'm sorry. And they chose North Platte instead of eastern Colorado. It's not a pristine world that we live in. We live in a world where we have businesses, both in our state, who are looking to expand, and we have businesses elsewhere who are looking to a location to expand. And I think in each case they're looking at, as you would in your own life, look at where is the best, most viable opportunity for your company. That's why they do that. You know, we're no different than people in Iowa. We think we're better, but are we? But they have economic incentive packages that they are able to give to people. And that's why we end up with things like Bass Pro moving into Iowa instead of into Nebraska. So I think we're in a situation where we do have to look to economic incentives. Now, is this the best plan? I don't know. But I have a lot of faith in the Revenue Committee and the efforts that they have gone to. They have been meeting with businesses, and at all times are considering what's best interest of the state of Nebraska. And I think that they have invested a great deal of time trying to assess, what do companies look for? How can we make our economic package viable when compared to those of other states? Because frankly, that's what we're up against, is making our package available to the interests of businesses that are thinking of either expanding or relocating in the state of Nebraska. So I think we have to bear that in mind. I think it's because of this that the Governor involved himself in the process and met with the Speaker and Senator Landis and myself, in an effort to see if we could come up with some kind of a package. Because we've looked down the

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

May 9, 2005

LB 312

road. Twenty years from now, we have a huge problem in this state as far as the economic development. We now have the opportunity to take steps that could reverse that trend. Because the trends are not good. The only way that we can improve our condition is to bring in new job opportunities into this state, and to allow current businesses to expand within our state. We need jobs. I'm concerned about the number of...

SENATOR SCHIMEK: One minute.

SENATOR D. PEDERSON: ...people who graduate from school and have to go elsewhere simply to have the economic opportunity to advance themselves. I don't think we should provide that we don't have that opportunity here in the state. It's not fair to our graduates. It's not fair to the long-run development of this state. So there are concerns about some of the elements of the plan that I will address at a later time. But as far as general terms is concerned, I think that LB 312 is a step in the right direction. I think we should refine those measures. But certainly, we cannot wait another year to move forward. We have made room in this budget, and with the help of the Forecasting Board, twice. But we have made room in this budget. There is room for a reasonable economic package. I am grateful for that. I think now is the time to utilize those funds to provide for that economic package. And I would urge that we go forward with LB 312 as we move...

SENATOR SCHIMEK: Time.

SENATOR D. PEDERSON: ...through and perhaps refine some of the minor terms of that. But I think, in essence, it provides for all ends of the spectrum, the very...

SENATOR SCHIMEK: Time.

SENATOR D. PEDERSON: ...small ends, and the later ends. Thank you very much.

SENATOR SCHIMEK: Thank you, Senator Pederson. Senator Jensen, your light is next.

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

May 9, 2005

LB 312

SENATOR JENSEN: Thank you, Madam President, members of the Legislature. I'm a fourth-generation Nebraskan. And I also have 5 children and 16 grandchildren. So we're going to be here for a long time, hopefully. And it's certainly not my desire to leave this great state. But I was also in the construction and development business, and have...started in the construction business in 1960. And in the eighties, my partner and I had a 200-acre development site called Old Mill, at 108th and Dodge Street. And also, I can remember what it was like when Enron decided to leave the state of Nebraska. And the common thought was that...in Omaha, will the last one to leave turn out the lights when you go? And that was the theme and that was the thought process of the Omaha community. There was depression on many people's minds. What's going to happen? And then ConAgra stepped forward, and they also said that, well, we would like to do something, but unless the tax situation changes, we're also...could be induced to leave. And so with that, LB 775 was crafted. I think there's only four senators here today that were here in 1987 when that bill passed. But when it did pass, I can tell you, the business climate in Omaha, the business climate in the state of Nebraska, changed dramatically, and we saw growth, sustained growth. And it was good growth. We brought businesses in, such as Senator Mines was talking about with that great firm in Blair, and others throughout, in Lexington, and all around the state of Nebraska. Businesses started to come into Nebraska. Well, that was in 1987. This is 2005, and things have changed. And other communities have changed, and there are other incentive packages out there that certainly are more advantageous than what we have here in Nebraska. But if we do not keep pace, then not only do we not attract other businesses, but I have to tell you that all the businesses in Omaha, all the businesses in the state of Nebraska are constantly being courted by other states and other communities. And some of the packages that are offered are very good. Well, after looking at our economic picture in Nebraska, there's one thing I am really convinced of, and that is that we must grow this state because, yes, we do have Medicaid that is growing, we have educational costs that are growing. And just the cost of operation is growing. And if we do not have the economic engine pulling the rest of the economy in this state, and if we have people leaving this state, and if we don't have

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

May 9, 2005

LB 312

opportunities for our young people when they graduate from our colleges and universities, we're going to see dramatic changes. Now, I believe, is the time that we can do that. I visited over the weekend with some friends of mine who are in the manufacturing sector. They're not in the sector. They sell products. And they said, in the last 90 days, they've seen...

SENATOR SCHIMEK: One minute.

SENATOR JENSEN: ...a dramatic change and turnaround in businesses that are looking and talking about expanding in manufacturing, something that we haven't had in this state in some time. So I believe that this is perfect timing for LB 312 to come up with a package that would make it attractive for manufacturing business to locate here in this state. Along with that, removing that sales tax on manufactured equipment, again, is going to go a long way. And those companies who are interested in manufacturing I think could be drawn to the great work ethic that we have in this state, which I would match against any state in the 50 states of the United States. We do have a great work ethic in this state. We have some great people that are willing to work. And I think it's up to us to provide opportunities for them to work,...

SENATOR SCHIMEK: Time.

SENATOR JENSEN: ...to be educated, to raise their families. Thank you.

SENATOR SCHIMEK: Thank you, Senator Jensen. Senator Landis, you are next to speak on the motion to bracket. Senator Landis. Senator Baker, you're next.

SENATOR BAKER: Okay. I thank you, Senator Schimek and members. I would be glad to speak. I'm going to repeat a bit of what I said when Senator Landis had yield time. This, to me, is a rural-focused bill. Although it's certainly going to benefit the metropolitan areas, I want to stress that the Governor has made...I'm sorry. Senator Landis is back. Okay. He was late. I might yield him a couple minutes of my time. How would that be? I'll be quick. I want to reiterate the importance to rural

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

May 9, 2005

LB 312

Nebraska that LB 312 presents, in that...Senator Chambers mentioned lack of jobs with benefits. And I look back at Valmont Industries locating in McCook. It may be in McCook, but let me tell you where a lot of those people work. I think they have over 200 employees, with benefits, all sorts of benefits that we're not used to in rural Nebraska. They located in McCook over, as I recall, Plainview, Texas. And without those 200 jobs and all those benefits...and I have to tell you, a lot of those people working...and talk about the work ethic. They're underemployed agricultural workers who had no benefits. And they typically flock to these kind of jobs, because the benefits, in some cases, are worth more than the salary. And I know for a fact, people that work there, one of the main reasons they do is the benefit package. So if we don't have these incentives, we don't have the jobs, we don't have the businesses to create the jobs, we don't...somebody has to make some money here to pay the taxes to provide the benefits to the people who are less fortunate, I guess, that don't have the jobs. And my concern here is that we focus on rural Nebraska. If you'll look at the bill, there is a particular program in there that if you create two jobs and spend \$125,000, you qualify for some benefits through this bill. That's in there. Two jobs, \$125,000, in counties...I believe we changed it, through committee amendment, to counties with less than 15,000 population. We've done so much work on this, I can't remember exactly where we ended up on some of it. But I certainly want to also commend the Governor and his staff. I don't know how many meetings I've attended. And I know I haven't attended all of them by any means, and the hours put in on this, to focus on rural Nebraska. And me being from a very rural district, it's very important to me that we get this package passed this year. And I'm with Senator Don Pederson. We can't wait on this. There are businesses sitting out there...as I said in my earlier little talk here, I had a phone call this morning from people looking to locate an R & D project in rural Nebraska, worth...I think the price tag is \$6.9 million. Several jobs, with benefits, and they're comparing what they are offered in LB 312 with what was offered in Texas, which were modest, but they have an interest in a presence already in Nebraska, and they're willing to come up here for that. But that's focused on rural Nebraska, of all places, for an R & D. I want to go back, make

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 312

some comments also on what we've done with existing LB 775 projects out in our area. Obviously, the ethanol plant located in my district qualified at Valmont, Parker Hannifin, and a couple others out there, that do access LB 775 in rural Nebraska now. And I think I owe Senator Landis some time. I know I do. With that, I will yield the rest of the balance of my time to Senator Landis.

SENATOR SCHIMEK: Senator Landis.

SENATOR LANDIS: Thank you, Senator Schimek. I'm sorry, I was otherwise engaged at the time that you called on me. Thank you very much for doing so.

SENATOR SCHIMEK: Senator Landis, I plan to recognize you next.

SENATOR LANDIS: Oh, aren't you kind. Thank you. Let me give you a little bit of a taste of the marketplace that we're operating in, the current that catches us up with our little ship of state, as we float towards our ultimate outcome--success or oblivion, as it may be. We compete in a marketplace with...

SENATOR SCHIMEK: One minute.

SENATOR LANDIS: ...other states, and those states, then, in a national marketplace of the United States and the world economy. To our east--the reason I believe the Nebraska Navy exists, which is to defend us from a potential invasion from Iowa--in the event you were in Iowa, there's a new jobs credit, with a nonrefundable credit for the increase of the work force by at least 10 percent within the state. It's an income tax credit. There's a credit for qualifying capital expenditures in enterprise zones. There's a credit for qualifying capital expenditures dependent upon the numbers of new jobs. There's a credit for qualifying capital expenditures by businesses meeting specific requirements. There's a tax incentive program, funding for businesses creating high-quality jobs with new capital investment. There's a refund of state sales, service, and use taxes, paid to contractors during construction phases in enterprise zones. There's a refund of state sales, service and use tax...

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

May 9, 2005

LB 312

SENATOR SCHIMEK: Senator Landis, you are now on your own time, just beginning.

SENATOR LANDIS: Oh, thank you very much. I'm sorry. Thank you. There's a refund of state sales, service and use taxes paid to contractors during the construction phase by qualified businesses. There's a diversion of withholding tax to establish new employee job training. There's a diversion of withholding tax to establish new employee job training in an enterprise zone. There's a diversion of withholding taxes to establish new employee job trainings for businesses meeting specific requirements. There's a community-determined property tax abatement for businesses located in enterprise zones. There's a community-determined property tax abatement for businesses meeting specific requirements. By the way, we can't do a property tax abatement program in this state, because our constitution won't allow it. There's a credit for qualified research and development expenditures, which is an income tax credit. There's a funding for businesses creating high-quality jobs and new capital investment, which is a variable funding basis. And a refund of sales, service and use taxes paid to contractors during construction phases by qualified business. That's in Iowa alone. We have three tax credit programs. They have the number that I read you. They are not alone, although they're somewhat more aggressive than others. For example--and wouldn't this be lovely--Wyoming has no tax incentive programs. Wouldn't that be great? On the other hand, Wyoming has a very serious severance tax. They have a whole lot of services that are paid for because they have an income stream unavailable to us, because of the natural resources they have in the state. But the rest of us are fighting like this. And I will read to you, among others, the kind of tax incentives we face by our competitor states on our border, because they are as...they're either as extensive or nearly as extensive as what I've read you. Thank you, Madam President. I'll surrender the rest of my time back to the Chair.

SENATOR SCHIMEK: Thank you, Senator Landis. Continuing on the bracket motion, Senator Combs, you are recognized to speak.

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 312

SENATOR COMBS: Thank you, Madam President and members of the body. I'm just reading through a lot of information that I've received today, and trying to look at what kind of a deal are we getting here? And I've been back talking with Senators Raikes and Landis. Particularly interesting is the sheet that Senator Beutler has distributed, which talks about business tax incentives expenditure budgeting project. And I just was trying to correlate that with what kind of growth have we actually seen in Nebraska, and what kind of bang for the buck are we getting? And I know that when I was campaigning, I discussed a lot about LB 775, that it would be a great idea to get some disclosure. And we're moving that direction with this, and I think that's a real positive move. Because when you are giving something and not telling what that person that's giving you the benefit is getting back in return, it's kind of like going to a board of directors and saying, hey, we need 8 million bucks to do this job, and the board says, okay. So, you know, you give them the \$8 million, and then what do they do with that? And the board never hears. And then the next year, without a report, you're asked to give another \$8 million for similar good work. So I like that provision in here, where we now are going to have new disclosure requirements with project-specific credits earned and used. So I think that's good. And I think it's regionally that that's going to be done. Another positive I see is that the credits are being given to encourage higher wages. In other words, there's a provision in there to reward higher-paying jobs, which I know has been a complaint of the old system, was that, yeah, you created jobs, but they are not a living wage. So I think this is another positive aspect. Another one that I've noticed here is, companies can qualify for credits at a lower level, in other words, if you create two jobs and \$125,000 of new investment in counties with less than 15,000 people, which, that's a real...it's not labeled a rural incentive, but that kind of perked my ears up, because that applies to my district; and if they create five jobs and a \$250,000 investment in counties with a 25,000 population, which, again, will pick up more communities. So these are some things, in just glancing over the bill, I look, that seem very interesting to me. I'm still listening to the debate. I don't want to bracket the bill. I think this is a positive step forward, certainly better than LB 775. And a fourth thing is the research and

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

May 9, 2005

LB 312

development. I kind of zeroed in on that, because I was looking at some data for...we don't really reward research and development. And I work in the meat packing industry, and we have a big R & D department. We're always looking at what is going to...we're looking out ahead, you know. What is the consumer going to want, and what is going to take for us to get there? That's very critical for the success of any business. And if we're going to invite businesses here, we also need to encourage them to stay on the cutting edge. So I think R & D is a good thing to include. The bottom line, I'm still looking at that and, you know, looking at amounts of things. And like I say, I'll keep listening to the end of the debate. But overall, in looking at this, I think it's looking like a very positive step forward. And how much time do I have left? How much time do I have left, Madam?

SENATOR SCHIMEK: You have a minute and one second.

SENATOR COMBS: Okay. Would you like that time, Senator Mines? You didn't get to finish a while ago.

SENATOR SCHIMEK: Senator Mines.

SENATOR MINES: Yes, Madam President. Thank you, Senator Combs, I will. I was talking about the Cargill thing. I think every one of us in all of our districts have success stories. And I mentioned that Cargill has invested \$1 billion. And it might be interesting to note, again, they wouldn't be here but for business incentives. And just as an example, in addition to all the other jobs and those things they've created, local property tax is \$3,760,000. That's to our local school system and our counties and all the other entities. And that's significant, not just to that particular community. It's significant to all of Nebraska. One thing I have learned throughout my many years working with that organization, we are not...

SENATOR SCHIMEK: Time.

SENATOR MINES: ...just competing...thank you, Madam President.

SENATOR SCHIMEK: Thank you, Senator Mines. Senator Beutler,

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 312

your light is next.

SENATOR BEUTLER: Senator Schimek, members of the Legislature, I do not support the bracket motion, and I support the general concept of the bill. And I think I support most all of the provisions of the bill. I did want to share with you a chart that I had asked the Research staff to make up, to try to give some historical perspective on what we've been doing with business incentives over the years, since the late 1980s, when this all started in a more substantial form. And what I asked them to do was to take the General Fund budget each year, and then add to that and bisect...dissect it in a number of ways. But basically, if you look at this sheet of paper that I passed out to you, I'll kind of take it through...take you through it a little bit, because I think it's instructive, in a way. But the fiscal years are on the left-hand side. And in column B, you see the General Fund expenditures for each of those years. And then in columns C through I, I asked them to list all of the different business incentive programs that we have, all of the substantial, larger ones. And down under there, then, each year you can see how much money we spent for each of those programs. In at least one of the programs, you'll see some U's, which means we don't know how much we've spent. So the figures are generally understated somewhat. And then if you look over in column J, all of those previous business incentive columns are added up. So you can see the total business incentive expenditures in each of the various fiscal years. Then what I asked them to do was add Nebraska Department of Economic Development figures, column M, to those business incentive figures. So that if you...if you took all of the business incentive figures and add them to the Department of Economic Development, and then took that amount as a percentage of the total budget, having added into the total budget the revenues that are represented by those programs, so that in column J...I'm sorry, in column N, which I've circled for you, you can begin to see in each fiscal year the percentage of the total budget that is represented by business incentives and expenditures in the Department of Economic Development. And you can see that over the years, as a percentage, it peaked in 1995-96, which were bust times...or boom times, that is, in economic development, and then tended to drop off in more recent

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 312

years as the recession years hit us. So I suppose you can read these figures in a number of different ways, but certainly as a percentage of our budget it's starting to be a noticeable figure, and as good times return I think you can expect that to return up to 7, 8, 9 percent of our budget, depending on how much we're adding to it with this particular round of incentives. And I want to ask Senator Landis some questions about that when the time comes. But some other columns in this equation, in column Q you can see the percentage of the budget for Medicaid over time, and that's been increasing significantly. In column T, you can see the percentage of the budget for state aid to education, and that's been increasing somewhat as a percentage of the total budget. And then in column Z, over on the right-hand side, you can see how aid to higher education has been dropping pretty dramatically as a percentage of the budget over the years. So I guess the...even though I'm fully in support of the current round of incentives, I guess I want to sound a warning, I guess, with regard to how long we can go on with these...

SENATOR SCHIMEK: Time.

SENATOR BEUTLER: ...leveraging up increased incentives before we need to...

SENATOR SCHIMEK: Thank you.

SENATOR BEUTLER: ...take some further action. Thank you.

SENATOR SCHIMEK: Thank you, Senator Beutler. Senator Kremer, you're recognized to speak.

SENATOR KREMER: Thank you, Madam President and members of the body. I would just like to give a little review of some of the LB 775 projects that have been in my district. It seems like it's a misconception many times that...and we hear it and read in the paper that it's all been used in Omaha or Lincoln or Union Pacific or some big corporation, but I don't think that's true. And I know Senator Baker talked about some of the new incentives, the...exempting the sales tax on business machinery is going to be used maybe by two-thirds or three-fifths outside

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

May 9, 2005

LB 312

of the state or outside of Omaha and Lincoln. Some of the projects that have been used in my area, and maybe it's more than normal, I don't know, but the Nebraska Energy, which is an ethanol plant, \$35 million project, 30 jobs in 1995, and they're right now in the process of another \$8 million expansion with I think maybe no new jobs or maybe 1. The Iams Company, which is a dog food company which originated in Ohio and moved to Nebraska, in Aurora, in 1985, and they had an expansion of \$20 million and 30 jobs in 1996, and they have just announced a new expansion of \$12 million and 30 more jobs that they will be starting this spring. They now employ over 200 employees. They use about 2.5 million bushels of corn in the dog food. They have a plant in North Carolina, the one in Aurora, and the one in Ohio, and I think the one in Aurora is the largest in the world. Clay Mathile was the man that first started the company in Ohio and moved the plant then, some of it, to Aurora; was just a great corporate citizen. He has contributed a lot of money to the community. He sold the plant to Proctor and Gamble about, I think, four or five years ago, and just recently we had a project in Aurora where he pledged a big...large sum of money and he challenged Proctor and Gamble to match that and they did because it's been...it was such a good purchase that they had made from him. So it's been excellent for our community. The Delco Incorporated is a \$4 million, \$800 million project, 147 jobs. It was in 1997. Platte Valley Energy, which is in Central City, which is about 18 miles north of Aurora, a \$55 million project with 32 new jobs that was done in, well, just this last year. They just started production in June of this year. So you can see that it's been utilized and each of these plants are expanding. We have a seed corn plant that's expanding, about a \$2 million, I think, or \$4 million project now, and I'm not sure that they're even going to use LB 775 money. But not only do we attract people and the competition with other states, but I think it's very important that we help the companies that we have to expand and to stay here. With the Iams situation, I think they expanded some production lines in Ohio this year, but in two years they plan on...the new expansion of \$30 million, or of \$12 million and 30 jobs, is going to be in a distribution center and they are planning on expanding the production also within the next two or three years. So I think it's very important that we can compete with

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 312

these other states of North Carolina and Ohio and just in that project alone. I have a magazine here that it's Advantage Arizona, it talks about, and they had a couple quotes in here. It says, while the value of incentives can be highly contested,...

SENATOR SCHIMEK: One minute.

SENATOR KREMER: ...they are a normal part of conducting expansion and relocating projects. Did you say one minute or...?

SENATOR SCHIMEK: Yes, I did.

SENATOR KREMER: Okay. It's a very important part. Also, another quote is incentives are a normal part of conducting business and are or should be addressed by all locating, expanding, or contracting companies; incentive...a deliberate policy to set...or set of policies designed to make a location more attractive to particular investment decision makers. It's so important that we can have these companies attracted to Nebraska because that's our jobs, that's our tax base. And I know we all talk about the burden that property taxes are, especially on the ag real estate. In the times past that we've had a big percent of our schools are funded by property tax from agricultural land, that is shifting to where we're...

SENATOR SCHIMEK: Time.

SENATOR KREMER: ...we're getting at least 50 percent on other industries, or more. So this is one way that even that we aren't getting our...

SENATOR SCHIMEK: Time, Senator.

SENATOR KREMER: Thank you very much.

SENATOR SCHIMEK: Thank you, Senator Kremer. Senator Chambers is next, followed by Senators Connealy, Wehrbein, Cunningham, Johnson, and 14 others.

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

May 9, 2005

LB 312

SENATOR CHAMBERS: Madam President, members of the Legislature, Senator Redfield, this is not chicken. In your day, when chicken was engaged in, it would be two vehicles, both of which could do tremendous damage, either to the other. This is more like a herd of buffalo against moi, the prairie dog. I'm standing on principle. I know that I'm going to be steamrolled over, just like on LB 775, and the arguments I made against that bill came to fruition. We have people whining and grumbling about it now who supported it then. The same argument Senator Jensen is giving now were given for that bill. It was going to keep the young people in this state, it was going to provide jobs, and what was that other one...oh, and you can't wait. He's now giving the same arguments and they are as wrong and pointless now as they were then. Senator Landis is not playing chicken. He knows that this motion will not be successful. The whole purpose of this is to give you all a chance to pay your devoir or your respect to business to show that all the horses are hitched to the wagon, they're bending to the harness, and they are eager to pull that wagon and show how devoted they are to business. But I'm not. I'll take my lumps, I'll take my whipping. That's a part of being in this Legislature and being on the right side when everybody else is wrong. Senator Landis mentioned increase in the minimum wage. Who has fought off minimum wage all these years? Business. The ones you all are kowtowing to now, they're the ones who won't allow a minimum wage increase. And I say "allow it" because they own this Legislature. Oscar Wilde was writing in one of his essays that he could understand if poor people and others who were not so poor but were supporting all of the so-called better classes were going to benefit from what they were supporting, but they were not going to benefit, and it boggled his mind. That's what I look at on this floor. You all are not going to get anything. Some of you all will get jobs when you leave here, but that's about the size of it. They can't pay me enough to get me to go along with something I know that's wrong. I would expect that you're going to be served filet mignon this evening for dinner to reward you for what you're doing here. Businesses come to Nebraska for a reason other than these benefits. Why do you think Union Pacific could leap and come here already? They had reconnoitered. They had seen that what is in Omaha is what they need, and had there been none of these benefits they would have

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

May 9, 2005

LB 312

come anyway. These big companies aren't able to just decide in one minute that tomorrow we're going to go to Omaha. They had planned to come here, but they know they have such a cast of suckers that they don't have to worry. We always say that one Legislature cannot bind a future Legislature. These big companies have smart lawyers. They wanted this stuff done on a contractual basis so that they could bind future Legislatures. The U.S. Constitution, the Nebraska Constitution prohibit any laws that impair the obligation of contracts. So when those big business people and Reagan, Bush and others are criticizing lawyers and telling all of the demeaning lawyer jokes, they don't mean the kind of lawyers that work for business and can get Legislatures to bind themselves because they're so foolish and shortsighted. The quality of life has not measurably improved in this state and that does trouble me. But like I say, I will take my lumps. I'm accustomed to that. But I'm not going to stand on this floor and just roll over and let all of this stuff go by simply because the Legislature has been coopted, and coopted it has been. When I first came down here, there were people who made it appear that the Legislature had a conscience.

SENATOR SCHIMEK: One minute.

SENATOR CHAMBERS: All of that's long gone. Business rules. The business of business is business, and that business is to make as much money as possible with as little expenditure as possible. The business of America, said a former President, whose name you might know but you won't know of him, the business of America is business. Maybe for some people, but I have not fallen into that. Maybe I'm just too old, maybe I'm just too stubborn, or maybe I'm just too idealistic and principled. I don't believe that the welfare of the people ought to be sacrificed to the greed of business, and that's what we're looking at and the "ruralies" are going to find out they were suckered once again. Mark my words. The pockets of poverty will not be touched. I guarantee it and so does business. Thank you, Madam President.

SENATOR SCHIMEK: Thank you, Senator Chambers. We go now to the next speaker, Senator Connealy.

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 90, 309, 312

SENATOR CONNEALY: Thank you, Madam President, members. LB 312, as amended, is a combination of different bills, and we talked about Senator Baker's bill to give an exemption for machinery and equipment on sales tax. Another provision is, at least, an amended part of a bill that I introduced, LB 309, that provides a microenterprise business tax credit program and it would give a refundable tax credit to a "microbusiness," and a "microbusiness" is a business with five or fewer employees, and the business would have to be in what we term as a depressed area of the state, part of the state that has had a decline in population or in a federal enterprise zone. It would allow a program for those small, small businesses that I think that spending a little bit of money on can oftentimes really pay off benefits. We went ahead and capped this part of the bill, as we did with a couple other sections of the bill also, at \$2 million and, you know, I think we could spend more, but I think at least that this does have, as Senator Landis had mentioned actually in the beginning, you know, something for the really small business to what we traditionally do in incentives, the big package. This is a combination of different ideas and then as we put this together with LB 90, coming up next, it will be a package that will give our economic developers a lot more to deal with. The section that is back to the microenterprise actually will be run by the Department of Revenue. It will be able to put together a task force or a committee to help Department of Revenue with this, and it will be capped. I think we'd start a little business in a small town, give someone a leg up, it can provide a tremendous amount of benefits to those small towns and to the neighborhoods and the cities. I believe that this part of the bill is really something that someone...that all of us can talk about as providing a broader base for economic incentives here in the state of Nebraska. Thank you, Madam President. Thank you.

SENATOR SCHIMEK: Thank you, Senator Connealy. Senator Wehrbein, your light is next.

SENATOR WEHRBEIN: Thank you, Madam President, members of the body. I do want to, before I forget about it, I want to thank Senator Beutler for having this handout that he did across the

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 90, 309, 312

gamut of the budget versus the various incentive programs. It's a good...it's a good reference, and I was interested in some of the details, and I thank him for thinking of that and having that done. I simply...I oppose the bracket motion. I simply wanted to reiterate a little bit of what some of LB 775 benefits have been to my district, specifically to Nebraska City. Many of the things that have happened in Nebraska City in the early nineties were the result of LB 775. In fact, I even would claim some of the benefits of Cargill coming to Blair, because Cargill originally had looked at Nebraska City. But I know that those were real incentives for those to get started in Nebraska, and especially the ethanol plants that ended up at Columbus and some others. So we've had those benefits, realizing it's subjective in some people's minds and some would have come anyway. But in order to have a climate that is receptive or is conducive to business, whatever state it is, there needs to be things done like this and I think, in spite of some of our reservations, in spite of the fact I don't like being pushed into some things, it is a fact of life. And until the U.S. Congress decides they're going to do something about it, I think we have to stay in the game just like every other state is doing. This, I think, represents a good consensus of moving forward. Not everyone is happy, as I understand it, but I think it does provide something that will be useful. The only other thing I want to say is about Senator Connealy's...the microenterprise. I do think there's some opportunities in parts of rural Nebraska for research and development. The microenterprise amendment that Senator Connealy had in there, LB 309, I think is one of those areas that's going to help get some entrepreneurial spirit fired up, perhaps, in rural Nebraska in the R & D area. And I want to particularly take note of that because, even though every small town may not necessarily thrive and they might not necessarily die, but they may not necessarily thrive unless there's some local spirit, and we have some things in LB 90 that will incent them, and there's some things in this that should incent them, particularly in the research and development, that I think will move us forward. So I think we have a package that, between the two bills, LB 312 and LB 90, which we'll talk about probably tomorrow, that I think will help us. On a side note, there will be a study we'll probably talk about more this summer to look at all the incentives for rural development that we're having to

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

May 9, 2005

LB 312

see if we can focus even more than we're doing. In some ways, this may be a broadside, but I think it is necessary as we move forward. And as we see some of the economic development issues come forward, we'll be able to perhaps focus even more on some areas that hopefully will come forward as this bill starts to take effect, and see if there's some areas that should be emphasized. So I oppose the bracket motion and I urge you to consider this moving forward, because I do think it is...has broad enough appeal that it is going to help all parts of Nebraska, which is what some of the criticisms have been in the past. Thank you.

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Thank you, Senator Wehrbein. (Visitors introduced.) On with discussion. Senator Cunningham.

SENATOR CUNNINGHAM: Thank you, Senator Cudaback and members. Well, I also rise up in opposition to the bracket motion. I've always been supportive of the business incentives and yesterday, I don't remember if it was the Lincoln or the Omaha paper, but there was a great article in the paper, and maybe that's been addressed already, but the article went on to tell in the years since we've had the LB 775 incentives how Nebraska has been ahead of the rest of the nation in job creation. And I think we need to continue to move in that direction. We need to keep up with the rest of the nation. We've, as been stated earlier, we've been falling behind. But so often, back in the district I represent, many of my constituents feel that it's just incentives for big business, it only affects Omaha and Lincoln and it isn't helping rural Nebraska. And I always have to defend the incentives and I have to tell them that we have many programs in rural or outstate Nebraska that we depend on Omaha and Lincoln being strong. We very much depend on them being strong and we have to look after the whole state. I can remember last year when there was a rally on the north steps of the Capitol and I read in the paper some of the comments that were made that day, and Superintendent Mackiel from Omaha was against LB 775, and it rather upset me. I even called the superintendent to tell him that I felt we would have far less money for state aid to schools if we got rid of LB 775, because

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 90, 312

we need to keep growing Nebraska. But we need to work on the incentives we have and they've done that in LB 312, and we need a new variety of incentives for urban and rural Nebraska, and this bill and LB 90 that goes along with it accomplishes those goals. Now one of the problems with LB 775 was in the reporting and there's reporting in this new bill that I think will alleviate some of that problem. There's also wage requirements in the new bill that I think are very, very good, although I will tell you in District 40, where we do have LB 775 recipients, the ones that are out there, the wages paid in those businesses are actually pretty good and higher than the average in the area. So, even though we're putting a wage component in this, I think most LB 775 companies already paid a good wage. And then in LB 312 and LB 90 there's many components that are really going to benefit outstate Nebraska. I think that we need to keep moving forward. I think LB 312 and LB 90 will help us compete in the national and worldwide economy. I think that these bills are good for business because they will create jobs, and they are also good for the workers because the jobs that are created are going to be better than the average job. So I do stand up in opposition to this bracket and very much support the passage of LB 312 and LB 90.

SENATOR CUDABACK: Thank you, Senator Cunningham. Senator Johnson, followed by Senator Brown and 15 others.

SENATOR JOHNSON: Senator Cudaback, members of the Legislature, this past weekend you could see page after page of graduates from our university system here in the state. One of the most depressing thing, of course, is that a very high percentage, and we're one of the highest in the United States, that these people are going to move out of state after receiving their degrees. Maybe we haven't been as successful as we could have been, but I might ask the question how bad would we have done without the incentive program that we have had? A couple of other things that I've heard over the years are this: Why don't we have some disclosure? Where's the money going to go? We deserve to know as the people of Nebraska. Well, it appears that we have hit on quite a good compromise to answer that question, and so hopefully now that question will go away. The other thing that we've heard time and time again is that we do not have the rural

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

May 9, 2005

LB 312

incentive as part of it, and that this just favored Lincoln and Omaha, particularly Omaha. I might say what's wrong with helping Omaha? If we help Omaha, we help the whole state. But now there are direct provisions to help the rural areas. But I might show you that is already into effect. In Kearney County, which is about 6,000 total residents, 1,250 of them come to Buffalo County to work every day. Now what's been going on in Buffalo County? First of all, I'll back up for just a second, what's been going on in Kearney County itself? This is one of the more successful ethanol plants that has been built. It's between Axtell and Minden. I can tell you this. A couple of years ago, when they were...tried raising the money for this, there was a lot of arm twisting going on because this wasn't so sure that this was going to work. It has worked extremely well and now we can look back and see how, quote, good an investment it was. I don't think it would have happened without LB 775's help. In the city of Kearney itself, one of the best businesses we have is Cash-Wa Distributing. When I first came to Kearney, Cash-Wa Distributing was under the Kearney viaduct. If you come to our city now and see the distribution plant that they have, you'll see it is a state-of-the-art distribution center. They are also in North Platte; Lincoln; Cheyenne, Wyoming; and Kansas City.

SENATOR CUDABACK: One minute.

SENATOR JOHNSON: They've invested \$3.5 million, they have 400 people that work in this state. These are quality people with a quality business doing a great job. Somebody gave me maybe the best idea about these incentives awhile back when it questioned their value. He said this: One-half of something is a lot better than all of nothing. And I think without the incentives we would have all of nothing. Thank you.

SENATOR CUDABACK: Thank you, Senator Johnson. Senator Brown, followed by Senator Janssen and others.

SENATOR BROWN: Mr. President, members, to talk a little bit about the difference in the environment, in the business environment, in the time between when we first adopted incentive legislation and now, I'd like to share a story with you. There

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 312

is a company out of Texas that a friend of mine represents that I have been urging to consider looking at Nebraska for some time, and we've had cordial conversations but not intense conversations. In Texas, they do not have an income tax and so they are trying to come up with billions of dollars at the state level to take over the cost of education, K-12 education at the state level, so in their house there was legislation introduced to create a surtax on this particular industry. Everyone was in an absolute lather about it, except for people who understood that it was done mostly symbolically and it was not going to stick. This particular kind of surtax was not going to remain in effect, but it was passed by the house. And the company took it, even though they knew that it was not going to stay there, took it as a real slap in the face and they have, since that time, began having discussions with us in Nebraska somewhat more in earnest. And so it's easy to see how our policies can make a real difference with companies in their belief that they are appreciated, needed, and if we slip up, if our incentive legislation isn't quite there, if we make some move that is seen as being retaliatory towards a particular industry, there are individuals, there are site selection individuals and economic development people from across the country, that are more than willing to get quite aggressive in their recruitment of these companies to...away from Nebraska. We are in a very competitive environment and our tools must be as competitive as possible, but also as varied as possible. We have to have economic development incentive legislation that works in the big cities for big companies, but also that works in...for small companies. We have to have economic development legislation that works for existing companies, as well as in recruiting companies. It's a very delicate mix and I think that the Revenue Committee has worked very hard to come up with something that addresses all the different components, that there are pieces there. I'm particularly interested in the piece that allows for some incentives for companies that create telemarketing jobs, in-bound telemarketing jobs, in small, very small communities or from home because a lot of those jobs can have a huge impact in rural areas and in small communities. And so I'm glad that...

SENATOR CUDABACK: One minute.

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

May 9, 2005

LB 312

SENATOR BROWN: ...that we have put together something that allows us to address all the different aspects of economic development--recruiting, maintaining jobs, maintaining companies that are already here, expanding companies that are already here; looking at both urban and rural environments, big companies, small companies, medium-size companies; what we can do that's going to address everyone. And I think that LB 312 does that and I very much appreciate that the Revenue Committee has spent so much time at arriving at something that we can live with. Thank you.

SENATOR CUDABACK: Thank you, Senator Brown. Senator Janssen, followed by Senator Erdman.

SENATOR JANSSEN: Thank you, Senator Cudaback and members of the Legislature. You know, it's too bad but we are in a competitive market and I realize that. Does it cost too much? Probably it does. You can have arguments on both sides. I know that my district, my legislative district, has been the recipient of some of these tax credits and it has helped. It's helped quite a bit and I think most of us, especially in the eastern third of the state, can attest to that. There's several sections in this bill. The portion that I had introduced is Section 44, subsection (e). It gives the cities and villages and counties that have adopted a local option sales tax advanced notice of claims for state tax refunds under the act, and time to time that payment for the refunds within their local governments in their budget cycle. The bill provides that if a claim for a refund of sales tax more than \$25,000 is filed by June 15 of a given year, the refund shall be made on or after November 15 of that same year. If the claim is made after June 15, the refund is not due until the following year. Under the current law, a refund is taken out of a city's monthly sales tax payment collected by the Department of Revenue. The city has little, if any, advanced notice of that refund. Because of the lack of the notice, cities are not able to budget for that loss of revenue. If the refund comes late in the budget year, it can be especially difficult to adjust to the under-expected loss of revenue. This section is designed to let the local governments know when a claim is made and give the local government time to include the payment of the refund in the budget. This portion,

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

May 9, 2005

LB 312

in my opinion, needs to be adopted. Thank goodness it was included in this proposal. There are a lot of different things in LB 312 and this is one portion that will help our local governments adjust to those refunds being given. I just wanted to express one of the sections that is in there. I think it is a very important piece of legislation that is in LB 312. And with that, I would thank you very much for the time, and I'd give the rest of my time to Senator Landis, if he would like to have it.

SENATOR CUDABACK: Senator Landis.

SENATOR LANDIS: Thank you, Senator Janssen, members of the Legislature. Senator Janssen brought us that issue to try to resolve some of the impacts that occur in the local level when you have a tax incentive program that alters the flow of income in a community. Senator Comb asked me...Combs asked me an interesting question and that was, look, we could...we're told what the fiscal impact of LB 312 is; do we have a way of quantifying the bang? Yes, we've got the idea for the buck, but what about the bang? If you take a look at the new tier 1, which is an all new idea--the ten new jobs and \$1 million in investment--their best assumption is it will be used 107 times over the space of the five years that will be on...it will be up and running. They assumed ten new projects of the 3 and 30, so that means 300 new jobs and \$30 million of investment. They expect four uses of the 30 jobs with no new investment idea, so that's 300 new jobs. Tier 4, 100 new jobs and \$10 million in investment, so that's actually 1,000 new jobs and \$100 million in investment because they see that happening ten times. Then, for the investment only, they expect ten uses of that, which is \$30 million. And if you do that and if you figure those out, I've got to do the math here because it's figured wrong in this one, it's 2,000...about 2,500 jobs...

SENATOR CUDABACK: One minute.

SENATOR LANDIS: ...and about \$267 million of investment. At the absolute minimum amount of return, the bill would be something on the lines of 2,500 jobs and \$270 million of investment. I'm sorry, it's more than that. It's \$300 million

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

May 9, 2005

LB 312

there, \$100 million, that's \$400, \$507...I'm sorry. It's about \$600 million of investment. So if you wanted the return of that, 2,500 jobs, \$600 million of investment. That's the bang side of the equation.

SENATOR CUDABACK: Thank you, Senator Landis. Further discussion? Senator Erdman, followed by Senator Mines.

SENATOR ERDMAN: Thank you, Mr. President. About 3:45 I decided I should engage in or join in this conversation and 15 speakers later here we are. I'm sure Senator Landis remembers legislative history as well as anyone here, and there was a certain individual that offered a kill motion on his own bill and that actually succeeded, and I think he was more surprised than anyone else. But I'm sure Senator Landis has done his homework, and I'm going to rise in opposition to the bracket motion. You know, it's interesting to listen to the discussion on the economic incentive packages as if the package itself is some type of miracle or manna that falls from heaven. In reality, you have to have communities or leadership in order to be able to utilize them. And so it's not only a matter of the fact that we're going to put something or, hopefully, with the passage of LB 312 and some of the other proposals, we're going to give the tools, but we have people out there that know how to utilize them. And I look at a couple of the communities that I have in my legislative district and, you know, you kind of have to be progressive, and some of them have taken advantage of where they're at in location and others have had the opportunity to utilize the tools that were available. This specific example has done both. A city of Sidney example, was an aggressive community that in the late eighties and early nineties they were facing a lot of the similar problems that rural communities were facing. And yet, as you look back over the last ten years, they're actually one of those rural communities or rural counties that have actually grown in population. I don't know how many times I've heard our Speaker get up and rant and rave about how many of these communities in rural communities and counties are losing population, but this is a county that is actually gaining population, and I think that's a positive. In addition to gaining the population, they're actually gaining the number of nonfarm employment opportunities to the tune of about

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FLOOR DEBATE

May 9, 2005

LB 312

13 percent over the last ten years. So the number of jobs that are available are growing at a substantial rate.. So part of it is the fact that they have these tools available. Whether it's the current incentive packages that we have which we would call LB 775, whether it's the community development block grants, or the local option sales taxes that they have under LB 840, or other tools such as TIF, I mean, there's truly some tools out there. And for us to stand up on the floor and say, well, you know, we just pass LB 312, things will be great, we have to pass LB 312 to give people the tools. And we have people out there, like the individuals in Sidney, that have been successful, that have been able to accomplish great things for their communities. So they've done these things to help the employees, the employers, and they've created this opportunity. We've seen a 13 percent growth in employment opportunities in Cheyenne County, but it's also benefited the areas that we were talking about earlier today, and that's valuation. Senator Stuthman was talking about losing valuation depending upon what public policy we pass. In this example, Cheyenne County's valuation has almost doubled in the last 15 years, and what that has allowed the community to do, their overall levies have gone down from about \$2.60 to \$2.14, so that's almost .50 per \$100 of valuation. So, at the same time when you're looking at, well, how does this benefit the community as far as employment, it also benefits the community by increasing the valuation, which then allows a lower tax burden to be placed on everyone that's there. So you've lowered the burden, but you've expanded the base, and so that's a benefit as well. So it's not just the fact that we're able to hire employees in a place like Sidney, Nebraska, and to keep people in rural Nebraska and provide for those opportunities, but it's also the fact that by doing that you've created a greater benefit to the entire community. The other thing that's interesting is that when you compare the number of houses that have been built in these communities in Cheyenne County over the past, say, five years or seven years compared to where they were in the late eighties: they built 2 houses in 1989 in the city of Sidney; they built 1 in 1990; between the year 1996 and 2004 there were 400 hundred homes built in the Sidney community.

SENATOR CUDABACK: One minute.

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FLOOR DEBATE

May 9, 2005

LB 312

SENATOR ERDMAN: Now, generally, I don't know about you, but you generally don't live in a place where there's no opportunities and especially go build a home where you're not intending to live. And so you've seen not only benefit to the community as far as the jobs that are available, but you've seen the local economy grow because the individuals have had an opportunity to hire local contractors to do those things, to provide those services. So it's a bigger deal than that, but it also comes back down to what I started with, and that is you have to have people that know how to utilize the tools. You absolutely do. And so from that standpoint, I think when I look at the communities that I represent, look at some of the opportunities that they have...that they have secured for themselves, it's because of their attitude and understanding what tools they have and how to utilize them to benefit the citizens in their communities and their counties. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Erdman. Senator Mines, followed by Senator Engel.

SENATOR MINES: Thank you, Mr. President, colleagues. It sounds like most of us are singing the same song, and I'd like to just talk a little bit about my experience with economic development and how incentives are so very important in Nebraska's future. I've been involved at the local level with the chamber and the city and those kind of things and, frankly, you do what you can with the tools that you've got. And at the local level you've got tax increment financing and you've got LB 840, which allows you to participate with a sales tax that will help offset costs for attracting businesses. It's not a great deal but it's something. And after working with a Cargill, as an example, a worldwide company, and working in the background with them in attracting...in watching them attract business to their company, I had a whole new perspective on economic development and economic growth. Truly, it's a world economy. Cargill's campus, right now they have a German company, Degussa. They've had a Japanese company, Mitsubishi Chemical. Dow Chemical has partnered with them, Midwest Lysine, and they are working with others, Korean companies, and have had, you know, have met Turkish delegations. They are seizing opportunities to partner

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 312

with worldwide companies to come to one of their facilities, and it's not Nebraska always. You see, there are wet-mill facilities by Cargill, as a single player. They compete internally with one another. There's Eddyville, Iowa; and there's Dayton, Ohio; and there's Memphis, Tennessee; and those four plants compete for these world-bound companies and attract...try and attract them to their campuses. And without incentives, Nebraska doesn't play in that...in just that particular business, and it's similar in many other businesses in Nebraska. If we don't have incentives, we don't play, and the door isn't open and this is, simply, it's a common-sense approach that starts with small companies, works its way up to significant corporations, and I believe that this is the right fit for Nebraska at this time. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Mines. Senator Engel.

SENATOR ENGEL: Mr. President, members of the body, it's been a good discussion and I simply do not support the bracket bill, but I do support the bill itself. The...one thing I like about the new incentive plan is the disclosure. That's been one of the biggest complaints out in my area. Where I live, LB 775, without it we'd be very stagnant up there, but we've had a great growth over these last several years. We've been competing with Iowa and South Dakota. We're right there and at that border, at that juncture, and South Dakota, without their income tax, and Iowa, with the new incentive plans they have and they're doing that to compete with us, so we have to stay in the running. Now, in South Sioux City, we brought a company over from...kept them from going to Iowa, the Gerkin Windows, and they've added 160 new jobs in our area, in our community. We have a light form company and they've added 40 new jobs, and these are all good-paying jobs with good benefits. Great West Casualty, a big insurance company up there, have added some more facilities and more jobs and all good-paying jobs. BPI, who is attached to but not a part of Iowa Beef Packers, they had a \$5 million expansion up there and added 15 new jobs and those are the jobs they're looking for machinists and welders there. And...but there, the problem there now are finding...find the employees, and that's where I think the training program will come in later on. Because to get these people in here, we have to have...we have a

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FLOOR DEBATE

May 9, 2005

LB 312

good work ethic in Nebraska, but we have to have a trained work force. But those are all good jobs. We have Mallory Industries in South Sioux City who would not be there...and it's a Canadian company...they would not be there in Nebraska if it was not for LB 775 credits. So I need LB 775 has had some shortcomings over the year, but without it I don't know where we would be in the state of Nebraska. We would be really going backwards instead of holding our own. In order to go forward, we do need new incentive plans, and that's what this is all about. We have to update ourselves so we can compete with these other states. No matter whether we like it or not, that's what it takes to bring industry and jobs into our states, are these incentive plans. And so if we're going to be in the running, we have to get in the running and we have to offer something that the other states are not offering. We, like again, we...one thing we always have in our favor, we have a good work ethic, we have a good environment for to raise our children, we have a good school system, but we do have to have other benefits in order to bring in these good-paying jobs. So I certainly do support these incentive plans and I'm anxious to hear about them and all this discussion. And with that, I would return the rest of my time to the Chair. Thank you.

SENATOR CUDABACK: Thank you, Senator Engel. Senator Flood.

SENATOR FLOOD: Thank you, Mr. President and members. You know, I support LB 312 and I want to thank Senator Landis and all the senators, the Governor and certainly the business community for working so hard on a bill that will do good things for Nebraska. I always got frustrated before I was in the Legislature when people from rural Nebraska would say, oh, that's just good for Omaha, or that's just good for Lincoln. This is good for Nebraska, and if you have any questions in rural Nebraska, drive into Stanton County and look at what we have at Nucor Steel in Senator Connealy's district. We have people with just a high school graduation earning an average salary of \$77,500. On top of that, you'll find full health insurance benefits. You'll find \$2,700 each year for four years for any of their kids to attend a postsecondary institution. That's economic development that has grown because of LB 775. In the mid-nineties, they added a \$90 million melt shop. Just two months ago they

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 312

announced an additional two to four hundred jobs over the next ten years in the drafting department. Nucor Steel is the epitome of the true corporate citizen that understands paying people well in rural Nebraska does more for themselves and the community. God forbid, I mean I was in 7th grade when LB 775 passed. (Laugh) Get your calculator out on that. And after graduating from high school, with 33 people in my class, I can tell you that only 2 of us live in Madison County. A majority of my classmates have moved out of the state of Nebraska. And they didn't move out because Nebraska wasn't a good place to raise a family, and they didn't move out because they...the communities weren't safe. They moved out because they needed a job. They needed a career that would help them live in that community that they wanted to live in and raise their kids in a safe area. They couldn't afford, apparently, to stay in Nebraska. LB 312 takes a significant step towards creating those opportunities and making it easier to bring back the people that we lose through out-migration. I've heard some talk before this bill came up today that we're going to give tax breaks to companies that do what they were going to do anyway. I 100 percent disagree with that. LB 312 is bold, but better yet it's aggressive. I look at it this way. There's a cost to not doing this, there has to be. With Iowa so aggressive, Kansas so aggressive, our competitors in Colorado very aggressive, if we stick our head in the sand and do nothing we'll watch as we watch business opportunities dwindle away for the state of Nebraska. And for that reason and for the reasons I mentioned above, I support LB 312. I thank the people that put it together and I look forward to seeing this pass this session. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Flood. Senator Dwite Pedersen, followed by Senator Stuhr, Baker, Landis, and Redfield, and others. Senator Dwite Pedersen.

SENATOR Dw. PEDERSEN: Thank you, Mr. President, members of the Legislature. I'll only take a few minutes. This is my 13th year in the Legislature. When I was running for office the first time, LB 775 was mentioned to me and they said how do you feel about LB 775, and I said I'm in very much support of it. I don't have to repeat all the things that everybody else has said

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 312

in here. It would be redundant. But for all them reasons, I am supportive. But I want to add a little bit...something else to the conversation, and that is that when these people move to this state to take these jobs, which we want to get here, don't we also want them to live in the communities where they want to live? I've been very disappointed and it's been a hard pill to swallow for the Omaha Chamber to support Omaha annexation of my hometown, Elkhorn. I do not bring this up as a joke or anything funny. It is true that when these people move to town, a lot of them want to live out of town and in the small communities around, and Elkhorn and the small communities around the edge of Omaha have a lot of them people. And yet, the Omaha Chamber has made it a very big priority to make sure that Omaha can grow and those of us who live in these areas have no real understanding of what we are stopping. Would we lose our identity? No, I don't think we would. We would lose our services and we would pay more taxes. And you want us to lay down and say that's all right, that's fine? None of you would do that, and I don't think those in the Omaha Chamber would do that. We need more understanding and I think there ought to be more thought in what a lot of these people would like to have when they come to our state, if they're going to want to live in Omaha or they're going to want to live in a quiet community on the outer edges of Omaha. It has been mentioned that we would turn into a...same thing as happened in Saint Louis and some other cities, and the fact of it is that in looking into that, them cities and some of that growth that's happened down there, that that is not happening. I was told it would be the great white flight of Omaha if we didn't. I said, I think that's wrong to move that way anyway. We need more understanding and I think there should be some thought into bringing these businesses to town and wanting these people to move here and then telling them they can't live in the community they want to. Thank you.

SENATOR CUDABACK: Thank you, Senator Pedersen. Senator Stuhr, followed by Senator Baker.

SENATOR STUHR: Thank you, Mr. President and members of the body. I, too, am opposed to the bracket bill and I do support the concepts that are contained in LB 312. I do believe that we are at a crossroads in Nebraska and it's been repeatedly said

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 312

this afternoon that we need to do all we can to improve our economy and also to try to retain our young people in our state. And I did run across some statistics talking about population changes in the Midwest, and from 2000 to 2004, in that age category of 25 to 44 years of age, we suffered a minus 2.8 percent. So I think we need to do all we can to promote more job opportunities in this state, create more businesses, and I think that this is certainly what LB 312 will do. We have many different provisions in LB 312 and I think that's very good because it does help our state, which is a very diversified state. A couple things: Being from rural Nebraska, I'm always interested in some of the programs that might be found that would really help our rural areas, and many of these have been shared by my rural colleagues, but I wanted to just repeat a couple of those; that companies can qualify for credits if they create two jobs and \$125,000 of new investment in counties with less than 15,000 population. And that provision alone, I believe, will I think impact maybe between 60 and 70 of our 93 counties. So I think that will be very helpful. Also, if they create five jobs and \$250,000 investment in counties with less than 25,000 population, so this again is another tier that could be very helpful. The statewide sales tax exemption on manufacturing equipment, I do think that we...this will be very helpful. Thirty-eight other states exempt this tax, so this would certainly be another tool, I believe, in Nebraska's toolbox. Sharing some of the projects that were qualified under the LB 775 in my district, I actually had over 12 projects and I'll just review some of those: in York County, Abengoa Bioenergy, 105 jobs, and this started back in 1997; Alltel was also in York and Seward, that was about 31 jobs; First York Bank Corporation, a \$3 million investment and 30 jobs; Kroy Building Products, this is a company that's been in the York area for a number of years. One of the newest that did qualify was Pioneer Hybrid, and if any of you have the opportunity to visit this new business I think you would find it very interesting, and that actually had an investment of \$3 million and 30 jobs. Since York County is a very corn-producing state (sic), I believe the location of this industry, this seed corn plant, the location is certainly very beneficial. Also, in Seward...

SENATOR CUDABACK: One minute.

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FLOOR DEBATE

May 9, 2005

LB 90, 312

SENATOR STUHR: ...County we had a number of projects. Hughes Brothers, which has also been in that, in Seward, for a number of years, made a \$5 million investment and 30 jobs. One of the newest, Longview Fibre from Seward, a \$7 million investment and 30 jobs. And I've had the opportunity to visit that new plant and they produce boxes, and I thought that's rather unique, but many industries do require boxes of all of the manufacturing parts and things that are made in this state, and so they can go to Seward, Nebraska, order their boxes, and have those mailed. So I do believe that there are a number of things in LB 312 that will strengthen our economy and also help employers compete with other states. With that, I conclude my remarks.

SENATOR CUDABACK: Time, Senator.

SENATOR STUHR: Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator. Thank you, Senator Stuhr. Senator Baker, followed by Senator Landis.

SENATOR BAKER: Thank you, Senator Cudaback and members. I'm going to go back over some of the figures, and I also want to keep focused on what our goal is here. We obviously want to pass LB 312 and we're not really considering the bracket motion all that seriously, but we want to pass LB 312 this session. We have, as part of the package that the Governor and his staff and a large group of senators has worked on, LB 90, and then the jobs training act also fits into this whole process. So we've got to maintain our focus here on what our overall goal is. Certainly this is the first component. Within that component of LB 312, though, I want to go back and sort of summarize what happened when the ethanol plant out at Trenton put a notice in the paper they were going to hire 35 people, and these jobs obviously have benefits and so on with them. There's some question some...that rises occasionally about whether we have the work force available in some of the smaller rural counties out there. With 35 jobs at the plant, had 250 applicants for those 35 jobs, and they ended up hiring people. The principals of the plant came to me. They were concerned at one time about that labor pool. Came to me and said, we hired a person with a

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FLOOR DEBATE

May 9, 2005

LB 312, 695

master's degree from Cal Poly to work in the lab. Had a number of people with bachelor's of science degrees in various areas that they hired, and some of the people they turned down were absolutely outstanding candidates. So we have that job pool out there in these rural counties and I must add that it's not all local people. I believe a couple people moved from Wyoming and maybe one from California and so on, but they wanted to get to Nebraska and jobs. We have that work force out there; now we just need to provide them the jobs. And part of this package of bills that we're going to consider in the next few days here includes the job training act, which is also a very important part of this overall scheme. And with that, I'd like to point out the costs involved. This, actually, LB 312 has very little fiscal impact to begin with. Basically, the first year, only thing that's on the fiscal note is the...my part of this bill, LB 695, the sales and use tax on the machinery and equipment manufacturing, which is \$8 million, because this does not take effect, of course, till January 1 of '06. The second year our total cost is project \$21 million, of which \$15 million, \$15.55 million, is the sales and use tax exemption. So the rest of it is dealing with tier 1. As Senator Stuhr said, I hope this is used more than we think, but I do believe it's going to be used a lot in rural Nebraska. When you're talking about only creating two jobs and \$125,000 investment, you're going to see a lot of takers. I really believe that. You're going to see some people say, well, if I can get some job credits to help me out here, tax credits and so on, let's do it. And then I want to go back to the fact that, to me, this is a bill that's focused on rural Nebraska. That's been a goal of Governor's Office and one of mine. And then obviously Senator Connealy, the rural senators on the Revenue Committee have always said we need to focus a big part of our attention on rural Nebraska. That leads me to the statement the Department of Revenue gave us on the estimates of who's going to benefit from the sales tax exemption on this machinery and equipment. And I believe I mentioned this, one of the talks earlier here, but two-thirds to three-fifths is what they estimate the exemption will be used outside of the Lincoln and Omaha metropolitan areas. So we're talking well over half of this is going to be channeled toward the rural counties and to me that's a big part of the puzzle here, is how we actually focus our attention on small

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 90, 312

businesses, which this does. And I know I'm repeating myself, but the companies now that are qualified for LB 775 have to go through the process of go ahead and pay the sales tax on those, that business equipment, machinery and equipment, and then work through the process of LB 775 for a refund.

SENATOR CUDABACK: One minute.

SENATOR BAKER: What my part of the contribution to LB 312 does is actually change the tax climate, and it should free up some hours over there in Department of Revenue simply handling sales tax refund applications and so on through those LB 775 companies, but also it allows the companies that are too small, that didn't qualify for LB 775, to go ahead and access this as a business climate improvement tool, and it simply cleans up the process. For those who are...had been in LB 775, it will continue to fulfill those contracts. But any new investment in business machinery and equipment will obviously be exempt. So that's the first step to improve the business climate, in my estimation, and it's very important to rural Nebraska. With that, I'd return what little balance of time I have to the Chair. Thank you.

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

SENATOR LANDIS: Senator Baker reminds us that we are part...we are looking at a variety of things together. I think Senator Erdman, I think, implies as well that notion of looking beyond LB 312 into LB 90 and others, because there is some thinking that's going on across measures as we try to update our incentive package. Look, we are working in a difficult milieu. We are floating along in a way that has diminished momentum compared to where we were 17 years ago. Seventeen years ago, we were on the vanguard. There were probably 10 to 11 states that's had tax incentive programs, and we were joining a relatively elite number, and when we did so we did it with a powerful package, an attractive and an expensive package. But in the intervening time states have crafted narrower, quicker, faster incentives, and we are no longer at the cutting edge. We are in the middle of the pack. Kansas, for example, has a one-time nonrefundable credit for an increase in employees and

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 312

investment. It's an income tax credit. They've got a nonrefundable credit for investment and training expenditures, something we don't do much of in Nebraska. They have exemption for purchases on specific projects, a sales tax exemption. They've provided utility companies, based upon load requirements, that have discounted utility charges that they roll into their economic development package so they can reduce the cost of their...of the utilities. God forbid we should go back to the earlier discussion today. Classroom and on-the-job training funds for specific companies; exemption for property financed with industrial revenue bonds; local financing mechanisms; a property tax exemption; refundable credits regarding property taxes remitted on qualified business machinery and equipment; nonrefundable credits for percentage of expenditure difference between one-year and a three-year average, again, an income tax credit that is achievable; and grants and forgivable loans based upon project size and community support. It is no wonder that there are companies in the southern part of Nebraska who say to themselves, look, I feel like expanding but where will I do it? And you know what, Kansas comes over with their chambers of commerce and their incentive program and make their best case. And those companies have roots in Nebraska, they want to stay here, they want to expand, but in the end they move to the lower right-hand corner of their profit and loss statement, and that's where the bottom line is found in a financial statement. Missouri, same thing by the way: a relatively larger population, a more unionized work force, and perhaps not as good of school systems as we have here in Nebraska. Those might all be some of the things that they have to overcome. Missouri has a new business facility tax credit. It's an investment and new job credits for qualifying projects. It's an income tax credit. They have an enterprise zone program with new credits for new investment. It's not only income tax, but it's an income tax exemption and a property tax exemption. They have discounted utility charges that is an economic development rider for these packages. They have a training incentive for qualifying businesses that receive funds to offset training costs of new employees.

SENATOR CUDABACK: One minute.

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 312

SENATOR LANDIS: They have a nonrefundable credit earned by entities in distressed areas for classroom training and costs for their workers. A qualified research expense earns credits based on qualified expenses and limited by prior year expenditures. It's an income tax credit. We don't have it. Locality provides incentives via revenue bond proceeds. It's a property tax abatement and a sales tax abatement. We can't abate property taxes in the state constitutionally. Funding to qualifying businesses to reduce training costs, limited to actual costs, a special training incentive; as well as a property tax abatement for redevelopment in blighted areas; not the same thing as TIF. This is a property tax abatement. Refundable credits for eligible expansion relating to debt service payments for industrial revenue bonds, and credits to eligible donors who make contributions to a nonprofit corporation, all of these are ways in which the...

SENATOR CUDABACK: Time, Senator Landis.

SENATOR LANDIS: ...state of Missouri will help you far broader than what we can offer in Nebraska. Thank you, Senator Cudaback.

SENATOR CUDABACK: Thank you, Senator Landis. Senator Redfield, followed by Senator Beutler. Senator Redfield.

SENATOR REDFIELD: Thank you, Mr. President, members of the body. I am holding in my hands a report called "Family Economic Security for Rural Americans." It is printed by the Annie E. Casey Foundation. Kids Count is a project of the Annie E. Casey Foundation. It's a national and state-by-state effort to track the status of children in the United States. By providing policymakers and citizens with ongoing measures on the status of children, Kids Count seeks to enhance local, state, and national discussions concerning ways to secure better outcomes and better futures for all children. In this report they have identified things that they believe are most crucial in providing for the future of children, and one of the qualitative data that they focused on in rural areas was economic opportunities, such as jobs, wages, and the cost of living. And I wanted to read a few quotes from here, because we all know that, unless we change the

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 312

demographics in the state of Nebraska, we have only to look forward to a future of higher taxes for fewer and fewer remaining people. Senator Stuhr shared with you the statistics on the educated population leaving Nebraska, and that is an overriding concern. One of the quotes here from the focus group participants was we need people to understand that jobs should matter. It's like a big mystery why are young people graduate from college and leave the state. You moron. They can go over here and flip burgers for more than they can make with a college education. That's what happens when there are no jobs for people who are educated. We can spend a lot of money on K through 12 education, we can spend a lot of money on our university, state colleges, and community colleges, but unless we can provide a job for the graduates of those institutions, they will leave us. Another quote: My parents are here, my grandparents are here, my brothers and my sisters are here, and all of their kids are here. We are very family oriented people so we do stuff together every weekend and I love it, but how long can they all stay here? How long will it be before the next generation leaves? My husband and I have six children; four of them have left the state due to jobs. There's another quote in here which I like because I think it sums up the quality of life we have in Nebraska. They were talking about transportation needs in rural Nebraska. They said there are no taxis, no buses, only friends. Friends are the ones who provide a ride when you need it. Friends are there when you need a meal or when you need somebody to go out and plow your field because you've had an injury. Friends are there to hold you up when you're down, and I think that that's what economic development is all about. It's about somebody helping to hold up the economy of the state of Nebraska when we need a hand up. And clearly, we need to make sure that the economy continues to grow. The report that was in the Omaha World-Herald over the weekend was heartening to see that, in fact, we have outpaced the job growth not only in our region but in our nation. We need to make sure that that continues because in fact jobs are important. I came to the committee. We had a lot of discussions in Revenue about how best to provide an impetus for our economy. Senator Baker is right. I was an advocate of climate, tax climate, looking at the rates across the board, corporate taxes, personal income taxes, property taxes, sales

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 309, 312

taxes, and the cost of doing business in this state. But that was my...

SENATOR CUDABACK: One minute.

SENATOR REDFIELD: ...idea and it wasn't successful. I will tell you, if you don't support LB 312, then what's your idea? Because we have to do something. If you can't come up with a better idea, you better support LB 312. Thank you.

SENATOR CUDABACK: Thank you, Senator Redfield. Senator Beutler. Is Senator Beutler on the floor? We will temporarily pass over Senator Beutler. Senator Combs. Is Senator Combs on the floor? Senator Combs. Senator Connealy. Senator Combs. Senator Combs.

SENATOR COMBS: Thank you, Mr. President. I just wanted to talk a little bit about the microenterprise section of the bill. I do oppose the bracket motion, but there are some things in there that I mentioned earlier when I spoke about the specific advantages that are given to the smaller rural areas that Senator Flood also mentioned. But the section that came from the bill sponsored by Senator Connealy would give credit for investing in microenterprises, which is the LB 309, and also would allow "teleworkers" to count as new employees. Now, why is that important and what are "teleworkers"? "Teleworkers" are people who telecommute in their jobs, meaning that you have someone in rural Nebraska that could perhaps do inputting of medical claims for BlueCross BlueShield, other kinds of data entry that can be done in the home; very important for the rural Nebraska economy because these are things that farm wives and people who live out in that area can do from home and it's called telecommuting. So it does give incentives now inclusive in the jobs credit for people that telecommute. That is important to rural Nebraska because these are the kind of jobs that we can do without having to draw a large factory to come and set up way out, you know, in the middle where there perhaps may not be a large enough labor pool to attract a large factory. However, you can get a lot of individual jobs because you don't have to build a workplace. The workplace is actually the home of the person who's telecommuting. So that's really important

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 312

and I think that's a big plus that's not really been talked about very much, but in reading the bill this is...this stood out to me. The other thing is we talked about...earlier I mentioned about the wages. The specifics of that is the most significant change that makes this bill different from LB 775, is that the requirement of a wage equal to at least 60 percent of the state's average wage for all employers for purposes of qualifying for and earning benefits. So again, if you're going to try to qualify, you must pay at least a living wage. And like I said before, that has been a big place where people have complained about the credits that have been given. Yeah, you're being given these credits, but you can't even live off of what you make. And let's see, granting larger wage credits for the better paying jobs, and the "teleworkers" counting as jobs interrelated to the project. Tier 3, this is one of the tiers that are mentioned here which provides a lot of...more different...more levels that would bring more players into the game as far as smaller and medium-sized businesses. One of them, tier 3, has zero investment and 30 jobs. And if you count telecommuting, that would be a really big boom if you brought 30 telecommuting jobs to a community. That's conceivable and what you're doing is promoting that kind of employment, which is really going to benefit the rural people. And again, we...it's very hard to attract a big...you know, a Goodyear or a big company that has a big initial...

SENATOR CUDABACK: One minute.

SENATOR COMBS: ...investment in plant op and property and equipment and all that to come and set up in a remote location when they don't have the labor market there to draw from to staff their business. It just ain't going to happen. But when you have zero investment required and 30 jobs, that is very reasonable and, again, I think a good thing for rural Nebraska. The small business microenterprise tax program credit would allow up to \$2 million of refundable individual income tax credits per year for applicants operating a "microbusiness" in a depressed area. Depressed areas are defined as municipalities that have had a population decrease between the two most recent censuses--a lot of small towns, unincorporated areas in counties that have lost population between the two most recent censuses,

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 312

designated federal enterprise zones, and census tracts that have less than 80 percent of the average statewide per capita income.

SENATOR CUDABACK: Time, Senator Combs.

SENATOR COMBS: Thank you, Mr. President.

SENATOR CUDABACK: Thank you. Next speaker will be Senator Kremer, followed by Senator Connealy and eight others.

SENATOR KREMER: Thank you, Mr. President, members. I ran out of time when the last time I was speaking so I'd just like to add a few thoughts and maybe even talk a little bit about some of the other incentives out there besides LB 775--the block grants, and I know several communities that benefited from that. In my district Central City has, on a couple of occasions, was given a \$506,000 block grant for a company that was going to locate in Central City along side the ethanol plant that was going to be a biotech company and invest in producing some nutrient supplements in conjunction with the ethanol plant, and it was going to create 19 new jobs, 10 of which will be available to lower and middle income people. We talk about the companies that have been able to benefit from LB 775, but if we think of all the spin-offs from that, it's tremendous. Also, Central City was given a block grant of \$506,000 for a company that would come in, in a mobile home factory there. Mobile home factory had closed a couple years ago and lost a lot of jobs, and they were able to...able to get a new company to come in and start that plant back up again, which is going to be about 100 new jobs. So something like that is very...has a tremendous impact on a city the size of Central City of about 3,000 population. I mentioned all the companies that were able to benefit from LB 775 in just the rural area and it totaled about \$90 million spent and 240 new jobs. If you think of 240 jobs, that's 240 households that are going to have to have a home to live in. They're going to spend their income in the community, and the generation of income from that. I think they, many times, they say the money turns over seven times. So if you take the amount of money that's generated in an industry that comes to a small community and they also then pay property taxes on their homes, spend money in the retail area, and even many of

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

May 9, 2005

LB 312

the smaller communities are...the schools are getting down to the numbers where they're having to consolidate. So if we can generate jobs out there that bring students in, it also brings a lot of state aid to the schools by the number of students back into those communities. I think Central City put together a package of just what they was able to accomplish because of these industries. It was tremendous, the money generated by just economic development and incentives for new jobs to come in, new homes being built, new students into their school system. It's a tremendous impact and I think sometimes we just think about it's just helping the big company, the Union Pacific or somebody like that, but when you start thinking of all the jobs and all the income that that produces, that is where the investment pays off. With that, I guess I would close and give the balance of my time back to the Chair. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Kremer. Senator Connealy, followed by Senator Howard.

SENATOR CONNEALY: Thank you, Mr. President, members. I've been reading Thomas Friedman's, The New York Times columnist, book lately, The World is Flat, and while I don't know if I agree with all his premises, he does compare, you know, places, you know, Canton, Illinois, and Canton, China, and Bangor, Maine, with Bangalore, India, and what he's talking about is, in general, is using your natural assets and making sure that you fight for what you can do the best, and part of this bill, I think, really addresses that. We're talking about increasing the incentives for research and development, and I think that that is one area that Nebraska needs to continue to push for, that we need to make sure that we as Americans are, and Nebraskans in particular are, fighting for the best research and development and possible to keep us on the cutting edge. We're also looking at our strengths, and one of those strength areas for Nebraska, sitting right here in the middle of the country, is distribution. And so we're giving an emphasis to distribution centers, giving credit for their forklifts and their rails and things like that, so that that business is a targeted business for us. And so both changing so that we'd have more research, more science, and also looking at our

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

May 9, 2005

LB 312

assets. I think both are part of this discussion and part of what we have to do as Americans and as Nebraskans to try to compete in what Thomas Friedman talks about as a flat world, a world where we have to compete with everybody and fight for our share of it. Thank you, Mr. President.

SENATOR JANSSEN PRESIDING

SENATOR JANSSEN: Thank you. Senator Howard, your light is on next.

SENATOR HOWARD: Thank you, Mr. President, members of the body. I want to thank Senator Landis and Senator Connealy for taking the time to explain questions to me that I had about this incentive bill. I do continue to have concerns regarding health coverage for those people that are employed by these businesses. For a mother that would be in the workplace would be making the lowest wage suggested here, slightly over \$18,000 a year, and would have possibly two children, I believe that individual would be eligible to apply for those children for the CHIP's program for medical coverage through Medicaid. And when it becomes a system of Nebraska providing Medicaid coverage, medical coverage, for employees of business, it appears to me that really it is a double incentive. We're granting tax incentives and, on top of that, we're providing medical coverage. So, while I understand the intent of the bill and while I feel that it's well constructed and certainly necessary, I challenge all of us to raise the bar, to look at this issue, to hold employers accountable for providing quality, affordable healthcare for their employees. And this is something that I'm going to be studying. This is something I'm going to be learning more about, and I'll continue to voice my concern on this and I hope I can rouse other folks to share this. And having said that, I'll return the remainder of my time to the Chair. Thank you.

SENATOR JANSSEN: Thank you, Senator Howard. Is Senator Brown...Senator Brown? I don't see Senator Brown. Senator Mines, your light is next.

SENATOR MINES: Thank you, Mr. President, colleagues. I had a

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 312

thought about Senator Beutler's graph, and by the way, I'd like to thank Senator Beutler for having staff put together the overview of the impact and the cost associated with many of our programs. And one thought came to me, when we're looking at the sum...his column, I think it's N. This is so small I can't read the darn thing, but that's my fault, not yours. It shows that the percent of the budget that's allocated to incentives, beginning in '83 and '84, started at about a third of a percentage point, and through 1995-1996, it then represented a little over 7 percent of our budget, and has been declining since. One thing that might impact this is that many of our LB 775 companies have used their credits and are now paying the full boat. Their tax incentives have been used, and they are back on the tax rolls at the full amount, and I think in any incentive package that that's important. At some point in time, the incentives go away; the company, hopefully, stays, usually does, and are on the full board, paying taxes across the board. So I think that's quite important. Something else that we don't talk about too very often is, when we incent a company, no matter how large or small, usually larger, those companies have companies that supply them with goods and services. And many times those companies are large on their merit. As...I'm going to do the Cargill thing, I'm sorry, but they employ a number of people, 500 people. However, they do have a security firm that employs 30 or 40 people. They contract out to trucking organizations. We just broke ground with a company that does hauling of their fructose product, \$2.5 million facility; I think it's about seven or eight jobs. There's a maintenance group that I believe employs 80 to 100 people. And that happens whether you're, you know, one of the, a big company or even if you're a small company--the spin-off, the peripheral opportunities for other businesses that are impacted by additional growth in our own communities and our own businesses. So incentives work certainly for the one company, but there's also many that are touched by additional growth and expansion. Thank you, Mr. President.

SENATOR JANSSEN: Thank you, Senator Mines. Senator Brown.

SENATOR BROWN: Mr. President, members of the Legislature, Senator Mines sort of took some of the things that I was going

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

May 9, 2005

LB 312

to say, because I was going to talk about the impact, the spin-off impact of businesses. When we were looking at the Caterpillar development, the jobs that were going to be created at Caterpillar were very highly paid jobs, and obviously were attractive to why we wanted to have the company locate in Nebraska. But the other thing that was going to be important to the economy were all the other jobs that were going to be created by the companies that were suppliers to Caterpillar, and there were specialized kinds of supplies that they needed. Some of them could be made available by companies that already existed in the state of Nebraska. Some required companies either to start up here or to move here. And Caterpillar was quite sensitive to issues around rural development, and making sure that the impact was not going to be limited to Sarpy County, where the plant was actually located. But they looked at a lot of the communities around the location of the plant for existing businesses that might be able to provide some of the things that they needed, maybe upgrade to provide some of the things they needed, and then encourage location of some of their supplier companies in smaller communities around...within about a 200-mile radius of the plant. Because they understood that if they could get more of their supplies from nearby, it was going to make their costs more manageable, but it would also reinforce the stability of their plant in Nebraska, and also make it easier to get the continued support of people like us for the things that they were doing. And so the...before, when I first talked, I talked about the article that was in the paper this weekend that said that if we had just followed the growth rate of the region, we would be short 40,000 jobs of where we are right now. And so, if you look at those 40,000 jobs and you can figure what the wage rate is, and one of things about this bill that we should be particularly proud is that we have put in place some of the things, the tiered approach to wages, so that we are incenting at a higher level the development of jobs that pay at a higher level. But the jobs that were created at Caterpillar were, by and large, very high-paying jobs. But it's not just the jobs themselves. It's the families of the people. I know several of the individuals who...families that have moved here from Germany...

SENATOR JANSSEN: One minute.

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 312, 500  
LR 109

SENATOR BROWN: ...to work at the plant and the richness that that has given to the city of Omaha in terms of adding to our cultural diversity. But also, the level of jobs was matched by the spin-off effect of the individual...the wives of the individuals who came to work, by the other jobs that are created as suppliers. The spin-off effect is huge, and when...if the numbers are accurate, that 40,000 jobs would not have existed absent the incentives that we did before, think of what the economic impact that we would have missed out on, and that we are currently at risk of, because of the more competitive environment. Thank you, Mr. President.

SENATOR JANSSEN: Thank you, Senator Brown. Mr. Clerk.

CLERK: Mr. President, two items: A new study resolution, LR 109, offered by Senator Howard; that will be referred to the Executive Board. And Senator Howard has an amendment to LB 500 to be printed. That's all that I have, Mr. President. (Legislative Journal pages 1435-1436.)

SENATOR JANSSEN: Thank you, Mr. Clerk. Senator Stuthman, your light is next.

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I just want to give you a little bit of history of what business incentives has meant to my district, District 22, Platte County and half of Colfax County, and what it really has done for the community of Columbus, in particular. I've checked into how many businesses did apply for incentives, and there's at least 12 businesses. They've invested \$273 million and created between 850 and 900 jobs. What does that mean to a community? That means a lot. Platte County is one of the communities, one of the counties that grew in the last census. What does it also mean for my area? Columbus Lakeview High School, the high school district, the rural district, because of that added valuation to our community, we receive no state aid to education to the school. Is that of value to the state? Yes, it is, a real value to the state, because they do not have to subsidize our students at our Lakeview High School, our Lakeview K-12 school. So that's a real value. Another thing

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

May 9, 2005

LB 312

that does concern me a little bit in this bill is, in this bill it's got kind of a two-tier level. One tier is \$15,000...I mean 15,000 population or less, and another one is 25,000 population or less. Our community, our county, has a population of about 32,000. I would have liked to see that second tier be at about a 35,000 population, or change it from the 25,000 to be a community or a county, either one. That would have benefited our area better. But as I realize, and everyone else realizes, no matter where you set a number or figure, someone it doesn't satisfy. So I think we can live with it in our area, in my area, and the reason I say that is because we have proven that we can, you know, continue to attract businesses, attract people, keep people in the rural areas. And that's very, very important. So I'm, you know, I'm very supportive of this bill. I have a few concerns about the one tier, but I can work with that. But I'm trying to give you a little bit of history of my area, just like Senator Flood said, you know. It is just not Omaha and Lincoln receiving, you know, the tax incentives. It is out there in the rural area. But it's in rural areas that are concerned about their own livelihood. We've attracted wonderful companies to Columbus that pay a good wage. So that's very important. That is about all the comments that I have, and I'll yield the rest of my time to Senator Synowiecki.

SENATOR JANSSEN: Thank you, Senator Stuthman. Senator Synowiecki, you have a minute and 35 seconds.

SENATOR SYNOWIECKI: Well, I appreciate that. Senator Stuthman, I was going to speak on the issue, obviously, and I actually was going to speak relative to our incentive package, as it relates to employment, and as Senator Howard spoke to, as far as the healthcare benefits, but I've got my light on, and I will speak to them issues a little bit later. But, you know, generally speaking, I agree with what has been said on the floor. Other states are involved in recruiting companies and corporations and good jobs at our states. You know, we have to do something. We can't close the door to new investments in our state and the creation of new jobs.

SENATOR JANSSEN: One minute.

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 312

SENATOR SNOWIECKI: I do, however, think that we can, perhaps, do a little bit better job in what we incentivize, and how it relates and corresponds to other state expenditures, and particularly, as Senator Howard indicated, our Medicaid expenditures. And I will, Senator Janssen, at a later time, hopefully, have the opportunity to speak to some of them issues. Thank you, Senator.

SENATOR JANSSEN: Thank you, Senator Snowiecki. Senator Baker, your light is next, and this is your third time.

SENATOR BAKER: Thank you, Senator Janssen, for reminding me that that was my...this is my third time. I'll have to borrow some from the Chair. Yes, I want to talk about some specifics. We have some "feel good" comments here and so on, and I appreciate that, but when the bill...when we drafted it in committee, and like I said, there were a lot of people involved with this--it wasn't just me, by any means, or just any group of people--there's a large contingent of folks out there--we did put the wage requirements in here, which was not in...is not in the current statute. Sixty percent of the state average, which I believe is \$19,000--some they have to pay to qualify for any of these things, so...and also, then, the carrot there is, the larger the wage for the better-paying jobs, the credits go up. So I would expect that we're going to see some good-paying jobs. Several senators mentioned how good jobs...the quality of the jobs that were created with...I think Caterpillar was mentioned. I know in a situation there in my area, the ethanol plant, they pay way, way above the state average for jobs, with the benefits on top of that. So that's not a problem. I'm going to go through some specific numbers, to focus again on the rural impact on the provisions in LB 312, and I think, as Senator Connealy mentioned, there are other provisions in the jobs training. And of course, there's other provisions we've included in LB 312--microenterprise, but out of the state total of 1,930 companies with 102,447 employees--and I have to admit this information is a couple of years old, but it's the newest that we can have that's complete--Lincoln metro area has 276 of those companies, 16,000-plus employees. Omaha metro area, which includes Cass, Douglas, Sarpy, Saunders, and Washington County, those five counties, what they're calling the Omaha metro, is

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 312

648 companies, manufacturing companies, with 49,859. And then you get down to the...I'm sorry, it was 27,674 in Omaha metro area. Counties over 10,000 have 685 companies in them, with 49,859 employees. Those counties over 10,000 are Adams; Box Butte, which I believe is Alliance; Buffalo; Colfax; Custer; Dakota; Dawson; Dodge; Gage; Hall; Holt; Lincoln; Madison; Otoe; Platte; Red Willow; Saline; Scotts Bluff; and York. Once again, those are 685 companies in those counties over 10,000, which...but excluding the metro area, with 49,000-plus employees, nearly 50,000. Then the rest of the state, 67 counties; you're talking counties under 10,000. Although we changed the criteria for some of the smaller tiers to 15,000, the way this information I have is broken down, under 10,000, which would include the other 67 counties, there are 329 manufacturing companies within those counties, with over 8,000 employees. That's what we're going to focus on here. Actually, I'd say, the counties, the rest of the state, including those 67 smallest counties, but also some of those counties over 10,000--I think Senator Kremer talked about the major expansion there in the Aurora area, so they would be one of those counties, I believe, with over--no, they're not over 10,000, so they aren't listed in my group, anyway. They're under 10,000--Senator Kremer is giving me some information here--so they would be included in that rest-of-the-state component that we're focusing on with some of the provisions in LB 312. And since we're trying to address issues concerning the divided question here, I will focus again on my part of it. That's the second part of the divided question, dealing with sales tax exemptions on the manufacturing equipment. We expect to target that, along with the provisions of the microenterprise, and I think Senator Combs was the one that brought that up. We have several tiers, as small...as low as two jobs created,...

SENATOR JANSSEN: One minute.

SENATOR BAKER: ...\$125,000. I think there's a five jobs and \$250,000, I think, are the figures, but we're targeting the very smallest companies here with that part of the puzzle. Plus, they will be exempt from the sales tax on their equipment, they're putting in that...in those projects. And I can state

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 312

emphatically that we have one of those companies moving into District 44. It's a trailer manufacturing company with not too many employees, but they're going to have to buy some equipment. And they're the company that said, whoa, what are we doing here with sales tax on business equipment and manufacturing equipment that way? So we can now address that, as of the 1st of January, with this. And I believe you said I had a minute a few seconds ago. I'm probably about out of time, so I'd return what little time I have left to Senator Janssen. Thank you.

SENATOR JANSSEN: Thank you, Senator Baker. Senator Kruse, your light is on next.

SENATOR KRUSE: Mr. President and members, thank you. Well, are we ever having a good time, and I didn't want to get left out of this, so here I am. For those who are watching this, you have to stand in line for 30 minutes to get on this train, so it's (laugh)...you better expect to have a good time. My problem is that I'm a preacher, and I don't have any idea how you would fill five, a whole five minutes. I can't do that, but I will have what I have to say. To be more serious about it, I don't have anything of news to this floor, but I would have something that would be of news to persons in my district. I recognize that if this bill were to be put up for a vote in my district, it would lose. And I think we need to confront that directly and understand that. I strongly support this bill. I supported the one before it. I am far more enthusiastic now than I was before, and part of that is because of a reason that the persons that I'm addressing should understand. Last year, in spite of efforts of many of us, there could be no floor on wages. And we were extremely grumpy, to use a polite word, when we had to give tax incentives to businesses that came in and put their...the children of their employees on Medicaid. So we were paying out of both ends. That was not fair. That was not right. But this bill changes a lot of that. There's other things that have been spoken to, but I am very appreciative of those who have brought that floor in and also made a tax incentive for increasing that amount. These are things that need to happen, not only in Omaha, but across the state, and I appreciate it. Thank you.

SENATOR CUDABACK PRESIDING

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

May 9, 2005

LB 312

SENATOR CUDABACK: Thank you, Senator Kruse. Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, the lobby is empty. Why do you think the lobbyists are not out there on this bill? Because they put the Legislature on automatic pilot. The orders have been given, the orders have been received, and I don't know which camera to look at, but I know where you are, over there eating and sponging and mooching off the lobbyists. I could tell one of my very, very gagging jokes, but I won't. Let them eat over there, sponging and mooching off the lobbyists. That's where they are right now. They don't have pride. That's why they probably support this bill. All they have to do is give them a meat loaf sandwich and a chicken dinner. I wonder if they're going to come over here complaining about the freebies this evening, like they always do. Well, I did tell them I'm the complaint department now. But as I look out there, that room...that lobby ought to be full. But they're not worried about anything. All that these senators are doing is standing up here and testifying about how great business is. Oh, they...business is wonderful. They ought to sing that song, "I Love You Truly," truly, dear. That's what they ought to say about business. And that's monkey business. Senator Mines said that some of these businesses are now off the doles and are on the rolls. He didn't say it quite like that, but that's what it is. And he might be correct and he may not be. But since my colleagues have taken a powder, while they go sponge and mooch, I thought I'd have the opportunity to say a few words, because I didn't want there to be nobody speaking on this bill. We always hear people, especially myself, emphasizing that one Legislature cannot bind another one. I started touching on this the last time. These businesses have lawyers, shrewd, savvy, cunning lawyers, and they know how to get the Legislature, not only in this state but all around the country, in a bind. They own the legislatures. So they get them into a contractual relationship, and if in years to come--Senator Beutler and I were talking about it--there comes a lessening of money, and tax cuts are not going to be possible, spending cuts, and they'll blame it on Medicaid, because the businesses have protected what they are getting from the Legislature under a contractual umbrella, they will not be

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

May 9, 2005

LB 312

touched. They're the only ones who are immune. Since these are giveaway welfare programs, they ought to be on the same footing as every other, what you all call, giveaway or welfare programs. They have to get in line like everybody else; when the bucket gets empty, they get less. But they fix it, and they take care of themselves and each other. I see that my young brother from Norfolk just got back. I listened to him earlier, and he was saying that out of a class of 32 in Madison County who graduated--I probably listened to him more than anybody else--only two are left, only two, he and somebody else, because they couldn't get enough carfare to get out Madison County. But he said those who left, he said they didn't leave because they don't like Nebraska. They didn't leave because it's not a nice place to raise your children. Do you know why they left? Because they can't all carry concealed weapons! (Laughter) I just thought I'd throw that in. That's not what he said, but that's what I thought he was going to say. He was working up to a crescendo, but he didn't pull it off. Next time he'll see what he can get with a line like the one I just delivered, and then he can come right back behind it and make the point he was going to make.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: On this bill, though, if you look out in the lobby, they know that it's going to go. I know it's going to go. Everybody knows it's going to go. But when you're a person such as I am, and you engage in conduct that some people describe as jousting with the windmills, that's as much a part of my nature in this position as it is for others to suck up to business, roll over and do their dirty work. So we're all acting in accord with our nature. I blame you and I criticize you, but in reality, deep down, I know you cannot do any better. If I were to run a DNA...take a DNA sample and look at that readout, I'd see little genes peddling along those business-oriented chromosomes, and what could you do? And they don't even wear helmets. The only place they can go is where that chromosome leads, and...

SENATOR CUDABACK: Time, Senator.

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

May 9, 2005

LB 312

SENATOR CHAMBERS: ...that chromosome is a business-oriented object. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Wehrbein, followed by Senator Flood.

SENATOR WEHRBEIN: Thank you, Mr. President and members. I don't have a lot more to add to what I said earlier, except to...I think we need to recognize the spin-off that businesses bring into Nebraska, the larger businesses that come into Nebraska. And that's one of the things that I don't believe is mentioned or measured very well, but I do know that in areas, parts of the state, some counties and localities where they emphasize local family businesses, maybe there's larger businesses supporting the general economy in the area. But as...usually, as a result, there's a spin-off of all kinds of small operations, and specifically I'm thinking trucking, could be repair shops, service stations, retail stores, specialty shops. The list goes on and on, even eventually probably flower shops and those kinds of things as business picks up. So LB 775 has made many of us swallow hard over the years, and we've heard criticism of it, but we still have to go back to the fact that those anchor companies that have come in, the large ones particularly, and have used that and added jobs, provided a lot of extra activity, economic activity, in the areas and provided entrepreneurs, if you will, a chance to perform, to find a niche that they can serve, and act accordingly. And I think that, as a result, I've come to believe that LB 775 has its purpose; LB 312 continues that. It's still going to be useful for ethanol companies. It doesn't look like we're going to be doing a specific ethanol incentive, but we will have available in LB 312 an incentive for ethanol plants to expand or start new, if that's the case. So with that, I'll turn my chair back to the time, time back to the Chair.

SENATOR CUDABACK: Thank you, Senator Wehrbein. Senator Flood, followed by Senator Combs.

SENATOR FLOOD: Thank you, Mr. President, members. I stand again to support LB 312, and I guess, in the bigger context, the entire series of bills that have been introduced in an effort to

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 90, 312

build a better Nebraska, and I guess LB 90. Somebody may look at me from Madison County, where we do have enough...well, we don't have cabs, so we couldn't take cabs out of town, but you might think that I would be more of a rural senator. And in fact, LB 775 has done a lot for Norfolk and for Madison County and some of the bigger businesses that exist and drive job creation in Norfolk. I can think of a number of different companies, such as Affiliated Foods, Nucor Steel, and Vulcraft, and Nucor Cold Finish, bringing hundreds of people to work in our community every day. And then I look at this bill, LB 312, in comparison to the others that we'll hear in the coming days, and I celebrate what is being done with LB 90. We can do great things with ethanol in Nebraska. We can do great things for rural communities by increasing the number of entrepreneurs, and making opportunities available in counties with less than 15,000 people. Senator Stuhr's and Cunningham's bill, together with the idea of job training, makes sense to me in Nebraska. But I guess when you put it all together, we need to arm the state, and when I say "the state," the Economic Development Department, DED, with the tools to sell a potential business on Nebraska. And we need to lay enough down on the table so that we are (a) a competitor, and (b) we can walk away with the deal. The state of Iowa has given their governor a slush fund that he can write checks out of, that he can get aggressive. We know firsthand up in our corner of the state, with the Wells Blue Bunny experience in South Sioux City, where Nebraska was working very aggressively to try and keep that company...or to bring that company across the river into Nebraska, and Iowa, at the end of the day, was able to secure and retain a long-time employer, because the governor had the ability to be very aggressive. I think we should give our state the tools necessary to go in and compete. We're not giving anybody, like...a blank check, like Iowa may give its governor, but we're giving businesses the opportunity to make a place for themselves in Nebraska, and the tools to make it a profitable venture. So I again just thank Senator Landis and the Governor's Office and the folks in here that have been so supportive, and look forward to this passing. I return my time to the Chair. Thank you.

SENATOR CUDABACK: Thank you, Senator Flood. Senator Combs, on the bracket motion.

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

May 9, 2005

LB 312

SENATOR COMBS: Thank you, Mr. President and members of the body. I want to pick up where I left off on the microenterprise tax credit program, which sounds intriguing, that will allow up to \$2 million of refundable, individual income tax credits per year, beginning in 2006, for applicants operating a "microbusiness" in depressed areas. So we talked about what depressed areas were, municipalities that have had a population decrease between the two most recent censuses, unincorporated areas in counties that have lost population, and designated federal enterprise zones, and census tracts that have less than 80 percent of the average statewide per capita income, and the Department of Revenue will be allocating those tax credits. And a little bit more about that microenterprise program: It provides a refundable, 20 percent investment tax credits of \$10,000 per business, or a total of \$2 million for the entire program year. The credits would be targeted to businesses with five or fewer employees in rural and urban areas, that contribute to the revitalization of economically depressed areas through the creation of new or improved income, self-employment, or other new jobs in the area. Department of Revenue would administer the act and may convene an advisory committee of individuals with expertise in small business development, and it would apply to investment in either capital, plant, equipment, and inventory to expand or start a business. So when you look at many of the microenterprises that we do have, you look at the Grow Nebraska program and the hundreds of small businesses that participate in that program, and you go to any gift shop, you know, at interstate stops, whatever, you see a lot of Grow Nebraska products--jams and jellies and handcrafted items and so forth, candles, that kind of thing--these would be the kind of businesses that perhaps may be five or fewer employees. You think, well, maybe that could be a single family or a couple of family operation. That brings new growth and vitality. If you look at the, you know, the lady that started making candles in her home in Edgar, that's a big business now--Sugar Shack candles. Tentative tax credits would be granted on a first-come, first-served basis, with carryover of unused amounts, and they expire one year after being granted, and any one taxpayer may receive no more than \$10,000 in tentative tax credits throughout the life of the program, which again ensures

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

May 9, 2005

LB 312

that more money will be available for more businesses, so that it won't be all taken up by a few businesses, that it would spread the money out to be used by many different microenterprises. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Combs. Senator Raikes, followed by Senator Beutler.

SENATOR RAIKES: Thank you, Mr. President, members of the Legislature. I'd like to take this opportunity to thank the members of the Revenue Committee. In order not to be self-congratulatory, I should say the Revenue Committee members who voted to advance this. I think they worked hard and seriously and also, obviously, the Revenue Chairman, Senator Landis, deserves thanks. I'm going to show my thanks by supporting this bracket motion, and I'll suggest to you why I've come down there. This has been an issue that I probably haven't given all the thought it deserves, but I've given it some. And let me just give you a few comments on what kinds of things concern me about this. Senator Landis, in one of his talks, mentioned Missouri and all the different things that Missouri is now doing to incent businesses. And he also described this one as a new generation of business tax incentives. Well, I raise this question. How long is this going to be a new generation? Until the Missouri Legislature meets again, sees what was done in Nebraska and raises it \$100 bucks? Or maybe it will be Iowa, or maybe it will be Kansas, or Colorado, or South Dakota, or Arkansas, some state. My concern is that this is engaging states in a race to oblivion. The businesses we're trying to attract, fortunately, are managed and operated and owned by very, very smart people. They understand how to play one state against the other, and they do that. So if you make an offer to...in one state...I'm talking now about the businesses who are legitimately mobile, and I would remind you that all indications are that that's a small subset. Probably around 30 percent of the businesses that actually take advantage of these are really actually swayed by them or are mobile. But at any rate, those ones that are, are smart enough to play one state against the other. And as they do so, they make sure that they finally get to a point where somebody is willing to pay more than it's worth. And I think, if you look at the results, that's

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

May 9, 2005

LB 312

basically what happens. Senator Redfield made a reasonable suggestion--If you don't support this, what do you support? I don't know that I have a ready answer, but I'll make a couple of comments in that regard. One of them is, we've talked about disclosure, and apparently this is an important issue for a lot of citizens in the state. I can understand why it might be. I don't happen to share that concern, that this is really an important revision, if you will, in our business tax incentive program. But if you were going to disclose, here's what I would like to have disclosed. I would like to have a list of companies, call this an honor roll, and on this list would be companies who employ ten or more people in the state of Nebraska and are not on the LB 775 gift list. These are the companies that we'd really like to stay...to see in the state, the ones that will come here and do business because they like Nebraska, not because we're buying them off. Who has encouraged you to support this? And apparently, a few of you have been encouraged, and I would guess that that's probably two groups: one of them is taxpayers who want to become nontaxpayers,...

SENATOR CUDABACK: One minute.

SENATOR RAIKES: ...and who can argue about that? Another group would be economic development professionals. And after all, it is their job...their performance is evaluated by how effective they are in attracting or creating a business climate in Nebraska. I would suggest that those are probably not the two groups you should listen to most carefully. I will tell you very quickly that my suggestion for a different approach is simply to do less. I think this way overreaches, in both the area of tax incentives and also in the area of business climate. I'll try to expand on that. Thank you.

SENATOR CUDABACK: Thank you, Senator Raikes. Senator Beutler, followed by Senator Stuthman.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, I found Senator Raikes' remarks to be very interesting. You know, it's almost that we're in a position where those of us who are at the state level and involved in the competition must, of necessity, improve our competitive position and try to be just

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

May 9, 2005

LB 90, 312

ahead of the curve. And what really should be happening with respect to our federal representatives is they should be figuring out a way to disengage the states from this detrimental competition that's taking place. I'm concerned about the downward spiral that Senator Raikes has described, but I'm even concerned about it in the next couple of years. Senator Landis, I don't know if you're on the floor, but I would like to run a couple of things by you, if I could. As I understand the fiscal impact of this bill and LB 90 and all of the related bills in the package we might be talking about, would it be an additional expenditure in the vicinity of about \$40 million, Senator Landis, once it's all in full play?

SENATOR CUDABACK: Senator Landis, would you...

SENATOR BEUTLER: Is that a reasonable guess?

SENATOR LANDIS: Senator Beutler, depending on how you define it. If you were to take a look at this bill, the projection out, by year--next year, \$8 million, way short of what it's going to be--that's just because we're ramping up--\$18 million, \$21 million, \$26 million, \$34 million, \$40 million, \$44 million, \$59...I'm sorry, \$49 million. So...

SENATOR BEUTLER: Each year out?

SENATOR LANDIS: Yes.

SENATOR BEUTLER: Okay.

SENATOR LANDIS: Those are as you go out. The...let's see if I've got this right. And that's adding the sales tax exemption with this. Now, that is not LB 90, with the ethanol money in it.

SENATOR BEUTLER: Okay, so that has another \$4 million a year, more or less, \$4 million or \$5 million.

SENATOR LANDIS: Three point five million dollars, that's right, for about seven years, I think, and it is not the training money that's been talked about for Senator Engel.

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

May 9, 2005

LB 312

SENATOR BEUTLER: Which is \$7 million a year?

SENATOR LANDIS: Oh, I think that's used right now as an accounting (laugh) system, to figure out what's left that could be spent for the agenda.

SENATOR BEUTLER: Okay.

SENATOR LANDIS: The desire is, I think, to ramp down with training, as this ramps up, to get somewhat of a flat impact. But the better number for this bill, six or seven years out, would be \$50 million, not \$40 million.

SENATOR BEUTLER: Okay. Well, if you look at our financial status for the next couple of years, for this two-year term, we're like about \$50, \$52 million in the black. The first two years of this package will cut that in half or more, so we're still all right for the first two years. But for the next two years, we're already \$111 million in the red, and if you add \$40 million or \$50 million to that, you're going to be up to \$160 million, \$170 million in the red. You may hope that revenues will increase once again by some substantial amount, more than has been predicted, but that may not be the case. If that is not the case, then you should know now...

SENATOR CUDABACK: One minute.

SENATOR BEUTLER: ...that the property tax reduction, going back from...did you say one minute, Senator?

SENATOR CUDABACK: I did, Senator Beutler.

SENATOR BEUTLER: Okay. The property tax reduction that is scheduled for that period of time, going back from \$1.05 to \$1.00, simply cannot happen. So we're already getting to the point with this, and maybe we should think about some choices we could make now, in terms of revenues, because if you go ahead with this and do nothing in terms of revenues, you're putting yourself in the position where you cannot do the property tax relief that's already scheduled in the statutes. Now there are

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

May 9, 2005

LB 312

other things we could do. We could start thinking about the fact that if this thing keeps racheting, and we keep putting a greater and greater percentage of our budget into business incentives, even though we may need to do it,...

SENATOR CUDABACK: Time, Senator Beutler.

SENATOR BEUTLER: ...we should be thinking about a revenue source for these expenditures.

SENATOR CUDABACK: Thank you, Senator Beutler.

SENATOR BEUTLER: Thank you, Senator.

SENATOR CUDABACK: Senator Stuthman, followed by Senator Chambers.

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. I've been listening very close to the discussion and, in my opinion, what do we want here in Nebraska? How do we get to be a better state? In my opinion, we need employment. We need people. We need bodies. We need good-paying jobs. That's what really helps communities. You see communities that are dying and not thriving, and people are moving out of the communities, out of some of the real small communities in the rural area, that's because they don't have anywhere to go to generate income to sustain their body and life. But in communities, you know, that do have businesses and expand in business, those communities thrive. But the main thing that really concerns me is, you know, we have to have something for the people to do, and that is the work. So you know, with the incentive that attracts business to come to communities, that are very prosperous, that helps them, and it builds upon itself. You get families to move to communities. Some come for the rural areas. Some move in. But it's mainly because there is a place for them to be employed, to generate income to help with their family expenses. So I think that's one of the most important things. You know, what do we want? Do we want to have a climate that doesn't invite people to come in, so that the people that we do have, our youth and our families, that they just move and leave and go some place where they can earn a good wage? So I, you

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

May 9, 2005

LB 312

know, I'm really, really supportive of this. I think we all have to work together. It's a package, in my opinion, and I think we need to try to advance this. So how much time have I got left, Senator Cudaback?

SENATOR CUDABACK: It's about half gone, Senator.

SENATOR STUTHMAN: About half gone.

SENATOR CUDABACK: About 2.5 minutes.

SENATOR STUTHMAN: If Senator Baker would like any of my time, I'd be glad to give it to him.

SENATOR CUDABACK: Senator Baker, about 2.5 minutes, if you care to use it.

SENATOR STUTHMAN: Okay, then I'll return the balance to the Chair. Thank you.

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

SENATOR CHAMBERS: Mr. President, members of the Legislature, I'd like to ask Senator Landis, the chief introducer of this bill, a question.

SENATOR CUDABACK: Senator Landis, would you yield?

SENATOR LANDIS: Senator Chambers.

SENATOR CHAMBERS: Senator Landis, how does it feel, after all these years, to be so thoroughly in control, that I'm like the beetle into whose eyes a little boy might stick a needle?

SENATOR LANDIS: Senator Chambers, there's no way I would accept that characterization at all. There's a famous Bill Mauldin cartoon in which two GIs are huddled under their tent, and they've got a .45, and it's trained on a mouse. And they say, yeah, but he's ferocious when he's cornered.

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

May 9, 2005

LB 312

SENATOR CHAMBERS: (Laugh)

SENATOR LANDIS: It doesn't make a difference, Senator Chambers, I've never been in that situation, I'm not in that situation now, and when I leave, leaving you here, I will have never been in that situation.

SENATOR CHAMBERS: Senator Landis is so gracious. Thank you, Senator Landis. Members of the Legislature, I had mentioned from time to time a comment from Oscar Wilde, and he was talking about laws that impact negatively on poor people, so I'm just going to read a brief passage, and it's from The Soul of Man Under Socialism, one of his essays. "As for begging, it is safer to beg than to take, but it is finer to take than to beg. No: a poor man who is ungrateful, unthrifty, discontented, and rebellious, is probably a real personality, and has much in him. He is at any rate a healthy protest." Now we come to it. "As for the virtuous poor, one can pity them, of course, but one cannot possibly admire them. They have made private terms with the enemy, and sold their birthright for very bad pottage. They must also be extraordinarily stupid." This applies to the Legislature. "I can quite understand a man accepting laws that protect private property, and admit of its accumulation, as long as he himself is able under those conditions to realise some form of beautiful and intellectual life. But it is almost incredible to me how a man whose life is marred and made hideous by such laws can possible acquiesce in their continuance." When I paraphrase it, to criticize my colleagues in the Legislature, I draw the comparison between that set of circumstances and people who will kowtow to business, as though they're going to partake in the largess. Is it enough to have these big shots smile at you, the lobbyists, the lobbyists--what is the feminine for lobbyists?--"lobbyess," I guess; to have the lobbyists for the chamber of commerce smile at you and say, "good boy, good girl." That's the way, sometimes, I hear people talk to Nicole, Cindy's little toy poodle. But I talk to Nicole like she's a lady. I talk to her like she's intelligent. I talk to her like I'd want her to talk to me, if she could speak English instead of dog. Now she can understand English, but she can't speak it. I can't understand dog, although I can speak it, but I don't understand it. They patronize the Legislature. They laugh at

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

May 9, 2005

LB 312

the Legislature. They mock the Legislature. They scoff at the Legislature. I, on more than one occasion, have challenged them to name some senator the king of Ak-Sar-Ben.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: They said, why will we make a jester the king? The jester wears the cap and bells, and plays the role of the fool! But the real jester would make those kind of statements, behind the guise of jesting, that anybody else could make and would lose his or her head, because the king knew certain things needed to be said, but they would have to be said by the fool, the acknowledged fool, because nobody else was real foolish enough to do it. Business people see legislators as jesters, in the sense of a sure-enough fool, and you ought to be tired of it. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. On with discussion. Senator Raikes, followed by Senator Friend.

SENATOR RAIKES: Thank you, Mr. President and members. Allow me, if you will, I guess you have to, to continue here just a moment. There are two broad categories of measures, I guess I'll put it that way in this. One of them is tax incentives, and let me...that's in the division, why, Senator Landis has got that in the first division--I understand we're talking now about the bracket motion instead--tax incentives is one sort of broad category. The second one, and again, I think Senator Redfield referred to this, is business climate. A couple of comments about each of those. First off, tax incentives: The problem...well, the characteristic of tax incentives are that you pick out a few special people and they get the break. So, by definition, it's inequitable, and in fact it can be very inequitable, as you view it. You may have someone, you've been here in the state forever, pounding out your widgets, paying your taxes and so on. Here I come rolling in the state, never have contributed anything; I'm going to make widgets in competition with you, except that I'm going to do it without paying taxes. You simply run into that kind of inequity. So that's, as far as I'm concerned, a big problem with tax incentives, in general, not to mention the point made earlier

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

May 9, 2005

LB 312

about the fact that we have interstate competition, which causes the tax incentive, the payoff to the business, to exceed what it's worth to the state. And I will try to come up with some information...actually, not come up with it, but give you some information from our Department of Revenue that shows that's exactly what happens. The second category, though, is business climate, trying to improve the business climate. Let me back up to the first category again, tax incentives. It's certainly inequitable, but to the extent that you can, in fact, attract a business from outside of the state, you can probably legitimately claim that you've created some jobs. So in that category, you've at least got some potential for job creation, but it is terribly inequitable. Move on to the second category, the business climate. The business climate, in a sense, does not have the equity issues, because sort of everybody in the state, for example, you, the existing widget maker, along with me, the new guy, sort of benefit equally with a business climate, lower taxes for businesses. On the other hand, I would argue that business climate is probably very ineffective in creating new jobs. Now I'm, of course, subject to criticism for that and many other things, to see what you've got to say to refute that, but if you just look at it, I don't think that's the strong suit of business climate. In my own case, I pay sales tax on...I don't pay sales tax on ag machinery, but I have some construction, or we have some construction machinery; I pay sales tax on new construction equipment. Am I going to leave the state because I have to pay sales tax on a backhoe? I don't think so. I don't think it does much for creating jobs. My point here about this is that you're taking sort of...

SENATOR CUDABACK: One minute.

SENATOR RAIKES: ...two flawed approaches, or at least imperfect, I'll put it that way, and you're putting them together, in hopes that the combination of two bad is somehow good. I don't really think we have much evidence to support that. Again, I would go back to my initial point: I think the best approach here...I don't disagree with the notion that you've got to stay in the game, but you do it in an absolute minimal fashion. This sort of an expansion in what we're doing is, I think, simply way over the top. It doesn't make good

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

May 9, 2005

LB 312

sense for the state, and it doesn't make good sense, in terms of combining programs that each, I think, have some serious difficulties with them. Thank you.

SENATOR CUDABACK: Thank you, Senator Raikes. Senator Friend, followed by Senator Fischer.

SENATOR FRIEND: I'd like to call the question, Mr. President.

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 the motion to bracket? All in favor vote aye; all those opposed, nay. Voting on ceasing debate. Have you all voted on the question who care to? The question before the body is ceasing debate. Have you all voted? Have you all voted who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: 25 ayes, 2 nays to cease debate, Mr. President.

SENATOR CUDABACK: Debate does cease. Senator Landis, you're recognized to close, your motion to bracket.

SENATOR LANDIS: Thank you, Senator Cudaback, members of the Legislature. Perhaps we've shot wide of the mark, perhaps we're richer than what we need to be, perhaps we've had a flawed theory. This is your chance to tell us that, and to send us back to work or whatever, next January 1, 2006. We don't have to rush into this all at one time. We can think contemplatively if we wish, and I'll take whatever signal there is up here, with respect to the fate of LB 312 and economic incentives for this year in the Legislature. Thank you, Senator Cudaback.

SENATOR CUDABACK: Thank you, Senator Landis. To remind of the body, takes the majority of those voting, as introduced by the introducer. All those in favor vote aye; all those opposed, nay. Have you all voted who care to? Have you all voted who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: 5 ayes, 32 nays on the motion to bracket until January 1 next year, Mr. President.

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

May 9, 2005

LB 312

SENATOR CUDABACK: The motion was not successful. Mr. Clerk, next motion.

ASSISTANT CLERK: Mr. President, we are back to consideration of FA242.

SENATOR CUDABACK: Open for discussion. Mr. Clerk, priority motion, please.

ASSISTANT CLERK: Mr. President, we do have a priority motion. Senator Landis has moved to recommit LB 312 to the Revenue Committee.

SENATOR CUDABACK: Senator Landis, you're recognized to open on your motion to recommit.

SENATOR LANDIS: Maybe we need to draft this bill differently. Maybe there are some provisions that ought to go in it. Maybe we haven't heard the will of the people sufficiently. Maybe, in some great powwow downstairs on the first floor, we'll have the wisdom to bring together the 30-some of us that seem to be in favor of this and Senator Raikes. It's possible. (Laughter) Now the chance that the 30-some of us will agree with Senator Raikes and Senator Chambers is pretty minimal, but if we reach out with a sense of generosity of spirit and openheartedness and fresh ears, we may be able to build a bridge to Senator Raikes; I don't know. Maybe, with a motion to recommit to the Revenue Committee, we'll find that underlying area of agreement that has eluded us so far, so I offer this amendment. Look, we're going to be here as long as it takes us to be here. I'd like to do it with as much openness and acknowledgment of that, and without the rancor of somebody who feels constrained by the reality that we're going to have to debate for eight hours. That's fine. I think we ought to debate these matters and own up to them. And I'm not apologetic for the bill, and so I have no difficulty in sharing the microphone with my colleagues. The KPMG study, which is one of the things that has motivated me to introduce this measure, distinguishes between real circumstances in which you were to take a Nebraska corporation and move them to our surrounding states to see what would happen, given the tax

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

May 9, 2005

LB 312

climate and conditions in other states. If we have a start-up technology-based company, Nebraska, without tax incentives, would be the highest tax state for that company, among Nebraska, South Dakota, Colorado, Wyoming, Kansas, Oklahoma, Missouri, Iowa, North Carolina, and Minnesota. All of those are surrounding or Midwest states, with the exception of North Carolina, which is a very active, high-energy economic development state. Without tax incentives, we would be the highest state for them to pay taxes in. If we were a distribution company, a "C" company headquartered out of state, in which business was going to be done in this state, our taxes in this state, without incentives, would place us as less expensive than Oklahoma, Kansas, and Colorado, but more expensive than Missouri, Minnesota, North Carolina, Iowa, South Dakota, and Wyoming. And when you fix in...figure in our tax incentives, we drop, so that we, in other words, are more competitive than other states, if we figure in tax incentives. If we were a value-added agriculture company, and we did not have tax incentives, and you placed Nebraska against our surrounding states, we would be the highest tax state in the region for a value-added agricultural...value-added agriculture company. It is but for the existence of tax incentives that we drop from first to sixth. In other words, it's important to keep a competitive model available to us. If we were an information services company, and we didn't have tax incentives, we would be the second highest taxing state in the region, Colorado being somewhat higher. But for tax incentives, we would be the second highest. In fact, we drop to eighth when we take a look at our existing tax package. If we were a corporate headquarters, and you were subtract our tax incentives, Nebraska would be the most expensive state to do business in, in the Midwest. If you were a small manufacturer and you subtracted these benefits, we would be the most expensive state in the Midwest for you, as a manufacturer, to do your business. And if you were a small manufacturer--and by the way, most Nebraska manufacturers are small and they're rural--this would be the highest tax state in the region. Why? Well, in part because we don't allow tax breaks for businesses on our property taxes, and most states do, because they don't have the special clause that we have in our constitution that doesn't permit us to give property tax breaks, and they regularly give property tax breaks

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

May 9, 2005

LB 312

to business. They also give property tax breaks to farmers, that we don't give in this state, and it's expensive to be a farmer in this state, as well. Now, by the way, we do have a situation in which we value at 80 percent, compared to others, but given the greater scheme of things, if you're a farmer and you're sending two kids to school in this state, you pay a multiple of what an urban, two-child taxpayer pays to support a school system. It's expensive to be a farmer in this state, and it's expensive to be a business in this state. Now, we do have a break for farmers, but it still makes us expensive, and the reason is, other states do better by farmers, because they have the authority to give them breaks that we don't have authority to. And it's expensive for business in this state, because we can't give them breaks that other states do. Taxes and incentives are a major consideration in attracting business. Competition is high, and without something like this, Nebraska ranks high in the tax profile for these kinds of businesses, and that is a disincentive to be here. Will some business stay here? Absolutely. Senator Raikes is absolutely right, and I agree with him. There are businesses that will not move. There are businesses that make profit in Nebraska and have every reason to be here, and are indifferent to our tax incentive package. They'll stay here because it makes money to stay here. By the way, retail doesn't get a tax incentive. Why? Because you won't drive 300 miles to buy groceries. Now, you will drive 200 miles or 250 miles to buy a combine if there's a 7 or an 8 percent tax difference, or whether you're going to pay personal property taxes. But you won't do that for groceries. You probably won't do it for shoes, unless you're my wife and you buy as many shoes as she does. (Laughter) I'm just saying, you probably don't. So we don't give retail a special break, for the most part, because people won't drive. The marketplace isn't that broad. But for a manufacturer, for a distribution center, the market is very large. That is to say that opportunity to site a business is multistate, and there are many more attractive tax climates to take on than Nebraska at the moment, without some kind of incentive package. I support what Senator Beutler talked about, which was the answer to this problem lies at the federal level. You can't get out of this problem, state by state. You can't declare yourself in unilateral disarmament and win economic development. If you

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 312

wanted to break this downward spiral of tax incentives, you'd do it with a compact between states, authorized by the federal government. Or you'd do it by a federal law that would not permit states to have those kinds of tax breaks. But without federal intervention, you cannot, as a state, escape this. Best you can do is, if you want to, you can have unilateral disarmament. But what I'm telling you, with flat population and largely flat growth, but for the years of tax incentives from the post-eighties, this would not be a particularly good strategy for Nebraska to follow. Unilateral disarmament would not be an effective strategy. We do not have an independent revenue source, such as the coal fields and uranium and the natural resources of Wyoming. If we're going to grow our base, we're going to have to import people, and we're going to have to grow business and economic opportunity. And for those of us who want better schools, and for those of us who want a more socially just society, it's just about the same perspective as those who are the most hidebound chamber of commerce, pull-the-ladder-up-behind-us types, as well. Because it ultimately comes to growing the state at the base--people who are productive workers yielding wages, salaries, and productive contributions to the state's revenue stream.

SENATOR CUDABACK: One minute.

SENATOR LANDIS: Our demographics, at the moment, place Nebraska in a very hazardous situation. Our elderly population, high users of social services, high users of Medicaid, high users of healthcare, are extraordinarily large compared to the rest of the country, and our base is essentially fixed. This is a bad prescription. Growth is the one strategy that I think conservatives and liberals, Republicans and Democrats, urbans and rurals should be able to agree on, and this is a part of that agenda.

SENATOR CUDABACK: Thank you, Senator Landis. You've heard the opening. Open for discussion on the motion to recommit to committee. Senator Synowiecki, followed by Senator Beutler.

SENATOR SYNOWIECKI: Thank you, Senator Cudaback, members. Senator Landis, thank you. I don't know, necessarily, if we

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 312

need to recommit to committee, but I would like to engage the body relative to some provisions within the bill, particularly within the first floor amendment of FA236, as it relates to the job quality thresholds. And I agree with the other speakers that this is a good thing. We're moving in the right direction and so forth, relative to this. However, I think that what we're doing here is essentially allowing the job credits on a sliding scale, and as it correlates with the average weekly wage of the state of Nebraska--and according to the Department of Labor statistic, we're talking about \$8 an hour job, an \$11 an hour job, \$14 an hour job. And again, I agree with the direction, in putting in some criteria, some thresholds relative to the jobs that meet the thresholds or the criteria to get credits for. However, even at the high end, at the 100 percent of average weekly wage, the \$14 an hour job, I think all of us realize and understand that one trip to the emergency room would deplete a family's asset base. I mean, if we don't have a health insurance provision that attempts to address the deficiencies in our system, in our private healthcare base, our private health insurance carrier systems relative to health insurance, if we don't try to correlate our undertaking relative to economic development and our crisis, as I would call it, our crisis with our Medicaid spending, you know, I don't think that's good economic development overall. Again, these kind of jobs, if you're...we keep hearing about LB 775 benefits and how they have brought to the state some good-paying jobs, but yet we're still, at the same time, trying to find answers relative to the Medicaid crisis in our state. This year alone, 2005 appropriations for Medicaid--\$470 million General Funds. The kind of money we're talking under LB 312 is peanuts compared to the global Medicaid spending that goes on in the state of Nebraska: \$470 million General Funds; cash funds \$20 million; the federal contingent of our Medicaid spending is \$910 million; \$1.4 billion in Medicaid spending, total, for the state of Nebraska. I think it would be good strategy, in terms of economic development, if we can attempt, as much as we can, to incentivize the expansion of private-based health insurance coverage for Nebraska workers. I think that while...as a public policy perspective, our best direction is to incentivize a package that attempts to perpetuate the offering, and incentivizing the fringe benefits for our Nebraska workers is

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

May 9, 2005

LB 312

the best way to do this. And quite frankly, an hourly wage, I think, is best left to the private marketplace to determine. I think what we could do, as state government, is incentivize the percentage of that hourly wage, whatever it might be. In other words, if you offer 25 percent of fringe benefits, particularly healthcare benefits, as part of your hourly wage, that you get this criteria of benefits; 35 percent, you get this; upwards to 40 percent. If you offer 40 percent of your hourly wage in collateral fringe benefits, again, particularly health insurance, then you meet the criteria and threshold to receive some of these tax incentive benefits. This, I think, is something that we should think about. I think we should have a dialogue about this. I think we are at a crisis relative to Medicaid spending in the state of Nebraska--again, \$470 million alone in General Fund spending. And I, quite frankly, I think the hourly wage, that will be taken...

SENATOR CUDABACK: One minute.

SENATOR SYNOWIECKI: ...care of in and of itself. We've had a lot of discussion today relative to the good-paying jobs that LB 775 has brought in. I think the deficiency in LB 775...and in my discussions with Health and Human Services in identifying employees that are on our Medicaid rolls, the deficiency is the lack of health insurance benefits accorded Nebraska working families. And the hourly wage is not necessarily the issue. So I'd hope that, as we continue to discuss LB 312, that this issue of incentivizing private health insurance for Nebraska workers and securing health insurance as a part of the criteria to receive benefits, state benefits relative to taxes, that this be a part of our dialogue. I don't know if the recommit to committee is necessary. Hopefully, if there's enough synergy on this issue, perhaps we can amend something on the floor...

SENATOR CUDABACK: Time, Senator Synowiecki.

SENATOR SYNOWIECKI: ...and get health insurance benefits included in this package. Thank you, Senator Cudaback.

SENATOR CUDABACK: Thank you, Senator Synowiecki. Senator Beutler, followed by Senator Chambers.

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 312

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, I very much agree with Senator Synowiecki in the basic thrust of his remarks, and I do want to talk about the structure, the wage credit structure, on page 64 and 65. And, Senator Landis, if you're around...

SENATOR CUDABACK: I do not see Senator Landis, Senator Beutler.

SENATOR BEUTLER: You can turn on Senator Raikes' mike, and he can answer from back there.

SENATOR CUDABACK: Senator Landis, are you available for a question?

SENATOR BEUTLER: Senator Landis, while you're going to your mike, I'm talking...I would like to discuss a little bit the wage credit provision on page 64. And first of all, I want to be sure I understand it. The lowest minimal credit is 3 percent times the average wage of new employees, times the number of new employees. And am I correct in that the 60 percent figure on the next page is the...60 percent of the Nebraska average weekly wage for the year of application is the minimum standard that you would have to meet?

SENATOR LANDIS: That's right.

SENATOR BEUTLER: Okay. And then the credit increases from 3 to 4 percent, if you...if your wage level is 75 percent of the Nebraska average annual wage. And then the next level up, at 5 percent, you get to 100 percent of the average wage. Can you elaborate a little bit on why we start at 60 percent, and why 75 percent? My general inclination is to say, hey, let's make this available to those that are paying the average weekly wage or more, rather than using this to attract some industry that takes our average Nebraska wage downward. How do you react to that?

SENATOR LANDIS: Two reasons. First, if you did that, we could assure that, in fact, the use of the bill in rural areas would dry up. It would become a heavily urban bill. Maybe that's an

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 312

irrelevance, but my guess is at least some of our rural colleagues would be concerned on that score. Secondly, the existing package says this: If you create a job, no matter how much the salary, you get a 5 percent job credit. If you create a minimum wage job today, you get a 5 percent job credit. So, number one, it sets a minimum below which it can't go, and which, by the way, is an amount that is \$18,000-plus in a year.

SENATOR BEUTLER: The current...

SENATOR LANDIS: And for those numbers,

SENATOR BEUTLER: ...the current law, though...

SENATOR LANDIS: ...it's reduced from 5 to 3 percent. It's a sliding scale of justice, if you will, as to what is reasonable, but those moving parts are significant advantages over where we are today, I believe.

SENATOR BEUTLER: Okay. So the current law is, you get your 5 percent and you don't even have to meet the average Nebraska wage?

SENATOR LANDIS: You don't have to meet 60 percent of the average wage.

SENATOR BEUTLER: Okay.

SENATOR LANDIS: There is no job quality standard in LB 775, and if you create a 40-hour, full-time equivalent job, you get a 5 percent job credit.

SENATOR BEUTLER: Okay. Well,...

SENATOR LANDIS: When you...if that's your benchmark,...

SENATOR CUDABACK: One minute.

SENATOR LANDIS: ...I think we've made strides. If your average state wage...then I think you'd say, well, you know, but we're...we are giving credits for things before an average wage,

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 312

and that would be true.

SENATOR BEUTLER: Yes. Well, I appreciate the thinking that has gone into this staged setup here, and let me give some more thought to how that all works, in effect. But I appreciate your response. Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. Senator Chambers, followed by Senator Brown. Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, I've just been bludgeoned into submission, and I'm trying to pull myself together, so I would like to yield some time to the one who has bludgeoned me into submission, namely, Senator Landis, who has the needle poised over the beetle. (Laughter)

SENATOR CUDABACK: Senator Landis.

SENATOR LANDIS: Thank you. Senator Chambers has made me this offer. I thought I'd share it with you. One of the reasons that we're here is because we anticipate that there's 15 amendments to come. So I've filed these motions to make this what we're talking about. I think Senator Chambers has suggested this: Pull the recommit, pull the 14 amendments, leave 1 amendment. That amendment gets a vote, up or down. Without regard to the fate of the amendment, that's the last amendment he offers and the bill could move towards passage on General File. Okay. So those are the terms that he's offered me: Take off the recommit, drop the 15 amendments, give me one up or down vote on an amendment. And oddly enough, he's made the offer on something that this body has spoken on before. It's controversial, could not be done in 20 minutes or half an hour. It would take some time because it trips our trigger, and that is an amendment that says no company could make use of this amendment and discriminate on the basis of sexual orientation. That's the offer Senator Chambers has made me, and I'm thinking about it. So I'm going to walk up and down the aisle here while I think, and Senator Chambers is going to go on with this remarks, and I'll hear whatever I hear.

SENATOR CUDABACK: Senator Chambers.

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 312

SENATOR CHAMBERS: Thank you, Senator Landis. Thank you, Mr. President. This is one of those sets of circumstances where I feel so strongly about this issue that I simply cannot let it go. The issue I'm talking about is the discrimination against people based on sexual orientation. I've been asked why I don't, if I must offer a provision, why I don't just offer a statement that says there should be no discrimination against any group. The others are already protected under the law. The law prohibits discrimination--race, religion, sex, age, other things. This group of people, by being left out of that laundry list, are made fair game for discrimination, and I think it is very unfair. I was talking with Senator Brown and Senator Mines about an article I saw in last night's paper. This mayor--and I think Senator Brown remembered he's from Spokane--extremely anti-gay rights, extremely, but he was accused a few years ago of molesting two boys, and a newspaper found out that he's currently using the trappings of his office, on the web, to try to pick up young boys for sexual liaisons. And yet he's got the nerve to say he's against gay and lesbian people being treated like human beings. So many times these people, who are going to say that being gay is the same as being a pedophile, may be projecting onto everybody else a deficiency in his or her own character. This amendment is not going to upset the business community.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: Companies have sense enough to know that they should go where the talent is, and there is talent among every group of human beings on this earth. And we speak of groups, only because human beings, for whatever motives they have, have taken it into their heads to categorize, fractionate, and separate human beings into various camps, factions, and other groupings, always for the purpose of doing them harm. No group is set aside for the purpose of helping them to rise. So I'm looking at a group...

SENATOR CUDABACK: Time, Senator Chambers.

SENATOR CHAMBERS: Thank you, Mr. President.

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 13, 312

SENATOR CUDABACK: Senator Brown, followed by Senator Connealy.

SENATOR BROWN: Members, I would yield some time to Senator Landis.

SENATOR CUDABACK: Senator Landis.

SENATOR LANDIS: Senator Chambers, you wily dog! What happens when I talk to my colleagues is that they split along the lines of how they react to the sexual orientation amendment itself, which is controversial and it's a close question of the body, when the underlying bill itself, LB 312, is not that way. I'm going to decline your offer, and I'm going to make you one in return. Has nothing to do with this bill. I expect us to go to cloture on this bill. I've got a bill on workers' compensation, it's LB 13. It's my name; it's out here. I'd be happy to gut the bill and offer it to you as a staging area for this amendment, because I agree with you as to that topic, and I don't want it to go away, but I'm going to decline your offer on LB 312.

SENATOR CHAMBERS: May I ask you a question? Does your bill have a chance to come up this session?

SENATOR LANDIS: To my knowledge it's been put on Senator Brashear. Now I will tell you, there's a risk of it, and that is that it's...that if it's put where Senator Brashear wants to get it put, it will be on that half an hour controversy and then you take it off piece, which would be, as you can imagine, a Pyrrhic victory, because the half an hour would run out, and we'd both lose our chance to do that. But the bill is available, it's out, and I would just say that, so you know I don't dispute where you're going, and if I have another platform I would make it available to you. That's one that I can think of.

SENATOR CHAMBERS: Senator Landis, because you have always operated in good faith with me, and that is an offer that I'm willing to accept...somebody was talking. I think it was Dr. Johnson. People think I don't pay attention when I'm not

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 312

here. He said, in his slow, deliberate way and that smile: I was told that half of something beats all of nothing.

SENATOR CUDABACK: Senator Chambers, this is...

SENATOR CHAMBERS: This is what?

SENATOR CUDABACK: It is Senator Brown's time. I'm sorry, but if you would...

SENATOR CHAMBERS: Oh, Senator Brown, I'm sorry. Senator Brown, I'm sorry. Let me just be quiet then. (Laughter)

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Brown.

SENATOR BROWN: Thank you, Mr. President. If Senator Chambers needs time to continue, I'll give him some time the next time around. I did want to get back to the underlying bill a little bit, because we've talked a lot about the potential. One of the things that's included in LB 312 is that it's constructed to update the economic development incentive legislation to match a new economy. And one example is the inclusion of exportable services as a new, qualified activity. Exportable services are services where 75 percent of the company's revenue is generated from outside the state, so it's all imported money, or from the U.S. government, and that wasn't a part of what was anticipated in 1987. But now we have high-tech firms, and it represents an excellent growth opportunity to our state. Some of the companies that could possibly qualify might be involved with software development, computer systems design, product testing service, guidance and surveillance systems, and we have in our state, in Offutt Air Force Base,...

SENATOR CUDABACK: One minute.

SENATOR BROWN: ...a billion dollars of economic activity, direct economic activity, from Offutt, and then there are a number of companies that have located in Nebraska to be close to Offutt. So this is a new targeted industry, with...which builds on what we already have, in terms of Offutt and the whole STRATCOM mission. And these are companies that don't require a

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 312

lot of investment on the ground, so that can locate anywhere they want, and we want them to locate in Nebraska, and so we are including this specifically in LB 312, just to make sure that we have the tools to attract these kinds of jobs. And if Senator Landis would like about two seconds...

SENATOR LANDIS: Would take it.

SENATOR CUDABACK: Senator Landis.

SENATOR LANDIS: Senator Brown, I intend to withdraw the motion to recommit. Senator Chambers, who is, as you all know, true to his word when he gives it, apparently intends to withdraw his amendments. We may be able to wrap up a vote on advancement tonight. I ask the Chair to withdraw my motion to recommit to committee.

SENATOR CUDABACK: It is withdrawn.

CLERK: Mr. President, with that action, we return to Senator Chambers' FA242. Senator, I have a note that you would like to withdraw FA242 and offer, as a substitute, FA258.

SENATOR CUDABACK: Any objection? Seeing no objection, so ordered.

CLERK: And, Senator, just so I further understand your intent, it's my understanding you'd like to withdraw other pending amendments that you have, with respect to LB 312, at this stage.

SENATOR CHAMBERS: That's correct.

CLERK: Okay.

SENATOR CUDABACK: They are also withdrawn. Senator Chambers, to open. It's to open.

CLERK: Senator, we're on FA258, which is the one I believe you want.

SENATOR CHAMBERS: I would like to withdraw that, also.

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 312

SENATOR CUDABACK: It is withdrawn. We're back to the committee amendments, FA236. Discussion of the committee amendments? There are a number of lights on. I'll just read the lights off. Senator Connealy, you're first. Senator Connealy waives. Senator Baker. Senator Baker. Senator Baker, your light was next.

SENATOR BAKER: Thank you, Senator Cudaback, members. I want to focus again on the bill. The section of it that interests me that you'd say, why would it interest a rural senator, is the R & D, the research and development issue. It provides a 3 percent credit for investment in research and development issues. We are working with an ethanol plant out in my district on carbon sequestration and, quite honestly, it's very speculative and unproven and so on, et cetera, and this is what I believe I was referring to earlier in this discussion of the bill. People are watching this out there, as progress is being made on LB 312, and I have to point out that there is a chart available--I don't know how many people have it--on research and development tax credits, but we're one of the few states left that doesn't offer any credit whatsoever for R & D, and I think that that's an important part of the bill. I believe it's in the first section of the bill, without looking, just if my memory serves me correctly. I think it might be the first section of the bill. It is--Section 1, on the committee amendment, which is divided, so it would be in the fourth division, Sections 1, 2, 13, 14, and 15, I believe, if my...if I'm correct here in my statement. But my point I want to make is that that's another section of incentives that is included in LB 312. And a specific example I can cite, it's going to affect rural Nebraska, and I'm thinking that with some of the research going on with carbon sequestration and capturing the CO2 from the ethanol plants that's currently being vented, that it could generate quite a bit of interest, because there obviously is a lot of CO2 generated in the fermentation process in the production of ethanol. So I want to point that out. It's another rural...what I consider could be a very major factor in rural economic development, if we can adapt some thinking and encourage some owners and some outside participants in trying to capture this CO2 that's currently being discharged, capturing it

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

May 9, 2005

LB 312

and using it, possibly even in food-grade CO2. But I...what we're talking about here is sequestering CO2 in oil fields. It's a project that is currently under review by the federal Department of Energy, USDA, and so on, to see if we can qualify for any help along those lines, because it's very speculative. But I think it's a major part of LB 312, in that right now Nebraska is one of the few states that has...provides no credit, and I know these researchers and the companies involved with the carbon sequestration project out in my area have looked at other areas. I think there's a small, a small, what do I want to say, a small demonstration project in Kansas dealing with it, but it's not really what they want to do, and they're looking toward Nebraska as an R & D site. So I want to stress once again that this package, to me, has a rural flavor to it, in spite of the fact that many people consider it a so-called big business package. LB 312 has so many facets to it that we can use in rural Nebraska. One other issue that was brought up earlier--I think Senator Synowiecki mentioned this--the jobs that have been created out in my area have been in such demand, because they...quite frankly, wages are good, but they also offer benefits. And I cannot...there are no examples of jobs being created using LB 775 incentives in my district that I know of, and I believe I'm aware of all the LB 775 projects in District 44. They all include a benefit package, which does, in fact, include health insurance. And one of the reasons we put that tier in there of 60 percent, it was going to affect the rural areas because, quite frankly, 60 percent of the statewide average is still a pretty good wage in rural Nebraska. When you throw in an incentive package, it definitely is. We don't have the cost of living in rural Nebraska that you do, say, in the more metropolitan areas.

SENATOR CUDABACK: One minute.

SENATOR BAKER: We can buy a home out there--and I'm thinking of...there's two or three on the market in my home town--can buy a pretty doggone nice home for \$40,000. And we're talking a three-bedroom home and nothing that needs major restoration, but \$40,000, \$50,000 certainly would buy a pretty doggone nice home. You can't build one, maybe, for that, but with the population, the out-migration of people in many of these rural towns, there

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 312, 695

are those homes available now. So we included that 60 percent, and of course it is a sliding scale. At 60 percent, you don't get the credits, tax credits, you do if you're paying 100 percent or, obviously, 125 percent of the state average wage. So it's a part of the package, once again focused on rural Nebraska.

SENATOR CUDABACK: Time, Senator Baker.

SENATOR BAKER: Thank you.

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

SENATOR RAIKES: Thank you, Mr. President, members. I, you know, appreciate the conciliatory turn here, but I don't think it's the right thing to do. This is something that needs some serious, critical examination, and it has not gotten it. I'm not pretending that it will get it, but I think it needs it. One of the things, and I suppose if I were forced to make a particular choice on it, I would not do LB 695, the LB 695 part, the sales tax exemption for business and equipment. As I've tried to mention already, I don't think it has much to do with job creation. I think it's just a giveaway for businesses that are here in the state now. I guess there's nothing wrong with giveaways for businesses--I would be the recipient of it--but I don't think it's necessary. I don't think it achieves a relevant economic development gain. I'll also mention one other thing about it. There is a federal tax implication. The way it is now, if I pay a sales tax in the state, my sales tax money goes to the state. If the state doesn't charge me any sales tax, then that's one less deduction on my federal return, so I pay more federal income tax. So this is a way of transferring state General Fund resources to the federal government. Do you really think that's a good idea? I don't. I think that's foolish, and I doubt if many people have thought about that. But that's, in effect, what you do with this. And you're doing it for a provision that, in my view, is not effective at creating jobs, as I've mentioned before. The other thing I'll mention is the fiscal note, and you don't have an updated fiscal note right now, but we've been dancing all over ourselves and talking about the General Fund budget and trying to avoid

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 312, 425

spending money, and realizing that, particularly the out biennium, don't build the base in the out biennium, because that is going to cause the state the greatest difficulty. Well, this is the king, the champion, the undisputed winner, in terms of building the out biennium base. We're talking increasing it by \$60 million a year, as you get down the road. This is something...I mean, I'm going to be arguing for dimes and pennies, maybe, on special education, early childhood programs and those legitimate needs of the state, and we're going to have a very hard time doing that kind of thing if we do this. It just soaks up too much money. Finally, I'll quote my leader, Senator Landis, who pointed out, I think, very aptly, as he always does, where business tax incentives work and where they don't work. What he said about where they don't work is, business tax incentives do not work to encourage a business to go where they otherwise would not go, now I...or wouldn't want to go. I think he was talking particularly about getting them to go to rural areas of the state or wherever. But business tax incentives are not effective in getting a business to go where they don't want to go. And I will add the second part, which is either attributed to Senator Landis or to me, I don't know, but the second is where they really do work well. Where they really do work well is getting a business to stay where it otherwise would stay. So please keep that in mind. Thank you.

SENATOR CUDABACK: One minute. Thank you, Senator Raikes. Mr. Clerk, items?

CLERK: Mr. President, some items, thank you. Amendments to be printed: Senator Schimek to LB 425; Senator Beutler, LB 312; Senator Preister (sic), LB 312; Senator Connealy (sic), LB 312; Senator Chambers, LB 312. That's all that I had, Mr. President. (Legislative Journal pages 1437-1438.)

SENATOR CUDABACK: Thank you, Mr. Clerk. Further discussion? Senator Thompson, followed by Senator Synowiecki.

SENATOR THOMPSON: Thank you, Mr. President, members of the body. This is the first time I've spoken on this, but I want to join the group that is working, and I talked earlier this morning with one of the lobbyists on the bill and got the

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 312

impression that they were amenable to, if we could get the language written, to considering adding health benefits as a portion of the bill, that would be included with an incentive. And, as many of us do, I read the paper in Omaha on the weekend, but I didn't read the Lincoln Journal Star until the clips were given to me, and I was really struck by the article in yesterday's paper in Lincoln, the title "Survey: Two of Three Uninsured Work," and this is a report from the director of the Nebraska Center for Rural Health Research at the University of Nebraska Medical Center. And some of this is kind of dry and it's statistical, like what you're been hearing, that Nebraska has a lower percentage of people who get their insurance through their employer than nationally, and a higher percentage of those who purchase private insurance. But sometimes one story is worth all the statistics that we can read. Last week we got into quite a discussion over adding...over our budget bill. And we have added, of course, to Medicaid; we've added to our clinics for the uninsured. We keep putting money into this. But I think this story really tells it all, and this is an anonymous rural Hispanic female: Last year I was pregnant and I lost my twin babies. But I went to the private clinic and they asked me if I had insurance. Because I didn't have it, they couldn't take care of me. They said I had to wait until it was an emergency. I waited for two days, holding in the pain. When I went to Kearney for care, it was too late. I had already lost my babies. If I had medical assistance when I needed it, I would not have lost my babies. And I apologize for getting a little emotional about this, but whenever we're looking at policy, whether it be this policy we're talking about today, what we spend our budget on, how we prioritize, we need to look at good public policy. A lot of the discussion today stemmed around how much it costs us to subsidize jobs that don't pay a high enough wage and don't have a benefit associated with it for healthcare. I think if we move this bill forward, we need to look seriously at incenting business to provide health insurance, and to provide it so that people, and their employees who work for them, can afford it, not some token thing that takes half their paycheck, as this article talked about as one of the reasons people don't even use the employer-based health insurance. So we should have as part...if we're going to look at the things that attract business to this state, we need to

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 312

have both the dual benefit of how that's going to help us in our budget and what we pay for healthcare, but also for people like this woman, who lost her babies because she couldn't get healthcare in this state. And this is an opportunity to do that. I'm going to be working with the senators on Select File. Senator Synowiecki has been leading the charge on this, and I look forward to working with him on that. But we have an opportunity here to make sure that the jobs we are creating have...

SENATOR CUDABACK: One minute.

SENATOR THOMPSON: ...healthcare coverage, because no one, no one in this state, should be in the situation this woman was in.

SENATOR CUDABACK: Thank you, Senator Thompson. Senator Synowiecki.

SENATOR SYNOWIECKI: Thank you, Senator Cudaback. Thank you, Senator Thompson, for all of your efforts relative to these issues. You certainly have brought them to the forefront of the Legislature. It's a relatively simple concept, is trying to incorporate the healthcare benefit, or healthcare provision within our incentive package, and how it makes, to me, some sound public policy principles are evolved here, particularly given our Medicaid expenditures. The tier system or the graduated system of the 60 percent, 75 percent, 100 percent, you're talking about a range between \$8 an hour and \$14 an hour, roughly. And, Senator Baker, I think that we can arrive at a way where you incorporate the healthcare benefit while still acknowledging the demonstrated differences in our urban and rural standard of livings, relative to cost. And it's a relatively simple concept that I'm thinking of, and that is a percentage of your hourly wage, whatever that wage might be, whether it be the \$8 threshold or the \$14 threshold. What you as an employer provide in terms of a fringe benefit, in particular, relative to the healthcare fringe benefit with the job, you receive credits based upon a graduated sanction on that. If you give 25 percent of that hourly wage, again, whether it's \$8 an hour or \$15 an hour, at a 25 percent level of fringe benefit, you set the threshold, the criteria, to be

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

May 9, 2005

LB 312

eligible for a certain level of benefits. And we can mirror the 60, and 75, and 100 percent with the benefit package, relative to what is gained at each of them levels of wage. I guess what I'm...the concept or the idea that we're attempting to promote is to incentivize the opportunity for employers to provide healthcare coverage for their employees and their families. And as Senator Thompson read into the record the example, which is quite disturbing, but globally, from a public policy perspective, you've got to look, as a member of the Appropriations Committees, and the appropriations relative to our Medicaid program, and the potential mitigation that may occur if we are serious about incentivizing employment-based or private-based healthcare insurance. I think it just makes sense. I think it represents sound public policy. I think we would realize collateral benefits that we're not now realizing in terms of private-based health insurance. You know, this is great. We're moving in the right direction. We are now recognizing and implementing and putting it into our incentive package a recognition of some thresholds, and right now it's a wage threshold. I think that is great. But the hard reality is, and the hard facts are, again, even at that \$14 an hour level, that if you don't have the accompanying healthcare benefits, one trip to the emergency room, taking your youngster in for a broken arm, for example, you know, that depletes a family's assets entirely. I think we have to look at this in terms of what encompasses, and what the meaning of a good job really is. Yes, the wage...how much you work for an hour is...obviously, that's an important aspect of it, but the collateral benefits involved, particularly the healthcare coverage, usually is a defining characteristic of what is and isn't a good job in our communities. And I think we all realize that. So...

SENATOR CUDABACK: One minute.

SENATOR SYNOWIECKI: ...during the time between General File and Select File, I will work. Hopefully...Senator Connealy actually had a legislative bill that targeted healthcare benefits and incentives. Senator Thompson previously had one, as I did. So hopefully we can establish with a lobby a protocol and a

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

May 9, 2005

LB 312

procedure to look at this. I know other states have incorporated health insurance coverage as a component of their incentive packages. My staff informs me this has all been done relatively recently, actually. So hopefully we can arrive at something that is workable, that mitigates our budget expenditures relative to our public expenditures in healthcare, and so that we can move toward a targeted goal of, yes, having incentives, but at the same time providing true and bona fide mitigation factors to our appropriations and our expenditures. Thank you, Senator Cudaback.

SENATOR CUDABACK: Thank you, Senator Synowiecki. Senator Beutler, on FA236.

SENATOR BEUTLER: I'd waive.

SENATOR CUDABACK: Senator Beutler waives his opportunity. Senator Janssen.

SENATOR JANSSEN: Thank you, Senator Cudaback, members of the Legislature. You know, maybe it's time we leveled with our constituents. You know, when times get tough, and they will again--historically, they always have--maybe we should tie our sales and income tax that would take up for the slack that we...or the dollar amount we lose in the incentives. No, don't get me wrong. I think incentives are fine. It's helped our state, brought a lot of business into this state. But, you know, that's something we should think about, that would automatically kick in a raise in the sales and income tax when times get tough, and we're still going to have to keep putting the money back into our business incentives. Let's level with the people right away. And this will automatically adjust to keep the revenues at a level that would keep the state solvent. Nobody will buy into this. You know why? Because it makes too much sense. They wouldn't want to do it now, when we're working on a new incentive package. But it would be the right thing to do. With that, I give the rest of my time back to the Chair.

SENATOR CUDABACK: Thank you, Senator Janssen. Senator Landis, yours is the only light on, so you can...I'm sorry. Yours is the only like on, so I will recognize you to close. It won't be

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

May 9, 2005

LB 312

necessary to call the question, unless you want to anyhow, but...

SENATOR LANDIS: This is the first of four sections. We divided the question. This is essentially the tax incentives piece. Between now and Select File, I think Senator Preister has an amendment that he's interested in that arises out of a controversy between the labor union and the Union Pacific. Senator Connealy has an amendment that was suggested by Nucor Steel that he's working on. I hear Senators Thompson and Synowiecki saying we ought to be able to do something about health benefits, and off the top of my head the idea that I think you ought to consider is treating a job that has a satisfactory health benefit as getting the next higher percentage of the job credit. One of the problems that we've had in that area is creating minimums or standards, and if you treated it as a bonus, you might be able to get to the same end. Something to think about between now and Select File. We've got a lot of thinking to do, and we've got a short amount of time to get the job done. I'd suggest that we get on with the business of the day, start over tomorrow at 90, and keep working on a tax incentive package that we can be proud of in this state. I'd ask for the adoption of FA236.

SENATOR CUDABACK: You've heard the closing on FA236. The question before the body is, shall the first component of divided committee amendments be adopted? All in favor vote aye; those opposed vote nay. Voting on adoption of the first component of the divided committee amendments, FA236, to LB 312. Have you all voted on the question who wish to? Please record, Mr. Clerk.

CLERK: 38 ayes, 0 nays, Mr. President, on adoption of committee amendment FA236.

SENATOR CUDABACK: FA236 has been adopted. Mr. Clerk, next component.

CLERK: Mr. President, the next component, FA237, consists of Sections 7, 8, 9, 10, and 11 of the original committee amendment. (Legislative Journal pages 1438-1440.)

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

May 9, 2005

LB 312, 695

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Landis, to open.

SENATOR LANDIS: Senator Cudaback, this is the manufacturing sales tax exemption--Senator Baker's bill, LB 695, in its original form. I would ask for the adoption of FA237.

SENATOR CUDABACK: You've heard the opening on the second component, known as FA237. Open for discussion. Senator Don Pederson.

SENATOR D. PEDERSON: Thank you, Mr. President, members of the Legislature. I have a question for Senator Baker. Back to the microphone.

SENATOR CUDABACK: Senator Baker.

SENATOR D. PEDERSON: I have heard that this is going to be a tax incentive and that it's part of an economic benefit package to the state. I would really like to understand how this is going to benefit. I understand the loss of the income, but what I'd like to know is, what is the offsetting dollar benefit to the state by doing this? And I recognize that what we're saying is, this helps business generally. But you know, we have an inheritance tax yet in Nebraska. The only reason we have an inheritance tax is because the counties can't do without it and they really need that money. Now my question is, since we're looking at a total economic package, would you please explain how this is going to benefit the state of Nebraska?

SENATOR BAKER: Yes, thank you for the question. This is a tax...this improves the tax climate. It's part of the package, in that the tax climate is improved, and it's not directed toward any one particular size of company. Anyone who has a purchase of machinery or equipment is going to qualify. They simply will not pay sales tax on it. It's to get us in tune with 38 other states, and we can use it as a selling tool, when someone comes to Nebraska and says...right now, in my specific case, a company out of North Carolina who was looking at Nebraska said, why? And I said, well, we're working on

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

May 9, 2005

LB 312

eliminating it. So this would improve the tax climate.

SENATOR D. PEDERSON: Well, I understand the improvement of the climate. I understand the benefits that would be derived to the various manufacturers or people who would utilize this bill, but I just...I'm just curious, because I know we're going to lose a considerable amount of money, not just this year, but each year that this is enforced. I'd just like to see an offsetting benefit, and if you could just describe that, if you've done any...have any figures or any understanding as to how that would occur, that generally the state would benefit from this, aside from the generalities of tax climate, and we're the only ones that don't do it. Just please tell me how it would work. Thank you.

SENATOR BAKER: Well, to me it's directed toward small businesses in rural areas, Senator Pederson. I...right now the big companies are qualifying through LB 775 for, you know, reimbursement or, if you will, repayment of those. They have to pay them, and they obviously have to earn them through LB 775 requirements, but then they're reimbursed. And some company that doesn't meet the thresholds can't qualify for these. So what we're looking to do is recruit that small, 15-employee, million dollar investment to rural Nebraska, which we're working on some of those. And granted, there's going to be a revenue loss, and I was surprised it wasn't as great as it was, but the Revenue Department said, well, yes, but the big users of this are already qualifying under...people that are eliminating sales tax on this equipment are qualifying under LB 775. I, quite frankly, was surprised it wasn't a larger fiscal note on it. But we're going to be able to try and recruit, or we will be able to recruit better now, simply because we're coming in line with such a wide...such a majority of the states that do not have this tax. I still don't know whether I can answer your question. It's a climate issue. Tax climate is so much better when we simply don't have this tax.

SENATOR D. PEDERSON: Has anyone given us an estimate of the dollar benefit that may result from that improved climate? That's what I'm concerned with, because I know we have the ongoing expenses of the state. I...and it's just very hard for

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

May 9, 2005

LB 312, 695

me to understand the losing of that revenue, unless I can see an offsetting benefit, other than a generality.

SENATOR BAKER: We can make that same question focus on LB 775 as a whole.

SENATOR CUDABACK: One minute.

SENATOR BAKER: We're using all these incentives and obviously, you chairing Appropriations Committee could see what these are costing us. It's always been hard to pin down, without these, what would the effect be, or what are the benefits with these. I think they're using 30 percent, I believe. Does that sound correct? I think 30 percent right now on this. And I can't...to be honest with you, I can't put a dollar figure on it, what we stand to benefit from the loss of revenue here, but I'm certain that it's more than it's going to cost us.

SENATOR D. PEDERSON: Thank you.

SENATOR BAKER: I can't do any better than that, Senator Pederson. Thank you.

SENATOR D. PEDERSON: Okay. Thank you very much.

SENATOR CUDABACK: Thank you, Senator Pederson. Senator Burling.

SENATOR BURLING: Thank you, Mr. President, members of the body. I've been supporting LB 312 all along. Since 1987, when LB 775 began, the community of Hastings has seen \$100 million in investment, approximately 1,000 new jobs with 17 or 18 local firms there. What LB 312 says to people is, businesses, we want you in Nebraska. But the best part I see about LB 312 is the fact that it contains this provision right here that we're talking about, that was in LB 695, the exemption on sales tax on machinery. It eliminates the almost 40-year-old policy to apply two taxes--personal property tax and a sales tax--on machinery for manufacturing. Nebraska is made up of large and small and very small businesses, just by the nature of our demographics, and each of these businesses plays a significant role in

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

May 9, 2005

LB 312

supporting the economy of the state. And this part here, I believe, levels the playing field so that, regardless of the size or location of your business, you get the same break. Right now, small businesses in Nebraska that can't qualify for a tier of LB 312 or LB 775 can receive the break from the sales tax on the machinery that they buy, and that's our way of showing our appreciation for these small businesses that have been here for years, sustained the local economy, don't have any desire to grow, any need to grow, but they are there. We're saying thank you, here's a tax exemption for you being in Nebraska, that will help you compete with similar businesses in other states. So that's, I think, worth a lot for us to acknowledge these small businesses. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Burling. Senator Landis, you are recognized to close. There are no further lights on, on FA237.

SENATOR LANDIS: Thank you. This is the manufacturing piece, as I said. I previously identified amendments. Senator Preister corrected me on that amendment. It was not the one that I had thought it was. His has to do with violations of laws, labor environmental laws over the X period of time. We'll see it on Select File, probably. I would ask for the adoption of FA237.

SENATOR CUDABACK: You've heard the closing on FA237, offered by the Revenue Committee, second component of divided committee amendments to LB 312. All in favor vote aye; opposed, nay. The question is, the second component of the divided committee amendments, Sections 7, 8, 9, 10, and 11. Have you all voted to care to? Record please, Mr. Clerk.

CLERK: 32 ayes, 1 nay, Mr. President, on the adoption of...

SENATOR CUDABACK: The motion was successful. FA237 has been adopted. Mr. Clerk, next component.

CLERK: Mr. President, the next amendment, FA238, consisting of Sections 17 and 18 of the original committee amendment. (Legislative Journal pages 1440-1442.)

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

May 9, 2005

LB 312

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Landis, to open on the third component.

SENATOR LANDIS: Senator Cudaback, members of the Legislature, this is a change in our existing rural component, LB 608, which gives, for two employees and \$125,000 of new investment, a refundable credit. This moves from 10,000 to 15,000 the inhabitants of counties that would be available to use this, moving from 60 to 70-plus counties that could make use of this. It is the place where the "telework" personnel will fall into being incentivized, because they will fit relatively well under this structure, and I would ask for the adoption of these changes to LB 608, in the form of FA238 from the Revenue Committee.

SENATOR CUDABACK: Thank you, Senator Landis. You've heard the opening on the third component, known as FA238. Open for discussion. Senator Landis, there are no lights on. The Chair recognizes you to close on FA238.

SENATOR LANDIS: I would ask for the adoption of FA238.

SENATOR CUDABACK: The question before the body is, shall FA238 to LB 312 be adopted? All in favor vote aye; those opposed, nay. Voting on the adoption of FA238, made up of Sections 17 and 18. Have you all voted on the question who care to? Record please, Mr. Clerk.

CLERK: 35 ayes, 0 nays, Mr. President, on adoption of this component of the committee amendments.

SENATOR CUDABACK: The third component has been adopted.

CLERK: The fourth and final component, Mr. President, FA239, involving Sections 1, 2, 13, 14, and 15. (Legislative Journal pages 1442-1450.)

SENATOR CUDABACK: Senator Landis, you're recognized to open on the fourth component, FA239.

SENATOR LANDIS: Thank you. This contains the microenterprise

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

May 9, 2005

LB 312

measure, which was Senator Connealy's bill. It is, by the way, one of the most demonstrably successful forms of business building in the state. It has a darn good track record that has been well proven. It is also the R & D research sales tax credit, or tax credit, rather, something that's common in at least 40 other states, and will put us, apparently...will put us on an even keel with our competition. I ask for the adoption of FA239.

SENATOR CUDABACK: Thank you, Senator Landis. You've heard the opening on the fourth component, FA239. Open for discussion. Senator Wehrbein.

SENATOR WEHRBEIN: Mr. President, members of the body, I'd like to ask Senator Landis a question.

SENATOR CUDABACK: Senator Landis, would you...

SENATOR WEHRBEIN: Senator Landis, I intended to ask you just a little bit more on the reporting requirements, the disclosure, which I thought was in the last one. It must have been the one previous to that. Would you give maybe a repeat of what you said earlier, just about the details of the disclosure part of it?

SENATOR LANDIS: Sure, right. We now have a relatively large body of data, but it's aggregate data. This is project by project. It's the name, the location of the project, and it's the bang and the buck. It's the jobs created, but it's also how much...how many credits, or how much in credits the project receives. Now the number, which will be a financial number--it will be a dollar number--will include income tax credits, if they get income tax credits; it will include sales tax credits, if they get sales tax credits; it will include the withholding tax credits, if they get withholding tax credits, bundled up into one number. That will hide whether it's income or sales or withholding. But it aggregates everything they receive, and it will be done every two years. It will be project by project every two years, bundled into that number. When we get done, as we go through, project by project, every two years we will know how much money that project got in the form of a tax break from

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

May 9, 2005

LB 312

the state. In return, they will also have the data as to what they've done, in essence, to deserve that tax break. We will have bang and buck, project by project.

SENATOR WEHRBEIN: And the project means company name. Is that right?

SENATOR LANDIS: You can have multiple projects by the same company. And so it is project by project. If there's a 3 and 30, and a \$30 million investment only, there would be two separate projects.

SENATOR WEHRBEIN: But it would still be by company report.

SENATOR LANDIS: It will be by company report. That's right.

SENATOR WEHRBEIN: It's not a number, or a hidden number.

SENATOR LANDIS: No, no, no. That's right. You will know when and where, bang for buck, money is received in a tax benefit form...

SENATOR WEHRBEIN: But if they did have several...

SENATOR LANDIS: ...by who got it.

SENATOR WEHRBEIN: But if they had several projects, they could be aggregated by...

SENATOR LANDIS: I would anticipate that you would see, let's say, the Union Pacific 3 and 30, the Union Pacific 30 and 0, and the Union Pacific 10 and 100, if they had three different projects. They would be done project by project. But the person who runs that project, the employer, the business, would be declared. But you could have multiple projects for the one employer, and you'd have project-by-project reporting.

SENATOR WEHRBEIN: Okay. Thank you.

SENATOR CUDABACK: Thank you, Senator Wehrbein. Further discussion? Senator Beutler.

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

May 9, 2005

LB 312

SENATOR BEUTLER: Senator Landis, I notice on Section 1 you have a termination date of 2011 on the research develop...research provision. Do you feel strongly about that, or is there...

SENATOR CUDABACK: Senator Landis.

SENATOR BEUTLER: ...a particular reason?

SENATOR LANDIS: The research and development sales tax credit, I don't think, has a sunset. I believe the sunset applies to research and development projects that qualify under our new lower tier, which has a five-year sunset. Our two new tiers have five-year sunsets. Our goal there is to make sure we get a chance to see what the new tiers' utilizations are. This Legislature was surprised and stunned by the utilization of LB 775, given what we thought would happen. So, since we're creating new tiers and new opportunities, we've added sunsets--something that did not happen in LB 775, but did happen here.

SENATOR BEUTLER: Okay. The Section 1 research and experimental activities provision, that's different from the tier system, is it not? But I assume that the... that the sunset is there for the very same reason, perhaps.

SENATOR LANDIS: Apparently both the microenterprise...George reminds me, okay, that our general theory was new ideas had five-year sunsets. That did apply to the research tax credit and to the microenterprise. What our goal was...what the theory that we had was the Legislature the last time didn't set any sunsets, and we never heard back from the business community for 17 years. Only when you get sunsets do you have two-way conversations. Put in a five-year sunset and we'll all be back here doing this again, and we'll have a body of record, as to what we've spent and what we've got, to evaluate. That's why it's there.

SENATOR BEUTLER: Is there any value, since we've made such important changes to the basic LB 775 provisions, to a sunset on those existing provisions, now that they've been revised?

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

May 9, 2005

LB 312

SENATOR LANDIS: No. (Laughter)

SENATOR BEUTLER: Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. Senator Landis, there are no further lights. You are recognized to close on the fourth component, FA239.

SENATOR LANDIS: Thank you. Senator Beutler hung in there and got the right answer out of me. It took him two times to get it, but I finally gave it to him. Apparently there is a five-year sunset on these provisions, as well. What we've discovered is that once you create these, if there is no chance to visit them again, the political momentum of keeping exactly as they are without amendment is pretty great. That's why the sunsets are in there, for all new ideas, but not for old ideas that never add a sunset. We didn't impose those. I would ask for the adoption of FA239.

SENATOR CUDABACK: Thank you, Senator Landis. You've heard the closing on FA239. The question before the body is, shall the fourth division and final division of the divided committee amendments be adopted, known as FA239? All in favor vote aye; opposed, nay. The question before the body is adoption of FA239. Have you all voted on the question who care to? Record please, Mr. Clerk.

CLERK: 41 ayes, 0 nays, Mr. President, on the adoption of the fourth and final component of the committee amendments.

SENATOR CUDABACK: The amendment has been adopted. Mr. Clerk, anything further on the bill?

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

SENATOR CUDABACK: Open for advancement of LB 312 to E & R Initial. We're open for discussion. Senator Raikes.

SENATOR RAIKES: Thank you, Mr. President and members; a brief

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

May 9, 2005

LB 312

comment. I'm sure you all understand that we are at, I think, the all-time highs now on sales tax rate. We're as high as we've ever been on income tax rate. On property taxes, at least for schools, we're up to \$1.05 now. When you talk about tax climate, that to me is a place to start. And ironically, the people who will complain loudest and most about those tax rates are the business community. They're the ones that are pushing this program. And I would suggest to you that you are, by passing this, putting well into the future, a date at which you will be able to do anything about those record-high sales tax rates, income tax rates, and property tax rates. Thank you.

SENATOR CUDABACK: Thank you, Senator Raikes. Other discussion? Senator Stuthman.

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. I would just like to...a comment was just made, and I would like to ask a question of Senator Raikes, if I may, please?

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

SENATOR RAIKES: Yes.

SENATOR STUTHMAN: Senator Raikes, you said that we're...our income tax rate, we're as high as they've ever been? In my recollection and memory, when we increased the income tax rate last year or the year before, we only brought it back half of what it was, scaled down several years before that. Would I be correct, or am I misleading?

SENATOR RAIKES: I think you are. I stand corrected, Senator. I believe in 1998 it was maybe a little bit higher than what it is now. So given that revelation, everything I said can be ignored. (Laughter)

SENATOR STUTHMAN: Thank you.

SENATOR CUDABACK: Thank you, Senator Stuthman. Any further comments? Seeing no lights on, Senator Landis, the Chair

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Transcriber's Office  
FLOOR DEBATE

May 9, 2005

LB 312, 695

recognizes you to close on the advancement of LB 312.

SENATOR LANDIS: Thank you. I'd yield the closing to Senator Baker, whose priority bill, LB 695, is contained in this measure.

SENATOR CUDABACK: Senator Baker.

SENATOR BAKER: Thank you, Senator Landis, members. I will be brief. We've talked about this since 3:00; that's probably long enough. In summary, we've added new tiers, jobs only, increased the investment only to \$30 million. The new tiers, of course, are a million, and 10 employees and so on. I'm not going to go beyond that. The microenterprise is in there, Senator Connealy's bill; the sales tax on machinery, which was my priority bill, which Senator Landis indicated is included in this; we've got the research and development section within the bill; we have increased disclosure; and we've sunset the new provisions. And I don't know what else I can add. I think that is a very brief but fairly complete summary of what is in LB 312, and I would urge the advancement of LB 312 to Select File. Thank you.

SENATOR CUDABACK: Thank you, Senator Baker. Senator Landis, are you waiving the rest of the time, Senator Landis? The question for the body is, shall LB 312 advance to E & R Initial? All in favor of the motion vote aye; those opposed to the motion vote nay. The question before the body is, shall LB 312 advance to E & R Initial? Have you all voted on the question who care to? Have you all voted who care to? Record please, Mr. Clerk.

CLERK: 39 ayes, 1 nay, Mr. President, on the advancement of LB 312.

SENATOR CUDABACK: LB 312 advances. Mr. Clerk, a priority motion?

CLERK: Mr. President, yes, sir, excuse me, I have a priority motion. Senator Wehrbein would move to adjourn until Tuesday morning, May 10, at 9:00 a.m.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
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FLOOR DEBATE

May 9, 2005

SENATOR CUDABACK: You've heard the motion, adjourn, May 10, 2005, at 9:00 a.m. All in favor of the motion say aye. Opposed to the motion, nay. The ayes have it. We are adjourned.

Proofed by: J. Hurlbut