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Floor Debate
April 23, 2019

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FOLEY: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the sixty-third day of the One Hundred Sixth Legislature, First Session. Our chaplain today is Pastor Kim Dunker of the Geneva Methodist Church in Exeter, Nebraska, Senator Brandt's district. Please rise.

PASTOR DUNKER: (Prayer offered.)

FOLEY: Thank you, Pastor Dunker. I call to order the sixty-third day of the One Hundred Sixth Legislature, First Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

FOLEY: Thank you, Mr. Clerk. Are there any corrections for the Journal?

CLERK: I have no corrections.

FOLEY: Thank you, sir. Are there any messages, reports, or announcements?

CLERK: Just one item, Mr. President. Attorney General's opinion addressed to Senator Briese (re LB183). That's all that I have.

FOLEY: Thank you, Mr. Clerk. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR84 and LR85. (Doctor of the day and visitors introduced.) We'll now proceed to the agenda, Select File, 2019 committee priority bills, LB177. Mr. Clerk.

CLERK: Mr. President, LB177 was under consideration last Thursday. At that time, Senator Erdman had pending FA50 to the bill as an amendment to the bill, Mr. President.

FOLEY: Before we go into the speaking queue, perhaps Senator Erdman and Senator Lindstrom would like to just brief us quickly on where we are on the bill. Why don't we start with Senator Lindstrom to give us an overview of the bill, and then Senator Erdman on your amendment. Senator Lindstrom.

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LINDSTROM: Thank you, Mr. President. LB177 is simply an extension of the Papio NRD's bonding authority. We shortened the length from ten years to five years with the committee amendment and was voted out 6-2. So this just puts it out for another five years and is another tool in our tool box to help them with certain projects in the Papio NRD territory. Thank you.

FOLEY: Thank you, Senator Lindstrom. Senator Erdman, how about a couple minutes on review of your amendment.

ERDMAN: Thank you, Lieutenant Governor. Good morning. My amendment actually is the sunset in 2019 as it was established in statute ten years ago. The NRD is the largest tax collector in the state by a great margin. The Papio NRD collects 33 percent of all property tax collected by NRDs in the state. They have the levying authority to raise another \$4 million in their current mill levy situation. The voters voted in the past to not allow bonding by this NRD. It is the only one that has bonding authority. It was the intention of the Legislature to sunset this in 2019 and that's exactly what FA50 is supposed to do, sunset this bonding authority because the voters did not approve it. A vote for LB177 without the amendment, FA50, is a property tax increase. And so for those of you on the floor that are against property tax increases, you need to understand what you're voting for if you vote for LB177 without FA50. So I encourage your green vote on FA50. Thank you.

FOLEY: Thank you, Senator Erdman. A long list of senators in the speaking queue. We'll start with Senator McDonnell.

McDONNELL: Thank you, Mr. President. Good morning, colleagues. On Thursday, Senator Erdman had an opportunity to speak on this bill and he mentioned Dan Bagley who is currently on the NRD and he's one of the new directors. After that discussion, I was contacted by Dan Bagley and he wanted to make it clear what his position was that he was supportive of LB177 and he asked me to read a letter: Good afternoon, Senators. In light of an e-mail I sent on 3-21-19 to the Papio NRD directors, general manager John Winkler and other staff members being referenced on the legislative floor on April 18, 2019, I wanted to clarify my position. As a newly appointed Papio NRD director for Subdistrict 7 in February of 2019, I was notified on March 21, 2019, of an emergency declaration subject to NRD policy 15.4. As I clearly stated in that e-mail, I was disappointed that I was not notified of the declaration immediately. Within minutes of sending my e-mail, I was contacted via telephone by general manager Winkler. He explained to me the need for urgency regarding the emergency situation had led to the communication oversight on his part. We had an excellent discussion and in light of the rapidly developing flooding issues, G.M. Winkler and his team were focused on saving property and lives. In order to provide an excellent representation for my constituency, I made it clear I wanted to be informed and John understood. I accepted his explanation and commended the

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entire team at the Papio NRD for their outstanding dedication and work they were doing and continue to do. At our public NRD board meeting on 4-11-19, the board had an excellent discussion regarding the local disaster emergency declaration. We, in fact, voted to support the declaration with a 10-1 vote, the opposition using my response to try and defeat LB177 which I have been on public records supporting is not an accurate depiction of the facts. I support G.M. Winkler and the Papio NRD team's work to protect lives and property and I am in full support of LB177. I have stated this on several occasions in our public meetings and wanted to reiterate this to you today. I was also respectfully-- respectfully not hesitate to speak up to management and other directors when I believe my constituent's interest warrant me doing so. Respectfully, Dan Bagley, director Papio NRD's Subdistrict 7. So I wanted to make sure-- Dan asked me to get that into the record. Again, I thank Senator Erdman for giving me that letter that Dan had sent to the board back on 3-21-- I'm sorry, back in February. And I think this would help the discussion knowing that out of the board members right now with LB177, they're is strong support from the NRD directors to support LB177. Thank you.

FOLEY: Thank you, Senator McDonnell. Senator Blood.

BLOOD: Thank you, Mr. President. Fellow senators, friends all, unfortunately, I was unable to hear the entire debate last Thursday as I was in an Exec meeting. However, I heard more than enough and I want to approach this issue clearly from a Sarpy County view since that's the area I represent. We know that the NRD has worked tirelessly for eight years to rehabilitate the Missouri River levee system, R613 and R616. And if that sounds familiar that's because those are the levees that protect Offutt Air Force Base, Omaha's Papillion Creek Wastewater Treatment Plant, and approximately 6,000 acres. Now, you'll remember that the city's of Bellevue and Omaha, the Nebraska Legislature and Sarpy County all worked together to secure this funding. It was based on the agreement that the federal government agreed to fix the runway. Again, based on this agreement, the federal government-- there's so much talking, I'm not sure everybody can hear --to fix the runway. Prior to the flood, Congressman Don Bacon expressed in a letter the importance of the \$22.8 million levee project and how critical it is to protect Offutt Air Force Base and reduce the flooding of nearly, again, 6,000 acres. The district awarded the construction contract to begin the rehabilitation of these levee systems to begin work in the spring of 2019. When the design and permitting of this project started well over eight years ago, the project was estimated at \$25 million. However, due to the delays in receiving the necessary federal permits from the U.S. Army Corps of Engineers, an increase in the right-of-way acquisition cost, and an increase in overall construction costs due to delays and inflation, it is now estimated that the total project cost may exceed thirty-two to \$35 million before completion. This means that it may very well become necessary for the Papio NRD to finance some part of this project. Expanding the bonding authority before it lapses this year is a prudent way to find better terms and lower interest, ultimately saving taxpayer dollars. Had certain parties not drug their feet, and the levee project completed, it could have saved the DOD and Air Force more than \$350 million. Again,

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had the levee project been completed, \$350 million, and that's a 12 to 1 cost benefit ratio. Investment in flood infrastructure has a huger cost benefit ratio and as many of you who oppose this bill like to say, that is also taxpayer's dollars. When I heard the debate last week I heard one senator state that the use of NRD funding to create trails was perhaps a poor use of funds. This a disconnect by policymakers who are not in our communities and this needs to be explained. You see, as senators and other policy makers in eastern Nebraska understand, it is part of our continued effort to move the map of 2040 plan forward in a unified fashion. What research clearly shows is the benefit of walking communities and alternatives for transportation to address any of the younger professionals, families with children, and our more active seniors. Those trails that were spoken of in a derogatory fashion, serve a purpose of connectivity often between communities or to and from areas of recreation or simply to build value within communities and neighborhoods to bump up the amenities offered in an area. Those are positive and planned steps towards successful, economic development. We plan for the future, and these things are not done in a willy-nilly fashion. Municipalities and other officials are kept in a loop throughout the process and asked to share input at every step along the way. We know what's going on in our part of the state. We're there to support it. Monies are spent wisely by the NRD and they work hard and I speak from experience to work with--

FOLEY: One minute.

BLOOD: --the local policy makers and metro organizations like NAPA. It's insulting to say that they have notice including wasting or misspending funds and it's frankly poor planning to not allow them to expend their existing bonding authorities to protect the betterment of our communities and the long-range spending of taxpayer dollars. But most importantly, Nebraska's number one employer, Offutt Air Force Base must be protected. I do not support the amendment. I am in full support of LB177. This is good for Nebraska. We can't lose that employer. Thank you, Mr. President.

FOLEY: Thank you, Senator Blood. Senator Erdman.

ERDMAN: Thank you, Lieutenant Governor. Good morning, again. Let me go through that list just briefly. I want to bring it to your attention how much property tax this NRD collects. They collect \$24,800,000 a year which is 33 percent of all taxes-- property tax collected by the NRDs. Then they talk about the six projects that they want to do for flood control. These six projects would cost \$91.7 million and they would actually affect a drainage area equal to just slightly over 3 percent of the total area. So Senator Blood in her comments made a comment about economic development. That's what this NRD is all about. And we spoke about this last Thursday when we talked about some of those dams that they built are not on a creek, there's no river running into them, and they have to pump water into the dam to keep the water level up. So

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if you shut off the pump, the flooding stops. An amazing deal. So as you look at this NRD and the out of control spending that they have, they have many partnerships, they have many local agreements, interlocal agreements, and when the issue was on the ballot, whether the voters of this NRD should allow that NRD to be the only one that does bonding, I read you last week a list of all of those who contributed money to getting that bond passed-- that bond issue passed. And all of those people were economic development people, real estate people, construction people, those were the ones involved. This NRD is totally, totally out of control. I shared with you last week that their current mill levy is 37-- 3.7594 cents and if they would raise it to 4.5, which is their maximum, they could collect another \$4.8 million. They do not need-- they do not need bonding authority. Let me run through a list of available funds that are available to this NRD. Their beginning cash balance is 26 million, 24.4. They have an investment of \$50,000. The treasurer has a balance for them at 475,000. Their increased levy, as I said, would go to \$4.8 million. The annual growth valuation year over year for their district is 4 percent. So you have to look at what they can actually raise by keeping the mill levy the same because their valuation goes up. The reallocated Recreation Trails Fund is at 911,000, the dam fund is 4,407,000. State grants and funds, 2,805,000 and the watershed ending cash on hand is \$1,534,000 for a total funds available of just 42,548,000. They're nearly broke. That was a joke. They have all kinds of money, they have all kinds of authority and as I said last week, their cash reserve, they have \$20.9 million in unrestricted cash reserves. This NRD has been, and will continue to be, one of the highest taxing NRD's in the state because of the size. And their valuation has been going up quite extensively. From 2012 to 2013, their valuation was 52.5 billion, with a b. In '18-19, it was 66 billion, 66 billion.

FOLEY: One minute.

ERDMAN: Thank you, sir. So one year over year, '17-18, '18-19, their valuation went up \$550 million alone. This NRD has plenty of room in their current bond and mill levy authority to raise all the money they need and the dams that they're going to build have no effect on Offutt Air Force Base. And in Senator Blood's comment she said, this NRD may affect the Offutt Air Force Base. This NRD is out of control. FA50 does exactly what they intended ten years ago, let's this bonding issue sunset, and that's exactly what we should do. Thank you.

FOLEY: Thank you, Senator Erdman. Senator Clements.

CLEMENTS: Thank you, Mr. President. I'm standing in opposition to LB177. Especially was interested to hear that the vote of the people for this NRD was a no vote. I see that the revenue authority of \$24 million a year is a good amount of money to do the projects they need. The \$73 million of bonds they already have. I think it's a time to be paying down some debt rather than acquiring more. They have done a good job on flood projects. The major projects though I think

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are completed and the annual revenues will be adequate to do the projects in the future. And, of course, the fact that no other NRD has bonding authority and all the other NRD's work with less annual revenues than this, so I think that the funding they have currently is adequate. And I would yield the rest of my time to Senator Albrecht.

FOLEY: Thank you, Senator Clements. Senator Albrecht, you've been yielded 3:45.

ALBRECHT: Thank you, President Foley, and thank you, Senator Clements. I rise today to clear up a few things from what was said on Thursday. I did get a letter from general manager Winkler to state that in January of 2018, they did take a vote of their body to bring this bill to the Nebraska Legislature. So that, I will stand corrected. But during our committee hearing on February 14th, Senator Halloran happened to ask Jim Thompson, who is a member of the NRD, Papio NRD, how many directors they have and he said eleven. What I found interesting is Senator Halloran had asked if there were any farmers on that board. And he said he didn't think so. Well, I rise today for those farmers who do not have a voice in what is being done and what could be possibly done on LB177 if it were passed. Again, a vote yes on LB177 would be a vote to raise taxes, and I stand in opposition to LB177. I don't believe this is something that we need to be doing. Now is not the time for LB177. Again, LB177 came before us in our committee because they wanted to make certain that their levees would be funded, not Offutt Air Force Base. The floods didn't come until March 13th. So, again, they have a responsibility to the citizens within that NRD. And again, for the record, I want people to understand what their statutory authority is on all of these NRDs. Erosion, prevention, and control. Prevention of damages from floodwater and sediment. Now if they asked for emergency declaration for the flooding, they needed to call a meeting, let the public know they were going to be talking about it so the public could have something to say about it as well. When you have a declaration, you need to know. You have to have pictures, you need to know what you're going after, what it's for, but you certainly do need to have a meeting of all of your members and a phone call is not, to me, doing business the right way. If you have everybody there and the public knows you're there, I mean we've had these declarations going on since March 13th. They have plenty of time to call the board together and talk about some of these areas, because you have to identify where the damage is so that you can ask FEMA to come in or whoever.

FOLEY: One minute.

ALBRECHT: So, again, the flood prevention and control is what they're supposedly all about, soil conservation, water supply for any beneficial use. I just want everyone to think about what you're doing here because the voice of the people was heard in 2016 when they said, no more. You know, slow down, we're not giving you the authority to do this. But yet, they'll come down to the state Legislature and just change it with a group of 33 that decides it's okay to do that.

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Again, we've said no in slowing down our NRD's in the state of Nebraska, I just ask that on LB177 that you vote no and not to raise taxes for those in Nebraska that don't choose to have it done. Thank you.

FOLEY: Thank you, Senator Albrecht. Senator Albrecht, you're actually next in the queue if you would like five additional minutes.

ALBRECHT: Sure. Okay, so again, we were talking about what has the NRD done over the time, and how many times have they come to us when they can't get the job done themselves, they decide to come before this body. And the opposition to LB177, it's certainly distinguished by the number of people with the largest property tax base in the state, and they're the only ones with the bonding authority. They want more authority. And even after the voters told them no, you know, they have a ten-year relationship with high-end housing and developers in Sarpy and Douglas County and that's been wonderful, that's been great, but, you know, the buck stops where we don't get to enjoy those amenities that they're providing for some of those folks. If we can't, as a public, go walking on their trails or go boating or just to be able to enjoy the area that we-- that they use tax dollars on to make that happen. You know, they've taken their authority for recreations to a new level. You know, some of the folks up north where I'm from, that's what they talk about at the coffee shop, or, hey, have you been on the trails that we're paying for down south? So there's something of a disconnect when you have that large of a base and the people are not experiencing what they would like to feel is a good use of their money. Again, taking that authority for recreation to a new level is something to be thought of. When it comes to the developers at the detriment of the taxpayer, that I don't think is fair. The annual valuations like Senator Erdman talked about were 4 percent increases and a 7 percent on bonding. These facts are something that people need to take heed to and listen. And I know that we talk about all the time, if you want to help reduce taxes in the state of Nebraska, you need to attend your board meetings of the NRDs, of the schools, of the cities, of the counties. Everyone needs to be engaged in what's going on. And, you know, again, they came before the citizens and asked for the money and they were denied. And then, of course, they come down here and the denial is even greater over the years. But we just need to ask people to consider what they're asking for here and the time line. I mean, again, they came here with, I'm hearing eight different projects in the queue. I know HDR had a study out and there's like four, maybe five that should be considered over a period of time. But that's not what they're talking about. Today, they're talking about, oh, now it's about the flood. You know, we've really got to engage. You bet you have to engage, but the Papio did not flood. The Missouri River did and those in the Sarpy County area were affected and they do need to rise to the occasion and help out, but everybody has to stop and take a minute to regroup and find out what they can do to help the citizens of the state of Nebraska. And I don't believe that this timing for LB177 is what it should be. We definitely need to be thinking this through and find out if this is what the folks really want to do. And I did talk about the last time that history of seeking more funds where it has been a denial, and I'll go

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backwards actually here. In 2016, again when the people spoke, if they said no, there's a reason that they're saying no. I mean, enough is enough. I think they have to scale back. In 2015, Senator Kolowski brought--

FOLEY: One minute.

ALBRECHT: --LB344. Those general obligations were indefinitely postponed. In 2014, he brought a bill again to the Legislature. It was indefinitely postponed. In 2009, LB160, Senator Gay brought that and that's the one that was sunsetted this year in 2019. So they are looking to help themselves with a little bit more funding, and it's not the time. In 2006, '07 and '08, they were also-- actually three bills that were IPPed at that time as well. So I want you all to know that it is okay not to pass something if the timing isn't right, and I don't believe that this is the time and I don't believe this is what the people of the Papio NRD are wanting. Thank you.

FOLEY: Thank you, Senator Albrecht. Senator Lowe.

LOWE: Thank you, Mr. President. Seems like all we're wanting to do anymore is override the vote of the people, the second house of our state. When the second house speaks, we ought to listen. We are a band of 49, and they're two million strong. Forty-nine should not overrule the people. And if Senator Albrecht would like the rest of my time, I'd like to yield my time to Senator Albrecht.

FOLEY: Thank you, Senator Lowe. Senator Albrecht, you've been yielded 4:20.

ALBRECHT: Thank you, very much, Senator Lowe, and thank you, President Foley. Again, with LB177, this is not a concern about their 1 percent bond levy limit. They've tried and they have failed to exceed that 1 percent by the vote of the people. And if they think that this is their opportunity at more bonding authority, the people are not asking for that right now. You can have as many different projects in the queue as you would like, but that doesn't mean that it's the time. I mean they have a lot of bonds to be paying off, but that is certainly not prudent to ask the taxpayers to continue to fund that. And by passing LB177, they have ten more years to run as many bonding elections as they'd like, whenever they choose, and they can exceed their current 4.5 cent property tax cap. And there's a cap on it for a reason. There's a reason that we sunsetted the NRDs when we did. And although the Papio watershed did not flood in this 500-year event, their tactic will be to fear of flooding and the fear of loss in property and the fear of life. It says so on their Web site. You can take a look at that, and the proof is found in statute 2-3226.10. Flood protection and water quality enhancement bonds authorize natural resource district powers and duties for special bond levy authorized. And in addition to the other powers authorized by law, the board of directors of the natural resource district encompassing a city of the

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metropolitan class upon affirmation of the vote of two-thirds of their members or their board of directors may issue negotiated bonds and refunding bonds of a district. Entitled flood protection, water quality enhancement bonds with terms determined appropriate by the board of directors, and payable from an annual special flood protection and water quality enhancement bond levy upon the taxable value of all taxable property in the district. Such special bond levy is included and in computation of other limitations upon the district's levy of, again, 4.5 cents, and shall not exceed one cent on each one hundred dollars of taxation value annually on all the taxable property within the district without approval by the majority of the registered voters of the district at an election in accordance with the Election Act called by the board of directors and held in conjunction with a statewide primary or general election. Again, this is important to know because when people want to talk about Offutt Air Force Base, and bring that into getting LB177 passed, I don't think that that is something that is--

FOLEY: One minute.

ALBRECHT: --that that was not the reason for this to be happening. It was for other items that they had in their queue, other projects. So with that, I still stand in opposition of LB177 and just want to remind you that a vote yes on LB177 would certainly be a vote to raise taxes again on those-- and you can say, taxation without representation. If you don't have a farmer on that board and we don't have a voice, that's why I'm standing here today and last week is because we do have a voice and we need to be heard and I certainly hope that you'll take that into consideration. Thank you.

FOLEY: Thank you, Senator Albrecht. Senator Murman.

MURMAN: Thank you, Mr. President. I stand in opposition to LB177 also. There was a recent vote of the people to-- that did not give more bonding authority to the NRD. So I don't think it is-- it shouldn't be us that would allow that after the people voted not to do it. And I don't think it's a flooding issue also because the flooding was on the-- there was no flooding on the Papio. It was on the Missouri. So, I don't think we should go against the will of the people, of the voters there in that NRD. And also, of course, a vote yes on this would be a vote to increase property taxes and the state is way too reliant on property taxes. And my position on that would give me just another reason to be opposed to this. And I would give the remainder of my time to Senator Erdman if he would so desire. Thank you.

FOLEY: Thank you, Senator Murman. Senator Erdman, 3:30.

ERDMAN: Thank you. Thank you, Lieutenant Governor, and thank you, Senator Murman. One of the things that has happened over a period of time is, there's information that's not exactly true

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has been presented and talked about. And so, over the last 55 years, they've continued to talk about the flooding and the flooding that will materialize if they didn't do the things that they did. And there's been a lot wet dams created since the 1960's and farmers in this NRD have taken it upon themselves to diminish runoff and so, there's not as much runoff as there used to be. And following several examples from the Papio NRD where the board members didn't exactly shoot straight with the constituents and the voters, we all understand the difference between a mill levy and we all understand the difference between what taxes are paid, and you don't pay your taxes in mill levies. And one of the things that they've said, and the manager had said this, the district is proud that we have not raised property tax levy, and again this year we will decrease the property tax levy. The general manager also said that for the last 13 or 14 years they've done the same. The district has either decreased or kept the mill levy the same. We work diligently to save taxpayers millions of dollars and take seriously our responsibility in doing so in a transparent manner, Winkler said. So what happens, as I explained to you earlier, the valuation goes up 4 percent or more a year. They leave their mill levy the same, or in the case of the last time they lowered their levy, they lowered it from-- now get ready for this -- .037797 to .037594 so that's .000203 percent of a penny. So the NRD's spending in that same time period went up 4.6 percent or \$1,097,000 in one year. The NRD had budgeted an increase of 8.2 percent increase or 5.5 million. For, you see, their mill levy stayed the same but their valuation continues to go up. And so consequently when you look at that, it's kind of misleading, it's not exactly false statement, but it's misleading to those who are looking at the budget of the NRD. And earlier, we had passed a bill, LB103, Senator Linehan brought that, that in the future the NRD is going to have to advertise when they advertise their budget how many tax dollars they collected the prior year and how much they're going to collect this year. And so, consequently, we see that misinformation not necessarily intended, but that's the way it's presented. The Papio, or the Papillion Creek Watershed partnership is something that a lot of people do not know about. And the Papillion Creek Watershed partnership was created in 2001 to address issues related to surface water quality and storm water quantity in the watershed by established goals and standards common to the region developed within the watershed through the year 2050. Membership in the partnership and interlocal agreements are between the Papio NRD, Omaha--

FOLEY: That's time, Senator.

ERDMAN: Oh, thank you.

FOLEY: Thank you, Senator Erdman. (Visitors introduced.) Senator Groene.

GROENE: Thank you, Mr. President. One of the main reasons I came down here was property tax relief, one of the three or four main reasons. Many of you did too. Many of you all told me, no matter what political beliefs, that that's the biggest issue out there when you go door to door.

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This-- so I rise against a property tax increase in LB177. This is an increase, folks. This is an increase. They raised their taxes over the last five years by .7 mills or so for \$71 million in debt to build six dams. When a school district comes to you and says, let's do another bond levy because we're not going to raise your tax levy, they got a little a truth in that because the levy is paid off, the bond is paid off, they've already paid that levy, and then if they build a new school, the levy stays the same. This is not the case. They have raised it .7 mills to pay for \$71 million in debt for the next 30 years. If they build more dams, they have to raise the levy again to pay off the additional bonded indebtedness. This is a tax increase. I finally got a map of the Papio NRD. It includes Dakota County up by Sioux City, Thurston, Burt, Washington, Douglas and Sarpy. Those small town residents, those hardworking homeowners, those farmers, are paying an increased tax to do economic development in Douglas and Sarpy County. Is that fair? That is what's happening here. Not a single dam goes in Dakota, Thurston, or Burt County or Washington. This is economic development for urban Nebraska used by an entity that is supposed to do one thing and one thing only, manage and maintain our natural resources, our soil, our waters, our flood control. We just had a 100-year flood. They did a good job over the last years except around the Air Force Base, but there's no flooding. They don't need any more dams. It's going to be another 100 years, nobody overflowed, nobody's dock floated away on these very wealthy, middle-class people, floated away on these lakes because they overfilled. This has nothing to do with flood control. This is economic development. Great thing in the free market system. I want to see the numbers. How much money did these developers, co-op with the NRD to build those dams? The picture of the island, was that island necessary? Was it necessary in that lake for flood control? The bulldozer should have pushed that out for more capacity of that dam, but no, they built this nice island. Looks like one of the greens at a golf course, a landing area for very wealthy individuals who got a discount on their home because the taxpayers built them a lake. That isn't what NRDs are supposed to do. This is a property tax increase, period. Period. North Omaha, those folks are paying property taxes so some wealthy doctor or lawyer or somebody or investor can have a nice home on a lake. That's urban Omaha, too, is supporting this. It doesn't threaten them on a flood. The Missouri does. And they failed because they were more worried about economic development than getting the levees fixed along the Missouri River. Threatened-- really threatened our economic development around Offutt Air Force Base because they neglected it because they were going to dinner and trips with developers and making friendships with them. That's what this is all about. I'd like to have the Auditor's Office. This is a prime target of government entity--

FOLEY: One minute.

GROENE: --that needs to be audited. I want to know who is spending whose money and who is going where with who. I want to know if the payola has been reported on accountability and disclosure? Where there's money, it smells. Is that reality? I don't know. But it sure smells like it. This is a property tax increase on the poor and on rural Nebraska for some economic

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development, a bunch of good ole boys. If you support this-- when you went door to door and you said you believe we need property tax relief, you lied because this is a property tax increase on the poor, on the middle-class, on rural Nebraska. Thank you. Vote red on LB177 if we ever get there.

FOLEY: Thank you, Senator Groene. Speaker Scheer.

SCHEER: Thank you, Mr. President. We've reached the allotted time for Select Files, so we'll move to the next item, please.

FOLEY: Thank you, Mr. Speaker. We'll clear the speaking queue and move on to LB428. Mr. Clerk.

CLERK: Mr. President, if I might, one item to read before we proceed--

FOLEY: Please do.

CLERK: --and that would be an amendment by Senator Wayne to LB496.

Mr. President, with respect to LB428, I do have Enrollment and Review amendments pending.

FOLEY: Senator Wishart, can we put you into service with an E&R motion, please?

CLERK: E&R amendments, Senator.

WISHART: Sure. I'm a little bit rusty, but I'll try. So thank you, Mr. President. I move the adoption of the E&R amendments to LB428.

FOLEY: Thank you, Senator Wishart. Members, you heard the motion to adopt the E&R amendments. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted.

CLERK: I have nothing further on the bill, Senator.

FOLEY: Senator Wishart.

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WISHART: Thank you, Mr. President. I move to advance LB428 to E&R for engrossing.

FOLEY: Members, you heard the motion to advance LB428 to E&R for engrossing. Those in favor say aye. Those opposed say nay. LB428 advances. Our next bill is LB31.

CLERK: Senator, I do have E&R amendments pending.

FOLEY: Senator Wishart.

WISHART: Thank you, Mr. President. I move the adoption of the E&R amendments to LB31.

FOLEY: Members, you heard the motion to adopt the E&R amendments. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Mr. Clerk.

CLERK: Nothing further on the bill, Senator.

FOLEY: Senator Wishart.

WISHART: Thank you, Mr. President. I move to advance LB31 to E&R for engrossing.

FOLEY: Members, you heard the motion to advance LB31 to E&R for engrossing. Those in favor say aye. Those opposed say nay. LB31 advances. LB31A.

CLERK: LB31A, Senator, I have no amendments to the bill.

FOLEY: Senator Wishart.

WISHART: Thank you, Mr. President. I move to advance LB31A to E&R for engrossing.

FOLEY: Members, you heard the motion to advance LB31A to E&R for engrossing. Those in favor say aye. Those opposed say nay. LB31A advances. Next bill is LB638.

CLERK: LB638 does have Enrollment and Review amendments pending.

FOLEY: Senator Wishart.

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WISHART: Thank you, Mr. President. I move the adoption of the E&R amendments to LB638.

FOLEY: Members, you heard the motion to adopt the E&R amendments to LB638. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Mr. Clerk.

CLERK: Nothing further on the bill, Senator.

FOLEY: Senator Wishart.

WISHART: I move to advance LB638 to E&R for engrossing.

FOLEY: Members, you heard the motion to advance LB638 to E&R for engrossing. Those in favor say aye. Those opposed say nay. LB638 advances. Proceeding on the agenda, Select File, 2019 Senator priority bills, LB556.

CLERK: LB556 does have E&R amendments, Senator.

FOLEY: Senator Wishart.

WISHART: I move the adoption of the E&R amendments to LB556.

FOLEY: Members, you heard the motion to adopt the E&R amendments. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted.

CLERK: Nothing further on the bill, Senator.

FOLEY: Senator Wishart.

WISHART: I move to advance LB556 to E&R for engrossing.

FOLEY: Members, you heard the motion to advance the bill. Those in favor say aye. Those opposed say nay. LB556 advances. Proceeding to LB556A. Mr. Clerk.

CLERK: LB556A has no amendments pending.

FOLEY: Senator Wishart.

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WISHART: I move to advance LB556A to E&R for engrossing.

FOLEY: Members, you heard the motion to advance the bill. Those in favor say aye. Those opposed say nay. LB556A advances. LB252.

CLERK: LB252 does have E&R amendments, Senator.

FOLEY: Senator Wishart.

WISHART: I move to adopt the E&R amendments to LB252.

FOLEY: The motion before us is to adopt the E&R amendments. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted.

CLERK: I have nothing further on the bill.

FOLEY: Senator Wishart.

WISHART: I move to advance LB252 to E&R for engrossing.

FOLEY: The motion is to advance the bill. Those in favor say aye. Those opposed say nay. LB252 advances. LB304.

CLERK: LB304 does have Enrollment and Review amendments pending.

FOLEY: Senator Wishart.

WISHART: I move to adopt the E&R amendments for LB304.

FOLEY: The motion is to adopt the E&R amendments. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Mr. Clerk.

CLERK: Nothing further on LB304, Senator.

FOLEY: Senator Wishart.

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WISHART: I move to advance LB304 to E&R for engrossing.

FOLEY: Members, the motion before you is to advance the bill. Those in favor say aye. Those opposed say nay. LB304 advances. LB698.

CLERK: Senator, I have no E&Rs. Senator Bostelman would move to amend with AM1288.

FOLEY: Senator Bostelman, you're recognized to open on AM1288.

BOSTELMAN: Thank you, Mr. President, and good morning, Nebraska. Good morning, colleagues. What the AM does is add the E-clause, the emergency clause to this bill and the reason why I've done this is because two weekends ago we did a roadside cleanup in a three-mile stretch of roadway on Highway 92. During that time there was picked up over 37 large, orange bags of trash of-- not all of it come from those trucks --from trucks, but I will tell you the vast majority of that that was picked up came out of those-- off of trucks, off those vehicles we've been talking about. With that information knowing what that is just in that three-mile stretch of highway, that brought to the urgency I felt that we need to take with this bill with this opportunity to bring to the importance and the need to get this taken care of right away. Make sure that this bill goes through and in an expedient fashion, the emergency clause is put on to it because, again, 37 bags of trash over ten large-- of those big, orange plastic bags a mile is what was picked up. And that's not-- that's only in the right-of-way. That's not what was out in the fields next to it. Some of those fields almost look like they had snow in it, there was so much debris out in those fields. It needs to stop, and I ask for your support. That's why I dropped AM1288 with the emergency clause. I ask for your support on the amendment and the underlying bill. Thank you, Mr. President.

FOLEY: Thank you, Senator Bostelman. Is there any discussion on Senator Bostelman's AM1288? I do not see any. Senator Bostelman, you're recognized to close on your amendment. He waives closing. The question for the body is the adoption of AM1288. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

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

FOLEY: AM1288 is adopted. Mr. Clerk.

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

FOLEY: Senator Slama.

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SLAMA: Mr. President, I move that LB698 be advanced to E&R for engrossing.

FOLEY: Members, you heard the motion to advance the bill. Those in favor say aye. Those opposed say nay. LB698 is adopted. [INAUDIBLE] Our next--

CLERK: [INAUDIBLE] amendments pending.

FOLEY: Senator Slama.

SLAMA: Mr. President, I move that the E&R amendments to LB616 be adopted.

FOLEY: It is a debatable motion. Senator Williams, you are recognized.

WILLIAMS: Thank you, Mr. President; and good morning, colleagues. I do have some questions on LB616. I was hoping that Senator Hilgers would be here this morning to address these questions. These are not surprise questions to him. I want everybody to know that. I have talked to him about my concern with LB616, so we will proceed with that even though he is not here. I think there are some important questions, and the question is not whether this is a good project. The south Lincoln beltway project is clearly a project that looks at safety, looks at the important things that need to be done, and it also makes economic sense. The question that I want to discuss a little bit is the use of financing and whether the ingenious way of financing this project creates debt, and therefore, creates a constitutional issue. When I visited with Senator Hilgers about that, he gave me an Attorney General's Opinion that was written following when the bill was introduced. It does not address the specific language of the bill. And as you are aware, we are on Select File and the bill is the amendment that was drafted to start with. But in the Attorney General's Opinion, it starts out by using the term: this is an innovative approach to finance the construction of the Lincoln South Beltway. Now, being a banker, when you use the term "finance," I start thinking about whether this is debt or not. The question, the specific question that was asked in the Attorney General's Opinion was that under the Nebraska Constitution, to accelerate the construction of a much-needed project while making scheduled payments to the construction contractor over an extended period of time when the construction contract requires each scheduled payment to be made only upon express appropriation made by the Legislature. I would also draw your attention to page 4 where if we are to do this and if the language in the contract includes this nonappropriation provision, a nonappropriation provision of this nature would not violate the constitutional debt limitation if it does not create a binding legal obligation. So what we'd have is the Department of Transportation going out and creating a contract for a period of time beyond the construction period, and it is estimated that to be four to seven years beyond that, and the payments to be paid over that period of time and those payments have to be appropriated specifically each year in the future. Because if we have a binding legal obligation,

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we clearly have a constitutional violation because we've created debt. So I think we have a quandary here--

FOLEY: One minute.

WILLIAMS: Thank you. I think we have a quandary here that needs to be addressed, and that is the question that I had for Senator Hilgers if he could explain why LB616 originally introduced was a build-finance concept, a build-finance concept that included nonappropriation language in the bill. Then we move to an amendment that strikes all that language, and I would like to be convinced that this is not debt. Senator Hilgers is not here to address that. Senator Friesen as Chairman of the Transportation Committee that voted this out 8-0--

FOLEY: That's time, Senator. Thank you, Senator Williams. Speaker Scheer.

SCHEER: Thank you, Mr. President. In fairness to both the introducer and to Senator Williams, I would like to pass over this bill. We'll put it on Select next time so that they can have an adequate discussion in regards to this bill. Thank you, Mr. President.

FOLEY: Thank you, Mr. Speaker. We will move on to the next bill. LB585, Mr. Clerk. Excuse me, LB641. Is it? LB585, sorry. LB585.

CLERK: Yes, sir. Thank you, Mr. President. Senator, I have E&R amendments to LB585.

FOLEY: Senator Slama.

SLAMA: Mr. President, I move that the E&R amendments to LB585 be adopted.

FOLEY: Motion before you is to adopt the E&R amendments. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Mr. Clerk.

CLERK: Senator Friesen would move to amend with AM1419.

FOLEY: Senator Friesen, you're recognized to open on AM1419.

FRIESEN: Thank you, Mr. President. AM1419 replaces the bill and then includes all the General File amendments including the Revenue Committee amendment and adds a few technical changes suggested by the Bill Drafter's Office. The first technical change deals with the State

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Energy Office. LB585 designates the State Energy Office as the department that would administer the program created in this bill. Since the Energy Office and the Department of Environmental Quality were merged as a result of passage of LB302 this session, we need to change the definition of the department in the bill to the Department of Environment and Energy. LB302 also repealed 81-1602 which listed the powers and duties of the State Energy Office to include administering the new program created in LB585. AM1419 removes references to 81-1602. And finally, the year's grant application shall be made were removed from the bill. Thank you, Mr. President.

FOLEY: Thank you, Senator Friesen. Is there any discussion on Senator Friesen's AM1419? I do not see any. Senator Friesen. He waives closing. The question for the body is the adoption of AM1419. Those in favor vote aye. Those opposed vote nay. Have you all voted who care to? Record, please.

CLERK: 30 ayes, 0 nays on adoption to Senator Friesen's amendment.

FOLEY: AM1419 is adopted. Mr. Clerk.

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

FOLEY: Senator Slama.

SLAMA: Mr. President, I move that LB585 be advanced to E&R for engrossing.

FOLEY: Members, you heard the motion to advance the bill. Those in favor say aye. Those opposed say nay. LB585 advances. LB641.

CLERK: LB641, I have E&R amendments, first of all, Senator.

FOLEY: Senator Slama.

SLAMA: Mr. President, I move that the E&R amendments to LB641 be adopted.

FOLEY: The motion before you is to adopt the E&R amendments. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Mr. Clerk.

CLERK: Mr. President, Senator McDonnell, AM1397 is to be withdrawn, as I understand it?

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McDONNELL: Yes.

CLERK: That's the first one, yes sir. Mr. President, Senator McDonnell would move to amend with AM1421.

FOLEY: Senator McDonnell, you're recognized to open on AM1421.

McDONNELL: Thank you, Mr. President. Good morning, colleagues. AM1421 to the Transportation and Telecommunications Committee amendment, AM724, is a technical amendment given to me by the Fiscal Office. In Section 2 it amends the transfer amount of the state treasurer shall transfer to reflect the requirements of LB641. Subsection 6 of the Section 2 clarifies that the grants will be funded out of the Healthcare Cash Fund for fiscal years 2019-20 and '20-21 only. AM1421 also creates the 211 cash fund. It's sole use will be to provide grants pursuant to LB641 through the Public Service Commission. I would ask for your green vote on AM1421, the E&R amendment, and the underlying bill. Thank you.

FOLEY: Thank you, Senator McDonnell. (Visitors introduced.) Discussion is now open on LB641 and the pending amendment. Senator Albrecht.

ALBRECHT: Thank you, President Foley. Would Senator McDonnell yield to a question?

FOLEY: Senator McDonnell, would you yield, please?

McDONNELL: Yes.

ALBRECHT: Okay. Help me out. We were taking the money from the Healthcare Fund, now after two years it's going to go back to the Public Service Commission and do they automatically have the right to raise taxes on cell phones or where is that money going to be-- and how is that money going to be funded after the two years? Help me understand that.

McDONNELL: So the Public Service Commission will be in charge of the 211 system and the grant process, but the Healthcare Cash Fund to fund that grant process will only be used for two years. The funding potentially for the future of that, of the 211 will have to be decided in the next budget process of out of possibly another cash fund or the General Fund, but this is only for two years coming out of the Healthcare Cash Fund. It will still be run through the Public Service Commission, but there will be no surcharge used at this time, or right now in the next two years there's absolutely no surcharge of two cents that we had discussed in committee. The money will be used for two years only out of the Healthcare Cash Fund. Future funding is yet to be seen.

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ALBRECHT: But you say future funding is going to be given back to the Public Service Commission, so what will their role be at that time? And will these folks with the 211 be able to give us some information on how they actually perform so that their grants can be-- if they choose to find grant funding that they're able-- is that within the bill as well?

McDONNELL: So the Public Service Commission is in control of all eight N11 numbers now. 211 will fall under their authority of the Public Service Commission. If they have the money in the grant, whoever they decide to give that grant to, currently going back to 2010 for the state of Nebraska, it's been the United Way of the Midlands for all eight United Ways throughout the state, east, west, north, and south, as our help line, our referral line, and also our emergency in a disaster line. So that will continue. The funding for the next two years as the partnership will come out of the Healthcare Cash Fund. In the future if there's funding, we will have to decide that in the future. This is only for two years. But that does not give the Public Service Commission any authority to put a two-cent surcharge for 211, it doesn't give them that authority at all.

ALBRECHT: So what exactly does that-- why would we have an amendment to talk about Public Service Commission taking over the 211 operation and funding some of their--

McDONNELL: The history, 211 and the Public Service Commission goes back prior to 2010 that they're in charge of it. Just like they're in charge of all the oversight of all the N11 numbers. Like 911, 511, that doesn't change-- this bill doesn't change anything with their current authority. What it does is give funding for two years only through the Healthcare Cash Fund to make sure that the 211 help line, referral line, is up and running 24 hours a day, seven days a week, and that they also let people know east, west, north, south, of the 211 number to call for help.

ALBRECHT: Okay. Well, again, serving on Transportation and watching this bill come together, I have reservations about how they are going to be funded in the future and if I'm not here in two years, I want to know that we're not just going to be able to start taxing cell phones or that sort of thing. So I'm a little reluctant to--

FOLEY: One minute.

ALBRECHT: --support the amendment. So thank you.

McDONNELL: Just to clarify, it doesn't give the Public Service Commission any taxing authority for the future, none.

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FOLEY: Thank you, Senators Albrecht and McDonnell. Senator Howard.

HOWARD: Thank you, Mr. President. I rise in support of AM1421, Senator McDonnell, the-- is utilizing funds from the Healthcare Cash Fund but it's doing so on a finite basis for the next two years and it's utilizing some leftover funds that were there from the Intergovernmental Transfer Fund. What I will remind the body is that my original concern was that the Healthcare Cash Fund is meant to be used for direct healthcare. And so as we keep using it for other things, and 211 is a noble project and it's important, it's especially important now with what's been going on with the flood. I want us to remember that the Healthcare Cash Fund may not be sustainable at the current rate of utilization and that the things that we are using the Healthcare Cash Fund for, things like helping people with disabilities or paying for healthcare for children are things that have been important to this body and when this fund goes away and I say when, not if, because I believe that some day we will spend it down because I believe in an era of term limits, people have shorter memories and they think, well, I won't be here in two years and so I don't have to worry about where the money is coming from. And so I want us to be really mindful and thoughtful in the future about how we use these funds, but I do support this amendment. I think Senator McDonnell has worked hard to make sure that's there enough money for it and has put an end date on its utilization and so, I would urge the body's adoption of AM1421. Thank you, Mr. President.

FOLEY: Thank you, Senator Howard. Is there any further discussion on the amendment? I see none. Senator McDonnell, you're recognized to close on AM1421. He waives closing. The question for the body is the adoption of AM1421. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

CLERK: 29 ayes, 0 nays on adoption of Senator McDonnell's amendment.

FOLEY: AM1421 is adopted. Mr. Clerk.

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

FOLEY: Senator Slama.

SLAMA: Mr. President, I move that LB641 be advanced to E&R for engrossing.

FOLEY: Motion before you is to advance LB641 to E&R for engrossing. Those in favor say aye. Those opposed say nay. LB641 advances. Next bill is LB663. Mr. Clerk.

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CLERK: LB663, Senator, I have no amendments to the bill.

FOLEY: Senator Slama.

SLAMA: Mr. President, I move that LB663 be advanced to E&R for engrossing.

FOLEY: The motion before you is to advance the bill. Those in favor say aye. Those opposed say nay. LB663 advances. Select File, 2019 Speaker priority bills. LB445. Mr. Clerk.

CLERK: LB445, Senator, does have Enrollment and Review amendments.

FOLEY: Senator Slama.

SLAMA: Mr. President, I move that the E&R amendments to LB445 be adopted.

FOLEY: The motion is to adopt the E&R amendments. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Mr. Clerk.

CLERK: I have nothing further on the bill.

FOLEY: Senator Slama.

SLAMA: Mr. President, I move that LB445 be advanced to E&R for engrossing.

FOLEY: The motion is to advance the bill. Those in favor say aye. Those opposed say nay. LB445 advances. LB222. Mr. Clerk.

CLERK: Senator, I have no amendments to LB222.

FOLEY: Senator Slama.

SLAMA: Mr. President, I move that LB222 be advanced to E&R for engrossing.

FOLEY: The motion before you is to advance LB222 to E&R for engrossing. Those in favor say aye. Those opposed say nay. LB222 advances. LB180. Mr. Clerk.

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CLERK: LB180, Senator, I have no amendments to the bill.

FOLEY: Senator Slama.

SLAMA: Mr. President, I move that LB180 be advanced to E&R for engrossing.

FOLEY: The motion before you is to advance the bill. Those in favor say aye. Those opposed say nay. LB180 advances. Next bill is LB23. Mr. Clerk.

CLERK: LB23, Senator, I have no amendments to the bill.

FOLEY: Senator Slama.

SLAMA: Mr. President, I move that LB23 be advanced to E&R for engrossing.

FOLEY: Members, the motion is to advance LB23 to E&R for engrossing. Those in favor say aye. Excuse me. Senator Kolterman, your light was on. Care to speak?

KOLTERMAN: Yes, thank you very much, Mr. President. I had a question. I was wondering if Senator Wayne would yield to a question--

FOLEY: Senator Wayne, would you yield, please?

KOLTERMAN: --on LB23.

WAYNE: Yes.

KOLTERMAN: Senator, this bill is very clean, except I have-- I need your opinion just so we get something on the record. Under the PACE Act as we amended it in LB23, when would a developer have to apply for PACE financing on a particular project? And are there specific application deadlines in statute? Are they set by the local government? And how does that all work? I ask this because we're clarifying that and I want to make sure that people understand it.

WAYNE: Thank you, Senator Kolterman. The green copy of LB23 contained provisions that would have authorized the use of PACE to retroactively finance energy efficiency improvements and renewable energy systems that were already in place. Because that provision was specifically

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removed from LB23 with the adoption of AM795 on General File, I believe the intent of the Legislature is abundantly clear that we do not-- or we did not intend to authorize retroactive PACE financing.

KOLTERMAN: Okay. And that's what I wanted to make sure was on the record. It wasn't our intent to do that and just wanted to make that clear. Thank you very much. I'd appreciate the support of LB23 as amended. Thank you.

FOLEY: Thank you, Senator Kolterman and Senator Wayne. Members, the motion before you is to advance LB23 to E&R for engrossing. Those in favor say aye. Those opposed say nay. LB23 advances. LB356. Mr. Clerk.

CLERK: Senator, with respect to LB356, I have E&R amendments, first of all.

FOLEY: Senator Slama.

SLAMA: Mr. President, I move that the E&R amendments to LB356 be adopted.

FOLEY: Members, the motion is to adopt the E&R amendments. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Mr. Clerk.

CLERK: Senator Friesen would move to amend with AM1325.

FOLEY: Senator Friesen, you're recognized to open on AM1325.

FRIESEN: Thank you, Mr. President, and members of the Legislature. LB356 is a bill that relates to license plates. The Bill Drafting Office has prepared AM1325 which is a technical amendment to fix some areas in LB356 that were overlooked in preparation of the bill and the amendments and I urge your support of AM1325. Thank you, Mr. President.

FOLEY: Thank you, Senator Friesen. Is there any discussion on AM1325? I see none. Senator Friesen, you're recognized to close on the amendment. He waives closing. The question for the body is the adoption of AM1325. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

CLERK: 30 ayes, 0 nays on adoption of Senator Friesen's amendment.

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FOLEY: AM1325 is adopted. Mr. Clerk.

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

FOLEY: Senator Slama.

SLAMA: Mr. President, I move that LB356 be advanced to E&R for engrossing.

FOLEY: Members, the motion is to advance LB356 to E&R for engrossing. Those in favor say aye. Those opposed say nay. LB356 advances. Proceeding to LB6. Mr. Clerk.

CLERK: LB6, Mr. President. Senator, I have E&R amendments, first of all.

FOLEY: Senator Slama.

SLAMA: Mr. President, I move that the E&R amendments to LB6 be adopted.

FOLEY: Members, the motion is to adopt the E&R amendments. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted.

CLERK: I have nothing further on the bill, Senator.

FOLEY: Senator Slama.

SLAMA: Mr. President, I move that LB6 be advanced to E&R for engrossing.

FOLEY: Members, the motion is to advance the bill. Those in favor say aye. Those opposed say nay. LB6 advances. LB524.

CLERK: LB524, Senator, I have no amendments to the bill.

FOLEY: Senator Slama.

SLAMA: Mr. President, I move that LB524 be advanced to E&R for engrossing.

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FOLEY: Members, the motion before you is to advance LB524 to E&R for engrossing. Those in favor say aye. Those opposed say nay. LB524 advances. Select File, LB405. Mr. Clerk.

CLERK: LB405, Senator, I have no amendments to the bill.

FOLEY: Senator Slama.

SLAMA: Mr. President, I move that LB405 be advanced to E&R for engrossing.

FOLEY: Members, the motion to advance the bill. Those in favor say aye. Those opposed say nay. LB405 advances. LB130.

CLERK: LB130, I have E&R amendments, first of all, Senator.

FOLEY: Senator Slama.

SLAMA: Mr. President, I move that the E&R amendments to LB130 be adopted.

FOLEY: The motion is adopt the E&R amendments. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Mr. Clerk.

CLERK: Senator DeBoer would move to amend with AM1107.

FOLEY: Senator DeBoer, you're recognized to open on AM1107.

DeBOER: Thank you, Mr. President. This amendment is intended to address some of the concerns which were raised on General File about counties where radon levels are low. Since there is already a requirement that there be reports to the Department of Health and Human Services about radon tests which are conducted throughout the state, we have used that mechanism to identify those counties where radon levels have an average below 2.7-- I forget what the pico-Curies per liter, and in those counties, this would provide an exemption for the passive radon requirements for new construction. So, thank you very much.

FOLEY: Thank you, Senator DeBoer. (Visitors introduced.) Discussion on AM1107. I see none. Senator DeBoer, you're recognized to close on your amendment. She waives closing. The question for the body is the adoption of AM1107. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

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CLERK: 30 ayes, 0 nays on adoption of Senator DeBoer's amendment.

FOLEY: AM1107 is adopted. Mr. Clerk.

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

FOLEY: Senator Slama.

SLAMA: Mr. President, I move that LB130 be advanced to E&R for engrossing.

FOLEY: Members, the motion is to advance LB130 to E&R for engrossing. Those in favor say aye. Those opposed say nay. LB130 advances. LB130A.

CLERK: LB130A, Senator, I have no amendments to the bill.

FOLEY: Senator Slama.

SLAMA: Mr. President, I move that LB130A be advanced to E&R for engrossing.

FOLEY: Members, the motion is to advance LB130A to E&R for engrossing. Those in favor say aye. Those opposed say nay. LB130A advances. We'll move now to General File, 2019 Committee priority bills, LB600. Mr. Clerk.

CLERK: Mr. President, LB600 was a bill originally introduced by Senator Walz. (Read title.) Bill was introduced on January 23 of this year; at that time referred to the Executive Board for public hearing. The bill was advanced to General File without committee amendments. I do have other amendments pending to the bill, Mr. President.

FOLEY: Thank you, Mr. Clerk. Senator Walz, you are recognized to open on LB600.

WALZ: Thank you, Mr. President. LB600 is a bill to modify the authority of the deputy public counsel for institutions to follow up with individuals who were patients within a 24-month period of a state-owned and operated regional center. There is also some clarification language to show that veterans institutions is no longer under the Department of Health and Human Services but is now operated by the Department of Veterans Affairs. As some of you may be aware, we continue to have problems with the Lincoln Regional Center, especially in terms of its waiting list. The latest data on this shows a waiting list of 36 people waiting to go to the regional center

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for a mental health competency evaluation or restoration. But we really need to know more about their transition period after they had been released, as well as other challenges these regional centers are facing. There have been some problems, especially as people are moving out of the facilities. This would allow for more follow-up with individuals who have been released from regional centers to see if they are receiving the necessary support and services, as well as give us a more robust examination of the mental health needs and systems challenges within regional centers. This idea was brought to me by the Ombudsman's Office in an effort for them to better investigate potential problems they are dealing with. Right now, they are limited in their statutory authority regarding the amount of time the deputy public counsel has to follow up with a person's progress after they are released from the regional center. As people are released from any of our state institutions, we want them to be successful in their communities making changes as needed to avoid recidivism. The deputy public counsel is asking for an extension on their authority so that they can help us get better information and provide continual support to people so they can succeed in the community. The bill advanced out of committee with six aye votes and no opposition. With that, I would ask for your green vote in support of this bill, as well as Senator Bolz's AM1241. Thank you, Mr. President.

SCHEER: Thank you, Senator Walz. Mr. Clerk for an amendment.

CLERK: Mr. President, Senator Bolz would move to amend with AM1241.

SCHEER: Senator Bolz, you are welcome to open on AM1241.

BOLZ: Thank you, Mr. President; and thank you, Senator Walz, for your good work on LB600. AM1241 reflects LB330, which was a bill heard before the Executive Board regarding the continuation of the Children's Commission. The Children's Commission was initially established as a recommendation in LR37 an investigation by the Legislature's Health and Human Services Committee after challenges with the child welfare privatization. The commission includes representatives from the legislative, administrative, and judicial branches. Senators Howard and Pansing Brooks have both served admirably on this commission, and I have served as well. The commission helps to problem solve after the services came back under the state purview and has since helped to make improvements to the child welfare system, including creating bridge orders to move children out of the foster care system into the custody of a stable parent, implementing the Bridge to Independence program for children aging out of foster care, and passing a foster care normalcy bill to help foster youth navigate circumstances like sleepovers in the most normal way possible. The commission houses five, count them, five, statutorily created subgroups. In other words, subgroups who have been created by the legislative branch. The Bridge to Independence Advisory group, the Juvenile Services Committee, the Psychotropic Medication Committee, the Foster Care Rate Reimbursement Committee, and the Strengthening Families

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Act Committee. LB330 continues the Children's Commission and eliminates the statutory sunset. The Children's Commission members are selected by the Governor. If we don't take action, the legislatively created committees will have no home base to work from. The commission has proven its worth, done great work, submitted reports, and made lives better for our state's children. In addition to eliminating the sunset, the bill redefines nonvoting members to ensure the input of intersecting agencies and reduces the number of members. All statutory committees of the commission remain and will have a membership composition consistent with the commission as a whole. Rather than developing a strategic plan, the commission is tasked with defining priorities. And the commission will hold a hearing on the finding of the Children's Commission with the Health and Human Services Committee to ensure that reports and findings are communicated to the legislative branch. And finally, the Children's Commission expenses would be paid for through the Health Care Cash Fund. Funds are available through the Health Care Cash Fund due to the expiration of a study that was approved by the Legislature and has since been completed. I would really appreciate your support for the Children's Commission, and I would specifically like to thank the Executive Board, Senator Hilgers, and Senator Scheer for their assistance in getting this amendment into shape. And with that would appreciate your green vote on AM1241.

SCHEER: Thank you, Senator Bolz. Returning to the floor for discussion. Seeing none, Senator Bolz, you're welcome to close. She waives closing. The question before us is adoption of AM1241 to LB600. All those in favor please vote aye; all those opposed vote nay. Senator Bolz, for what purpose do you rise?

BOLZ: I am thinking--

SCHEER: You were rising for no purpose?

BOLZ: I will need to-- no purpose at all. Thank you, Mr. President.

SCHEER: That is what I assumed. Any others wishing to vote that haven't? Please record.

CLERK: 26 ayes, 0 nays on the adoption of Senator Bolz's amendment.

SCHEER: AM1241 is adopted. Seeing no one in the queue, Senator Walz, you're welcome to close on LB600. She waives closing. The question before us is advancement of LB600 to E&R Initial. All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record.

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CLERK: 30 ayes, 0 nays on the advancement of LB600.

SCHEER: LB600 does advance to E&R Initial. Next item, Mr. Clerk.

CLERK: LB460 was a bill originally introduced by Senator-- or by the Health Committee, excuse me, and signed by its members. (Read title.) Introduced on January 18; at that time referred to the Health and Human Services Committee. The bill was advanced to General File. There are committee amendments, Mr. President.

FOLEY: Thank you, Mr. Clerk. Senator Howard, you are recognized to open on LB460.

HOWARD: Thank you, Mr. President; good morning, members. This morning I am here to talk to you about LB460. LB460 is a Health and Human Services Committee bill. It's a federal requirement that we have to do for our IV-E program, but-- and just as a preview, it also houses the committee bill, LB459 and Senator Arch's bill, LB341. LB460 amends the Children's Residential Facilities and Placing Licensure Act with new federally mandated criminal background check requirements. The committee introduced this bill on behalf of the Department of Health and Human Services and this bill is necessary and must be passed this year due to the federal government passing the Families First Prevention Services Act. This act amended the state title-- the state IV-E plan to require these background check requirements. If we do not pass LB460, and not to be really dramatic, we will lose all of our IV-E funding. IV-E is how we pay for child welfare in the state of Nebraska, and that is about \$39 million for kids and families. This bill was advanced unanimously from committee with the amendment AM1211. According to the revisions of LB460, any individual over the age of 18 who is employed by a residential child care agency-- and I want to be really clear what this is, it's basically a group home for kids who are in the child welfare system. So anybody who is employed by a residential child caring agency must undergo a national criminal history record information check at least once every five years, and submit to four other types of background checks. To conduct a national criminal history record information check, the individual being screened must submit to a complete set of fingerprints to the Nebraska State Patrol and the State Patrol will transmit the fingerprints to the FBI for a national criminal history record information check. And then the State Patrol has to issue a report to the Department of Health and Human Services with the information collected during the criminal history record information check. The four additional background checks include a search of the National Crime Information Center, National Sex Offender Registry, a search of three different registries, repositories, or databases in the state where the individual resides. These could be our state criminal registries, these could be state sex offender registries, these could also include what we call our central registry, which is our state-based child abuse and neglect registry. We've made some changes to LB460 in committee due to fiscal concerns by stakeholders and these include replacing the term "employed by" with "working in." The

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language regarding who pays for the criminal history information check is amended. And the individual working in a residential child care agency is required to pay for the cost of fingerprinting and the criminal history record information check. But the amendment adds that if the department is able to look at drawing down IV-E administrative funds to pay for these fingerprints, they should do so. Mr. President, I would like to move to the committee amendment if I may.

FOLEY: Yes, please proceed to the committee amendment.

HOWARD: Thank you, Mr. President. So in addition to amending some language in LB460, AM1211, also incorporates LB459, another Health and Human Services Committee bill, in LB341. And I will yield the balance of my time when I am done talking about LB459 to Senator Arch. So Section 3 of AM1211 incorporates the provisions of LB459. This deals with fingerprinting and criminal background checks, but specifically for child care programs under the child care development block grants, sometimes called the CCDBG, so it is not child welfare-related facilities, it's a different set of funds than the IV-E. In November 2014, Congress passed the Child Care and Development Block Fund Grant which requires these background checks for all child care providers who are utilizing subsidized child care. Full implementation of these background checks was actually due September 30, 2018; and as a result, Nebraska will be under our corrective action plan with the administrator for children and family until the department is in compliance. Nebraska receives approximately \$49 million under this block grant. And if we do continue to be out of compliance, we risk a 5 percent penalty, which means that we would actually have to pay back about \$2.5 million of our child care block grant funds to the federal government if we do not pass LB459. And individuals who are affected include people applying for a license as a child care provider or persons who are already licensed as child care providers. And then many child care providers are already doing this as part of their hiring process. A child care staff member is defined as a person who is employed by a child care provider for compensation. And in addition, a person who is 18 years or older and resides in a family child care home must complete the criminal history background check as well. This requirement then subsequent to this bill would begin September 1, 2019. And for all child care staff members who are already employed as of September 1, 2019, they would have about two years to get that national criminal-- the fingerprinting and the criminal history record information check done. I think we covered all of that in IV-E. And I just want to be really clear that the child care staff member being screened right now must pay the actual cost of fingerprinting, but it does not preclude the child care agency from paying for them. And with that, I would yield the balance of my time to Senator Arch to present LB341. Thank you, Mr. President.

FOLEY: Thank you, Senator Howard. Senator Arch, you've been yielded about 7 minutes.

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ARCH: Thank you, Mr. President, and Senator Howard. As Senator Howard said, my bill, LB341, is part of the committee amendment, AM1211, one of the three bills that we are talking about here that have been rolled into this amendment. The provisions of LB341, with some clarifying language, are found in Sections 1 and 2 of AM1211 and deal with the transitional child care subsidy. The original bill was brought to me by the Department of Health and Human Services and it's needed in order to bring our state into compliance with the federal Child Care and Development Block Grant Act of 2014. Under the federal law, states are required to provide families receiving child care subsidies a gradual phaseout if the family income has increased. This helps avoid the cliff effect when a family loses eligibility and allows for greater stability as a family moves toward self-sufficiency. In order to comply with the federal law, two things have to happen. First, our current 24-month eligibility limitation has to be eliminated. And second, the maximum threshold to qualify for transitional child care has to be raised. Our current law allows a family to qualify for a child care subsidy if the household income is below 130 percent of federal poverty level, or FPL. After a 12-month eligibility period, a new application is filed and if the household income remains below 130 percent of poverty level, the family continues to be eligible. However, if at renewal time, the household income has risen and is between 130 percent and 185 percent of the FPL, the household only continues to receive transitional child care for a maximum of 24 months or until the household income is above 185 percent, whichever occurs first. Under my original bill, LB341 and AM1211, the 24-month limitation is removed and qualification process is streamlined as required by the federal regulations, the law. The qualifying threshold of 130 percent below the poverty rate remains the same, but at the 12-month renewal period, if the household income has increased and is still below 185 percent of the FPL, the family continues to receive the subsidy without a time limitation. The household is no longer eligible only when the household income is above 185 percent at renewal time and this is current law. Additionally as required, with adoption of this amendment, we provide more eligibility leeway if the household income changes during the 12-month eligibility period between renewal periods. Under current law, if a household income rises above 185 percent of the poverty level, the family is no longer available. As proposed here, when a household income rises above 185 percent of the poverty level, which is approximately \$38,000 for a family of three, but the household is below 85 percent of the state medium income, which is \$57,000 for that same family, the family will continue to qualify for the subsidy until the renewal period. That is LB341 as contained in AM1211. In a nutshell, we eliminate the 24-month cutoff as required; we just add the upper qualifying level of the state medium income, or SMI. This is the other criteria. This will allow for a phase out of the subsidy as a child's income increases and removes that cliff. Also, it will put us in compliance with the federal law. Remaining in non-compliance does put us in jeopardy of losing a portion of our block grant funds, so I encourage you to support AM1211 and LB460. And the federal government now is supplying the funds in order for us to qualify for this and as they have required. So I would encourage your support for AM1211, which is now LB460. Thank you very much.

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FOLEY: Thank you, Senator Arch. Mr. Clerk for an amendment.

CLERK: Yes, Mr. President, thank you. Senator Howard would move to amend the committee amendments with AM1396.

FOLEY: Senator Howard, you're recognized to open on your amendment.

HOWARD: Thank you, Mr. President, This was a late addition to LB460 and the package that we've been working on. This makes a small but necessary change to the definition of child care provider in the committee amendment. The initial bill excluded family home I's. However, excluding them is actually not allowable under federal law upon further reflection. If we were to exclude them, we go back to risking the-- we risk being out of compliance and face a 5 percent penalty which is \$2.5 million, which means we would have to give back \$2.5 million out of our block grant-- our budgeted block grant. So it just amends the definition of a child care provider to include family home I's and this change is necessary to bring us into full compliance with the law. Thank you, Mr. President.

FOLEY: Thank you, Senator Howard. Debate is now open on LB460, the committee amendment, and AM1396. I see no discussion. Senator Howard, you're recognized to close on AM1396. She waives closing. The question for the body is the adoption of AM1396. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

CLERK: 39 ayes, 0 nays on adoption of the amendment to the committee amendments.

FOLEY: AM1396 is adopted. Further discussion to LB460 and the pending committee amendment as amended. I see no discussion. Senator Howard, you're recognized to close on the committee amendment.

HOWARD: Thank you, Mr. President. One thing my counsel reminded me of to put into the record is that we do have an e-clause on a portion of this. So Section 9 provides an emergency clause for LB460, which is the part about group homes, because we could lose all of our IV-E funding if we don't make this change right away. But then it carves out the other section so that child care providers have some time to get used to the fingerprint requirements starting September 1, 2019. Again, I would urge the advancement of AM1211. Thank you, Mr. President.

FOLEY: Thank you, Senator Howard. The question for the body is the adoption of the committee amendment, AM1211. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

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CLERK: 40 ayes, 0 nays on adoption of committee amendments.

FOLEY: The committee amendment is adopted. Any further discussion? Senator Howard, you are recognized to close on the advance of the bill. She waives closing. The question for the body is the advance of LB460 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

CLERK: 38 ayes, 0 nays, Mr. President, on the advancement of LB460.

FOLEY: LB460 advances. We will proceed to LB460A.

CLERK: LB460A is a bill by Senator Howard. (Read title.)

FOLEY: Senator Howard, you're recognized to open on LB460A.

SENATOR HOWARD: Thank you, Mr. President. LB460A distributes funds from the Nebraska State Patrol Cash Fund to support the Nebraska State Patrol in carrying out the provisions of LB460, specifically in the processing of fingerprints and criminal history background checks. This is a cash fund; this is not General Funds, and it's really just fees are paid for the fingerprints and then the State Patrol uses those to provide the fingerprints and the background check there. And there is an emergency clause on this bill, again, related to the IV-E funds that we had discussed previously, and I would urge its advancement today. Thank you, Mr. President.

FOLEY: Thank you, Senator Howard. Is there any discussion to LB460A? I see none. Senator Howard, you're recognized to close on the advance of the bill. The question for the body is the advancement of LB460A to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

CLERK: 36 ayes, 0 nays on the advancement of LB460A.

FOLEY: LB460A advances. Our next bill is LB184. Mr. Clerk.

CLERK: Mr. President, before I read the title, Senator Wayne, you had a motion to indefinitely postpone. I have a note that you want to withdraw. Mr. President, LB184 was a bill introduced by Senator Friesen. (Read title.) It was introduced on January 11; at that time referred to the Transportation Committee; advanced to General File. There are committee amendments pending.

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FOLEY: Thank you, Mr. Clerk. Senator Friesen, you are recognized to open on LB184.

FRIESEN: Thank you, Mr. President, and members of the Legislature. It is my pleasure to open the debate on LB184, a bill that would modernize Nebraska telecommunication statutes to allow for greater investment in our state by wireless communication providers. The committee amendment becomes the bill, and the amendment is the culmination of negotiations that began with the introduction of this bill three years ago as LB389. Before I begin the explanation of the bill, I want to thank the parties who got us to this place. The wireless companies, cable representatives, Nebraska League of Municipalities, NPPD, the rural electric, the colleges, and the Nebraska Department of Transportation all have their stamp on this bill. And even though I know that all those participating are not supporting the bill, it is my understanding that they are not actively opposing it. It shows that good faith negotiations can bring people together to improve legislation. We have all become dependent on wireless technology. I said last year that some of the largest technology companies in America, if not the world, were preparing to invest hundreds of millions of dollars, if not more, than a billion dollars in Nebraska. And I told you that the timing on that investment would either be slow, perhaps over a 10-year period, or it could be faster to bring this technology benefit to Nebraskans sooner. These technology companies, the wireless companies, in fact, are not asking for tax incentives, they're not asking for LB775 money, they're not asking for the Nebraska Advantage Act, and they're not asking for tax increment financing. They're not asking for income tax cuts or property tax relief of any kind of government subsidy. But what they want are three things: first, they are asking for access to the public right-of-way; second, they're asking for a streamlined uniform permit application process at the local level for review and approval of their investments. Instead of a few hundred different sets of rules, they want some commonsense uniformity in terms of requirements, reviews, and approval. And third, they want a reasonable fee, both for their application to be in the right-of-way, but also for the annual pull attachment fees thereafter. LB184 and the committee amendment boil down to one fundamental question: should Nebraska encourage the accelerated deployment of 5G and the related small cell wireless technology? Are we going to discuss-- as we discuss LB184, we're going to talk about changing technology and the growing consumer demand for wireless technology and data and why small cells and 5G are desirable and needed. We're going to talk about what LB184 does and why is it needed in terms of support for our growing economy in support for consumers, business, education, healthcare, and public safety applications for wireless technology. At this time, I would go on to explain the committee amendments to LB184.

FOLEY: Please proceed with the committee amendments, Senator Friesen.

FRIESEN: Thank you, Mr. President. The committee amendment to LB184 strikes the original sections and replaces them with provisions of AM1252. Sections 4 through 35 are defined terms. New defined terms from the original bill include: communications facility, communications

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network, communication service, and wire line backhaul facility. Section 36, which was formally Section 32, applies to activities of wireless providers within the right-of-way and their deployment of small, wireless facilities and associated utility poles. New poles could be no higher than 50 feet or extend no more than 5 feet higher than existing poles within 500 feet in the right-of-way, down from 10 feet higher in the original bill. The amendment gives the authority sole discretion to allow taller poles, strengthens an authority's discretion to require design and concealment measures within an historic district, and strengthens the authority's right to require wireless providers to repair damages in the right-of-way. These are all changes from the original bill. Section 37 applies to permitting of small wireless facilities inside or outside of the right-of-way; and the installation, modification, and replacement of utility poles by a wireless provider inside the right-of-way. One change in the committee amendment is new language relating to the prospective parties risk of loss of facilities in the right-of-way, costs for construction or repair of facilities or poles, and costs of future maintenance. An authority will have the authority to reserve space on authority poles which is different from the bill as introduced. Time frames relating to permit application for approvals are extended for authorities and the minimum term of a permit is reduced from 10 years to 5 years before it would be renewed. Regarding permit applications, an application shall be deemed approved in the authority fails to approve or deny an application within 90 days. Batch applications would be allowed with no more than 30 applications in a batch for an authority greater than 150,000 population, and no more than five in a batch for an authority with less than 150,000 population. Denial of one or more facilities in a batch of applications would not be the basis for denial of the entire batch. An authority could not institute a moratorium on filing, receiving, or processing applications or issuing permits. Also there are changes to the requirements that relate to the DOT. Section 38 relates to activities of a wireless provider within the right-of-way and changes to the bill would allow authorities to enter into exclusive arrangements for pole attachment management and extends the time for authorities to make estimates for make-ready work. It also allows the authority to charge consultant fees back to the provider when the authority establishes fees for make-ready work. Section 39 of the amendment relates to fees. An authority that charges occupation tax shall not charge a wireless provider an additional amount for use of the right-of-way. If the authority does not charge a wireless provider an occupation tax, it may charge a rate of \$250 per facility or a fee equal to the occupation tax charged pursuant to statute. Application fees for co-location of small wireless facilities on existing or replacement poles shall not exceed \$500 for the first five small wireless facilities up from \$100 in the bill. On the same application, an \$100 for each additional small wireless facility up from \$50 in the bill on the same application. The yearly fee for small cells could not exceed \$20. The remaining sections of the amendment relate to cable television provisions, language relating to zoning, and court jurisdiction over disputes. Some questions have been raised by interested parties about the intended scope of Section 41-2, and 41-2 is not intended to rescind or alter any terms of any existing franchises or existing franchise agreements. It is also not intended to restrain any local government entity from entering into any new franchises or franchise agreements. We have included affiliates of the University of Nebraska

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system in the section related to exemptions from the act. Provisions relate to public power suppliers are contained in Section 44. And I urge you to adopt the committee amendment to LB184 and I'll be happy to answer any questions that you may have. Thank you, Mr. President.

FOLEY: Thank you, Senator Friesen. (Visitors introduced.) Debate is now open on LB184 and the pending committee amendments. Senator Vargas.

VARGAS: Thank you very much, President. I just had a few questions. I know that we had a little bit of discussion on the mike last time on my bill, LB550, and I had a question for Senator Friesen if he would yield.

FOLEY: Senator Friesen, would you yield, please?

FRIESEN: Yes, I would.

VARGAS: Thank you very much, Senator Friesen. Last time, we had a conversation on my bill, LB550, and one of the questions you proposed to me was if I feel like your bill, LB184, my bill, LB550, were in conflict in any way legislatively, and I said I do not believe that is the case. So I'm asking you the same question: do you feel like LB550--is LB550 in conflict with LB184?

FRIESEN: I guess from my opinion, I didn't think it was in conflict necessarily, no.

VARGAS: Okay. So both can then operate at the same time. They would not-- one would not undermine the other one?

FRIESEN: I can't answer a technical question like that, because I was not involved in the negotiations, but I don't feel that it would have, no.

VARGAS: Great. So let me just clarify. So you weren't involved in negotiations for this specific amendment. My question is not necessarily on-- my question is more on-- based on this amendment and your understanding of the language, does it conflict with LB550, my priority bill?

FRIESEN: If I-- from my standpoint again, I can say something, but I was not involved in these negotiations with the municipalities. We had-- the cable and the wireless all in agreement, the municipalities were still not, and I-- there had been no language talking about occupation taxes up until that time. And so when the cable company and wireless reached an agreement, the

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municipalities wanted to come on board and also negotiate some of the issues they had. So, again, not being a component of that, I was never-- sat in on those meetings. I don't know the relationship that they put on that in order to get in here.

VARGAS: Okay. Sounds like there is not a conflict, we don't know if there is a conflict. You did mention in your explanation of the amendment, I think this is line-- I don't know if you can talk a little about this, this is page 20, lines-- right around lines 4 to 12. Actually sorry, line 13, it says an authority that charges occupation taxes under this section shall not charge a wireless service provider additional amount for the use of right-of-way. The authority may charge a wireless provider that does not pay the authority's occupation tax. Can you talk a little bit more about page 20, lines 13 to 19, what that means in regards to the occupation taxes and this sort of either/or component?

FRIESEN: This was brought by the League or the municipalities; and up until this time, I had not seen this language in other bills that we had. But basically what this says is that if you currently have-- the discussion was always, how do you get into the right-of-way and how much do you pay to be there? And so, before they were always charging them and part of the complaint was they were charging too much for access to the right-of-way when they were already paying an occupation tax for occupation of that right-of-way. And so I-- this language kind of clarifies that if there was an occupation tax already being charged, now they wouldn't be charged to be in the right-of-way again.

FOLEY: One minute.

VARGAS: So thank you very much. So, it sounds like this new language makes it so that if the occupation tax was, let's say, repealed and goes to the vote of the people-- so if you have an occupation tax, you wouldn't be, sort of, double taxed or double feed, there's some trying to find some equity so that if something like my bill did pass, then you wouldn't be hit twice necessarily in municipality.

FRIESEN: And not being an attorney, I can't answer that question, but that is the way it appears.

VARGAS: OK. And one of the questions I had was just on-- and I'll put my light on to then ask this question, but I did have a couple of questions about this component because I know that-- you asked me on the mike and I wanted to clarify it because I do not see a connection between our two bills. But there was a conversation on the mike that there was a connection. In the past, I have supported small cell and I'm curious to learn a little more about these amendments.

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FOLEY: That's time.

VARGAS: Thank you very much.

FOLEY: Thank you, Senator Vargas. Senator McCollister.

McCOLLISTER: Thank you, Mr. President; good morning, colleagues. I'd like to speak in favor of this bill, LB184. It has been a bill or at least a concept that we've had in this Legislature for a couple of years, small cell 5G. And it's been my position that the cities and the cell phone companies should come to their own agreement with regard to the cost associated with putting in the infrastructure for that. And finally, they have come to an agreement. So, I'm in favor of this bill. And I think in terms of advanced technology, we absolutely need 5G technology in our cities. It will enable Senator Wishart's bill with the driverless cars and it will certainly speed up service and improve service for those of us wishing to upgrade our phones for that service. I should also indicate that 14 other states have already passed small cell legislation including Arizona, Colorado and Texas. With wireless infrastructure so critical to business investment, not passing this legislation could put Nebraska at a competitive disadvantage not only locally, but in the entire region. So this is the right way to go. It's a good bill. Thank you, Senator Friesen, and the Transportation Committee for passing it out. I would encourage your green vote for AM1252 and LB184. Thank you, Mr. President.

FOLEY: Thank you, Senator McCollister. Senator DeBoer.

DeBOER: Thank you, Mr. President. I also rise in favor of this bill. This amendment, AM1252, which you have before you, is the culmination of quite a bit of work between all sorts of different folks who are interested or have a stake in this bill, and it represents a real coming together of all those groups to find a way to balance the various interests. Bringing the small cell technology to Nebraska is very important. If companies don't invest in Nebraska, they'll invest elsewhere. And having this kind of technology helps us in the larger municipalities, but also in other venues where there's a lot of wireless traffic. And it helps to, in general, bring us up to date with technology that is going to our neighbors and needs also to go to here. So with that, I would urge your adoption of AM1252 and also your green light on the underlining bill. Thank you.

FOLEY: Thank you, Senator DeBoer. Senator Vargas.

VARGAS: Thank you very much. This is a follow-up question if Senator Cavanaugh will yield.

FOLEY: Senator Cavanaugh, would you yield, please?

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CAVANAUGH: Yes.

VARGAS: Can you-- I saw on the committee statement, you were a no vote on this. I was trying to get a better understanding of why you were a no vote on this bill-- or the amendment specifically.

CAVANAUGH: Well, I was in opposition of the original bill as it was written and I'm still in opposition of the amendment. I don't believe that it's necessary, the bill in its entirety. There's been discussion about a federal regulation and it is up to the municipalities to abide by the federal regulation; the state does not need to get involved. In my view, the amendment that we have before us negotiates away the ability for municipalities to negotiate their own contracts. Municipalities have a reason and a motivation to bring small cell wireless to their communities and they should be able to negotiate their own contracts. And this is extremely prescribed on what those contracts can entail. And I don't understand why we as a state would be doing that on behalf of municipalities. We've heard from a few people this morning, and out in the lobby as well, that everyone is in agreement, which is not true. We have-- municipalities are neutral and cable is neutral, but that does not mean they're in agreement. It means that they are neutral. And if you talk to municipalities and cable, they will likely indicate to you that they have decided not to continue fighting this. And that is why they're in neutral. And so, I stand in opposition to this bill because it is unnecessary and I don't believe that all parties are benefiting and I don't think that the consumers benefit from this bill.

VARGAS: Thank you very much. You said they don't want to continue fighting?

CAVANAUGH: This bill has been brought for several years.

VARGAS: That is true.

CAVANAUGH: And municipalities and cable companies have been in opposition to it for that entire time. And they were brought to the table, which I credit everyone involved for bringing them to the table to try to negotiate an amendment, but it was clear that there was never going to be an agreement where they were in favor of this bill. And it got to the point where they just decided to remain neutral.

VARGAS: OK. And you've been able to dig into the amendment itself?

CAVANAUGH: Yeah. I've been trying to. It's very technical.

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VARGAS: OK. Thank you. That's all the questions I had. I just wanted to get a better sense of why there was a no vote and then also-- because this has been contentious in the past. I have been supportive in the past and I did not know what the amendment did. But I also wanted to be on the record, it seems like we do not have a conflict between LB550 and ours, even though that was something that was communicated and I think that hopefully-- and I don't know if we're going to continue to have discussion on this, that we can look at the amendment and make sure we're informed on what the compromise is. But I appreciate your time, and I also appreciate Senator Friesen answering some of the questions, and I thank the body.

FOLEY: Thank you, Senator Vargas and Senator Cavanaugh. Senator Cavanaugh, you're next in the queue.

CAVANAUGH: Thank you, Mr. Lieutenant Governor. As I just stated, I'm in opposition to this bill and to the amendment, the underlining amendment. I don't believe that it is something that we need to do as a legislative body. I don't think that it is our responsibility to prenegotiate contracts for private companies that really benefit large wireless companies over everyone else, including our municipalities and consumers. I know that a lot of work went into this amendment, but I still think that we are favoring one industry over another and that's not our responsibility, that the market should be deciding these things. If municipalities want to have small cell wireless in their communities, they will negotiate contracts that will result in that. And I think this is an overstep and overreach of the state government and shouldn't be part of our authority. If you read over the amendment, and it is very detailed, it's 29 pages, basically of how a contract is to be negotiated. And I for one just don't agree with that. I don't think that that's our job to be telling our cities how to negotiate contracts with companies that are coming in and want to work in the municipalities. And so I believe it's an overreach of our government and I will be a red vote. Thank you, Mr. Lieutenant Governor.

FOLEY: Thank you, Senator Cavanaugh. Is there any further discussion on the committee amendment? I see none. Senator Friesen, you are recognized to close on the committee amendment. He waives closing. The question for the body is the adoption of AM1252, committee amendment. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

CLERK: 30 ayes, [SIC] 1 nay, Mr. President, on the adoption of the committee amendments.

FOLEY: AM1252 is adopted. Further discussion on LB184 as amended? I see none. Senator Friesen, you are recognized to close on the advance of the bill.

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FRIESEN: Thank you, Mr. President. And again, I do want to make it clear that there is not, as everyone is in support, but it took a lot just to bring people into a neutral capacity and we have worked on this bill for a long time. I do think it's a good bill. I do think it brings a lot of investment to the state of Nebraska. With that, thank you, Mr. President, and I support LB184.

FOLEY: Thank you, Senator Friesen. The question for the body is the advance of LB184 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

CLERK: 35 ayes, 1 nay, Mr. President, on the advancement of LB184.

FOLEY: LB184 advances. Proceeding to LB700, Mr. Clerk.

CLERK: Mr. President, as before, Senator Wayne I have a motion, Senator, that I understand you wish to withdraw. Thank you.

FOLEY: Motion withdrawn.

CLERK: Mr. President, LB700 was a bill originally introduced by Senator Bostelman. (Read title.) Introduced on January 23 of this year; at that time referred to the Natural Resources Committee. The bill was advanced to General File. There are committee amendments pending.

FOLEY: Thank you, Mr. Clerk. Senator Bostelman, you are recognized to open on LB700.

BOSTELMAN: Thank you, Mr. President; good morning, again, colleagues. LB700, as amended, would create a new statutory language that makes it the policy of the state that our land be restored to predevelopment condition when wind turbines are decommissioned. The main purpose of this bill is to require that every wind agreement executed on or after January 1, 2020, provide for the removal of low-grade foundation, material and equipment upon decommissioning, but excludes wind turbines that will be used for repowering within 24 months. Currently, there are no statutory requirements requiring underground deconstruction of wind energy conversion systems when decommissioned. The goal for this bill is to not stop wind energy, the goal for this bill is to have the important discussion of what we want our state's landscape to look like in the future and to state our commitment to being good stewards of the land as well as the environment. Nebraska wind facilities are not located on land that is owned commercial or industrial. They are located on land zoned for farming and agricultural uses. This bill focuses on protecting the land for future generations. There is still so much we don't know about what happens when these turbines reach the end of their useful life cycle. What this bill

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will accomplish is holding the owning companies accountable for completely restoring the land back to the way it was prior to construction. This will not change existing contracts between the wind energy companies and landowners. It will set a new standard for future contracts and create uniformity throughout our state on this matter. I have read several law review articles and industry publications that speak directly to decommissioning of wind turbines. The authors find that nationwide there is a lack of consistency in decommissioning throughout the U.S. As one 2016 Texas law review article expressed, and I quote: At present, decommissioning law remains a patch work of state regulation and local ordinances. As in many new industry, the law is struggling to keep pace with the boom; end quote. I believe and the literature supports the task that wind facility decommissioning will present within the next several decades is enormous, and current law governing decommissioning is not sufficiently developed. It is important that we have this discussion on wind energy now while wind facilities are fairly new, and especially since Nebraska has been adding sufficient amounts of wind energy-- significant amounts of wind energy. Last year, according to a recent Lincoln Journal Star article, Nebraska was the nation's leader in wind energy growth. We now have 985 operating turbines in Nebraska with 2,100 additional turbines currently being planned. This is new infrastructure that comes with potential environmental effects. This bill is intended to make us look forward and plan for the time when the infrastructure ages, technology changes, and the electricity market will most likely not be the same as it is today. The question I present is whether Nebraska's land is sufficiently protected. You'll hear that our statutes already have decommissioning requirements in them. You are correct. Chapter 66, Article 9 covers solar and wind energy protections for public health, safety, and welfare; and requires wind and solar agreements to include a description of decommissioning security or local requirements related to decommissioning. Statute 70-1014.02 requires that privately developed renewable energy generation suppliers that qualify for certification by the Power Review Board under LB824 submit a decommissioning plan to the board requiring them to bear the cost of decommissioning and to provide a security bond in the tenth year of operation to the board. Finally, Chapter 76, Article 30 requires that a wind agreement include a description of decommissioning security or local requirements related to decommissioning. These statutes require a developer to provide a plan or security, but do not give any guidance as to what the decommissioning plan is to include. What do the developers' decommissioning plans provide? What do landowner contracts say? The decommissioning plans that developers in Nebraska provide to counties that require them, in general provide that within 6-12 months of termination of the lease, they are to remove wind facilities to a depth of three to four feet below the ground and that they reseed any areas that are vegetated prior to the disturbance to commercially reasonable standards. Should the landowner want the remainder of the concrete pad removed below 3-4 feet, it will be left up to them, the landowner themselves or they have to hire a contractor to do it. This is all we know about this decommissioning turbines. There is no regulatory agency that oversees wind turbines in Nebraska. That is concerning to me and it should be to you. Thank you, and I will talk more about decommissioning after Senator Hughes opens on the committee amendment.

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FOLEY: Thank you, Senator Bostelman. As the Clerk indicated, there are amendments from the Natural Resources Committee. Senator Hughes, you are recognized to open on the committee amendment, AM1098.

HUGHES: Thank you, Mr. President; good morning, colleagues. The committee amendment, AM1098, strikes all the original language and will replace the bill. The amendment creates new statutory language providing that it is the policy of the state that our land be restored to predevelopment condition when wind turbines are decommissioned. The amendment requires wind turbine owners provide landowners, with whom they have wind agreements, detailed information on materials and equipment that will remain on their land when a wind turbine is decommissioned. The amendment requires that wind agreements executed on or after January 1, 2020, provide for the removal of below grade foundation material and equipment upon decommissioning. This does not include wind turbines that will be used for repowering within 24 months after it would have been decommissioned. Further, the amendment requires that voids left from removal of such equipment and material be restored to preinstallation condition or an improved condition agreed to between wind-- the wind agreement parties. The amendment allows political subdivisions to enact standards to meet or exceed the requirements of this bill. The committee believes the issue is valid and should be discussed by the full body, and voted 7-1 to advance the bill to General File. I would ask for your support for the amendment and would like to give my remaining time to Senator Bostelman. Thank you, Mr. President.

FOLEY: Thank you, Senator Hughes. Senator Bostelman, you've been yielded 8:20.

BOSTELMAN: Thank you. I would like to talk about what happens at the end of a wind turbine's useful life. A wind turbine's useful life is said to last 20 to 25 years according to the American Wind Energy Association. Once that useful life is over, the company has two choices: to repower the turbine or decommission it. Repowering is accomplished by either upgrading older, rundown equipment with newer technology or repowering by completely removing the old turbines and foundations and replacing them with new technology. Decommissioning is the entire removal of the wind facility when the company believes it no longer makes financial sense to restart the operation. Only a small number of wind facilities have been totally decommissioned thus far. So how do developers decide what route to take when a wind turbine reaches the end of its useful life and why should we be concerned about it? Most of the wind company contracts provide to Nebraska landowners they contain an option for the developer to extend the contract for various blocks of time to accommodate for repowering. Repowering is that thought as the likely route developers will choose when their turbines are no longer efficient. Successful repowering, however, requires a developer to provide optimal maintenance for each turbine. IHS Market, an analytics firm that helps wind asset owners determine best operation and maintenance strategies estimates that the cost of O&M will exceed \$40 billion cumulatively from 2015 to 2025. There has been a growth in companies that provide the complex-- this complex

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service, but by and large, it's the turbine owners who conduct their own O&M. It is a huge undertaking to coordinate labor, parts, and cranes for complicated maintenance, with a fairly young wind industry we don't fully understand what lightning, vibrations, corrosion, and unstable air loads do to the turbine structural integrity. Research conducted by professors at the energy doctoral training program at Cranfield University in England led to the conclusion that the industry needs to put more money, more time, and effort into planning for the end of life scenarios, and identifying at risk components and conditions. We do not know what the energy market will look like in 30, 40, and 50 years so we should not presume that repowering will look the way it looks today. To try to picture what we will be dealing with in the future, let's look at what is happening in other states and countries that have wind energy, much longer than Nebraska and are closer to the reality of decommissioning. According to the database of state incentives and renewables and efficiency, 31 out of 40 states with commercial wind facilities have updated or created regulatory policies through statutes, zoning, ordinances, or other forms of governance in the last three or four years. Since 2015, New York, Ohio, Wisconsin, North Carolina, and Maine have added language to their regulations addressing decommissioning: the removal of obsolete turbines and the restoration of the land. OK WindPower is an organization representing members of Oklahoma wind industry who state they are being good stewards of the land and assure that the wind industry in Oklahoma will completely restore the land with the removal of the wind facility. This includes removal of turbines, towers, and foundations, leaving the land in its former condition. Last year, North Dakota's Public Service Commission approved the first set of decommissioning plans for wind facilities under new regulations, which are said to be some of the most comprehensive in the country. They include necessary financial assurances and decommissioning will cover in a timely manner. Land will be restored to its original state and landowners' interests will be protected. It helps to also look at what is happening in European countries which are now facing an aged wind turbine capacity. A study published by scientific journal called Renewable and Sustainable Energy Reviews authored by engineers and professors from Germany, Spain, Denmark, and the United Kingdom in 2018, states that by next year, 28 percent of Europe's wind turbines will be older than 15 years. Certain countries are on the high end of the spectrum, Germany at 41 percent, Spain at 44 percent, and Denmark at 57 percent, with their installed turbines being 15 years or older. This article states that their major concern is uncertainty about the future electricity spot market prices, which determined if turbine life extension is feasible. These countries at one point had repowering incentives and subsidies, but they no longer exist. They are finding that sites with existing wind facilities are often impossible to repower due to legal consent, changes in subsidies, environmental protection, public acceptance, or insufficient wind conditions. These countries are finding that without long-term financial stability and legal security to justify the investment, repowering may not be feasible. One of the questions the article leaves readers with is how can wind turbine repowering and extensions be profitable if wind facilities are exposed to electricity market without a subsidy. My point in giving you this information is that there are realities we have not yet had to face, and have not even had to think about. But we have time. We have time

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now and we should plan for the future. The bottom line is that there will be a time when a wind turbine is at the end of its useful life. I want to ensure that the responsibilities for restoring the land and the ability to pay for it generations down the line are solidly on the shoulders of the wind turbine owner and this bill is about making sure our land is properly returned to its original condition and preserved for when we are no longer here. I ask for your green vote on the amendment and the underlining bill.

FOLEY: Thank you, Senator Bostelman. Debate is now open on LB700 and the pending committee amendment. Senator Blood.

BLOOD: Thank you, Mr. President. Fellow senators, friends all, I, at this time, stand in opposition of both the committee amendment and the bill. But I would ask that Senator Bostelman yield to several questions and perhaps I might change my mind.

FOLEY: Senator Bostelman will you yield, please?

BOSTELMAN: Certainly.

BLOOD: Senator Bostelman, I have several questions and I'm hoping to get this all done on one button push, so. What other agricultural or industrial projects operating in Nebraska require to follow these types of rules? Can you give me examples?

BOSTELMAN: We're speaking specifically to power generation facilities, not agriculture facilities.

BLOOD: OK. So can you tell me any other industrial projects operating in Nebraska that are required to follow these types of rules?

BOSTELMAN: Sure. As far as decommissioning and dismantling, every power generation facility in the state has requirements to decommission and remove their facility, every one does.

BLOOD: And doesn't Nebraska have the highest-- or tightest, I should say, statutory requirements for decommissioning, really, than any other industry in the state?

BOSTELMAN: Nebraska has no requirements for decommissioning of wind turbines in the state.

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BLOOD: They have no-- none at all?

BOSTELMAN: None. None.

BLOOD: OK. So what happens at the end of a useful life on, say, a transmission tower?

BOSTELMAN: I'm not for certain. I would assume that they get taken down.

BLOOD: OK. So you're saying that you're concerned about the concrete in the ground, don't transmission towers aren't they based in concrete?

BOSTELMAN: Sure.

BLOOD: And so are we utilizing the same policies for those towers as you want to utilize for wind?

BOSTELMAN: The-- what we're talking about-- wind on transmission lines, those usually go down property lines, follow property lines, and they're maybe about 5 foot wide. We're talking about a 50 foot by 50 foot chunk of concrete in the ground, so there is a difference there. I don't think there's a direct correlation between the two.

BLOOD: OK. I disagree, I think there are multiple examples and that's just one of the examples. So the things I can't find is, can you tell me the safety or public welfare rationale for such statute except to oppose wind energy?

BOSTELMAN: This does not oppose wind energy. It does not stop wind energy. In the future, where that land is-- we got 3,000 sites scattered across the state, and these are in three different-- thousand different locations. When they take that top pedestal off, they expose the rebar and the concrete to the sulfates and acidics in the soil which breaks down that rebar and that concrete, so you got heavy metals and stuff that would be entering into the ground from that.

BLOOD: So I read that in something that you had sent out and I couldn't find that the EPA considers concrete or steel a hazardous material. So where are you getting the information from? What scientific research, what resource--

BOSTELMAN: Sure, that comes out of the Potash Companies, it's a national organization that says that, as well as it says from-- there is a study done overseas that specifically-- sorry,

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specifically addresses that that they are concerned with that. And that needs to come out of the ground.

BLOOD: So for the vast majority of Nebraska, would you say there are zoning laws with very few exceptions?

BOSTELMAN: All but ten counties.

BLOOD: Right, very few exceptions. And so, do you think that it is our responsibility to tell them how to zone?

BOSTELMAN: This isn't telling them how to zone at all.

BLOOD: Doesn't zoning already address this?

BOSTELMAN: No.

BLOOD: And can you explain why?

BOSTELMAN: So, this-- if you're talking about if this would trump zoning; this doesn't trump zoning, this just does a baseline-- as a lot of these facilities cross--

FOLEY: One minute.

BOSTELMAN: --county lines. So one county may have one zoning, another have a different one. And it's also-- it's a good policy between counties to ensure that there's a consistency there and it is-- I think it's a compelling state interest in the preservation of our landscape of Nebraska for the future.

BLOOD: Thank you, Senator. I actually still think that this is an application that is not done fairly across the board. And I would be willing to support that if, indeed, we applied this to all projects that put concrete and rebar in the ground. Thank you, Mr. Speaker.

FOLEY: Thank you, Senator Blood. Senator Clements.

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CLEMENTS: Thank you, Mr. President. I stand in support of LB700 and I do not believe it will harm wind energy. And I passed out a spreadsheet, as I like to do, that shows that there's plenty of revenue to fund this requirement. A review of existing contracts and reports from NPPD and OPPD generated this spreadsheet. And it shows the cost of a tower is about \$3.3 million. But they sell their-- the power generated in column 1, under power sales, around \$312,000 a year of income. Then they do have to pay some operation and maintenance, property taxes and land leases, still gives them \$279,000 operating profit. But in-- let's see, in column 5-- 6, if they had to borrow the money, if I had to borrow the money at 5 percent for 20 years, it would be a \$268,000 payment. I think that's a real conservative law, these companies have the cash, wouldn't have to borrow it. But just to use the time value of money, you end up with a net cash flow that is positive each year before the tax credits. Then the tax credits are \$161,000 per year for 10 years, and then some Nebraska economic development credit. You get to the next to last column, shows the yearly revenue generated after the tower is even paid for, \$178,000, and running on down for 20 years, the bottom of the next to the last column shows \$3.157 million profit after the tower is paid for. This is just one tower. And Senator Bostelman, the-- when you-- if you do salvage out the tower, there's a lot of aluminum and copper and metals in it, so they actually make money salvaging the tower. They make about \$18,000. And then this bill would then ask them to pay, at the most, \$100,000 to get that concrete out of the ground, which is only 3 percent of the amount of revenue they brought in on that tower, they'd still have a \$3 million profit of net revenue on one tower. That was the first side. And that was an NPPD example. On the second side of the sheet, it shows OPPD, their average revenue was a little bit smaller, but they would still have \$2.5 million of total revenue in 20 years, and the \$100,000 would be 4 percent of that, still leaving \$2.4 million on one tower revenue. I was concerned that this was going to cost a lot of money for a company to have to take that concrete out of the ground, but when I found that they're making \$2.5 million to \$3 million after paying for it, paying all the expenses, that this is a very small amount requirement in this bill. It's not going to harm wind energy at all and it's definitely going to help the environment and keep it from being a problem in the ground, and especially if that concrete is only three or four feet below the surface and we have some erosion and a farmer eventually wanted to start farming over the top of it, that's going to make it a very difficult situation. So I thank--

FOLEY: One minute.

CLEMENTS: --thank Senator Bostelman for providing me with the background details, and I just took his numbers and worked them into this cash flow projection and I was very surprised at how much revenue end up with and how little the removal of this base would be according to the revenue projection. I think this bill makes a lot of sense and it isn't going to prevent a wind energy company from putting a tower up, but it really will help at the back end to clean up the environment when they're done with it. And with that, I'll yield my time to the Chair. Thank you, Mr. President.

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FOLEY: Thank you, Senator Clements. Senator Albrecht.

ALBRECHT: Thank you, Speaker Foley, excuse me, President Foley. I rise in support of LB700 and AM1098. I do serve on the Natural Resources Committee. And in the last two years, that's all we've talked about is wind and some of the concerns that the people who actually have these contracts or do not have the contracts, and neighbor to some of these wind towers. But I know that unless we do something about this, once the contracts and the folks are gone that have negotiated these contracts with our folk and our counties, there, certainly, will not be any decommissioning. They will be a piece of yard art for everyone to enjoy. But it would definitely be the responsibility of that landowner to keep a red light on the top of that tower, whether they're using the tower anymore or not, because we have air-- you know, obviously airplanes in the air that need to know where these tower are at, but I would like to just ask Senator Bostelman if he'll yield to a couple of quick questions.

FOLEY: Senator Bostelman, will you yield, please?

BOSTELMAN: Yes.

ALBRECHT: I guess one question is, would these-- within this bill or the amended bill, how would we be able to secure with the county and the landowner that the decommissioning will happen? How is that-- I'm looking at it in the bill. Can you tell me?

BOSTELMAN: Well, there's a requirement in 70-1014.02 requires that there's a decommissioning plan and that there is actual decommissioning. I may have misspoke when Senator Blood asked me that question. So there is a requirement for the decommissioning already in statute.

ALBRECHT: OK.

BOSTELMAN: And so what this does, this gives a baseline for what should be taken out of the ground, it does not impact zoning whatsoever. It would just be one thing that is required by the-- statewide so we ensure that we have a material completely removed from the ground.

ALBRECHT: So this would be helpful to the county and to those who are signing the contracts, that they would-- and here's my other question, so if the people already have the turbines in the ground, they don't-- they wouldn't be a part of this. These are just new wind turbines being installed, correct?

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BOSTELMAN: This is for any new contract, correct.

ALBRECHT: And is there an e-clause like right away or will this be--

BOSTELMAN: No, it doesn't start until the first of the year, January 2020.

ALBRECHT: The first of the year, OK. So the county-- this doesn't trump any county zoning authority at all. If we do this, they need to follow it, correct? Whether they have zoning laws or not.

BOSTELMAN: Right. This doesn't trump anything that they want to do, this just requires that this is a baseline, this is a starting point for them.

ALBRECHT: OK. So if a county says, hey, wind energy folks don't worry about it, we're not going to put that decommissioning on you, then it's no good.

BOSTELMAN: Well, the decommissioning is required. The plan is required already by statute.

ALBRECHT: OK. Very good. Very good. And can you tell me a little bit more when you talked about, in Chapter 66, Article 9, so our laws at this point do not require the developers to do any type of decommissioning, correct?

BOSTELMAN: It requires them to have a decommissioning plan, to bond, and to have a joint development agreement and removal of the facility. It does not specify what that is.

ALBRECHT: So we're helping them understand what it is that they need to do for the folks that we don't just leave them up and nothing happen.

BOSTELMAN: Correct.

ALBRECHT: And would it be cost prohibitive to require that developer to remove all the materials from the ground?

BOSTELMAN: No, it does not. In fact, I've got-- Mr. Levy actually gave me a number of decommissioning contracts, plans, I should say. And when I went through those decommissioning plans--

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FOLEY: One minute.

BOSTELMAN: --and we can talk about this in a little bit because it will take a bit of time, but really there is no cost to them on the decommissioning as it is right now. And it would cost them to remove the pad, but as Senator Clements already said, finance is really is not a stopping issue for them here. They have the funding in order to do that.

ALBRECHT: Thank you.

FOLEY: Thank you, Senator Albrecht and Senator Bostelman. Senator Cavanaugh.

CAVANAUGH: Thank you, Mr. Lieutenant Governor. Senator Bostelman, would you yield to a question?

FOLEY: Senator Bostelman, would you yield, please?

BOSTELMAN: Certainly.

CAVANAUGH: Thank you. So I was just reading over the amendment and I know-- I think Senator Blood asked sort of similar questions, but I was wondering if you would entertain expanding it to include other energy sources, such as pipelines.

BOSTELMAN: I'm not sure that would be a germane subject to this.

CAVANAUGH: If it were germane, would you consider including it?

BOSTELMAN: Perhaps.

CAVANAUGH: OK. Because right now, it feels like it says wind and solar and it seems like it probably would be germane to add other--

BOSTELMAN: This is specific to renewable energy, and I don't think the pipelines would fit into the renewable energy statutes.

CAVANAUGH: OK. So may I ask you one more question?

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BOSTELMAN: Sure.

CAVANAUGH: What happens if the companies that are the wind energy companies go out of business? Are they-- then what happens to this decommissioning?

BOSTELMAN: When they go out of business, hopefully there's bonding there, and if it's not, then the landowner has to do it themselves.

CAVANAUGH: OK. Thank you. I'm uncertain where I stand on this bill and I'm going to take some time to continue reading over the amendment. Thank you for bringing this to our attention today.

BOSTELMAN: Thank you, Senator Cavanaugh and Senator Bostelman. Speaker Scheer.

SCHEER: Thank you, President Foley. Colleagues, a couple of items. One, as you have probably noted, tomorrow afternoon there is a committee hearing at 4:00 that will involve quite a number of you. I think it would be sort of fruitless to have the body working upstairs and have up to 15-18 members downstairs. So it would be my intent to close up shop tomorrow afternoon about 3:45 so those can have time to get ready for the hearing at 4:00. Secondly, I did want to announce that I'm going to be accepting consent calendar suggestions or requests through Friday at noon at adjournment. We will be handing out the list in relationship to requirements, please read it carefully so that you don't end up submitting something that obviously does not fit in the category of a consent agenda item. My thought is, we probably will look at doing this somewhere right after we work on the budget on General File, it will give us something to do for a day in-between while things get back from the E&R in relationship to the budget so we could probably spend a day on consent agenda items. Again, please read the information; it's self-explanatory. We will e-mail it, you'll get a copy on the floor. Make sure your staff looks at it as well, and we'll make some type of an announcement in the next week to 10 days as far as what that list will look like. Thank you, Mr. President.

FOLEY: Thank you, Mr. Speaker. Items for the record, please.

CLERK: Mr. President, thank you, I do have some items. Enrollment and Review reports LB610, LB155 to Select File; some with E&R amendments. The Government Committee reports LB123 to General File; LB267 to General File with amendments; those reports signed by Senator Brewer; oh, as well as LB337. Reminder, Mr. President, the Appropriations Committee will meet in Exec Session at noon in Room 1003. I have one name add: Senator Hunt to add her name to LB517.

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Senator Vargas would move to recess the body until 1:30 p.m.

FOLEY: Thank you, Mr. Clerk. Members, we're going to keep the speaking queue intact for continuing discussion to LB700. Senator McCollister, you will be first in the queue when we come back. The question for the body is to recess. Those in favor say aye. Those opposed say nay. We are in recess.

RECESS

FOLEY: Good afternoon, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber. The afternoon session is about to reconvene. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

FOLEY: Thank you, sir. Do we have any items for the record?

CLERK: Just one item, Mr. President, a communication from the Governor with respect to withdrawing a gubernatorial appointment to the Nebraska Niobrara Council. That's all that I have, Mr. President.

FOLEY: Thank you, Mr. Clerk. (Visitors introduced.) Continuing discussion on LB700 and the pending Revenue-- excuse me, Natural Resources Committee amendment, Senator McCollister.

McCOLLISTER: Thank you, Mr. President. Good afternoon, colleagues. I think most of you know that I'll probably be against this particular bill, LB700, but as Senator Chambers would say, I hope we enjoy this time together for the next two, two and a half hours. Why do I not like this bill? Because it's unnecessary, unfair, unworkable, impractical. Let me repeat those words: unnecessary, unfair, unworkable, impractical. So what are we going to talk about today? I think we'll talk about global warming, how I believe that's an existential threat and we need to be dealing with that now instead of 10 or 15 years from now when it's absolutely too late, and I think renewable energy along with building standards and some other thing are the things we need to deal with if we want to protect our environment for our kids and our grandkids. And that's my primary motivation. Well, decommissioning I think-- decommissioning, I think we all know, is a part of a contract that a landowner signs with a developer and that specifies the obligations of the wind developer and the farmer. And as a part of that decommissioning agreement, the amount of depth that you have to pull out the concrete is typically a part of that, that agreement. I think most of us know that that's an important agreement to sign, and most

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wind energy companies have a pretty standard decommissioning agreement. And I think most farmers and even wind developers want to be good stewards and have a good record in Nebraska as well as dealing with the soil that is beneath a-- is on top of a concrete pad. I would also say that-- that dealing with decommissioning is a whole lot less of a problem than dealing with Superfund sites, and we have a few of those in Nebraska. Mead, Nebraska, Hastings, Nebraska, have plumes of chemicals that are leaching and into-- into some water areas and that's a problem much greater than we need to-- to deal with in terms of these decommissioning windfarms. At this point, I would ask, Senator Bostelman, if he'd yield to a few questions.

FOLEY: Senator Bostelman, will you yield, please?

BOSTELMAN: Yes.

McCOLLISTER: We were talking about the-- some of the regulations in other states and you mentioned a few states. Can you reiterate what those-- those states were and what the requirements are?

BOSTELMAN: It will take me a minute to find it. New York, Ohio, Wisconsin, North Carolina, and Maine, regulations addressing decommissioning and removal of obsolete turbines and restoration of the land as well as taking the turbines, towers, founda-- and foundations, is what they talk about, out of the-- out of the ground. Removing all the facilities. As well as if you-- of the countries, other countries as well do the same.

McCOLLISTER: Thank you. Did you mention North Dakota having any depth-- any depth regulations--

BOSTELMAN: Yes.

McCOLLISTER: --on decommissioning?

BOSTELMAN: Yep.

McCOLLISTER: What were-- what was that depth?

BOSTELMAN: Oh, I'm sorry, you said on depth. I don't know if they did on depth. I'd have to-- I would have to find that and let you know what that is, unless you have it.

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McCOLLISTER: I think I have an article from the Fargo paper indicating that in North Dakota that depth is only three feet.

FOLEY: One minute.

McCOLLISTER: So I-- I think that we'll-- we'll discover that maybe a four-foot or anything greater is burdensome and unrealistic. Thank you, Mr. President. I'll be back up with-- with more as the afternoon goes on. Thank you.

FOLEY: Thank you, Senator McCollister. Senator Brewer.

BREWER: Thank you, Mr. President. Well, here we are again on the issue of wind energy. This case, LB700 is simply asking them to clean up their mess. But, as expected, Senator McCollister is going to be opposed to that. So we're going to leave all the concrete. I went and did a little research here and in the past year we have had 54 different bills introduced in 19 different states, in the wind belt states, that regulate wind energy in some way. Twenty-six of these bills came from the Legislatures of five of the six neighboring states. Kansas alone has had 11 bills. They have even stopped major wind in the Flint Hills. As you can see, Nebraska isn't alone in what we're trying to do here with LB700. Zoning is an issue and I have a bill, LB373, and those that have mentioned zoning, I will look forward to their votes in support of LB373 which does exactly that. It says that if your county doesn't have zoning, you have a two-year window to establish the zoning. The other issue that I think we need to discuss is those requirements to build wind towers in Nebraska. I'm going back to the testimony, 27 February of this year and it had to do with LB155. Let me read from it. This is Senator McCollister identifying commercial wind facilities located in Nebraska require 52 government-- governmental permit reviews. Like what? What permits are we talking about? U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers, U.S. Federal Aviation Administration; U.S. Environmental Protection Agency, U.S. Department of Commerce, U.S. Department of Defense, U.S. Department of Energy, U.S. Department of Agriculture, and U.S. Federal Energy Regulation Commission. So with that said, I'd like to have Senator McCollister yield to some questions.

FOLEY: Senator McCollister, would you yield, please? Senator Brewer, Senator McCollister is on the phone right now.

BREWER: I'll wait. I'm sure he's getting instructions.

FOLEY: Senator McCollister, would you yield to a question?

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McCOLLISTER: Yes, I will.

BREWER: All right. So how much of what I just said did you register?

McCOLLISTER: Afraid you're going to have to repeat it. Sorry, Senator.

BREWER: All right. You, in your testimony on 27 February, this is reference to LB155, talked about the 52 government per-- permits that are required in order to build wind energy. Does that sound familiar?

McCOLLISTER: Yes, sir.

BREWER: If we run down all those that you listed, U.S. Fish and Wildlife Services, Corps of Engineers, the Federal Aviation Administration, Environmental Protection Agency, and so on, is what you're saying that there is a checklist and that you have to go through all those agencies in order to build a wind tower in Nebraska?

McCOLLISTER: I believe that's so, yes.

BREWER: And likewise, if we go to Nebraska agencies, if I want to build a wind tower I have to go through Department of Revenue, Department of Environmental Control, Department of Aeronautics, the State Patrol, Game and Parks Commission, Department of Agriculture, Historical Society, Department of Roads, and the Nebraska Power Review Board.

McCOLLISTER: That's correct, Senator.

BREWER: All right. Just so we have that correct there,--

FOLEY: One minute.

BREWER: --that is in the official record. So if we're going to talk about regulating, and in this case what we're going to ask wind energy to do upon the life of that wind tower being complete, I would like to ask if you can provide the guidance on these so that we can follow all of this and guidance from these different agencies? Somewhere in there, there should probably already be this, wouldn't there be?

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McCOLLISTER: I think I provided that list. If not, we have that list coming back to floor and I'll be happy to make copies and give each senator a copy.

BREWER: It's not about the list. It's about where it says they have to approve it. Where do we find that?

McCOLLISTER: It's probably in the-- in the bill. You know, Senator, I may have to get back to you on that.

BREWER: All right. Thank you, Mr. President.

FOLEY: Thank you, Senators Brewer and McCollister. Senator Lowe.

LOWE: Thank you, Mr. President. You know, green energy is green energy. If we want to be green, let's be green. Let's do it all the way. It's been brought up that we don't require other businesses to do this. Well, the other businesses don't tout being green. Farmers leaving a grain bin pad, they can use it for other purposes. They don't tout their farm as being green. But windmills are touted as being green energy. So if we want to be green, let's remove the things that are left behind, not down a certain level but all the way. When you go camping, you pack out everything you bring in. That's being responsible. Let's be responsible. I'd like to yield the rest of my time to Senator Bostelman.

FOLEY: Thank you, Senator Lowe. Senator Bostelman, you've been yielded just about four minutes.

BOSTELMAN: Thank you. There's a couple things I guess we will go over. One thing from wind companies, it talks about when they remove and the depth that Senator McCollister was talking about. Says if the-- if the equipment is no-- no longer in use or if the lease is terminated, Heritage, is the name of the company, will remove all equipment. Heritage will also restore the land occupied by the towers or access roads to its natural state insofar as reasonably practicable, in other words, what doesn't cost them money, including the removal of concrete to below plow depth. That's going to be an issue we need to talk about as well because the crops that are going to be planted over the top of this are going to be stunted or this will be a dead spot for them because the roots of corn, roots of alfalfa, that stuff goes far deeper than the three or four foot of the removal. So the wind companies themselves say, well, as long as it's-- as long as it doesn't cost us too much or as long as it's-- it's easy to do, we'll do it. Otherwise, we're not going to do it. 49 C.F.R., for some other topics that have come up on removal of pipelines or oil and gas rigs or natural gas facilities, coal plants and that, there's several, there's a lot of regulations codified that

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are out there that require and state exactly what they need to do and what they're required to do. Also, there is a document out there that covers all energy production by the Oak Ridge National Laboratories. It's called Solid Waste from the Operation and Decommissioning of Power Plants. Every single power plant in the United States has a requirement to decommission and Oak Ridge there points out the requirements for those things are and what the needs are, and specifically when they're talking about cement and that, they say this needs to be removed and it needs to be recycled, something that Senator Lowe was talking about. We have a green facility so in order to stay within that idea or concept, that is one thing that the Oak Ridge says, recommends that needs to be done, is that all concrete is removed and then we recycle it, as well with all the rebar. The steel that's in it is recycled. So that's in, if you go and it's a report on January 5 of '17, I think it is, but if you go on their renewable electric plants, it talks about their decommissioning and all the things that need to be decommissioning and it talks specifically about recyclable, salvageable, decommissioning wastes: steel, concrete, and copper. Those are things that need to be recycled, need to be removed and utilized. And when they do that, actually, when you decommission what has often-- we'll talk about it a little bit--

FOLEY: One minute.

BOSTELMAN: --later will be the cost of that and that it's not costing them a significant amount of money. It's not burdensome. It's not something that no one else does. They all do it. This is just requiring a baseline for our healthy soils. Fifty, hundred years from now, we don't know what's going to happen to this large concrete-- chunk of concrete and steel that's in the ground. And that's what we're talking about today. That's what we need to make a decision on with this bill. Is that something that we feel comfortable with leaving 496 acres, 3-foot deep of concrete in the ground? That's what we're talking about. And the owner of that facility is responsible to remove it, proper decommissioning. Zoning or other things, other federal laws apply.

FOLEY: That's time, Senator.

BOSTELMAN: Thank you, Mr. President.

FOLEY: Thank you, Senator Bostelman. (Visitors introduced.) Continuing discussion on the bill, Senator Bostelman, you're next.

BOSTELMAN: Thank you. I want to talk a little bit more then about decommissioning. So, as I had spoken earlier before we broke for lunch, Mr. Levy gave me several documents and I have them, a number of documents and plans from within the state on decommissioning. And so I took the time to read them. I took the time to go through them and look and see what decommissioning actually costs. And with that, what I found out going through that is there's a

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variance of costs that it may be and-- and when you come down to it, if you apply the 100 percent of recycled material using current day prices, which steel, and that's not going to go down, it will continue to stay the same or go up, what I found in that through those-- those decommissioning plans, it went from a positive \$21,000 profit to decommission to a negative \$23,000 to decommission. So if you average that out, there's a \$3,784.20 profit to decommission a turbine as it is today. Or if you exclude one of them that was the misnomer because it was the one that was completely out above everybody else, if you take the high and the low out, it's \$6,940.30. They make money decommissioning the towers. Senator Clements talked about it earlier today on the profit that each turbine with an NPPD contract or an OPPD contract gains. And with that profit that he was talking about, net total revenue, this takes in all accounts. And if I am wrong, someone needs to show me and that will be fine. The net revenue per turbine is \$3,075,469 when it's an NPPD contract. OK. Let's say it's \$100,000 to decommission. That's pocket change. That's not being difficult. It's not being whatever the terms that Senator McCollister said it was. It's not being outlandish, it's being reasonable, because we're talking about soils. OPPD, their profit margin on it is \$2,414,581, and that's saying that that includes a removal, a decommissioning of \$100,000. That includes that out of that total net profit margin. So all power generation facilities, nuclear, coal, hydro, natural gas, everything that's out there has decommissioning. Oak Ridge Labs talks about decommissioning, exactly what we need to be doing. This is a green project. It's not that much money, very small amount when you consider to-- to what that cost is on the life of the facility, to go ahead and dig the thing out, recycle it, and reuse it, all of it. As much as you can. The turbine blades you can't because they're made out of fiberglass. They do two things with them, either landfill them or burn them. So what we're talking about is being good stewards of the facilities, good stewards of the land because 50, 100 years from now that concrete that's in the ground, and, oh, by the way, I did find the source. It's Portland cement information on phosphates and low pH, what that does, how it corrodes concrete and rebar steel. Because when they take it down three foot, they just jackhammer it down, then cover it up. They don't seal it. So in majority,--

FOLEY: One minute.

BOSTELMAN: --almost all the land that we use in Nebraska that we-- we're farming has low pH. If it has high pH we put sulfides on it to bring that pH level down so our corn or beans, other plants, so they'll grow. And what that then does is leach down into where the plate is that-- that-- what we're talking about is concrete and steel and begins to erode it and-- and de-- decompose it or break it down. And we just don't know what that's, what the result of that will be in 50 or a hundred years from now. That's what we should be concerned with. And this is for 3,000 sites across the state in ag land. Again, every other power generation facility out there requires decommission, and there are specific things they have to decommissioning. And this only requires one small part--

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FOLEY: That is time, Senator.

BOSTELMAN: Thank you.

FOLEY: Thank you, Senator Bostelman. (Visitors introduced.) Mr. Clerk for an announcement.

CLERK: Mr. President, the Judiciary Committee will have an Executive Session at 2:15 underneath the north balcony; Judiciary at 2:15.

FOLEY: Thank you, Mr. Clerk. Continuing discussion on the bill, Senator Geist.

GEIST: Yes, Mr. President, thank you. And I wonder if Senator Bostelman would respond to a question.

FOLEY: Senator Bostelman, will you yield, please?

BOSTELMAN: Yes, I would.

GEIST: Thank you, Senator Bostelman. I just wanted to ask a few questions about the handout that you gave each of us. And I wondered if you could put this into numbers that I can understand. Now, of course, I can read the numbers but I mean put it into a context of this is a similar size as what? If we're talking about the cubic yards, 750 cubic yards of concrete per turbine, can you give me an idea of about how-- what the size that is?

BOSTELMAN: Per turbine, that--

GEIST: What the-- the base where you have--

BOSTELMAN: It's 50, 50 to 65 feet across, and 4 to 6 feet at its thickest. And then it tapers up from there--

GEIST: OK, and so--

BOSTELMAN: --to about 3 foot [INAUDIBLE].

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GEIST: --by regular decommissioning standards currently, they only have to remove 3 feet of the cement, is that correct, that I've heard you say?

BOSTELMAN: Right. If you look at the diagram, the-- you have footing and pedestal, and on the pedestal the diameter is 18 to 20 foot across, almost half the width of the pad itself, what's underlying it, right?

GEIST: OK.

BOSTELMAN: And they have to-- they remove that. That's 18 to 20 foot across and they take that down 3 to 4 foot below the surface with a Bobcat and a jackhammer, exposing the rebar and the concrete underneath, and-- and then they just cover it over.

GEIST: And then they just cover from there.

BOSTELMAN: Right.

GEIST: And so they're leaving quite a bit of concrete in the ground, which you have 2.25 million cubic yards if we're just accounting for the 3,000 turbines that are currently operating, correct?

BOSTELMAN: That's correct.

GEIST: OK. I just find that, for those of us that are wanting to return the land to its natural state, that's a little hard to-- to think that that's OK. So what I would like to do, if you'd want to talk to this further, you can have the rest of my time. So I'd yield the rest of my time to Senator Bostelman.

FOLEY: Thank you, Senator Geist. Senator Bostelman, you've been yielded two and a half minutes.

BOSTELMAN: Thank you, Mr. President. So we're talking about three-quarters of a section, mile by mile by mile, three-quarters of a section, 3 foot of concrete covering that entire area plus the rebar on top of it. That's what we're talking about. I mentioned that before. That's where it's at, 450,000 tons of concrete that we're going to leave out there in the ground. So when we talk about sulphates is a chemical, phosphate later is one that is corrected with that, that we amend our soils with the use, and that then can come down into-- because when you jackhammer down right now into that, into that pedestal, you're going to expose a lot of the concrete and allow for

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these chemicals, the sulfates, to get down within-- within that facility or within that concrete pad, and that's the concern we have and what that's gonna-- what's that-- what is that going to do to it in 50 to 100 years from now. We don't know. Look at our streets, look at our sidewalks when they put salt on it, those type of things, how they break down. Isn't it better that we remove that now rather than-- than wait to see what happens down the line? Then it's up to the landowner. So you buy a piece of ground 20 years from now and that turbine's gone and you don't know that that piece of concrete, that chunk of concrete is in the ground and you may have a problem with it. Then you're going to-- you're going to be the ones that have to pay to get that removed from the ground. And that's not right. That--

FOLEY: One minute.

BOSTELMAN: --should not be put on to the-- the future landowner of that property. The other thing I guess we like to talk about with this is I just want to go back again to healthy soils, healthy lands, and what we're doing into the future and what Oak Ridge Labs and others talk about specifically to, we need to require decommissioning of a certain amount of material. And it is not arduous. It is not difficult. It's not hard to do. It's just something we need to do. Also on the reference to the breaking down of concrete, the Portland Cement Association is-- is my source of material for that. And on page 7 of that, they speak specifically to what happens when different sulfides and other things attack that concrete and that rebar in the ground.

FOLEY: It's time.

BOSTELMAN: And that's a concern.

FOLEY: Thank you, Senator Bostelman. Senator Blood.

BLOOD: Thank you, Mr. President. Fellow Senators, friends all, I've been actively taking notes and did some research over my lunch because there is just something about this amendment and this bill that just sticks in my craw, and at this time, I stand in opposition of both. Senator Lowe recently said that other businesses don't tout being green. That's true. However, if we are making policy to only address the businesses that tout that they are green but we ignore other organizations that are leaving concrete and, say, pipes for pipelines, pipes for sewers in the ground, are we being fair stewards to the healthy soil and healthy lands that we feel that we want here in Nebraska? And so I wonder if, based on what I hear you saying, if that we're being good policymakers by only pointing this out when it comes to wind energy. And I don't think we are. So if we're worried about what we say we're worried about, why are we only worried about wind turbines? So I did some more research just to make sure that I-- I-- I know what I'm talking about, and it's clear to me the contracts are between the landowner and the windfarm developer.

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Companies are really always responsible for decommissioning, not the government, not the landowner. And here's why I believe that. Because, first of all, I saw that these windfarms, these businesses, they have salvage value when it comes to the turbine components, especially copper and steel. They like to take that in. They like to salvage it. They like to, to generate additional income by bringing that back home. They're not stupid. Item number two, rural communities are the lifeblood of the wind industry. Why would they want to mess up the relationships that they have in these rural communities by being stupid? And then wind-- number three is that windfarms are often empower-- repowered when the equipment wears out because here's the thing, guys. The wind speed isn't going to change in Nebraska. This issue isn't going away. We're a goldmine to these people. So typically underground components, like turbine foundations and underground cables, as we've discussed, they're removed to a depth of about 4 feet below the ground when it comes to the ag areas. Non-ag areas can be 2 to 3 feet. But it's never recommended to remove the entire foundation as it actually creates a much greater land disturbance and environmental impact than partial removal due to the substantial excavation efforts involved. So again, best left up to the landowner. I always think about the tornado that we had two years ago in my district and one of the things that we lost was our fence. And when the-- and I know that you cannot compare the two, but it's a really good example of how people do business nowadays. The fence company did not pull out my old poles. What they do is they sheared them off to make them flush with the property, which of course after the first big rain that was no longer flush, and put up a new fence. But why do they do that? They do that because in my area, as you see when there's anything built in our area, there's a gazillion different colored flags, as we learned from 811 a week or two ago, that things can be disturbed and property can be disturbed. And that's just talking about a little teeny post. So I-- I-- the two things that I'm not hearing answered on the floor today is why are we singling out this industry and not others? If a pipeline or anything of-- of the like comes through Nebraska lands,--

FOLEY: One minute.

BLOOD: --why are we not giving them the same type of policy, because we are not based on the reasoning I'm being given. And why do we think we know better than the landowners who make the contract with these companies? I want to hear answers to these questions and I'll continue to sit here and listen. Thank you, Mr. President.

FOLEY: Thank you, Senator Blood. Senator Halloran.

HALLORAN: Thank you, Mr. President. Colleagues, good afternoon. It's-- green energy would very logically be-- should very logically be very supportive of this just by the nature of them wanting to protect the environment. Their commitment should be to leave the land in as good or better condition than they found it. And I think many of them do believe this, and this is just a

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good, solid effort to make sure they fulfill this. Hastings, Nebraska, has the misfortune of having two locations which are Superfund sites. Dana Piston Rings was a company that made piston rings. They had an issue with-- with their production process that eventually led to contamination of the aquifer. Garvey Elevators, in a similar fashion, conducted their business and didn't conduct it well enough, and they had a fumigant issue that led to the aquifer having fumigant migrate to the aquifer. Do I think this is going to rise to the level of a Superfund? No, I don't. But if you look at both of those examples that I gave you, neither of those companies thought they would either. All right? And so I think this is a-- a good precaution, a worthwhile precaution. In the scope of the revenue that-- that wind generation does produce for themselves, it's a small cost, small price to pay. Would Senator Bostelman yield to a question, please?

FOLEY: Senator Bostelman, would you yield, please?

BOSTELMAN: Yes.

HALLORAN: Thank you, Senator Bostelman. So these contracts that-- that typically producers sign, agreements to put up wind generation, is there-- is there any negotiation room, to your knowledge?

BOSTELMAN: Reading through the contracts, basically they give them one option. One option is, do you want the road coming to it removed or not? And you have to sign that the day they-- that they sign the contract. They do state in there there's-- you can negotiate other items, but they're basically giving them a contract and telling them to sign it. If I would-- I would ask any wind company if they actually have done this as far as having other removal of the pad, to please bring that contract here so we can see it, because the person who signs the contract has a gag order. They can't talk about it so nobody knows. And I guess the other point I-- so your comment would be I guess if they're doing it already, why are they opposing this now?

HALLORAN: OK.

BOSTELMAN: Doesn't make sense.

HALLORAN: Thank you, Senator Bostelman. Is there-- can you speak to the bonding requirements? Are there bonding requirements in these contracts: By that I mean are there bonding requirements to assure that there's capital to take care of the decommissioning?

BOSTELMAN: Well, there is a bonding requirement at the ten-year inter-- interval and that's supposed to cover the costs. But, you know, that's a bit of a question as to whether it's fully

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covered or not, how much that bonding is required, if that's going to cover the full decommissioning costs or not. But it is required at ten years.

HALLORAN: OK. Thank you, Senator Bostelman. I would yield the balance of my time to Senator Bostelman if he wishes.

FOLEY: Thank you, Senator Halloran. Senator Bostelman, you've been yielded one and a half minutes.

BOSTELMAN: Thank you. Very quickly, pipelines, heavily regulated, heavily regulated: 49 C.F.R. 192.727 abandonment and deactivation of facilities, heavily, heavily regulated for-- by the federal government to include the pipeline company is responsible for that pipe the entire time that it is in the ground. They have to monitor it. They have to maintain it. They have to keep-- keep it in-- in an order that it does not have any contamination or otherwise within the-- within the ground. They have a-- an extensive requirement for the abandonment and deactivation of facilities. So there are a lot, a significant amount of federal regulations and state regulations that do cover different decommissionings. Oil and gas codes, same thing, there's significant amount of regulation out there that requires decommissioning for these facilities. That's already out there. Those things exist today and nothing exists on decommissioning requirements for wind turbines. And we're only asking in this bill that you take the concrete out. Recycle the concrete, reuse it. Take the rebar and sell it as scrap. Don't let it sit there for 150 years, because once that company decommissions that, they leave.

FOLEY: That's time.

BOSTELMAN: They don't monitor it.

FOLEY: Thank you, Senator Bostelman. Senator Hughes.

HUGHES: Thank you, Mr. President. Good afternoon, colleagues. Been sitting and listening to the-- to the discussion. I did vote this bill out of committee because I thought it was important that we have the conversation. And listening to the conversations a few things have come to mind. Last year in our farm we did a pretty extensive building project to our grain handling facilities. So we took out some smaller, existing bins, put up some larger ones. We did completely remove the concrete and we repurposed that concrete. It's not that hard to do. Quite frankly, it was-- it was probably cheaper for us to hire that concrete broke up and a crusher came in and we were able to repurpose that concrete in our approach to the new facility. It was certainly cheaper for us to do that than to haul the granite in from Wyoming that normally would

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be the case that you would have the material that you want to lock together to make a solid foundation when you're moving, you know, trucks with a thousand bushel of corn or a thousand bushel of wheat. So I-- I think we're getting hung up on the expense of taking it all out. It is not as expensive if you recycle or repurpose that material. Over the years I have, you know, I'm-- I like a tidy farm. You know, we have taken out a lot of farmsteads. We have taken out a lot of concrete. And I've-- I've buried concrete myself and-- and paid to have it buried. Unfortunately, in some instances, it does not stay buried. As time goes on, you get erosion, you know, whether it's wind or water or a combination of those, those type of things, or you use the land in a different manner. You know, that concrete is never deep enough. So taking it all out I think is probably the best option. One of the other things that, you know, I want to address is this is a contract between the wind developer and the landowner. And I appreciate Senator Bostelman bringing this opportunity just to point out that there can-- it is a negotiation. I mean there's-- there-- a good contract is a win-win for both parties. You know, if the landowner gets a wind generation facility on his property, he's receiving income. The wind generating company, who's building that property, is getting income from the federal subsidies and the wind generation. So it is a good-- a good contract. And I don't know that it's our job to keep fools from signing contracts. You know, we've all made mistakes. There are contracts that I have walked away from because it wasn't in my best interest. But if someone else out there wants to sign a bad contract and doesn't think through the possibility, that's part of the cost we pay for a free society. I do want to talk a little bit about the cost of decommissioning. I wasn't listening very closely this morning so I wondered if Senator Bostelman would yield to some questions, please.

FOLEY: Senator Bostelman, will you yield, please?

BOSTELMAN: Yes, I will.

HUGHES: So, Senator Bostelman, did you get into the-- I know you and I've had some private conversations about the cost of decommissioning versus the cost of revenue generated by these towers. Have-- have you covered that material already or--

FOLEY: One minute.

HUGHES: --am I getting ahead of the-- ahead of the curve here?

BOSTELMAN: No, we-- no, we've talked about it, basically, and the generation on an OPPD contract is \$2.4 million and the generation over the life, 20 years' life cycle, for NPPD is \$3 million. And-- and at most, if it costs-- say it costs \$100,000 to-- to take that pad out of the ground, which I can't imagine it would, it's not much money there as far as costs.

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HUGHES: OK, so there's more than enough money being generated from the facility in the-- the 20-year life span? Is that what you're talking about?

BOSTELMAN: Yes, significantly more. Yes.

HUGHES: OK. Very good. So I guess back to my other point, would it be possible that we put a clause in this bill to-- to make sure that the landowner knows that they can negotiate, you know, to have it all removed or down to whatever level? I mean would that-- would that be a possible compromise rather than having it all out? If I'm going to build a wind tower, I'm going to put them in, you know, the land that's hard for me--

FOLEY: That's time, Senator.

HUGHES: --to farm. Thank you, Mr. President.

FOLEY: Thank you, Senator Hughes and Senator Bostelman. Senator McCollister, you're next.

McCOLLISTER: Thank you, Mr. President. I need to thank Senator Bostelman. Before this-- this morning I was rather cold in here, but my body temperature is rising and I'm starting to feel better already. So thank you, Senator Bostelman. I wonder if the senator would-- would yield to a question.

FOLEY: Senator Bostelman, will you yield, please?

BOSTELMAN: Yes.

McCOLLISTER: Thank you, Senator. If you would be so kind, would you read sub (5) on page 6 of the amendment. That would be line 14.

BOSTELMAN: Let me find it. OK, where you at again?

McCOLLISTER: Yeah, that would be line 14 on page 6.

BOSTELMAN: "Nothing in this section prevents a political subdivision from." Is that where you want, page 6, line 14?

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McCOLLISTER: Yes, sir. Yeah, if you'd read that, the complete two sentences.

BOSTELMAN: "Nothing in this section prevents a political subdivision from enacting standards that meet or exceed the requirements of this section."

McCOLLISTER: What would happen if a political subdivision wanted to provide for only a 4, a 4-foot pad, to excavate the concrete to only 4 feet?

BOSTELMAN: Well, what this-- what this amendment does and statute, will require a baseline of the whole pad has to come out. They would not be able to do it.

McCOLLISTER: So if a county wanted to do less than that, would they be able to do that?

BOSTELMAN: Anything less than taking out the pad, then yeah.

McCOLLISTER: OK. But an individual landowner, in order to get a project through, if they wanted to put a decommissioning plan that is less severe would they be able to do that?

BOSTELMAN: I don't know what's severe about this plan.

McCOLLISTER: Well, if they didn't-- if they were happy with only removing 4 feet, could a landowner in charge of their own property agree to a wind developer to only go down 4 feet instead of anything further?

BOSTELMAN: The statute now, they would be required to take the whole thing out as we're looking at the stewardship of the ground.

McCOLLISTER: So aren't we taking property rights away from a landowner if we would now require the-- the whole pad to come out instead of just 4 feet?

BOSTELMAN: No, we're not, because this is not an uncommon practice in other statutes that we have already enacted in this state that would.

McCOLLISTER: I would read the following. This came from David Bracht: Any decommissioning legislation or regulation should ensure that the property owner agreement supersedes state or local standards for all elements that the agreements cover, except for the removal of above-ground turbines. Flexibility for the removal of the turbines and associated

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components is generally a significant concern to property owners, of course, as most property owners with wind energy facilities on their property are actively involved in agriculture and have competing needs and work in the fields in certain seasons. Typically, underground components, such as turbine foundations and underground cables, are removed to a depth of 4 feet below ground surface in agricultural areas. In nonagricultural areas, so the owner of the land allows, a shallower depth of 2 or 3 feet is acceptable. Remove-- removal of the entire foundation for each turbine is not recommended as this would likely result in much greater land disturbance and environmental impact than partial removal to the-- to the substandard evacuation efforts involved. And there has been some question about--

FOLEY: One minute.

McCOLLISTER: --the costs of removal and decommissioning. And-- and if you'll look, colleagues, on that North Dakota wind companies required to plan ahead for restoring ground, if you look on page 2, it determines that, you know, in-- in that area, in North Dakota, it's typically 3 feet. But on average, NextEra said it would cost about \$125,000 per wind turbine to restore the land for its North Dakota projects, according to third-party engineering estimates submitted to regulators. For example, decommissioning the 48 turbines in Oliver Wind III Project in Morton and Oliver Counties, it's estimated to cost \$6.24 million. That includes the cost of dismantling the towers, removing the concrete pedestals to a depth of 3 feet.

FOLEY: That's time, Senator.

McCOLLISTER: Our commitment-- time, Senator?

FOLEY: That's time. Thank you, Senator McCollister. Senator Friesen.

FRIESEN: Thank you, Mr. President. So when I typically deal with concrete on my farm, I-- I like to dig it up and haul it away. There's a company, actually comes with a crusher and they recycle it, take the rebar out, and sell it back to you for road gravel or good, strong bedding material for a nice driveway. I-- others tend to bury things. I've-- I've always tried to avoid that. I guess I want to restore it back as close as I can. I guess when I'm-- I'm still listening to the debate here and-- and I know in different soil types the foundations will go down deeper, but in-- in most areas, for my area especially, if I was to sign a contract for a wind turbine, I, you know, I would have to look at that and say, you're going to restore it to at least 5 or 6 feet below the soil surface because if I want to bury any water lines I don't want to hit them eventually. Part of the problem with these-- with this restoration and-- and the decommissioning is you can have a-- you have a 20-year lease to start with and then you have a renewal of another 20 years, so it's 40 years down the road. A lot of times this land has changed ownership. And so the person actually

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owning the-- the property did not sign the agreement. He will, I guess knowingly, buy the land with that attachment, so it shouldn't be a surprise to him. But he didn't have a choice in what that wording of that contract was. His only recourse is to either not purchase the land or else to clean it up himself. So I-- I look at the cost of doing it and, to me, for the return on investment they have there, I don't think it's unreasonable. But again, in some sandy soils where they're deeper, that might be unreasonable. So maybe there's room for a compromise somewhere, but to me the 4-foot level would be too shallow. But again, just from the approach of-- of when a company comes in and does these, I know we talked a lot about the decommissioning fund that was going to be created and whether it would be enough. And so we tried to build in pretty strong decommissioning language in the last time this bill was-- I forget the bill number, a few years back, but it is what it is now. And I know some zoning boards do not look at that responsibility very closely, so it is up to the landowners to negotiate. And I think-- I don't know if-- if wind companies do negotiate. I-- I'm not sure. I've never-- never met with them. But I know there confidentiality clauses in their contracts are very stringent and so really anybody that has a windmill can't talk about it. I think you can discuss it with your immediate family, your attorney, and your accountant. And so it'd be hard pressed to find out if there are some negotiations that have negotiated a lower, lowering of the concrete in their contracts or not. It would be interesting to see. I don't think this is an unnecessary burden right now, but again, I'll-- I'll keep listening and-- and see once if there's room for compromise. Thank you, Mr. President.

FOLEY: Thank you, Senator Friesen. Senator Brewer.

BREWER: Thank you, Mr. President. Well, let's keep track along the same lines where Senator Friesen was. If Senator Bostelman would yield to a question or two.

FOLEY: Senator Bostelman, will you yield, please?

BOSTELMAN: Yes.

BREWER: All right. So we got everybody on the same sheet of music here, if you're a landowner and you're going to agree to have them build a wind tower, you're going to sign a statement of nondisclosure that encompasses the agreement and all of the requirements associated with that wind tower. Is that correct?

BOSTELMAN: Anything that-- yes, and anything that happens to or with that is included, yes.

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BREWER: All right. So there is no visibility for the-- for the-- for the county to have on those because those are directly between the wind company and the individual owning the land, correct?

BOSTELMAN: Correct.

BREWER: All right. So we don't know what's in there. All right, another quick question for you. Have you done any studies at all on what's happening in Europe right now because they're in a cycle now where their wind towers are wearing out because they've had that 15-20 year life? What are they doing over there with their wind towers?

BOSTELMAN: Well, they're looking specifically to decommissioning and what's going to happen with the wind towers I spoke of before. There's a company in Spain I was looking at and they actually removed the foundations, the bases. They removed the entire thing. Germany and-- I don't remember the other company off-- or country off the top of my head, they're looking at doing the same thing of removing the entire facility.

BREWER: All right. Thank you. I did look up, because I've got a friend in Germany who has a wind tower, not on his place but at his family's place, and that tower has outlived its life. The challenge that they have is that a company can change hands multiple times. So the company that builds the windfarm isn't going to stay as the company throughout its life. Unless the surety bond is enough to cover the cost to decommission all of the wind towers as a part of that farm, that surety bond is really a false security blanket. So if we can't see what that agreement is and we have no way to get visibility on it, I think we should be concerned that we're committing to a course of action where we're not going to be able to know until the point where the county or the state is end up to-- going to be responsible for the costs. Now one more thing on the issue of the requirements for construction on the wind turbines, if Senator McCollister would yield to a couple quick questions.

FOLEY: Senator McCollister, will you yield, please?

McCOLLISTER: Yes, I will.

BREWER: All right. You handed out this sheet here, and I thank you for this. That was very responsive. It lists all the agencies but just so we understand. If you want to build a windfarm, it does not mean that all these agencies have to sign off on it. It just means potentially any of these could be required to do a review of that windfarm. Is that correct?

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McCOLLISTER: Not quite. In the sequence of events, I think the-- the wind energy developer first goes to the electric company and figures out whether or not they-- they have a need for it and whether they could develop a pathway. So I think those-- those other-- those other requirements come into play but they come in later in the process.

BREWER: All right. Thank you. I guess the-- the other issue that-- another one we have to look at is it isn't just the footprint that we have now. Because keep in mind, this bill is going to affect what's being constructed in the future.

FOLEY: One minute.

BREWER: And of course, my vested interest is this. They're looking at hundreds upon hundreds of windmills going into the Sandhills of Nebraska. There are issues building in sand. That foundation is going to have to be much wider, it's going to be much deeper to keep a wind tower five, six hundred feet stable. That is a direct pathway into the aquifer. So I-- I think that that has to be inevitably something we address as to whether or not we leave that concrete in or bring it out. Thank you, Mr. President.

FOLEY: Thank you, Senator Brewer. Senator Blood, you're recognized. This is your third opportunity.

BLOOD: Thank you, Mr. President. Fellow Senators, I continue to take notes and have questions. I'd like to point out that I am not running back and forth between the Rotunda. These are my questions and my concerns because I think there's been some accusations otherwise on several other senators. The first concern I would have, and I know that part of it has to do with the statute that we are talking about, is that if we're going to pass a bill like this, why aren't we putting in amendments for every single utility that places concrete or rebar in the ground? And to say, well, because wind says that it's green energy and they don't necessarily proclaim to be green energy is the reasoning that doesn't hold water. So one of the questions I hope Senator Bostelman can answer when he is on the mike, and I am not going to yield any time, he can do it when he his turn, is how deep are large utility poles set into the ground. I'd be very curious to know what the answer is to that. Senator Bostelman has, as has been pointed out, has stated that there are many opportunities for the landowners to request removal within their contracts, but they'd have to know to ask for it. Well, with all due respect, I don't think it's our job to try and decide whether that person or those people, those landowners, are smart enough or not to ask for in it a contract. That's really between them and the people that they're making the contract with. And I think it's government overreach when we're trying to tell people what they can and can't do with their property in this case. We just had a huge discussion on a bill twice, brought forward twice on eminent domain and property rights, and a lot of the people that are standing up in favor

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of this bill seem to have some gray areas when it comes to property rights. It's really up to the landowners to negotiate if their property-- anything that happens on their property. And that's the bottom line when it comes to this bill. Sorry, I was interrupted. I wasn't sure what was going on back there. So the big question that I keep hearing is, well, why does wind oppose this bill? Well, I think they oppose it, and this is my personal opinion, I'm not hearing this from any organizations, is that you're cherry-picking. And if you're going to cherry-pick, you need to look at the big picture. What's good for the goose is good for the gander. When Senator Hughes was done talking, I went over and chatted to him and I asked him if he was required by law to take out the concrete that was on his property. And he said that he was not. And he is not required by law to do that because that is his property. We are talking about property rights, and for those of you that wave that flag on other issues but for some reason are now standing in support of this bill, if we're going to push a bill through like this then we have to make sure that it addresses all utilities that are putting concrete and rebar into our ground. Right is right. If you're not willing to do that, I really hope that you take a step back and consider how good this bill really is. And with no disrespect to Senator Bostelman, I'm not there. I do not support either the amendment nor his bill because I feel we're cherry-picking. I feel that we're infringing on the rights of property owners. And I think that we are basically saying to property owners, we don't think you're smart enough to ask for this in the contract, and I think that's just silly. Thank you, Mr. President.

FOLEY: Thank you, Senator Blood. Senator Slama.

SLAMA: Thank you, Mr. President. I'd like to yield my time to Senator Bostelman if he would like it.

FOLEY: Thank you, Senator Slama.

BOSTELMAN: Yes.

FOLEY: Senator Bostelman, five minutes.

BOSTELMAN: Thank you. Answer Senator Blood's question first of all, and I do not know the depth of the-- of those towers. Like I said before, they're usually on property lines and they're not that wide. So I don't know that and I can't tell you that for sure. Speaking to having a-- property rights and looking at we don't this in any other fashion in the state, actually, we do in a lot of areas where we require contracts to have certain language in it for both the-- whoever the person initiating a contract and those who sign the contract. Landlord's, seller's agent, sellers, 76-2417 requires certain language in there; premises rental or lease requirements, 9-241.04 requires it. Swine production, swine contracts, swine production contract grower may cancel swine production contract by mailing cancellation notice to the packer; production may contract a

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swine production contract shall clearly disclose certain information. There's specific information, 54-2604.01 on what we do in contracts. And 45-336, installment contract requirements, we shall contain and follow items. So it's an installment contract that says what has to be in the contract that's required for that individual. They don't have a choice. Also in real estate, 76-2120 states that the disclosure statement shall include language at the beginning which states, and it lists a number, a significant number of items which it must include. So what we're doing and what we're requesting is not something that's not already done in statute in other areas. It is something that is-- that is in statute and we do, do it in other areas. And another thing I want to talk to a little bit about, Senator McCollister was talking about North Dakota and the cost. I've already told you what Nebraska does. That's what's relevant. What's relevant are these decommissioning contracts that I have, these decommissioning plans that I have from Nebraska, specific to Nebraska. And I have one from South Dakota as well. And all of those, as I was mentioning before, what are the costs with that and what is the-- the cost to decommission those, and remember Nebraska decommissioning plans, specific to Nebraska, there's one, two, three, four, five, six, seven, there's seven or eight of them sitting here, \$3,784,20 gain. Or \$7,000 gain when they decommission because they can salvage these items. They can salvage the turbines. You can salvage the concrete as well and recoup some of that money. The technology we have and what we use now, I would not go in there, and I'm sure they don't go in there, with a Bobcat to take these pads out. It was mentioned, soil compaction. I went by a neighbor's farm just yesterday and they're out putting drain tile in. They had earth movers, they had bulldozers, they had road graders, they had front-end loaders out there, all of these tearing up the ground, significantly disturbing the ground and building terraces, and that's not an issue for them. And I don't see where this would be an issue for them either. Tearing out, taking out the pad--

FOLEY: One minute.

BOSTELMAN: --will not create a soil compaction or otherwise that disturbs that would cause an issue along these lines. We already do similar things like-- similar things like this when we drain tile. We disturb a lot of ground with a lot of heavy equipment and we drain tile. Then we turn around and we farm it right away. It's not an issue. So we want to go back to what's right, back to what I've said before. This is not unusual as far as power generation. Every power generation facility out there has decommissioning requirements, every one of them. We have none in this state other than you have to have a plan. This is a small part, a reasonable part to restore the ground back to its natural state so that we don't have issues in the future, so we don't have those problems later on. We want to make sure that the land is returned to a natural state so that person can utilize that land in the future. Three thousand--

FOLEY: That's time, Senator.

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BOSTELMAN: --sites across the state of Nebraska.

FOLEY: That's time.

BOSTELMAN: Thank you, Mr. President.

FOLEY: Thank you, Senator Bostelman. Senator Cavanaugh.

CAVANAUGH: Thank you, Mr. Lieutenant Governor. First, I have to apologize to Senator Bostelman because I told him I wouldn't have any more questions, but I have more questions.

FOLEY: Senator Bostelman, will you yield, please?

BOSTELMAN: Yes.

CAVANAUGH: Thank you. And I did want to let you know that I looked up about the statute for the pipeline and it-- I-- not that I didn't trust you, but it does appear to not be germane because we are talking about renewables. So thank you for that. And so the Sierra Club actually reached out to me with a few questions and I thought that they were pretty valid questions and I wanted to just ask at least one of these here. They, according to them, Nebraska already has a law that provides for requirements for decommissioning wind turbines. Does that sound correct to you?

BOSTELMAN: The law requires they have to have a plan. It does not require what that plan includes.

CAVANAUGH: So your bill then goes and outlines what the plan is versus--

BOSTELMAN: Doesn't outline the plan. It just sets a baseline. It just says you need to remove the concrete. What you do beyond that, because there's underground cables, there are substations, there are maintenance facilities, there's a whole lot to a wind facility that we're not even talking about. We're just talking about that pad that's underneath the turbine itself. And local zoning can do whatever they want to effect that decommissioning. That's up to them.

CAVANAUGH: OK. Thank you. Do you know when that law came in to be?

BOSTELMAN: I think that was in 824 language. I'd have to check with counsel on that, but--

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CAVANAUGH: And the--

BOSTELMAN: --that was probably about three years ago, four years ago.

CAVANAUGH: --is this bill building upon that bill or is this a separate? I'm just [INAUDIBLE].

BOSTELMAN: Well, that bill actually had decommissioning in it and took it out.

CAVANAUGH: Oh, OK.

BOSTELMAN: So what this does is put a small portion of it back in. And my concern, again, is for the soils and for the ground. If this was going to be a show stopper for building these things, then we don't need to do it, but it's not. So what we see here is the right choice far as the soils in the future, what we're-- what we want to do.

CAVANAUGH: So is it your understanding that the property owners that are having these windmills placed on-- on their property, that this is something that they are wanting to have in place?

BOSTELMAN: Well, first of all, we don't know [MICROPHONE MALFUNCTION] contract [MICROPHONE MALFUNCTION]. We'll go from there. Now some may go to their lawyers and talk about it, may not. But my point with that also, as we mentioned before, is that if this was not-- if this was something they readily did on contracts, then why are we opposing it now?

CAVANAUGH: OK. I'm just trying to understand sort of the history of it. Because as I spoke earlier today, I'm not a big fan of getting involved in contract negotiations on behalf of companies. And so I just am wanting to make sure we're not overstepping.

BOSTELMAN: That's a great point. And as I mentioned before, there was a number, there's already in statute a host of areas that this already, when we talk about contracts, what has to be in contracts, so this is not out of line, I feel, with what's already in statute.

CAVANAUGH: It's already in statute for energy or for solar energy?

BOSTELMAN: For a host of different areas.

CAVANAUGH: OK. Because I'd like to look at that. Thank you very much.

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BOSTELMAN: Sure.

CAVANAUGH: Thanks for your time today.

BOSTELMAN: Sure.

CAVANAUGH: Thank you, Mr. Speaker. Actually, I will yield the remainder of my time to Senator Bostelman if he would like it.

FOLEY: Thank you, Senator Cavanaugh. Senator Bostelman, 1:19.

BOSTELMAN: Thank you. I think that was-- I appreciate the conversation, Senator Cavanaugh. I think that's a good conversation to have. The concern I think is kind of we're both in the same areas, is healthy soils, healthy land, making sure we're doing the right thing. And my-- my experience has been, talking with landowners that have not signed a contract, was that they felt that they really didn't have a choice. It's-- it's-- it's given to them that your neighbor has it, you might as well sign it because if you don't, this is what's going to happen. So-- and that's kind of a bad situation to be in. And I'm not saying that that's in every situation, but what we're talking about is how do I know what's going to happen or what-- what decommissioning means with wind turbine? How do I know what it means with a substation? How do I know what it means with a maintenance facility, what I need to be concerned with? I don't think I really know at this point in time and most farms right now, if there's concrete or other obstructions in the ground, if you're going to farm that ground you're pulling that stuff out. It's not staying in the ground, because that will affect you later on. Soil erosion and other things will happen and that will be a problem for you. So you want to remove that, all that concrete or whatever--

FOLEY: That's time, Senator.

BOSTELMAN: --that is out of the ground immediately. Thank you, Mr. President.

FOLEY: Thank you, Senator Bostelman. Senator McCollister, you're recognized, your third opportunity.

McCOLLISTER: Thank you, Mr. President. A few comments and then a question to Senator Hughes. This issue of contracts that the wind developer has with the landowner are essential. They are the big deal when you want to develop a wind tower. So with that, would Senator Hughes yield to a few questions?

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FOLEY: Senator Hughes, will you yield, please?

HUGHES: Of course.

McCOLLISTER: Thank you, Senator Hughes. I'm going to give you a statement, and would you tell me if it's true or false? Landowner rights that limits a landowner's-- or landowner's rights against arbitrary state regulations is-- means there's a barrier between the landowner and some willing party that-- wishing to issue a contract?

HUGHES: Would you repeat that for me, please?

McCOLLISTER: Sure. Arbitrary state rights create an artificial barrier between the landowner and the wind developer. Is that correct?

HUGHES: I would-- I would probably need a little more context in that just to exactly what-- what the parameters were.

McCOLLISTER: Well, I know you are a ardent supporter of landowner rights and--

HUGHES: That's right.

McCOLLISTER: --I've heard you say that a number of times on the floor. Let's try it a different way. Aren't landowner rights abridged with unreasonable regulations by the state?

HUGHES: I would agree with that, yes.

McCOLLISTER: OK. If a landowner has an opportunity to put in a windfarm and that the decommissioning plan is so strict and so expensive, doesn't that abridge a landowner's rights to conduct some kind of profitable economic activity?

HUGHES: As I stated before, the-- it is a contract that is entered into by two parties and, you know, the-- it's not-- I don't feel that it's the Legislature's job to keep you from signing a contract that is not in your best interests. That is why we have a free society and-- and personal property rights. We can't pass a law to keep people from doing stupid.

McCOLLISTER: Absolutely right. I will read this. A landowner who may want to build a house or some other structure on the land that a windfarm formerly occupied can negotiate the terms of

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decommissioning with the developer to accumulate that the future-- to accommodate future development wind leases containing decommissioning terms and provide an opportunity for a landowner to impose custom decommissioning requirements he or she may see fit. LB700 overreaches the individual control an opportunity [RECORDED MALFUNCTION] undermine [RECORDED MALFUNCTION] here with LB700. Also, Nebraska wind projects already have the most stringent statutory requirements for decommissioning of any industry in the state. In addition to state regulatory oversight and financing, local counties are empowered to make additional local requirements. Hundreds of landowners include specific requirements of decommissioning on their property. This bill is a solution without a problem. I think we need to think of it in this way and-- and put it down because it's absolutely unnecessary--

FOLEY: One minute.

McCOLLISTER: --and-- and puts landowners under a undue burden and limits their control over their own ground. Thank you, Mr. President.

FOLEY: Thank you, Senator McCollister. Senator Kolterman.

KOLTERMAN: Good afternoon, colleagues. I rise in kind of a neutral position on this bill. I don't like aspects of it. I think it goes a little bit too far. And yet, I understand the need to protect. But I'm going to bring a little bit different perspective to this than-- than we've been talking about. Got some information from Knox County, the assessor in Knox County, which was given to me from people behind the glass, whether they like that or not. There's two wind projects in Knox County and in 2018 those two windfarms produced \$182,500 in property taxes. They also had-- there's 49 turbines in those two projects and those turbines created nameplate tax of \$615,214. And the landowners' tower site lease payments averaged about \$9,800 a year. That's another \$480,000. So all told, Knox County, which isn't a huge lot of windfarms, it's 49, gets on an annual basis \$1,095,414. Now if they throw a few more towers in there, that goes up. That's-- that's rather significant. In my district, I have two wind towers in my whole district. I have one in Seward County and I have one in Polk County. The one in Seward County, all the electricity goes to the city of Seward. They lease that. And in-- and in Polk County, it goes to the rural public power district. I bring this up primarily from the perspective of as we're trying to grow this state and we're talking about property tax relief, which is high on everybody's agenda, how can we talk against windfarms or why should we throw more regulations at them to protect-- I don't think we're-- I don't think we're hurting the environment by leaving something 4-5 feet in the ground. If you go around this state, I could show you time after time where people have buried things. And maybe that isn't right for the environment, but most places allow for that. I don't necessarily think that we want to plaster our beautiful Sandhills with-- with wind towers, solar, whatever you want to put out there, but the reality is these towers and the people that are putting

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these towers up are bringing a lot of revenue to our state. They're creating green power and they're also employing a lot of people. Now people say, well, they're not employing a ton of people. Well, we're-- we're setting up programs in our community college to educate these people how to work on-- on these towers, and then they're going out and getting \$50,000, \$60,000 a year jobs plus benefits. We don't get that with a lot of the things that we're doing, so I'm-- I'm not necessarily-- I just think maybe we're going a little bit too far. I don't necessarily think that this is the kind of legislation we ought to be looking at, but at the same time, I appreciate the fact that we've had good discussion about it. More than anything, I think [RECORDER MALFUNCTION] even if we [RECORDER MALFUNCTION]-- we have to continue to look for things like this that might bring that. So with that, Senator McCollister has asked me for any time I have left. I'd grant it to him.

FOLEY: Thank you, Senator Kolterman. Senator McCollister, one minute.

McCOLLISTER: One minute. Thank you, Mr. President. Let's talk about what wind energy does for Nebraska. The wind, U.S. wind energy is a major economic development driver. In addition to job creation and billions of dollars in project investment, the wind energy invests heavily in local communities, providing significant revenue in the form of property, state, and local taxes. The direct wind industry jobs in 2018, 3,001 to 4,000. Capital investment in wind projects through 2018, \$3.5 billion. Annual lease payments, \$5 to \$10 million. That's a lot of money and that follows Senator Kolterman's comments about what wind energy does for Nebraska. It's a lot of money and a lot of benefit, and we'd be remiss to-- we'd be mistaken if we changed that situation for Nebraska. Thank you, Mr. President.

FOLEY: Thank you, Senator McCollister. (Visitors introduced.) Senator Hilkemann.

HILKEMANN: Thank you, Mr. Speaker. I rise to oppose this bill. Thinking here of my father, was a very progressive farmer. He, back in the '50s when irrigation was just starting, he tried very hard to get irrigation. He always went to all of the things that the county-- the university Extension Services to try to improve. And I was so pleased that-- that last year they finally put a windfarm in our neighborhood. And in fact, one of the-- they actually had the open house, the-- their tent and so forth, on my father's farm. And I thought back to my dad. I thought, boy, he would be so proud that we were making this progress and moving forward. And so I think we need to do everything we can to encourage more wind energy, not try to-- to put barriers in the way of that. And so those are my comments and with that, I'll surrender-- I'll yield the rest of my time to Senator McCollister.

FOLEY: Thank you, Senator Hilkemann. Senator McCollister, 3:45.

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McCOLLISTER: Thank you, Mr. President. Thank you, Senator Hilkemann. What I've been remiss in discussing is global warming, which I believe is an existential threat. We need to deal with it and renewables is perhaps one of the best ways we can deal with global warming. Like to read some information. Long-term temperature observations are among the most consistent and widespread evidence of a warming planet. Temperature affects agriculture, productivity, energy use, human health, and water resources, infrastructure, national ecosystems, and many other essential aspects of society in the natural environment. Recent data add weight to the evidence for a rapid global-scale warming, the dominance of human causes, and the expected continuation of increasing temperatures, including record-setting extremes. Global average temperature, as calculated from instrument records over both land and oceans, has increased by more than 1.2 Fahrenheit, or .65 centigrade, for the period of 1986 to 2016 relative to 1901 through 1960. The linear regression change over the entire period from 1901 to 2016 is 1.8 Fahrenheit, very high confidence level. Longer term climate records over the past centuries of millennia indicate the average temperatures in recent decades over-- over the world has been much higher and have risen faster during this time period than any other time in the last 1,700 years or more, the time period for which global distribution of surface temperature can be reconstructed. Many lines of evidence demonstrate that it's extremely likely that the human influence has been the dominant cause of the observed warming since mid-20th century, twentieth century. Over the last century there have been convincing affirmative explanations supported by the extent of the "observational"-- observational evidence. Solar output changes and internal, natural variability can only contribute marginally to the observed changes in climate change over the last century. And there's no convincing--

FOLEY: One minute.

McCOLLISTER: --evidence-- time?

FOLEY: One minute.

McCOLLISTER: Oh, thank you. No evidence for natural cycles in the observational record that could explain the observed changes in climate. We're doing it, folks. We're causing climate change. And we have the means at our disposal, tools at our disposal to make those changes to reduce global warming. We need to do it, and this is one way to do-- do it, encourage renewable energy in our state. Farmers benefit, counties benefit. It's a-- it's a win-win for everybody. Thank you, Mr. President.

FOLEY: Thank you, Senator McCollister. Senator Clements. Is Senator Clements on the floor? We'll move on. Senator Bostelman.

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BOSTELMAN: Thank you, Mr. President. I want to talk a couple points from what Senator Kolterman was talking about, about how much money is coming in and investments that Senator McCollister talked about a little bit. So let's-- let's remember one thing: the sky is not falling, folks. The sky is not falling. This bill in no way stops any company from coming in and building any facility in the state of Nebraska. They make more than enough money to do everything we're talking about. It's not an issue. In 2017, Nebraska collected \$5.3 million in tax revenues from wind energy. Nebraska paid out and approved refunds to wind projects \$6 million. Thus, the tax revenue went in the negative of \$700,000 related to wind energy generation. That is, in 2017 there was a tax loss, \$700,000, related to wind energy operations in Nebraska. In 2016, Nebraska collected \$4.8 million in tax revenues from wind energy. However, in 2016, Nebraska paid out approved refunds to wind projects of \$5.8 million. Thus, tax revenue went in the negative \$1 million related to wind energy generation. That is, in 2016, there was a tax loss of \$1 million related to wind energy operations in Nebraska. So in back-to-back years, the total net loss of tax revenue for this state was \$1.7 million. I believe Senator McCollister talked about how much investment in the \$3 billion was it, plus, \$3.5 billion in the state. That's out-of-state companies, folks. That money is production of facilities and stuff outside of the state of Nebraska. Those are foreign companies that receive that money. Those aren't Nebraska companies. So the Nebraska Advantage Act is-- is has \$2.447 billion applied to by wind companies in the state of Nebraska right now to out-of-state companies. Basically, the Nebraska Advantage pays out 4.3 percent of that money to wind companies. That's where we get our loss of revenue within the state. We are the 15th cheapest electrical rate in the state-- in the United States at 9.08 cents per kilowatt-hour. We talk about other countries and other states. I just read an article from Germany where 344,000 people were shut off their electricity because they couldn't afford it anymore, 344,000 households shut off. That's not where I'm going with this, folks. Where I'm coming back to is it's \$100,000 at the most. They make \$2 to \$3 million per turbine. It's not a burden to them or anyone else. This is not something that's-- that is not uncommon in statute for requirements to be for contracts to say certain wording, have certain things in them. I as a farmer would be more than happy to have them remove everything out of the ground for me, because I don't want to have to do that later. I don't want to have to pay for that later. Those are-- those are areas that we must consider in this and, here again, as we talk about this. Renewable energy companies often in some cases always compare their cost per megawatt-hour to conventional new construction costs base load with the levied cost-- Levelized Cost of Energy comparison methods, or LCOEs. However, noted the economist from MIT, U.K. and even the U.S. Energy Information Administration say this cannot be done due to the complex nature of energy com-- of markets. This is due to no--

FOLEY: One minute.

BOSTELMAN: --homogenous price of the electricity throughout the-- the year. The power industry is among the most heterogeneous services, as the price varies every few minutes. All of

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the experts indicate that one of the best tools is actually to look at Levelized Avoided Cost of Energy, or LACE. This is estimating what it would have cost the grid to generate the electricity otherwise displaced by a new generation project. This is only one aspect of looking at a project for making decisions as it varies significantly by region of the U.S. The LACE method shows that most dispatchable energy projects are very similar in cost per megawatt-hour. The nondispatchable technology shows similar and wind energy is nondispatchable. Wind is similar and is--

FOLEY: That's time, Senator.

BOSTELMAN: Thank you.

FOLEY: Senator Kolowski.

KOLOWSKI: Thank you, Mr. President. I just want to bring back-- bring us back to the amount of wind that we do have in the state and what that harvest does as far as the impact upon our state as a whole. Wind energy, the fastest growing source of electricity in the United States, is transforming low-income, rural areas in ways not seen since the federal government gave land to homesteaders 150 years ago. As commodity prices threaten to reach decade lows and farmers struggle to meet debt payment-- debt-- debt payments, wind has saved family farmers across a wide swath of the Heartland. That's what-- that's what the Omaha World-Herald reported in late 2016. Based on the last two-plus years, their assessment was spot on, even more so than we might have imagined. Wind energy growth has boomed in our state over the past several years. We're one of seven states on track to double our installed wind capacity. In fact, no other state added new wind capacity at a faster rate in 2018, when our installed wind energy grew by 39 percent. Nebraska now generates 14 percent of its electricity using wind, and last year we produced enough wind-generated electricity to power half a million homes. That our new capital investment has created enormous benefits for our rural communities, particularly for farmers and ranchers, is true. In 2018 lease payments to landowners hosting wind turbines on their property exceeded \$5 million. That number will keep growing as we harvest more of our world-class wind resources. It's no secret that agriculture is in-- is a high-risk, low- or no-margin business. Six years of sinking of crop prices and increasing input cost is putting the squeeze on families that farm. Farmers' production has a lot to do with the luck of the weather, including drought, hail, early or late frosts, and floods. Between crop prices and weather extremes, there's a lot of volatility in farming. Fortunately, lease payments from wind turbines are immune to those cycles. They offer steady income families can count on each and every month and this stability can make a huge difference during lean times when the cash flow struggles. Every wind tower represents a part-time job for a farmer who needs extra income to keep their family farm going these days. It's a sad day for rural America when farms that represent generations of hard work

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and sweat and sacrifice are forced out of the business. Wind energy also is-- is also making our rural communities attractive to young people again. The trend of young people leaving our small towns never to return has become all too predictable. For communities with wind, however, that doesn't have to be the case. Wind technicians are in high demand, and they're needed to operate and maintain projects.

FOLEY: One minute.

KOLOWSKI: In fact, wind technician-- a wind technician is the country's second fastest-growing job, according to the U.S. Bureau of Labor Statistics, and the fastest-growing job in Nebraska, according to Yahoo! Finance. Young people can learn those skills at Northeast Community College, College's Wind Tech Program, and return to their hometowns with careers that help them support a family. That is why Nebraska's Farmer U-- Farmers Union was pleased to serve as an adviser for the development of that particular program. Thank you, Mr. President.

FOLEY: Thank you, Senator Kolowski. Senator Crawford.

CRAWFORD: Thank you, Mr. Lieutenant Governor. And good afternoon, colleagues. I raise with-- rise with some questions and concerns about LB700. This has been a good debate. One of our key questions at the state level is what role we play in setting the parameters or for what local subdivisions can do and what our-- where-- where our appropriate role is in what those parameters should be in terms of political subdivisions, like counties, and in terms of private contracting rights, and what our role is in terms of protecting property rights and in terms of also protecting transparency in contracts. And on that front, I would say that one part of the bill that I do appreciate is on page 5, line 24, section-- that's section (2), which says that: Every landowner who is party to a wind agreement shall be provided with information from the wind turbine owner who is party to the same wind agreement detailing the materials and equipment that will be removed from, and that will remain on, the landowner's property when a wind turbine is decommissioned. Think that, that part of the bill I think provides transparency so that a landowner could make an effective decision. Also, I think that similar information would be important because I believe that the county also has a role in this process as well. So I wondered if Senator McCollister would yield to questions.

FOLEY: Senator McCollister, would you yield, please?

McCOLLISTER: Yes, I will.

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CRAWFORD: Thank you, Senator McCollister. I'm trying to understand the private landowner's role and the county's role in these agreements. It's my understanding that the county does play a role. Could you describe what that role is?

McCOLLISTER: Yes, indeed. The counties have-- have a right to set zoning regulations that govern how these-- these turbine develop-- turbine development occurs in-- in a county. For example, Lancaster County has had a number of meetings on the setbacks that a turbine should be from a given landowner. So, yes, the counties have the right to set zoning requirements.

CRAWFORD: So would it be fair to say the-- or do you know if any county zoning requirements include decommissioning standards?

McCOLLISTER: No, but the state has requirements, and it's typically found in all the contracts that-- that go before a landowner. You know, no-- no wind developer wants to embark upon a wind development without some kind of decommissioning agreement. And as I-- as I mentioned earlier, custom agreements can exist. If a homeowner wants to build a house or do something else on a given piece of ground, he can require that the depth be-- be lower when you remove the concrete.

CRAWFORD: Correct. And so my understanding is that the-- the state does require a decommissioning plan and that the county then could determine other restrictions about the location of the-- of the wind energy-- wind energy turbines.

McCOLLISTER: Yes.

CRAWFORD: Yes. Thank you.

McCOLLISTER: That is the case, to my understanding.

CRAWFORD: Great. Thank you. And I guess the-- seems to me that also the-- if there were-- the state does require the decommissioning plan, seems to me this is an interesting question for counties in terms of if they have any requirements that they want to put on decommissioning. I think my concern is just how far this goes in terms of removal of all-- all materials. I think that there are usually plans that remove the materials below 4 feet or below some certain level. Again, that's really up to the contract between the landowner and the windfarm developer, and I'm concerned that bringing it too far, too extreme would reduce the development of wind energy in the state, and the development of wind energy in the state is really one of our--

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FOLEY: One minute.

CRAWFORD: --primaries of-- thank you, Mr. President, primaries of development. And so I am concerned about the-- the degree to which this bill goes. However, again, I think that the one component of the bill that has merit is the bill-- is the component that talks about transparency and just making sure that when the landowners are entering these agreements that they are entering them with full knowledge of what the equipment is and what equipment will remain on their property after that, after the end of that agreement. So that is a part of the bill that I appreciate. I'm concerned that the other part of the bill that requires full removal of all materials is-- goes too far in terms of what we would require for decommissioning in terms of state requirements. Thank you, Mr. President.

FOLEY: Thanks, Senator Crawford. Senator Brewer, you're recognized, your third opportunity.

BREWER: Thank you, Mr. President. All right. Well, I had hoped not to get into the hand-to-hand with the issue of wind energy, but it looks like it's inevitable so we just as well get it on. Those that spoke against LB700, the ones that touted the wind towers, whether it be Senator Hilkemann or McCollister or Kolowski, these are not people that have them in their district. That's the part that I always am fascinated by. The ones that want to read the talking points and stand here and talk about the glorious wind towers are not the ones that have to look at them or deal with the problems they cause. But with that said, earlier there was a discussion about why don't we treat the pipelines the same as wind towers. Well, whoever asked that, let's answer it for them. If they want to take and look back a little bit, we had a special session dedicated for the sole purpose of addressing the pipelines. There was LB845, Senator Sullivan's. What did LB845 do? Provide reclamation requirements under the Pipeline Reclamation Act. Reading Section 2: The purpose of this act is to add legislation intend-- intended to properly reclamate all parts of the oil pipeline construction process to preconstruction condition unless otherwise agreed to by the landowner. Again, this is not germane, Chapter 7-- 57 versus Chapter 70, but I think it still needs addressed. As much as we want to go back and forth on this, there are no regulations currently that requires the decommissioning in Nebraska. So this crosses county lines. This is an issue that needs to be addressed, whether you think we should clean up a site when we're done or leave part of this mass of concrete, that's your call. But if you are gonna consider yourself green, I find it very difficult to believe that you want to leave giant chunks of concrete in the ground and say that's something green. If you are gonna love the windmills, then clean them up when they're done. Mr. President, I'd like to yield the rest of my time to Senator Bostelman.

FOLEY: Thank you, Senator Brewer. Senator Bostelman, 2:20.

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BOSTELMAN: Thank you, Mr. President. Let's see. I was talking on the side there, so I got to think a couple things where-- what I wanted to speak about real quick. There's nowhere, there's nowhere in this contract that does the landowner get any say as to how far the site will be decommissioned. All they can decide is if they want the roads affected. As we as a body have decided with Senator Gragert's healthy soils bill, we must consider the future of our state and its environment, as well as the landowner's wishes, not to mention the landowners could also be incentivized to agree to not require full decommissioning. There are no decommissioning requirements in the state of Nebraska for wind turbines. Let me say that again. There are no requirements for decommissioning in the state of Nebraska. There is a requirement for companies to have a plan, but that plan does not say you must do XYZ. Understand in a wind facility, again, there are transformers, substations, underground wires, cabling, there's maintenance facilities, maintenance buildings, roads. This is a large indust-- commercial or industrial complex, if you will. This only requires the removal of a pad. There is nothing in statute that says what must be done on decommissioning. That's left up to the developer completely. If you're sitting on, as a county commissioner or supervisor, how do you know what decommissioning means and what it-- what it says? I can tell you how these rules are made up. The wind companies basically come in and say here's what you should do for your decom-- for your decommissioning or now your decommissioning and your setbacks. They tell them what to do. And they basically, you know, don't know a whole lot from that, then ask questions to make a decision, but they take their guidance from the wind companies. Now there's been, in Lancaster, Gage County, there's a big dispute there as to what setbacks would be and how those things should be handled. But we see what happens--

FOLEY: That's time, Senator.

BOSTELMAN: --with those. Thank you.

FOLEY: Thank, Senator Bostelman. Senator Quick.

QUICK: Thank you, Mr. President. I thought I needed to get up and speak up a little bit because I was the lone no vote coming out of the Natural Resource Committee for this bill. And for myself personally, I just thought it was unnecessary. I do like some of the conversation this morning, this afternoon, and especially talking about property owners' rights and-- and the fact that they should be able to negotiate these contracts with the-- with the developers. I also am a big believer that there should be local control. So I think local control, letting your-- your counties and your planning and zoning committees decide if those-- if wind energy should be coming into those-- to those lands is possible. The other part I want to talk about is a little bit about the concrete side of it and the-- and the Redimix. Many of you or some of you don't know that are under-- or ever knew that I used to work for a sand and gravel Redimix operation. So I

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can tell you that everything that comes-- that is-- that goes into concrete comes from the ground. I used to pump gravel at one time. We made san-- or Redimix sand. The cement came from over by Waverly, over by in that area, and come from the ground as well. It come from a rock quarry. Sometimes we would put limestone rock in there to make even-- to make it more solid. I do realize that sometimes there's chemical reactions between-- between some things. But I can tell you right now there's a lot of concrete in the ground across the state of Nebraska, whether it's for bridge supports which would actually go down into the aquifer. You have well casings. You have-- you have a lot of even like our power plant in Grand Island, you have concrete that goes down in the ground several feet. Some of the transmission lines, especially the bigger ones, the concrete goes down in the-- into the-- in the ground several feet and it-- and it stays in there for years and years. I can tell you when they take a-- if they abandon a well, the well casing stays in. They may take out the top two sections but then they fill it in. We used to pump gravel that would-- that we would fill in the wells with. So you would fill that well in with gravel and leave the-- leave the casing in the ground. And that casing also contained wire so-- to help support it. So I know I'm throwing my dad under the bus here, but at one time we used to dump-- we had deep ravines that had wash outs. They kept washing out, so we'd dump cars in there, we dumped the concrete in there to stop the soil from eroding away, and-- and it would. It worked perfect. So I can remember as a little kid going down, we used to play in the cars. But now anymore those cars are all covered up. You can't even see them anymore. They're-- they're contained in the ground. So with that, I'll yield the rest of my time to Senator Blood.

FOLEY: Thank you, Senator Quick. Senator Blood, 1:55.

BLOOD: Thank you, Mr. President. In a nutshell, I still stand against both the amendment and the bill. And I want to talk about property rights one more time. Let's take the wind part of it out of the story. So one of our most basic rights in a free society is our right to enjoy our property. And there's something in law, I think it's called the bundle of rights. You have the right to use the good, the right to use the income from it, the right to transfer it to others, and the right to enforce property rights. So if you own a hundred acres of cropland, you're entitled to the returns from your property and you're protected against trespass by your neighbors and a long list of other things. So the production or the stream of the benefits is yours to sell, give away, or otherwise dispose of as you see fit. And so again, I-- I want to take the wind part out of this conversation. This is a property rights issue. If the person sees fit to enter an agreement, what happens on their property is between them and the persons that they make the contract with. I think it's really interesting when we only believe in property rights when it benefits our particular bills. Either we believe in property rights or we don't. This is about a basic-- a basic benefit that you have as a lone landowner: the ownership of a resource or economic good, either tangible or intangible, and how it's going to be used by the property owner. And so I can't stress enough the bottom line to this bill isn't about whether we believe in wind or don't believe in wind. And I actually do believe in wind energy. It's about property rights. And I want you to really be thinking about what this

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bill means if you support it and it moves forward and that you're going to be willing to stand at these podiums and fight this same fight for every single issue that pertains to property rights in the future and people's ability to enjoy their property.

FOLEY: That's time, Senator.

BLOOD: Thank you, Mr. President.

FOLEY: Thank you, Senator Blood. Senator Williams.

WILLIAMS: Thank you, Mr. President, and good afternoon, colleagues. And I do stand with a substantial number of turbines in my legislative district. In Custer County there are over a hundred. On the Custer-Dawson County line there are 50 more planned. We also have six or eight solar arrays in Custer County that are operational and selling their power into the grid. I-- I bring that up again because it has been very interesting to me, over the five years that I've been here, the debate on, in particular, wind energy, knowing those turbines are sitting in my district, working with those ranchers and farmers that have those turbines on their property. And I've been interested in the fact that, in visiting with the county commissioners, there has only been, over this period of time, one complaint that has come to them and that was the complaint by a particular landowner that didn't sign up on the front end, wished he had, and went back later and was told, sorry, we've-- we've filled our quota and we don't have a spot for you. There are at least \$800,000 of rents being paid on those turbines that are working today. There's a substantial amount of tax being collected on the nameplate capacity, and also on the property tax side. Clearly, there is a significant economic benefit to the county, all of which goes to doing what we are trying to do here, which is cut property tax. I think beyond a doubt we want to protect our land, we want to protect our environment, and at the same time we want to grow our state. And that's why this is a good debate, talking about how we protect our land and our environment and at the same time grow our state and not create barriers to that growth. My concern, as it has always been, is more regulation slows things down. It doesn't speed it up. It doesn't create more growth, especially regulation that is questionable when it gets to the things that I think we need to be dealing with, which are safety of our people and the welfare of our public interest. Stifling growth does not help us long-term. I believe LB700 goes beyond what is reasonable and should be expected. As Senator Quick talked about concrete that's in the ground and left in the ground now and I would argue that removal of this clear to the base could cause more damage than it would be worth. So I remain opposed to LB700 at this point in time, but I appreciate the good debate we're having about our environment. And with that, I would yield any time that I have left to Senator McCollister.

FOLEY: Thank you, Senator Williams. Senator McCollister, 1:20.

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McCOLLISTER: Thank you, Mr. President. I think we've discovered and we've had a lengthy discussion about contracts between wind developers and landowners, and I would venture to say every contractor, every tower that's been erected came with a benefit of a decommissioning contract. It's in the best interests of the landowner and it's the best interest of the wind developer to have a decommissioning agreement and a reasonable one at that. You know, the landowner wants to develop wind energy on his property and by requiring the wind developer to have an unreasonable decommissioning expense isn't in his best interest. It does not make any sense to make it more difficult than it should be. Secondly, an issue that we have not discussed is saving energy. The significant wind development that has occurred in this state over the last five years has saved consumers money. Once you have that tower erected, there's no fuel cost, absolutely no fuel cost. And so that has restricted the-- some of the increases that the power companies could levy on consumers. Wind energy has--

FOLEY: That's time.

McCOLLISTER: --saved consumers money.

FOLEY: That's time.

McCOLLISTER: Thank you, Mr. President.

FOLEY: Thank you, Senator McCollister. Senator Hilkemann.

HILKEMANN: Thank you, Mr. Lieutenant Governor. I go back just a little bit. I can tell you-- Senator Williams, you said you had hundreds of windmills in your district-- I can tell you that in District 4 I don't believe that there is a single windmill nor will there ever be a windmill in our District 4, nor should there be because of the-- of the land mass there. But when-- when the project that NextEra was proposing for the Sholes area, which was actually where I went to grade school, I had a lot of the neighbors from that area who called me and said, what can you do to help us? We would like to get this moving. And so I went up to some of their organizational meetings that they had [INAUDIBLE], and I heard both sides of the issues up there. They had a fire hall meeting at Wayne, they had some in Randolph, they had some in some of the surrounding communities. So it was interesting to see, but over all we certainly have people up there who are very excited that now that project is in its-- in its actual development phase. Their windmills are going up. But I know that we certainly have people up there that are very disappointed that they didn't get involved in that program, and maybe they'll be as Senator Williams said. But in the whole thing of getting myself prepared for it, I had an opportunity, NextEra. I'd-- I had never been in a windmill. I'd only seen them from distances. So I went to-- they offered a tour of their windmill farm near O'Dell, Nebraska, which is one-- one of the towns

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that I used to compete with when I was coaching football at Table Rock, and it was called Steele Flats. And I saw how well-organized this was. There were people who have full-time jobs who are monitoring these windmills. They have a scheduled maintenance for all of them. Finally getting inside one of those giant tubes that hold the windmill, all of that was extremely interesting to me. And so I was very pleased when the-- the farm finally came to fruition in Sholes. And so I still continue, will do everything I can to continue to develop. We need to develop wind energy as much as we possibly can in this state because it is not only for it's-- it's an additional source of revenue. We are very windy state and we have lots of ideal projects that could be available for that. And with that, if-- if Senator McCollister would like any portion of my retaining time, I would yield it to him.

FOLEY: Thank you, Senator Hilkemann. Senator McCollister, 1:45.

McCOLLISTER: Thank you, Mr. President. As we continue our discussion, I would challenge the proponents of this bill, LB700, to provide to me a decommissioning requirement throughout another state that is similar to the ones they-- they would like to enact in this state. I don't think there are any. We saw what the North Dakota has done, and they require 3 feet. But I don't know of any other state that goes beyond 4 feet, the 4 feet requirement. So I would challenge them to show me the state that has a statute that requires greater than-- than 4 feet. And as we've talked about, these contracts are-- are very important to landowners and the wind developers. It's in their best interest to have a reasonable decommissioning plan, and it helps the landowners develop their-- their property in a time where commodity prices are low. And this gives them another source of income in which to-- to make money for the family and-- and provide a good sense of living. So with thank-- with that, thank you, Mr. President.

FOLEY: Thank you, Senator McCollister. Senator Lathrop.

LATHROP: Thank you, Mr. President. Colleagues, good afternoon. I have not weighed in on LB700 to this point in time and I feel like I should. I, as you probably know, am a supporter of wind energy, and I have to tell you, I'm a little puzzled by the bill and the support for the bill in this sense. The bill, as I see it, is intended to accomplish one thing, and that's to make bringing wind energy into Nebraska more expensive. The taken-- the taking out of the cement is not based on the environment or safety. It's simply intended to say we're going to make it more expensive for you to develop wind energy in Nebraska. And that's where it gets puzzling to me because most of the time we're in here trying to figure out how to make things easier for business, how to make things easier for those that want to bring jobs here, that want to make an investment in the state. Sometimes I'm reluctant to stand up and talk about the old days, because I did serve previously, but I-- I-- I can't help but go back to that. When I served here previously, this place, the folks from greater Nebraska would stand on the floor and talk about how they're losing their

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kids to the cities, how they are forced to consolidate their schools, how they need revenue. The single biggest issue for rural Nebraska is property tax relief. And now we have a bill that's intended to discourage wind energy development. What does that development do for the state of Nebraska? It creates jobs. It provides income for landowners. It provides taxes for the local community. It brings jobs. Young people are returning to smaller, rural communities where they have jobs maintaining this equipment. And there's opposition from rural senators. I think that we should embrace wind energy development. We should try to find ways to accommodate wind energy development and not make it more expensive but make this more inviting for those who-- because Nebraska is competing with other states for these development projects, colleagues, and when we make it more expensive, what we're saying to wind energy developers is, no thanks, we're not interested in your development, we're not interested in the revenue these will create for the landowner, we are not interested in the property tax relief that they provide, the money that goes into the local communities. It doesn't make sense. It doesn't make sense. And pretty soon, tomorrow afternoon, we'll have a-- a hearing on a bill to provide property tax relief primarily intended to benefit rural Nebraska. And now we're going to take wind energy development and make it more expensive and less likely that we would have that revenue stream to help pay for property tax relief. I am opposed to LB700. It doesn't make sense to me. It's not based on the environment. It's not based on safety. There is not a good basis for this other than to simply discourage the development of--

FOLEY: One minute.

LATHROP: --wind energy. If we're serious about property tax relief for those in greater Nebraska and our-- our colleagues and our neighbors from rural Nebraska, you can't oppose and pick and choose and say we are going to raise sales tax on the people in Omaha so we can get money to pay for property tax relief in rural Nebraska, and then say to a resource, we are not interested in you. You can't want it bad enough if you're turning your back on wind energy development. I would encourage you to oppose LB700. Thank you.

FOLEY: Thank you, Senator Lathrop. (Visitors introduced.) Continuing discussion, Senator Hunt.

HUNT: Thank you, Mr. Lieutenant Governor. I have listened to the conversation today and I-- I appreciate everybody's very thoughtful positions on LB700 and on wind energy in Nebraska. I'm rising in opposition to the amendment and to LB700 for some very simple reasons. First, my constituents love-- my constituents love wind energy development. They seriously oppose this bill. Second, I've heard from constituents in other parts of the state, in rural parts of the state that live near or near among wind farms and have benefited greatly from the economic development that that brought to their communities and to their schools. I think Nebraska needs to be friendly

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to wind energy development because that's what the market is demanding right now, is more opportunities for renewable energy. I think that the decommissioning requirements that this bill sets forward is so above and beyond what any other state requires, it would effectively gut the development of wind energy in Nebraska. And because I support local control. So for those reasons, this is very easy for me to oppose. And with that, I would like to yield the rest of my time to Senator Blood.

FOLEY: Senator Blood, you've been yielded 3:45.

BLOOD: Thank you, Mr. President. Fellow Senators, this has been an interesting debate. I wish there were still more senators left on the floor to speak on this bill, be it for or against. At this time, I still stand against both the amendment and the initial bill. And I will tell you that, as I check my e-mail and text messages while I'm sitting here during this debate, that easily the vast majority of the messages I've received are from western Nebraska and people want us to remember the importance of property rights. So I'm going to keep banging that drum. But one of the things I also did was I researched Senator Brewer's comments about legislation that requires restoration of the land related to pipelines. So it does not have any decommissioning requirements for pipelines and pipelines are not required to be cleaned out or removed from the ground. So attempts to require decommissioning were defeated in the 2011 Special Session that year. So I think there might be some misunderstandings, maybe misinterpretations. I know sometimes we'll quickly try and read something and we'll only get a small portion of what it really means, and then we come to the mike and share what we think it means. And that may have well have been the case. But the bottom line is that we can't continue to cherry-pick issues, and stick to one particular type of business and ignore the others. Either we're going to do this policy across the board for all utilities that are all using concrete and all using different types of metal that go into our ground, or we're not. It is bad policy. It is government overreach and, quite frankly, I'm not willing to go there when it comes to the rights of any property owner here in Nebraska. I know Senator Bostelman's intent was something that was positive, that he feels that he's doing what is best for his district, and I respect that because, as you hear, I fight frequently for Sarpy County. But sometimes, my-- in my case as well, we cannot see the forest for the trees. This is not good policy that benefits all of Nebraska. This is policy that cherry-picks and I believe picks on a particular industry. The wind industry is very important to many people in western Nebraska and I'm sincerely sorry that there is a small demographic of people who do not appreciate what it does for Nebraska. And I do hear what they have to say and I do hear their concerns. But we have to do what's best for the greater good the all Nebraskans and at this time I think that is to oppose both the amendment and Senator Bostelman's bill. Thank you, Mr. President.

FOLEY: Thank you, Senator Blood. (Visitors introduced.) Senator Kolowski.

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KOLOWSKI: Thank you, Mr. Chairman. I yield my time to Senator McCollister. Thank you.

FOLEY: Thank you, Senator Kolowski. Senator McCollister, five minutes.

McCOLLISTER: Thank you, Mr. President. Thank you, Senator Kolowski. LB700 unfairly singles out wind energy projects. Why is that? LB700 is about fairness in public policy. The decommissioning and reclamation language in the-- in the legislation would be more burdensome toward one particular type of energy generation system than we would have for any of the others, including coal plants. There's no safety or public welfare rationale for such a statute, except opposition to wind energy in general. Other types of agricultural uses, such as grain silos, also have concrete foundations, and the state law does not require their removal in any form, much less entirety. Other types of energy uses, such as coal plants and transmission towers, are currently decommissioned precisely as existing law requires decommissioning wind projects, in that the concrete and steel foundations remain below 4 feet underground in all instances. LB700 is premised on treating wind energy generation facilities the same as coal plants are treated, but, in fact, LB700 would unduly, unfairly, and disparately burden any wind energy generation facilities. LB700 would place onerous and costly burdens on the development of wind projects absent any kind of justifiable policy goal. LB700 would increase the cost of decommissioning a windfarm between approximately 25 and 35 percent. This would similarly increase the cost of bonding for decommissioning as well. LB700 is without any scientific, medical, or environmental basis. The U.S. Environmental Protection Agency does not classify concrete or steel as hazardous material. Thus, there is no basis in the health, safety, and welfare for this regulation. In the oil business, I used to clean up Superfund sites, and concrete wasn't typically part of that process. Yes, hydrocarbons were, chemicals, things of that nature were something that we would typically clean up, but concrete and steel are not a part of that process. In fact, I think they would typically encourage you to bury those items rather than send it to a landfill or some other-- some other effort. So this is about an unfair regulation on wind energy. It makes no sense, it has no practical value, and simply costs the people money. And not only that, it violates the-- the contract rights between a wind developer and the-- and the landowner. So we shouldn't have that standing in the way, having some artificial state law make it impossible for a landowner to develop his property as he or she sees fit. Thank you, Mr. President.

FOLEY: Thank you, Senator McCollister. Senator Howard.

HOWARD: Oh, thank you, Mr. President. I yield my time to Senator McCollister.

FOLEY: Thank you, Senator Howard. Senator McCollister, five minutes.

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McCOLLISTER: Thank you again. Thank you, Senator, very much. What does wind energy mean for Nebraska? Well, we've talked about some of the numbers: \$3.5 billion in Nebraska. Wind energy in Nebraska is third in the country in terms of potential, third in the country. And so far it provides 5 to 10 million dollars in farm payments for 2018, and that amount keeps increasing. We've installed 1,972 megawatts of installed wind capacity, so it's-- it's enough energy to power 500 homes. I think we're also aware of the datacenters that we've been able to prepare. NPPD and OPPD have been able to contract for those, providing thousands of jobs for-- for construction of those facilities. And from what I understand, more of those facilities will be built so they'll require green energy. As a matter of fact, I have a bill in the Government Committee that would require the state of Nebraska to contract for green energy just like the datacenters do. You know, we need to reduce CO2 emissions and we need to think about making Nebraska more of a renewable-- a green state. Not only that, costs of producing wind energy have fallen 69 percent since 2009. And wind energy has created more than 3,000 jobs across the state. Wind power makes up currently 14 percent of in-state electricity generation. The benefits of low-- of Nebraska wind: low-cost electricity; new farm income; new jobs in rural places; tax revenue for roads, schools, property tax relief. So this bill is bad for those, those items, and we need to let it go down to defeat. Thank you, Mr. President.

FOLEY: Thank, Senator McCollister. Senator DeBoer.

DeBOER: Thank you, Mr. President. I, too, am a little bit confused by this bill in that I think about landowner rights, and we've heard people talk about this over and over again, we're constantly talking in this body about local control and making sure that we keep local control in place, and here we are as a state trying to make a widespread, one-size-fits-all rule. I can think of a lot of examples of why we might not want, for some reason or another, to in a particular circumstance take all the cement out of one of these footings for one of these windmills. So making a state law that's going to apply throughout the state to every single instance, I mean this is again a situation where we are, as a legislative body, trying to do something which we're just not flexible enough to be able to do through statute. I've heard people say that this is not green if we're leaving the cement in the ground. But, you know, green is not a term that is an absolute term. It's not-- it's a relative term. It's not a-- an absolute condition of existence. So there's not any purely green human endeavor. If I pick a blade of grass, if I walk in a forest, I have left some sort of reaction. So to say that we can do something, anything without any kind of reaction, I think, you know, obviously there are levels and walking in a forest is a very different enterprise than putting cement in the ground. I absolutely recognize that. But strip mining a mountain for coal seems to be yet another thing. The other thing, which as I have been listening to folks talking about potential environmental impacts of cement and not having any sort of precedent or understanding about what the long-term effects of that are going to be, I'm just a little confused there because, you know, everyone has been saying this. We have cement footings in all of the modern bridges that we have. If you look at any, you know, tower, cell phone tower, if you look

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at any, you know, any building, we-- we have some property, my family does, and there is an old sort of broken-in, fallen-in basement with a tree growing out of the middle of it, some old footings which are cement block and cinder block footings, so there's cement there. I mean the number of instances of cement being used in rural areas, in urban areas certainly, we have been doing this for 50 to 70 years. The information exists. If it were a problem, if cement in the-- in the ground were a problem, then we have, I would argue, bigger fish to fry than a few windmills in western Nebraska, and we have a lot of things that we need to be looking at throughout our state, throughout our country, and throughout the world. But since that doesn't seem to have long-term borne out to be a particularly egregious problem, I find it a little bit confusing to suggest that this is something that now, specifically, we need to be remediating in a very specific circumstance where there are wind turbines. It strikes me that energy has to come from somewhere. We all use energy. We all need energy. You can hear my voice now--

FOLEY: One minute.

DeBOER: --because of energy, because there's power that is amplifying this in the microphone or powering your television if you're watching from home. And wherever we get our energy source from, whether it's wind turbines, whether it's coal, whether it's solar, even solar, people don't want to have solar panels in their neighborhoods. Nobody likes to have the wind or the solar or whatever other source, nuclear, in their backyard, but somebody's got to have it in their backyard. And I think that we ought to be really considerate about the fact that we have to share this responsibility. That doesn't mean that we just put them anywhere, but I think when we're trying to talk about destroying wind power in Omaha or in Nebraska, you know, we got to think about why is it that we think that our particular desire to keep energy out of our backyard should trump someone else's? So I'm very befuddled by this bill. I don't think that the arguments that I've heard in favor of it actually speak to the--

FOLEY: That's time, Senator.

DeBOER: --the real concerns. Thank you, Mr. President.

FOLEY: Thank you, Senator DeBoer. Senator Cavanaugh, you're recognized.

CAVANAUGH: Thank you, Mr. Lieutenant Governor. So I'm trying to do my research this afternoon as we are discussing this bill. We've had 28 bills today, so for those that are listening outside of the Chamber, it's a lot for all of us that sit here in the Chamber to keep up with everything that's happening. So sometimes doing the research on the floor is what happens. I've looked up the statute that I was asking about previously, and for those following along at home it's 70-1014.02. It's privately developed renewable energy generation facility; owner; duty;

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certification; decommissioning plan; bond; joint transmission development agreement; contents; property not subject to eminent domain. So this is what Senator Bostelman and I have been discussing, and that I believe is germane to the conversation today. So it does look to me like we have something in statute, which Senator Bostelman acknowledged that we do, and I'm reading it over, and I guess it just, for me, brings me back to my conversations on the floor earlier today about what is the role of the state and what is our role in legislating, picking indus-- basically picking one industry or one, one player in an industry. So for energy, we're picking nonrenewables over renewables is what I'm hearing on the floor if we're going to make the decommissioning more cumbersome. Also, I'm not hearing that the landowners are asking for this, so that's another concern I have of fixing a problem that we maybe don't need to fix. Maybe we do need to fix it, but so far we're not hearing from landowners that this is something that needs to be fixed. So I guess I'm not in favor of fixing a problem that doesn't need to be fixed yet. And if we can do some research over the interim and find out if this is really something that we need to be moving forward, if we need to make this more prescribed in state statute, then I would certainly be interested in having that conversation. As it is right now, I will not support the bill or the underlying amendment. But I-- I do think that it's worth looking at, not just for renewables but for all energy, especially when we're putting things on property, private property. Eminent domain, we've had a lot of conversation about that today and this session. And so I think it's important that we have these thoughtful discussions that outline for everyone, especially those of us that are new to the body and new to some of these issues, that we have these discussions about what it means to have eminent domain, what it means to have different types of energy, and what the environmental impact is on these different types of energy. I agree with Senator McCollister's sentiments about property tax relief. We are looking at-- actually, I've been looking at the amendment here from the Revenue Committee to LB289. It's the amendment that there will be a hearing tomorrow on, and it's 89 pages-- or 82 pages, I'm sorry, all to address property tax relief or predominantly to address property tax relief. In honest-- honesty, Senator Linehan, I haven't read the 82 pages yet but I'm getting there. But so this is a-- this is a theme that we keep hearing over and over again in this body and--

FOLEY: One minute.

CAVANAUGH: Thank you, Mr. President. And I would just like us to be more purposeful in that conversation because property taxes impact all of us. I represent OPS and District 66 in Omaha and District 66 has very high property taxes, as does OPS. But I-- I pay a significant amount in property taxes, about a fourth of my salary here, maybe more, and we need to be doing everything we can to help property owners in this state and making sure that we're looking out for property owners in this state. And I'm just not-- I'm not comfortable supporting this bill because I'm not sure that this is what we need to support property owners, and I'm not sure that this will facilitate growth, economic growth in our state. And so I'm going to vote no on the amendment and-- and the bill, but I very--

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FOLEY: That's time, Senator.

CAVANAUGH: --much appreciate. Thank you.

FOLEY: Thank you, Senator Cavanaugh. Mr. Clerk.

CLERK: Mr. President, a priority motion: Senator Bostelman would move to bracket his bill until April 24 of 2019.

FOLEY: Senator Bostelman, you're recognized to open on your motion.

BOSTELMAN: Thank you, Mr. President. As we come to the close of the filibuster on the bill and as the discussion on the bill, which is fine, I don't have a problem with that, I understand completely, I want to talk about a couple things just to make sure we set the record straight on a lot of issues. One is this in no way, in no way stops any facility, any contract from coming in this state and building any wind facility that they want. They make enough money per turbine to more than pay this thing over a number of times. We just passed on a radon bill in the state for Senator DeBoer's bill just earlier today to require that you have to build a house and you must put a radon mitigation system in your house. This is not something that's unusual that we don't do. We do this as a body when there is a reasonable reason to do it. And that's what the bill is about. We're talking about 464 acres, three-quarters of a section, 3 feet of concrete in the state, to remove it. It's not difficult. It's not hard. They can do it. Does not compact soil. It does not do any of those things that's been talked about. This is a good opportunity-- would have been a good opportunity for this body to actually do something for the land owner, for the state, and for soils throughout the state. There would actually be, if you think if-- here, if you think we're talking about jobs, so what this would now require is \$100,000 a local company now decommissioning that turbine by pulling that out. There's a \$100,000 per turbine that we just lost on this bill by not requiring that pad to come out. Talk about local jobs, local income, jobs, that's what it's about. It's about a discussion to have, and it's interesting where it went. There is no fiscal impact as far as the companies go. We do this type of legislation at times. This does not provide anything that landowners do not want. They can't tell you whether they want it or not because they're-- they can't, by contract, say anything. Those who I have talked to that didn't sign a contract think it's a great idea. So as we move on today and as we go on to the next bill, the intent of the bill was for this body to come up and make a statement of whether or not they feel it was important to protect our soils. That's it. Require the owner to decommission it and not let that sit on that landowner years down the line. Because at the end of that contract, that wind company leaves. They're gone. This was just about making sure proper decommissioning on a small level, on one, one part of that facility is done. That's it. It's reasonable. It's responsible. And it's something that we needed to do. So I'll be interested if anyone would like to talk about if there is an amendment.

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I don't know if there is. I think we've said how much they make. We said how much it might cost. We've talked about decommissioning plans in this state, that they make money when they decommission. Again, we're taking jobs away from people by not decommissioning this. So as we move on, it's fine, but I do believe that this is an opportunity missed, and it's unfortunate that million-dollar, billion-dollar foreign companies have taken the mike on this and killed this bill. And with that, Mr. President, I withdraw my motion.

FOLEY: Motion's withdrawn. Speaker Scheer.

SCHEER: Thank you, Mr. President. We've reached the allotted time on this bill. We'll move on to the next item on the agenda, please. Thank you.

FOLEY: Thank you, Mr. Speaker. Items for the record, please?

CLERK: Mr. President, thank you. Very quickly, a new A bill. (Read LB538A by title for the first time.) Senator Brewer, an amendment to LB411 to be printed. That's all that I have, Mr. President.

FOLEY: Thank you, Mr. Clerk. We'll move on to General File, 2019 Speaker priority bills. LB478. Mr. Clerk.

CLERK: LB478 is a bill by Senator Vargas relating to civil actions. (Read title.) The bill was introduced on January 18, referred to the Judiciary Committee, advanced to General File. There are Judiciary Committee amendments pending.

FOLEY: Thank you, Mr. Clerk. Senator Vargas, you're recognized to open on LB478.

VARGAS: Thank you very much, President. Good afternoon, colleagues. LB478 is very simple. Prohibits the use of consent by a minor as a defense or mitigation of damages or liability in civil actions arising from sexual assaults. I'd like to thank Senator Lathrop and members of the Judiciary Committee for advancing this to General File with a unanimous vote. I'd also like to thank Speaker Scheer for prioritizing this bill as a Speaker priority bill. I'd also like to thank NATA for their support of this bill. Boiled down, the premise of this bill is this: It should be easy to say that a minor cannot provide consent to a person of authority, and it should be equally easy to say that a victim and their family should not be further victimized by a statutory framework that can result in the defense victim-blaming their way out of paying damages. However, the way our current statutes are written, it is allowable in some civil cases stemming from sexual assaults for the defense to say that a child consented to sexual activity and, therefore, shared culpability

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exists between the child and the perpetrator. You may be asking yourself if this really happens in Nebraska. Now the sad answer is yes. This issue was brought to me by a constituent who has experienced the harmful repercussions that this defense can have on a victim and their family. And because their case is ongoing, in the interest of their respect and privacy, I can't get into specifics. But what I can tell you is that in Nebraska and across the nation, there have been horror stories of proceedings where the defense has, in effect, engaged in victim-blaming of young children. Now for instance, a court in Florida found that four 3rd graders were careless and negligent and old enough to know better when a teacher molested them. Right now there is nothing in Nebraska statutes that stops victims in civil cases from being blamed under a defense known as comparative negligence, the basis of which is reliant upon establishing consent. Comparative negligence splits the responsibility between the victim and the party accused of negligence. This technique can then be used to reduce how much is paid to the victim. Now while this defense may have its merits in certain instances, it certainly has no place in shifting the blame on to the child victims in our state. Several states have begun to take action on issues similar to this. As recent as California has taken legislative action, while others have left the issue to the courts to decide. However, I don't think we can afford to do the latter. It is clear that the courts have not adequately dealt with these defense practices as Nebraskans are still being impacted. Now I want to be clear that this bill does not shift the burden of proof or any other standard operating procedures in courts. It simply prohibits only one defense. I want to reiterate this point. It should be easy for all of us to agree that a child cannot consent to sexual activity. A child cannot be careless and negligent, quote unquote, or old enough to know better when a teacher or a coach or other adult molests them. We have a duty as elected officials to protect the most vulnerable among us. We have the opportunity now to work together to advance this bill and on to Select and protect victims from being further victimized. There is a committee amendment that Senator Lathrop will explain here in a minute which aligns this bill with existing statutes. I want to thank the body and I hope I can count on all of your green votes to advance this bill and the committee amendment to Select File. Thank you.

FOLEY: Thank you, Senator Vargas. As the Clerk indicated, there are amendments from the Judiciary Committee. Senator Lathrop, you're recognized to open on AM1216 committee amendment.

LATHROP: Thank you, Mr. President. Colleagues, the Judiciary Committee voted to amend LB478 with AM1216 and advance the bill from the committee on an 8-0 vote. AM1216 replaces the original bill. The amendment adds a new provision to existing rules of evidence in section 27-412. This new provision would make evidence of a victim's consent inadmissible in any civil action involving sexual assault when the actor is 19 years of age or older and the victim is under the age of consent. We have taken Senator Vargas' concern and put it into a rule of evidence, which will accomplish what Senator Vargas was trying to do. This is something we ran by a

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professor of evidence. I think it's a good amendment. It's a good bill and I would appreciate your support of the amendment and LB478. Thank you.

SCHEER: Thank you, Senator Lathrop. Moving to floor debate. Senator Cavanaugh, you're recognized.

CAVANAUGH: Thank you, Mr. Speaker. I rise today in support of Senator Vargas' bill, and I just wanted to thank him for bringing this bill and I'm happy that we're continuing to have conversations on the floor about victims of sexual assault. And sometimes it's easy to discount what it looks like to be a victim of sexual assault and what consent means, and there's many forms of consent, and a child cannot give consent. It's-- it's just not possible. So I appreciate Senator Vargas making sure that our children are protected. And I yield my time to the Chair.

SCHEER: Thank you, Senator Cavanaugh. Senator Slama, you're recognized.

SLAMA: Thank you, Mr. President. I, too, would like to briefly rise and thank Senator Vargas for his work on this bill in closing what I believe to be a very concerning loophole in our current statute that allows civil damages to be lessened under the guise that a minor can somehow provide consent for their sexual assault. So thank you, Senator Vargas, for bringing this bill, and I would encourage all my colleagues to provide a green vote on both the committee amendment and the bill, LB478. Thank you.

SCHEER: Thank you, Senator Slama. Seeing no one else in the queue, Senator Lathrop is welcome to close. He waives closing. The question before us is adoption of AM1216 to LB478. All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record.

CLERK: 36 ayes, 0 nays on the adoption of committee amendments.

SCHEER: AM1216 is adopted. Returning to floor discussion. Seeing none, Senator Vargas, you're welcome to close. He waives closing on LB478. The question before us is advancement of LB478 to E&R Initial. All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record.

CLERK: 37 ayes, 0 nays, Mr. President, on the advancement of LB478.

SCHEER: LB478 is advanced to E&R Initial. Next item, Mr. Clerk.

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CLERK: Mr. President, with respect to LB595, Senator Wayne, I have a motion from you, Senator, with a note you wish to withdraw. Senator Wayne, you want to withdraw your-- ? Yes, thank you. Mr. President, LB595 is a bill by Senator Albrecht. (Read title.) The bill was introduced on January 23, at that time referred to the Judiciary Committee, advanced to General File. There are committee amendments pending.

SCHEER: Thank you, Mr. Clerk. Senator Albrecht, you're welcome to open on LB595.

ALBRECHT: Thank you, Speaker Scheer. Good afternoon, colleagues. I'd like to take this opportunity to thank Speaker Scheer for allowing LB595 as a Speaker priority bill. I'd also like to thank Chairman Lathrop and the Judiciary Committee for sending this out of committee on an 8 to 0 vote. The Office of Dispute Resolution was created by the Dispute Resolution Act of 1991. Since its creation, the Office of Dispute Resolution has implemented six approved centers across the state with the mission of enhancing and advancing the use of mediation and alternative dispute resolution in courts and communities. The Office of Dispute Resolution has successfully implemented a restorative justice program since 2015 with grant funds. LB595 would solidify these successful practices into our statutes and provide a-- for future of restorative justice under the Office of Dispute Resolution. Restorative justice is implemented as a method to repair the harm caused by individuals on other individuals or the community. The restorative justice empowers victims by giving them an opportunity to both ask questions of and explain to offenders the real impact of a crime. Offenders are held to account for what they have done and encouraged to take responsibility and make amends. The restorative justice practices are grounded in a wide body of research and evidence demonstrating that an individual who has caused them harm to another or to the community participates in restorative justice programs which are less likely to reoffend and better able to make amends to the victims, including payment of restitution and better able to contribute to community and safety and well-being of our-- of our citizens. Restorative justice practices or restorative justice programs include, but are not limited to, victim youth conferences, victim offender mediation or dialogue, family group conferencing, victim or community panels, and community restorative circles. Victims are never required to attend meetings, and in some cases may have the opportunity to send a victim advocate to participate for them. Members of the affected community may be able to attend as well to meet with the offender. In order to statutorily incorporate restorative justice into the Office of Dispute Resolution, LB595 would make six changes to the Dispute Resolution Act. First, the bill would amend legislative findings to include the benefits of mediation and restorative justice. Second, the bill would add duties to the Office of Dispute Resolution. The office would be tasked with assisting the mediation centers in the operation of restorative justice practices, coordinating restorative justice training sessions for restorative justice facilitators and staff of the approved centers and the courts promoting public awareness of the restorative justice and dispute resolution process under the act, seeking and identifying funds from the public and private sources for carrying out the new and ongoing restorative justice programs. They'll be

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collecting and analyzing program data and evaluating recidivism and other outcomes benefiting youth, victims, and the justice system. Third, LB595 would include restorative justice as a scope of services provided by approved Office of Dispute Resolution mediation centers. And fourth, the bill would describe the restorative justice cases, case types that may be accepted by the mediation centers, such as juvenile offenses and disputes involving juveniles, disputes involving youth that occur in families, in educational settings, and the community at large, adult criminal offenses and disputes involving juvenile adults and community victims. Fifth, the bill would provide qualifications for facilitators of restorative justice. Sixth, LB595 would amend confidentiality and privilege provisions to include restorative justice practices. And after receiving our original bill draft, we became aware of other sections of the Nebraska statute that referenced the Office of Dispute Resolution, including the Parenting Act and the juvenile code. In an attempt to harmonize the statute, we worked closely with the county judges, county attorneys, the Bar Association, nonprofits, and members of the Legislature to draft an amendment that addresses the concerns that have been brought up. Chairman Lathrop will introduce AM1164 which is our joint compromise to fully replace the original bill, LB595. In closing, the restorative justice already has and will continue to make incredible positive impacts for our youth to keep them out of the school-to-prison pipeline. For victims who have been harmed and/or the safety of our communities, LB595 would allow the restorative justice practices to be another tool of the Office of Dispute Resolution to achieve the goals of reducing recidivism and improving communities and bettering the lives of the victims. I ask for your support of LB595 and AM1164. Thank you.

SCHEER: Thank you, Senator Albrecht. As the Clerk noted, there is a committee amendment. Senator Lathrop, as committee Chairman of Judiciary Committee, you're welcome to open on AM1164.

LATHROP: Thank you, Mr. President. Colleagues, good afternoon once again. LB595 was heard by the Judiciary Committee on March 6 and was advanced to General File by the committee with a white copy amendment, AM1164. Both the amendment and the advancement to General File were on 8-0 votes. One of the provisions of LB595 that involved numerous sections was to retitle the Dispute Resolution Act to the Restorative Justice and Dispute Resolution Act. Many of the changes in the committee amendment are due to the elimination of that title change. Other substantive changes made by the committee amendment include the elimination of a proposed deputy director and moving those proposed duties to the director of the Office of Dispute Resolution. The change was made to reduce or eliminate the fiscal impact. AM1164 adds language that permits licensed attorneys to act as a mediator in developing a parenting plan if agreed to by the parties. Additional wording changes clarify that certain facilitator requirements apply only to those affiliated with an approved dispute resolution center. The committee amendment also modifies language regarding the county attorney's role in reviewing reparation plans and provides that the facilitator give notice to the county attorney of the juvenile's

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compliance with the plan. Should the juvenile not satisfactorily complete the plan, the county attorney may refer the matter back to the facilitator or file a juvenile court petition or criminal charges. I would urge you to adopt the committee amendment, AM1164, and advance LB595 as amended to Select File. Thank you.

SCHEER: Thank you, Senator Lathrop. Going to the floor for discussion. Seeing none, Senator Lathrop, you are welcome to close on the committee amendment. He waives closing. The question before us is adoption of AM1164 to LB595. All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record.

CLERK: 38 ayes, 0 nays on adoption of committee amendments.

SCHEER: AM1164 is adopted. Returning to the floor for discussion. Seeing none, Senator Albrecht, you're welcome to close on LB595. She waives closing. The question before us is advancement of LB595 to E&R Initial. All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record.

CLERK: 38 ayes, 0 nays on the adoption of the motion to advance the bill, Mr. President.

SCHEER: LB595 is advanced to E&R Initial. Mr. Clerk, the next item.

CLERK: Mr. President, LB96, a bill by Senator Wayne, relates to building codes. (Read title.) Introduced on January 10, referred to Urban Affairs, advanced to General File. There are Urban Affairs Committee amendments, Mr. President.

SCHEER: Senator Wayne, you're welcome to open on LB96.

WAYNE: Thank you, Mr. President, and members of the Legislature. LB96 would make the state building code a default code. While we have a state building code, the code technically does not apply statewide. Under the current statute, a state building code only applies to state-owned buildings and buildings within a political subdivision which adopt the state building code. Under LB96, the state building code would apply-- would be applicable to any county, city, or village that does not adopt a local building code within two years after an updated update to the state building code. The provision is similar to our current plumbing code statute which provide for a default plumbing code in places where local plumbing codes have not been adopted. Because most smaller municipalities and many counties don't currently adopt a local building code of any kind, large portions of the state literally have no building code at all. This issue came up several times in the past few years. In the summer of 2017, after a particularly strong hailstorm, my

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office began receiving phone calls from homeowners and roofing companies who were having a hard time with their insurance companies. In places where there were no local building code adopted, several insurance companies began refusing to pay their roofs that met the current code requirements because the city or county had not technically adopted a building code. During a 2016 interim study, the Urban Affairs Committee heard from numerous homeowners who had built new homes in areas that have not adopted building codes. Those homeowners had contracts with builders that claimed the builder would follow all applicable state and local building codes. Since there were no state codes or default codes, the homeowners were left with no recourse when the building was deficient or the resident was deficient and not compliant with any codes. Importantly, nothing contained in LB96 will require a county or a city or a village to employ code-- code officials to enforce the default code. The bill simply makes it clear that the state building code is an applicable code. In fact, under the current law, even if political subdivisions adopt a local code, there is no requirement that they employ a city official or a municipality official. Many smaller municipalities currently adopt the state building code but elect not to employ a code official. Primarily, the goal of LB96 is to provide homeowners with a potential recourse in the event that they build a new home in part of the state that does not currently have an adopted building code. Even if the government does not employ a code official, homeowners would be able to at least go to their builders and have recourse in the event that their home was not built to code. LB96 faced no opposition testimony at the hearing. It was advanced out of the Urban Affairs Committee unanimously, 7 to 0. I would urge a green vote to advance LB96 to Select File. Thank you, Mr. President.

SCHEER: Thank you, Senator Wayne. As the Clerk noted, there are committee amendments from Urban Affairs. As Chairman, Senator Wayne, you're welcome to open on AM497.

WAYNE: Thank you, Mr. President, and members of the Legislature. The committee amendment, AM497, simply clarifies that the default building code would not apply to construction on a farm or-- or for farm purposes. This language mirrors the language that appears elsewhere in our building code statutes and I would ask that you adopt AM497.

SCHEER: Thank you, Senator Wayne. Turning to floor discussion, Senator Bostelman, you're recognized.

BOSTELMAN: Thank you, Mr. Speaker. Can't resist on this one. Sorry, Senator Wayne. Just real briefly, we just talked about not being able to intervene into contracts. We can't tell wind companies they have to decommission something; can't do that; can't put that in statute. Well, what are we going to do? We're just now going to turn around and put in statute, tell people if you build a house what you have to do. Interesting. I think, Senator Wayne, I would like him to yield to a question if he would, please.

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SCHEER: Senator Wayne, would you please yield?

WAYNE: Yes.

BOSTELMAN: Thank you, Senator Wayne. I live in a county that's not zoned. So my question is going to be, how does this affect that county?

WAYNE: It, well, it really wouldn't affect your county being not zoned. The issue is so if your house has a hailstorm and the insurance company comes out and they want to put your roof back to code, there's technically nothing in our statutes that gives them a code to put it back to. So this would just set a default standard of the building code that we've already adopted through Senator Quick, which is 2018, but it creates a default code that if a county doesn't create their own code within two years it becomes a default code. And this is more about protecting homeowners, protecting companies to make sure that there is a standard, a minimum standard, that we have across the state. We're one of the few states who don't have a default code.

BOSTELMAN: So does this apply to just remodels, rebuilds? Or does it apply to new construction?

WAYNE: It would apply to-- well, technically, it would apply to all. But the new code doesn't kick in unless your remodel reaches a certain threshold to where it would be deemed to no longer be grandfathered in. So if your building was built in 1970, theoretically you would have to follow the code of 1970. It's only when you do a major or substantial make-over do you have to bring the whole entire building up to code. And it wouldn't-- wouldn't also apply to, the way our bill is written, to farmland or things that are used for farm purposes.

BOSTELMAN: What about my house on the farm?

WAYNE: Yes, if you were to do a new home on your farm or to do a substantial remodel, it would, it would apply. And again, that is to make sure that if a builder comes in and does something wrong, you can reference a standard that they have to follow.

BOSTELMAN: OK. Thank, Senator Wayne. And I appreciate it. I understand what you're trying to do with this. I just find it's ironic that the bill come up right after we talked about LB700 that's talking about putting requirements on to private individuals into contracts, when we just argued against that. So with that, I-- I'll sit and listen a little bit on this. I think it's interesting that it came up as it has. And I understand what you're doing, Senator Wayne, with this. I-- I get it completely. And thank you, Mr. Speaker.

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SCHEER: Thank you, Senator Bostelman, Senator Wayne. Senator Friesen, you're recognized.

FRIESEN: Thank you, Mr. President. Senator Wayne, would you yield to questions?

SCHEER: Senator Wayne, would you please yield?

WAYNE: Yes.

FRIESEN: So let me-- let me get this straight now. So if you have a second-class city out there that does not have building codes currently, and two years from now they would have to-- they would automatically have state building codes as their building code?

WAYNE: Correct.

FRIESEN: So part of the problem when I was on the city council is that we had building codes and we adopted them regularly and kept them up to date, but we didn't have a building inspector. And so now you got building codes and you have people moving to town that comes from a bigger city and they expect your building codes to be up to par with their-- the big cities. And they find out that you have these building codes that mandate all this but they didn't build the houses to code. How do you-- are you going to mandate that they have a building inspector somewhere or how do they enforce the codes? Because my problem was we had building codes on the books, but we were not enforcing the use of those building codes and, therefore, it was kind of a misleading thing to say. I-- I wanted the city county to just basically take away the building codes so that people came in and they looked at it and they said, OK, they don't have building codes; I need to have a house inspection done.

WAYNE: So this would not-- this bill will not change your current municipality. We are not mandating that any code official be hired from any county or municipality. The-- the thought behind this is right now a homeowner or business owner has no recourse if a-- I was going to say plumbing but we have a plumbing code-- if a building is built that doesn't make any sense. I mean the foundation is off, everything is wrong. They didn't put their footing 24 inches or 24 inches down. They only put it like four inches down. Well, you would have to maybe go to court. You would have to figure out what recourse you can. But they would say, well, there's no reasonable standard, there's no standard across the state, whereas in most municipalities, including the one you referenced, there was a code that's at least-- that you can reference saying, no, here's a code that you are supposed to follow to make sure those footings in the foundation was set right. So it's more about giving a individual the ability to check to make sure what they're building and business owners actually meet the code that it's designed to-- to do.

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FRIESEN: So do you feel a municipality like that, if-- if you have a building code that you've adopted but you fail to inspect and ensure that everybody is following that building code, does the city have any liability in that whatsoever?

WAYNE: No, because that's-- I mean that's been our current practice since we were founded as a state. There isn't any liability in that sense. This is more of a just making sure that the homeowner or the business person has some kind of recourse and has the ability to check and verify what needs to happen.

FRIESEN: OK. Thank you, Senator Wayne. Well, I-- back when we were having the discussion, it was-- it felt totally misleading to me to say that a community had a building code and every home that was constructed or remodeled would follow that building code. And yet I know numerous homes were built that did not meet that code. And so when someone comes into the community and they-- they look at your statutes and they look, well, they've adopted the latest building code. This house was built in 2015. It should have been built to code. There should be no problems here. I want to purchase the home. And so they purchase the home and then later they find out a couple years later or it's five years later that, no, there was no building inspector ever watched it. They didn't build it to code at all. They-- they-- they cut corners every place they could. And I-- I feel it's a very misleading thing to say you have these building codes in place, but nobody enforced it. And so I would rather, you know, see a municipality that doesn't have building codes then.

SCHEER: One minute.

FRIESEN: And then I'm going to hire an inspector to come in and inspect that home and make sure it meets those codes. But it's just something I noticed in here and it bothers me that I guess we have the codes and, yet, we have no enforcement of it. And it-- it leads people to give a safe feeling that the town has the codes in place, but there's no method to make sure that they've enforced that. So thank you, Mr. President.

SCHEER: Thank you, Senator Friesen and Senator Wayne. Seeing no further discussion, Senator Wayne, you're welcome to close on AM497.

WAYNE: Thank-- thank you, Mr. President. Thank you, Senator Friesen. The-- the issue here quite honestly was outside of the city of Omaha, outside of our code, houses were being built. And it wasn't until the 2017 hailstorm that areas from Madison County outside of Columbus and other areas starting calling-- because we did a bill similar to this-- calling my office saying, now my insurance won't pay for nothing because there's no standard. And as we dug deeper and deeper into it, it really became an issue where if you build a building there's no standard. And if

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there's damage to your building the insurance company can argue, legally, there's no standard to replace it. So this is really a protection, a way to protect builders and homeowners to make sure that everybody is on the same level and they're building to some code. I do understand the frustration about not having enforcement, but this is also, the enforcement mechanism now, if we create a default building code, is that homeowner can hire an inspector and say, does my building or home or if it's commercial, does my commercial building meet code? Right now if you were to hire an inspector even underneath your scenario, they will come out and say, well, your tuck point might be a little off but there's some foundation problems, but technically it meets code, because there is no code. So even if you were to hire somebody to come out and inspect code and check a per-- they still got permits but check a code, there's nothing to base it off of. What the inspector is going to say is, is this home built off of the 2012 code, 2008 code, 2014 code, because all those things have different levels of scrutiny and they have different standards. So the reality is, even if you were to hire an inspector, and what we are talking about is not Omaha. We're not talking about Lincoln. We're talking about really rural Nebraska who is getting caught up, as we have more environmental events, as we have people who want to build things. They're getting caught up in fly-by-the-night contractors who are coming in. They're getting caught up in people who are trying to build something real cheap and cutting corners, and there is no way to inspect them because there is no baseline code. So we're trying to create a default code and we're telling cities and counties and other municipalities, saying you have two years to create your own code and if you don't we're at least going to create a baseline for you for the people of Nebraska to make sure they can get things inspected, to make sure they have some kind of recourse when a builder does something wrong when they're building, whether commercial or residential. And with that, I look forward to any other conversations. We can try to make this better if we need to. But this is really a simple bill. It's about protecting Nebraska homeowners who are building homes and businesses who are building businesses outside of municipalities and counties where codes are already approved. And with that, I will ask for your green vote on the AM497 and LB96. Thank you.

SCHEER: Thank you, Senator Wayne. The question before us is adoption of AM497 to LB96. All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record.

CLERK: 36 ayes, 0 nays on adoption of committee amendments.

SCHEER: AM497 is adopted. Returning to floor discussion. Seeing none, Senator Wayne waives closing on LB96. The question before us is advancement of LB96 to E&R Initial. All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record.

CLERK: 37 ayes, 0 nays, Mr. President, on the advancement of the bill.

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SCHEER: LB96 is advanced to E&R Initial. Mr. Clerk for items.

CLERK: Mr. President, I have one item. Senator Vargas would move to adjourn the body under Wednesday, April 24, at 9:00 a.m.

SCHEER: Colleagues, you've heard the motion. All those in favor say aye. All those opposed? We are adjourned.