

MAY 17, 2005

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May 17, 2005

LB 82, 90A, 116, 161, 364, 682, 683, 683A

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Good morning. Welcome to the George W. Norris Legislative Chamber. Our acting chaplain this morning is Senator Smith, from the 48th District. Senator.

SENATOR SMITH: (Prayer offered.)

SENATOR CUDABACK: We thank you, Senator Smith, for doing that for us this morning. I call the seventy-ninth day of the Ninety-Ninth Legislature, First Session, to order. Senators, please record your presence. Record please, Mr. Clerk.

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

SENATOR CUDABACK: Are there any corrections for the Journal, Mr. Clerk?

CLERK: I have no corrections, Mr. President.

SENATOR CUDABACK: Any messages, reports, or announcements?

CLERK: Mr. President, your Committee on Enrollment and Review reports LB 90A to Select File. Enrollment and Review reports LB 683 and LB 683A as correctly engrossed. I have communication from the Governor to the Clerk. (Read re LB 82, LB 161, LB 682.) An Attorney General's Opinion addressed to Senator Burling. And an amendment to be printed by Senator Beutler to LB 116. That's all that I have, Mr. President. (Legislative Journal pages 1519-1522.)

SENATOR CUDABACK: Thank you, Mr. Clerk. (Visitors introduced.) We now go to select File, 2005 committee second priority bills. Mr. Clerk, LB 364.

CLERK: Mr. President, LB 364. I have Enrollment and Review amendments, first of all. (AM7094, Legislative Journal page 1408.)

SENATOR CUDABACK: Senator Stuhr, would you like to make a motion?

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CLERK: Senator, would you move the E & R amendments, please?

SENATOR STUHR: Yes. I would move the E & R amendments.

SENATOR CUDABACK: The motion by Senator Stuhr, to move the E & R amendments. All in favor say aye. Opposed, nay. The E & R amendments are adopted.

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

SENATOR CUDABACK: Senator Stuhr, would you like to make a motion?

SENATOR STUHR: Yes. I would move the...to advance LB 364.

SENATOR CUDABACK: Heard the motion by Senator Stuhr to advance LB 364 to E & R for engrossing. All in favor say aye. All opposed, nay. LB 364 is advanced. Mr. Clerk, we now go to Select File, 2005 senator priority bills, Wehrbein division. Mr. Clerk, LB 312.

CLERK: LB 312. I have Enrollment and Review amendments, first of all. (AM7100, Legislative Journal page 1513.)

SENATOR CUDABACK: Senator Flood, for a motion, please.

SENATOR FLOOD: Mr. President, I move the adoption of the E & R amendments to LB 312.

SENATOR CUDABACK: Heard the motion, Senator Flood, adopt E & R amendments. All in favor say aye. Opposed, nay. The E & R amendments are adopted.

CLERK: Mr. President, the next amendment I have, FA255, by Senator Beutler. Senator Beutler would move to substitute...or, would ask for a substitution, Mr. President, to substitute AM1623. (Legislative Journal page 1523.)

SENATOR CUDABACK: Any objections? Seeing no objections, so ordered. Senator Beutler, to open.

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SENATOR BEUTLER: Senator Cudaback, members of the Legislature, I suspect this is going to be the beginning of a long discussion. I am a supporter of LB 312. There are modifications to it I would like to see. I suspect many of us are in the same position. So I had a couple of things I wanted to put before you and see if you thought they made any sense. The amendment that is before you now, AM1623, deals with the wage...the average wage requirement for new employees, which you'll find on...if you want to follow on page 64 and 65 of the bill, lines 13 and thereafter. And basically, under the bill, the way it is now, Senator Landis has artfully constructed it so that you're entitled to a 3 percent credit in the event that your average wage is at least 60 percent of the Nebraska annual wage. That, to me, is pretty low. And then you get 4 percent if your average annual wage is 75 percent of the Nebraska annual wage. So what my amendment does is suggest that we move those two lower incentives to...from 60 to 70 percent of the wage for the very low...average wage, for the very lowest, and from 75 to 85 percent of the average annual wage for the next-lowest category, so that we're improving the wage structure in those two tiers. Now, one of the objections to doing that, somebody indicated on General File debate, well, in some of the distressed area...rural areas of the state, it may be good to get even these low-paying jobs there. So I built into the amendment an exception. And the 60 percent for the first tier and the 75 percent for the second tier that are currently in the bill are retained in those areas of the state that are defined as distressed areas. I took the definition of "distressed area" from a definition that's already in the bill. So that by doing that, the rural areas, the distressed areas, will not be prejudiced by going to a higher wage level, but it will have the effect of encouraging or emphasizing getting good jobs here, as opposed to jobs that, on average, pay much less than what our average is now. In fact, I have kind of a hard time understanding why we want to provide incentives for anything that's below the average wage, because basically, we're inviting in companies who will bring our overall wage level down. So at the very least, I would suggest that we improve these two lower tiers and have a slightly higher requirement than is in the bill now, in terms of wage levels, except, again, with respect to

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distressed areas, leaving those wage levels exactly as Senator Landis has proposed them in the first instance. So that's what the bill does. And I would recommend that for your consideration.

SENATOR CUDABACK: Thank you, Senator Beutler. You've heard the opening on the Beutler amendment, AM1623, to LB 312. Open for discussion. Senator Landis, followed by Senator Kruse.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, I believe the order of events for the morning is something like this. There are, I believe, three Beutler amendments that make adjustments to the bill. Senator Connealy has an amendment which I think he'll ask to substitute for the working draft of technical amendments that we've been working on since General File, amendments that don't cost any money, and make the bill work better, in the sense that it achieves the objectives that it has. Senator Preister has a bill that has to do, I believe, with discrimination in environmental law compliance. I think that's right. Senator Synowiecki has an amendment that has to do with health benefits and wages. Senator Redfield will have an amendment that has to do with the investment-only tier and whether or not it's applicable where there's a job loss. Senator Raikes will have an amendment that says the manufacturing sales tax exemption should come out. And Senator Chambers has 15 amendments that strike the bill one section at a time. That's the morning. And I've also been approached about trying to put in another bill from another...that's been reported out of the Revenue Committee, that's a Speaker committee priority. It is without malice that I'm going to wind up either not voting, or voting no, depending on where...or just not voting to make significant alterations at this point. I'm going to put it in technical shape. I'm going to support the Connealy amendment when it comes up. But generally speaking, the bill...I'm going to vote either "not voting" or "no" on changes, not that they shouldn't be considered, taken to a vote. And if the body wants to do it, great. Go ahead and make changes as you will, if you think it's appropriate, if you're persuaded by it. I understand. I must say that my die is cast, that the terms and provisions that I've worked on in the bill are ones that have some interdependence. But I speak only for

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myself and for no one else. Everyone is a free actor here. Make any changes that 25 people in this body want to make. But I'm going to oppose the amendments to the bill, other than the technical amendment to be offered by Senator Connealy.

SENATOR CUDABACK: Thank you, Senator Landis. On with discussion of the Beutler amendment. Senator Kruse, followed by Senator Connealy.

SENATOR KRUSE: Thank you, Mr. President and members. I support the Beutler amendment. I felt it was sad that we would go to the lowest wage support, based on a possible distress in some place. Distressed areas ought not to be setting the wage. And he's come around that in a good way. I strongly support a stronger lower wage on any of these bills, since that's what we need. Whether we are urban or rural really doesn't matter. We need good wages. And the lower wages are going to cost us as a state, especially when families that come into that newly established business have to apply to us for Medicaid. So I support the amendment. Thank you.

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

SENATOR CONNEALY: Thank you, Mr. President, members. I pushed my light on before Senator Landis talked. And I pretty well agree with everything that Senator Landis says. I think there is a positive in what we've done already. I think that the...putting a wage standard in, whether it's 60 percent or someplace different, allows us to look at this going forward. And I would hope that Legislatures in the future would say, you know, is this enough? Is the quality of job that we're getting from this level, up, high enough to justify the work that we've done? That's what's different about the discussion we're having today, compared to incentive packages in the past. You know, I see this more as a living exercise, compared to what we've done in the past, where we've put something in place, we never touched it ever again. With reporting, with labor standards, with the, you know, a termination of part of this going forward, we're going to be able to look at this and see what we believe we're getting for the dollars spent, which we really haven't had in the past. And because of that, I'm willing to accept the

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60 percent of the average wage, and go forward from here. So I'm rising in opposition to the amendment at this point.

SENATOR CUDABACK: Thank you, Senator Connealy. Senator Beutler, there are no further lights on. The Chair recognizes you to close on AM1623.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, the purpose of the bill is to bring jobs to Nebraska that are good jobs. If you're going to leave in place a provision that says that this can be used for a project where wages, on average, are 60 percent of the Nebraska average weekly wage, then my position is that's too low. That's too low. I don't think we want to be paying taxpayers money for average wages that are that low, generally speaking. So what the amendment does with respect to the two lowest tiers, which are 60 percent and 75 percent, it increases those tiers to 70 percent and 85 percent of the average annual Nebraska wage, so that these...this incentive bill, where we're paying out \$60 million or more of what would otherwise be revenue to take care of schools and higher education and our other needs, so we can be sure when we pay out this money that we're paying it out for decent paying jobs. We're not paying it out for jobs that will bring the average wage in Nebraska down. To me, it makes no sense to do that. The amendment, though, does make an exception, and leaves at the 60 percent and at the 70 percent level, the levels currently in the bill, that wage level in what we call distressed areas of the state, so that in those areas I do not make a change, but in other areas we do a little better and improve the types of projects, require an improvement in the types of projects we support with respect to the average annual wage that is paid. So with that, I'd ask for the adoption of the amendment.

SENATOR CUDABACK: Thank you, Senator Beutler. You've heard the closing on AM1623. The question before the body is, shall AM1623 be adopted to LB 312? All in favor vote aye; those opposed vote nay. Voting on adoption of the Beutler amendment, AM1623. Have you all voted on the question who care to? Senator Beutler, what purpose do you...?

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SENATOR BEUTLER: Ask for a call of the house and a roll call vote.

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

CLERK: 15 ayes, 1 nay to place the house under call.

SENATOR CUDABACK: The house is under call. All unauthorized personnel please leave the floor. Unexcused senators report to the Chamber. The house is under call. The house is under call. All unexcused senators please report to the Chamber. Senator Jensen, would you check in, please? Senator Hudkins, Senator Heidemann, Senator...Senator Howard, Senator Wehrbein, Senator Thompson, Senator Synowiecki, Senator Brown...Bourne, rather. Senator Brown, excuse me. Senator Bourne. Senator Landis, please. Thank you. Senator Wehrbein. All members are present or accounted for. Senator Beutler, how did you wish to proceed?

SENATOR BEUTLER: Roll call vote.

SENATOR CUDABACK: Roll call vote has been requested. Mr. Clerk, please call the roll on the question.

CLERK: (Roll call vote taken, Legislative Journal pages 1523-1524.) 18 ayes, 9 nays, Mr. President, on the amendment.

SENATOR CUDABACK: The amendment is not agreed to. And I do raise the call. Mr. Clerk, next amendment, please.

CLERK: Mr. President, the next amendment I have is by Senator Beutler. Senator, FA256.

SENATOR CUDABACK: Senator Beutler, you're recognized to open on amendment FA256 to LB 312.

SENATOR BEUTLER: Mr. Clerk, I'd ask to substitute AM1622. (Legislative Journal pages 1524-1526.)

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SENATOR CUDABACK: Any objection? So ordered.

CLERK: Can I get the number again, Senator, please? AM16 what?

SENATOR BEUTLER: AM1622, Mr. Clerk.

SENATOR CUDABACK: Senator Beutler, you're recognized to open.

SENATOR BEUTLER: Members of the Legislature, the last amendment had to do with the required wage structure. And the other part of the bill that's been troublesome to me, and I think to others, has to do with healthcare, and the question of whether companies who are benefiting from these incentives should be required to provide healthcare. As you know...and I'll follow through with some materials shortly, but as you know, healthcare is an increasing problem in the United States, in Nebraska. And we have roughly 10 percent of our people--that is, our people of working age and their children--who are uninsured. That results in tremendous costs to the public, to the taxpayer, through the Medicaid program, and through subsidies on their own insurance rates. So what this amendment does is to structure a requirement for a healthcare plan, or, if you choose not to have a healthcare plan, to pay a certain amount of money into a healthcare fund which could then be used to take care of people who don't, or are unable to, get healthcare benefits through their employers. Here's the way it would work. First of all, it indicates that there is an exemption to the requirement of this amendment. It says, this section does not apply to an employer whose healthcare benefits are substantially comparable, as determined by the Tax Commissioner, to those offered to employees of the state of Nebraska for calendar year 2004, if the employer is paying at least 79 percent of the cost of the benefits. The state of Nebraska pays 79 percent of the cost of healthcare for state employees. So it first of all says, with regard to any of these companies that are taking advantage of the Nebraska Advantage Act, it says, if you have a healthcare policy that's substantially comparable to the state healthcare policy, and you're paying the same as the state pays, or better, with respect to the cost of that policy, then you're all right. You don't have to do anything further. If, on the other hand, they don't have healthcare benefits, then the bill would require

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them to pay into a healthcare fund 6 percent of their total wages. The state of Nebraska, for example, pays up in the neighborhood of 9 percent of total wages in order to effectuate the state policy. This amendment takes a much lower percentage, assumes healthcare benefits that are either nonexistent or very poor, and says, you pay into the healthcare...the fair share healthcare plan, the healthcare fund, you pay into that the difference between 6 percent of your total payroll and what you are actually paying in healthcare benefits, so that if you're paying nothing at all, then each year you pay in 6 percent of your total wages into the fund. If your healthcare benefits come to 3 percent of your total wages, if that's the value of it, then the difference between 6 percent and 3 percent is 3 percent, so you would pay in 3 percent of your total wages annually into the healthcare fund. And by that means, you either can choose to have a health benefit plan at a required level, or you can choose to have a benefit plan not at all, or at a lower level. But you would pay the difference into the state, so that everybody was contributing something to the healthcare of employees. That fund then, once it was created, we would determine next legislative session how to structure that fund and to use it in the way that is most fair and most efficient for providing healthcare for people who are not covered by their employers. So if you want something that puts...that adds a meaningful healthcare benefit requirement, and yet is not onerous and is not of the nature that requires them to have a particular kind of healthcare plan, then this amendment should serve your purpose. And with that, and the explanation of the amendment, I'll stop and get the sense of what you all are looking for. Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. Open for discussion on the Beutler amendment. Senator Redfield.

SENATOR REDFIELD: Thank you, Mr. President, members of the body. Senator Beutler, I think your intent is that we would see more of the citizens of Nebraska covered with healthcare. But the concern that I would have is that this might indirectly create a race to the bottom. Because if 6 percent of your payroll becomes the standard, I can assure you, there are employers out there that are paying more than that, and I don't

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think we want them to drop the healthcare so that they can just pay a 6 percent tax to the state. I think that would be counterproductive. I'm looking at the average wage...or, average annual pay in Nebraska in 2003, which is the most recent data I have--\$30,382 a year. That would mean about \$1,822, and that doesn't buy much of an insurance policy for an employee. And if you would like to respond, I will give you the remainder of my time.

SENATOR CUDABACK: Thank you, Senator Redfield. Further discussion on the Beutler amendment, AM1622 to...Senator Beutler, I'm sorry.

SENATOR BEUTLER: Yes. I would just respond briefly. First of all, if you want to get up to the probable actual cost, then you should raise the percentage, Senator Redfield. And maybe you would like to amend it to raise the percentage. I would be open to that. But I wanted to create a percentage that nobody could argue was unfair, and I think that 6 percent does that. Regardless of whatever your wage structure should be, or is, 6 percent is not going to be more than the cost of a reasonable...or, of some healthcare policy. But I don't think you're going to create a race to the bottom, because there's actually nothing right now that keeps them from going to the bottom. So if they have in place a healthcare benefit package that they think they need to be competitive, there's no reason they would drop it simply because they could pay less. Because they can pay less right now. In fact, they can pay nothing at all. So I'm not sure that that's a valid argument in this instance. Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. Senator Redfield, did you wish to use the remainder of your time?

SENATOR REDFIELD: No, I waive the rest of my time. Thank you.

SENATOR CUDABACK: Okay. Okay. Thank you, Senator Redfield. Further discussion? Senator Mines.

SENATOR MINES: Thank you, Mr. President. Could I ask a question of Senator Beutler, please?

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

SENATOR BEUTLER: Sure.

SENATOR MINES: Thank you. Senator, I apologize for not having gone through the amendment, but occurred...an idea just occurred to me. There's a presumption that most or all of the employees would be on some form of a healthcare plan with the company. At least that's my presumption, is the majority of the employees would be on the employer-provided health plan. If we have an employer that has very few employees, let's say ten, and they qualify for one of the incentives, and many of those employees choose not to become part of the plan because their spouse is...has a healthcare plan somewhere else that's of equal or more benefit, how might that impact what we're doing here?

SENATOR BEUTLER: Well, first of all, I doubt if there would be any corporation that had ten employees that would qualify for this. Maybe on the lowest tier, but that would be an unlikely situation. But as far as the construction of the amendment is concerned, the idea is that every company should be paying a fair share of the overall healthcare costs. And to do that, then you would...your construction should say that every company pays at least some minimal percentage to the effort to provide healthcare or some substitute therefor, which would be what the fund would be...would do. And that requirement wouldn't change based upon the fact that in some cases it may be the other spouse that has healthcare, and your employee is on that healthcare. That will tend to even out, I would think, over time and with different companies.

SENATOR MINES: Perhaps. And just from my own experience, I recall that when I was with the city of Blair, our healthcare plan was very good. However, healthcare plans in other larger businesses in the area were superior. And I'm going to guess that maybe half of our employees were on healthcare with some other provider, not through the city. And I may be taking my concept a little further than is necessary. But I'm just curious, if in fact an employer's plan doesn't measure up to

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other plans in the area, and spouses are more likely to get a healthcare plan from another employer, are we tying these employers to something that may or may not be reasonable? And I'm going to do a little more research. Thank you. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Mines. Further discussion on the Beutler amendment? Senator Beutler, there are no further lights on. You're recognized to close on AM1622.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, we really need to do something about healthcare plans. And there's no better place to start than in situations where we in fact are providing taxpayer money to corporations. In that instance, we should at least be sure that the employees of the corporation are not going to be a burden on the state, especially now you've allowed the 60 percent wage level. I mean, we're creating jobs out there that are, on average, 60 percent of the wage level. And that's going to be financed. That means a lot of those jobs are way below 60 percent of wage levels. And we ought not to be creating a situation where we are encouraging business to come in, who then drop upon our Medicaid system and our healthcare system individuals, children, and women, adults of all types, who in a moment of crisis are not going to be covered by healthcare insurance. There was a recent article just recently in the Journal-Star, you may have seen it, a big, long survey done in Nebraska, an excellent survey, indicating that almost two-thirds of Nebraskans who are uninsured are working or are children of parents who work. Sixty-five percent of those without private insurance say they can't afford it. And 27 percent of working Nebraskans said they couldn't afford employer-sponsored insurance. So this article, which I'll reproduce for you, has a great deal of very valuable information on healthcare and the lack of healthcare insurance in Nebraska. It seems to me that we ought to, as a minimum, be requiring these companies to provide healthcare insurance. And unfortunately, as these things go through our process, there doesn't seem to be any organized effort to really look at the wage structure, or to really look at the healthcare benefits. And what happens is, without that effort, attempts on the floor are rejected on items where we really should be a lot more

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careful and a lot more demanding than what is in this bill right now. This amendment is not very demanding. It says, if you already have a healthcare policy that's similar to the state employees' policy, then you're not even required to do anything in addition as a requirement of this amendment. You're fine. You're doing what we would like to see everybody do. If, on the other hand, you have no healthcare benefits, then this amendment would require you to pay into a fund, which we would eventually design to assist with our healthcare programs. Medicaid could be designed in a whole number of ways. But it requires that every employer, who doesn't have healthcare benefits and is using...

SENATOR CUDABACK: One minute.

SENATOR BEUTLER: ...the Nebraska Advantage Act, pay in 6 percent of their total wages. Six percent of their total wages is way below what it would cost to have a reasonable healthcare plan, in my opinion, and it's below what most large companies in fact have. But it would at least require everybody to pay some amount with respect to healthcare. If you're somewhere in between and you're paying some benefits, but not 6 percent of your total wages, then you would pay the difference between 6 percent of your total wages and whatever it is you are paying, so that you, too, and everybody would contribute, at least to the extent of 6 percent of total wages.

SENATOR CUDABACK: Time, Senator Beutler.

SENATOR BEUTLER: That's what the amend... (microphone malfunction).

SENATOR CUDABACK: You've heard the closing on AM1622 to LB 312. The question before the body is, shall that amendment be adopted? All in favor vote aye; opposed vote nay. Voting on adoption of the Beutler amendment to LB 312, AM1622. Have you all voted on the Beutler amendment who care to? Senator Beutler, what purpose do you...?

SENATOR BEUTLER: Senator Cudaback, I'd ask for a call of the house and a roll call vote.

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

CLERK: 24 ayes, 1 nay to place the house under call, Mr. President.

SENATOR CUDABACK: The house is under call. All unauthorized personnel please leave the floor. Unexcused senators report to the Chamber. The house is under call. Senator Jensen, please. Senator Pahls, please. Senators Engel, Flood, Landis, Kremer, Wehrbein. Senators Bourne, Thompson, and Chambers, will you check in, please? Thank you. Senator Kremer, would you...Senator Kremer. All members are present or accounted for. Been a request for a roll call vote on adoption of the Beutler amendment, AM1622. Mr. Clerk, please call the roll.

CLERK: (Roll call vote taken, Legislative Journal page 1526.) 14 ayes, 12 nays on the amendment.

SENATOR CUDABACK: The amendment was not adopted. I do raise the call. Mr. Clerk, next amendment, please.

CLERK: Mr. President, the next amendment I have, Senator Beutler, FA257.

SENATOR CUDABACK: Senator Beutler, you're recognized to open on FA257.

SENATOR BEUTLER: Mister...Senator Cudaback, I would ask to substitute AM1609. (Legislative Journal pages 1526-1527.)

SENATOR CUDABACK: Any objection? So ordered. Mr. Clerk, when you get time. Senator Beutler, did you wish to substitute the Synowiecki amendment for your amendment?

SENATOR BEUTLER: I do.

SENATOR CUDABACK: Senator Synowiecki, does that...no objection? So ordered. Senator Beutler, to open. I'm sorry. Senator

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Synowiecki. We'll get this right yet. Senator Synowiecki.

SENATOR SYNOWIECKI: Thank you, Senator Cudaback, members. AM1609 may be a little bit different approach to this. I think it's safe to say that this is much, much more acceptable philosophically with the business community. I'd welcome you to have a dialogue with them relative to this. This amendment centers purely on incentivizing health insurance, and no mandates whatsoever relative to this. As LB 312 sets out, there are categories of wages. And based upon the wage in each of them categories, there is a credit given back to the corporation or company for them wages. A 3 percent credit is given for any wage that represents 60 to 75 percent of the Nebraska average wage. A 4 percent credit is given back to the corporation or company if the wage under the jobs applied for are anywhere from 75 to 100 percent of the Nebraska average weekly wage. And then from there, a 5 percent credit is given for a wage which represents 100 to 125 percent, and a 6 percent credit back for wages that are in excess of 125 percent of the Nebraska average weekly wage. AM1609 simply takes these bottom two tiers, the 3 percent tier and the 4 percent tier, the 60 to 75 percent average wage tier and the 75 to 100 percent average wage tier, and incents that if the employer provides an appropriation to the premium for a healthcare package, as defined in other areas of statute, that they will be, in essence, bumped up to that next percentage. So if you have a corporation or a company that's claiming credits under LB 312, and their salary is anywhere from 60 to 75 percent of the Nebraska average wage, if they additionally provide a health insurance package to that employee and contribute a minimum of 50 percent to the premiums, they will qualify for a 4 percent credit. Likewise, if a corporation or company is claiming benefits under LB 312 that pays 75 to 100 percent of the Nebraska average wage, if they, on top of that, provide a health insurance premium appropriation of a minimum of 50 percent, they will in turn be bumped to the 5 percent credit category. I hope that the members will give this serious consideration. I think Senator Beutler was quite eloquent in his description of the need for some type of healthcare involvement with LB 312. I'd just like to remind members, our General Fund expenditure for Medicaid for 2005 is \$470 million. You take these kind of wages, \$8, \$9, \$10 an hour

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wages, without the accompanying health insurance plan, a family's assets is wiped out with one trip to the emergency room. And we need to do something here. This is a measured approach. It entirely incentivizes. It doesn't mandate anything. I think it's important as a public policy perspective that we have something in this bill to incentivize the private sector to offer health insurance benefits to their employees. Thank you, Senator Cudaback.

SENATOR CUDABACK: Thank you, Senator Synowiecki. (Visitors introduced.) On with discussion of the Synowiecki amendment. Senator Thompson, followed by Senator Landis.

SENATOR THOMPSON: Thank you, Mr. President, members of the body. I appreciate Senator Synowiecki bringing this amendment. When I first started looking at this issue several years ago, Nebraska had one of the very first business incentive laws. And because it was an older law, it didn't include the issue of health insurance for employees. I looked at other states, and bills that came later in other states did have that inclusion. And so one of the reasons we've never had it, I believe, is because our law was an early law, and it didn't get into some of the broader issues of what you want in terms of quality jobs coming into your state. It was done in response to some specific companies leaving the state. And as a result, we didn't update it for quite a while. And this is really the first time we've actually gotten to a point where the business community was willing to allow the bill on the floor and allow it to be opened up and revised. And in doing so, of course, they want added incentives, which we do need as a state to be competitive. This, to me, is basic policy. We can't afford to be finding ways in our budget to insure people who are uninsured, or take care of their healthcare uninsured. We mentioned the issue of Medicaid. That's just one place. We also provide funding for health centers, because of the huge number of uninsured that we now have in this state. And we can't allow that to go on without policy that is in place, as Senator Synowiecki stated. So clearly, this is our opportunity to encourage the business community, not costing any more money, not the same bills that have been introduced in recent years that would mandate it, but to provide what I think is fairly

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gentle in terms of incenting those companies that are coming in to be able to go to another tier because they did provide health insurance. This is good public policy. I appreciate Senator Synowiecki's work on this issue, and urge you to support this amendment.

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

SENATOR LANDIS: Mr. Speaker, members of the Legislature, I think this is the closest call of all the ones that we have. In fact, the idea of incentivizing was a thought that I think occurred out in the lobby, and might have been my idea (laugh) as a matter of fact. The net result, I think, will be this, and that is that the bill...this amendment may make the bill more expensive, and yet not necessarily create more medical coverage. I think for companies that already have benefits, they'll get more benefit from the bill because they have it. And maybe that's good enough. But I do fear that, while it does incent, it won't be the deciding point between creating health benefits and not. The net effect will be to make the bill more expensive, and I'm not sure we will get broader health coverage in exchange. Should we get health coverage? Gosh, I wish we could. What a great idea. And for those of you who vote for this, I understand perfectly. By the way, there are some technical amendments. In the event you're going to do this amendment, you probably need to make some adjustments. I think John has been given some thoughts on that. I've been given the same thing. But they're solvable. You could solve the technical problems with this idea. The question is whether you want to do this idea or not. I'll live with whatever results the body says, and I'll accept this and carry the bill forward with whichever choice you make. I will be "not voting." The "not voting" is because I think this amendment makes the bill more expensive, and yet I won't be able to necessarily identify broader health coverage as a consequence of paying more money in tax incentive benefits.

SENATOR CUDABACK: Thank you, Senator Landis. On with discussion. Senator Connealy, on the Synowiecki amendment.

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SENATOR CONNEALY: Thank you, Mr. President, members. I think this is a great idea. But I just really don't know what the ramifications are. I think that this is something that the Legislature ought to look at. And as they talked about other amendments and the other parts of what we've done, this ought to be part of what we do, going forward. I don't know if I have enough information of how...what the ramifications are, as Senator Landis mentioned, to accept this at this time. A lot of good ideas have come. And we've said, you know, we're not going to spend any more money than this huge amount of money that we're already spending. So we've not added things that we wanted to do. And some of those are the issues that we've been discussing this morning. We, a couple...probably a month ago, said, this is the amount of money within the package that we're going to spend; you don't come to us, anybody that's interested in incentives, unless you can take more money out of it, or the same amount of money out of it as you add to it. And I...because of that, I've got to stay with that fact going from here forward. Because there are a lot of good ideas that I've turned down and said that I'm not going to accept because of the fact that they do cost more money. And because of that, I think we ought to look at this going forward. We ought to bring up a study and a bill next year to put this in our incentive package, because I think it's a laudable suggestion, and we ought to know all the details before we put it into law.

SENATOR CUDABACK: Thank you, Senator Connealy. Senator Beutler.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, let me just make a comment on what we're doing here to ourselves, long term, and I'm going to be part of doing it so...but I think we should be conscious of some things. With this incentive package, along with everything else we're doing this session, but largely as a result of this incentive package, you all are aware, if you look at your green sheet, that we end up creating \$235 million deficit four years out, \$235 million. Now, you can get rid of about half of that deficit if you change the law with regard to property tax and simply say, as the law says now, we're not going to drop the school levy from \$1.05 to \$1.00. Okay? So you cut that deficit roughly in half if you

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give up your property tax relief. But you're still sitting there with somewhere in the neighborhood of \$112 million. And where are we going to get that? We have no present provision for where we're going to get that. If all our revenue projections stayed exactly as they are, if everything happened in accordance with how we thought it would flow, then we would have to do some serious cutting. And one of the areas where we would be doing cutting is in the area of Medicaid. It's all being set up for that. I don't mean that it's intentionally set up for that, but that's what's going to happen. You're creating a fiscal crisis four years out that will certainly be there unless revenue forecasts suddenly increase again. And then you're going to have to cut. You're going to have to cut...you're going to have to load on property taxes, and you're going to have to cut. And you're going to be cutting medical care as one area. You have to. And so it would seem to me to make sense, if we ever have any intention of getting a handle on the medical care problem, that at least we start in this area where businesses are being given taxpayer incentives, and require that they not be a part of the problem, and try in some small way--I mean it's almost ridiculously small, actually--but in some small way to mitigate the cutting to Medicaid that is going to be seen as almost a necessity four years from now, or two years from now, three years from now, when you do the next budget, anyway. So, you know, what do you want? Is that where you want to get to? Revenue projections...you know, our revenue averages around 5 percent. Revenue increase average from year to year is around 5 percent. The last two years, it's been 8 percent and, like, 7.5 percent. It's been way above average. We've been in an above-average part of the cycle. So our revenues are probably, given the historic way that those things go, our revenues are probably going to decrease. For next year, the projection is...

SENATOR CUDABACK: One minute.

SENATOR BEUTLER: ...4.2 percent, slightly below average. If that would increase by 1 percent, part of our problem, a substantial part of our problem, would be taken care of. If it decreases by 1 percent, that \$235 million hole you have becomes \$335 million or \$350 million. What has happened here is that we

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have this year, by our actions, absorbed entirely all the new money, and then some. We have just gobbled it all up at one time. And maybe that's what we need to do. But you're putting yourselves in some danger of jeopardy a couple years off when you have to face the deficit that is currently showing. Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. Senator Synowiecki, there are no further lights on. You're recognized to close on AM1609 to LB 312.

SENATOR SYNOWIECKI: Thank you, Senator Cudaback, members. Senator Thompson labeled this as a gentle approach, and it is. It is a very measured, very cautious approach to begin to incorporate our healthcare into our state's business incentive program. And you know, companies that are good corporate citizens and that are providing adequate healthcare coverage to their employees and their families, quite frankly, I should...I think they should be rewarded. And I think that they should be rewarded under the parameters of LB 312. If they are indeed offering this coverage to their employees, they should get this additional benefit. Other states have been much more overreaching relative to healthcare packages with their job incentive initiatives. You know, in order for citizens to engage and participate in the economic development that's envisioned under LB 312, I think that this is a very important part of this. And as I have said many, many times on the floor, that, you know, a family's assets can be completely depleted, you know, one trip to the emergency room. And this, in some small way, incentivizes within public policy for our corporate companies...for our corporate citizens out there to offer some degree of health insurance benefits for their employees. Yeah, this may cause LB 312 to be a bit more expensive. I don't think it's going to be that much, quite frankly. But we...I think we need to balance that thought with our expenditures and our public health system, exceeding \$400 million for 2005 for Medicaid alone. I think we need to utilize the incents available under LB 312 to help mitigate costs to our public health systems. And this is one very, very small step. Again, it's a very measured approach, very cautious approach. I think I can say here on the floor, the business community,

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philosophically, have no problem with this. Again, a lot of the companies and corporations that will be tapping benefits under LB 312 already offer some degree of health insurance. I think they should be rewarded if they do. And if they don't, this may, this may provide an incentive for a company to take a serious look at providing healthcare benefits to their employees. I would encourage your adoption of AM1609, so that we can begin to build upon this concept of private sector health insurance in Nebraska as it relates to our business incentives. Thank you, Senator Cudaback.

SENATOR CUDABACK: Thank you, Senator Synowiecki. You've heard the closing on AM1609. The question before the body is, shall that amendment be adopted? All in favor vote aye; those opposed vote nay. Voting on adoption of the Synowiecki amendment, AM1609, to LB 312. Have you all voted on the question who care to? Senator Synowiecki, did you...?

SENATOR SYNOWIECKI: Senator Cudaback, I respectfully request a call of the house, please.

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

CLERK: 18 ayes, 0 nays, Mr. President, to place the house under call.

SENATOR CUDABACK: The motion was successful. The house is under call. All unexcused senators please report to the Chamber. Unauthorized personnel please leave the floor. The house is under call. All unexcused senators please report to the Chamber. Senator Cunningham, Senator Langemeier, Senator Don Pederson, Senator Raikes, Senator Kruse, and Senator Baker. Senator Langemeier, the house is under call, and Senator Kruse. Senator Kruse, please report to the Chamber. Did you wish to proceed, Senator Synowiecki?

SENATOR SYNOWIECKI: Is Senator Kruse available?

SENATOR CUDABACK: He's on his way.

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SENATOR SYNOWIECKI: Okay.

SENATOR CUDABACK: How did you wish to proceed?

SENATOR SYNOWIECKI: Roll call vote, please, regular order.

SENATOR CUDABACK: Thank you. All members are present or accounted for. There's been a request for a roll call vote. Mr. Clerk, please call the roll on the amendment, AM1609. Regular order.

CLERK: (Roll call vote taken, Legislative Journal page 1527.)
20 ayes, 2 nays, Mr. President, on the amendment.

SENATOR CUDABACK: The motion was not successful. The amendment was not adopted. And I do raise the call. Mr. Clerk, do you have items for the record, please?

CLERK: I do, Mr. President. Mr. President, an amendment to be printed to LB 566 by Senator Schimek. Confirmation report from General Affairs, signed by Senator Janssen. New resolutions: LR 117, Senator Foley; LR 118, Senator Schrock; LR 119, Senator Schrock; LR 120, Senator Schrock; LR 121 and LR 122 by Senator Schrock; all study resolutions. All will be referred to the Executive Board. LR 123 is by Senator Heidemann, LR 124; LR 125 by Senator Friend; LR 126, Senator Raikes; and LR 127-133 Senator Cornett. Those will all be laid over. Additional study resolutions: LR 134, Senator Janssen; Senator Kremer, LR 135; Senator Foley, LR 136; Senator Connealy, LR 137. I have appointment letters from the Governor, Mr. President, to the superintendent of the Nebraska State Patrol, to the director of the Department of Agriculture, and to the Nebraska Commission on Law Enforcement and Criminal Justice. Those will be referred to Reference. (Legislative Journal pages 1528-1540.)

Mr. President, the next amendment I have to LB 312, Senator Connealy. Senator, I have AM1471. I have a note that you would like to offer, as a substitute, AM1608. (Legislative Journal page 1541.)

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SENATOR CUDABACK: Any objection? Seeing no objection, so ordered. Senator Connealy, to open on AM1608.

SENATOR CONNEALY: Thank you, Mr. President, members. This amendment was mentioned by Senator Landis at the beginning. This is a work of the committee to get the bill into shape and to resolve some outstanding issues with LB 312, and to get it into condition that the Department of Economic Development, the Revenue Department, and the business community could work with. None of these proposed changes would add, actually, any cost to LB 312. They are mostly clarifying and definitional changes. But there are, in a couple of cases, administrative changes to the past work we've had with LB 775. And these have been accepted by the committee, but are being eliminated now. Most of the significant changes include renaming of different sections into a package. The Employment Expansion and Investment Incentive Act, which is the old LB 608, that would be changed to the Nebraska Advantage Rural Development Act. The research and development tax credits would be changed to the Nebraska Advantage Research and Development Act. The microenterprise tax credit part of this bill, the LB 312...LB 309 part, would be changed to the Nebraska Advantage Microenterprise Tax Credit Act. These changes required the addition of many different sections and changes, so that's why it's a 28-page amendment. This will allow DED to have, you know, a named package that they can highlight in the years to come as they do economic development for this state. The amendment also would substantially rewrite the microenterprise part of that bill, as we make it more focused and narrow. We narrowed the investment portion to be only buildings and depreciable property. We excluded real estate and inventory. The amendment would also allow the credit to be received for increases in employment, defined as the increase of payroll over the year prior to application. And finally, the amendment would extend the prohibition for receiving the more than \$10,000 credit to related entities, as they're defined by the Internal Revenue Code, and close blood relatives of the taxpayer. The administrative changes contained in previous versions of LB 312, as amended, would be struck, and the amendment would strike the interdependent definition because we see that it probably is easier for the Department of Revenue to write rules and

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regulations to do that, instead of us doing it and trying to narrow it without being too narrow in this legislation. It would be easier for the Department of Revenue to do that, so we struck that definition. In detail, the amendment would change the reporting period of different parts of this, and add reporting, like, the Nebraska Advantage Rural Development Act would change to July 15, to match other sections of the bill. The definition of "manufacturing," for purposes of the manufacturing machinery and equipment sales tax exemption, would be clarified to state that manufacturing does not include production of electricity, data processing, information services, broadcasting, preparation of restaurant food or food...or water purification, also transportation of raw materials or products that must be performed by a manufacturer to be eligible for the exemption. Finally, the exclusion of motor vehicles would be changed to vehicles, so that trailers wouldn't be part of it also. They'd still be...they would be excluded, along with the tractor that is excluded now. Under the Research and Development Act, we have a requirement for reporting that wasn't in the original. And it would match the other reporting for July 15. Sections, as I said, for the microenterprise are rewritten. Under that microenterprise part, there is a 20 percent credit for new investment, and we define that more clearly. Finally, under the...that section, we also have a reporting, that wasn't in the original bill, of July 15. So as you go through these different acts, they're all renamed, and they're also all added a reporting date of July 15. The amendment would change the definition of "headquarters" to qualify for administrative management of activities of the taxpayer, and other entities owned by at least 10 percent by a taxpayer and its shareholders. This change is to accommodate a particular business entity that operates properties using a number of limited liability partnerships with a variety of different ownership groups, but they're all managed centrally. The amendment would strike the provisions calling for sanctions against taxpayers for failure to respond to information requests included in the possibility of redeeming application withdrawn. The administrative and time line issues were never really satisfactorily resolved, so the amendment calls for the elimination of those parts that were contained in LB 571. The amendment would clarify the transition between our past programs

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and this new program. It would say that completed applications filed before January 1, 2011, under tiers 1 and 2, shall be considered by the Tax Commissioner to be approved if the taxpayer's project meets the requirements. Amendments would follow that otherwise applications filed under LB 775 prior to January 1 of next year, 2006, shall be considered by the Tax Commissioner to be approved if the taxpayer and the project qualifies. Agreements may be excluded with regard to the applications. The amendment would define the average annual wage for purposes of determining the percentage of wage credits as the total compensation paid to new employees earned at least the required wage, divided by the number of equivalent employees earning the total compensation. The amendment would clarify that the ten-year personal property exemption for tier 4 projects would be available for the full ten year, starting the first year that the taxpayer attains the required levels of employment and investment. It would also say that the investment threshold index for the year of the application would determine the investment threshold application throughout the life of the project. Wage credits in excess of withholding would be used in other ways, or carried over. All credits regarding this type may be carried over to further years. Mostly, the amendment is clarifying, and making it so that it works well. But the big change is that it renames different parts of this, so that now it's a package for the DED to highlight as it goes forward. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Connealy. You've heard the opening on the Connealy amendment, AM1608. (Visitors introduced.) On with discussion of the Connealy amendment. Senator Landis, followed by Senator Beutler.

SENATOR LANDIS: Just to say that I support the Connealy amendment. The general effect of it is as Senator Connealy suggested, and that is to draft more appropriately the ideas that are there, to cut off inadvertent consequences. For example, the manufacturing sales tax exemption arguably may have applied to the generation of electricity, several other things that would have added expense to the bill. The most important thing, from my perspective, is that this amendment does not increase the cost of the bill. It is designed to administer

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what we have on the table better. Clearer definitions, better language to achieve it, a revamping of the microenterprise tax credit to make sure that we can target and use that tool effectively. And I support the Connealy amendment. I also want to acknowledge that we are here because Senator Connealy chose this as his priority bill. And but for that decision, we would not have the opportunity to do this at this critical time. I want to thank him for that critical role in the success of LB 312.

SENATOR CUDABACK: Thank you, Senator Landis. On with discussion of the Connealy amendment. Senator Beutler.

SENATOR BEUTLER: Senator Connealy, a question, if I might.

SENATOR CUDABACK: Senator Connealy, would you respond?

SENATOR CONNEALY: Yes.

SENATOR BEUTLER: On page 6 of your amendment, if you would take a look at page 6, starting with subsection (b) at the top. And this section is with regard to what you've now renamed the Nebraska Advantage Rural Development Act, right?

SENATOR CONNEALY: Yes, it's the prior act of LB 608.

SENATOR BEUTLER: Okay. And just explain briefly again how you qualify to obtain money under this particular section.

SENATOR CONNEALY: Counties under 25,000, it's five jobs; counties under...and \$50,000...\$250,000 of investment. And counties under 15,000, which used to be 10,000, is two jobs and \$125,000 investment.

SENATOR BEUTLER: Okay. Then the language that I'm most interested in says...and I assume this is one of the qualifications, that if you're getting money under this act, you have to be paying a minimum qualifying wage of \$8.25 an hour to the new equivalent Nebraska employees.

SENATOR CONNEALY: That's correct.

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SENATOR BEUTLER: Okay. And that's way above minimum wage, right?

SENATOR CONNEALY: That's correct.

SENATOR BEUTLER: And this applies to rural areas of the state only, right?

SENATOR CONNEALY: Yes.

SENATOR BEUTLER: So, in this incentive bill, we're requiring way higher than a minimum wage, even though the theory of almost everything else we do is that we should pay lower wages in rural Nebraska because they need the jobs more. How do we explain the fact that this minimum qualifying salary is here?

SENATOR CONNEALY: I think that you can have a minimum. I think it can't be too high to be outside the normal area of business. And I think that as you're right around \$9 an hour, I think that this still works in rural Nebraska for the kind of jobs that are...have traditionally been given incentives under LB 608, and...which is now the Nebraska Advantage Rural Development Act. And so I think it works.

SENATOR BEUTLER: Am I reading this right, in the sense that every employee of a company who benefits from this act has to be paid at least \$8.25 an hour? Is that a correct reading?

SENATOR CONNEALY: Every employee that's counted for the credit. So, yes.

SENATOR BEUTLER: Okay. What about the new Nebraska Advantage Act? Is there a minimum wage that's applicable there?

SENATOR CONNEALY: Right. It's...for it to be claimed as a job credit, it is about \$9 an hour.

SENATOR BEUTLER: Okay. So the minimum wage would...it would be \$9 an hour?

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SENATOR CONNEALY: It's \$8.89. But we haven't got it refigured. That was a few months back. So you have to look at the current Nebraska average wage. And it's getting close to...60 percent would be close to \$9 an hour.

SENATOR BEUTLER: Is the requirement in the Nebraska Advantage Act...is it on average \$9 an hour? Or every employee who's counted has to be paid at least \$9 an hour?

SENATOR CONNEALY: It...the second. The average is...that I refer to, is the...how you set that \$9 an hour.

SENATOR BEUTLER: Okay.

SENATOR CONNEALY: The average employee's wages in the state of Nebraska, that would be...would set that.

SENATOR BEUTLER: And that \$9 an hour applies to all the different tiers of the Advantage Act?

SENATOR CONNEALY: Yes, it does, that are used for job credits; not investment credits, but job credits.

SENATOR CUDABACK: One minute.

SENATOR BEUTLER: Not investment credit, but for the job credits. Okay. And what is the theory that it should not apply to the investment credit?

SENATOR CONNEALY: Well, we're trying to...with the job credits, we're trying to build jobs and build the higher wages within that. So that's where we applied those requirements.

SENATOR BEUTLER: But if you applied it to the investment portion, wouldn't that result in higher-paying jobs also?

SENATOR CONNEALY: It would be a different application. We didn't do that. There are investment-only sections of this bill also that don't apply to jobs. So it was a decision by the committee, and by...as we worked through it, that job rates ought to be applied to job credits. We're also going to use

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that in a new way by...under the different tiers, to use those against withholding. And all that would be...

SENATOR CUDABACK: Time,...

SENATOR CONNEALY: ...used as a...

SENATOR CUDABACK: ...Senator Beutler.

SENATOR CONNEALY: ...on the job end of it.

SENATOR BEUTLER: Okay. Thank you, Senator.

SENATOR CUDABACK: Thank you, Senator Beutler. On with discussion of the Connealy amendment. Senator Wehrbein, followed by Senator Stuhr.

SENATOR WEHRBEIN: Thank you, Mr. President, members of the body. I'd like to ask Senator Connealy some questions, if I may.

SENATOR CUDABACK: Senator Connealy, would you reply?

SENATOR CONNEALY: Yes.

SENATOR WEHRBEIN: I know this is your priority and this is your amendment. I assume this was just filed today? I'm being a little cautious this morning, even though it's your bill. (Laugh) I...would you say again what this essentially does, and any...the most significant changes?

SENATOR CONNEALY: Yes.

SENATOR WEHRBEIN: I mean, I know you said it's mostly technical, but there's a few additional things in there. And...

SENATOR CONNEALY: Absolutely.

SENATOR WEHRBEIN: ...this is the bad time of year, these last three weeks.

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SENATOR CONNEALY: Absolutely. The most significant changes would be definitions of the Baker section of the bill, that would define what we already thought was going to be. But we wanted to make sure it didn't apply to the generation of electricity, which would have been very expensive, or other areas. There's certain definitions in it. We also changed the microenterprise part to say that land wouldn't be counted, which was allowed under the first part. Because we thought that could be eaten up all...so we...and inventory also wasn't counted. But jobs could be counted, under that microenterprise part, because that's mostly what we want to do, is have people start businesses and have people...we had working. So new employment and depreciable property, buildings and depreciable property is what we narrowed the microenterprise. Those are changes that are significant. Also significantly, we changed the name of things. So LB 608 isn't there anymore. Now it's the Nebraska Rural Advantage Development Act. And the whole project has gotten "Advantage" in there. And so that, as we go forward, the director of Economic Development has a named package that he can sell as a tool for the state. We're not going to have LB 775 anymore. We're going to have the advantage package.

SENATOR WEHRBEIN: How about...you said something about a July 15 deadline was a change?

SENATOR CONNEALY: Every...we've had a reporting deadline for that for the past on certain parts of what we do for incentives. We added reporting to the microenterprise, we added reporting to the section that used to be LB 608, the Rural Advantage. We added reporting. Then within that we changed...we made sure they were all the same date. July 15 of the year would be the report date for different sections of the bill.

SENATOR WEHRBEIN: Okay. I think I'm all right. I just wanted to be sure I was understanding what I was...not that I was an expert on LB 312 already. But I wanted to be sure I understood what we were doing here this morning. Thank you.

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

SENATOR STUHR: Thank you, Mr. President and members of the

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body. I, too, had some questions, Senator Connealy, although maybe some of those have been addressed, when we were talking about the Microenterprise Act. And you are stating that we have changed the name...if Senator Connealy would have a conversation with me, I would appreciate it.

SENATOR CUDABACK: Senator Connealy.

SENATOR CONNEALY: Yes.

SENATOR STUHR: We have changed the name of the Microenterprise Act. Is that correct?

SENATOR CONNEALY: That's correct, to the Nebraska Advantage Microenterprise Tax Credit Act.

SENATOR STUHR: Okay. And then you also stated...because that was my concern. I see that you struck all the provisions in the original, in our amendments. So you're talking about changing some definitions?

SENATOR CONNEALY: We expanded in one area, and we made it a little narrower in the other area. We expanded to employment, because as we looked at how it was going to be implemented, we thought people...a lot of what's going to happen is a job is going to cause someone to start a new business or to expand a little business. And so we're going to take...allow people to take credit for job expansion, and we're going to narrow it so that they can't spend it all on land. We said the building and inventory is not a part of it. It could have been, under the first, original drafting. So now it's just depreciable property.

SENATOR STUHR: Okay.

SENATOR CONNEALY: Machinery that depreciates, the building, and employment is what you take that credit on. And it still is \$10,000. We've defined what interrelated people...so that one family can't come and get different credits, and you have to be not really close relatives to be able to apply for this on a multiple basis. As we go forward, we thought maybe we could

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define things better, so that it would work well.

SENATOR STUHR: Okay. So you've tightened...you've tightened the provisions in the act, more or less. Also, you omitted, struck, Sections 17 and 18, and could you refresh my memory on that provision there?

SENATOR CONNEALY: They were placed back in other areas, as we renamed things. That's why...but I'm not sure where they went. Let's see.

SENATOR STUHR: Okay. I think that's on page 46 of the original amendment, of the E & R amendment, Section 17. It has to do with "teleworkers," I believe.

SENATOR CONNEALY: That would be as "teleworkers" in LB 608, and that would be back on page 6, where we were talking about before.

SENATOR STUHR: So actually, Senator Connealy, you have just replaced it in another portion of the new amendment?

SENATOR CONNEALY: Yes.

SENATOR STUHR: All right. And also, Section 28 and 55, are those just replaced in a new area of your amendment?

SENATOR CONNEALY: Twenty-eight is not, because that's the definition of "interdependent" that I talked about in the first place.

SENATOR STUHR: Yes.

SENATOR CONNEALY: It was getting problematic on how we define it. We didn't want to...we wanted to restrict it, but we didn't want to restrict it enough so it wouldn't work. And so we thought we better have the Department of Revenue do that in rules and regs. So "interdependent," the definition of that, is not in the bill now, as it relates to that section of the law. And Department of Revenue will have rules and regs that will define that.

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SENATOR CUDABACK: One minute.

SENATOR STUHR: Okay. And Section 55, if you could...

SENATOR CONNEALY: The repealer is redone in this amendment. That was...Section 55 was the repealer, and it's in the new amendment.

SENATOR STUHR: In the new amendment. Okay, thank you. I just wanted some clarification on those points. As Senator Wehrbein said, we're moving along, and I felt that I needed to be more comfortable with those changes. Thank you. With that, I turn the rest of my time back to the Chair. Thank you, Mr. President.

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

SENATOR BAKER: Thank you, Senator Cudaback and members, and I'm not going to take anywhere near my five minutes here, but my part of the bill, LB 695, the sales tax exemption on manufacturing equipment, we have some clarifying language in the amendment here, and I certainly support Senator Connealy's AM1608. That part of it that I had anything to do with clarifies to state that manufacturing does not include production of electricity, data processing, information services, broadcasting, preparation of restaurant food, or water for purification. These are things that were accepted by the business community, but we simply needed to clarify them, and we do so in Senator Connealy's amendment. So for my part of the discussion, I needed to bring that forward. I certainly support the amendment and ask everyone else to. And one other comment; my red vote on Senator Synowiecki's amendment there, prior to this amendment, there were issues out there that were going to increase the costs and so on. And I'm certainly not against health insurance, but there are also the health savings accounts were not addressed, and so on, that a lot of companies are going to now, rather than actually offering a so-called health insurance policy. We have young employees out there that are accessing HS medical savings accounts and so on, so hence, my

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red vote on that. But I certainly support Senator Connealy's AM1608. And a lot of it is dealing, as he said, with the marketing tools. We have names on this package. It's...DED needed some help there as far as marketing this to prospective businesses coming to the state, and that's what a lot of this is. I'd be glad to help answer any questions, if I can. But Senator Connealy is the expert on this amendment. Thank you.

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

SENATOR LANDIS: Mr. Speaker, members of the Legislature, I think two years ago now, Senator Bromm and myself wrote LB 608, which passed, and it was the rural development bill that really came out of the Department of Economic Development's head at that point, Al Wenstrand, who later moved on to Florida. He just sort of...I think he wrote the ideas and put them under our door one day, because he (laugh) didn't want the executive branch to know that he was sort of sending us some ideas on what to do on economic development. And in those private communications, we created LB 608. It was a piece that was done out of frustration, because early on in the Johanns administration, you'll remember that we created an economic development act that was never used. It was there and on the books for a number of years, and unused, in part because, while we did have a salary or wage term in it, it did not fit well with the rural circumstances. It was too high. And the net effect was this: It meant that it distorted the marketplace and that people who wanted to go to rural areas were in pursuit of, in fact, lower labor costs, not higher labor costs. The reason I mention this in relationship to this is because, I think, you know, Senator Beutler was pointing that there is a component of LB 608 that has an \$8.25 number. It winds up being above, certainly, the minimum out in the rural area. It is a wage that fits into that scale, and it has not been a significant deterrent to the use of LB 608. For this year alone, we are now over \$700,000 of usage of the program. Alliance, Ainsworth are both cities that have had manufacturing and technology growth because of LB 608; that, in fact, it has incited some growth in rural areas for which I'm thrilled, since I feel some responsibility for that act's passage, since it was, in fact, my bill. But the most important point that I want to make here is

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that it was a rural development bill that had a wage minimum in it, but the wage minimum reflected rural reality, and the reason that we know that is, this bill is getting used. This bill is being used in rural Nebraska. And towards that effect, I'm glad to see that it's been folded into a more expansive program in DED, the Nebraska Advantage Program. I endorse the amendment, AM1608.

SENATOR CUDABACK: Thank you, Senator Landis. Further discussion on the Connealy amendment? Senator Connealy, yours is the last light, if you'd care to speak, or you care to close. You may do whichever you...

SENATOR CONNEALY: Well...thank you, Mr. President. I will speak, because I did just...I was just alerted to a couple of "mays" that should have been "shalls," and I'm going to fix that in a floor amendment here, as I go forward. Once again, this is a mostly technical amendment that does change names and adds filing dates, and dates that would allow us to get the reporting all on January 15 of the years. There was an inadvertent change from when we discussed it, and had the staff write down all the changes, and a couple of "mays" were put in where "shall" should have been, and I'm filing that amendment right now. So I'm going to wait until that comes up to talk about that.

SENATOR CUDABACK: Mr. Clerk, please.

CLERK: Mr. President, Senator Connealy would move to amend his amendment. (FA269, Legislative Journal page 1541.)

SENATOR CUDABACK: Senator Connealy, to open on your amendment to your AM1608.

SENATOR CONNEALY: Thank you. George caught this, and on page 26, line 17, and on line 23, and on page 28, line 19, the "mays" in those lines should be changed to "shall." And as I said, as we drafted this, that was the way they were listed. We inadvertently had a "may" in there instead of a "shall." On page 26, line 17, it would change from filed before January 1, 2011, "shall" be considered, instead of "may" be considered. On line 23, it would be the same thing, January 1, 2011, "shall" be

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considered; and on page 28, January 1, 2006, "shall" be considered. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Connealy. You've heard the opening on FA269. Open for discussion on the amendment to the amendment. Senator Connealy, there are no lights on. I'll recognize you to close on FA269.

SENATOR CONNEALY: Thank you, Mr. President. We've had drafts and redrafts of this work, and I want to thank Bill Drafting and the staff of the Revenue Committee for their work on this. It's been quite a process. This is a small change from "may" to "shall," but we have to have that done so that the law is correct.

SENATOR CUDABACK: You've heard the closing on FA269. The question before the body is, shall that amendment be adopted to AM1608? All in favor vote aye; opposed vote nay. Voting on the adoption of FA269, offered by Senator Connealy to AM1608. FA269. Have you all voted who care to? Record please, Mr. Clerk.

CLERK: 29 ayes, 0 nays, Mr. President, on the adoption of the amendment to the amendment.

SENATOR CUDABACK: The amendment has been adopted. Back now to discussion of AM1608. Senator Landis, did...I'm sorry, you took your light off? Further discussion? Senator Connealy, there are no lights on. You're recognized to close on AM1608.

SENATOR CONNEALY: Thank you, Mr. President. This is a technical amendment that's been worked on by most of the interested parties in negotiations. It makes the bill work better. I want to thank you for your time this morning, and appreciate your support of this amendment.

SENATOR CUDABACK: Thank you, Senator Connealy. You've heard the closing on AM1608. The question before the body is, shall that amendment be adopted? All in favor vote aye; opposed to the amendment vote nay. Voting on adoption of the Connealy amendment, AM1608, to LB 312. Have you all voted on the

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amendment who care to? Record please, Mr. Clerk.

CLERK: 34 ayes, 0 nays, Mr. President, on the adoption of Senator Connealy's amendment.

SENATOR CUDABACK: The Connealy amendment has been adopted.

CLERK: Mr. President, the next amendment, Senator Preister, AM0282.

SENATOR CUDABACK: Senator Preister, you're recognized to open on AM0282 to LB 312.

SENATOR PREISTER: Thank you, Honorable President. Mr. Clerk, I would like to withdraw that and refile it at the end of the amendment list, please.

SENATOR CUDABACK: So ordered, Senator Preister.

CLERK: Mr. President, the next amendment I have, Senator Chambers, FA258. (Legislative Journal page 1437.)

SENATOR CUDABACK: Senator Chambers, to open on your amendment to LB 312.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, this is my antidiscrimination amendment. When businesses are going to get these incentives, there should be a standard set by the state to make sure that all residents are protected from unreasonable discrimination. This is what the language would say, for the record--Add a new section: "No business firm which receives any incentives or benefits pursuant to this act shall discriminate against any person on the basis of sexual orientation." On General File, I was going to offer this amendment, but Senator Landis and I reached an accord which made it possible for the amount of time taken in debate to be diminished, and the bill could move forward. This amendment is not part of a strategy to derail this juggernaut. Senator Landis and I agreed that, in exchange for me pulling this amendment on General File--and that's all that our agreement dealt with--he would allow me to take a bill of his which is out

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here, LB 13, gut it, and insert the language of my bill, which is languishing in the Judiciary Committee, which would prohibit discrimination based on sexual orientation. I let him know that I am going to run this amendment. The rest of those that you see on your gadget following this amendment will be pulled. I am not going to hold LB 13 hostage and have it both ways. I'm going to offer this amendment. I'm very serious about it, and I think that my colleagues have shown what I consider to be a remarkable degree of understanding, and I hate to use the word "kindness," when we're doing only that which we ought to do, but kindness toward people who have been kept outside the pale for all of the time that Nebraska has been a state. A version of this amendment has received 23 votes, 24 votes and, in one case, 25 votes. There is a goal I would like to achieve before I leave this Legislature, and that is the abolition of the death penalty. Whether I will see that or not while a member of this Legislature, whether I will see that during my lifetime, I cannot predict. But I will tell all of you that I have been pleasantly surprised by the support that has been shown by my colleagues for doing away with a type of discrimination that is cruel, insidious, invidious, and vicious. When I offered my bill this last time before the Judiciary Committee, the Catholic Conference, as it is called, which usually sends people to oppose it, were not there to oppose it. The types of people who opposed it talked about people having sex with children, animals, and other very low-level types of comments. That demonstrated the company that is being kept by those who oppose doing away with discrimination. Senator Combs regularly mentions the cruel things she saw happening to people who are obese, and especially those who are morbidly so. But because she cannot obtain--I don't know that she has ever tried, even--some kind of protected status for obese people, should not be a basis to retain discrimination against others. I will tell Senator Combs that I will never, no matter how long I live, eradicate discrimination based on race, color, national origin in America. There might be a chance on national origin, if you also don't have a complexion such as mine, which gives away the game, and at which the line is drawn when it comes to equality in all things. But because of the type of discrimination that black people have experienced in this country, I'm very sensitive to discrimination against others. I will never say

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that as long as there is discrimination against black people, I'm going to make sure that others be discriminated against, because as the man who wrote who wrote The Divine Comedy put in Satan's mouth, or Mephistopheles, "It is a solace to the wretched to have companions in grief," which has been changed to "Misery loves company." It is no solace to me to know that there are people being discriminated against in the way that my people are discriminated against. I'm not interested in seeing that happen. Although I do not take the "Bible" to be divinely inspired, there are words in it which have as much validity as Aesop's Fables, Grimm's Fairy Tales, Greek and Roman mythology, the writings of philosophers, and others. And I would answer the question that Cain put to God, "Am I my brother's keeper?" I would say my brother and my sister's keeper, and the answer is yes. To add a bit of levity, there was a gorilla who could read and could sign, and when that question was put to the gorilla, "Am I my brother's keeper?" the gorilla signed back, "I am my keeper's brother." There is a connection, an interconnection, between and among all living creatures. Nobody knows what goes on in the mind of what are called the lower animals. We do, however, know what goes on in the mind of human beings. We know what is troubling to their emotions, we know what can crush, oppress, and distress their spirit. Poets down through the ages have tried to explain things to those who are less sensitive. Essayists have tried to do the same thing. Poets, essayists, philosophers, do not become legislators. So, despite the fact that there are universities that teach what are called liberal arts courses, the courses suitable for a free person--that's what "liberal" meant, those who are free--to elevate the spirit, ennoble the mind, put one on the path to trying to make the world a better place for everybody. Although those courses are still taught in universities and are praised and used by universities to try to draw more students...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...because they produce a better person, legislators often are immune to such ideas. This Legislature has shown more awareness and sensitivity to and on this issue than I had any right, based on the past, to expect. Since the momentum seems to be there, I'm going to try to continue moving

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us gently in that direction. That's what my amendment is designed to do here. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. (Visitors introduced.) On with discussion of the Chambers amendment. Senator Chambers, followed by Senator Landis.

SENATOR CHAMBERS: Mr. President, members of the Legislature, sometimes the flawed ethics of the marketplace, which exist because the idea of the marketplace is to make as much money as possible, or all the traffic will bear. Sometimes that flawed ethical standard can be a guidance to those who ought to be establishing the policies of and for the state. In the realm of the larger businesses, discrimination based on sexual orientation is verboten. I had mentioned last week about a bill before a legislature--it may have been Washington State--designed to prohibit discrimination in employment based on sexual orientation. Microsoft, as a company, which had always supported such legislation, backed off. The theory or the statement given as to why Microsoft behaved in this fashion was supposedly based on a threat by a fundamentalist preacher to lead a boycott of Microsoft products. Employees and others condemned Microsoft's craven collapsing on this issue. Microsoft, upon further review and consideration, switched and went back to its original principled position, and supported the legislation. I don't know whether it will have a chance to be reconsidered out there or not, but I mention that to show that by putting this requirement on those companies that are receiving benefits and incentives under this law, should be prohibited from discriminating against any residents, based on sexual orientation. This is not an amendment that affects all businesses in this state. It affects those who will gain benefits from taxpayers, in order to facilitate their making a greater profit. There were statistics handed around to all of the members showing that a majority of Nebraskans are opposed to discrimination based on sexual orientation. Even at the time they were voting imprudently for that antigay and lesbian provision in the Nebraska Constitution, they simultaneously went on record as being opposed to discrimination against gay and lesbian people. A judge, in striking that down, that constitutional provision, said it demonstrated an animus, that

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means a negative, malicious, gratuitously malicious attitude against gay and lesbian people, and the desire was to punish them. The amendment overstepped. It didn't affect just gay and lesbian people. But nevertheless, here I am today, asking that we adopt this amendment. Nobody from the business community--and I do communicate on...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...occasion with such people--has suggested that this amendment is in any way obnoxious or objectionable to them. Maybe they've communicated a different message to others, but we'll have an opportunity to see that as we proceed. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Mr. President. Mr. Clerk, items for the record?

CLERK: Mr. President, I have one item, a new resolution offered by Senator Schrock, a study resolution to be referred to the Executive Board. (LR 138, Legislative Journal page 1541.)

And I do have a priority motion. Senator Janssen would move to recess till 1:30 p.m., Mr. President.

SENATOR CUDABACK: There's been a motion to recess till 1:30. All in favor say aye. Opposed, nay. We are recessed.

RECESS

SENATOR CUDABACK: (Recorder malfunction)...Legislative Chamber. Senators, the afternoon session is about to reconvene. Please check in. Record please, Mr. Clerk.

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

SENATOR CUDABACK: Thank you, Mr. Clerk. Mr. Clerk, do you have

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any announcements or items?

CLERK: I have nothing at this time, Mr. President.

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

CLERK: Mr. President, Senator Chambers had presented FA258 as an amendment to LB 312.

SENATOR CUDABACK: Thank you. Those to speak yet on the Chambers amendment, Senator Landis.

SENATOR LANDIS: Thank you, Mr. Speaker, members of the Legislature. I think I'm Senator Chambers' most reliable voter on this issue, on the body, over time. I want to say two things. One, I think if this is a requirement, it should start with us. I don't think Senator Chambers and I disagree. This should cover state government. State government should live by this principle. I am going to follow the same pattern that I have been doing so far, which is, if you want to stick this in the bill, I'll carry the bill. I'm going to vote "not voting," even though I happen to be a supporter of this idea. I've achieved what I think is something that...a relatively good balance here. It's true, by the way, I don't hear yes or no from the lobby. I think from their perspective, if this is what happens, this is what happens. However, I do think that the first place where we should be doing this is in our own house, and that is state government. But should this be successful, I will carry the bill forward and be just fine with it. I will try to keep to the tenor of what's in the bill, which is LB 312, which is a tax incentive package designed to foster economic development. This is a piece of social justice that should come over time, it should come to all employers, it should start with us. But I won't assist, at this moment in time, on this bill with this amendment. I'm going to be "not voting," and I will live with whatever the body decides to do.

SENATOR CUDABACK: Thank you, Senator Landis. On with discussion of FA258. Senator Chambers.

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SENATOR CHAMBERS: Mr. Presidents, members of the Legislature, I do intend to try to amend a couple of bills, LB 427 and LB 425. Still, what is being presented here with this amendment on this bill is reasonable. The business community has come here to raid the treasury, purely and simply. By the time it's over, hundreds of millions of dollars will have been taken from what they refer to as the revenue stream. These companies are taking something from the state. They will not oppose this amendment. I handed out an article, along with others on that page, describing Microsoft's reversal of its stand on a bill in Washington. They had at first favored a bill prohibiting discrimination against gay and lesbian people. They switched from that to the most damnable position, based on what everybody says, which is one of neutrality. Then, upon further review, they came back to their original position and supported protecting the rights of gay and lesbian people. And this is what was said by the chief executive of the company. Quote: After looking at the question from all sides, I've concluded that diversity in the workplace is such an important issue for our business that it should be included in our legislative agenda. This man's name is Steve Ballmer, B-a-l-l-m-e-r, and his company is now officially, once again, supporting gay rights legislation, as it's called. We're dealing with groups, firms who are coming to the state to get something. Is it too much to ask that they not discriminate? That's all this amendment says. I don't want the Catch 22 that Senator Landis is proposing, but at least he said he's not going to vote against the proposition. My arguments are not to persuade Senator Landis, because he already is persuaded. He is in that delicate position of the person about whom all are speaking well--the World-Herald, Mick Mines, everybody who speaks. And you know what the "Bibble" said, Senator Landis? Woe unto you when all men and women speak well of you. Woe! W-o-e. Now that we have some perspective and context here, Senator Landis is prepared to abide by the will of the body. The body's will should be to prohibit these companies from discriminating. Do you want to send the message, since the issue is being brought, that they can? They now know, if they didn't before, that the law does not protect gay and lesbian people from discrimination in the workplace. The statutory scheme which does that protects only those who are mentioned explicitly, and gay and lesbian people are not

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mentioned. My amendment uses the term "sexual orientation." There should not be discrimination...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...based on that factor. An article was handed around to us the other day, and it appeared in the newspaper, an Associated Press item, pointing out that tests and experiments have shown that gay men, in fact, have a different response in their brain to male hormones, than do men who are not gay. It is of the warp and woof of gay men. It is not something that is chosen; it is a part of their makeup. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Connealy, on the Chambers amendment.

SENATOR CONNEALY: Thank you. I turn my time to Senator Chambers.

SENATOR CUDABACK: Senator Chambers.

SENATOR CHAMBERS: Thank you, Senator Connealy. Members of the Legislature, to continue, if you look at this sheet you will see other items. When Senator Foley made certain remarks about people who may be gay or lesbian, I had talked about the problems in the Catholic Church, and that despite the wrongfulness done by priests on a broad scale, all across this country and throughout the world, I would not say banish every priest from dealing with children, or having certain jobs, simply because he is a priest. But it just happened, Tuesday, May 10, seven days ago, an Associated Press item appeared. St. John's, Newfoundland, is the dateline. Quote: A Roman Catholic diocese in eastern Canada plans to sell all its churches and missions to raise the money to pay the victims of sexual assault by a priest who was convicted more than a decade ago, a bishop said Monday. The Catholic Diocese of St. George's will sell about 150 properties to raise \$10,500,000 as part of a settlement for the victims of the Reverend Kevin Bennett. He was convicted in 1990 of hundreds of sexual assaults over three decades as a priest in the province of Newfoundland. How many

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people are willing to say ban priests? Do you think that he could have engaged in this conduct over three decades, molesting hundreds, without the hierarchy knowing about it? They know, but the church is one of the strongest antigay outfits you can find. Maybe if they'd spend a bit more time cleaning their own house, and spending less time meddling in other people's personal affairs they could corral some of these rogue priests. But while I'm at it, Lincoln is the only diocese under Bishop Bruskewitz which will not agree with the bishop's audit to ensure the prevention of abuse of children by priests, and his operation is out of compliance. But because the audit is a voluntary activity, there is no sanction for him being out of compliance. Omaha and Sioux City had agreed to do the audit. Sioux City was clean as a chitling, as a hound's tooth. The Archdiocese of Omaha had two areas where they were out of compliance. They got busy and corrected them and now are in compliance. Bruskewitz does not want to do the audit, they are out of compliance, but it makes no difference, because they're sending people down here to speak against the rights of gay people, against people being protected from discrimination. I brought that up because so much along that line is said based on dogma. You'll also see an article about the Spokane mayor. He is a Republican, a conservative, a strong foe of gay rights. But he himself, apparently, is gay, and he also was a state senator. I found that out...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...on the news. Sometimes these people who are so strongly against the rights of other people may be trying to provide a cover for themselves, so they will be above suspicion. But if they have to do that, it shows that they are aware of how the society condemns them, treats them unfairly, casts them aside. So, instead of pretending to be like those haters, and joining the haters and leading the pack, they ought to be standing up, speaking for justice, and whatever the consequences, take them. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Chambers, there are no further lights on. Senator, I'm sorry, but you have spoken three times, Senator. Senator Preister.

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SENATOR PREISTER: Thank you, Honorable President. I would yield my time to Senator Chambers, if he wants it.

SENATOR CUDABACK: Senator Chambers, almost 5 minutes.

SENATOR CHAMBERS: Thank you, Senator Preister, and maybe a couple more times, if anybody will. Then I will have said everything that I need to say. Also, it gives people a chance to make it to the Chamber. Senator Landis offered an amendment that garnered 24 votes the other day, and I'm reoffering it. I changed the drafting slightly. Instead of having the word "irrelevant"--for some reason, that troubled some people--I'm striking that and returning to the nondiscrimination language, but that will come up on another bill. That is so that Senator Landis won't think that I've forgotten about the state. The state should lead the way. But as I was getting ready to say earlier during the day, the flawed ethics of the marketplace have led business people to realize--not all of them--that discrimination against gay and lesbian people is against the best interests of the marketplace. The world is full of people, not just so-called straight people, all types of people, and some of them hold positions of authority. But I wrote a brief rhyme some years ago, and I'm going to read it. It's called "The Homophobe's Homily," and the "them" that I'm talking about you probably will know: They're everywhere, they're everywhere. They walk our streets; they breathe our air. They're under beds and on the stair, like lurking monsters in their lair. They're on the ships, they're in the air; they're working here, they're working there. On railroads taking travelers' fare, our cars and trucks they do repair. They serve as doctors giving care. They're lawyers seeking process fair. The garb of nuns and priests they wear. They've infiltrated everywhere. They've sat in the electric chair, and judges were who sent them there. They may have long, short, or no hair, be homeless or have cash to spare. They may be single or a pair; some play lion, some the hare. They like their meat well done or rare, and some for veggies only care. They play whist, bridge, and solitaire. No scarlet letter do they wear, no mark of Cain in forehead bear. The moral giants ooze despair, because they cannot lay them bare, nor snag them in escape-proof snare. To turn our backs we

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do not dare, so on your guard beware, take care. They're everywhere, they're everywhere. Who are they, these fearsome others? They're our very own sisters and brothers. I want to tell my colleagues something that may moderate the comments they make on the floor. There are gay people in this building. There may be gay people on this floor. Sometimes the hateful statements that are made are cutting to people you would not make those statements to, if you knew. So pretend that any person on this floor, for whom you may have a modicum of respect, is gay. Consider that one's family member may be gay. Then moderate...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...the kind of things that you'll say. It should not be difficult to adopt this amendment. It is not limiting the amount of money, the types or extent of incentives being given to these big, powerful operators. It is placing no limit on them, unless they propose to behave in an inappropriate way. And we need to state as a Legislature what we deem to be inappropriate conduct for those who are receiving so much from the state, at the cost and expense of the taxpayers. Thank you, Mr. President.

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

SENATOR CONNEALY: I yield my time to Senator Chambers.

SENATOR CUDABACK: Senator Chambers.

SENATOR CHAMBERS: Thank you, Senator Connealy. And this will be the last time I'll speak, in addition to my close...my closing. I thought about this bill over the weekend, and other bills, too. This is the place to make a statement by the Legislature in the language of the statute that already is on the books, that prohibits employment discrimination against certain specified groups. There is language to the effect that any artificial barriers hurt the state, hurt its economy, go contrary to principles of justice. All of those high-sounding sentiments are expressed in statute right now. The time to make

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a change in the law is when it can be shown that the law which is designed to protect is not, in fact, protecting everybody who needs its protection. The group that I'm interested in trying to help has been subjected to every manner of insult, degradation, violence to the point of death. Some have been beaten unmercifully, and perhaps, misusing the term "mercifully," mercifully died; others did not. Some were beaten and tortured and left to linger in great pain and agony, before the Angel of Death decided to take mercy and remove them from this earth. Human beings are the ones who did those terrible things, human beings who, by and large, call themselves straight or heterosexual. They who are doing these terrible things do not want to be punished when they do these crimes. But they feel other people should be punished and discriminated against because of what they were born as. People are born gay, people are born lesbian. Because these are immutable characteristics, protection should be forthcoming, when because of those immutable characteristics they are discriminated against, not because of inappropriate conduct. That is an area of the law which should affect everybody equally who is similarly situated. When a trait is picked out as a basis for justifying maltreatment of others, something is drastically wrong, and it needs to be corrected. A column that I included on that sheet has for a caption, "Targeting gays betrays humanity." One of the comments this man made dealt with an e-mail he got from a lawyer who was talking about a gay and lesbian holocaust. The columnist, Leonard Pitts Jr., of The Miami Herald, who a few weeks ago won a Pulitzer Prize, did not want to use...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...Holocaust with a capital "H" to apply to what gay and lesbian people are facing because, as he pointed out, they're not on trains being trundled to the death camps. But his final sentence is: You're right. But ask yourself, how many would put them on those trains, if they could? And further up in his item he talks about the mind-set that affected the Nazis and the antigay people of today. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator

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Schimek.

SENATOR SCHIMEK: Yes, thank you, Mr. President and members. I turned my light on originally to give Senator Chambers some time, but I just heard him say that he doesn't need more time, that his closing will be adequate. But I also turned it on because I think that nobody is listening at this point today, and I think that's a shame, because I think what Senator Chambers is proposing is something that he has worked on for a very long time. It is the right thing to do. And, Senator Chambers, I've sent for my file that has the votes that we took on your last two amendments. On one of them you got 23 votes; one of them you got 24 votes. I suspect, if we looked at those lists very carefully, there were 25 people at least, in all, who were voting yes. And I'm thinking that at some point, if you don't get 25 votes on an amendment of this nature, then I think we ought to start asking ourselves why. What's going on here that's not readily apparent? And I, for one, would encourage people to follow their conscience on this one, and to vote and do the right thing. With that, Mr. President, I return my time to the Chair.

SENATOR CUDABACK: Thank you, Senator Schimek. Senator Chambers, there are no further lights on, so the Chair recognizes you to close on FA258.

SENATOR CHAMBERS: Thank you, Mr. President, and I'm going to read a bit from this column I was discussing, where the columnist is comparing the mind-set of the Nazis and that of the fervid, antigay people: Both spring from a mind-set that says a given people is so loathsome, so offensive to our sensibilities, that we are obliged to place them outside the circle of normal human compassion. We do not have to hear their cries, do not have to respect their humanity, do not have to revere their tears, because they are less than we--and at the same time, they are responsible for everything that scares or threatens us. Whatever it is, it's all their fault. Blame them, whoever "them" may be. My problem is that I see human dignity as all of a piece. As Martin Luther King Jr. put it, we are caught in a network of mutuality. As Dick Cheney put it, freedom means freedom for everybody. As Cain put it--to quote him again--Am I

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my brother's keeper? I always considered that the signature lesson of the Holocaust. I always felt that, in the largest sense, it was not about Jews and Aryans, but about humanity and inhumanity. The Holocaust was, after all, only hatred carried to its logical extreme, the predictable outcome of an environment where we countenance taking rights from "them," heaping scorn on "them," making scapegoats of "them." And who can deny that this describes the plight of gay Americans in 2005? Or that demagogic lawmakers are using this environment to further their own ambitions? There was a book that was going to be used in some schools, and there was a law being considered in Alabama to take it out, because there were some gay characters. And the question posed, that may be asked by children even, and certainly relatives and those who are gay and lesbian, why do they hate us? The columnist then says: And it strikes me that the same thing could have been asked by an Armenian in 1915, by a Bosnian Muslim in 1992, by a Rwandan in 1994, and, yes, by a Jew in 1936. We don't learn. Mr. President, members of the Legislature, this body has shown that a substantial number have thought about this, have learned, are willing to extend our respect for the humanity of our brothers and sisters, to our gay and lesbian friends, relatives, neighbors, even, perhaps, enemies. I would ask, Mr. President, for a call of the house.

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

CLERK: 24 ayes, 0 nays, Mr. President, to place the house under call.

SENATOR CUDABACK: The house is under call. All unauthorized personnel please leave the floor. Unexcused senators report to the Chamber. The house is under call. Senator Engel, Senator Don Pederson, Senators Flood, Langemeier, Heidemann. Senators Fischer, Loudon, McDonald. Senators Burling, Synowiecki, and Bourne. Senator Thompson and Senator Beutler. The house is under call. Senator Flood, Senator Brashear, Senator Fischer, Senator Burling, Senator Loudon, Senator Synowiecki, Senator Bourne, Senators Thompson and Beutler. Senator Brown, would you

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check in, please? Thank you. Senator Flood. Senator Flood, the house is under call. Please check in. All members are present or accounted for. The question before the body is the adoption of FA258, offered by Senator Chambers to LB 312. All in favor vote aye; those opposed, nay. Voting on the adoption of the Chambers amendment, FA258. Have you all voted on the question who care to? Have you all voted? Senator Chambers, for what purpose do you rise?

SENATOR CHAMBERS: I will ask for a roll call vote.

SENATOR CUDABACK: There's been a request for a roll call vote on the question. Mr. Clerk, please call the roll when you get time.

CLERK: (Roll call vote taken, Legislative Journal page 1542.) 18 ayes, 16 nays, Mr. President, on the amendment.

SENATOR CUDABACK: The amendment was not agreed to, and I do raise the call. Mr. Clerk, next amendment, please. Mr. Clerk, do you have any items for the record, before we start?

CLERK: I do, Mr. President. Senator Beutler, an amendment to be printed to LB 529. Study resolutions: LR 139 by Senator Baker; LR 140, Senator Baker, LR 141, LR 142, LR 143, and LR 144; all study resolutions; all will be referred to the Executive Board. (Legislative Journal pages 1543-1549.)

Next amendment, Senator Chambers, I have FA240, Senator.

SENATOR CUDABACK: Senator Chambers, to open on FA240 to LB 312.

SENATOR CHAMBERS: Mr. President and Mr. Clerk, I'm going to withdraw my amendments, FA240 through FA254.

SENATOR CUDABACK: They are withdrawn, Senator Chambers.

SENATOR CHAMBERS: Thank you.

SENATOR CUDABACK: Thank you.

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SENATOR CUDABACK: Mr. Clerk, next amendment, when you get time.

CLERK: Senator Beutler would move to amend, AM1625.

SENATOR CUDABACK: Senator Beutler, to open on AM1625.

SENATOR BEUTLER: Senator Cudaback, I'd withdraw that amendment.

SENATOR CUDABACK: It is withdrawn. Mr. Clerk?

CLERK: Senator Redfield would move to amend, AM1615, Mr. President. (Legislative Journal page 1549.)

SENATOR CUDABACK: Senator Redfield, to open on AM1615 to LB 312.

SENATOR REDFIELD: Thank you, Mr. President, members of the body. I have always been a strong supporter of the LB 775 program, as we have established it here in Nebraska. I've shared here on the floor exactly what happened when we had an economic downturn. The fact that companies had invested in their plants, that they had upgraded their equipment, meant that when they had a choice between closing a plant here or closing a plant in another state, it was the Nebraska plant that stayed open. And it also meant, because of the wage requirements...or not, excuse me, not the wage requirements but the job requirements, that when it came time to make a decision as to whether to lay off employees in Nebraska or in another state, that the Nebraska employees remained at the job, receiving a salary and supporting their families and the state. I think that's an important element. One of the portions that was in LB 775 was an investment-only tier. That was a piece that originally we in the Revenue Committee had not put into LB 312, and it was later adopted into the committee amendment by the entire Revenue Committee. One of the concerns that we discussed, and one that I think is very, very important for us to consider as a whole body is the impact that you may have when a company invests \$30 million, which is the investment-only tier, and has no job requirement, which I understand, but that in fact there is no requirement to even maintain the jobs that they currently have. The fear that I would have is that, in

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today's mechanized society, that they would actually have the ability to install robotics into a plant and eliminate people. So the state, in essence, would be subsidizing, not only...not the growth of jobs, but sometimes the diminution of jobs. And the amendment that is before you is one which would address that particular scenario. What it would say is that if, in fact, a company that had qualified for the job credits under the investment-only portion or tier of the bill, if they maintain their employment level at the base level, great. Everything is fine, and I think that basically I have heard from the insurance industry, I've heard from the financial institutions, and I think that that would be the case. But in the case of a manufacturing plant, where in fact it would be very feasible to eliminate jobs with the installation of robotics or other mechanization, while I don't think Nebraska wants to stand in the way of anyone modernizing their plant and staying in business and improving their bottom line, at the same time, we would not want to subsidize the decrease in jobs. And this would say...this amendment would say that whatever proportion of jobs were to decrease during the term of nine years, following qualification, you would find a decrease in your credits by the same proportion. So if you cut your work force in half, you'd actually lose half of the credits. If you only cut your work force by 10 percent, you would only lose 10 percent. And if you didn't cut your work force at all, you would lose none of the credits. The goal of any economic incentive package is to make Nebraska stronger, to grow our jobs, to grow the population of our state. And therefore, I believe that this would be a good safeguard that would create a tier in law which would be very similar to the protections and the results that we have seen under those tiers which include both investment and a job growth factor. I would be happy to address any questions that people might have, but I would tell you that we need to be very, very cautious as we create this incentive, so that, in fact, we are not decreasing the number of jobs in the state of Nebraska. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Redfield. You've the heard the opening on AM1615, offered by Senator Redfield to LB 312. Open for discussion. Senator Combs.

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SENATOR COMBS: Thank you, Mr. President and members. I rise in support of the Redfield amendment. I discussed it with her earlier today, and it is an area that I think needs some attention. When a company comes and avails themselves of LB 775 benefits without creating jobs...actually, it won't be LB 775, it will be LB 312, but when they do, they are committing to making life better in that area, by virtue of their business being there. That's the whole premise under which these tax...excused taxes are granted. And so if they do come in, and maybe they don't create jobs but they are investing and they are benefiting under that tier, but then they do something that takes jobs away, it's only right that they give up part of the credit that they were granted, in good faith that they were going to be beneficial to the community, by virtue of them locating there. So we've seen it happen other times. I don't know if the companies that recently left Lincoln in the past couple of years, huge companies with hundreds of employees that were displaced from their jobs, I don't know if they were receiving LB 775 benefits, but certainly I think this is an important codicil to have on this bill, simply because it is reflective of their value to the community and how it does change when they remove jobs from the community. So I think that the amount that they are getting in benefits should be reflective of that value, and how it has decreased the value added of them being present in the community, based on the amount of taxes that are being excused. Thank you.

SENATOR CUDABACK: Thank you, Senator Combs. Further discussion on the Redfield amendment? Senator Raikes.

SENATOR RAIKES: Thank you, Mr. President, members of the Legislature. I'd like to ask Senator Redfield a question or two, if I might.

SENATOR CUDABACK: Senator Redfield, would you respond?

SENATOR REDFIELD: Yes, I would.

SENATOR RAIKES: Senator, can you sort of, by example or something, indicate what sort of a situation that you are aiming at with this particular amendment?

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SENATOR REDFIELD: I would be particularly concerned about a manufacturing entity, where they might install robotics and replace jobs; that, in fact, the state would have helped them with the investment credit to purchase that robotic equipment, and then a person would actually lose a job. And I recognize that that happens every day in America, and it's part of the economy that we compete in against global entities. But at the same time, I don't want to hasten the day of putting our people out of work.

SENATOR RAIKES: So you might have a situation where a company invests in...I've forgotten at the moment. What is the threshold level of investment for this?

SENATOR REDFIELD: Thirty million.

SENATOR RAIKES: So if they would happen to spend \$30 million to buy robotics equipment from, say, China, and then that equipment is put in their plant, and thereby they are able to cut the on-the-ground job force, if you will, in half, this is a concern to you?

SENATOR REDFIELD: Yes, it should be a concern to all of us.

SENATOR RAIKES: But that is, in your view, what could happen under LB 312, as it is now constituted? You could have a company go to, if not China or India, it could go to, heaven forbid, Arkansas or some other place, buy equipment that is not manufactured in Nebraska, there is no tax gain from business to Nebraskans because of that, bring that equipment into Nebraska, use it to replace jobs, and still get tax breaks, which would be credits against sales tax and income tax in Nebraska. That's your understanding of what the bill would do, as it's now constituted?

SENATOR REDFIELD: That would be my understanding. I would recognize the fact that there would be other economic gain, in that we would have trucking industry and other people who would be moving the products to the Nebraska plant and out of the Nebraska plant, so there can be some other economic growth out

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of that plant. But I think that the picture that you have painted actually could occur. How likely it is, we don't know, but I would like to take some safeguards to make sure that it doesn't happen.

SENATOR RAIKES: What would your amendment do about a company that did this sort of thing, but kept the level of employment constant; didn't add any jobs, but also didn't lose any jobs?

SENATOR REDFIELD: They would not lose any credits at all under the amendment.

SENATOR RAIKES: Okay. Thank you, Senator Redfield. This seems to me to be a reasonable modification of LB 312. I don't see that it makes any sense for the state to give tax credits to businesses which then use those businesses, or use those credits, even though they've reduced the number of jobs they offer in the state. And as I understand, from what Senator Redfield has said, that's what LB 312 could do now. So I support this amendment. Thank you.

SENATOR CUDABACK: Thank you, Senator Raikes. Further discussion? Senator Jensen, on the Redfield amendment.

SENATOR JENSEN: Thank you, Mr. President, members of the Legislature. I think we need to think about this, just for a little bit, in that we do have companies that certainly are not only located in Nebraska. And there are companies that...so not only are we vying for companies, but we're vying for jobs that are in Nebraska. And certainly, every company is constantly looking for ways that they can produce their product better, more efficient, and certainly, whether that be by robotics or what it might be, that in some cases it might be temporary, but then build right back up again with employees and with producing more product, which can have a trickle-down effect, everything from transportation to supplying of certain products from, certainly, nearby locations and nearby companies. So I think we need to be just a little cautious when we say that if, by efficiency, that some business might be able to trim down, on a temporary basis, certainly, that if they are in a state that is open for business and that is...where there is a good work

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force, that they're going to maintain that. I guess I look a little bit, even like the events over the weekend with the base closings across the United States. And certainly, maybe you can't compare that with business, but they also are in the process, the armed forces are, in trying to be more efficient and with less duplication. And so that is just a part of business, that you constantly are trying to come up with better...bigger and better ways to produce a product, whatever that might be, whether it be even housing, or whatever it is. And so I would act, or would urge you to act with a little caution on this particular issue, that it might have a short-term effect, but it also might have a long-term detriment in that it actually might cause a greater movement out of the state. So I would just want to run that by you and have you think about that, just for a moment. I think LB 312 is crafted well. I applaud Senator Landis on his working through this, with the many entities that he had to work through, and I think at this point in time I will maintain the commitment to stay with the bill, as written, and not do any changing via amendments. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Jensen. Further discussion? Senator Baker, on AM1615 to LB 312.

SENATOR BAKER: Thank you, Mr. President and members. I have a question for Senator Redfield, if she'd respond, please.

SENATOR CUDABACK: Senator Redfield, would you respond, please?

SENATOR REDFIELD: Yes, I would.

SENATOR BAKER: Senator Redfield, thank you. I'm trying to clarify in my mind if somebody qualifies, say, under the \$3 million, 30 jobs, that tier, and then goes to tier 6, I think, is what's investment only, is that going to affect, say, that tier, the \$3 million, 30 jobs, if they cut jobs? They make the investment. Is that going to go back and reflect on, I think it's, tier 2? I can't remember which tier 3 and 30 is. But is that going to reflect back on that qualifying tier that they worked under?

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SENATOR REDFIELD: This amendment addresses tier 5 only, which is investment only, but all of the other tiers have a job requirement, and there is a recapture if they don't maintain their employment levels.

SENATOR BAKER: Regardless of what tier they qualified under if they change their employment level. What if, say, somebody had \$3 million investment and hired 40 people? They're still over that threshold tier, but they invest another \$30 million or \$40 million in their plant; then they cut from, say, 40 jobs to 35. That's still going to affect them under your amendment? That's the way I read it anyway. Is that correct?

SENATOR REDFIELD: You're talking about two different projects. Because they wouldn't qualify under both tiers for the same project. So these would be separate projects.

SENATOR BAKER: Say they did, to begin with, qualified under three and...or \$3 million, 30 jobs, and they had \$3 million and 40 jobs. That's one qualifying. But then they went and qualified under tier 6 of investment only. Would that go back to that other tier, I guess, is my question. I understand they do two separate projects, but would one project influence an older one?

SENATOR REDFIELD: In applying for the tier 5, they would establish what their base employment is at that point in time. So, depending on whether that was before the other project or after the other project, they would have a baseline FTE, and that would be the comparison for the project that would qualify under investment only. But I don't believe the same project could qualify under two different tiers.

SENATOR BAKER: Okay, that answers my question. I'm a bit like Senator Jensen. I don't want to get down the path of micromanaging these things. I think there could be some long-term effects. Apparently, qualifying under one tier, one project, is not going to affect what they do with tier 6, I think is what I have. I don't have it all in front of me. But I'm concerned a little bit about micromanaging some of this material. If somebody is here and wants to make that kind of

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investment and save two or three jobs doing it, I can understand. That's a business decision. But I hate to penalize them with refunding unused credits, or taking a reduction in credits. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Baker. Senator Landis, on the Redfield amendment.

SENATOR LANDIS: Senator Cudaback, members of the Legislature, I'm going to carry this bill. If this amendment gets adopted, I'll be proud to carry this bill in whatever form that the Legislature tells me to do it in. Economic development is more, or different, than just a jobs program, although jobs seems to be the sine qua non of our economic development posture. Keeping a company with the latest technology is also valuable. The promise that a company makes under this tier is, we promise to spend money. That's about it. It's the one, I've got to say, that probably the committee had the least sentiment for, but it ultimately came around to the idea of an investment-only option, because companies grow stronger and better and deeper in their commitment to the state if they are twenty-first century technology. And if that means robots, then that's...then it means robots. Is it our desire to make sure that they have older technology forms, or outdated forms, or inefficient forms? Is that what we're going to require? I don't think so. What we want them to do is to be as strong, as economically viable, as profitable as they can be. Why? Because good, strong companies that are twenty-first century companies with the latest technology will be here the longest, they'll be here the deepest, they will share in the community, they will shape where we go as an economy, as opposed to simply rewarding those who have older technologies, but labor intensive. So, while I...I've got to say, it is an anomaly. I think Senator Redfield and Senator Raikes points out there's something very strange. Why would we incent somebody who, after they did their upgrade, had fewer jobs than they had before? Because that's possible. The answer is that if you keep people in an inefficient quality, they are imperiled in their ability to survive. You want your companies in the most economic form they can be, the most profitable form that they can be. And the reason is they will be able to be here longer, deeper, and stronger if they are

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lean, mean, and a twenty-first century fighting economic development machine. What's the promise in this tier? The promise is not to maintain jobs. Now that's the problem with the tier. If you don't like that, I would understand that. I know that qualm. But economic development is not simply creating jobs. It is also creating healthy businesses. Healthy businesses will stay here longer, spend...put down tap roots and be long-term citizens, in my estimation. Allowing them to be...to not just be satisfactory, but to be cutting edge, is a good thing. The promise that we're adding with this amendment is to make them promise something that they didn't set out to promise, we haven't asked them before to do this, and from my estimation, it's not the rationale as to why this tier exists. On the other hand, if I'm wrong, if the body out votes me, if you decide to choose this way, so be it. I will happily take the bill on to Final Reading, and do as this body suggests we do with respect to economic development. Thank you.

SENATOR CUDABACK: Thank you, Senator Landis. Further discussion? Senator Raikes.

SENATOR RAIKES: Thank you, Mr. President, members of the Legislature. Senator Landis makes several good points. A couple of things I would mention, though. It's my understanding, and we talked about this some in the committee, that this isn't necessarily equipment that is immobile. So a company could buy \$30 million of equipment from China, put it in a plant in Nebraska, and it's movable. I mean, maybe it's computers, I don't know. So as soon as the period is past that we...the incentives are...the credits are collected, they're on the road, or at least the threat is back--either you give us something, or we're out of here, we're leaving the state. The second thing is, fewer jobs--and Senator Landis made a point about that, industrializing and so on--they don't have to be any better jobs. You can, in fact, have fewer worse jobs. And maybe that's something that...and I would agree that we certainly want to tolerate it in the state. If a company makes that decision, we're not going to file charges and run them out of the state. They can be here. The question here, though, is whether you give them tax breaks to do something like that. And I think that's a different question. I think when it comes to

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tax breaks that you should, in fact, require exemplary performance. I don't think this is any way exemplary performance. More generally, I worry about--Senator Baker made the point, well, gosh, I don't want to penalize a company for having done this. Penalize. So not giving somebody a tax break is now a penalty? Whatever happened to businesses being in business because they're in a free enterprise, and they create jobs and they do their part in the economy, and they're not always there with their hand out, so that they don't have to pay their fair share of the cost of operating state or local government? This is an issue. A couple of things I leave you with. This is not exemplary performance. I think we should restrict tax incentives to exemplary performance. I think we ought to be concerned about the signal we send to the business community in Nebraska. In effect, we're saying that you folks are all welfare recipients. We don't expect you to do anything without a welfare check. And you should not even have to think about paying your fair share of the cost of government in Nebraska. That's completely beyond. I think that's the wrong message. And you do things like this, I don't see how you avoid sending that message. Again, I support this amendment. Thank you.

SENATOR CUDABACK: Thank you, Senator Raikes. Senator Connealy, on the Redfield amendment.

SENATOR CONNEALY: Thank you, Mr. President, members. I just wanted to make a couple of points. This has worked in the past. I think it was initially put in place, in particular, for upgrading Goodyear here in Lincoln, and this tier has actually produced huge amounts of investment for Nebraska. I think that the average was a hundred...over \$162 million per project, so these are big investments. And while they don't produce jobs, they do produce highly efficient companies that stay, and that operate...they may not operate forever, but they do operate. And they are consumers of Nebraska products. There are food processing and ethanol facilities in Nebraska who I think will use this to expand or double production, thus, using more products and Nebraska energy and things like that, that will actually make their economies in the local communities better, even if they aren't producing a tremendous amount more jobs. I

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believe, as Senator Landis said, that, you know, I could get along with or without this tier. I was part of the discussion of eliminating this tier in the Revenue Committee in the first place, but I also voted to put it back in, because I do understand that this can be of an asset to the state, to companies to be upgraded and retained in the state. And so I'll probably be in opposition to this amendment.

SENATOR CUDABACK: Thank you, Senator Connealy. Senator Engel, on AM1615.

SENATOR ENGEL: Mr. President, members of the body, I like the concept of this amendment, too, but what concerns me is if a company does have a substantial investment in the state, and as the economy changes, they might have their ups and their downs, and during that, there might be a downslide like we had these last few years, where they cannot maintain the employees that they have, because they don't have the market for the product they're producing. And that's the part that scares me about this amendment. So as a result of that, I'm afraid I can't support it. Thank you.

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

SENATOR REDFIELD: Thank you. Senator Cudaback, I would like to ask for a call of the house, since everyone has stepped out.

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

CLERK: 16 ayes, 0 nays, Mr. President, to place the house under call.

SENATOR CUDABACK: The house is under call. All unauthorized personnel...unexcused senators, please report to the Chamber. The house is under call. Senator Jensen, Senator Pahls, Senator Heidemann, Senator Louden. Senator Louden is excused. Senator Hudkins, Senator Johnson, Senator Don Pederson, Senator

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Brashear, Senator Schimek, Senators Fischer, Howard, Synowiecki, Bourne, Thompson, Bettler, Friend, and Senator Smith. Senator, your time is running. You may continue.

SENATOR REDFIELD: Thank you. I would like to close. I would remind everyone here that the only portion that they would lose would be proportional to any jobs that were lost. If there were no jobs lost, there would be no loss to the business. And I was corrected by counsel. I want to make it clear that in this tier, there is a refund of sales taxes. It's not technically a credit, it's a refund of sales taxes from the state and from the city. So what we are talking about here is asking people to maintain their employment levels. In every other tier, we have a recapture, if they decrease the jobs that they have promised to the state. In this tier only, we have not required any job growth at all. I don't believe we're asking too much to ask them to maintain zero growth. In other words, no negative change to the job standard. I believe it's a reasonable accommodation. I think that most companies that are doing well will have no problem maintaining those employment levels for this period of time, and I think it is important to the economy of Nebraska that we maintain the job levels. So I would ask for your support and affirmative vote on the amendment. Thank you.

SENATOR CUDABACK: Thank you, Senator Redfield. The house is under call. There are still three members that have not checked in: Senator Dwite Pedersen, Senator Hudkins, and Senator Heidemann. Senator Hudkins. Senator Dwite Pedersen. All members are present or accounted for. The question before the body is adoption of the Redfield amendment, AM1615, to LB 312. All in favor of the amendment vote aye; those opposed vote nay. We're voting on adoption of the Redfield amendment, AM1615. Have you all voted who care to on the Redfield amendment to LB 312? Have you all voted? Have you all voted who care to? Senator Redfield...

SENATOR REDFIELD: May I ask for a roll call, please?

SENATOR CUDABACK: There's been a request for a roll call vote from Senator Redfield. Mr. Clerk, call the roll when you get time.

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CLERK: (Roll call vote taken, Legislative Journal page 1550.)
24 ayes, 8 nays, Mr. President, on the amendment.

SENATOR CUDABACK: The Redfield amendment was not adopted. I do
raise the call. Mr. Clerk, please, next amendment.

CLERK: Mr. President, the next amendment I have, Senator
Raikes, AM1626. (Legislative Journal page 1550.)

SENATOR CUDABACK: Senator Raikes, to open on AM1626.

SENATOR RAIKES: Thank you, Mr. President, members of the
Legislature. We're getting closer here. To what, I'm not sure,
but we'll see. Several of you have expressed concern that this
is just too much. When you count all the additional incentives,
when you count the additional job training money, when you count
the additional exemption from the sales tax base, this is just
too much. So I'm coming at this a little bit, from a little bit
different direction, but I hope to convince you that you can
support turning this back into something that is going to be
effective--I would argue, as effective--but is going to be less
over the top, and considerably less expensive to the state, as
well as doing less permanent damage to the state's sales tax
base. In particular, this amendment would strike from the bill
the exemption, the sales tax exemption, for business machinery
and equipment. It would leave the sales taxation policy on
machinery and equipment the same as we have it right now. Let
me make two or three points to support this proposal. One is
that, not all of you, but many of you remember the recent pain
and agony of expanding the sales tax base. We struggled
mightily with that. We had no choice. We had to do it. We
simply needed the revenue. But it was painful, it was
difficult, and in fact it wasn't until last year that we finally
got it straightened out so that it's workable. And I would
argue that it's not completely straightened out at this point.
So in one year's time, we moved from the pain of expanding the
sales tax base to proceeding hastily to subtract \$17 million a
year out of the sales tax base. To me, that is foolish. I just
don't think that makes good sense. Let me comment on the tax
policy issues involved. Sales tax is, as you know, a major

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component of the revenue base for the state. The notion behind sales tax is that it includes all transactions. It is a broad representation of the economic activity in the state. Accordingly, it makes sense to include as many of the different kinds of transactions, to make it as broad as possible. It's more representative of what goes on in the state. We already exempt sales tax under LB 775, or the tiers which will now be LB 312, for the businesses that are supposedly creating jobs. Those credits, for the most part, can be used against sales tax obligations. It makes no sense, in my opinion, to go beyond that. You'll hear that other states do it. Well, maybe so, but we do some things that other states don't do. I don't have the information right here in front of me. I apologize for that. But actually, in terms of at least several rankings, we are now, without LB 312, one of the more business friendly states in the nation. We don't have to match every single thing another state does, particularly every single foolish thing another state does. Sales tax on machinery and equipment fits very much with the tradition of sales tax in the state, as we discussed when we were talking about a base expansion. The default, if you will, on sales tax policy in the state is, if it is a tangible good, it is taxed, unless specifically excluded; if it's a service, it is not taxed, unless specifically included. This is stuff that traditionally is automatically included, and here we go, taking it out of the sales tax base. I tried to make the point the other day about the tax deductibility. We're talking now about businesses. Businesses can claim deductions for all their expenses, including expenses for sales tax. This kind of a proposal has the effect of penalizing the state treasury, the state General Fund, to the benefit of the federal government. To run through the steps: If on my backhoe, which I now pay sales tax on--and I will guarantee you, I will not leave the state just because I have to pay sales tax on my backhoe--but suppose you relieve me of that obligation? Then the sales tax that I would have paid is no longer available to the state's General Fund, but in addition, I have that amount of money less to deduct on my federal income tax return, so I pay more federal income tax. So in effect, you're transferring money from the state General Fund to the federal treasury. I don't think that makes any sense. I don't think that's a good policy in any sense of the word. An additional point: What is the new job

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impact to this? The argument is that it is so-called business climate. Well...and, yes, it is business climate. But you notice in...or I noticed in an editorial I read just this weekend, well, yes, we're doing this, but the real problem with the business taxing climate in Nebraska is the income tax is too high. If you give \$17 million away per year, what is the chance you're going to be able to do anything meaningful about the income tax rate in Nebraska? And if that's the real business climate issue, why aren't we addressing that? Why do we just sort of stumble over ourselves to hand things away when it doesn't make good sense? I have not suggested that we don't do the sales tax exemption, but we do some other sort of a tax break instead. I suppose I could have come up with a proposal for income tax, I will guarantee you, if you can suggest that this is...or if you will go along with me, that this is not a good policy for the state at this time, I will work mightily to come up with some other way to use this money. Although I will suggest to you, if you look at the green sheet, and you look at that negative number in the out biennium, maybe the most sensible thing right now to do, is not to spend the money at the rate of \$17 million a year in a reduced revenue base to the state, but simply hang onto the money so we're in better position to address that out year biennium. I would be happy to engage in any sort of discussion you would like. I am very serious about this amendment. I am pained that we are doing this. I think this is absolutely the wrong thing to do, from a standpoint of the state's tax policy. I hope you will join in supporting this amendment. Thank you.

SENATOR CUDABACK: Thank you, Senator Raikes. You've heard the opening on the Raikes amendment, AM1626, to LB 312. Open for discussion. Senator Baker.

SENATOR BAKER: Thank you, Senator Cudaback and members. Senator Raikes is pained. I'm going to have to get him some ibuprofen or something. I'm smiling, Senator Raikes, now, I'm smiling. But I'm a little bit appalled at Senator Raikes defending status quo for big business, because if you'll recall the discussion on General File, the large companies are qualifying for this refund, if you will, now. If they qualify for LB 775, those companies--the Union Pacifics, the ConAgras,

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Valmonts, whomever--are paying the sales tax and then having it refunded to them, after they qualify, go through the audit and so on. Who's getting left out of this equation? The small businessman. Department of Revenue estimates 60 percent of the tax savings in this particular instance...this was my priority bill--you hit a nerve--it's my priority bill, LB 695, you're trying to throw out of this package...60 percent of that is going to go to small businesses. And though some of those, granted, are going to be in the metropolitan area, but 60 percent of it is nonmetro. That's Department of Revenue estimate. I even can defend my rural district and say, we need some help here. This is a...this is a tax climate issue with me. And I don't propose to stand up here and say we...that I favor business incentives. I'd like to get the tax climate such in Nebraska that we don't have to have business incentives, quite honestly. If we could get rid of corporate income tax, sales tax on business equipment, eliminate personal property tax--these are some things that we're competing against. You go to Kansas, I tell you, the machinery that goes down there in the wintertime out of Nebraska. There's no personal property tax on Kansas' personal property, none. They don't have sales tax on business equipment in Kansas, either. I have a border district. We have that border bleeding problem in District 44, and as I said, the big businesses are already qualifying for this exemption. It's the little guy here that...and gals that Senator Raikes is picking on, because they can't access this credit...or refund, I should say, not credits, but refunds of sales tax on their business equipment purchases through LB 775. Only the big people, you know, guys and gals, can do that. This is a business friendly issue for small businesses, not big business. So I adamantly oppose Senator Raikes' attempt to take my priority bill, LB 695, the sales tax exemption on machinery and manufacturing equipment, out of here. I don't...we've...I can't quite understand his logic. I understand, idealistically, yes, we shouldn't have to do this, but we're not operating in an ideal world. We're operating in reality here, and the reality is, the states surrounding us...and for that matter, it's not a surrounding state issue. This is a national issue. We have to be competitive, or these jobs go away. With that, I would propose that we defeat the amendment, AM1626, of Senator Raikes.

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SENATOR CUDABACK: Thank you, Senator Baker. Senator Raikes, on your amendment.

SENATOR RAIKES: Thank you, Mr. President, members. Senator Baker makes several points which I'll respond to. First off, his priority bill...I don't mean to pick on anybody's priority bill, and it just happened that way. And that's not...it doesn't have anything to do with my intent here. He mentions that big companies qualify, but little ones don't. Isn't that the idea of tax incentives? You know, if...you're trying to bring in the big companies, so you're putting out lures for them. If you don't like that idea, then probably you should join me in voting against LB 312. That's what we're about here. The tax climate issue; I mentioned income tax as being the biggest problem in the tax climate, as reported in an editorial, for Nebraska. You mentioned personal property tax. If it's personal property tax or income tax, why are we cutting sales tax, and in thereby eliminating the possibility that we're going to be able to address either income tax or personal property tax? If those are the real climate issues, let's address them. Let's not waste our effort on something that really doesn't matter. How many new jobs? The conversation has been really silent on that. This is a gift, if you will, to some businesses in Nebraska. Is there any real evidence that this is going to generate any new jobs? I haven't heard it. I think that, you know, some people probably would like not to have to pay sales tax, although, as I've already pointed out, they are going to...they're going to face a higher federal and state income tax obligation if they don't pay taxes. The comment of me picking on little businesses; well, I am a little business, and so I guess in that sense I may be picking on myself. But again, I don't understand this as picking on anybody. I understand this as constructing a revenue base for the state. If we didn't have to have any revenues for the...to operate state government and all the local governments, I'd say, fine, no taxes on anybody. But because we do, you've got to construct that base in the most logical, fair manner you can. And imposing a sales tax on business machinery and equipment is logical and fair. That's the end-use of those products. Keep in mind that if the item is going to be used as an input in a final product, there is no sales tax. It's only when the product is in the hands of the

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final user. That's a principle that we've operated on, stuck to, in all sorts of sales tax policy. I suggest that we stick to it here. I suggest that we not go this step in LB 312, and I would remind you, if we don't, the savings on the revenue base to the state amount to \$17 million per year, and on up. This is money that we cannot afford to give away for no good fundamental reason, and not knowing what results it is likely to create that are beneficial. Again, I urge your support. Thank you.

SENATOR CUDABACK: Thank you, Senator Raikes. Further discussion on the Raikes amendment? Senator Raikes, there are no senators wishing to speak. You are recognized to close on AM1626.

SENATOR RAIKES: Thank you. Again, thank you, Mr. President and members. I hope you will give this serious consideration. This is something that...now is the time you have to do this. You can't say, well, I'm going to wait and see what happens. You know, as well as I know, once you give this away, you're not going to get it back. And when we run out of money again in the future, and it will happen, we'll have to go someplace else. We won't be able to come back here, because this will be gone, and it is...the hands that keep us away are too powerful. So this is the time, and I hope you will support this amendment. Thank you.

SENATOR CUDABACK: Thank you, Senator Raikes. You've heard the closing on AM1626. The question before the body is, shall that amendment be adopted? All in favor vote aye; those opposed vote nay. The issue before the body is the Raikes amendment, AM1626, to LB 312. Voting on the Raikes amendment. Have you all voted? Senator Raikes, are you standing for a purpose?

SENATOR RAIKES: I would ask for a call of the house and a roll call vote. Thank you.

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

CLERK: 21 ayes, 2 nays, to place the house under call.

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SENATOR CUDABACK: The house is under call. All unexcused senators please report to the Chamber. Unauthorized personnel please leave the floor. The house is under call. Members, please check in, if you haven't already. Senator Dwite Pedersen. Thank you. Senator Langemeier. Senator Hudkins. Thank you. Senator Engel. Senator Chambers, if you would, please. Thank you. Senator Thompson. Senator Brashear. Senator Brashear, the house is under call. All members are present or accounted for. Mr. Clerk, there has been a request for a roll call vote. Senator...Senator Stuthman, the house is under call. Yes, there has been a request for a roll call vote. Mr. Clerk, call the roll, please.

CLERK: (Roll call vote taken, Legislative Journal pages 1550-1551.) 5 ayes, 28 ayes, Mr. President, on the amendment.

SENATOR CUDABACK: The amendment was not agreed to. I do raise the call. Mr. Clerk, next amendment.

CLERK: Next amendment, Mr. President, Senator Preister.

SENATOR CUDABACK: Senator Preister, you're recognized to open on AM0282 to LB 312.

SENATOR PREISTER: Thank you, Mr. President. Mr. Clerk, I'd like to withdraw that.

SENATOR CUDABACK: AM0282 is withdrawn. Mr. Clerk, next amendment.

CLERK: Senator Landis, AM1635. (Legislative Journal page 1551.)

SENATOR CUDABACK: Senator Landis, to open on AM1635.

SENATOR LANDIS: Thank you, Senator Cudaback. Members of the Legislature, this is one of those amendments that George Kilpatrick lets me know and then he writes out these sheets to tell me what it says, so let me share with you what the Landis

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amendment says. The amendment strikes the word "calendar" in the definition of "year of application." By striking "calendar," AM1635 recognizes that many businesses have fiscal years different from calendar years. Upon reviewing the amendment adopted this morning that contains the definition of "year of application," some were concerned about how the reference to calendar year language would affect the entitlement period, carryover period, and the base year. AM1635 is another step in making LB 312 workable and clear. And that's everything I know about the, quote, Landis amendment. Year of application does not need to be a calendar year. There are other ways of organizing a business year for a tax year's purpose and I would ask seriously for the adoption of this amendment.

SENATOR CUDABACK: You've heard the opening on AM1635. Open for discussion. Anybody wishing to discuss the Landis amendment, AM1635? Seeing no lights on, Senator Landis, you're recognized to close.

SENATOR LANDIS: I would like to review extensively the terms of the Landis amendment striking, as it does, the word "calendar" from the calendar year of application as unnecessary, as that phrase is, and restrictive when it doesn't need to be restrictive. I would ask for the adoption of AM1635, the Landis amendment to the Landis bill, I guess.

SENATOR CUDABACK: You've heard the closing on the...

SENATOR LANDIS: Thanks, George.

SENATOR CUDABACK: ...AM1635. The question before the body is, shall that amendment be adopted? All in favor vote aye; those opposed vote nay. The question before the body is the Landis amendment, AM1635, to LB 312. Have you all voted on the question who care to? Have you all voted? Record please, Mr. Clerk.

CLERK: 27 ayes, 1 nay, Mr. President, on the adoption of the amendment.

SENATOR CUDABACK: The Landis amendment has been adopted.

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CLERK: Senator Smith would move to amend, AM1610. (Legislative Journal pages 1551-1553.)

SENATOR CUDABACK: Senator Smith, you're recognized to open on your amendment.

SENATOR SMITH: Yes, thank you, Mr. President and members. AM1610 relates to the lower tiers of the economic development package here in LB 312 where it has the county designations and the population. This would offer the municipality designation as a way of delineating who qualifies and who doesn't. We've had some policy already on the books relating to this without the municipal designation and only the county, and actually it created some concerns about who qualifies, who doesn't necessarily qualify, and so this would offer up the municipal designation so that some...it creates a more level playing field. We have counties of differing sizes geographically and, when you think about it, county boundaries are rather arbitrarily drawn. And oftentimes, without this amendment, we will find smaller communities disqualified from consideration because they happen to be in the same county as a larger community. And I believe that it's the intent of LB 312, and of those lower tiers for the rural areas; is intended to cover, let's say, the Maxwells of Nebraska that happen to be in Lincoln County, in with North Platte, but are disqualified simply because of the size of North Platte. So again, this offers up the municipal designation instead of the county designation. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Smith. You've heard the opening on the Smith amendment, AM1610, to LB 312. For discussion, Senator Landis.

SENATOR LANDIS: Mr. Speaker, I'd ask for a ruling. This is the element of LB 224, which was killed by the Revenue Committee, and I believe a 30-vote amendment. I'd ask the Clerk to do that. But let me complete my thoughts and then the Clerk can or the Speaker can issue that warning.

SENATOR CUDABACK: You may.

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SENATOR LANDIS: This doesn't change LB 312. This changes the underlying LB 608. This is the work that Curt and I did a couple of years ago on getting a rural development tier, by the way, the very first rural development bill that's actually got people out doing this work and getting some money, with exception of the microenterprise projects that have been around the state that we have on the books. By making this adjustment, we get a whole lot more locations that get access to LB 608. The problem with this is, if you start changing the line on what's rural, less and less is rural, less and less gets aimed at it, more and more first-class cities become available, and when that happens people who want to expand and go out will choose between rural areas and what you and I might well call urban areas. The net result when you get done with all this is it's practically, expect for the larger first-class cities, everybody gets to use LB 608. And the problem with that is that the rural areas that you and I know of and think of as being rural, small-town Nebraska, will compete side by side for these tax benefits for their businesses as larger, much better well-connected cities. And I think it dries up rural opportunity and puts it into the upper mix, upper tier of first-class cities in the state who already have a bunch of other access to a lot of other programs and don't need it. I...it's not that I'm indifferent. I've been voting "not voting" up until now. I'm voting red on this amendment and the reason is it makes rural development less successful by adding larger and larger entities into those people who can use the rural development tier. And when that happens, the big will dominate the small and we'll have less rural growth; that...not less rural growth by the new definition, but it will be in larger and larger cities, not smaller and smaller cities. And for that reason, I oppose AM1610. Senator Smith wants to make this program work. I want to make this program work. But, in fact, you know what? We've got a track record that's developing and, for the first time, we've got a rural development bill that's turning out people who are hiring and expanding in rural Nebraska. We have about \$800,000 of benefits in this year, and we're not done.

SENATOR CUDABACK: Thank you, Senator Landis. Stand at ease for

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just a second. Senator Landis and Senator Smith, would you please come forward? Senator Landis, you're recognized.

SENATOR LANDIS: Senator Cudaback, I am...I will withdraw my objection to this as being the same. Senator Smith has demonstrated to me that there is a difference and I agree to that fact. I withdraw my raising of the question that this was a 30-vote amendment.

SENATOR CUDABACK: Thank you, Senator Landis. It will now require 25 votes. You've heard the opening on AM1610. Open for discussion. Senator Smith. Senator Smith waives his opportunity. Senator Connealy.

SENATOR CONNEALY: Thank you, Mr. President, members. This is a capped section of the law. This is not an unlimited amount of money. You add people to this, you add more communities to this and it pulls away from other parts. I believe it would actually move more of these projects east, so I don't know if it's actually good for the 3rd District to have this. I believe that the way to have this is have it active in little towns and counties that have a harder time getting those kind of jobs, so that you have people that don't transfer over to the next town and work in a bigger city, in a Norfolk or in Lincoln or in Omaha. I think that this is the wrong way to go. If you're going to add money to this section of the bill then I'd be in agreement with it, but if you're going to transfer the money to somebody else, I think that it could prove to be a negative for rural development.

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

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

SENATOR CUDABACK: Senator Landis.

SENATOR CHAMBERS: Senator Landis, have you ever considered running for Congress, me lad?

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SENATOR LANDIS: (Laugh) My idea of hell on earth would be to be in Congress.

SENATOR CHAMBERS: Aye.

SENATOR LANDIS: Always late, always raising money, and being part of a party that told you what to do. So, no, I've never remotely entertained the possibility of running for Congress.

SENATOR CHAMBERS: Aye, me lad, well stated. Now this question. If you were running for Congress, would you support this amendment?

SENATOR LANDIS: (Laugh) Since I dispute the basis of the hypothetical, I don't think I have to answer this, and the answer is no.

SENATOR CHAMBERS: Thank you. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Further speakers on AM1610, offered by Senator Smith? Senator Smith, there are no lights on. You're recognized to close on AM1610.

SENATOR SMITH: Thank you, Mr. President and members. I want to remind you that this issue, I was...with the apparent inaccurate perception that there was a little more room for negotiability here, that's my fault, I would ask that the amendment be withdrawn. But I do want to state that I think that we need to be mindful of the fact that we have bedroom communities of thriving urban areas who will qualify for this, and we have legitimately rural communities across Nebraska, further away than Milford, Nebraska, that do not qualify. So if we're going to have a very legitimate effort of rural development, we need to spend a little more time. And I'm not saying it's the members working on this. I think some issues behind the glass, perhaps, needed to give a little more forethought to the designation of rural areas, and I don't believe that county boundaries are the best way to formulate policy as to who qualifies and who doesn't. County boundaries are arbitrarily drawn, have been for 150 years, or maybe a few less than that. But the fact is we need to make sure those dollars end up where

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they need to go rather than arbitrarily coming up with a number and a boundary that, in my opinion, does not come about with a great deal of forethought. We need to spend a little more time, and perhaps another time is better than the present, and that is why I am withdrawing AM1610 and hope that we can continue to work on the same concepts at a later date. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Smith. AM1610 is withdrawn. Mr. Clerk, items for the record, please?

CLERK: Mr. President, I have a Reference report referring certain gubernatorial appointees to standing committee for confirmation hearing; study resolutions LR 145, LR 146, LR 147; Senator Bourne, an amendment to LB 117; Senator Chambers to LB 425, LB 427; and a new A bill. (Read LB 312A by title for the first time, Legislative Journal pages 1553-1558.)

SENATOR CUDABACK: Thank you, Mr. Clerk.

CLERK: Mr. President, a priority motion: Senator Louden would move to reconsider the vote taken on Senator Redfield's amendment, AM1615.

SENATOR CUDABACK: Senator Louden, you're recognized to open on your reconsideration motion to the Redfield.

SENATOR LOUDEN: Thank you, Mr. President and members of the Legislature. This, I think, is quite an important amendment that Senator Redfield brought forward for this LB 312. This gives it some accountability in there. This sets up something that we know has happened at times when corporations came into an area and set up. A certain amount of employment was supposed to be set...brought forwards and, as time went on, some place along the line everything broke down and, consequently, the job total wasn't there. On this amendment, I wasn't present on the floor when it was voted on. It was a close vote, so I feel at this time that it would be a good idea to bring this forward again and reconsider the vote to really see if something this important should be considered and probably used in part of the LB 312 package. Thank you, Mr. President.

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SENATOR CUDABACK: Thank you, Senator Louden. You've heard the opening on the reconsideration motion. Open for discussion. Senator Redfield.

SENATOR REDFIELD: Thank you, Mr. President. Members of the body, I want to thank Senator Louden for bringing this motion forward. I do agree that it was an important issue. When we talked about it earlier, there were a number of people off the floor, some people who have shown some interest in the amendment, and so we will see how it comes out, although I understand there are a couple of people that had to check out for other purposes, so we'll see. What I want to remind everyone is we're talking about investment dollars that do not have to be fixed. It doesn't have to be land. It doesn't have to be a building. It can be machinery that can be moved. It can be computers that can be moved. There are a number of investments that can be moved that would qualify. And so we're talking about investment. We want it to stay in Nebraska. We want to make sure that we don't decrease our work force; that we want to increase or at least maintain our work force. And also, I want to remind you that it does not take the benefit away if they have maintained a portion of their work force; and clearly, if they're still in Nebraska, they have maintained a portion of their work force, then they would still be eligible to maintain or not be liable for any recapture on that proportion of their refunds. So I would ask for your reconsideration. If there are more questions or discussion, I would be happy to address them if I can. Thank you.

SENATOR CUDABACK: Thank you, Senator Redfield. Further discussion on the motion to reconsider? Seeing no lights on, Senator Louden, did you wish to close?

SENATOR LOUDEN: Thank you, Senator Cudaback. As Senator Redfield aptly stated, that these are companies that can probably receive benefits and some of the stuff can be quite fluid in them and can be moved out of the area. This is something that we have to be careful of when we are giving these incentives away. We certainly want to have incentives and businesses brought into the community, but we don't necessarily

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want them to take advantage of what we have or to pull out when the time isn't complete to their satisfaction. So with that, I would ask for a green vote on this and I'd also ask for a call of the house.

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

CLERK: 22 ayes, 0 nays, Mr. President, to place the house under call.

SENATOR CUDABACK: The house is under call. All unauthorized personnel please leave the floor. Unexcused senators report to the Chamber. The house is under call. Members, please check in. Senator Schimek, Senator Stuhr, Senator Don Pederson. Senator Cunningham. Senator Mines, Senator Beutler, would you please check in? Senator Howard. Senator Beutler, will you check in, please? Senator Bourne. Senator Cunningham. Senator Beutler, would you please check in? Thank you. Senator Howard and Senator Cunningham. Senator Howard is present. Senator Cunningham. Senator Cunningham. All members are present. The question before the body is the motion to reconsider the vote taken on the Redfield amendment. Senator Louden, what...

SENATOR LOUDEN: (Microphone malfunction)...roll call vote.

SENATOR CUDABACK: Roll call vote has been requested. Mr. Clerk, please call the roll on the question.

CLERK: (Roll call vote taken, Legislative Journal pages 1555-1556.) 26 ayes, 16 nays, Mr. President, on the motion to reconsider.

SENATOR CUDABACK: The reconsideration motion was successful. The Redfield amendment is before us. Anybody wishing to address the Redfield amendment? Senator Redfield, did you wish to close?

SENATOR REDFIELD: Thank you, Senator Cudaback. Members of the body, I want to thank everyone who wanted to look at this issue,

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talk about it. Evidently, there weren't questions. I think the minds have been made up. Whether in fact we want to maintain the jobs, this again does not remove any refunds from a business that maintains their employment levels in Nebraska. And I think that they receive a benefit, we receive a benefit when we maintain our jobs. I would ask for your adoption of the amendment. Thank you.

SENATOR CUDABACK: Thank you, Senator Redfield. You've heard the closing on AM1615. The question before the body is, shall that amendment be adopted? All in favor vote aye; those opposed vote nay. Voting on adoption of the Redfield amendment, AM1615. Have you all voted on the amendment who care to? Record please, Mr. Clerk.

CLERK: 26 ayes, 16 nays on adoption of Senator Redfield's amendment.

SENATOR CUDABACK: The motion was successful. The Redfield amendment has been adopted. I do raise the call.

CLERK: Mr. President, the next amendment I have, Senator Chambers, FA270. (Legislative Journal page 1558.)

SENATOR CUDABACK: Senator Chambers, to open on FA270.

SENATOR CHAMBERS: Mr. President, I've watched business flayed, flagellated, excoriated, beaten, kicked and criticized to the point where I can bear it no longer. I consider business now to be among my constituency labeled the downtrodden. That last vote, which I voted aye on, impels me to offer this amendment. Strike the original sections and all amendments thereto and insert the following new section: "Notwithstanding any other provision of law, no business, regardless of size or number of employees, shall pay any tax of any kind whatsoever." Mr. President, members of the Legislature, you'll have to build a new bridge between Nebraska and whatever is to the west...the east of Nebraska. These businesses will be coming here by train, plane, and boat. There will not be enough room to accommodate all of the businesses that will flood the state of Nebraska. All of that land out in the Sandhills can be

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converted to viable business enterprises. I don't know that there's a business that would oppose my amendment. Nebraska, through its Legislature, has whined until I cannot bear it any longer about Nebraska having to try to catch up to what other states have done. Missouri has done this; well, Kansas is doing that. Senator Raikes even told us some things that Arkansas is doing. This would put Nebraska in the forefront. The entire pack is now at the heels of Nebraska. This will take the wind out of their sails and we will see how many states will try to match Nebraska here. No state, no state could match Nebraska. This is an amendment whose time has come and, in the same way that Richard Nixon opened the lines of communication between the United States and China, I'm the one to offer this amendment to free business of its shackles. I think this is an amendment that ought to be adopted. Otherwise, I would not have offered it. In the same way that some people may be looking for a seat in Congress, to those in the lobby, I may be looking for a job. (Laughter) However, I'm not doing it for that purpose because I cannot work for anybody. I'm doing this because it's the right thing to do and I think my colleagues should support it. What argument can be given against it? You cannot argue that business ought to be paying taxes. Everything has been done to nibble away at that responsibility, then to take huge chunks out of it, huge gluttonous mouthfuls that stick to the roof of the mouth, the teeth and the tongue, so that you can't even speak in a way that people can understand you anymore. I'll see whether I am required to say anything else based on any debate that may occur. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. You've heard the opening on FA270, offered by Senator Chambers to LB 312. Open for discussion on that motion. Senator Mines.

SENATOR MINES: Thank you, Mr. President. Senator Chambers won't let me call the question right now, so we'll wait on that. Before we go any further, and this has not much...nothing to do with this amendment, if I could ask Senator Landis a question, please, Mr. President.

SENATOR CUDABACK: Senator Landis, would you respond?

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SENATOR MINES: Senator, I am...this is a real question and I'd like to just, I mean for the record, find out on sales tax refunds or sales tax reimbursements, particularly local sales tax reimbursements, the intention or the process itself, how do you envision that happening, or is that something that will be established in process later?

SENATOR LANDIS: We put Senator Janssen's bill in on that and it had to do with, essentially, trying to get data to cities early and also clumping up the repaying so it would occur maybe quarterly or yearly, and I think I would ask Senator Janssen the answer to that question because it wound up in this bill but it's his act.

SENATOR MINES: I understand. Thank you. Mr. President, may I engage Senator Janssen?

SENATOR CUDABACK: Senator Janssen, would you respond?

SENATOR JANSSEN: Yes, I will and...

SENATOR MINES: And I'm sorry to put you on the spot, Senator, but...

SENATOR JANSSEN: No.

SENATOR MINES: ...before...it appears that our debate may be slowing down and nearing time for a final vote, I did want to find out before we conclude our debate. I'm just curious how the local sales tax reimbursement is planned to be handled. I mean, how might it flow back to...through municipalities and then back to the business itself?

SENATOR JANSSEN: Okay. Well, the problem was now if we have...that is in Section...on page 71 of the bill or the amendment, if a claim for a refund of sales and use tax under the Local Option Revenue Act of section such and such, and is more than \$25,000, is filed by June 15 of a given year, the refund shall be made on or after November 15 of the same year. If such a claim is filed on or after June 15 of that given year, the refund shall not be made until on or after November 15 of

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the following year. The Tax Commissioner shall notify the affected city, village, county, or municipal county of the amount of refund claims and sales tax use (sic) under the Local Option Review (sic) Act of sections dash, dash, dash, that are in excess of \$25,000, on or before July 1 of the year before the claim will be paid under this section. So it...what was happening, it was screwing up the monies that they had...

SENATOR MINES: That's right.

SENATOR JANSSEN: ...that they had (inaudible). This takes care of that. That section takes care of that problem.

SENATOR MINES: All right. So there are specific times and dates identified for filing, and then there's a response time.

SENATOR JANSSEN: For filing and for payment of that in lieu of taxes, right.

SENATOR MINES: Okay. And your committee felt that those time frames were reasonable on both sides.

SENATOR JANSSEN: Yes.

SENATOR MINES: Okay. Thank you. That's the only question I really had.

SENATOR JANSSEN: Thank you.

SENATOR MINES: Thank you, Senator Janssen. Mr. President, thank you.

SENATOR CUDABACK: Thank you, Senator Mines. Senator Connealy's light went off. Are no further lights on. Senator Chambers, you're recognized to close on FA270.

SENATOR CHAMBERS: I would ask for a call of the house.

SENATOR CUDABACK: Been a request for a call of the house by Senator Chambers. Question before the body is, shall the house go under call? All in favor vote aye; those opposed vote nay.

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Record please, Mr. Clerk.

CLERK: 19 ayes, 0 nays to place the house under call.

SENATOR CUDABACK: The house is under call. All unauthorized personnel please leave the floor. Unexcused senators report to the Chamber. The house is under call. Senator Byars, Senator Jensen. Senators Heidemann, Flood, Hudkins, Engel, Brashear. Senators Kopplin, Fischer, Schimek, Raikes. Senators Louden, McDonald, Price, Wehrbein. Senators Synowiecki, Smith, Bourne, Thompson, and Beutler. Senator Chambers, did you wish to close? As you know, your time is running.

SENATOR CHAMBERS: I'm aware, Mr. President. I'll let it run a little further.

SENATOR CUDABACK: You may do so. Members, the house is under call. Members, please check in. Senator Engel, Senator Byars, Senator Louden, would you check in, please? Senator Engel. Senator Brashear and Senator Raikes. Thank you. Senator Chambers, you're recognized.

SENATOR CHAMBERS: Thank you, Mr. President. I will now speak a word or two to the congregation here assembled. A vote yes for this amendment is a conservative vote, a fiscally conservative vote. You will never get another opportunity like this. It will put Nebraska at the forefront of being the most business friendly state in the world, in the universe, wherever business is conducted. So I'm hoping that my colleagues will finally bite the bullet, take the bull by the horns and do the right thing. I would like a roll call vote, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. You've heard the closing on FA270. Question before the body is, shall that amendment be adopted? Mr. Clerk, please call the roll on the question.

CLERK: (Roll call vote taken, Legislative Journal pages 1558-1559.) 4 ayes, 18 nays, Mr. President.

SENATOR CUDABACK: The Chambers amendment is not agreed to. I

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do raise the call. Anything further on the bill, Mr. Clerk?

CLERK: I have nothing further, Mr. President.

SENATOR CUDABACK: Open for discussion. Senator Landis.

SENATOR LANDIS: I'll put my light off. I just want to have a chance to closing to do some work for the intent language for the bill.

SENATOR CUDABACK: Further discussion on advancement of LB 312? Senator Landis, your light came on again. You may either speak or you may close.

SENATOR LANDIS: Thank you. Mine is the only light on so this is the closing for advancement, is that right?

SENATOR CUDABACK: You are closing.

SENATOR LANDIS: Thank you. One of the things that we've done in this amendment is that we've identified that the new tiers and some of the new programs that are created will also be part of the aggregate report that we have for the Department of Revenue. What the Department of Revenue has done for aggregate reporting is satisfactory up until now. I hope it continues for this new area as well. On page 76, the Tax Commissioner shall make a report aggregating taxpayers. What they've been doing now, which is making sure that there's at least more than one group in any aggregation, is the appropriate thing to do. Taxpayers should not be individually identified for our report system. That simply carries on what we're doing now. There is a place where we'll have project-by-project data, but that's in a different section of the law. I gave mixed signals to Senator Smith, I think it's quite true, and in fact I want to apologize to him. When I...sometimes when I just don't want to go someplace, I'll say something like, well, I'll think about it, when I really know. I voted against...I mean I fought that idea two years ago when he tried to put it into LB 608. I led the motion to kill the bill in Revenue Committee, but when it was out here, I did say something like, well, I'd think about it. The truth of the matter is I didn't want to make the change. I

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should have been clearer. I just should have been more direct, just should have told him a little better. I'll try to do better next time for you, Adrian. This measure is as balanced as we can make it between the desire to make our state more attractive to those who are not here but would consider coming, for those who are here who are enticed elsewhere, for those who are here and want to grow a business. It balances people who have already made LB 775 work and don't want to part with any of the benefits that they now get, and, at the same time, redesigned the program to make it as efficient as possible. We have done...we had many more demands than we could possibly meet. We were more generous than what I'm sure a number of you would like us to have been. We have made progress. Our disclosure is better. We have a minimum floor on the quality of jobs. We have a sliding scale that reflects job quality. We have sunsets on the new tiers so that they'll be back to be seen again. We have an index that grows the investment over time so it's not static like what we had in LB 775, and we now have a job requirement that's worked its way into the investment-only package, courtesy of the Redfield amendment that you adopted a moment ago. We've made as much progress as we can on this front. It's been difficult because, in fact, there is not one answer in economic development, there's a whole panoply or range, and they don't always coincide. In fact, they pull in opposite corners, opposite directions sometime. But it is my hope and belief that we had made progress on a difficult front for which the state of Nebraska needs progress. We need expansion, we need jobs, we need opportunity, and we need growth. Our demographics are such in this state that growth is the only logical, rational, and achievable result that will get us out of the coming cataclysm in our budget system, and that is to get growth in Nebraska so that we can return to a pyramid demographically that has more young people than old people, and has more opportunity than memory. I would ask for the advancement of LB 312.

SENATOR CUDABACK: You've heard the closing on advancement of LB 312. Senator Chambers, are you requesting a board vote? Been request for a board vote. All in favor of advancement of LB 312, E & R for engrossing, vote aye; those opposed vote nay. The question before the body is advancement of LB 312 to E & R

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

CLERK: 42 ayes, 3 nays, Mr. President, on the advancement of LB 312.

SENATOR CUDABACK: LB 312 does advance. Mr. Clerk, we now go to LB 90.

CLERK: LB 90. Senator Flood, I have Enrollment and Review amendments, first of all. (AM7099, Legislative Journal page 1514.)

SENATOR CUDABACK: Senator Flood, for a motion, please.

SENATOR FLOOD: Mr. President, I move the adoption of the E & R amendments to LB 90.

SENATOR CUDABACK: You've heard the motion by Senator Flood to adopt E & R amendments to LB 90. All in favor say aye. Opposed, nay. They are adopted.

CLERK: Senator Beutler would move to amend with FA262.

SENATOR CUDABACK: Senator Beutler, to open on your amendment to LB 90, FA262.

SENATOR BEUTLER: Senator Cudaback, I would withdraw FA262 and AM1543. They've been included in AM1602, which is coming. Thank you.

SENATOR CUDABACK: They are withdrawn.

CLERK: Senator, did you say withdraw AM1543? Is that what I heard?

SENATOR CUDABACK: AM1543 is withdrawn also.

CLERK: Mr. President, Senator Stuhr would move to amend with AM1602. (Legislative Journal page 1559.)

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SENATOR CUDABACK: Senator Stuhr, you're recognized to open on AM1602 to LB 90.

SENATOR STUHR: Thank you, Mr. President and members of the body. I thank Senator Beutler, because we actually worked together in drawing up this amendment, which just adds some words, "agricultural or value-added agricultural product," on page 4 of the amendment; and on page 5 also adds some words; and also strikes Section 7, and so we renumber 8 to now be Section number 7; and added some words then in the next section, in Section 8, to provide grants for projects under the Agriculture Opportunities and Value-Added Partnership Act to eligible entities. So these are primary clarification. And I would certainly give the rest of my time to Senator Beutler. Thank you.

SENATOR CUDABACK: Senator Beutler. Senator Beutler waives his opportunity. Open for discussion on the Stuhr amendment, AM1602. Any senator wishing to address the AM1602? Seeing none, Senator...Senator Stuhr waives her closing. The question before the body is whether AM1602 should be adopted or not. All in favor vote aye; opposed vote nay. We're voting on the adoption of the Stuhr amendment, AM1602, to LB 90. Have you all voted on the Stuhr amendment who care to? Have you all voted? Record please, Mr. Clerk.

CLERK: 29 ayes, 0 nays, Mr. President, on the adoption of Senator Stuhr's amendment.

SENATOR CUDABACK: The Stuhr amendment has been adopted.

CLERK: Senator Bourne would move to amend, AM1631. (Legislative Journal pages 1559-1563.)

SENATOR CUDABACK: Senator Bourne, you're recognized to open on AM1631 to LB 90.

SENATOR BOURNE: Thank you, Mr. President, members. This is an amendment that I discussed on this bill on General File. And what the amendment does...if you recall from the General File discussion, the Wehrbein amendment that is now in LB 90 does not

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entirely fund the ethanol program. And the numbers, I think, are somewhat flexible, depending on what the corn crop...how much that produces, you know, which of course would affect how much checkoff money goes into the fund. But essentially, the analysts tell me that with LB 90, we are still somewhere, \$13 million to \$18 million short, assuming the sixth plant starts production sometime in January of 2006. Just to go back a little bit, we know that there are five plants that are up and running and receiving credits under the LB 536 program now. It is very likely that the sixth plant, which I believe is Lexington, will come on line sometime early next year, sometime January or February in 2006. And assuming those six plants...well, not assuming. They will be up and going, the sixth one coming next year. This fund, even with LB 90, will be short somewhere \$13 million to \$18 million, as I understand it. And what I had asked Senator Wehrbein on the floor on General File is would he be willing to accept some sort of an index, that if the seventh plant comes on there's an automatic transfer of money into EPIC, whether that come from the General Fund or the Reserve Fund? And he said...he didn't commit to that, but he did say that it's something worth discussing. I also want to mention that I did meet with Governor Heineman on this, and he told me that he is supporting LB 90 as written. He feels he has a commitment with both urban and rural senators to support LB 90 as written. He said, I won't try to hurt your amendment, but I'm supporting the bill as amended. And I feel that in the...for disclosure, I feel that I should discuss or tell you what he told me at the meeting. He said, I'm not necessarily opposed, but I am supporting LB 90 as agreed to. And so he's honoring his commitment. What my amendment does, it says that whenever the balance in the Ethanol Production Incentive Cash Fund, EPIC, is projected to fall below \$1 million in the next fiscal year, the Department of Revenue shall notify the Treasurer, and the Treasurer shall transfer \$6 million from the Cash Reserve Fund to the Ethanol Production Incentive Cash Fund. So there's an automatic measure for additional funds to be put into EPIC from the Cash Reserve Fund. It also does go back to the original version of LB 90, and increases the checkoff by one-eighth cent. And there's some other language in there that...regarding the General Fund transfers. So basically what it does is it says, as we discussed on General File, it provides

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for a mechanism to adequately fund these plants should these plants come on line. We know there are six plants that are going to be up and going, and there's a potential for five more plants. So all I'm trying to do is resolve the problem once and for all. I think if we can find other ways to spend Cash Reserve, which we have throughout this budget process, I think this is an adequate use of the Cash Reserve to honor our commitment and fully fund these plants. I hope some of the rural senators will get involved in this discussion because, even though I don't feel for one second that this is an urban or a rural benefit, I think it benefits the entire state, I do think that if you are living in a proximity close to an ethanol plant, you see firsthand the benefits that your community derives from this. Again, I think this makes sense. It solves the problem of always increasing the checkoff to respond to the shortfall in the EPIC program. I think that once this...if this amendment is adopted, as I understand it, there will be some variations, given the amount of the corn crop, but it will fund fully our obligations. And I also want to say that I don't believe that the state would ever not honor its obligation to...under LB 536, the bill we passed a couple years ago designed to enhance ethanol production in the state. But this amendment simply...basically creates an automatic mechanism to fund these plants. It solves us...or, stops us, I guess, from having to revisit this on a regular basis. It makes sense. I think it's logical. I'd urge your support of it. I'd be happy to answer any questions.

SENATOR CUDABACK: Thank you, Senator Bourne. You've heard the opening on the Bourne amendment, AM1631. Open for discussion. Senator Connealy.

SENATOR CONNEALY: Thank you, Mr. President, members. I don't know where to go with this amendment for sure. I don't think it does enough. What I think we need is a new ethanol program, one to put in place to build new plants. I believe that we have an obligation under LB 536, that we passed a few years back, and said that if plants qualify and are built that we will fund it. That's been testimony in the Revenue Committee, and commitment on my part, and commitment on our Chairman of the Revenue Committee and others here in the Legislature, that if a plant

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gets built, we're going to fund it. So, to some extent, this amendment is just saying where that money is going to come from. And with that, then you have to look at the specifics of it. It's another eighth cent of corn checkoff, and then it's more funds from the general public. And I think that's fine, so I'm open to that. I would rather have a new program. I actually introduced a bill earlier in the year to do that, to expand. I believe that this is our obligation. How you fund it is up to us, or up to future Legislatures, if that good outcome comes about. If those plants get built and we have that obligation, I don't think it's bad for the state. I don't think it's terrible or a burden. I think it's great, because these plants are going to be using Nebraska products, they're going to be using...you know, developing Nebraska jobs, they're going to be producing a clean fuel for the country. So it's a great deal. It is an obligation out there that we have to worry about, to some extent. But it's also a huge benefit if they come on board. You have to pay for good work sometimes. And if this is what the body wants to do and to say we're going to have an automatic indicator, this is how you're going to pay for it, then I'll support it. I don't know. We've negotiated with the Governor and with others on a certain amount of money coming out of General Fund now, on an ongoing basis, to get us over this first hurdle, which is of this year. We have a hurdle in the EPIC Fund to...that we're going to be underfunded if we don't do something with the bill right now. I don't want to burden the bill. I want to make sure that we have that hurdle covered. But it's my intention, and I think it ought to be all our intentions, to pay our bills, and to pay for any plants that come on board and need the resources that we promised in LB 536. I know it wasn't unanimous when that passed. But it is an obligation of the state, and we ought to live up to it.

SENATOR CUDABACK: Thank you, Senator Connealy. Further discussion? Senator Stuhr, followed by Senators Cunningham, Fischer, Wehrbein, and Mines. Senator Stuhr.

SENATOR STUHR: Thank you, Mr. President and members of the body. I'm going to oppose the amendment, because we worked many hours on trying to come to a consensus in what we proposed to all of you in LB 90. I believe that the one-eighth cent

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checkoff that we proposed in LB 90 is probably more than what many of us were happy to do at the time. But we were willing to do our part. If you look at one of the handouts that we had recently, it indicates that corn producers will be paying, beginning in '05-06, with the present one-eighth of a cent checkoff, \$8.4 million; \$8.7 million in '06 and '07; '07 and '08, about \$8.7 million; and continuing out into '09 and '10. And total, what we have proposed in LB 90, was the checkoff from corn producers would generate over \$64 million. And I am not willing for corn producers at this time to increase that checkoff. We also had some other additions. I do believe that we are looking at the program to have a shortfall in LB...in '10 and '11, and...well, possibly in '09 and '10. But that is about \$889,000. And of course, if we have an increase in our corn production, we probably would not even see any additional money needed at that time. I know it would be great to get more General Fund increase. But I am sticking with the proposal that we originally had. And that is my feeling. So with that, I will turn the rest of my time back over to the Chair. Thank you.

SENATOR CUDABACK: Thank you, Senator Stuhr. On with discussion of the Bourne amendment, Senator Cunningham, followed by Senator Fischer and others.

SENATOR CUNNINGHAM: Thank you, Senator Cudaback and members. Well, Senator Bourne, normally I would love to be supporting you on an amendment like this. And you're looking kind of disgusted right there. (Laugh) I would tell you, I very much would like to support you. Normally, I'm 100 percent in favor of what you're doing. And I fully believe we need to get LB 536 funded, and we need funding for new plants, just as Senator Connealy talked about. But Senator Stuhr pretty much reflected my thoughts. And as you sat around the room negotiating, you know, a few weeks ago, we didn't have that \$17.5 million for ethanol, we didn't have that General Fund money at all. And the checkoff was a very major bone of contention. And we came to an agreement. It was not an easy agreement. And so I regret this. I very much regret not being able to vote for this. But I need to go on record as to why I can't vote for it. Once you've given your word on something and made a commitment, it's very

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hard to go back on that. So with that, I would return my time.

SENATOR CUDABACK: Thank you, Senator Cunningham. Senator Fischer.

SENATOR FISCHER: Thank you, Mr. President and members. I am just really thankful that Senator Bourne offered this amendment, and I do support it. It's disturbing that we have to have an urban senator. We always hear about the urban-rural split in here. And now we have an urban senator who's trying to help rural Nebraska, and that senator's name is not Senator Chambers on this. So I would like to thank Senator Bourne for offering the amendment. I do agree with Senator Connealy, though, that maybe we need to even go further, and start talking about funding for new plants. I have local people in Atkinson, Nebraska, and in Broken Bow, Nebraska, that are looking at building ethanol plants. And there is nothing, there is nothing in LB 90 that will help them. In the 43rd District, there is very little in LB 90, and very little in LB 312, that will offer any benefits when you're talking about the millions and millions of dollars that the state is putting out there. So it's hard for me to go home and justify these tax incentives and the business incentives that I'm voting for down here. Because I have to look through these bills very carefully to find anything that's going to help the 43rd District. Yet I am supporting these bills, because I believe they are important, because they do help Nebraska. So I would like to thank Senator Bourne, and I would hope that more people would support his amendment. Thank you. With that, I'll turn the rest of my time back to the Chair.

SENATOR CUDABACK: Thank you, Senator Fischer. On with discussion of the Bourne amendment. Senator Wehrbein.

SENATOR WEHRBEIN: Mr. President, members of the body, I'm going to have to oppose this amendment. It's an awkward time. We've had some commitments moving forward through some of the bills, LB 312 and others, to come to an agreement. And there's been some extensive discussions going on to try to work through and come to an agreement. Those agreements have been made, and thus far have been kept. I need to keep this one. And this one

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is...even though there are some things here that would be good to do to keep our commitments, I think there's every intention of keeping the commitments that we have when the time is necessary. Up until now, we'd agreed the checkoff would not be increased any more than an eighth of a cent. This does that. This increases it another eighth. General Fund money, we have a significant amount of money coming out of the General Fund at this point. This adds another \$1.5 million to it, which tends to break the agreements that we made in the previous time. So I'm going to have to oppose this. I am willing to...there can be a letter drafted from the Governor's Office to keep...that will keep our commitments into the future, if and when those commitments are needed to be completely fulfilled. That's the ones that Senator Bourne mentioned about in 2011 and '12, when we possibly could be short some money. I think the state of Nebraska and the administration and this Legislature will keep those commitments when that...have every intention of keeping those commitments when the time is necessary. At this point, it's not absolutely clear when and if those commitments will need to be kept or will be due. And because we've gotten to this point thus far with the significant increase in General Fund money of commitments to those, with a modest increase in the checkoff, which means agriculture is keeping their share of the commitment, that I would have to oppose this amendment at this point, but with the full understanding that when those commitments are due down the road and they do come due, that this Legislature and the Governor...and the administration, whoever that may be, present administration into the future, will keep those commitments. And with that, I cannot support this amendment.

SENATOR CUDABACK: Thank you, Senator Wehrbein. Mr. Clerk, are you...Senator Mines.

SENATOR MINES: Thank you, Mr. President. I'd like to ask Senator Bourne a question, please.

SENATOR CUDABACK: Senator Bourne, would you reply?

SENATOR BOURNE: Yes, Mr. President.

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SENATOR MINES: Senator Bourne, I guess the only question I have is, why now? Why, given the fact that plants...some plants haven't been built, some may not be built, why should the body make a move today, as opposed to several years from now?

SENATOR BOURNE: You know, Senator Mines, that's a great question. And I think I could say, why not now? If you remember, I talked about this on General Fund (sic). I have a problem, in that oftentimes, as a Legislature, we don't solve the whole problem. Number one, we had an ethanol program, LB 536, which I supported. And I don't want to rehash some of the debates we've had in the past. But I don't feel...and to this day I don't feel we had a lot of Nebraska people building these plants. And I am optimistic that if another few, three, four, five plants are built, that we would use some Nebraska people to build the plants. And I think that we...although I don't believe we would ever not honor our obligation--I absolutely am convinced we would do that, whether we do it today through this amendment or do it in two or three years through another bill--I do think that we should adequately fund this program. Hopefully, additional plants will be built because of the commitment that will be made apparent by the bill. And I think it just makes sense to me. I think you could also make an argument, Senator Mines, that you cannot look at a new incentive program unless the existing one is adequately funded.

SENATOR MINES: But given...and that was a very long answer to a very short question. Thank you.

SENATOR BOURNE: Hey, I'm a politician, Senator Mines.

SENATOR MINES: (Laugh) Given that we don't know what might happen with construction on some plants, what's your expectation? What if we don't do anything?

SENATOR BOURNE: Well, then...

SENATOR MINES: What's the worst that could happen?

SENATOR BOURNE: What's the worst thing that would happen if what?

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SENATOR MINES: If your amendment doesn't pass.

SENATOR BOURNE: Well, we just would have to revisit it, revisit the funding issue in the years to come. Now, I will tell you, if I can take a little bit more of your time,...

SENATOR MINES: Sure.

SENATOR BOURNE: ...I think that any agriculture individual would support this, because I think that it would actually protect the checkoff from being increased. If you think about it, when...where do we look to fund EPIC? Or where have we historically looked to fund the EPIC Fund? We've looked to the corn checkoff. If the fund is appropriately funded, adequately funded, I think you can make a great argument that the body won't look to the checkoff in the future.

SENATOR MINES: And one of the arguments is that ethanol plants tend to drive up the price of corn in their regions, so an eighth of a cent shouldn't matter? Is that...and I really am interested.

SENATOR BOURNE: Right. An eighth of a cent is \$1.25 million per year.

SENATOR MINES: Right.

SENATOR BOURNE: And Senator Wehrbein and, as I understand it, the agreement was to...if you read LB 90, it's increased by one-eighth cent from where it currently is. And my amendment increases it another eighth cent, which would actually reflect the original introduced version of LB 90. So a quarter cent is \$2.5 million per year. Plus, my amendment would also require an additional \$1.5 million out of the General Fund, in addition to what Senator Wehrbein has already put in, in LB 90. And it would also put in an automatic mechanism where, if EPIC drops below \$1 million, the Department of Revenue would instruct the Treasurer to deposit another \$6 million into the fund from the Cash Reserve. So this would adequately respond to any additional plants that may come on line.

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SENATOR MINES: Great. Thank you, Senator Bourne. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Mines. Mr. Clerk, please.

CLERK: Senator Connealy would move to amend Senator Bourne's amendment. (FA271, Legislative Journal page 1563.)

SENATOR CUDABACK: Senator Connealy, to open on your amendment to the Bourne amendment to LB 90. Senator Connealy.

SENATOR CONNEALY: Thank you, Mr. President, members. My amendment would strike the additional increase in checkoff. I signed on to LB 90. I was part of the deal that we worked out. And LB 90 is the only increase in taxes that we're doing...that I know of, that we're doing this year. We're increasing the corn checkoff with this...the corn tax. Senator Bourne's amendment...and the reason I was very lukewarm when I talked about it the first time is that it was additional tax. It's spending in the future if we need it, but it's also an additional tax. I had to really, you know, hold my nose to increase the checkoff the eighth cent that we did, to raise that tax on farmers that are already struggling. But I think that it was worth the deal to make sure that we had the fund funded this year. Senator Bourne is talking about making sure the fund is funded going forward past that. And I think that's probably laudable. And to set up a mechanism to do that, I'm agreeable with. But I don't know if I'm agreeable at this point, when we don't have to do it, to increase another tax, to further increase the corn checkoff. So if you strike the new language in line 10 and 11 on Section...on page 7, that would remove the eighth...additional eighth cent corn checkoff at this time when we don't necessarily need to increase another tax. And so that's my amendment.

SENATOR CUDABACK: Thank you, Senator Connealy. You've heard the opening on the Connealy amendment, FA271, to the Bourne amendment. Open for discussion. Senator Bourne.

SENATOR BOURNE: Thank you, Mr. President, members. Listen, I

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knew that there would be some resistance to the amendment, because I do know, as listening to Senator Wehrbein and Senator Stuhr, that there was an agreement worked out on LB 90. And they're reluctant to change directions and violate that agreement, and I appreciate that. But I don't believe that this violates an agreement that they made, particularly when Senator Connealy's amendment is adopted. Senator Connealy's amendment would be an additional...or, would be a reduction of money going into the EPIC Fund from what I propose, by about \$5 million. As I understand it, the checkoff is set to expire in 2010, so that's about \$5 million, a little bit more. You know, I don't know what to think. I think that we do need to fund this with...and I do want to point out that Senator Wehrbein's bill, assuming my amendment and/or Senator Connealy's amendment are not adopted to this, Senator Wehrbein's bill still leaves the EPIC Fund short by anywhere from \$13 million to \$18 million, depending on what kind of corn crop we have in the future. So, while I am absolutely convinced the state of Nebraska will honor its commitment to the EPIC Fund and to build those plants, I don't want to leave anybody with the impression that EPIC will not be funded, because I am convinced that it will be, what I am simply advocating is, let's address it today. Let's send a message that we will, today, properly, adequately fund, fully fund the EPIC, the fund from which incentives are derived, and then put in place a mechanism by which, if any of these five plants who qualified under LB 536 and who are trying to get built, let's put in an amendment, which is what mine does, that says, okay, we're not going to have to revisit this should seven plants or eight plants or nine plants come on line. It's going to be automatic. It seems to make sense to me. Do with Senator Connealy's amendment what you will. I do know there was an agreement that it would be one-eighth cent checkoff and no more. I think Senator Connealy's amendment honors that commitment that the rural senators made. And I wouldn't blame you a bit if you did vote for FA271. But I would urge you to give strong consideration to AM1631, even if Connealy's amendment is adopted. It keeps us from visiting this issue on a constant basis. It adequately funds the plants. It provides for flexibility should additional plants come on line. It makes sense. And I will tell you, from a rural person's perspective, I think you can make a great argument that this does protect the

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corn checkoff from additional increases. I probably...I'll probably vote yes on Senator Connealy's amendment, because I do think that it brings on some of my rural colleagues. But I would urge you to really consider AM1631. Let's fund this program entirely today. Let's get it done. Let's send a message that we are an ethanol state. Let's adequately fund it today. Thank you.

SENATOR CUDABACK: Thank you, Senator Bourne. We're discussing the Connealy amendment. Senator Smith, followed by Senator Loudon and seven others.

SENATOR SMITH: Thank you, Mr. President and members. I appreciate Senator Bourne's terminology as Nebraska being an ethanol state. That is very important. As we travel the ethanol journey, I guess, it's been interesting over the last several years the various proposals that we've had regarding ethanol. Some of them have been mandates at the pump; some of them haven't been. But I think the incentive issue is good. The corn checkoff component is one that I'm uncomfortable with. That's why I'm inclined to support Senator Connealy's effort. I hearken back to last year, when there was an attempt, that almost stuck, to double the corn checkoff, to try to bail us out of a situation that we found ourselves in. And I'm not out here to be critical. But I think too often we get so anxious on the corn checkoff to carry things forward, when there are a lot more folks that benefit from ethanol production, whether it's the consumer, or whether it is the corn producer, cattle feeder, and so many others. So I think to continue to fund it with corn checkoff only, or a lot of it out of corn checkoff, is troublesome. As we look at moving forward, I think it's important. Senator Fischer, I think, spoke very well on some feelings that I certainly have, as well, about the statewide approach. I've been supportive of ethanol incentives, even though ethanol plants haven't reached the Panhandle yet. That does concern me. We came very close, but it didn't happen. I think some of the bureaucracy prevented it from happening, perhaps not intentionally. But nonetheless, it was unfortunate, because we don't have ethanol production in the Panhandle of Nebraska. That is very concerning to me. I am especially apprehensive when we move forward with policies that kind of

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muster enough geographic support to move it forward, and there's still not a statewide effort. That concerns me a great deal. I appreciate Senator Connealy's efforts, Senator Bourne's efforts, and I want to support those as we move forward. Because we have opportunities here, and especially as gasoline prices are high right now, to capitalize on the value-added nature of a Nebraska product, so that we can enhance the Nebraska product and make it even more marketable, before other states capitalize on it and we basically lose out on that value-added nature of Nebraska agriculture products. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Smith. On with discussion. Senator Louden, followed by Senator Kremer and others.

SENATOR LOUDEN: Thank you, Mr. President and members of the Legislature. I will support Senator Bourne's amendment. I've been one that's always advocated corn checkoff to fund these ethanol plants as they were coming on line over the years, because there's some big corporations that are doing quite well with this ethanol incentive. Also, mostly in the corn country, where there's...where that's the major crop, why, it is quite a boon to that area. I don't particularly say that ethanol plants drive the price of corn; I'd rather think they probably follow the price of corn, by using up some of the corn that can't be sold otherwise. And they consequently are on the bottom, I would call them bottom-feeders, when it comes to buying corn. A lot of your other corn goes into your feeding operations and into other domestic purposes and export. I think that the reason we probably don't have ethanol plants out in the Panhandle area, first of all, we don't grow enough corn out there to stock one right. And until they start using wheat or some other type of grain for ethanol, we probably won't see that happen in the western end of the state. The irrigation and that sort of thing, why, I think the corn will be too expensive to use in ethanol. At the present time, they are developing corn that produces more ethanol in corn growing regions of Nebraska and Iowa. So I myself see those areas to be the primary ethanol producers of the area. Now, having said that, we are all...the entire state is reaping, now, some benefits of the ethanol. If you'll notice at your gas pumps, if it's done correctly, if...we

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perhaps need legislation in place, or something like that, that ethanol should be selling cheaper than your regular gas at the present time. And now that it's working around the state, we see that. In fact, now, several of the different facilities are selling this E85. And there are people that are putting that in their cars. And if you look to see whether or not your vehicle can burn that, why, it's running at somewheres about \$1.50 a gallon, or nearly 50 cents a gallon cheaper than your regular gasoline. So all of the state over, everyone is getting some benefits from the ethanol program. This is the reason I think it should be funded probably better than what it has been, instead of relying strictly on the corn checkoffs that up to now has been to promote it. I think probably there is...comes a time when we have to use it as an incentive for Nebraska, because it is beginning to be an industry in Nebraska. Ethanol plants are a viable industry of Nebraska. It's coming around more so all the time. I think there will be some other industries that will be spin-offs from this type of stuff, with our different derivatives that we can get from corn, and that...the time will see that we will do a lot more with our...with corn production. And of course, in the eastern part of Nebraska, that's one of the major crops that comes about. So I certainly support this...Senator Bourne's amendment. I think there has to be a way to fund this besides strictly the checkoff. It's a value-added product that we're using on our economy. Anything that...in the agricultural market, that we can value-add to, is something, a plus, for Nebraska. We have plenty of agriculture products. The main thing is, is that we see to it that we value-add to those products, or they leave the state. And this is certainly one way that it can be done. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Loudon. Senator Kremer, followed by Senator Wehrbein and others.

SENATOR KREMER: Thank you, Mr. President, members of the body. This is kind of a tough one. And I'm going to oppose it, mainly because we worked very hard to get an agreement with LB 90 with the amendments on there. It wasn't easy to get the extra \$2.5 million. It was talked about doing that for two years and it was talked about doing it for four years. We were able to

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get the total seven years, which is \$17.5 million. And really, in response to that, the corn growers were willing to go an eighth of a cent increase. If we would have had it all in the half cent increase, that would have cost an average farmer about \$1,000 a year. As we're talking about economic incentive packages and giving people incentives to do something more, the other hand, we turn around and tax one area of the economy in the agriculture part, tax them another \$1,000 a year, didn't seem right. And we worked real hard to get a compromise. And LB 312 actually does a lot for rural, too. So I don't like this discussion when it gets to be, this is the rural package and the urban package, because my area has benefited on many occasions with LB 775. Three different...a town of 4,000 people, and we've had three different projects that have used that. And also, there is expansion on two of those projects now, again, that are going to be able to use that. To go back and add the other eighth of a cent, Senator Connealy, I guess your bill...your amendment will take that off. But then, felt like it was a compromise that the corn growers were willing to do something if we could get that...the other \$2.5 million for the balance of the time. Senator Bourne, could I ask you a question? If...

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

SENATOR KREMER: ...if we put in the million...

SENATOR BOURNE: Certainly.

SENATOR KREMER: ...extra \$1.5 million for the seven years--that's the total length of the EPIC Fund--and the eighth of a cent then, again, would be another \$1.5 million a year, is that correct?

SENATOR BOURNE: If...Senator Kremer, are you assuming the Connealy amendment is adopted, or not?

SENATOR KREMER: Yeah, I guess I'm assuming that is adopted, (inaudible).

SENATOR BOURNE: Okay. If the Connealy amendment is adopted,

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then what my amendment would say is it increases the General Fund obligation, or the General Fund contribution, by an additional \$1.5 million.

SENATOR KREMER: Per year?

SENATOR BOURNE: Per year.

SENATOR KREMER: Okay.

SENATOR BOURNE: Already above, though, what's already in LB 90.

SENATOR KREMER: Right.

SENATOR BOURNE: And then, as I see it, the critical part is that it would say, if the EPIC Fund is projected to fall below \$1 million in the following fiscal year, the State Treasurer would then be directed by the Department of Revenue to deposit...or, transfer \$6 million from the Cash Reserve Fund to the EPIC.

SENATOR KREMER: Okay. What my question is, then, if the other...the eighth of a cent increase is also another \$1.25 million per year for seven years, so we're talking somewhere around, what, \$20 million?

SENATOR BOURNE: No, I think the checkoff is set to expire in 2010.

SENATOR KREMER: Okay, one year short of that. I think that's right, yeah.

SENATOR BOURNE: So...in 2010. So, if the Connealy amendment is adopted, there would be about \$5 million less going into the EPIC than I'm advocating for in AM1631.

SENATOR KREMER: Okay.

SENATOR BOURNE: But the Connealy amendment would hold the increase in the checkoff to one-eighth cent.

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SENATOR KREMER: Okay. As it is in LB 90 right now.

SENATOR BOURNE: Yes, sir.

SENATOR KREMER: Yeah. Okay. Well, what I think...and I think I feel comfortable with this, that we don't know how many of these plants are going to come on. And I guess we're kind of assuming Lexington is.

SENATOR BOURNE: I think...

SENATOR KREMER: But I think the (inaudible)...

SENATOR BOURNE: ...I think Lexington is coming on in January of next year.

SENATOR KREMER: Right. Well, that's what they say. But I...you know, to get a plant completed, it takes seven to eight months. I don't think they're going to be on by January. They may come on later than that. So maybe that will be a \$1 million savings. Plus, the corn crop being bigger than a billion bushels, that we're assuming, I think that we're pretty well fully funded...

SENATOR BOURNE: Senator Kremer, if I could interject, I mean, it's clear that you're not. The analysts say that with LB 90 as drafted, you are still short anywhere from...

SENATOR CUDABACK: One minute.

SENATOR BOURNE: ...\$13 million to \$18 million.

SENATOR KREMER: Assuming 1 billion bushel crop.

SENATOR BOURNE: Yeah, but there's...you know, the flexibility in the volume is not enough to make up \$13 million to \$18 million. And again, that assumes six plants. So...and I just...I don't mean to correct you, but it is not adequately funded under LB 90.

SENATOR KREMER: Well, I agree with that. It's close. And we

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don't really know for sure. But we don't know about these other plants. And I think we are obligated. I think there's some fear that they would not be funded if some of the other five come on board. But I think we're obligated to do that, but it's (inaudible)...

SENATOR BOURNE: I agree with that, Senator Kremer. We will absolutely honor that commitment. I'm just saying, let's do it today and not mess with it in two or three or four years.

SENATOR KREMER: Well, I understand your rationale. But I guess I cannot support it, mainly because we sat down and worked very hard to get what we could. And one thing was, let's not just come in...and we saw that maybe on LB 312, too, that after we passed it in General File, then it comes along and everybody wants to add some more to that. We kind have an agreement that it wasn't. And I think I will have to...

SENATOR CUDABACK: Time.

SENATOR KREMER: ...stick with that agreement. Thank you.

SENATOR CUDABACK: Thank you, Senator Kremer. Senator Wehrbein, followed by Senator Landis.

SENATOR WEHRBEIN: Mr. President, members, this is an awkward deal. I'm going to oppose the amendment. And I really...Senator Connealy's amendment, to take the...I know it may sweeten the ante a little bit and get us into General Fund. But there's one word of caution that I really want to think about, in terms of the whole budget picture, and that is using the Cash Reserve as a fallback. Prior to 1996, we had some automatic flows in and out every quarter for the Cash Reserve. And what happened, we ended up almost decimating the Cash Reserve because of that. This doesn't approach that. But it does get us to the point where there's an automatic use of the Cash Reserve. And as we look ahead for the big picture in the state of Nebraska...and there's heavy discussion here about maintaining the Cash Reserve at an adequate level. Whatever that may be, it's significantly millions and millions of dollars. But the point I want to get at is trying to get at the

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place where using automatic use of the Cash Reserve. One of the things we set up in '96, those later on, that there had to be votes to do that, so that it does not become automatic. And I think that's something to consider here in principle or in philosophy, however you want to...in policy, whatever you want to call, that we do not get to the point of automatically using the Cash Reserve in this case or in other instances. Because there going to...there will be a temptation to do that. Going back to the original amendment...or, LB 90, we worked hard to get an agreement on this. We have taken significant amounts of money. My numbers are about 60...we've taken \$64 million from the checkoff, and we've used 41...nearly, almost \$42 million from General Fund since LB 536 was initiated. So we have taken significant money, notwithstanding some of the comments that have been made on the floor today and last Thursday. I don't know what the share is, if you look at fair share. I don't know what...where rural has gotten shorted. I still think many of the policies that we're making--LB 312, even LB 775--has helped many areas of the state that have benefited the whole part of the state. And I hate to see us...this methodology of dividing and conquering, because that's where we're headed if we aren't careful. We have always kept our commitments, the state of Nebraska has, since the original ethanol policies were made in 1990-91, and before that in a different form. I see no reason that the state of Nebraska will not keep its commitments into the future, when those are known, when they become a known quantity and when they become a commitment. This bill here pretty well keeps our commitment through 2010. I don't know where Senator Bourne is getting 18. My numbers show 18 with the one plant. There may be others. But at this point, they are not rising. They're still out in the future. And if we come back here in next January, I've got one more year left, I will certainly make a commitment to keep those next year if we see that those plants are actually going to come to fruition. But as of now, they are at least a year away. I think that's very conservative. And probably a year and a half away, or even a little longer, before they will be coming onto production. And we don't know the volume of those plants at this point, so we don't really know what they are. And I'm...I think you have to put your hat on, in terms of the budget of the state of Nebraska, and say, we also have to protect the state's assets

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and the state's finances. And we won't...don't want an open checkbook. That would be going back to the Cash Reserve issue. So...

SENATOR CUDABACK: One minute.

SENATOR WEHRBEIN: ...part of it is, I'm reluctant to have to do this. Because I know the intentions are good, particularly with Senator Bourne, to try keep...make it look like it. I've been in that same position arguing that before, too. On the other hand, we made some commitments here in getting the General Fund money that we did, which I consider significant this year, considering, going back Christmastime, we had zero General Fund money. And so we've made a stride. And we had...my checkoff bill was significant...it was a half cent. Now we're at an eighth. So we've made some strides, that I believe. I think LB 312 is going to help parts of the state that right now are feeling shorted. There are some things in this bill that are going to help the rural parts of the state. And it...still in all, you have to go back, you're going to have to help themselves, in many parts of the state. We can't have big daddy coming in and doing it. So with that, I oppose this amendment, and I will oppose...

SENATOR CUDABACK: Time, Senator.

SENATOR WEHRBEIN: ...continue to...amendment in its entirety, AM1631, I'll oppose, too.

SENATOR CUDABACK: Thank you, Senator Wehrbein. Senator Landis, followed by Senator Schrock.

SENATOR LANDIS: Hear! Hear! A voice of moderation. A guy who says in December we didn't have anything; now we've got a bunch of money to work on ethanol, some of it from the General Fund. We've made progress, with a balance that has been achieved with some care and attention. Here's the problem. We're going to have the Connealy amendment to the amendment to get to, then we're going to have the Bourne underlying amendment, and it will...it's going to be convoluted. My answer is, I don't want to tear...I don't want to deal with them apart, because I oppose

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the Bourne amendment. We've done enough on ethanol this year. We get to declare victory, and wait until more clarity is achieved. I'm going to put my light on, because I'm also going to call the question when we get a chance to get up, because it seems to me, at this point, all the good ideas are out, and we ought to fess up to whether or not we intend to expand the agenda this...at this hour. I think not. I think we've made as much progress on ethanol as we can this year. I could be wrong. But that's my feeling about it, and I'm going to oppose both of these. Then I'm going to vote for LB 90, and I'm going to vote to get it over on Final Reading. I want to vote for it on Final Reading as soon as it comes back from E & R Engrossing. Thank you.

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

SENATOR SCHROCK: Mr. President, members of the Legislature, I would dearly love to support the Connealy amendment, and then the Bourne amendment. But you know, we made a deal. And you say, "we"? Well, there were a number of us from the ag community that sat down with Senator Landis, sat down with the administration, and we reached an agreement. I think to back out on that now is not good faith. Quite frankly, if I'd have known the General Fund money and the Forecasting Board and the tax revenues were going to be so good, I'd have probably wanted a little more. I'd have probably wanted more. But there's going to be ethanol issues next year. And we don't know how many new plants might be built. I, frankly, believe that there's a good chance the Ravenna plant will be built. And that's good. Being short in the EPIC Fund, if that's the case, is not a bad thing. It means ethanol plants are being built. And heaven only knows, corn prices are cheap enough right now. We need all the ethanol plants we can get. So I tip my hat to Senator Connealy and to Senator Bourne. I wish you well, but I can't vote for you. I can't be a maverick, and you know what a maverick is. A maverick strays from the herd. I'm going to be part of the herd. And that's where we are today. A deal is a deal. And we've got a lot of ethanol work to do. I mean, I rode back to Lincoln last night with Senator Cudaback. And he likes to stop at a truck stop and have dinner on the way back. That place doesn't offer ethanol. Doesn't even...you can't even

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buy it. They got three pumps; you can't buy it there. And we've got to get people on board E85. We've got to get the state vehicles using E85. And the price of ethanol is too cheap right now. It's about \$1.20 a gallon. You blend that with \$2 gasoline, you can get the price of gasoline down quite a little, especially when you got some federal credits there. Other states are passing mandates. I think we've got to look at something next year to either incentivize the use of more ethanol, or to mandate it, one of the two. Either one works for me. We had that about five years ago, didn't get anywhere with it. But it's time. If we want to talk about doing something for agriculture and business in the state of Nebraska then, by golly, we as the general motoring public should be using ethanol, and there shouldn't be any choice. So...but that's another time, another day, and another discussion. I think that will happen. If it doesn't happen next year, I think it will happen. With that, I give the rest of my time back to the Chair.

SENATOR CUDABACK: Thank you, Senator Schrock. Further discussion on the Connealy amendment? Senator Janssen, followed by Senator Chambers.

SENATOR JANSSEN: Thank you, Senator Cudaback, members of the Legislature. What is the checkoff now? Is it to the point where, you know, you can't afford to do what you're doing? I don't know. I guess you're going to have to decide that yourself. You know, and I look at what is...Senator Schrock talked about this a little bit, but what would the price of corn be today if we didn't have ethanol production in this state? I look at the trainloads after trainloads of corn that comes into that Cargill plant in Blair. It doesn't all come from Nebraska. A lot of it comes from Iowa. Iowa raises twice as much corn as we do. And we have a lot of cattle feeding in the eastern part of the state that uses a lot of corn. They have to get that corn from somewhere, and it's coming from a farm. What would happen if those ethanol plants went away? I doubt if that will ever happen. And why don't more stations use...I call...I still call them the old filling stations. I know there's a different name for them now, but that's what they were to me as a young fellow, and that's what they still are to me, they're a filling

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station. Why don't they use more ethanol? Why don't they sell more? I burn it in all of my vehicles, except one old pickup that won't run on it when it's too hot outside. But that's my choice, too. I want to drive an old pickup. The beef checkoff, we were arguing the other day about the beef checkoff, that it needed...you know, what's going to happen if we don't have that beef checkoff? It does so much to promote beef in this state. We need to have more of that checkoff. Well, we have a checkoff in my business also. It's called advertising. If you don't advertise, you don't do the business. So that's my checkoff in my business. It's by advertising. Now, I'm going to support the Bourne amendment. I know a lot of my colleagues are saying, you don't know what you're talking about. But I think promoting a product that you raise and is keeping...corn is too cheap. I'll agree with you on that. But what would it be if we weren't using the millions and millions and millions of bushels of corn for ethanol production, and sweeteners, and so on, in some of the wet milling plants? I think we've got something by the tail there. Let's hang on to it. Let's not get it away. I give the rest of my time back to Senator Bourne.

SENATOR CUDABACK: Senator Bourne.

SENATOR BOURNE: How much time do I have, Mr. President?

SENATOR CUDABACK: Have about 2 minutes, Senator.

SENATOR BOURNE: Thank you, Mr. President, members. Thank you, Senator Janssen. Listen, I don't mean to disparage LB 90. I think it's a good piece of work. And I know that Senator Wehrbein and Schrock and Senator Landis and others worked hard on this, and I appreciate that. All I'm simply saying is, let's add one more thing to fund the problem, to solve the issue, so we don't have to come and revisit this. I do want to point out that I had asked one of the fiscal analysts to prepare a spreadsheet on what would happen to the EPIC Fund with a one-eighth cent checkoff, as contemplated in LB 90; seven years of \$2.5 million General Funds, as contemplated in LB 90; and adding one new plant, that's Lexington, in January of 2006. And Senator Wehrbein is exactly right that the EPIC will be funded through 2009 if we do LB 90. There would be about a

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\$4.2 million surplus this year; \$3.4 million next year; fiscal year '06-07 it would be about \$1.5 million surplus; fiscal years '07-08 it would be about...

SENATOR CUDABACK: One minute.

SENATOR BOURNE: ...\$1.1 million surplus. Then it starts to turn. In fiscal year '08-09, we got about \$200,000 in there, and that's assuming...or, that's stating we will...we know we're going to have six plants. Then in fiscal years 2009-2010, we got about a \$900,000 shortfall. And then it jumps. In fiscal year '10 and '11 it's an \$8.7 million shortfall; and then in fiscal years 2011-2012 there's about a \$13 million shortfall. And that number can vary up to as high as \$18 million, depending on the corn crop. So what I'm saying is that there's five other potential plants that may come on that qualified under LB 536. And what I'm suggesting is, let's put AM1631 in there, and...to provide an automatic mechanism by which those plants are funded. If you don't want to do any corn checkoff, you want to stay true to your commitment on LB 90, vote for the Connealy amendment. But I don't believe that AM1631 violates any...

SENATOR CUDABACK: Time, Senator.

SENATOR BOURNE: ...agreement that was made. Thank you.

SENATOR CUDABACK: Thank you, Senator Bourne and Senator Janssen. Senator Chambers, followed by Senator Bourne.

SENATOR CHAMBERS: Mr. President, members of the Legislature, I need to ask, if he will answer, Senator Bourne a question or two.

SENATOR CUDABACK: Senator Bourne, would you respond?

SENATOR BOURNE: Certainly.

SENATOR CHAMBERS: Senator Bourne, do your calculations at all factor in what the price of corn is or is likely to be during those years?

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SENATOR BOURNE: I think that's taken into account, Senator Chambers.

SENATOR CHAMBERS: And do they suspect, whoever is taking all of this into account, that the price of corn is going to go up, down, or remain where it is?

SENATOR BOURNE: I think that they look at a historical price of corn, and that's figured in, in this calculation. But again, there is some variation. And there's no doubt that the thing...that EPIC is underfunded in the out years, but we don't know exactly how much. It could be anywhere as low as \$13 million underfunded, or \$18 million underfunded.

SENATOR CHAMBERS: But one thing is clear. This amendment does not have to be adopted this year for any realistic purpose, does it? It would be more symbolic than real.

SENATOR BOURNE: I will agree with that, Senator Chambers, that with LB 90, as drafted, the EPIC is funded through 2009.

SENATOR CHAMBERS: Thank you. Now, Mr. President, I would like to ask a question of "Mr. Boondoggle" himself, the "Right Reverend Doctor" Matthew Connealy.

SENATOR CUDABACK: Senator Connealy.

SENATOR CONNEALY: Yes.

SENATOR CHAMBERS: Senator Connealy, would you like to answer the question that I had asked of Senator Bourne, relative to the price of corn and so forth?

SENATOR CONNEALY: Yeah. The price of corn really doesn't matter, because of the fact that we don't use a percentage of the returns; we do it a set cent or quarter cent or eighth cent per bushel. So the relevant number is corn production. Corn production has traditionally increased over time. It doesn't mean it's going to rain again next year. But over time, we've had increased production. And so the actual number of bushels that we're taxing on that set rate has gone up over time.

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SENATOR CHAMBERS: Does Australia produce a lot of corn in the world?

SENATOR CONNEALY: More wheat. They have some corn, but it's...they are a drier climate.

SENATOR CHAMBERS: Does Brazil produce a lot of corn?

SENATOR CONNEALY: More soybeans. But they are...they do produce some corn. We are the largest, I think. China is close.

SENATOR CHAMBERS: Does Canada?

SENATOR CONNEALY: No, not much. Some.

SENATOR CHAMBERS: Okay. Now, do you accept Senator Bourne's calculations about the status of the EPIC Fund?

SENATOR CONNEALY: Yes.

SENATOR CHAMBERS: We don't need an Ethanol Board, do we?

SENATOR CONNEALY: Yes. The state gains a lot from the Ethanol Board.

SENATOR CHAMBERS: We could eliminate the Ethanol Board, though, couldn't we?

SENATOR CONNEALY: We could eliminate lots of functions. But I would argue that certain functions of government actually serve the people well.

SENATOR CHAMBERS: You would agree, would you, or would you disagree, that this amendment need not be adopted this year, this session?

SENATOR CONNEALY: This amendment does not need to be. The underlying bill needs to be, to get over this fiscal shortfall in this year. But it may be good planning to adopt it. It may

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be good planning to say, this is how we're going to fund it in the future.

SENATOR CHAMBERS: Why is this amendment coming now, and had not come up on General File, if you know? Your head is shaking (inaudible).

SENATOR CONNEALY: I do not know.

SENATOR CHAMBERS: Okay, thank you. Members of the Legislature, I've been listening to the debate. I do not like the ethanol boondoggle. I've said it before and I'll say it again--when Archer Daniels Midland gets everything out of ethanol it can, then the ethanol industry is gone, because the federal subsidy will be gone. ADM keeps the federal subsidy going. They have overproduced. They acknowledge they've overproduced. They have a surplus. But they're going to continue,...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...thanks to the federal subsidy. All of this discussion in Nebraska, in Minnesota, and wherever else people want to talk about ethanol being produced, is reliant upon ADM's role in all of this. I'm surprised that is not discussed by my colleagues who know far more about ethanol than I ever will know. Why don't they want to talk about it? I know they must know that. But you want to keep following this chimera. You want to keep throwing money into these plants, where the purveyors and the investors are the ones who are cleaning up, not the ordinary people in Nebraska. Like so many of these so-called economic development proposals, the benefits do not seep down to the ordinary people, so that their standard of living is increased, so that the average wage is raised, so that they have a greater likelihood of being able to afford medical care,...

SENATOR CUDABACK: Time, Senator.

SENATOR CHAMBERS: ...so that young people will tend to stay in this state. Thank you, Mr. President.

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SENATOR CUDABACK: Thank you, Senator Chambers. Senator Landis. Senator Landis is not present. Senator Combs.

SENATOR COMBS: Thank you, Mr. President and members of the body. I rise in support of ethanol funding. I did have a plant in my district at Davenport that OTEC tried to get started. So far, they've not been successful. There's a plant now...there's a group in Fairmont starting to talk about getting a plant together. So I see this as not only helping the people, the corn growers, and additionally, it's a renewable, usable, it's a consumable product. It isn't like a manufacturing company that comes into Nebraska and produces widgets that, once everybody buys a widget and they've got that widget, they don't buy it anymore. Ethanol is consumable. And "consumable" means it's a product, just like food or other necessities that we use...we utilize, and we have a continuing need for that. So that makes it different from other manufacturers that have been talked about under incentive programs. Because ethanol is a consumable product, the demand will only go up for it. And it also is a good additive for our fuel. So I do support ethanol. I support the incentives. And I would give time to Senator Bourne if he needs any more to talk about it. No, he waives that. Thank you.

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

SENATOR CHAMBERS: Mr. President, members of the Legislature, I'm of a mind to go ahead and attack the ethanol program, as I've always done. I told Senator Wehrbein when we talked early in the session that I wasn't going to get too exercised about what he's trying to do with ethanol, because there was a checkoff component. He wasn't aware to what extent I was going to leave it alone. But I've left it alone. But if LB 90 is open for these kind of amendments, then it's going to be open for mine, too. And I'm going to go after those purveyors, Senator Connealy, those investors, who are the ones making the money hand over fist off ethanol. I'm getting more letters from Terry Moore, that incompetent so-called leader of the organized labor movement in Omaha, but he's a bigger sellout than was Quisling. Look that up: Quisling. He sold out in Norway to the Nazi fakir. He's worse than Benedict Arnold. Calling him Judas

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would be to libel Judas. Organized labor is not here for any purpose, but can be here for ethanol. Why? What did somebody give to Terry Moore? But if the bill is going to be opened, if LB 90 is going to be open, I'm going to jump into the breach. I don't believe I've offered an amendment on this bill. I've said next to nothing on it. But I'm going to watch the vote on Senator Bourne's amendment. And because I'll need to give myself some time to craft my amendments, I have some parliamentary-type amendments that I'm...and motions I'm going to offer, to hold this bill right where it is, so that we can talk about it a long time and see just where we're going with it. I'd like to ask Senator Wehrbein a question or two.

SENATOR CUDABACK: Senator Wehrbein.

SENATOR WEHRBEIN: Yes.

SENATOR CHAMBERS: Senator Wehrbein, to your recollection, have I in any way come to you to try to get you to back off what you're doing for ethanol in this bill?

SENATOR WEHRBEIN: No, you have not.

SENATOR CHAMBERS: Have I ever tried to say that I'm going to increase the amount of the checkoff so there will be less money from the General Fund?

SENATOR WEHRBEIN: I don't recall it any time in recent years. I won't say what happened years ago.

SENATOR CHAMBERS: On this bill, I meant, LB 90.

SENATOR WEHRBEIN: No. No, no. You have not. Absolutely not.

SENATOR CHAMBERS: I have basically kept my hands off the bill. Would you agree?

SENATOR WEHRBEIN: Yes, you have.

SENATOR CHAMBERS: Senator Wehrbein, from other comments I've made, you know that I still have a negative attitude, in

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general, toward the way the ethanol issue is handled in the state. Would you agree with that?

SENATOR WEHRBEIN: Yes, you have...you won't even use it.

SENATOR CHAMBERS: (Laugh) Right. And when Senator Combs said it's consumable, I felt like saying once again: Corn is to be eaten, not to be burned in a car. But anyway, if this amendment of Senator Bourne is adopted, I want you to know that I think all bets are off, as far as I'm concerned. It's been hard for me to leave the bill alone, but I've left it alone. Oh, that's all I will ask you. Thank you, Senator Wehrbein. I just wanted to establish for the record that on a bill dealing with a subject that I have fought against tooth and nail, I've left it alone. It's been difficult. Senator Connealy knows that I'm going to leave it alone. He's been provoking me. He's been baiting me. But he hasn't been able to make me violate my agreement with Senator Wehrbein, even though Senator Wehrbein was not aware how binding that agreement is on me.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: But if this amendment is adopted, Senator Connealy, I'm going to remember all of those things you've said to me this session, and I'm going to go through the bill and I'm going to start with motions to return it to committee, to bracket it, then to strike sections, one by one, from it. This amendment is not essential. It does not need to be added. You don't need to open up LB 90. But if you choose to, I'm going to run right through the breach. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Mr. Clerk, announcement, please.

CLERK: Appropriations Committee will meet in 2022 now, Mr. President.

SENATOR CUDABACK: Thank you, Mr. Clerk. Further discussion? Senator Landis, followed by Senator Mines. Senator Landis. The question has been called. Do I see five hands? I do see five hands. The question before the body is, shall debate cease on

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the Connealy amendment, FA271? All in favor vote aye; opposed, nay. We're voting on ceasing debate on FA271.

SENATOR LANDIS: Senator Cudaback, my guess is we are diminished in our number. Could we have a call of the house, to make sure that we're here to be able to call the question?

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

CLERK: 12 ayes, 0 nays to place the house under call.

SENATOR CUDABACK: The house is under call. All unauthorized personnel please leave the floor. Unexcused senators, report to the Chamber. The house is under call. The house is under call. Senator Johnson, Senator Don Pederson, Senator Jensen, Senator Janssen, Senator Combs, Senator Heidemann, Senator Fischer, Senator McDonald. Senators Price, Redfield, Foley. Senators Baker, Synowiecki, and Bourne. Please record your presence. Senator Landis, did you say to accept call-in on...

SENATOR LANDIS: Sure.

SENATOR CUDABACK: ...ceasing debate?

SENATOR LANDIS: Sure, accept call-ins.

SENATOR CUDABACK: There's been a...we'll get everybody here first. Senator Redfield, Senator McDonald, Senator Kruse, Senator Fischer, the house is under call. Senator Bourne, check in, please. Thank you. Senator Landis, for what purpose did you rise?

SENATOR LANDIS: I did authorize call-ins. Was there a call for a roll call vote as well?

SENATOR CUDABACK: There was a call for a roll call vote as well, by Senator Kremer.

SENATOR LANDIS: Okay. Could we do it in reverse order, please?

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SENATOR CUDABACK: Members, I cannot hear you unless you speak up.

SENATOR CHAMBERS: I'm sorry. Could we fix Senator Thompson's button so her light will work?

SENATOR CUDABACK: That's out of my department. (Laughter) Senators, the house is under call. Senator Kruse, Senator Redfield, Senator McDonald, Senator Fischer, and Senator Bourne. Senator Fischer. Senator Landis, did you have your hand up?

SENATOR LANDIS: (Microphone malfunction)...say that you could commence the roll call.

SENATOR CUDABACK: Senator Kremer.

SENATOR KREMER: Yeah, I meant a roll call on the amendment, not on the call of the question. So if you can reverse that, that's fine. And so roll...call-in is fine on the question.

SENATOR CUDABACK: I think I understand. We're back to taking in roll-calls. All members who wish to call in their vote for ceasing debate on FA271 may do so now.

CLERK: Senator Jensen voting yes. Senator Hudkins voting yes. Senator Johnson voting yes. Senator Flood voting yes. Senator Cunningham voting yes. Senator Stuhr voting yes. Senator Don Pederson voting yes. Senator Smith voting yes. Senator McDonald voting yes. Senator Brashear voting...you had voted yes, Senator Brashear. Senator Kruse voting yes. Senator Redfield voting yes. Senator Stuthman...

SENATOR CUDABACK: Record please,...

CLERK: ...voting yes.

SENATOR CUDABACK: Record please, Mr. Clerk.

CLERK: 26 ayes, 1 nay to cease debate.

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SENATOR CUDABACK: The motion was successful. Debate does cease. Senator Connealy, you're recognized to close on FA271.

SENATOR CONNEALY: Thank you, Mr. President, members. LB...I mean, AM1631 would raise some corn checkoff and raise the money going in from the reserves. This would take the...this amendment would take the corn checkoff out of the Bourne amendment. It would say that the corn checkoff would not go up any farther than the underlying LB 90 would do.

SENATOR CUDABACK: You've heard the closing on FA271. Been a request for a roll call vote by Senator Kremer.

SENATOR KREMER: In reverse order, please.

SENATOR CUDABACK: Been a request in reverse order. Please, Mr. Clerk, call the question...roll on the question.

CLERK: (Roll call vote taken, Legislative Journal pages 1563-1564.) 7 ayes, 19 nays, Mr. President, on the amendment.

SENATOR CUDABACK: The motion was not successful. I do raise the call. Back to discussion of AM1631. Senator Wehrbein, followed by Senator Landis.

SENATOR WEHRBEIN: Thank you, Mr. President, members. I'll be brief. But I think that we need to continue the commitment that we've made in the agreement as we...last two, three, four weeks, where we had a balance between the funding of the ethanol and the commitment to have some economic incentives. We have kept, in this amendment, LB 90...in the bill, LB 90, our commitments to the known issues that we...lie ahead. Admittedly, by 2010, it could be short. Remember, the cap...but remember, the corn crop is estimated, at this point. We don't...there's a lot of unknowns out there at this point. But the bottom line still is that we have kept our commitments over the years to ethanol program. This should be no exception, over the next few years. But this adequately takes care of it for the next few years, for those plants that are known to be on line. If the others can come on line, we will make those commitments. The state of

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Nebraska will keep those commitments. There's no reason to think that they won't. And for those that are uncertain out there, I think there should be no reason to admit that we...or, accept that we will not keep those commitments into the future. I understand the concern to want to keep the ethanol growing in this state. I think it has been a very good thing. I could make strong cases for the investment, for the jobs, for the market, for the taxes that are paid in many communities, that we all are benefiting for those that are there. I would say that it's being a benefit to those that sell corn, it's a benefit for those that are using the by-products. And I would submit that nearly every district in this state, regardless of whether you're in number 1 or whether you're in 49, is getting a benefit for the livestock feed for the...for those users that are using it. I would...should have...if there wasn't so much effort, I would like to see where all this distiller's wet grain and distiller's dried grain are being used across the state. In fact, many would say that it's going to be one of the real strong points for the cattle industry, particularly in the future, to have access to the by-products, and it's going to make many areas of this country continue to be competitive in the livestock business, because they are going to have access to the by-products, and that is moderate- and low-priced feed, because it is necessary to...for these by-products coming out of the ethanol process. So even setting the ethanol process aside, or the production of ethanol, the by-products are very valuable for every corner of this state. And I think they are being used there, and will continue to be used there. As to the fact that the investments are going here in the state, to my knowledge, ADM, at this point, is getting no benefit from any of this. Most of these benefits are going to local investor groups, farmers, those that have invested in KAAPA, in Plainview, the list goes on and on. They are helping the average person in the community. And many of those local communities are seeing this as an investment, either now...prospectively, or now. And I think they are going to the right place where we would want them to go. So I'm saying the incentives are working like they should be, and there's no reason to doubt that they won't in the future. And when the funding is needed, we will make that commitment in the future.

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

SENATOR LANDIS: Question.

SENATOR CUDABACK: The question has been called. Do I see five hands? I do see five hands. The question before the body is, shall debate cease on AM1631? All in favor vote aye; opposed, nay. We're voting on ceasing debate on the Bourne amendment, AM1631, to LB 90. Have you all voted who care to? Record please, Mr. Clerk.

CLERK: 33 ayes, 1 nay to cease debate.

SENATOR CUDABACK: Debate does cease. Senator Bourne, you're recognized to close.

SENATOR BOURNE: Thank you, Mr. President, members. As part of my close, would Senator Wehrbein yield to a question or two?

SENATOR CUDABACK: Senator Wehrbein.

SENATOR WEHRBEIN: Yes.

SENATOR BOURNE: And again, Senator Wehrbein, I appreciate the work you've done on LB 90, and the other individuals involved. And I understand that once you have a commitment, that it's difficult to change positions. I did listen to you just now speak on what you perceive as our commitment as it relates to ethanol. I appreciated hearing that. If you were one of the five plants who have qualified under LB 90, who have not yet been built, would you rest easy feeling that there is an ironclad agreement on behalf of the state to then fund you should they come on line?

SENATOR WEHRBEIN: That is my understanding of those contracts, Senator Bourne. The commitment is there...the intent is there, the commitment is there, and the Legislature and the administration should feel equally committed. And obviously, I can't speak for everyone, but from my perspective, that commitment is there, and should be.

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SENATOR BOURNE: Is there any way that the state could not honor that commitment that we made to those plants who qualified under LB 536?

SENATOR WEHRBEIN: Well, I think that's probably (laugh) a court of law to decide that. I've heard some talks about pro rata. But nowhere have I seen...I understand the statute, if there's any pro rata provisions, I think that...as my understanding of the law, and I'm not a lawyer, that we do have those commitments.

SENATOR BOURNE: Okay. So you're saying, without a doubt, that those commitments will be honored?

SENATOR WEHRBEIN: To the extent that I can make that commitment, yes.

SENATOR BOURNE: Right. Given that you're out of the Legislature, as many of us are, in...

SENATOR WEHRBEIN: Yes.

SENATOR BOURNE: ...a few years. But...

SENATOR WEHRBEIN: Even Senator Chambers.

SENATOR BOURNE: I'm going to leave that one alone. (Laughter) I can't...can you...have you been...you've been involved in ethanol a lot longer than I have. And to your knowledge, we've never not honored a commitment we've made under these incentive programs, have we?

SENATOR WEHRBEIN: Not in this program we have not...

SENATOR BOURNE: Okay.

SENATOR WEHRBEIN: ...missed any commitments, no.

SENATOR BOURNE: Thank you, Senator Wehrbein. I appreciate that. I, like Senator Wehrbein, feel that we have an ironclad agreement should these plants, these five plants who qualified

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under LB 536, if...should they come on line. I do think that AM1631 makes sense, in that it funds on an index basis, should those plants come along. But I do appreciate the work that Senator Wehrbein and others have done, and funded this program through 2009 or 2010. I personally support ethanol. I don't believe that we can have a new ethanol program until we fund the one we have. And that was part of my intent with this amendment. I am comfortable that the state will honor its commitments to those plants, should they come on line, under those LB 536 plants. So with that, Mr. President, I would withdraw that amendment. Thank you.

SENATOR CUDABACK: Thank you, Senator Bourne. AM1631 is withdrawn. Back to discussion of advancement of LB 90. Senator Schrock, your light is on.

SENATOR SCHROCK: Mr. President, members of the Legislature, there was some discussion back here about corn production in the world. And I happen to know a little bit about that. And so I passed out a sheet so you can see where the corn production takes place in the world. Generally speaking, United States produces about 40 percent of the corn produced in the world. And I would remind certain members of the body that it's corn that makes the beef that we produce in the state taste good. With that, I'll give the rest of my time back to the Chair.

SENATOR CUDABACK: Thank you, Senator. We are on Select File. Senator Wehrbein, you like to make a motion? I'm sorry. Senator Chambers, you had your light on just in time.

SENATOR CHAMBERS: Mr. President, members of the Legislature, I want to let Senator Schrock know that it's corn that makes cornbread taste good. It's corn that makes corn pones taste good. It's corn that makes griddle...corn griddle...it's to be eaten. That's what I want Senator Schrock to emphasize when he hands these papers out. Corn is consumed as an edible source of nutrition. When it is converted to fuel, it is done to fuel the profits of greedy investors and purveyors. The producers of ethanol have to use petroleum-based products to produce it. When ethanol is produced in America, it increases America's reliance on foreign oil. Ethanol provides 3 percent of

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America's energy needs. How long is it going to take for ethanol to eliminate America's reliance on foreign oil? More and bigger vehicles and machines are being produced and sold that rely on petroleum-based products for energy. How in the world can people in a state which places so much emphasis on the production of ethanol going to overlook what a trifling, piddling, inconsequential impact ethanol has on America's reliance on foreign oil? That should not be the argument, because it's bogus. You can talk about helping ADM and these other multinational corporations that want to make money producing ethanol. And ADM, when they get their subsidies, Senator Wehrbein, I was talking about the federal subsidies. And ADM was getting some Nebraska subsidies. All of them have. If the subsidies go away, ethanol goes away. Ethanol is not used to produce ethanol. If every gasoline- and petroleum-burning machine will burn ethanol, why is not ethanol used in the equipment that produces ethanol? Why is not ethanol used in all of the trucks that transport ethanol across the country? This is bogus. Just explain what is actually involved in the ethanol industry. It is to help investors. Those are the ones who benefit primarily. I wanted to offer an amendment, in years past, to require these plants to first use Nebraska corn before they got it anyplace else. And you know what I was told? Well, you can't separate Nebraska corn from other corn...from corn from other states. You can't do that. That's impossible. Then why do all this talking about how much good it's going to do for the producers in Nebraska of Nebraska corn? It's bogus. But those purveyors of ethanol, those greedy investors, have seen what a pushover the Legislature is when it comes to giving money and incentives to urbanized businesses. So the way to sucker the rural sector...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...is by saying, well, this is going to build up the rural economy. How many small rural towns that were dying have now taken life and been resuscitated because of ethanol production? Somebody might say, well, there's a little town out there where there's an ethanol plant, and people in that town work at the plant. I'm not talking about the area where the little hangers-on benefit who are right there by the

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plant. Ethanol is not infusing anything of consequence into Nebraska's economy. And you cannot show me one child who agreed to stay in this state because of ethanol production. Thank you, Mr. President. I have my light on one more time, and that will be it.

SENATOR CUDABACK: You're recognized now, Senator Chambers.

SENATOR CHAMBERS: Thank you. Mr. President, I will ignore the harassment I'm getting back here in the culture corner, and stick to what I said about this one time being it. There are some people who feel that they must always defend ethanol when it comes under attack. I am on the other side. I feel that I have to attack ethanol any time the issue comes before us in the way this one has. Prior to the offering by Senator Bourne of his amendment, I kept skid chains on my tongue, and I was not talking against ethanol. But the door was opened for the discussion. Since his amendment has been withdrawn, I'm not going to do anything to harm the bill or delay it, other than my speaking these two times. I'm going to offer an amendment on LB 90A, the appropriation bill. That is not the bill that is taking care of all this largess for the ethanol purveyors and investors that have been the subject of the underlying LB 90. And I will discuss my amendment when the time comes. And I will distinguish between what I'm offering in that amendment and what Senator Bourne was offering in his amendment. I gave you a handout with a picture of myself in a shirt with a target on it. That is not the subject of the article. The article points out the work that I've done down through the years to try to assist people in the rural areas. That's what most of that article is about. And I will go into more detail when that amendment comes before us. But I have to take this last shot at ethanol, because I will not touch ethanol when we get to LB 90, other than insofar as it relates to me arguing for the amendment that I'm offering. I have yet to hear anybody stand on this floor and explain how the production of ethanol at the maximum is going to reduce significantly America's reliance on foreign oil. It is not going to do it. It cannot do it. If you create vehicles that can run on 85 percent ethanol, that means you will service even fewer than you serve now, because you're not blending 10 percent with petroleum, with gasoline, and spreading

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that among all the vehicles that will burn 10 percent ethanol. A greater percentage of it will be used by fewer vehicles. So all those others are going to continue to use gasoline derived from petroleum. I don't even know what you all are talking about when you say that ethanol is going to reduce America's reliance on foreign oil. Certainly, by the term "foreign," you don't mean oil produced in a state other than Nebraska. You mean another country, I suspect, certain countries that make up the Organization of Petroleum Exporting Countries. None of those is the United States. So at some point, there should be a discussion, in honest, straightforward terms, of why ethanol is going to be publicly funded...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...to the extent that it is in this state. There will be another enterprise wanting to dip into the public till. That's Cabela's. I've had so many people explaining to me how to pronounce that word. They said, stop calling it "Coppola," stop calling it "Cooper," stop calling it "cabala," stop calling it...and then they give me names, and I'm lost and unsure of just how to pronounce it. But that's digressing. Senator Wehrbein and Senator Connealy have done yeoman work in trying to get ethanol on its feet. But it's always going to be tottering and doddering. And when the subsidies are removed, it's going to collapse. Thank you, Mr. President.

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

SENATOR STUHR: Thank you, Mr. President and members of the body. I just feel that I am compelled to stand up and say a few things about the importance of ethanol, particularly as it relates to our environment. And I don't believe that Senator Chambers addressed that area. Particularly in other states--New Mexico, Arizona, California, Colorado--those cities that are...that have a great, great deal of smog and heavy traffic, it has been proven again and again that with the use of ethanol, that it does clean the air and make it a much...easier to breathe and to live in those communities. So that's an important issue, Senator Chambers, that you did not address in relationship to the environment. Also, to the economy, not only

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does it provide additional jobs, as we have all spoken about, but it does also provide some tax support in those communities; also energy. No, we may never become entirely self-sufficient. But it is going...it does play an important role in helping that. And as we get more E85 vehicles, which burn 85 percent ethanol, we will see the increased use of ethanol in this country. I'm just standing, also, in support of LB 90. I think it is a good package, and it does provide some help for rural communities, not only in the entrepreneurial area, but also in the value-added. So with that, I want to close my remarks and give the rest of my time back to the Chair. Thank you.

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

SENATOR LANDIS: Question.

SENATOR CUDABACK: Senator Landis, that won't be necessary. There aren't any further lights on. Senator Flood, for a motion.

SENATOR FLOOD: Mr. President, I move the advancement of LB 90 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 90 to E & R for engrossing. All in favor say aye. All opposed, nay. It does advance. Mr. Clerk, items for the record, please.

CLERK: Mr. President, study resolution: LR 148, Senator Burling; LR 149, Senator Mines; LR 150, Schrock; LR 151, Cornett; LR 152, Raikes; LR 153, Janssen; LR 154, Byars; LR 155, Loudon; LR 156, Schrock; LR 157, Stuthman. And amendments to be printed: Senator Landis, amendments to LB 48; Senator McDonald, LB 332; Senator Bourne, LB 713. That's all that I had, Mr. President. (Legislative Journal pages 1564-1570.)

SENATOR CUDABACK: Thank you, Mr. Clerk. We now go to LB 90A.

CLERK: Mr. President, I have no Enrollment and Review amendments. Senator Chambers would move to amend. (AM1528, Legislative Journal page 1459.)

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SENATOR CUDABACK: Senator Chambers, you're recognized to open on AM1528 to LB 90A.

SENATOR CHAMBERS: Thank you. Mr. President, let my time run. But I think Senator Schrock may have wanted a word with me just for a second. But let my time run. Mr. President, members of the Legislature, I need to give a little background. First of all, if my colleagues are over there eating, I hope they have the set on so they can hear the discussion, because this is an amendment to try to get some more money into a rural-oriented program. I had offered this amendment on General File. Prior to deciding to go forward with it, I had a discussion with some of the people from the rural area, who said they had made a deal which would tie LB 90 in with LB 312, and the rural people would not seek anything else that might require General Fund money. Because they had made that deal, and I was trying to work with them, on General File I pulled the amendment. We're on Select File, a brand-new day. I have been contacted by members of this body who represent rural interests, who said they will support the amendment. When something comes to the floor, it belongs to the Legislature, and not to the individual whose name is on it as the introducer. Deals are deals, in a manner of speaking. But not all deals are created equal. The last bill was LB 90, the underlying proposal, which requires the A bill which I'm discussing now. That bill, through Senator Bourne's amendment, was going to talk about shifting \$6 million from one place to another. I'm not talking about millions of dollars. His amendment would have dealt with a situation that is not going to arise, if it arises at all, for a number of years. His amendment was not needed. My amendment will go to fund a program which is being created. Again, all programs are created by the Legislature, but not all are created equal. LB 312 talks about millions and millions, tens of millions, ultimately hundreds of millions. If LB 312 were to take the form of a human being, and poor LB 90A, which provides the funding for the rural program I'm talking about, were to be converted into a human being, LB 312 would tower so high we couldn't even see the top of it if we climbed the beanstalk that Jack grew. On the other hand, this poor little LB 90A portion that I'm talking about would not rise to the first joint of the little toe of LB 312, if this little poor program stood on stilts. It's

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getting next to nothing. When this program was a bill, I did all I could to kill the bill. I pushed and pushed, and the sponsors agreed to seek only \$250,000. My belief at that time was, if such a piddling amount was put into the program, the body would feel it's not worth keeping, and it would be done away with. That bill never surfaced again. But the contents wound up in LB 312, I think, or someplace. LB...or, in LB 90, LB 90. They wouldn't have what I'm talking about in LB 312. LB 312 is where the elitists live. We're talking about the slave quarters now. We're talking about the shacks where the tenant farmers live. LB 90, for the rural area: it became clear to me that that program was going to be put into effect. Such being the case, and my being a member who is always talking about the way we ought to legislate as an institution, I could not watch the program being created with only \$250,000 funding it. To let it go forth with that small amount of money is like telling everybody that the Legislature does not take this program seriously. It's a light pat on the head, a little tap on the rump, and you send the "ruralies" running off giggling, happy that they got a sucker that they could lick, not realizing that the sucker they were given was analogous to the way they were being treated. They had been given so much of nothing, that when they were given a little of something, they were delighted. I went along with them on General File. But rural people came to me and said, I wasn't a part of any deal. I said, and I'm not bound by a deal of which I was not a part. But I was not going to be paternalistic and override the will of my rural colleagues. And enough of them expressed support for this amendment that I'm going to offer it again in good conscience for myself. This program is being funded with \$250,000. It allows for a municipality and a county to collaborate, and can only receive a maximum of \$75,000 for a project to carry out the various specified purposes of LB 90. Each of these grantees must match dollar-for-dollar the amount which they receive. If \$1 million is made available, and if all of that money is sought in grants, it will double to \$2 million, because the match is dollar-for-dollar, not in-kind services. The dollar-for-dollar match is there pursuant to an earlier amendment I offered, because I wanted to have some accountability. Anybody who puts up money is going to think a while before doing it. They will not take just any fly-by

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notion...fly-by-night notion that somebody brings. On the other hand, \$75,000 is not a lot of money, and the grantee is given, I believe, two years--it used to be five, it may have been amended down to two--two years to use that money; two years to spend \$75,000. That is not a lot of money. If my amendment is adopted, an additional \$750,000 will be put into the A bill. That will provide \$1 million. I think that is reasonable. I think it is fair. Not in the sense of having parity between what the rural area is getting and what the big ones in the urban areas will be getting, but fair in the sense of at least providing a program enough money to have a chance to survive. If anything happens, and the total amount is not expended in accord with the requirements of the bill, the money is not going to go away. It cannot be used for any other purpose. The bill deals with a two-year period. That money can carry over. But I would like those entities which may desire to use this program to not have to get the notion that it's like the race to the courthouse--who is going to be the first one to get there to get the money--so plans cannot be laid carefully, grants may not be well-written, proposals may be accepted just to get the money.

SENATOR SCHIMEK PRESIDING

SENATOR SCHIMEK: One minute.

SENATOR CHAMBERS: I'm asking that my colleagues adopt my amendment, which would add a mere \$750,000 to an entire program. One grantee will not be able to get all of this money. I am not increasing the amount available in any individual grant. Thank you, Madam President.

SENATOR SCHIMEK: Thank you, Senator Chambers. The next light is Senator Wehrbein's, followed by Senators Loudon, Stuthman, and Chambers. Senator Wehrbein.

SENATOR WEHRBEIN: Thank you, Madam President, members of the body. If my gray hair was dark, if I was here 20 years ago, if I hadn't made a commitment a few weeks ago to stay with the \$250,000, if I was coming back in a couple more years, or three or four, if I was to retire here in ten years, if I thought that there was not enough money to even get started, but really, if I

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had dark hair again, I probably would vote for Senator Chambers. Senator Chambers has a good amendment, to the case that the additional money is really good. I understand that. But I can't support the amendment at this time, simply because it's beyond the realm of what I made a commitment to a few weeks ago. I think the opportunity to see if there's more money needed in this will be ahead of us in a year or two, to see if there is a use and we can provide additional money. I present...I compliment Senator Chambers for his large heart, his good intentions, his approach to this, trying to make a good program better. I appreciate that. I know he has good intentions, and I certainly appreciate that. But the facts of life, for me, are that I can't support it at this time, and I begrudgingly have to oppose his amendment.

SENATOR SCHIMEK: Thank you, Senator Wehrbein. Senator Louden, you're recognized to speak.

SENATOR LOUDEN: Thank you, Madam President and members of the Legislature. I commend Senator Chambers for bringing this amendment forwards. I, too, don't think that \$750,000 is that much of a deal. Whether there was an agreement or what, I think at the time that agreement made, there's been some other situations that have evolved since then. So I really don't have a problem with Senator Chambers' amendment to increase it by \$750,000. He's correct on that. My understanding is that all that money has to be...it's matching funds, mostly, for entrepreneurial type projects that would be coming in some of the rural areas. So I don't see where we'd have any problem with increasing that funding. We've seen some pretty loose cash tossed around here lately in the last few days, so I have no problem at all with increasing it for...to the \$1 million. I think it's something that could probably be used in the rural areas, or wherever your entrepreneurial zones would perhaps come about. It isn't necessarily known that that money is going to be completely spent. First of all, you have to have people that are getting ready to undertake some kind of a project. So really, I think this is something that is quite in line with what we've been trying to do, trying to promote businesses in areas that certainly need businesses. And usually, in your rural areas you're talking about something for your value

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adding. Your ethanol areas, they've been talking for most of the afternoon on your ethanol plants and some of your value adding in areas, and your livestock feed as a by-product. Really, in the western end of the state, what we do the...have the most use for is wheat middlings. We don't...we're too far away to utilize any of the ethanol plant by-products, so the wheat middlings are something that they're quite useful on the range country up there. And there's a lot of that fed out in the range country. At the present time, there isn't anything in Nebraska that does anything to value add to the wheat so that we can have wheat middlings from Nebraska. Most all of them that we get either come in from South Dakota or come in from Kansas. So this type of money added to something like that would at least make it worthwhile so that there probably could be a chance. If somebody wanted to make a study and see if they could get something going on that matter, why, it would give us a chance to get something going. So I certainly support Senator Chambers' amendment, and I commend him for bringing it forwards. Thank you, Madam President.

SENATOR SCHIMEK: Thank you, Senator Louden. Senator Stuthman, you're next to speak.

SENATOR STUTHMAN: Thank you, Madam President and members of the body. Realistically, looking at what we have before us, the bill, LB 90A, with the \$250,000 in that program, with the projects, the maximum amount of a project could be \$75,000. So realistically, we could only fund four projects. That isn't very many projects. I think, you know, we need to hopefully get some more money into that fund, and what better way than to utilize some of that money, that \$15 million that we appropriated for job training? Just think of the benefit that we could get out of that job training \$15 million in creating some of these rural incentive projects. I think that would really work out well. We could really utilize part of that \$15 million, so that it is a benefit to the rural areas in job training, so we can have more than just the four projects. But on the other hand, you know, I have to look at it as, you know, where are we going to come up with that other \$750,000? That is always a problem also. But I think if we really concentrate and can expand the economy, creating more jobs, having more people

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paying taxes to the state of Nebraska, it would give us a return on our investment very great. So I...you know, I look at this as that, you know, we could just simply add a little bit more to this, hopefully, so we can utilize part of that job training money that we had put in a bill just the other day. Maybe then we can improve outstate rural communities. I think it would be a real benefit. So those are my comments. That's where I'm coming from; \$250,000 really with just four projects, maybe eight projects. But if you get a project with only \$20,000 or a little bit bait out there for a few projects, the majority of the time, those projects never do survive. Some of the other ones don't survive either. But I think there's more of an opportunity for them to survive if they knew that there was more chance of more projects to be available. I'll give the balance of my time back to the Chair. Thank you.

SENATOR SCHIMEK: Thank you, Senator Stuthman. Senator Chambers, your light is next.

SENATOR CHAMBERS: Thank you. Madam President, members of the Legislature, if it were not for the fact that we have a television system that will allow the senators to hear what we're saying on the floor, I would feel like what we're saying here is wasted. This Chamber is as empty now as it is when they offer the prayer in the morning. But I'm counting on the fact that those senators who had talked to me about supporting this amendment will deliver by way of a vote. However, had I not said what I just did, the cold words in the record would not make it clear that the Chamber is virtually empty. But the record should make that point clear, because the issue being discussed relates to the rural area. I have been critical of ethanol. I've been critical of LB 312 and similar bills which will provide benefits to the big-monied interests who have promised that, through a trickle-down theory, some benefit may come to the bulk of the people who make up the society. This little rural program comes closer than the others that I've seen to doing that. There can be no grandiose schemes. These are going to have to aim at the areas and the people who need the help the most. Although, as has always been the case, those who need the help the most will be the last served and will get the least, nonetheless, when opportunities come to provide some

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relief to those areas and those people, we ought to take the opportunity. I do not believe that \$1 million is enough to do anything of that much consequence. But because of the nature of the program that is under discussion, the limitation on the amounts of the grants available, the types of activities that can be engaged in, \$1 million will give this program a better chance to be taken seriously, to have some viability when it starts, and it will not be DOA--dead on arrival. Maybe the intent when it was put into LB 90 as a part of the overall package, as they call it, was to placate, to humor the rural representatives on the floor, by saying, before you had nothing, now we're giving you something. Senator Loudon pointed out that at the time these various deals, as they are called, were being made, you'll notice that the big urban interests never did agree to anything that impinged on them in any way. They got more than they have ever had before. They don't even have to create jobs, and they can get incentives, just because they're bringing their good presence to an area. That's not how the rural people were dealt with. No, they were cut, cut, cut, made to feel that they have to take next to nothing, otherwise, get on away from the table. This is a part of this editorial I want to read, which I handed out, from the North Platte Telegraph, dated January 20,...

SENATOR SCHIMEK: One minute.

SENATOR CHAMBERS: ...2002. Those of us...and it's captioned: "Ernie can teach us a lot; Chambers a friend to the minority, including the West." Next to the last paragraph: "Those of us in the western part of the state have much to learn from Chambers. He can teach us all how to be heard. That knowledge will come in handy whenever we hold the minority viewpoint." That time is now. I hope the lesson has taken root, and we will stand together and give this little bit to a program that needs it and is entitled to more. Thank you, Madam President.

SENATOR SCHIMEK: Thank you, Senator Chambers. Senator Synowiecki, your light is next.

SENATOR SYNOWIECKI: Thank you, Senator Schimek, members. Senator Cunningham, would you yield to a question?

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SENATOR SCHIMEK: Senator Cunningham, would you yield?

SENATOR CUNNINGHAM: Yes, thank you.

SENATOR SYNOWIECKI: Senator Cunningham, relative to your section of this bill, we've been kind of off and on again relative to the inclusion of the enterprise zones. And if I recall, the General File debate was that if we can somehow enhance or increase the amount of money, particularly as it relates to your program, and noting that a municipality can only draw down, I believe, one of these, or two of these \$75,000 grants...no municipality or county shall receive funding for more than one project, I'm sorry. They're limited to one project. If Senator Chambers is successful here, and given also the fact that the goals outlined under your grant program are not really uniquely rural, and they're not uniquely agricultural-based, as opposed to the Agricultural Opportunities and Value-Added Partnership Act of Senator Stuhr's, would you be open to that dialogue again, relative to incorporating the federal-recognized enterprise zones in this program?

SENATOR CUNNINGHAM: Senator Synowiecki, I'm...as we had this discussion on the first round and the second...I guess this is the second round, I'm not going to be able to do that. Senator Chambers' amendment, if it were a perfect world, I would like to be able to support that. But as we've talked about, and you've heard me say on LB 312 today, when you have an agreement, you have an agreement. And it's very hard to do something, to go back against your word. And if...in this body, if you can't use your word, you don't have anything. So I just wouldn't be able to do that, Senator.

SENATOR SYNOWIECKI: Senator Cunningham, I appreciate that. And I don't like to work in hypotheticals either, and so forth. But if it is successful, I will maybe reengage, perhaps, the possibility or the opportunity to look at inclusion of the enterprise zones.

SENATOR CUNNINGHAM: Okay.

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SENATOR SYNOWIECKI: Thank you, Senator. Thank you, Senator Schimek.

SENATOR SCHIMEK: Thank you, Senators Synowiecki and Cunningham. Senator Chambers, your light is next.

SENATOR CHAMBERS: Madam President, members of the Legislature, I want to read something else from this, so that people in this Legislature who might question my motives--it hasn't been done--will listen to what an editorial writer in North Platte wrote: "While many in our part of Nebraska find Chambers too far to the left of the political spectrum for our tastes, we must remember he is one of our greatest friends." And I have been, and I will continue to be; not pandering, not cheesing up. But when I see people who are disadvantaged and not treated fairly by the bully, then there's a part of me that identifies with them. And I have watched what has happened to the rural sector of this state. They are treated similar to the way people in my community are. Omaha, and to some extent the state, will use the statistics about our poverty to draw money here from the federal government. Then, when it comes, it's used in downtown Omaha and for other purposes, never to alleviate the conditions whose existence justifies or is used to justify the coming in of that federal money. The rural areas of Nebraska have a lot of impoverished people. There might be one or two counties in Nebraska which have been described as the most impoverished counties in the country. I don't see how so many people representing those areas and impoverished people can watch so much money going to the upper levels, where ordinary people will never see it, then hesitate to give this small amount of money to a program like this, which will be closer to the people who need it. That \$15 million that was taken out of what was called the rainy day fund was done in a...the blink, in the twinkling of an eye. Bam, and it was over; \$15 million not even needed. The ones being given that money, supposedly, are so flush that they don't even need it. But it's put there, just in case. This is a program that I believe can use the money. Again, compared to what is being spent around here, this is next to nothing. There are enough rural senators, almost single-handedly, to adopt this amendment. There will be some urban senators, so designated, who will support this amendment,

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I'm sure. When the iron is hot, it must be struck. That's what a farrier might say. Some people say that opportunity knocks once. But for black people, other minority groups of color, and to some extent the rural people, when opportunity knocks, the door is not open. It's just a slit. It opens and shuts almost instantaneously. You have to be poised there, ready to make your move at any instant, without warning, so when the sliver is open, you shoot through it. This is a little more than a sliver. But that which is on the other side is not a huge pot of gold. It's an amount of money which will lend a degree of credibility...

SENATOR SCHIMEK: One minute.

SENATOR CHAMBERS: ...to a program. It should not start out with a disadvantage, and being crippled to the point where, as Senator Stuthman said, four projects, and everything is gone. Who's going to win the race to get that little bit of money for those few projects? The rural community should not always and forever be put in that set of circumstances. If we get the \$1 million, that is not going to solve all of the problems. But it will be enough to give opportunities like they're giving everywhere else, so that if one or two of the projects fail, they will not constitute such a large percentage of the program that you say, kill it all, it's not worth it. Nothing is going to be perfect. You do the best you can. But you ought to give people the tools with which you want them to fashion whatever the product is...

SENATOR SCHIMEK: Time.

SENATOR CHAMBERS: ...that you're requiring them to bring into being. Thank you, Madam President.

SENATOR SCHIMEK: Thank you, Senator Chambers. Senator Fischer, your light is next.

SENATOR FISCHER: Thank you, Madam President. The amendment that Senator Chambers has brought addresses one of the programs that I've supported throughout this session, dealing with Senator Cunningham's original bill, LB 273. I think it is a

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good program for rural Nebraska, and it is one that I hope will be used by a number of communities throughout the state. I appreciate the amendment that Senator Chambers has brought, adding more money into the program, but I think at this late date it's not going to happen, Senator. I would ask if Senator Chambers is available to yield to a question, please.

SENATOR SCHIMEK: Senator Chambers, would you respond?

SENATOR CHAMBERS: Yes.

SENATOR FISCHER: Senator Chambers, this was a bill early on that you did not support at all. And I'm just curious on why you're offering this amendment to put more money into it now.

SENATOR CHAMBERS: Because when I couldn't kill it and it became clear that the program is going to go, it ought to have enough money to make it work. It's like some people will say, I don't support the underlying bill, but if the Legislature moves the bill, they'll vote for the A bill, even though they're against the bill itself. So since the program is going to go, there should be enough money to make it credible, to give the opportunity for some of these projects to make the application, and so that you won't have maybe three or four communities that will be quick on the uptake, racing and winning the race, and getting all the money. Four projects, and the \$250,000 is gone.

SENATOR FISCHER: Thank you. Would you be willing to support a similar bill to this one, in the future, then? Do you believe it's a worthwhile program?

SENATOR CHAMBERS: You mean this program? Since this program is in being, I will want it to have enough money to do what the program's design is. I certainly will. I lost in trying to kill it. That ended my efforts in that regard. Now I want to do what I can to make it a success, because the Legislature is going to do it. I'm a part of the Legislature.

SENATOR FISCHER: And if this amendment wouldn't pass this year, would you be willing to work in the future to put more money into that program?

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SENATOR CHAMBERS: Well, I think it's going to pass, I really do, from the people who have talked to me. That remains to be seen. But I will work in the future. But I don't want to give the notion that I'm going to accept the failure of this amendment.

SENATOR FISCHER: Okay. Thank you, Senator. I'll return the rest of my time to the Chair. Thank you.

SENATOR SCHIMEK: Thank you, Senators Fischer and Chambers. We're on the discussion of AM1528. Senator Chambers, I see no further lights. I believe it would be up to you to close.

SENATOR CHAMBERS: Thank you. Madam President, at the risk of irritating my colleagues, I will ask for a call of the house. And as we usually say, my time will be running.

SENATOR SCHIMEK: Thank you, Senator Chambers. There's been a request for a call of the house. Do I see five hands? No. (Laugh) All in favor vote aye; all opposed vote nay. Record, Mr. Clerk.

ASSISTANT CLERK: 13 ayes, 1 nay to go under call, Madam President.

SENATOR SCHIMEK: The house is under call. Would all senators please return to the Chambers and record their presence. The house is under call. All unauthorized personnel please leave the floor. The house is under call. The house is under call. Would all Senators please return to the Chambers and record your presence. The house is under call. Senator Chambers, did you wish to...?

SENATOR CHAMBERS: I will begin using my time. How much do I have left?

SENATOR SCHIMEK: Three minutes.

SENATOR CHAMBERS: Thank you. When it came to LB 312, I was and am against it, and voted against it. I did not dig my heels in

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and try to take all the time that could be taken on it. I do not like the ethanol component of LB 90. As I stated earlier, in an exchange with Senator Wehrbein, I said very little on that bill; said more when Senator Bourne offered an amendment that would have opened up the bill. Those bills deal with millions of dollars. This amendment deals with \$750,000. I believe that there should be enough votes here to put this money into this program. There are some people, very few, who said they were a part of an agreement which was made before the state's financial condition was determined to be much better than what it was thought to be at that time. That supposed deal that bound the rural people to receiving very little did not in any way hurt the urban interests that got the huge amounts in LB 312. So I'm asking that, since this program is going to be put into effect, there should not be such a small amount of money as the case is now to require communities to race to see if they can get in. Four projects would exhaust all of the \$250,000 which currently is available. I'm asking that my urban colleagues, who have gained so much for their constituents and their constituencies, will give a little bit of something in this fashion in the same way that Senator Bourne years ago...

SENATOR SCHIMEK: One minute.

SENATOR CHAMBERS: ...managed to put into a rural area some telephone operations so that the people manning those phones could earn some money and there'd be jobs created in the rural part of the state. So there have been urban senators who've tried to help. That universal telephone fund, for which I'm probably being condemned now, that caused all of us to pay a little extra on our phone bills so that there might be a chance to have some telephone service available in the rural areas, was done by me. We do what we can where we can. This is one of those opportunities that I have, and I think my rural colleagues ought to help themselves and the ones they represent, and as many of my urban colleagues as feel the spirit may do the same thing. Thank you, Madam President.

SENATOR SCHIMEK: Thank you, Senator Chambers. Did you...did you say how you wanted to proceed? A machine vote? The question is the adoption of the Chambers amendment, AM1528. All

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in favor say (sic) aye; all opposed say nay...or, vote nay.
Have you all voted? Senator Chambers.

SENATOR CHAMBERS: I will ask for a roll call vote in regular order.

SENATOR SCHIMEK: There's been a request for a roll call vote in regular order. Mr. Clerk.

ASSISTANT CLERK: (Roll call vote taken, Legislative Journal page 1571.) Vote is 19 ayes, 13 nays on the adoption of Senator Chambers' amendment.

SENATOR SCHIMEK: The amendment is not adopted. The call is raised. Mr. Clerk, are there other amendments?

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

SENATOR SCHIMEK: We are on the debate on advancement of LB 90A. Senator Flood, for a motion.

SENATOR FLOOD: Madam President, I move the advancement of LB 90A to E & R for engrossing.

SENATOR SCHIMEK: The question is advancement of LB 90A to E & R Engrossing. All in favor vote aye; all opposed vote nay. The bill advances. Mr. Clerk.

ASSISTANT CLERK: Madam President, the next bill under consideration is LB 500. LB 500 was introduced by Senator Landis. (Read title.) The bill was read for the first time on January 14, referred to the Revenue Committee. The committee reported the bill to General File with committee amendments. The amendments were under consideration by the body on May 10. At that time, a priority motion to recommit the bill to committee was offered by Senator Chambers and failed. Now under consideration is a motion to reconsider the vote on the motion to recommit the bill to committee.

SENATOR SCHIMEK: Senator Chambers, you're recognized to open on

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your vote to reconsider the vote on recommitting to committee.

SENATOR CHAMBERS: Thank you, Madam President. This bill, LB 500, in the words of one of my colleagues in the culture corner, is growing increasingly rancid. Some people thought the bill had been done away with. It should have been recommitted to committee, but it was not. So my motion here is to recommit that bill to committee. That way, we'll be through with it. I doubt that it's going to have enough support to pass. We can end its misery at this point. I'm going to fight the bill tooth and nail, and Senator Landis knows that and it's not bothering him at all. He is the dish that ran away with the spoon. What is the spoon? The State Treasury. He has bound the Legislature, if LB 312 passes, for years to come. This bill would bind the Legislature for up to 25 years. If one of these outfits...well, there is one outfit, Cabela's, and I'm going to try to properly pronounce that name. If Cabela's takes advantage of this bill, I believe they have 25 years in which to use sales tax and other, whatever other, incentives are in there to retire the bonds that they would like to get a public institution, a public, probably, political subdivision to issue. And Cabela will buy its bonds, use sales tax money to pay off the bonds, which will draw interest which will go to Cabela. So they will win all the way around, coming and going. In the meantime, those stores that are already in existence will be pulverized and thrown out of business because the Legislature does not respect those businesses that do it on their own. That great work ethic that people talk about, that self-reliance that Ralph Waldo Emerson wrote an essay about will go by the boards when we come to the reality of the Legislature facing a huge greedy enterprise which wants to crush out all opposition or competition. Where are those people who talk about the way Wal-Mart comes into a community and wipes out everybody? The Lincoln Journal Star had an article that appeared in this morning's paper. On the front page, a large picture of Cabela's, and it looks like a warehouse; then they have a smaller picture with two gentlemen. One has a rifle in his hand, admiring it, and another scholarly looking gentleman in a plaid shirt, on which a checker game could be played but it is not being played at that time, explaining about this gun, and they call this the gun library at Cabela's in Sidney. There is

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a discussion with a gentleman from Michigan who had seen that state give Cabela's everything Cabela wanted, to the ruination of other businesses, and according to that individual the legislators in Michigan are still trying to wash their hands of that deal. Cabela's has developed a national strategy and this is what was admitted, if you go to page 2 of the article. The emphasis on building retail stores across the country coincides with Cabela's new status as a publicly traded company. That means there are investors, I believe. Let me ask Senator Wehrbein a question, because he understands these things. Senator Wehrbein, would you answer a question or two?

SENATOR SCHIMEK: Senator Wehrbein, would you respond?

SENATOR WEHRBEIN: Yes, I will, if I can.

SENATOR CHAMBERS: If a company is publicly traded, what does that mean?

SENATOR WEHRBEIN: I would assume that the shares are available to the public, either over the counter or on the exchange.

SENATOR CHAMBERS: So if Cabela's is a publicly traded company, and it is, the ones who buy the shares want to make as much profit as possible. Is that true?

SENATOR WEHRBEIN: Yes.

SENATOR CHAMBERS: So Nebraska is being asked to give incentives to this publicly traded company in order that it can make profit for its shareholders,...

SENATOR WEHRBEIN: Yes.

SENATOR CHAMBERS: ...basically. Thank you, Senator Wehrbein. Let me continue reading. Retail stores is our focus now, Callahan said, and he's an official with Cabela's. One reason Cabela's is able to sustain the rapid growth of the "megastores," which are then pitched as tourist attractions, is the public financing the company receives; a publicly traded company receiving public financing that will wipe out stores

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that are already there. Let me continue. It's a situation that galls competitor Poet and that Callahan recognizes as a key to the company's business strategy. Quote from Callahan: We probably would not be building the size of stores we are, with the amenities we have, if it were not for the public financing. And if we lost the amenities, we might lose that draw as a tourist attraction. It's a part of their scheme to bill themselves or, to use the language of the article, to pitch themselves as a tourist attraction. They are selling shares. The way to bolster the value of their shares that they're selling is to report, I guess, a lot profit or sound financial condition. And how do they do that? Well, the states are underwriting Cabela's. The states are feeding money into Cabela's, which is able to use that to increase the value...

SENATOR BAKER PRESIDING

SENATOR BAKER: One minute.

SENATOR CHAMBERS: ...of its shares which are sold wherever they're sold, and that is what this bill is doing. For the first time, large state incentives, subsidies, are being offered to a retail operation. How many people do you think would bypass Kansas City, where there's a Cabela's, to come to Omaha, Nebraska? This bill does not have a high priority except for its lobbyist and the Cabela's. It should not have...

SENATOR BAKER: Time, Senator Chambers. Time.

SENATOR CHAMBERS: Thank you, Mr. President.

SENATOR BAKER: Senator Chambers, you're recognized to speak.

SENATOR CHAMBERS: Thank you, Mr. President.

SENATOR BAKER: And this is your third time, they remind me. Second time, I guess. You had opened previously on your motion to reconsider, apparently.

SENATOR CHAMBERS: Yes, it just seemed like several times.
(Laughter)

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SENATOR BAKER: This is your second time to speak.

SENATOR CHAMBERS: Yes, it is.

SENATOR BAKER: Thank you.

SENATOR CHAMBERS: I knew it would be caught.

SENATOR LANDIS: (Microphone malfunction) Mr. Speaker, point of order. Point of order, Mr. Speaker.

SENATOR BAKER: Yes, Senator Landis.

SENATOR LANDIS: I agree completely that this is the second time. Senator Chambers has at least three times to speak. But I believe Senator Chambers has opened on this motion on another day, so we don't start over with a new opening at the next day, even when a motion has been opened on before, I believe. Which means, I believe Senator Chambers is on his second five-minute speech as opposed to the "trip to the dentist" that we sometimes get on an opening. Mr. Speaker, I'm asking if that's correct and if we're on the second of three speeches that Senator Chambers is entitled to on his motion today?

SENATOR BAKER: I am informed that's correct, Senator Landis; had opened previously on the motion.

SENATOR LANDIS: Thank you. I'm satisfied with that completely. Thank you. Continue.

SENATOR BAKER: You are on your second five-minute speech.

SENATOR CHAMBERS: Thank you. Members of the Legislature, with all the opposition that supposedly exists on this bill, it appears that I'm the only one who's going to resist it, but resist it I shall. The important thing is that the votes not be there to send this bill onward. With what was given to business in LB 312, and the business that was given to the Appropriations Committee by that \$15 million rifling of the rainy day fund, this bill certainly does not deserve to go anywhere. If there

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is concern about what Wal-Mart has done and is doing, why give money to this operation that needs no help from this state? This bill ought not move from this place and I'm going to battle it for as long as I need to. At first, I thought I might be limited in what I could do this evening, but I've made up my mind that some things are more important than others. So rather than default and let this bill move because nobody else will take issue with it, I'm going to take the time that is necessary to fight against this bill. There is nothing in it which justifies the body in moving it. I would like to ask Senator Landis a question about something I said earlier, to be sure that I haven't misstated what the bill does.

SENATOR BAKER: Senator Landis, would you respond, please?

SENATOR LANDIS: I'll do my best.

SENATOR CHAMBERS: First of all, Senator Landis, this is a new element. If the bill passes, an entity has two years within which to take advantage of the bill. Is that correct or incorrect?

SENATOR LANDIS: That's correct.

SENATOR CHAMBERS: After that has been done, there would be 25 years available to retire the bonds that are issued, if that amount of time is necessary.

SENATOR LANDIS: That's correct.

SENATOR CHAMBERS: Okay. I just...that's what I said and I didn't want to be incorrect in making that statement, because I think the bill is bad enough on its own without my exaggerating. That is not what I intend to do when I call myself relating what is in the bill. If you can get a copy of today's paper and you read what Cabela has done other places, you will see that Nebraska is not wise to do this. The money that would go to Cabela's is going to be taken from other retail outlets which are established now. When money is spent with those retailers, the state derives sales tax revenue. When you pull that business from those retailers to Cabela's, the tax money derived

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does not go to the state. So you're reducing the amount...

SENATOR BAKER: One minute.

SENATOR CHAMBERS: ...of sales tax revenue to the state by enacting this bill into law, if that's what you choose to do, and I hope it is not what this body chooses to do. I don't know that I can say anything to persuade somebody not to support this bill if that person's mind is made up to support it. But if there are any who are having second thoughts or are unsure, then I hope I can tip them toward the "no" column, and those who are "no," are in the "no" column, I hope they will stay there. Thank you, Mr. President.

SENATOR BAKER: Thank you, Senator Chambers. Senator Janssen, you're recognized to speak.

SENATOR JANSSEN: Thank you, Senator Baker, members of the Legislature. Senator Chambers, you're exactly right. We're starting down a slippery slope here when we start talking about retail in this state. All the tax incentives that we've had in the past have been for ethanol plants. That comes to my mind because we were just discussing them. Yeah, I just cannot see why we are going to open the door for retail in this state, you know? And I don't care if it's Cabela's or if it's Senator Cunningham's...a competitor that wants to come in and get into business against Senator Cunningham in a town like Wausa. There's no difference. If someone wants to come in and build a establishment in Wausa, Nebraska, a grocery store, it's a retail outlet. And if that person can come down here and ask...and what's the difference whether it's a large company or a small one? They can come down here and ask us to get 75 percent of the sales tax generated in that place of business for, say, five years to help defray the costs of establishing something that is going to be an unfair playing field, you might say, with Senator Cunningham. That is just not right. And if we open that door, if we open that door one crack, that's what's going to happen. Who's going to be next? And how can someone compete when they are recouping 75 cents out of every \$1 that they get from sales tax for a period of years? Why wouldn't someone go to that establishment and buy their merchandise? You know, it's just

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going to hurt all the other retailers in the area. It's not a good situation. Yes, this would be a beautiful place, a great place, but who can't build something like that if they know that they're going to...and everything in that establishment is taxable. It's not like a grocery store where only nonedible items are taxed. Everything in that place is going to be taxable. So I'm supporting Senator Chambers' motion to reconsider and I think we all ought to sit back and just reconsider the slippery slope we're going down here. It's not a good situation, not at all. And I'll give the rest of my time to Senator Chambers.

SENATOR BAKER: Senator Chambers, would you like to use his time?

SENATOR CHAMBERS: Yes, I would, Mr. President. Members of the Legislature, how can you reduce the state's revenue stream and talk about high taxes when the one leads to the other? If these large business entities, despite what Senator Redfield says about somebody pays the taxes, when these large business entities are taking in money to give profit to their shareholders,...

SENATOR BAKER: One minute.

SENATOR CHAMBERS: ...how in the world do you get around recognizing that fewer people are going to have to pay more in taxes? So on the one hand you call yourself business friendly because you give away the state's revenue stream, as you call it, or revenue base. Then people have to pay high taxes. They've got to, to make up for what you're not requiring these others to pay, plus what you're giving to them. This bill is one of the worst in that series, and I really hope that it doesn't go any further. Thank you, Mr. President.

SENATOR BAKER: Thank you, Senator Chambers and Senator Janssen. Senator Louden, you're recognized to speak.

SENATOR LOUDEN: Thank you, Senator Baker and members of the Legislature. I haven't weighed in on this LB 500 yet. Personally, I...if any business wants to come in and make...set

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up a business in Nebraska, I have no problem with that. I guess I would like to ask Senator Landis some questions, if I may, please.

SENATOR BAKER: Senator Landis, would you respond, please?

SENATOR LANDIS: I'll do my best.

SENATOR LOUDEN: Is this, when you have, you call it, this tourism and development, now is this going to be on an area that's out in farming country or where is this thing going to be located at?

SENATOR LANDIS: Eligible area means an area either within a municipality or any combination thereof. We actually deleted...want to delete some boundary areas here, in which by reason of (a) the existence of significant areas of unimproved or insufficiently developed lands; the lack of a significant number of new and growing business enterprises; the lack of sufficient economic growth; the lack of a state, regional, or local development plan or program; the existence of significant conditions which prevent or do not promote economic growth within such area; the existence...

SENATOR LOUDEN: Now...

SENATOR LANDIS: ...of unimproved land...

SENATOR LOUDEN: ...I can understand that part because that's written in there, but actually where is this? I mean, evidently somebody has got some idea where they want to locate this thing. Is it going to be near Omaha, is it going to be near Lincoln, or is it going to be out here around Milford? I mean, somebody has got an idea where it's going to be if they're going to do it within two years. Can you tell me where it's going to be?

SENATOR LANDIS: Three...there are three groups that I know of who have expressed some interest in using the bill. One of those is Cabela's, and that's in Sarpy County. One is the Kansas City Royals, the K.C. Royals, who are interested in north Omaha. And there is a theme park that's interested in along

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I-80 someplace a little closer to the interstate than where Cabela's is looking at in Sarpy County.

SENATOR LOUDEN: But this would already be in some urban areas where there was...there's already businesses or developments or something going on now. I mean it isn't going to be out there and overrun a cornfield to build this thing.

SENATOR LANDIS: I can't say that that's true, no, and I would anticipate that you would be taking some agricultural land...

SENATOR LOUDEN: Uh-huh.

SENATOR LANDIS: ...for at least two of the projects, although I think the one in Omaha that's being under consideration is in an urban area.

SENATOR LOUDEN: Okay. That's...when they talk about spending \$20 million, I'm wondering if they're having to purchase some high-dollar land to do this. In other words, this is just another business that's starting up as an operation. The problem I have with it is the 75 percent of the sales tax that they generate, that would be the state would be footing the bill on that. I don't have any problem if the city or the county together want to give their sales tax to helping promote something like this. Or if they want to give their tourism development money to something like this, I have no problem with that. That's local. That's their business. But I really do have a problem with using some of the state revenues on your sales tax to fund something like this. If this is going to be in near Interstate 80, there's going to have to be some, probably, interchange work done. There's going to have to be something done in order to get the traffic on and off of some of the expressways. So there's a lot of infrastructure there that I'm sure that if it's near Interstate 80 that the state is going to have to pick up. This is one of the things that the state of Nebraska makes a good deal of their money on, is to have a...

SENATOR BAKER: One minute.

SENATOR LOUDEN: ...developments along the interstate and

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receive the sales tax money from it. Cabela's in Sidney certainly wouldn't be Cabela's out there if it wasn't for they're sitting on Interstate 80, because I can remember when Cabela's first started out there they had to rely on Interstate 80 for a lot of their ways of hauling their products in and out and then out of the area. They've promoted it with some of their animals that they have stuffed and on display there, and do have a nice presentation out there, and they've done quite a lot for Sidney. But I do have a problem with taking state monies to help on this development like this. I think there are better ways to do this than at the way they're going about it. I would like...

SENATOR BAKER: Time, Senator Louden.

SENATOR LOUDEN: ...to see this thing recommitted. Thank you.

SENATOR BAKER: Thank you, Senator Louden. Senator Stuthman, you're recognized to speak.

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. I have some real concerns with this bill. With the portion of the possibility of, you know, the entertainment and tourism part, doesn't give me near the concern as the defining of what they have a real intent for it, and that is, you know, the Cabela. A lot of people have named this the Cabela bill. It really does concern me, you know? This is a retail establishment that is in direct competition with other businesses that have been here and have worked here. And now that I have see...do see Senator Landis has reentered the Chamber, I would like to direct one question to him, if I may, please.

SENATOR BAKER: Senator Landis, would you respond, please?

SENATOR LANDIS: Senator Stuthman.

SENATOR STUTHMAN: Senator Landis, in the bill it says, it's in Section 14, it says the contracting public body shall have the power to issue special obligations bond in one or more series to finance the undertaking. Explain to me what this really means.

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Does that mean that the county will be issuing the bonds for this, or would it be the entertainment or the tourism business that would be issuing the bonds?

SENATOR LANDIS: Right. The term of art...there's a term of art that covers the city or county that is essentially serving as the organizing public agency involved. The answer is the county, quite likely. It could be a city, but let us pick the public entity. It's not the private enterprise that we're talking about. They don't have the authority to do a revenue bond like this, and so it is a revenue bond by the county.

SENATOR STUTHMAN: I think, you know, that's the way I understand it, that's going to be here, but in my opinion the county can only create a bonding authority, so that would be a bonding authority for the enterprise. The enterprise would then sell the bonds. They would be responsible for them and they would have to service those bonds. I...that's the way I understood it. Now, I could be wrong, but I don't know how a public entity can issue bonds. Maybe I'm wrong, but can you explain that? We do...a county can...a county board does create the bonding authority, but that's as far as it goes, in my opinion. That's...when I was serving on the county board, the county board created the hospital authority; then the hospital authority, they sold the bonds. They took care of everything. The county is not responsible for anything. But in reading this Section 14, the contracting public body is the one that's issuing the bonds, and that's what I don't...that's not clear to me. Maybe I'm misunderstanding it or something.

SENATOR BAKER: Is that a question, Senator?

SENATOR STUTHMAN: Could you...could you comment on that, Senator Landis, please?

SENATOR LANDIS: Right. Senator Stuthman, in fact the contracting authority is the term of art I was looking for. That is either the city or the county, because it could be either. Yes, it is the county that issues the bonds and, as an example, counties in this state have the power to issue county industrial bonds. They are revenue bonds that are pledged

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towards a local industrial park or development, ultimately which get...

SENATOR BAKER: One minute.

SENATOR LANDIS: ...and inure to the benefit of a private user of that industrial park, but they're issued by the county. They're revenue bonds, so if they go belly-up there is no obligation against the taxing code, the taxing responsible; that you liquidate whatever assets there are that the issuing agency owns.

SENATOR STUTHMAN: So there, realistically, is not a responsibility or an indebtedness of the county. It would be the bonds that would suffer the loss then. So that is a concern of mine. Also, I have a concern about the length of this bonding. That's 25 years, I think what it states in the bill. And this sales tax to fund the bonds and the interest would possible go on for 25 years. Would that be correct, Senator Landis?

SENATOR LANDIS: Well, what length of bond would you support, Senator Stuthman?

SENATOR BAKER: Time.

SENATOR STUTHMAN: Thank you.

SENATOR BAKER: Thank you, Senators Landis and Stuthman. Senator Erdman is next to speak, followed by Senator Redfield, Janssen, Friend, Beutler, and others. Senator Erdman.

SENATOR ERDMAN: Thank you, Mr. President. Members of the Legislature, I think we are...we're in a very important moment here in this Legislature this session, and I wanted to bring it to our attention that the senior member is here, toiling away hard at this late hour, and I wanted to thank him for his efforts and tell him that we really missed him the other night when he chose to not be here to engage in the late discussion that lasted till the late evening. And, you know, he was so proud of his record of being here, standing on the floor, and I

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just wanted him to know in all sincerity that there was a great absence that evening and we're grateful that he has somehow decided to overcome his desire to leave us to be able to stay here this evening. Members of the Legislature, LB 500 is an interesting proposal. There have been arguments back and forth. Senator Janssen has made the argument that this is a benefit to retail. I think Senator Stuthman has somehow made that similar argument in also discussing the finer points of the bill. We're talking about economic development, economic incentives, whether it's tourism, whether...whatever the program you want to call it. The interesting thing about this is if the company involved in this discussion, whether it's Cabela's or whoever, would go ahead and locate under these provisions under LB 500 in the area between Omaha and Lincoln, in the Gretna area, that there would be a benefit to that company. There would also be a benefit to the 47th Legislative District. Now, the connection is that, as the company grows, so does the company's headquarters, and so the growth in Omaha will benefit my legislative district, because that's obviously where the company is headquartered, and it's somewhere to the tune of about 40 new jobs. So that's a big deal. That's a big investment. That's a big benefit. The reality is, is that that's probably going to happen, in some extent, regardless of whether it's built in Gretna or not, because they're going to build in other places and those other places will contribute to the growth of the business itself. The question you have to ask yourself is, is the value of having what we currently have as the number one state's tourist attraction be...or have a complement in eastern Nebraska? If the answer is no, then you can go ahead and say, look, we don't want the people to come to Nebraska; we don't want, as Senator Chambers and others said, for them to bypass other places to come to here. Some have said that there's competition between other retailers. You can't buy a baseball bat at Cabela's. You just flat-out can't. Okay? They're not in competition with people that sell baseball bats. That is not a reality. They may sell guns with somebody else that sells guns. There may be similar products. They're not direct competitors, so that's an interesting argument. But the reality is they're going to expand. Those places that are listed in the Journal Star, they're going to expand, and they're going to expand in those places and it's going to leave us out in the event that LB 500

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doesn't pass because this is a provision that they would like to use to benefit them and to grow their company. And when they do that, it brings back money to western Nebraska and rural Nebraska, but it would also bring back an opportunity in eastern Nebraska to have an attraction, whether it's in conjunction with other ideas that are out there, whether they be theme parks or whatever, to promote tourism. So I think this is one of those unique situations whereas I look at the economic development incentives or the facts, it's probably a bigger benefit for urban Nebraska or eastern Nebraska that this bill passes than it is for my communities in western Nebraska, because they're going to grow and they're going to grow because that's where the headquarters is, and that's where the reality of the organization has to start. So I think this has been an interesting discussion. I'm looking forward to more and I am grateful that Senator Chambers, again, has somehow overcome the late hour to be able to join us and to be able to stick with us and to offer his motions, and I think it is an interesting discussion--how do we provide opportunities for the citizens of Nebraska while balancing the interests of the state and also the communities that are affected by it. That's what we're about here.

SENATOR BAKER: One minute.

SENATOR ERDMAN: Thank you, Mr. President. If you would like to use the minute, Mr. President, I would let you use it, but if not, I'll conclude my remarks.

SENATOR BAKER: Thank you, Senator Erdman. Next up is Senator Redfield, recognized to speak.

SENATOR REDFIELD: Thank you, Mr. President, members of the body. I do have some questions for Senator Landis, if he could respond.

SENATOR BAKER: Senator Landis, would you please respond?

SENATOR LANDIS: I'll do my best.

SENATOR REDFIELD: Thank you, Senator Landis. You know, I have

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a new appreciation for Senator Beutler, because I have seen him agonize over bills and try to fix them, and I still haven't gotten a handle on understanding everything so I could even attempt to do any amendments. But one of the things that I was looking at, in your opening, when you talked about some of the corrections that you've done in your amendment and the committee amendment on some of the errors that the Kansas audit actually showed. And I'm trying to find my way through all of these three different pieces and one of them, the things that they found in the audit down there that they actually addressed in Kansas, in new legislation this year, was to put a prohibition on not only the construction of the buildings and structures but...when they own it, but also a lease. Because evidently they had been through a leasing mechanism, worked a way around to use the construction of the building. Do we have something in the bill or in your committee amendment or the...your amendment that would eliminate the use of the bonds for construction of the buildings, whether they're leased or owned?

SENATOR LANDIS: I can't tell you but I can give you a quick...I can get an answer for you pretty quickly. I'll tell you why. It's not on my radar. It's not something that I remember as being the product of an amendment either way, but let me check.

SENATOR REDFIELD: Okay. Thank you. I know that the committee amendment addressed furniture and fixtures, which was one of the issues, and the committee amendment solves that by just saying you can do that. You're on the phone.

SENATOR LANDIS: Yes, that's accurate.

SENATOR REDFIELD: That's correct? And then the Landis amendment took care of some of the consulting fees, that were found to be problematic in Kansas, by expanding the uses that it could be used for, for engineering and some other activities. But what, real estate agents, financial advisors, I mean, what other things would not be allowed, or would we allow everything?

SENATOR LANDIS: Lobbying would be illegal. Paid parking would be gone. Let me see...I will put my light on at the...if I were you, I would look at page 5. I would say, to be owned or leased

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to a developer, so I think that means that leased property may be covered. And then read an architectural, engineering, legal and consulting services, all related expenses to develop and finance the development project. So it would be the architecture, the engineering, the legal and the consulting necessary for the purposes of developing and financing the development project. That you would on page 5.

SENATOR REDFIELD: So we're actually going the opposite direction of Kansas as a result of that audit? Would that be accurate? I mean, are we allowing more uses rather than less?

SENATOR LANDIS: No. I would not...I would not accept that characterization.

SENATOR REDFIELD: Okay. What about, like, property taxes and some of the other issues that they were paying for in Kansas? Do we have those?

SENATOR BAKER: One minute.

SENATOR LANDIS: I'm sorry, excuse me. I...

SENATOR REDFIELD: I'm sorry. Like property...

SENATOR LANDIS: Well, why don't we do this. Why don't you ask me some questions, let me do some work and I'll try to get answers for you? Fair enough?

SENATOR REDFIELD: Okay.

SENATOR LANDIS: Okay. One of them was about consulting services and the like. Another one was the lease. And a third one was? You just raised it and I missed it. That's...

SENATOR REDFIELD: Property taxes for businesses within that district. Now, I know we use TIF now, so maybe that's not an issue, but I didn't know if we were allowing something different here.

SENATOR LANDIS: Could...so that we...so that we...the funds

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could be used to pay the property taxes of business within?

SENATOR REDFIELD: Yes,...

SENATOR LANDIS: Is that the question that's being asked?

SENATOR REDFIELD: ...that's my question.

SENATOR LANDIS: Got it. Okay. I think I understand.

SENATOR REDFIELD: All right. I think I'm just about out of time so I'm going to punch my light because I have another question. Thank you.

SENATOR BAKER: Thank you, Senator Landis, Senator Redfield. Senator Janssen, you're recognized to speak.

SENATOR JANSSEN: Thank you, Mr. Speaker. Members of the Legislature, the question was brought up where in the metropolitan area that this venture would be located. Well, you know, it's not going to be in Oshkosh, Nebraska. It's going to be in one of the fastest growing areas in the state. And you all know where that's at. That's in western Douglas...or western Sarpy County. There's prime, prime development land there. There isn't much left, I'm sure, and the price is going to be very, very high, but why would they worry about that if they're going to get the incentives that they're asking for? Now, I can't confirm this for sure, but someone told me that at one of the larger retail establishments that this company has developed, when they opened the doors they did a million dollars worth of business in the first hour, a million dollars worth of business in the first hour. And everything they sell in there is taxable, so figure out how much they generated even if the tax rate was at 5 percent. That doesn't take long to regroup your money, folks; doesn't take long. This weekend I visited with people in my store and asked them what they thought about...thought about this venture. Not one of them said, oh, that's a good deal, let them have that sales tax, that's a good deal; not one of them. Sunday evening I got a phone call from a very good friend of mine who started from the ground up and built a very, very lucrative fertilizer business. Boy, he said,

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I wish something like that was around when I was starting out. But he said this is wrong, this is the wrong way to be doing things. So most of the constituents that I talked to said no. And the bonds that are going to be...going to be sold, now, they will bear interest, I'm sure, and guess who's going to be in the front row buying those bonds? That's right, Senator Stuthman. You said it under your breath, but that's right--the people who are building the buildings. That's who's going to be buying those bonds. So they're going to be getting a tax break on the sales tax. They will have bought the bonds, and I'm certain those bonds are going to be paying some interest, so they'll be collecting the interest off the bonds. Senator Chambers is shaking his head "yes." And, Senator Chambers, would you like to take over from there? I'll give the rest of my time to Senator Chambers.

SENATOR BAKER: Senator Chambers, you have 1 minute and 30 seconds.

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Janssen. I'll be like the anchor man on your time to speak. He is exactly right, you can draw it like a circle and Cabela's is getting everything of benefit from all of it, and the state is getting nothing. And while all of this orbits around Cabela's, the other entities and businesses that exist are going to be crushed out. I'm surprised that people like...I just happened to see Senator Jensen over there looking this way, they don't care about those businesses. Because if it's a big enough business, all principles and ethics go out the window. All this...

SENATOR BAKER: One minute.

SENATOR CHAMBERS: ...talk of developing entrepreneurship and these other small businesses, which when we're on other bills people will make reference to, at the national level they say the majority of businesses are small businesses. Now you're crushing them out with public money so that the stockholders in Cabela's can make more profit. You're helping their stockholders by hurting the taxpayers and businesses in this state. What kind of sense does that make, unless you're one who

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is dazzled by the bigness of Cabela's, you worship at their altar? Consequently, the sacrifice that must be placed on that altar are the small businesses, and maybe not so small, that are to be run into the ground.

SENATOR BAKER: Time. Thank you, Senator Chambers,...

SENATOR CHAMBERS: Thank you, Mr. President.

SENATOR BAKER: ...Senator Janssen. Senator Friend, you're next, followed by Senator Beutler, Landis, Engel, Brown, and others.

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

SENATOR BAKER: The question is called. Do I see five hands? I do see five hands. The question is, shall debate cease? All those in favor of debate ceasing vote aye; those opposed vote nay. Have you all voted who care to vote? The question is to cease debate. Senator Landis, for what do you rise?

SENATOR LANDIS: Yes, I'd like to ask for a call of the house and permit roll...call-in votes to occur while the call of the house is going on.

SENATOR BAKER: Okay. We've had a request for a call of the house. All those in favor of calling the house please vote aye; those opposed, nay. Record, Mr. Clerk. Record please.

ASSISTANT CLERK: 27 ayes, 0 nays to go under call, Mr. President.

SENATOR BAKER: The house is under call. All those senators not in the Chamber please report. Those unauthorized persons please remove...be removed from the floor. Would senators please check in. Senator Byars, Senator Pahls, Senator Heidemann, Senator Schrock, Senator Loudon, Senator Mines, Senator Bourne. Senator Landis did say he would accept call-in votes. Is that correct?

SENATOR LANDIS: Uh-huh.

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SENATOR BAKER: I'm sorry. Just a moment. Senators Heidemann and Schrock, please report to the floor and check in. Senator Schrock. We're still looking for Senator Schrock. Senator Schrock has arrived. We are going to have to call the roll for the question to cease debate. Mr. Clerk.

ASSISTANT CLERK: (Roll call vote taken, Legislative Journal pages 1572.) Vote is 30 ayes, 8 nays to cease debate, Mr. President.

SENATOR BAKER: Debate ceases. Senator Chambers, you're recognized to close on your motion to reconsider your motion to recommit to committee.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, sometimes you have to figure a way to get a dry run on a vote. We cannot take straw votes here by saying, everybody who feels a certain way raise your hand, and we count. This motion is to return this bill to committee. It can be a cloture vote, if you will. We'll see how many vote against it. If they get 33 votes against it then maybe they have enough to vote for cloture, and maybe they have enough to vote to advance the bill. But in any case, I'm not going to stop fighting it. I'm not. But often during the latter parts of the legislative session we will talk about things that are designed to send a message, and I believe in putting the cards on the table to the extent that I can as one person, by making suggestions which may or may not be accepted. I will not know for sure that whoever votes in favor of returning the bill to committee would not vote for cloture. I cannot be sure that those who vote against returning it to committee would vote for cloture, but it will give us some indication of the strength that this bill has. That's what I would suggest, but there's no way for me or anybody else to know for sure whether the suggestion will be adhered to. What I would really like to see is enough votes to return this bill to committee. That would take it off the agenda for the rest of the session. That is my intent. Naturally, if this motion fails, since I've said I'm going to fight it, I have others that I will offer. I need to say a word in response to my young friend Senator Erdman's thanking me for being here. In the

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street, that's referred to as calling somebody out. I explained to him why I had to leave. There was a very serious storm warning. The Speaker mentioned it to me. I told him I have somebody who works in my office for whose safety I'm responsible for; that rather than have that person stay here, or I try to get that person home in the middle of a storm, I left. And the Speaker can confirm it. I told that to Senator Erdman, so he has the ups on me. He created the impression that I just ran out of here, and he knew why. And I didn't owe him an explanation. I didn't owe anybody an explanation for what I do. But when I'm dealt with in that fashion, I think the record should be clear and I'll make it clear in this instance. But I'm going to be here with you all tonight and every night that you choose to be here, and I do have motions that I intend to offer. But I will say this; that if my young friend had been as circumspect about fighting what was going on in my absence as he was in calling me out, maybe that \$15 million amendment would not have been adopted. You know what I would have been doing had I been here. The time to get things done that might be somewhat nefarious is when I am absent. That's a terrible thing to say by way of an indictment of my legislative colleagues, but the truth is the light and anything that any of us will do or refrain from doing in connection with the legislative work is fair game. I'm fair game.

SENATOR BAKER: One minute.

SENATOR CHAMBERS: But the time to catch me is when I'm not looking at you, when my back is turned, when my guard is down. But I can take care of myself. I want to assure my young friend of that and everybody else in here of that fact. Take your shots at me when you can and make them good, because you won't get more than one, perhaps. I'm going to fight tooth and nail against this bill. The house is still under call so we should all be here, and the motion is to return this bill to committee. If the vote is successful, the bill is off the agenda. I will have to observe the vote, abide the result, and chart my course. But I assure you that I never make one move without having at least one more lined up behind it.

SENATOR BAKER: Time.

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SENATOR CHAMBERS: Thank you, Mr. President.

SENATOR BAKER: Thank you, Senator Chambers. You've heard the closing on the motion to reconsider recommitting to committee. All those in favor vote aye; those opposed vote nay. Have you all voted?

SENATOR CHAMBERS: Roll call vote.

SENATOR BAKER: There's been a request for a roll call vote. Mr. Clerk.

ASSISTANT CLERK: (Roll call vote taken, Legislative Journal pages 1572-1573.) Vote is 19 ayes, 22 nays on the motion to reconsider, Mr. President.

SENATOR BAKER: The motion to reconsider fails. Would recognize the Clerk to recognize items for the record.

ASSISTANT CLERK: Mr. President, items for the record. Interim study resolutions: LR 158 and LR 159 by Senator Stuhr, and LR 160 by Senator Kremer. (Legislative Journal pages 1573-1575.)

Mr. President, with respect to LB 500, I have a priority motion from Senator Chambers to bracket the bill until June 3, 2005.

SENATOR BAKER: I will raise the call at this time. Senator Chambers, you're recognized to open on your motion.

SENATOR CHAMBERS: Thank you. Mr. President, members of the body, the battle resumes. And that vote is encouraging to me, and it might be encouraging to some other people who'd rather not have to deal with this bill. I don't check the lobby, but I was told that there are some people out there, or they have representatives, who have businesses that will be crushed out by Cabela's. Senator Janssen, Senator Stuthman, myself and others have talked about the circle that is going to be created for Cabela's by this scheme that is being undertaken. Some of you may forget what Senator Redfield said the other day. First of

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all, this is a retail outlet. There is no entertainment involved here in the sense of entertainment that people understand that term to mean. Tourism is what they talk about, but if there's one of these stores in Sidney, people aren't going to drive, coming from the west, past Sidney to come to Omaha or Sarpy County. And if they're coming from other areas, they're going to bypass Kansas City to come to Omaha? If they're coming from the south...the northeast, I'm told there's one in Minnesota or someplace. There's one in Texas, so people are going to bypass those areas. Remember, people drive thousands of miles to go to one of these places. They're going to drive past Texas, from down there in the southern regions, bypass Kansas City, to come to Omaha. And if they're coming from the northeast, they're going to bypass Minnesota or wherever that other one is. They're talking about putting one out in Nevada, so if they get past Nevada they're going to drive past Sidney to come to Omaha. And let's say that they will. Businesses that exist now will not continue to exist. I don't think anybody will take that from Cabela. They will be able to siphon off business that these existing establishments enjoy. When those businesses go under, Cabela's will make more money. For whom? For Cabela's stockholders. It's a publicly traded company. Nebraska citizens are being asked to forego revenue that ought to go into the state General Fund to raise the amount of profit for Cabela's stockholders. And Senator Janssen is absolutely correct, in my opinion, when he points out that Cabela's will buy the bonds. The county will issue them, Cabela's will buy them, the bonds will bear interest, the bonds will be paid off through the forgiveness or letting Cabela's keep this sales tax money. And, by the way, others in that entertainment district may have to help pay off the bonds of Cabela. But at any rate, Cabela is going to pay off the bonds through sales tax revenue and also derive interest on its bonds from money that ought to go into the General Fund. With all of the giveaways in LB 312 and, although I'm in favor of my rural colleagues, LB 90, if this bill is passed additional revenue is sucked out of the revenue stream, how are you going to maintain the current level of services? You cannot count on an improved sales tax rate or amount coming in because Cabela's is going to suck that up. So other people are going to have to pay more. All of that time the "dirty 30" spent, and the Speaker was the

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one who helped cobble that together, persuading us to raise sales taxes, even on the place where little Nicole goes to get her grooming. Nicole is that tiny little toy poodle of Cindy's. Now sales tax has to be paid there, and I voted to up it. Why? So Cabela's cannot pay any sales tax? Nicole has to pay sales tax, so Cabela doesn't have to pay any? And some of us labored. I don't vote for increases in sales tax, but I did it and now look where we have come. It's wrong and I think that vote indicated that this bill is not going to go anywhere, but I can't take anything for granted. I've got to fight it tooth and nail, as though the votes are here, and that's what I intend to do. At some point, I will not have these types of motions that I can make until tomorrow. Tomorrow, tomorrow; tomorrow is tomorrow; tomorrow is another day, and I will be here, Senator Erdman. I will be here at my post, (laugh) maintaining and sustaining and explaining. If this bill does not pass, as it shouldn't, and I think it won't, all we will have done is to have spent a lot of time on the floor, so Cabela's will have gotten that out of us. But it plays into my hands because the longer we go on this bill the more my attitude changes toward other things. I had been interested in trying to facilitate the successful conclusion of the session, but I'm rapidly changing that point of view. The only one that could keep us on something like this is a big outfit like Cabela's. It shouldn't have gotten out of committee, this bill should not have, but now it's out here. We had another committee breakdown, a committee malfunction, if you will, where two bills were sent out here dealing with a gas problem, bills going in opposite directions, and both of them were sent out here and we got to deal with that. And I've been put right in the middle of that, too. A motion was made to recommit one of them and I moved to reconsider it, because if one is recommitted, both of them ought to be recommitted. But we got to get to that other one to see how it's going to be dealt with. So I've got to take time on that, try to bring us to a halt to see where we're going to go, and that's what I'll do. I may as well talk about this as anything else, because it's a part of the process. And the further we go and the closer we get to the end, the more of these types of discussions you're going to hear, not just from me. When I was driving down here today I heard discussions on the radio about this so-called nuclear strategy to end

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filibusters in the Senate. Now look at them. They have 40 members in the loyal opposition. I'm here alone and they passed a bill to stop me, change the rules to stop me, one man, and they can't stop me. Even if they choose to vote immediately on every bill, they will not have stopped me, but they'd make the Legislature look like a bunch of jackasses, people who cannot contend with me, so the only way they can do...deal with me is to completely destroy their system. But in the process, you know what they told me? That these various senators had talked for long periods of time,...

SENATOR BAKER: One minute.

SENATOR CHAMBERS: ...10 hours, 11...not a minute, 11 hours and 10 hours, Mr. President. And you know what they'd do? They would read recipes. One of them read all of the election laws of the various states. That's what Strom Thurmond did. He gets credit for that. You don't see me reading recipes, but I would digress and talk about other things. I have it in my head. But I may start doing that as the session wears on. I haven't reached that point yet. But this is a worthless bill and it needs to be stopped, so I'm giving another opportunity. Thank you, Mr. President.

SENATOR BAKER: Thank you, Senator Chambers. You've heard the opening on the motion to bracket until 6-30 this year. Speaking order is Senator Landis, then followed by Senators Engel, Brown, Kopplin, Stuthman, Chambers, and others. Senator Landis.

SENATOR LANDIS: Thank you, Mr. Speaker, members of the Legislature. Senator Redfield had asked a few questions and she'd asked, among things, about how were the...how were the list of things that were covered in this bill different than Kansas. One basic way is that Kansas said that they thought that the system was too ambiguous and not particularly clear, and we have listed rather extensively what the project expenses can be that can be covered. Four ways in which they're different, however, is that moving expenses for businesses moving into the project are not covered by this bill; property taxes for companies inside the project area are not part of the bill, so they can't use the money for that; lobbying, can't use

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it for that purpose; and you can't use it for paid parking. It is true that it's possible to lease inside the project area, but property taxes cannot be paid. Now, one of the things that we want to consider here is that this is not just for one potential employer, but there's one serious person who's saying, look, we'd like to come and if you can't do it here, well, then we can do it someplace else, I suppose; but, gosh, we'd like to do it here. And they've done it in other areas. Owatonna, Minnesota, Cabela's did this after they had a large package of incentives. They brought 454 employees; 183 of those were full-time. The annual payroll and benefits was \$7.8 million a year. The construction costs were in excess of \$23 million and that goes, of course, to the construction companies and the workers in the area. It produced 3.8 million visitors a year. It had spin-offs, so that there were other people that came in, built expansions, and what other businesses--Wendy's, QuikTrip, Timber Lodge Steakhouse, Holiday Inn, Comfort Inn, Russell Stover's, Famous Dave's--all so they could service a total of 3.8 million visitors. In Kansas City, where the same situation was, 526 employees; 189 of those are full-time. Annual payroll is \$9 million. The construction costs going into the coffers of local construction companies and laborers, \$44 million; 4.5 million visitors in the Kansas City area. Spin-offs include Great Wolf Lodge, Hampton Inn, Famous Dave's, Russell Stover's, McBride's, Lone Star Steakhouse. That's not the only one. If we were to relatively modestly project what could happen in Nebraska, it would be 2.5 million visitors projected during the year, \$2.5 million. Our biggest attraction in Nebraska right now is the Henry Doorly Zoo, which is somewhat over 1 million. In other words, it would become the biggest attraction in Nebraska by 100 percent compared to the next biggest attraction. Projected first year sales could be into the realm of \$50 million, of which 50 percent could be from residents outside of Nebraska. The projected immediate sales tax revenue to the state of Nebraska from the development area could well be over \$1,750,000. Remember that we divert to pay a bonding stream 75 percent, it's true, but we keep 25 percent and that could well be, under relatively conservative projections, a couple of million dollars a year. Of that amount of money, a rather large amount of it is going to come from people out of state. In the event you don't do this in Nebraska, it's all right, but people

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who want to do this kind of thing have a magnet of going to the Bass Pro Shops in Council Bluffs, and if you subtract at least some of the sales from Nebraska that occurred, because they don't occur here, they occur there, you're talking a leakage of \$15 million or \$25 million a year of sales that go to Iowa.

SENATOR BAKER: One minute.

SENATOR LANDIS: That would equal \$1,375,000 in lost sales tax revenue. Projected employment in this area: 300 full- and part-time jobs; payroll of \$6.5 million. We can forego that, don't have to, but it's something that's achievable and I think would be to the good. Retail showrooms promoting in the thousands the...that there are...work here that goes out through the catalogs process, and that's sold to 50 states and 125 foreign countries for a company that's located in Nebraska, headquartered in Nebraska, and would have one of its showplaces in Nebraska. Museum quality displays provide educational experience for numerous children. In fact, there are regularly school buses outside Cabela's, where they take kids inside to do sort of a natural history museum of what's inside. What I'm saying is...

SENATOR BAKER: Time. Time, Senator Landis.

SENATOR LANDIS: Thank you very much.

SENATOR BAKER: Thank you, Senator Landis. Senator Engel, you're recognized.

SENATOR ENGEL: Mr. President, members of the body, I know we discussed this the other day and again I'd like to reiterate that I've always supported incentive programs. I've always supported tourism, our third largest industry in the state of Nebraska. But, however, I believe that this is the first time, we're breaking new ground, as far as incentivizing retail establishments, and I believe it creates an unfair playing ground for those other retailers in the state of Nebraska, whether they compete with Cabela's or they don't compete with Cabela's, because this is a Cabela beer...bill. They (laugh) it's...I guess it must be getting late enough it must be that

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time that I'm thinking about, but...and might be better well-spent time. But the...because it does have that two-year window, so it...that's probably the only company that will be able to utilize this. But again, I don't believe it's fair. If we're going to open this up to retailers, let's open it up to all retailers and forget about the two-year window, if you want to be fair. To me, this just is not fair, and we've never done it before and I don't think we should start now. We talk about Cabela's being a destination. I talked about that the other day. And, of course, out in Sidney, Nebraska, it always has been a designation, but between Kearney and Fort Collins, what is there in-between there as far as a tourist attraction? So I've been there many times. But that is a tourist attraction where they do have them set up across the country. They've got one in Dundee, Mississippi, and I understand that's out in the middle of nowhere. Grand Forks, North Dakota, is a nice location but I'm sure they don't have a huge population base there or a lot of travelers, but would certainly draw those that are going across the interstate. And then you've got Gonzales, Louisiana. Again, it's an area it would be an attraction because it is a remote area, so you're going to attract people in there because they're looking for a place to stop and they probably do quite a business along that busy highway. So many, many places where they are located are in remote areas, but they're along a highway, where in Omaha, Nebraska, in Douglas County, they're probably going to draw most of their...most of their customers right there from that...from that area, because people, again, are not going to travel from Kansas City, Minneapolis, Des Moines and those areas to drive over there to shop at Cabela's. So I do believe this is not fair to single them out. I think that if we're going to have a tourist attraction over there, this, the theme park, et cetera, find another way to finance it, if we must do that. But I don't think that we should give Cabela's an unfair advantage over the other people who are in business in the state of Nebraska. Thank you.

SENATOR BAKER: Thank you, Senator Engel. Senator Brown, followed by Senator Kopplin, Senator Stuthman, and others. Senator Brown.

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SENATOR BROWN: Mr. President, members, perhaps I'm confused, because I listened to what Senator Engel said and I'm not certain that debating the details of what may end up being a project, whether this passes or not, that Cabela's enters into is the appropriate thing. But I...it was my understanding that there was an element added to this bill in the committee amendment that required it to be 25 miles from a similar kind of activity just for the purpose of making sure that it wasn't...the retail competition was not a major factor; that it was more about the tourism piece of it. And so I guess I would ask one of the members of the Revenue Committee, and Senator Landis is...(laugh) Senator Chambers, you're multidimensional, I know, but you don't serve on every committee of the Legislature. Senator Redfield.

SENATOR BAKER: Is that a question for Senator Redfield?

SENATOR BROWN: Yes, could you respond?

SENATOR BAKER: Would you respond, please, Senator Redfield?

SENATOR REDFIELD: I will try.

SENATOR BROWN: As a part of the committee amendment, was there not a provision about a 25-mile sort of buffer zone?

SENATOR REDFIELD: Actually, there was a concern expressed in the committee by some members about the availability of an outfit like Wal-Mart to come into the project, and they want to make sure that there...if Wal-Mart existed anywhere within that radius, that that would eliminate them. And so it was a big box provision when they were looking at that. And Senator Raikes I don't believe is here either. Senator Janssen was there as well and he may remember, because I know he was concerned about big box coming into the 600-acre project. And so this was the language the committee came up with to eliminate that eventuality, but it actually wouldn't eliminate something like a Costco that doesn't currently exist in Nebraska. I believe it would just keep people out who had been here within the last two years.

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SENATOR BROWN: Okay. So it would...it would be...if Cabela's had another...if we're talking about Cabela's, if Cabela's had another location within the 25-mile radius, or any similar industry within the 25-mile radius?

SENATOR REDFIELD: I believe similar industry. And Senator Landis has returned.

SENATOR BROWN: Senator...would Senator Landis yield?

SENATOR BAKER: Senator Landis, would you yield to a question?

SENATOR LANDIS: Let me annotate a question...

SENATOR BROWN: Okay.

SENATOR LANDIS: ...(inaudible) my best answer.

SENATOR BROWN: The question is the 25-mile radius provision. Senator Engel's concern was that this would be located in Douglas County. It was my understanding that with the 25-mile radius provision, it would need to be further away from existing competitive industries.

SENATOR LANDIS: Okay. A business, to make use of this as a qualified business activities does not include any business which is primarily engaged in the sale of tangible personal property if the same or a substantially similar business is operated in the state within 25-miles of the development project at the time of the project application, or was operated in the state in the two years prior to the date of application within 25 miles of the development project. That's the language.

SENATOR BROWN: And so the chances, the likelihood...

SENATOR BAKER: One minute.

SENATOR BROWN: ...of this, of a Cabela's let's say, being located in Douglas County under that provision is fairly slim, unless it's in a very rural part of Douglas County? I'll make that a statement rather than a question. Thank you.

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SENATOR BAKER: Thank you, Senator Brown. Mr. Clerk, do we have a motion?

CLERK: I do, Mr. President. If I might before that, Senator Stuhr would like to add her name to LB 90 as cointroducer. (Legislative Journal page 1575.)

I do have a priority motion. Senator Landis would move to adjourn until Wednesday morning at 9:00 a.m.

SENATOR BAKER: We have a motion to adjourn till 9:00 tomorrow morning. All those in favor say aye. Opposed? The ayes have it. We are adjourned until 9:00 tomorrow morning.

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