

MAY 23, 2005

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LB 146, 146A
LR 98

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Good morning. Welcome to the George W. Norris Legislative Chamber. Our acting chaplain this morning is Senator Kopplin, from District 3. Senator?

SENATOR KOPPLIN: (Prayer offered.)

SENATOR CUDABACK: Thank you, Senator Kopplin, for doing that for us. Senator Kopplin represents the 3rd District. I call the eighty-third 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: Thank you, Mr. Clerk. Are there any corrections to the Journal?

CLERK: I have no corrections, Mr. President.

SENATOR CUDABACK: Reports, messages, or announcements?

CLERK: Mr. President, your Committee on Enrollment and Review reports LB 146 and LB 146A to Select File. The Executive Board reports LR 98 back to the Legislature for further consideration. And I have a hearing notice, on a conferee, by the Education Committee. And that's all that I have, Mr. President. (Legislative Journal pages 1695-1699.)

SENATOR CUDABACK: Thank you, Mr. Clerk. Members, I know it's Monday morning and it's early, and...but please try to keep the buzz down, as we go on with the next agenda item. Thank you very much. First agenda item, legislative confirmation report, General Affairs Committee. Senator Janssen, as Chairman of the committee, you are recognized to open. (Legislative Journal page 1528.)

SENATOR JANSSEN: Thank you, Senator Cudaback, members of the Legislature. The General Affairs Committee a week ago, on May 17, heard the reappointment of Mr. Robert Logsdon to the

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Nebraska Liquor Control Commission. Mr. Logsdon brings to the commission an abundance of knowledge about the liquor business. He was a manager at the Legion Club in Lincoln from 1958 to 1997, and he also was the co-manager of the State Capitol cafeteria, here at our own Capitol, from '65 to '73. He also was owner/manager of an establishment in Lincoln, and of a restaurant, several years ago, in Tecumseh, Nebraska. He attended Peru State College for two years, and he's a veteran of the Navy during World War II. And I would stand on record as thinking this is probably one of the best appointments that has ever been made to the Nebraska Liquor Control Commission. With that, I would ask for your yes vote on the confirmation of Mr. Robert E. Logsdon. Thank you.

SENATOR CUDABACK: Thank you, Chairman Janssen. You've heard the opening on the confirmation report by the General Affairs Committee. Open for discussion on that report. No discussion. Senator Janssen. Senator Janssen waives closing. The question before the body is the confirmation report offered by the General Affairs Committee. All in favor of the report vote aye; those opposed to the report vote nay. Have you all voted on the confirmation report who...offered by the General Affairs Committee who care to? Record please, Mr. Clerk.

CLERK: (Record vote, Legislative Journal page 1699.) 32 ayes, 0 nays, Mr. President, on the adoption of the confirmation report.

SENATOR CUDABACK: Report has been adopted. We now move on to the next agenda item, General File, 2005 senator priority bills, the McDonald division. Mr. Clerk, LB 332, please.

CLERK: LB 332, by Senator McDonald. (Read title.) Introduced on January 11, referred to Health and Human Services Committee, advanced to General File. I do have committee amendments, Mr. President. (AM0795, Legislative Journal page 838.)

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator McDonald, you're recognized to open on LB 332.

SENATOR McDONALD: Mr. President, members of the body, LB 332

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has had quite a ride--the intent of the original bill, the committee amendment, and my amendment to the...to provide an additional funding for problem gambling services in Nebraska. The need for problem gambling services in our state continues to grow. Over 41,000 Nebraska adults experience problem gambling behaviors each year. It is estimated that problem gambling costs society over \$212 million in social costs to the state if left untreated. Adolescent gambling rates are two to four times that of adults. Twenty-six thousand teens and preteens took the Nebraska Risk and Protective Factor Survey this year. The survey compiles statistics on drug and alcohol abuse, and gambling among school-age children. Fifty percent of the students surveyed, they reported that they had gambled; and of the students that have gambled, over 32 percent reported that they had gambled over the past year for money or something of value. Fifteen percent of the students that gambled had done so in the last 30 days preceding the survey. Seventeen percent of the students that had gambled said that they have been preoccupied by their gambling behaviors. Five percent of the students that have gambled reported they had spent more than they intended. Research shows that a full menu of problem gambling services that are easy to find reduces the incidence of problem gambling regardless of the availability of gambling opportunities. Problem gambling is a growing public health issue in our state. The request for problem gambling services is growing at an alarming rate. The gambling assistance program is accomplishing great and amazing things. Even though they only have one and a half full-time employee, they have established a toll-free help line that fields over 225 calls per month, 225 calls per month. They contract for outside services with 4 providers and 21 individual counselors across the state. Those counselors provided professional counseling and assessment for more than 820 individuals last year. The gamblers assistance program trains and certifies compulsive gambling counselors. The GAP staff and the providers made 151 presentations to raise awareness of problem gambling last year, but there's an unmet need. In the year 2004, providers documented 550 hours of unbilled services. More than half of the providers delivered services beyond their contracted amounts. Requests for services this year are up approximately 28 percent over last year. There isn't any extensive promotion

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for the gamblers assistance program. Many clients are finding the treatment services without an organized message about how to access problem assistant...gambling assistant (sic). In addition, there aren't any prevention dollars in their budget because they don't have the funds to spend on prevention messages. I originally intended to use lottery revenue to provide an increase in the funding for problem gambling services. Unfortunately, the passage of LR 209CA has completely shut the door on any changes in how we use lottery revenue without another constitutional amendment. The Attorney General confirmed that in his Opinion 05009. The AG's Opinion has forced me to look to General Funds for this increase. I intend to amend the committee amendment to strike the unconstitutional law language and appropriate the funds from General Funds. In a few minutes, Senator Jensen will ask you to adopt my amendment to the committee amendment. I encourage you to do so. I also encourage you to adopt the committee amendment and advance the bill to Select File. My amendment addresses some of the unmet need by appropriating \$500,000 from the General Fund to compulsive gamblers assistance program. Current annual funding for the gamblers assistance program is approximately \$750,000. This amendment increases their funding by an additional \$500,000. I know I've taken a lot of your time to introduce LB 332 and explaining how we got to this point, but I want to impress upon you that Nebraska has an unmet need for problem gambling services in our state. My amendment to the committee amendment will make LB 332 constitutional, and it will provide an additional \$500,000 for problem gambling services. I urge your support. Thank you.

SENATOR CUDABACK: Thank you, Senator McDonald. As stated by the Clerk, there are committee amendments by the Health and Human Services Committee. Chairman Jensen, you're recognized to open.

SENATOR JENSEN: Thank you, Senator Cudaback. Members of the Legislature, the committee amendments, AM0759 (sic), replaces the bill as introduced. AM0795 amends Section 9-812 to require the State Treasurer in each fiscal year to transfer \$500,000 of unclaimed lottery prize money to the compulsive gamblers assistant (sic) fund. The amendment makes technical revisions

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to 71-817 relating to the administration of the compulsive gambler assistance fund. These technical revisions have already been adopted now through LB 551, which has passed. The amendment has an operative date of July 1, 2005, and contains an emergency clause. The Health and Human Services Committee was supportive of Senator McDonald's efforts to provide additional funding for the problem gambling services and this reflected the committee's amendment...or in this committee amendment. But, as Senator McDonald mentioned, LR 209CA, which was really the State Fair bill that was passed by the voters last November, caused both portions of the bill as introduced and the committee amendment to be unconstitutional. The Nebraska Constitution now provides a very specific scheme for the distribution of lottery proceeds and does not allow the flexibility for the Legislature to change that scheme that Senator McDonald...or change that scheme. Senator McDonald and myself requested an Attorney General's Opinion on the issue, which is printed in your Legislative Journal. Senator McDonald has an amendment to this committee amendment that would put those back into General Funds, but her amendment, AM1656, does that. Mr. President, I would just ask for my colleagues to give support to Senator McDonald's amendment to this committee amendment, and would also ask you at this...to then support the committee amendment. But her bill...or her amendment will make significant changes in it. With that, I'll return the rest of my time back to the President.

SENATOR CUDABACK: Thank you, Senator Jensen. Mr. Clerk, amendment, please.

CLERK: Mr. President, Senator McDonald, I now have amendments to the committee amendments. I understand, Senator, you would like to withdraw AM1338, AM1630,...

SENATOR McDONALD: Yes, I do.

CLERK: ...AM1651.

SENATOR McDONALD: Yes, please.

SENATOR CUDABACK: They are...

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CLERK: Senator McDonald, would move to amend the committee amendments, Mr. President, with AM1656. (Legislative Journal page 1676.)

SENATOR CUDABACK: Senator McDonald, to open on your amendment to the committee amendments.

SENATOR McDONALD: Gambling is a controversial subject. There are those who believe gambling is an economic positive for Nebraska, and those who believe gambling causes more social and economic problems than any amount of revenue produced. The Legislature has struggled with gambling for the last 20 years. Horse racing, keno, lottery, and charitable gaming have all been approved by both the Legislature and the citizens of Nebraska. One thing pro- and antigambling opponents agree--gambling does cause gambling addictions in Nebraska families. Since 1992, this body has provided revenues to help provide services for gambling addicted families. Current revenues for problem gambling services equals approximately \$700,000 per year. In contrast, substance abuse treatment is funded in excess of \$13 million per year. Gambling has served as a positive fund-raiser for many groups for many years in the United States. The point is, gambling has been legal, illegal, moral, immoral, positive and negative, but throughout history problem and pathological gambling has existed. Over 800 Nebraskans sought help for problem gaming in 2004. This number is expected to increase for the tenth straight year in 2005. Legal forms of gambling in Nebraska that are current are the lottery, Powerball, scratch-offs, bingo, pickle cards, pull tabs, keno, horse racing, tribal gaming, charitable gaming, and sweepstakes. Those are all viable forms of gambling here in Nebraska. But we also have illegal forms of gambling: sports pools, bets through bookies, Internet gaming, card games, gray machines, number games, cock fighting, dog fighting. So it doesn't make any difference if you have legalized gambling; you know that there are always going to be some forms of illegal gambling in our state. The social costs: 3 percent of Nebraskans have or will develop a gaming problem in their lifetime; 48,000 Nebraskans will develop a gambling problem in their lifetime with the social costs per year for a person with a gambling problem is

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estimated to anywhere from \$5,000 to \$13,000 per year; 77.9 percent of all vehicles in the parking lots of Iowa casinos are Nebraskans; another 240,000 family member...family members, friends, coworkers, and community members will be affected due to the gambling problems. Why should we develop and pass LB 332? Well, since 1992, casino gambling has been available to the citizens. Every state which borders ours has casino gambling, with the exception of Wyoming. Currently, 55 percent of all help line callers report casino gambling as their main problem gambling, though casinos are not legal in Nebraska. The third most reported form of gambling is sports betting; again, not legal in Nebraska. Keno, lottery are both legal; two and four respectively. In the year 2004, GAP providers served 2...excuse me, served 820 unique individuals. That is a 210 percent increase over the last two years. And may I repeat that, that providers served 820 individuals in 2004 and that's a 210 percent increase over the past two years. In the year 2004, the hours of nonreimbursed services for problem gamblers was 550 hours. This year it's anticipated to have a shortfall already of about \$156,000. The delivery service is currently overloaded, despite no awareness funds used to promote the GAP provider services. The total dollar amount spent for help line services in Nebraska, which is a 24/7 hotline, is \$50,000, compared to that of \$1.2 million for awareness for budget, 1-800-Bets-Off in Iowa. Iowa service providers will see approximately 1,000 unique individuals in 2004, compared to 800 in Nebraska. Iowa budgeted \$4.2 million; Nebraska budgeted a little over \$800,000. So why do we need General Funds? Well, last year the constitutional amendment that transferred funds to the State Fair unintentionally froze all lottery funds and prevented legislation that would seek unclaimed lottery funds to help problem gambling families. Further, it made lottery dollars virtually untouchable. Does treatment work? Research shows that where there is public health model is implemented, not only does treatment work; a reduction of overall problem gaming can be achieved. Studies in Iowa and Oregon indicated 74 percent of treatment participants were successful as a result of treatment efforts. More importantly, Nebraska citizens are being successful. A 2003-2004 Magellan study revealed/indicated 47 percent of those seeking problem gambling (sic) had utilized state mental health and substance abuse services within one year

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seeking gambling services. The percentage of gambling participants seeking state services after gambling treatment was reduced to under 20 percent. A recent completed youth survey said that Nebraska's adolescents are gambling before the age of ten, before they are drinking, smoking, and other risk activities. We have no prevention messages for our adults or nothing for our youth. We have no statewide spread message that there are services available and that programs exist that can help those with gambling problems. We have no program evaluations to determine the success of the current programs in comparison with substance abuse and mental health services, and we have few services for those who cannot travel to the western region of our state. We have nowhere else to go to seek funds to help our citizens overcome problem gambling addiction that is promoted by our state and our surrounding states. What we have is a delivery service that is overloaded, with no insurance reimbursement for problem gambling services, and clients in the average of \$30,000 to \$50,000 in debt cannot pay for the services. I passed out a map and that map lists the crisis calls only. Those are the ones that were in crisis. And behind that is the list of the cities and the counties where those calls came from. It doesn't list the number of calls that came from those communities, but let me tell you, this is a statewide problem. We all need to address this. We are in financial straits when it comes to services. We do need additional funding. Unfortunately, I had not planned on going to General Funds. I had hoped to take it out of the lottery funds, but because of the constitutional amendment it cannot be done there. I don't know where else to go. We in Nebraska have advertised gambling, and I don't know if many of you received this in the Lincoln and the Omaha papers this weekend. We do advertise it in our local papers, but yet we don't have the funds to help those that become addicted by this. What a tragedy for our state that we, as a state, promote gambling. We send funds to do that, but yet we don't help those who become addicted. This is not a new program. It's just an unfunded program, sorely unfunded program that doesn't meet the needs of our state, and additional funds do need to be needed and we need to see that those people get help. Thank you.

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

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the opening on the McDonald amendment, AM1656, to the committee amendments to LB 332. Open for discussion. Senator Dwite Pedersen, followed by Senator Don Pederson and others. Senator Dwite Pedersen.

SENATOR Dw. PEDERSEN: Thank you, Mr. President, members of the Legislature. What Senator McDonald is saying is far more serious than I believe most of you believe. The problem we have in this state with compulsive gambling is equal to the problem we're having with methamphetamines. Because it does not lay somebody out on the morgue table does not mean that it does not fillet them out in their personal lives. We have seriously misfunded this program and we need to reach out and do something with these people who will not get help if we do not help them. The statement I hear most of all--if they got money to gamble, they got money to get well--that money they use to gamble is money that they're taking away from their children, their families, and their own well-being. I am not a gambling counselor. I have chose not to get certified in that field about three years ago because I was not able to ever help any of the gambling people that came...people that had gambling problems in my outpatient treatment program, because they needed far more help and experience, specialized help, than I could give them. It is breaking our state, which is nothing compared to what it's doing morally, spiritually, and personally to these people and to us. It has not been and probably won't be. I'll be in here with legislation next year to see if we can't get the Department of Health and Human Services to take this a little more seriously, especially in the area of addictions--alcohol, drugs, and compulsive gambling, and other addictions--because we have to do something in all them areas, a lot more than what we are. One area that we don't do anything with that's going to come up more and more in the future is what we're going to do to work with these sexual offenders and their problems and addictions, because we keep locking them up, especially in our state hospitals, and we don't have near enough treatment for them. We're not locking up in the mental hospitals many of our gambling people, but we have a lot of them people, gambling addictions, that are cross-addicted with alcohol and drugs and other problems. Please listen carefully to this debate as it moves forward on LB 332 and Senator McDonald and Senator

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Jensen's request. We need to do something with these people. I know \$500,000, a half a million, does not sound like much to the...

SENATOR CUDABACK: One minute.

SENATOR Dw. PEDERSEN: ...state budget, in the billions that we use, but I know it's a lot of money that I know Senator Pederson is going to say we don't have. But you've heard this over and over again--pay now or pay later--and in this case multi times more. Thank you.

SENATOR CUDABACK: Thank you, Senator Dwite Pedersen. Senator Don Pederson.

SENATOR D. PEDERSON: Thank you, Mr. President, members of the Legislature. I'm afraid that Senator Dwite Pedersen is right. I'm going to have to tell you that this is a very difficult thing to do as far as the ongoingness of our state budget is concerned. This is \$1 million we're talking about and I think we have to deal very carefully with each \$1 million that we start to encroach on our future of funding for the state of Nebraska. This is a serious problem. I respect very much the concern that Senator McDonald is expressing. It is a problem. And yet, why d we have a problem? Of course, we have a problem in this particular case because, once again, we're very carefree with what we do with our state constitution, so we decide, okay, it's so important we have the State Fair, it doesn't make any difference what we do as far as the other problems that are being treated by lottery proceeds. And so the intent was there, let's just take care of the State Fair. What about problem gamblers? Nobody even thought about that, apparently. And yet, we had the versatility before, before that constitutional amendment regarding the application of funds for the State Fair, we had the versatility that we could do something about this from the proceeds of the lottery, which was exactly what was intended initially. So we said, okay, we'll have a lottery in the state of Nebraska. We know that we will have gambling addiction, so what shall we do? We shall set aside a certain amount of the proceeds from the lottery to treat the problem gamblers. But we don't go into that kind of a detail when we

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want something like the State Fair. We say, let's just go ahead and let's have the State Fair and chart out the money for that and don't pay any attention to the rest of it, and here's where we are. I just think this is a...it's a terrible situation that has been created and...but yet, as I look at it, we have infinite requests that are made to the Appropriations Committee for additional funds. We have "heart-rendering" situations that occur and we have to deal with those on a one-by-one basis. And as I said when we started talking about the budget this year, if we take these one at a time, every one of them has a very compelling story. Every one of them has a reason why we should spend more money or some money on it. And yet, we have to look at the total impact that this has on the state budget. As somebody once said, you know, a million dollars here, a million dollars there, pretty soon it adds up to big money, and that's what's happening. And I think we really have to concern ourselves, not just with this two-year period, but if we're going to do this you have to have a program for it and you can't do it on a two-year basis. We're talking about ongoingness. And as we look down the line, if you look at your green sheet, you see that we have problems coming in the future and any encroachment on that problem I think we have to be very aware of. And as much as I regret doing so, I'm afraid that I have to recommend that we not approve this particular proposal by Senator McDonald. And yet, I understand why she is doing it. And I know that initially she thought she could do it through lottery advertising funds, and that would have been a good source of doing it. I'd like to cut down on the advertising for the lottery. We really send mixed messages in this state. We say we don't want gambling, we don't want expanded gambling in this state, and yet we fund, ourselves, a state lottery and we advertise it very vigorously, and then we create our own set of problems resulting from that. So I think this state has a confused policy on gambling. We are either moral or immoral, I can't tell which, but it seems to be it depends on the particular occasion. But I think in this particular case I just regret...

SENATOR CUDABACK: One minute.

SENATOR D. PEDERSON: ...to suggest that this is a very large

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encroachment on our state budget and it's going to impact it in the future, and I'm concerned about that and, therefore, I suggest that we not accept the amendment or proposal by Senator McDonald. Thank you.

SENATOR CUDABACK: Thank you, Senator Pederson. Senator Jensen, followed by Senator Redfield and others.

SENATOR JENSEN: Thank you, Mr. President, members of the Legislature. I do stand in support of Senator McDonald's plea, and more so because of what we did in passing of LB (sic) 209CA, because what we set up is in the constitution, an agency that is untouchable, that we have no control of whatsoever. And any time that we have an agency that the Legislature does not really have any control of whatsoever, I think there's some real problems that can occur. And so we have set up through that constitutional amendment that here we have an agency that has the highest spending of any lottery throughout the United States going to advertising, and yet we cannot do anything about that. I was appalled a couple years ago when the ads that they had on there that implied that it was our moral duty to buy lottery tickets. I'm glad they've got away from that one. But then of all the other things that they promote, whether it be pickup trucks or whatever it is, and every evening on TV there are ads to go out and buy this lottery ticket. And, by the way, only...there are only winners that buy those tickets, that is the...what they would have you believe. But we do have problems. What is interesting about gambling addiction is that these are individuals who, prior to the gambling, were not involved in any criminal activity whatsoever, but because of an addiction that takes place they really cannot quit playing without some intervention. And we had one of the most interesting hearings before our committee where a woman who came in and testified that she was buying Powerball tickets at about \$500 a pop twice a week, and then she went from there into taking some other funds and, by the way, shortly after the hearing she went to jail. I think that's the first time I've had anybody come to a hearing that I was a part of where the individual shortly thereafter was incarcerated. She was a delightful woman who just got caught up in this, and now of course she thought the more she played the better chance she'd

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have of winning, and that doesn't happen. So our hands are tied. We can't touch the advertising dollars, so the only thing we have left is General Fund dollars, and I hate to tap into those. I always believe that the funding for addiction should come from the issue that's causing the addiction, whatever that might be. Whether that be alcohol, whether that be cigarettes, whatever it might be, that's where the dollars should come from. It shouldn't come from General Fund dollars. But here we don't have any other choice. And to have people that are untreated continuing to gamble, continuing to steal, to...whatever they can do to take care of their habit they're going to do, I think is wrong because it is something that we have set up. I really hope that, if nothing else, that we can do a legislative resolution to look at the constitution, maybe put something back on a ballot again which would allow some oversight by the Legislature on this issue. But what we have now, our hands are tied. We have an entity of the government that is advertising,...

SENATOR CUDABACK: One minute.

SENATOR JENSEN: ...that is untouchable, that we can't get to, so that we can't treat those who have the addiction from gambling. This is a state issue. The state several years ago by this Legislature decided to go into the lottery business, and we never set enough money aside at that time. We should have, but we didn't, and now we have people with addiction. I would urge you adopt the amendment to the committee amendment and to Senator McDonald's bill. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Jensen. (Visitors introduced.) On with discussion of the McDonald amendment. Senator Redfield, followed by Senator Smith, Foley, and McDonald.

SENATOR REDFIELD: Thank you, Mr. President, members of the body. I believe Senator McDonald has brought us the solution that is before us. I believe it's an effective one. I'm going to support her amendment and I'm going to support the bill. We had talked about this issue when we were doing the budget discussions and I had opposed it. I don't think we want to

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start legislating through the budget process. This is the proper forum to debate the bill, and that's what we're doing here today, and I believe I'm going to support it. The state of Nebraska has created a problem and I think we should clean up our messes. It would be preferable, as she has stated, if we could take lottery funds. Perhaps in the future we might want to introduce a constitutional amendment to go back and allow a provision of this kind of money for counseling for those who have become addicted to the gambling that we have authorized in this state. But at present time that is not available to us, and I believe that it is incumbent upon us to support it. I understand the budget realities, but I also believe it is important that the state of Nebraska take responsibility for the problems that it creates, and therefore I will support the bill. Thank you.

SENATOR CUDABACK: Thank you, Senator Redfield. Senator Smith.

SENATOR SMITH: Thank you, Mr. President and members. I rise in support of Senator McDonald's efforts to bring some funding to the compulsive gambling programs and prevention, treatment, and otherwise, and I do that because I believe it speaks to the larger issue. It calls attention to, I believe, what is a dilemma the state faces regarding the lottery, regarding the larger issues of gambling. And is it a spending measure? Yes. That does concern me. But when I see that some funds up-front invested in a wise manner can be used down the road to reduce ultimate costs to the state, I certainly look favorably on that. It concerns me a great deal that we have the lottery that sends mixed messages, and actually I can't think of another vice, if you will, that is actually illegal if it's practiced in a private setting but it's legal, encouraged, and heavily advertised as long as it's state-sanctioned and the state gets most, basically all, of the money, except those that go to the vendors. And now they're lobbying us heavily in certain directions regarding the lottery. It concerns me a great deal when I read that the odds on Powerball are worsened so that the jackpot can get up there higher and that more people will play when it's higher so, therefore, the more people we can get to play, for whatever reason. The state doesn't care whatever reason people play the lottery. They just want them to play. I

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think that's an immense mixed signal that I think is problem...that creates a problem for the state long term, and Senator McDonald's efforts through AM1656 is one way to try to mitigate the problems that have been created. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Smith. Senator Foley, followed by Senator McDonald.

SENATOR FOLEY: Thank you, Mr. President. I want to also thank Senator McDonald for her work on this issue. The compulsive gambling certainly is a serious public policy problem that we need to address. And, Senator McDonald, I wonder if you might yield to a couple questions. I'm trying to catch up with you on this. You've done more work on this question than I have. Your amendment references the compulsive gamblers assistance program. How is that program currently financed?

SENATOR CUDABACK: Senator McDonald.

SENATOR McDONALD: They get \$500,000 from the lottery proceeds up-front, and then 1 percent of the trust funds.

SENATOR FOLEY: So that's fixed in law.

SENATOR McDONALD: Yes, and that's what can't be changed.

SENATOR FOLEY: We can't...that's the problem, we can't change that.

SENATOR McDONALD: No.

SENATOR FOLEY: I can't help but wonder if maybe the solution here, and maybe you've thought about this, isn't perhaps just to write a constitutional amendment so that we can get to the problem that way, rather than going to the General Funds. The difficulty with the General Funds is that they may be there this year, but we need an ongoing program and if it's going to be a fight every biennium to try to find those monies for this program, wouldn't we be better off with a constitutional amendment to address the core issue here? And you probably

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thought about that, so I'll let you answer.

SENATOR McDONALD: And you're absolutely right. Because we won't go to an election until next year, that doesn't solve the problem now. And so what we need dollars for are to help the program now and do an interim study, which I have already submitted, to look into that and hopefully draft legislation for constitutional amendment so we can correct the problem that was unintentionally done by the passing of that constitutional amendment.

SENATOR FOLEY: I see, very good. All right. Thank you again, Senator McDonald, for your work on this issue.

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

SENATOR McDONALD: Senator...or, Mr. President, members of the body, I'm going to withdraw my amendment now. I'm sorry, now?

SENATOR CUDABACK: Senator McDonald.

SENATOR McDONALD: Yes, I will be withdrawing my amendment, AM0795 (sic).

SENATOR CUDABACK: It is withdrawn. Mr. Clerk, please.

ASSISTANT CLERK: Mr. President, Senator Wehrbein would move to amend. (FA296, Legislative Journal page 1700.)

SENATOR CUDABACK: Senator Wehrbein, to open on your amendment.

SENATOR WEHRBEIN: Mr. President and members, this is a substitute for Senator Vickie's...Senator Vickie's...Senator McDonald's amendment that will take \$500,000 one time only from the Health Care Cash Fund. There has been discussion about this and there's understanding that it's...reluctance to take any more from the General Fund. If you look at the green sheet today, it's not in very good shape. There is just a little money in the Health Care Cash Fund. I was discussing it with Senator Jensen. I'll let him speak for himself. But this would

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be considered, in my mind and Senator Jensen's mind, I'll let him speak for himself, and I think several of us, this would be a one-time issue to help in this area over the next year. The amendment is drafted for \$500,000 this first year with the intention that it could carry over into the second year, which I think could be very possible. I will let Senator McDonald, I know she's looking at a study into the future, what more can be done to fund this fund from another source or using a constitutional amendment, whatever. But this would give us some money, a half a million dollars in this case, to go into the Gamblers Assistance Fund so that we can at least have something more in there offsetting that. So, per a summer study, there can be some things looked at and hopefully change the direction of the way we're going. I...if I can throw a little editorial comment in here, it's typical of agencies that we create that many times literally nearly run out of control in terms of the money spent, the intensity of the focus of what they consider their job. I understand that. But if you look at some of the handouts Senator McDonald handed out, we're one of the highest percent spent for advertising and so forth, and for those of us that are not that enthused about gambling, that becomes a problem, recognizing that it is state law, but we ought to have some modesty, if you will, or some moderation in the amount of money we spend. So this will be a temporary, if you will, way to provide some additional money to that cash fund for gamblers assistance, but it would only be considered to be a bridging or to fill the gap at this point until something more can be done, and it's not intended to be permanent, at least in my mind, from the Health Care Cash Fund.

SENATOR CUDABACK: Thank you, Senator Wehrbein. You've heard the opening on the Wehrbein amendment, FA296. Open for discussion. Senator Chambers, followed by Senator Combs.

SENATOR CHAMBERS: Mr. President, members of the Legislature, I'm going to support this. I would have supported the other action of Senator McDonald, but I have to take this opportunity to look around at my colleagues and tell you I told you so. When Senator Landis and Walt Radcliffe were running you all through with that constitutional amendment, this was one of the areas I mentioned, that you're going to be limited to the amount

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that's set by the constitution. And I offered amendments to change it, but you were so caught up in what Walt Radcliffe and Senator Landis were telling you that you ignored it. You ignored it. You need to learn to look at issues and not just at the fact that I raise them. Believe it or not, or to quote the new resident philosopher, Senator Mike Friend, guess what? Occasionally, my analysis is correct. Now you're scrambling to try to do something that ought to be done, but it did not have to be this way. You look at the moment. That's why the Legislature has grown weak, it is not respected by the other two branches, because you all can be so easily herded and stampeded and blinded to what the broader view ought to be, the bigger issues. Don't look at gambling only when that is the thing before us as an issue. Look at it when it comes up in other contexts, when your hands can be tied and you'll be limited in the approaches you can take. But, no, you don't listen. I'm working on a rhyme. There was a guy. He said, of the saddest words of tongue or pen, the saddest are these: what might have been. Another one took a play on that. He said, the coldest words of tongue or pen are these: I knew him when. Mine will say something like, the coldest words, the saddest you know, now savor the sweetest: I told you so. But you all don't listen. You won't listen. So I look at you like the children playing in the sandbox. Teacher tried to tell you where you were going. You said, teacher can go shove it. So now here you come and I watch you. And I think about things other than this one issue. I think about the way black children are treated in school; how books, essays, and other things come out in print talking about the inferiority of nonwhite peoples; then I'm standing in this Legislature, as the only black man, trying to get you to play by your rules and use your sense, and I cannot do it because you cannot accept what I say. Well, I'm going to rub your face in it and remind you it did not have to be this way, but you were snookered by a lobbyist, you were bedazzled by Senator Landis. He said no amendments, and you echoed no amendments, no amendments. And I also pointed out to you that when you tied the money that can go for environmental and whatever those other purposes are into a named existing statute, I told you...

SENATOR CUDABACK: One minute.

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SENATOR CHAMBERS: ...and had an amendment that would say, as that act exists now, all the Legislature has to do to nullify that is to change that legislative enactment. It will not violate the constitution because built into the constitutional provision is the reliance on that legislative enactment. So any amendment we add to that enactment is constitutional. If we repeal it, that's money just sitting there because there is no way to do anything with it. Oh, I marvel at white supremacy in action, and I regret that I am from the shallow end of the gene pool and that my black skin marks and stamps me as genetically, morally, and intellectually inferior. Learn from those you want to deem inferior and you might improve on the things that you do in your arrogance.

SENATOR CUDABACK: Time, Senator.

SENATOR CHAMBERS: Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. On with discussion. Senator Combs, followed by Senator Jensen and others.

SENATOR COMBS: Thank you, Mr. President and members of the body. I was just going over some math with Senator McDonald as to how much we are spending per person, per year. This is the untreated problem gambler. And her data says it costs between \$5,000 and \$13,800 a year per person, per year, so I took a quick average. Just for the sake of calculation, I said, well, an average of \$10,000 per person. Now, if they have a lot of children, you know, more than whatever the average was that that was calculated on, that could even be more social costs because you have more Medicaid money necessary to assist that family. So with our \$500,000 allotted for treatment, you could treat 50 people with that. Now, currently, we've got 800 people who are needing treatment, so you've got 750 people right now who are not being treated. And you multiply out, the average social cost is \$7.5 million. And again, that's just some quick math, doing it. So we got \$7.5 million in social costs and no revenue to take care of them. I do support the amendment and I do support the bill. And since we're talking about things that could have been here, you know, if ifs and buts were candy and

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nuts, we'd all have a Merry Christmas. I suppose, we have to deal with what we got right now, and what we got right now, I suppose, we can think about what might have been if we could have just had one casino at the border to capture a little bit of revenue that's going over there, to be used to treat these people with. But, no, we don't have that now. And again, that is another decision that was made last year, not just by us, you know, but by the people. There are many, many, many Nebraska cars over there. You call 1-800-Bets-Off, like they tell you on their radio commercials on KFAB in Omaha, they will not pay for a Nebraska gambler to be assisted. They will only help you if you are an Iowan. Iowa is bleeding us dry at the expense and on the backs of these problem gamblers. What do they do with the revenue that they get from us that we could be using to treat these people with? They're expanding their casinos. Just as soon as that went down in Nebraska, they approved I don't know how many million dollar expansions for Harrah's and these places over there. They waited to see what happened over here. Why? Because they're going to get more money from us now. And that they've taken the lake that our people are drowning in and they're making an ocean over there for them. So what's that going to do over here? We must take care of these people. We have to. They are not going away. We cannot wish them away. They will be in our welfare offices. They will be needing assistance. We're going to have to have money to pay for them. We have \$7.5 million short right now with this paltry amount that we are going to, hopefully, approve for them. And we've got spiraling Medicaid costs already. So, like I said, if ifs and buts were candy and nuts, we'd all have a Merry Christmas. We ain't there now, so we can't waste a lot of energy. You know, we got to fix what we got, where we are. So it's not who's right; it's what's right. Try to do the right thing. Go where we are from here and get these people treatment so they don't end up on the social rolls and the additional expense on our Medicaid program. Thank you.

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

SENATOR JENSEN: Thank you, Mr. President. I...when we passed LB 1083 last year, we, as part of that, we did some reform also of our addiction services throughout the state, and I think that

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is going well. We have advisory committees now that are advising the various groups on how to treat addiction. One thing about gambling addiction, like I said, is it takes a segment of people who have never been in trouble before but then find themselves all of a sudden in a situation where they just can't give it up. They either won some money once and they want to win it again, or they're losing and they just feel that at some point in time Lady Luck is going to be with me and I'll get it all back. This dollars would be one-time money. I want to caution everybody on that. There are some unspent dollars in the Health Care Cash Fund at the end of this fiscal year, but I do feel that this is something that is so important that perhaps we could use these on a one-time basis. Senator McDonald is going to do an interim study through this summer, hopefully, that she'll come up with not only a solution that maybe we might look at our constitution but also perhaps some funding in the future for this very important issue. Senator Combs was right on the number of individuals, and we have people on the waiting list, trying to get in, for addiction. We do have some very, very good addiction counselors in the state. Matter of fact, some of them are recognized nationally. But it's a different type of treatment; takes a little longer than alcohol and drugs in many cases, and it's a mind-set, that they actually work on the brain and how you think about things about risk taking. So I would just endorse Senator Wehrbein's request. We have the dollars. We can do it this time, and that we can move on and hopefully help some people out of their addiction problems. Senator McDonald, do you need any time? Would you like...or are you...

SENATOR CUDABACK: Senator McDonald.

SENATOR McDONALD: Is my light on next?

SENATOR CUDABACK: You are.

SENATOR McDONALD: Okay. I'll just take my time, but thank you.

SENATOR CUDABACK: You may continue, Senator McDonald.

SENATOR McDONALD: Mr. President, members of the body, and I do

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appreciate utilizing the funds in Senator Wehrbein's amendment, but let me caution you that if it does take a constitutional amendment to change this, that won't go on the ballot till 2006. Then we'd have to have legislation in 2007, funding for two years down the road, at best. We do have a problem now and the shortfall for...the estimated shortfall for the year 2005 is \$156,000. So you take \$156,000 from the \$500,000, and that certainly is a small cry from the \$1 million that we had wanted. That is less...that's around \$350,000. So we have totally devastated any chance for any prevention measures. This is only a band-aid approach. We're certainly going to have to address this again. I am glad for the debate and for those that are acknowledging that we have a problem, but this is merely a band-aid approach. We will bleed through this in a short period of time. So, with the interim study this summer, hopefully we can come up to some solution so we don't have to take it from General Funds, possibly won't have to take it from the cash fund from Health and Human Services. We do have a problem; we need to address the problem. At this point in time, I know it's late to take General Funds, and I appreciate all that's been done on this, but this is merely a band-aid approach and it's not going to solve all problems. Thank you.

SENATOR CUDABACK: Thank you, Senator McDonald. On with discussion. Senator Engel, followed by Senator Chambers on the Wehrbein amendment.

SENATOR ENGEL: Mr. President, members of the body, I agree with Senator Wehrbein's amendment. I think we need to do something. And it's with a heavy heart that I have to say that I agreed with Senator Chambers last year as far as the constitutional amendment, as far as supporting the State Fair out of lottery funds and putting it in the constitution. I did believe we should support the fair, but I didn't think we should put it in the constitution. But it is there so we have to deal with it, but these are some of the repercussions that we're facing today. And I think, far as the hypocrisy, we've went through this before, even with our cigarette tax. We want people to quit smoking but, boy, we sure want that money. And here's another situation that we want people to quit gambling but we advertise to get more people to gamble. And it is a choice people make, I

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realize that, but the thing is, if we're going to advertise and entice people to do something, we certainly should have enough funds there to help those that are truly addicted, because that is...that truly is an addiction. I'm very well aware of that. In some very specific cases I know what it's done to people, so they do need the help and it takes money to help them to get rid of that addiction because it destroys. It destroys careers, it destroys marriages, it destroys families, and those people do need all the help they can get and it does take dollars. So I certainly support this amendment itself, and I certainly support a constitutional amendment to increase the percentage that they receive from these lottery funds in the future. With that, I return my...rest of my time to the Chair. Thank you.

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

SENATOR CHAMBERS: Mr. President, members of the Legislature, when I'm in my I-told-you-so mode, it will not carry to the point of my resisting corrective action of the kind that Senator McDonald is bringing to us. I have opposed the increase in gambling. I have condemned gambling by the state, by churches and other supposedly respectable entities within this society. They will even condemn gambling, but they will utilize it and make money from it. It somehow becomes clean when it falls into their hands. The churches help produce problem gamblers. The state helps. So there has to be a divided mind when we come to a situation such as this. What Senator McDonald is offering is a tiny drop of Clorox on a huge tapestry with a deep-dyed stain. It is not going to eliminate that entire stain. It might not even be sufficient to remove completely the stain from the tapestry on which the drop of Clorox falls. But it shows what needs to be done, the direction we should be going. Errors often are made by legislative bodies. Errors are made by the public when they vote willy-nilly to put things into the constitution that will offer a quick fix because they've been told by lobbyists or politicians that that's what will happen, so gambling was sanctified in the Nebraska Constitution, and differing forms have proliferated and been acknowledged in the state constitution. Now that the seeds are bringing forth a strange and bitter crop, people are scrambling to see what can be done about it. I have offered provisions to repeal the

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constitutional creation of authority to have a state lottery. Naturally, that failed. Only a few senators have ever supported efforts such as that, but they have been consistent, they have been persistent. We just have never been able to accumulate the numbers. And while I'm in the Legislature I know that will never happen, and after I'm out of the Legislature I know it will never happen. But Senator McDonald is offering what we could call a modest proposal, and I know Jonathan Swift used that as a title to one of his tracts many years ago, but it fits here. I had told Senator McDonald that if the effort had been mine and I had gotten the statement from the Attorney General, I would have fought it, because the Attorney General is the one who said we could not get expenses during session, and I ignored that and went forth, and now you get expenses. But I told Senator McDonald that's the approach I would take but I wouldn't advise her to take it; if she could find any other way, do that and I would support it no matter what that way happened to be. And she has found not only a way but support for the way that she is going. And maybe over the summer and during the fall there can be consideration given to this problem, not only by legislators but by those...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...moral leaders throughout the community to help get a meaningful grasp of what gambling is doing to hurt the society. But they should not get on their hobby horse of, I am holier than thou, I'm self-righteous, you're going to hell, because that's an immediate turnoff. There has got to be some way that these religious zealots and fanatics can turn the damper down and speak in rational tones to the people they are trying to influence and help show that something has to be done about gambling. It's not going to be abolished, but some treatment programs do need to be put in place. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. On with discussion of the Wehrbein amendment. Senator Dwite Pedersen.

SENATOR Dw. PEDERSEN: Thank you, Mr. President, members of the Legislature. I'm going to take just a little bit of my time.

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I'll give the rest of it to Senator McDonald, if she wants it. Senator McDonald handed out the form on the cost, service type, service delivery, and estimated costs of funding for the year of '05 shortfall, and it says how many hours and what they're charging per hour. I want to just give you a short definition of what goes on in them hours: \$75 an hour is for individual, \$90 an hour for family, \$80 an hour for group, and \$150 for assessments. That is the over...that's not what a therapist is getting. This is the overall cost, including overhead. It's simple, but I know a couple questions I've had now about that, if that's what therapists make. It is not. That also includes overhead. With that, I'd give the rest of my time to Senator McDonald, if she wants it.

SENATOR CUDABACK: Senator McDonald.

SENATOR Dw. PEDERSEN: Thank you.

SENATOR McDONALD: Thank you, Senator Pedersen. In my original bill, when I was to hopefully take the money out of the advertising fund, much to my dismay I had someone out in the lobby that said they couldn't support my amendment, because the mentality is if you take dollars from the advertising fund you will have less dollars...less people gambling, and if you have less people gambling there will be less dollars for the trust fund. And I was very appalled with that because, let's face it, we need to take care of our compulsive gamblers first before we take care of anyone in the trust fund. So why have money for the compulsive gamblers? Let all the money go to the trust fund. That is not the way we handle things in Nebraska. We need to take the dollars that the gamblers gamble to fund compulsive gambling. It is not fair to fund the trust fund over the backs of compulsive gamblers because, let's face it, they probably spend more dollars gambling than anyone else. So if this comes to a constitutional amendment that we take dollars from advertising, we will have opposition. Because those that are getting money on this end certainly don't want to give up any additional dollars. We need to be aware of that and address that when it comes time to draft the constitutional amendment. Thank you.

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SENATOR CUDABACK: Thank you, Senator McDonald and Senator Pedersen. On with discussion. Senator Chambers. This will be your third time, Senator.

SENATOR CHAMBERS: Thank you. Members of the Legislature, Senator Erdman, a computer nerd, pulled up some information from the time that LR 209CA was being considered, and I say that because I had no idea that this could even be done, let alone how to do it, so I respect him. But to let him know that I'm approaching the computer nerd status, I used the term earlier today "downloading," and I was correct in my use of it. So that lifts me out of the ranks of the totally computer illiterate. But this is the language which I had offered at that time. We had reached a point in the discussion where Walt Radcliffe had determined for the Legislature that no amendments would be adopted, but I wanted to run through some of them to let you all know what should have been done, and they were withdrawn, including this one: If the Legislature determines that a greater percent...this deals with what we're talking about here today. If the Legislature determines that a greater percentage of lottery proceeds should be transferred to the Compulsive Gamblers Assistance Fund, the amount of such percentage shall be deducted on a pro rata basis from both the Nebraska Environmental Trust Fund and education, each of which otherwise shall receive the percentage of such proceeds as specified herein. This is not something I just threw together to delay or stop the constitutional amendment, although I was against it. Everybody was so bedazzled by the State Fair proposal, that's all they looked at, and those of you now, you ought to go back and see how you voted on LR 209CA and realize that an opportunity was offered to deal with this situation, because I saw it coming, as I see many things coming, but which you all cannot accept. You'd rather run off the edge of the cliff and then say, by God, we should have listened. Why do I do it now? Because additional examples like this are going to arise and you all are going to be so hidebound and stubborn and anti-Ernie that you're going to spite yourself trying to spite me. They say, cut off your nose to spite your face, throw out the baby with the bathwater, and such things as that. There is another matter that I'm going to ease my way into. I had told Senator Fischer, when I was trying to get some money for the rural

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people on LB 90A, that I would help next session and in the future. When I looked at the votes of the rural people against what I was trying to do to help them, I told Senator Fischer, you all are...I got to leave you to your own devices. You won't help yourself? No, I'm not going to carry the burden. But I'm going to make one more effort and I'm going to see if my rural colleagues have learned anything. LB 90A has not been voted on finally. I'm going to offer a motion to bring it back and put that money in because there is a point here that I think is very important. And after I've done all that I can this session, I'm going to wash my hands...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...of the rural contingent because there are enough of you all to do whatever you think you ought to have. And if you feel that this effort should be rejected, I'm not going to be offended. I'm not going to be upset. It will be the vote that frees me from dealing with a lot of issues that have nothing to do with my constituents whatsoever. Rural people coming to me saying, I'll come to you because you get things done; I've gone to my senator and I couldn't even get a response. I'll tell them, well, I tried last session and they told me, keep my nose out of rural people's business; that you all sent the senators down here that you want because they understand, and whatever they don't get for you, you don't want. But I'm going to make that last effort and we shall see what we shall see. But I applaud Senator McDonald for what she's trying to do, and I sense that this proposition of Senator Wehrbein will be adopted. That's why I have digressed and talked about some other matters. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Howard, on the Wehrbein amendment, followed by Senator Wehrbein.

SENATOR HOWARD: Thank you, Mr. President, members of the body. I certainly support Senator McDonald's bill and I support the additional amendment. And I question, I ask, why? Why does it seem an easy process to extract money from this body for entities and their needs, and yet it is so difficult, so difficult, to meet the needs of human beings? I'm going to just

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give you some information that may be helpful to you in processing this, child abuse and neglect information, which I think is very pertinent. The National Gambling Impact Study Commission reported children of compulsive gamblers are often prone to suffer abuse, as well as neglect, as a result of parental problem or pathological gaming. In Indiana, a study of the state's Gaming Commission records revealed that 72 children were found abandoned on casino premises during a 14-month period. Children have died as a direct result of adult gaming problems. In Louisiana and South Carolina, children died after being locked in hot cars for hours while their caretakers gambled. In Illinois, a mother was sentenced to prison for suffocating her infant daughter in order to collect an insurance policy to continue gambling. Cases of child abandonment at Foxwoods, the nation's largest casino in Ledyard, Connecticut, became so commonplace that authorities were forced to post signs in the casino's parking lots warning parents not to leave children in cars unattended. There is a problem. Senator McDonald has come forth with a bill to address this. I appreciate you considering this. And I'm going to offer the remainder of my time to Senator Chambers, if he would like it.

SENATOR CUDABACK: Senator Chambers, did you wish to use some of...remaining time of Senator Howard?

SENATOR CHAMBERS: Mr. President, members of the Legislature, even if I didn't intend to originally, how can I turn down an offer from "Lady" Howard? Senator McDonald, I think that what you have done is to show ingenuity, a spirit of cooperation, and a way to get things done that really need doing. The Legislature can do itself proud on this particular issue by following the leadership of Senator Vickie McDonald. And with that, I think I ought to just stop because I've said everything I need to say on this amendment. Thank you.

SENATOR CUDABACK: Thank you, Senator Chambers and Senator Howard. Senator Wehrbein, you're recognized, and there are no further lights on, so you may either speak or close.

SENATOR WEHRBEIN: Well, for right now, Mr. President and members, I'm going to speak. We're waiting for an amendment to

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come down to catch up on the A bill. So...

SENATOR CUDABACK: You're recognized to speak.

SENATOR WEHRBEIN: ...I will say more than I want to say, tell you more than I know, all those kind of things here, because we're trying to wait for the A bill...the amendment to come down on the A bill that will reflect what we're actually doing here. I really wanted to spend just a little time, though, on the top ten states' advertising as a percentage of total lottery revenue that Senator McDonald passed out, and if you look at that sheet, Nebraska leads, and that, to me, is a very unfortunate circumstance in that we're spending 3.6 percent of our total revenue on advertising as compared to other states. We lead. We lead the nation. Ohio comes in second with 3 percent of total revenue; Iowa comes in third at 2.9, and obviously that's right across the river from us and even they are not spending as much on advertising as the state of Nebraska is. Idaho, 2.7, which kind of surprises me out there; Arizona, 2.6 percent of total revenue; Louisiana is sixth at 2.2 percent of total revenue; Montana is seventh at 1.7 of total revenue; Pennsylvania is eighth, 1.63; ninth is Florida, 1.6 percent; tenth is Virginia at 1.5. So it shows you where Nebraska has extensively spent...or spent a lot of money on advertising and we are ending up paying the piper as we try to do something about the gamblers that are getting in trouble, that as Senator Howard made some very good points. The average percentage of all states with lotteries is only 1.38 percent, which means Nebraska's percentage of lottery revenues is 2.6 times higher than the average. So we are, once...we are, in this particular instance, in an area that I think we should not be necessarily proud of, and I'd like to send a message to the gaming commission that we are going to be looking at this, and it shows, once again, as happens when there is not as much oversight, at least I think, over a particular commission, in this case, as there should be. With that, Mr. President, I will cease, and if you want to call me (inaudible) again, we'll probably have something coming on the A bill in just a short time.

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

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SENATOR COMBS: Mr. President, members of the body, I am trying to help a little bit while we're waiting on the A bill, and we have talked about the advertising as a percentage of total lottery revenue. We do know that Nebraska's is very large, 3.6 percent, and it's more than twice what many other states pay. In Virginia, they only use 1.5 percent of the total gaming revenue, and the total revenue there is \$1,262,358,367. And in Nebraska it's only \$92,608,000. So they have a lot more than we do, so if you look at the amount being spent per gambler, it's tremendously higher. We're talking about these...these are percentages of the total lottery revenue, but when you look at the number of people gambling, that's really high. So the average that a gambler is costing the state, and we have no revenue coming in from anywhere to help them at this point other than what's been set aside that obviously is not enough, we really need to have this money set aside for them. We talked about other services that are being funded by other states. We do have, Arizona mandates \$500,000 per year to education and awareness, \$250,000 administered by the Department of Health Services and Gamblers Anonymous, Gam-Anon, Addictions Therapy Network, New Horizons, New Hope Alcohol and Drug Treatment, and they have many of the same things that we do: bingo, lottery, off-track betting, pari-mutuels, and then they also have, in addition to that, casinos, off-track betting, and nonbanked card games. I know that some of the services we are currently providing are being provided by volunteers. These are people that man the phones, that are in the crisis centers, and they are doing that for...without pay. So that's a very unstable source of help for problem gamblers because at any time we're subject to losing these people, and they are volunteering. So it's very important that we at least get established with a system that is dependable, that does have some adequate funding. And as others have talked before me, we have the interim to do an interim study and look at other forms of revenue that could be utilized from the gambling proceeds that we are getting in Nebraska. And I would give my time to Senator McDonald, if she would like any additional time. Oh, she waives. Thank you.

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

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SENATOR JANSSEN: Thank you, Senator Cudaback, members of the Legislature. I wasn't going to speak on this, but with being as we're trying to kill some time till the amendment gets back downstairs, Senator McDonald has introduced a resolution this summer for the General Affairs Committee to study the expenditures from the lottery on their advertising, and maybe it's a good thing. Maybe that's a good thing, so that anyone that wants to hear about the technique of advertising that our revenue...or that our lottery does do can voice their opinions, and you may...some of you maybe get your eyes opened a little bit to what happens with the advertising. You know, this is a large state geographically. Some of the smaller states can cover the whole state with one television advertisement. That doesn't work in Nebraska. We're too...we're too big of a state. But it's...any of you that have ever been in the retail business will know that advertising is...and I'm not standing here defending the advertising that the lottery does, but it seems as though every time there is a loose dollar somewhere that we go running to the lottery, just as the State Fair amendment was, you know, and that's not exactly the way it was intended to be. But, you know, when there are dollars there, people are after them. But Nebraska does rank in the bottom of the per capita...in some areas we're near the bottom in the population in millions of dollars of sales throughout the...throughout the state, and anyone that's in business knows that if you don't advertise you're not going to see any growth in your sales. So with that, I just wanted to let everyone know that there...we will be having a hearing this summer and have the Department of Revenue come in and show what happens. When you cut back on your advertising, your sales will eventually go down. And we have an obligation now to fund the State Fair. We also have an obligation to take care of those from gambling that has caused...not only by our lottery. Sure, there...you can have addiction to the lottery also. You can get an addiction to sports betting, and where are any of the revenues from the sports betting, which is big in this state? It's big throughout the whole country, and that's adding to the problems. And we got one source of revenue to help those, and I'm glad to see that Senator McDonald is pursuing this. I'm glad to see that Senator Jensen found an extra \$500,000. With that, we'll wait

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for the amendment to get down and maybe we can get that passed and be on our way. I'd give the rest of my time to Senator McDonald.

SENATOR CUDABACK: Senator McDonald.

SENATOR McDONALD: Mr. President, members of the body, we do have the amendment down, so we can proceed. Thank you.

SENATOR CUDABACK: Thank you, Senator McDonald and Senator Janssen. Senator Wehrbein, yours is the only light on, if you wish to close or speak.

SENATOR WEHRBEIN: Close. Yes, thank you, Mr. President, members.

SENATOR CUDABACK: You are closing.

SENATOR WEHRBEIN: I will close. I think we've heard the discussion. There will be an A bill on the...or an amendment on the A bill to clarify, to actually appropriate the money. What this is only intent language to do the \$500,000 from the Health Care Cash Fund. It is in general agreement at this point, realizing future can change. But at this point it's our intention to be one-time only money out of the Health Care Trust Fund for this purpose, and that there will be a study this summer to determine other options; that this is not intended to be a permanent thing, and I want that on the record to clarify. With that, I urge your support of this amendment. Thank you.

SENATOR CUDABACK: Thank you, Senator Wehrbein. You've heard the closing by Senator Wehrbein on his amendment, FA296, to the Health and Human Services Committee amendments to LB 332. All in favor the amendment vote aye; those opposed, nay. The question before the body is the Wehrbein amendment, FA296, to AM0795. Have you all voted on the question who care to? Record please, Mr. Clerk.

CLERK: 35 ayes, 0 nays, Mr. President, on the adoption of Senator Wehrbein's amendment.

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SENATOR CUDABACK: The amendment was successful. The amendment has been adopted.

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

SENATOR CUDABACK: Thank you, Mr. Clerk. Discussion on the committee amendments? Senator Jensen, there are...Senator Jensen waives closing. The question before the body is adoption of the committee amendments by the Health and Human Services Committee to LB 332. All in favor vote aye; those opposed vote nay. Voting on adoption of the committee amendments, offered by the Health and Human Services Committee to LB 332. Have you all voted who care to? Record please, Mr. Clerk.

CLERK: 32 ayes, 0 nays, Mr. President, on adoption of committee amendments.

SENATOR CUDABACK: Committee amendments have been adopted.

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

SENATOR CUDABACK: Open for discussion on advancement of LB 332, E & R Initial. Senator McDonald, there are no lights on. You're recognized to close.

SENATOR McDONALD: Thank you, Mr. President and members of the body. As I stated before, I know that this has come in an inopportune time at the end of the session. I appreciate all the time that you gave me. I know that we've briefly discussed this on the budget bill one evening during a storm and didn't really get full and fair debate that evening. People's minds were other places and at that end of the...and into the evening time seems to...we don't seem to do...be real productive when it comes late night with a storm brewing. So I do appreciate all the time that you've given me. This has been my priority bill. Certainly not where we came from. We wanted a lot more when it comes to problem gambling assistance program. We would certainly like to had more staff outside the Health and Human Services Committee. We would certainly like to had more, but we certainly are pleased with what we have. I think the most

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important part of this whole thing is we have addressed an issue, we have addressed a need that we need to look into, and by your support we will see that this is done and have the interim study this summer to see where we're going to go with this. Thank you.

SENATOR CUDABACK: Thank you, Senator McDonald. You've heard the closing on advancement of LB 332. Question before the body is, shall LB 332 advance to E & R Initial? All in favor vote aye; all those opposed to advancement vote nay. The question before the body is, shall LB 332 advance to E & R Initial? Have you all voted who care to? Record please, Mr. Clerk.

CLERK: 38 ayes, 0 nays, Mr. President, on the advancement of LB 332.

SENATOR CUDABACK: LB 332 advances. Mr. Clerk, LB 332A.

CLERK: LB 332A by Senator McDonald. (Read title.) I do have an amendment to the bill, Mr. President.

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator McDonald, to open on LB 332A.

SENATOR McDONALD: Yeah, basically the amendment to LB 332A just states that it will be coming out of the cash fund for the Nebraska Health Care Cash Fund for the year 2005-2006 to the Department of Health and Human Services Finance and Support, for Program 38, to aid in carrying out the provisions of LB 332 in the Ninety-Ninth Legislature, First Session, 2005. Thank you.

SENATOR CUDABACK: Thank you, Senator McDonald. You've heard the opening. Mr. Clerk, please, amendment.

CLERK: Senator McDonald offers AM1689. (Legislative Journal pages 1700-1701.)

SENATOR CUDABACK: Senator McDonald, to open on AM1689. Do you have anything to add, Senator McDonald, as you...

SENATOR McDONALD: No, I think I'm fine, thank you.

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SENATOR CUDABACK: Got you. Discussion on the amendment offered by Senator McDonald? Seeing no discussion, did you wish to close? She waives closing. The question before the body is the adoption of AM1689. All in favor vote aye; opposed vote nay. Voting on the McDonald amendment, AM1689, to LB 332A. Record please, Mr. Clerk.

CLERK: 38 ayes, 0 nays on adoption of Senator McDonald's amendment, Mr. President.

SENATOR CUDABACK: The amendment has been adopted.

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

SENATOR CUDABACK: Open for discussion on advancement. Seeing no lights on, Senator McDonald? Senator McDonald waives closing. The question before the body is, shall LB 332A advance to E & R Initial? All in favor vote aye; opposed, nay. Voting on the advancement of LB 332A. Have you all voted who care to? Record please, Mr. Clerk.

CLERK: 36 ayes, 0 nays, Mr. President, on the advancement of LB 332A.

SENATOR CUDABACK: LB 332A advances. We now go to the next agenda item, Select File, 2005 committee second priority bills. Mr. Clerk, LB 348.

CLERK: Mr. President, Senator Flood, Enrollment & Review amendments are pending to LB 348. (AM7103, Legislative Journal page 1688.)

SENATOR CUDABACK: Senator Flood, to open on the motion.

SENATOR FLOOD: Mr. President, I move the adoption of the E & R amendments to LB 348.

SENATOR CUDABACK: You've heard the motion to adopt the E & R amendments to LB 348. All in favor? Senator Chambers, you're recognized to speak to the motion.

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SENATOR CHAMBERS: Mr. President, members of the Legislature, I know it's unusual to do what I'm doing, but this is a debatable motion. Senator Flood, could you tell me what the E & R amendments do on this bill?

SENATOR CUDABACK: Senator Flood, would you respond?

SENATOR FLOOD: Senator Chambers, I appreciate the opportunity to further expound on the E & R amendments. If you give me just a moment, I'll be ready to answer some of your questions.

SENATOR CHAMBERS: Certainly. Let me ask you this question. Do they substantially change the bill from what it was before these E & R amendments were offered?

SENATOR FLOOD: Senator Chambers, my committee and I spent a lot of time on these amendments. It would be impossible for me to outline every change for you on the whim of a moment, when I spent hours with my committee working tirelessly to make sure that the spelling and punctuation is correct.

SENATOR CHAMBERS: And Senator, because I have so much respect for you and your committee, I want you and your committee to be given adequate credit for what they've done by taking seriously what you and your committee have put together and are presenting to us. So could you give me an idea of the most important change that will be made by these particular E & R amendments?

SENATOR FLOOD: Now remember, the committee that I participate on, Senator Chambers, there are more people than just myself. So I will do my best to describe for you the changes, but in AM7103, as you will note on your gadget, we are changing that from "On July 1, 2000," to "On July 1, 2005," to reflect the salaries of the justice and the judges of the Supreme Court to be \$122,854, and then on July 1, 2006, the salary of the chief and the judges of the Supreme Court goes to \$126,846. And that's a change from the original Section 1 of the bill, 24-201.01.

SENATOR CHAMBERS: As you pointed out correctly, Senator Flood,

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that is what it says, but since you're the Chair of the committee, I need to go a little bit below the surface. Why is that change being made, if you know?

SENATOR FLOOD: I wasn't personally involved on making the amendments in this bill, so I will have to get back to you on that.

SENATOR CHAMBERS: But you're offering an amendment. Are you recommending that we adopt this amendment, Senator Flood?

SENATOR FLOOD: Based upon the confidence I have in the people that work for me and my committee, yes, I am, Senator Chambers.

SENATOR CHAMBERS: Should my affirmative vote be based on the confidence I place in you, or based on the confidence you place in others, which makes my confidence placed two steps removed?

SENATOR FLOOD: Senator, you, like many of us, have a tremendous amount of respect for the institution of the Legislature, and part of that institution, several of the cogs in the wheel, would include the members that serve, or the member that serves as the Enrollment and Review Chair, which I know you have respect for, and the staff that works with the Enrollment and Review Committee. So based on your respect for the institution and the people that work to provide you these amendments, I cannot imagine that you would be willing to question their hard work in doing something that's merely procedural and not substantive in any way to change the integrity of the bill.

SENATOR CHAMBERS: Your answer restores the confidence that I've placed in you, and I can only respond with a French word--"touchy." (Laughter)

SENATOR CUDABACK: Thank you, Senator Chambers. Further discussion on the motion to adopt the E & R amendments. Seeing none, all in favor of the adoption of the E & R amendments say aye. Those opposed say nay. The E & R amendments are adopted.

CLERK: Mr. President, Senator Synowiecki would move to amend with AM1675. (Legislative Journal page 1701.)

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SENATOR CUDABACK: Senator Synowiecki, you are recognized to open on AM1675 to LB 348.

SENATOR SYNOWIECKI: Thank you, Senator Cudaback, members. We had some discussion relative to this on the General File debate, relative to the portion of this bill that deals with judges' salary increases. This amendment essentially...I base this on the sense of fundamental fairness, and it's really a principled argument. The amendment simply delays the implementation of the judges' salary increase until after we can take a much more close look at, and provide a further analysis of the approach we're taking here. Essentially what the Judiciary Committee did relative to the judges' salary question was to extend to the judges what was negotiated with the state workers in our state. This agreement, the agreement with the state workers, was tailored to a group of employees whose average salary is at or around \$30,000, whose beginning salary is at or around, I believe, \$23,700. So I think fundamentally there might be some flawed logic in attempting to group a group of employees, our judges, with that of our state workers, in terms of bottom-line salaries, and in terms of how this interprets, then, to monetary gain, if you will, relative to an increase in pay. For example, a district court judge, under this agreement, for 2005, will receive a \$3,310 increase. A beginning state worker, under this agreement, receives \$712. I think that a much more logical grouping for our judges, perhaps, in an analysis of where we're at in terms of salary, would be our other constitutional officers. Our Governor currently earns \$85,000; our Attorney General currently earns \$75,000; Secretary of State, \$65,000; our Auditor of Public Accounts, \$60,000; Treasurer, \$60,000; Lieutenant Governor, \$60,000; and our Public Service Commissioners earn \$50,000 a year. If you compare and contrast that with our judges' current salary, you'll notice that a county court judge in the state of Nebraska--the lowest level in terms of jurisdiction and so forth--a county court judge earns some \$20,000 in excess of what the Governor earns in our state. So I think perhaps a more appropriate approach would be, rather than to incorporate what we have given our state workers in terms of the collective bargaining agreement, a more appropriate look, or a more appropriate analysis, perhaps, would be with our

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constitutional officers. Secondly, this was discussed much on General File. We have in the state of Nebraska three groups of employees that fall under a defined benefit retirement plan. These three are our teachers, our troopers within the State Patrol, and our judges. Each of these plans, all three of them, due to the problematic stock market in the past few years, have some deficiencies in their program, in their retirement program. All three plans are experiencing spreadsheet difficulties, but only one, only one of these--and that would be the judges--is one in which the employees are not directly monetarily participating in the solution. Under the parameters of LB 348, it is our constituents that access our court system through fees that will solve the imbalances relative to the retirement program. The judges, in fact, because they're receiving an increase in pay under LB 348, will receive an enhancement in the retirement benefit, because their retirement is based upon their salary at...their departing salary, relative to their benefits with retirement. So it's only one, and that would be the judges, are not personally, actively, rank and file, if you will, participating monetarily in solving the imbalances relative to that retirement program. And I'd rather, in the essence of time, not get into a long-winded debate relative to our retirement plans and so forth. I'm trying to keep this on fundamental principles, and the fundamental principle being that the judges are not participating monetarily in solving the deficiencies in the retirement program, while our troopers and our teachers are. I should also note that this amendment leaves intact the enhanced contribution from the fees to the judges' retirement program. So Senator Stuhr, this in no way, shape, or form--this amendment--impacts what we are contributing, again, through our citizens accessing the court system, providing for a solution to the retirement benefit inefficiencies within the system. I should also note that I don't think...I want just as badly as some of the other members of the Legislature a strong, an effective, and a deliberate judiciary. There's no doubt about it, it's a critical ingredient to our system of government. But I think we can take a time out here relative to these raises. I think this can be safely done. I don't think we're at critical mass in attracting accomplished attorneys, practicing attorneys, to the judiciary. I know for a fact in the rural communities throughout the Nebraska, this is a very,

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very much sought after position. And judging by the last...we just had a series of vacancies in the judiciary in Douglas and Sarpy county, and judging by the number of applicants, the quality of them applicants, I can assure you we are not at a critical mass relative to attracting qualified individuals, qualified attorneys to the judiciary. We are, indeed, having the best, the cream of the crop, the most qualified attorneys apply for these positions at this time. So that's the amendment I offer. It's based on some questioning, some fairness issues. It's questioning some process issues relative to how we're handling this issue for the judges. I think it deserves some level of debate. I don't think we need to have a long-winded, ongoing debate relative to this. It's really simple: Do you want to extend to the judges a collective bargaining agreement, in terms of raises, that were extended to our state workers, who earn, as you are very well aware, a dramatically lower set of raises? And my pitch to you would be, is if the judges embarked upon a collective bargaining process--which, of course, they can't--that the resulting negotiation would not have been a 3 and a 3.25 result, particularly when you take into account that the deficiencies in the retirement are being handled through a third party, if you will, and that's our citizens that access the court system. Whereas, that's not the case with our other two defined benefit plans--our teachers, our hard-working teachers, and our state troopers. Thank you, Senator Cudaback.

SENATOR CUDABACK: Thank you, Senator. On with discussion of the AM1675. Senator Bourne.

SENATOR BOURNE: Thank you, Mr. President, members. As Chair of the committee from which this bill came, I felt like I had to at least explain a few things, or you know, make the members aware of a few things. The last time the judges had a salary increase was 2002, and so they have not had a salary increase since then, July 1, 2002, so almost three years. They did increase some fees in that year, and they...but as part of the budget process, they agreed to forego a salary increase until now. And what we are giving them is 3 percent, starting on July 1, 2005, and 3.25 percent increase on July 1, 2006. This does mirror, as Senator Synowiecki mentioned, it does mirror what the state employees are getting. And Senator Synowiecki indicated that,

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why, the judges make a higher salary, their percent increase, of course, would be higher. Listen, we have a lot of state employees, unfortunately, that make the kind of money that judges do, and so, I guess I can't disagree with Senator Synowiecki in some regards. I sense his frustration and, at a certain level, I agree with it, but we do have to fund the retirement shortfall. Senator Synowiecki's amendment simply takes away the raise that I personally feel the judges are entitled to. It does leave, thankfully, it does leave intact the increased fees that will go to fund the retirement shortfall. But I do want to point out that when Senator Synowiecki says that this delays the raise, it does eliminate the raise, and they would have to reintroduce legislation. The Judiciary Committee unanimously voted this bill out, as amended, and I think a 3 percent increase in the first year and a 3.25 percent increase in the second year are fair, given that they have not had an increase since 2002. With that, I personally...I won't vote for Senator Synowiecki's amendment, although I certainly understand his frustration and his comments. Thank you.

SENATOR SCHIMEK PRESIDING

SENATOR SCHIMEK: Thank you, Senator Bourne. The next speaker is Senator Don Pederson. Senator Pederson?

SENATOR D. PEDERSON: Thank you, Madam President, members of the Legislature. I serve on the Appropriations Committee, as you know, with Senator Synowiecki, and I also serve on the Retirement Committee with Senator Synowiecki, and I would just inform you very briefly that when we prepared our budget this year, we prepared it based upon the actions that were going to be taking place by the Judiciary Committee, and we predicated our budget on that basis. And I would ask that we--although I understand where he's coming from--I would ask that we reject this proposal by Senator Synowiecki. Thank you.

SENATOR SCHIMEK: Thank you, Senator Pederson. Senator Brashear, you are next to speak.

SENATOR BRASHEAR: Thank you. Madam President, members of the

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body, I rise in opposition to the Synowiecki amendment. I will follow his suggestion that we not make this a long and protracted debate, and I'll not speak to things that others have spoken to. But I'd like to share with you a few summary facts. I'll keep them simple. The Nebraska Judicial System ranks lower in comparison with other systems than any other Nebraska system. Although the normal retirement benefit is at the median, required employee contributions for the Judicial Retirement System are substantially above average. Compared with eight other Midwestern states in competitiveness of judicial retirement systems, Nebraska ranks seventh, or next to last. In a national comparison, Nebraska's judicial system was above average in its member contributions to the retirement plan. It was below average in its employer contributions to the retirement plan. It was average in benefit formula multiplier, in maximum benefit, and in final average salary basis. And in that same national comparison, the Nebraska judicial system was ranked below average in cost of living benefit, in early retirement eligibility, and post-retirement death benefit, although this was changed in 2004, in return for an increased contribution. I would like to suggest, as other speakers have, that we have, to the best of our human ability, all taken into account multiple considerations over a sustained period of time, meaning several years, several sessions. This is not just an instant, point-in-time decision, and I would ask your opposition...solicit your opposition to the Synowiecki amendment, and your support for the Bourne bill, which has been the product of much collaborative work. Thank you.

SENATOR SCHIMEK: Thank you, Senator Brashear. Senator Beutler, you are recognized to speak.

SENATOR BEUTLER: Senator Schimek, members of the Legislature, I just wanted to make a short speak in support of what Senator Bourne has done with this bill. I, too, appreciate John's question and his concerns, and I think there needs to be a comprehensive solution to the retirement issue, coming out of the Retirement Committee, advising us how to deal with this thing overall, because I think there are questions related to retirement that are legitimate questions, and not only with the judges' retirement, but with some of the other retirement plans.

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There's a lot of good work to be done there. But yes, it's true, you can get lawyers to be judges, but the question that you really want to answer is, what level of lawyers do you want on the bench to deal with what level of lawyers that are coming and asking for justice? Remember, in the end, it's the judge who's listening to the arguments of some very good attorneys and trying to sort through what's relevant and what's real from what shouldn't be considered, and I would submit to you that you want people on the bench who are experienced enough and intelligent enough to sort through the arguments of all those other smart lawyers out there. You want them a step above. You don't want just any lawyer on the bench, and it's just like anything else, to a certain extent, you get what you pay for. And I think that even though this is a lot of money, what is being requested in terms of an increase is modest, and that it should be considered on the basis of a proposed salary increase and let then the Retirement Committee come back to us with suggestions on how we might improve or exact more discipline in the retirement area. Thank you.

SENATOR SCHIMEK: Thank you, Senator Beutler. Senator Synowiecki's light is next, followed by Senators Stuhr and Chambers. Senator Synowiecki.

SENATOR SYNOWIECKI: Thank you, Senator Schimek, members. I appreciate the discussion. I...Senator Bourne characterized myself as being frustrated. I'm really not frustrated. It's just...I felt compelled, I felt compelled out of sense of fairness, out of a sense of fundamental fairness, you know, that we look at this, and that we look at this a little bit closer than we had done, you know, particularly as it relates to our state workers, who are out there, you know, working for comparatively smaller salaries than comparable states. I think Senator Howard knows a little bit about this. Our CPS workers, you know, are not in the middle of the ranks relative to pay with other states. Our parole officers, under the Executive Branch, are way out of whack with even our neighboring states. And that agreement, that collective bargaining agreement of 3 and 3.25 percent, part of that negotiation was with those type of employees in mind. That negotiation and that settlement, that collective bargaining agreement, did not have these type of

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salaries in mind. I'm talking about current salaries: \$119,000 Supreme Court; Court of Appeals, \$113,000; District Court judge, \$110,000 a year; County Court judge, \$107,000 a year. I just would submit that that collective bargaining agreement and the resulting percentage increases wasn't involving this category of employee, not at all. Now it is true, the judges did not have a raise in 2002, and it's because they elected to get an enhancement, survivors' benefit, to the retirement plan. So it was no...an attempt to get a raise was not made, even, in 2002 by the judiciary. They focused all their lobby resources, which are quite powerful, by the way, they focused their lobby efforts on getting an enhancement to that retirement benefit in 2002, and they were successful in achieving that. You know, relative to the distinguished Chair of the Appropriations Committee, Senator Pederson, my amendment would actually mitigate, for now, would mitigate for now our balance sheet, in terms of state revenues and expenditures. And I could also appreciate Senator Brashear's historic perspective of the retirement plan. I'm not questioning anything that he indicated. All I'm saying, in terms of retirement, is we got three plans. We've got three defined benefit retirement plans. Two of the three the member participants are participating in the solution, and one isn't, and that's the judges. And I think that that has to be something that we look at, in terms of a compensation package, relative to the court, relative to the judiciary. Thank you, Senator Schimek.

SENATOR SCHIMEK: Thank you, Senator Synowiecki. Mr. Clerk.

CLERK: Madam President, a new A bill, LB 126A, by Senator Raikes. (Read LB 126A by title for the first time.) A new resolution, LR 232, by Senator Flood. That will be laid over, Madam President. (Legislative Journal pages 1701-1702.)

And I do have a priority motion. Senator Heidemann would move to recess until 1:30 p.m.

SENATOR SCHIMEK: Thank you, Mr. Clerk. The question is, shall we recess until 1:30? All in favor say aye. All opposed, no. We are recessed.

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RECESS

SENATOR CUDABACK PRESIDING

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

ASSISTANT CLERK: There is a quorum present, Mr. President.

SENATOR CUDABACK: Mr. Clerk, do you have any announcements?

ASSISTANT CLERK: Mr. President, I have no announcements at this time.

SENATOR CUDABACK: Thank you. Mr. Clerk, please advise the body where we were when we recessed for lunch.

ASSISTANT CLERK: Mr. President, under consideration was LB 348. E & R amendments had been adopted. Senator Synowiecki had offered AM1675, and that item was under consideration.

SENATOR CUDABACK: Thank you, Mr. Clerk. Continued discussion, AM1675, Senator Stuhr.

SENATOR STUHR: Thank you, Mr. President and members of the body. I felt that I needed to make a few comments on the amendment that is before us. I do understand Senator Synowiecki's concern and his frustration, because I have shared in some of that as Chair of the Retirement Committee. However, at this time I will not be supporting his amendment. But I did want to make a few comments, in the fact that it is very hard to compare these systems that we are dealing with in the defined benefit plan. It is not comparing exactly apples to apples, in the fact that we look at the judges' retirement system. And I

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do share the frustration Senator Chambers does of using the court fees as the matching contribution. That was decided a number of years ago. In fact, it was in 1955 that the Legislature created the judges' retirement plan. And each year, we look at this, and we've been looking at the judges' plan, trying to increase those contributions. And as I have said before, it is very difficult. And I'd like to write that in stone, that we cannot increase benefits without increasing contributions, because what happens is usually a lawsuit will develop. But it was in 2004 that...July 1 of 2004 that the new rate for the judges went into effect. And they made the option, if they wanted to be part of this new benefit, that they would...those serving under 20 years would increase their contribution rate from 6 percent to 8 percent, and those serving over 20 years would increase their contribution rate from 0 to 4 percent. Now, I don't know--this is just a personal comment--why the judges who were serving over 20 years never contributed to the retirement fund in the past. I do not feel that that was appropriate. But at least we do have that change so that they now do contribute at least 4 percent, which is not, as I say, as much as some of the others. The school...so the state actually has only put in a minimum of about \$70,000, in the past, in the judges' retirement fund. That is appropriated yearly from some HELP money, and that will, I believe, run out in 2010 and 2011. So where we get...as I say, we get the contributing amount from the court fees. And what we are trying to do in this bill is raise that amount of court fees to help in matching. The school employees...of course, the schools are the employer, and so they do the matching contribution. The State Patrol, of course, it is the state. And so there are a number of things that we can look at. And I think that we need to continue to study the issue, is that maybe eventually we will want to put the court fees into the General Fund, and then have the state do a matching appropriation like they do in the State Patrol. I mean, I'm throwing that out as an idea that we certainly are not going to be able to do in the...

SENATOR CUDABACK: One minute.

SENATOR STUHR: ...near future, but something that might be studied. So there are a number of reasons that I will continue

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to not support this amendment. But I will support the increase in the judges' salary. I would not have supported it if it had remained at their original request. But at this time, I think it is appropriate, looking particularly at the list of salaries that were handed out, looking at some of the other positions that are receiving over \$100,000. So with that, I know it's been kind of a mismatch of comments, but I did want to make those comments in regard to retirement. Thank you.

SENATOR CUDABACK: Thank you, Senator Stuhr. On with discussion of AM1675 to LB 348. Senator Chambers, followed by Senator Howard.

SENATOR CHAMBERS: Mr. President, members of the Legislature, although I cannot support Senator Synowiecki's amendment, there have been times in the past when I've expressed dissatisfaction with the salaries that judges get, the excellent retirement benefits, and have done things, on occasion, to lower salary increases. I have tried to take away \$1 from court costs that go to the judges' retirement. I just did not feel that all things associated with how judges are compensated were done decently and in order. There was an irregularity which applied to them that touched no other group or category of employees. I'm not going to say that Senator Synowiecki is frustrated. I have felt, maybe more strongly than what he feels right now, the very same types of things. I'm glad that he's expressing those views. Even though this session I'm committed, for reasons that I've talked about earlier, to supporting the salary increase for the judges, the increase in court fees, so I'm not going to depart from that. But judges need to hear dissatisfaction. They need to be aware that not everybody gives them a free pass or puts them on a pedestal and considers them to be above everybody else, every other category of employees. Remember, not everybody can be a judge. These positions are highly sought after. And judges will hold on, and maybe even sell their firstborn, if they have one, to keep that position, even after they have misbehaved egregiously. I'm glad that Senator Synowiecki will forthrightly express his points of view. Judges don't run in elections in Nebraska. They're under this so-called Missouri plan, where their name appears on the ballot periodically, and the question is asked, shall so-and-so be

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retained, yes or no? Even judges that I respect and like, I vote no on. I always vote no. There need to be "no" votes. They need to be aware that not everybody is satisfied with them and what they do, that they are not somehow mystical, magical people with a greater degree of humanity, more intelligence than anybody else. However, I think that I am as strongly in favor of, if not more strongly so, an independent, competent, dedicated judiciary. In the same way that I want to uphold the Legislature as an institution, I think the judiciary as an institution needs to be protected. Pursuant to their ethics, judges are not free to respond to public criticism and attacks on an issue pending before them. They have to sit there, swallow it, and take it. Sometimes the criticism is justified. Even when it's not, that's a part of the territory. But politicians and everybody else can respond and counteract.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: I will, as long as I'm in the Legislature, do everything I can to protect and shield the judiciary. This talk of--what's that term they use--activist judges, is one of the most inane, silly notions I have ever heard. But it takes "Repelicans," fundamentalists, and other fanatics and zealots to come up with these oversimplifications that will not withstand analysis. And the analysis is not given, because people who ought to speak out are frightened into silence. I'll put my light on again. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. On with discussion. Senator Howard, followed by Senator Beutler.

SENATOR HOWARD: Thank you, Mr. President and members of the body. Senator Synowiecki brought up some very good points, especially regarding state workers and the salaries they're paid. In considering this, it's important that you know the classifications in the state contract have caps. I worked for the Department of Health and Human Services for 34 years. I could have worked for them for 68 years and still in no way have achieved anywhere near the salaries that are outlined on the sheet that Senator Synowiecki gave to us. When I look at the pay, the 3 percent raise for state workers, you look at the

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average salary, you look at the amount of money, \$900. That's less than \$100 a month. That amount of money is eaten up every year by increased taxation and by health insurance coverage costs. The average state worker generally sees possibly \$30 increase on their check for every raise they receive. I support Senator Synowiecki and I hope you will seriously consider this amendment. Thank you, Mr. President. And I return the balance of my time.

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

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, I didn't intend to speak again in support of Senator Bourne's level of pay. But I did ask somebody to pull the 2003 salary survey that the State Bar Association does of all of the lawyers in the state, to see how much lawyers are being paid this day. And there's always a terrific response to this survey. But it's unscientific, in the sense that it's not a controlled kind of survey. But I think the response is so large that it's largely indicative of what's happening out there. And in the year 2003, 17 percent of all attorneys were making over \$150,000; 17 percent of attorneys were making over \$150,000. And 18-plus percent, about 18 percent of attorneys were making between \$100,000 and \$150,000. So what I was indicating to you before is that I really have a strong belief that our judges ought to come out of the very top echelons of our bar. And as you can see, with 17 percent of the bar making over \$150,000, certainly far in excess of a fifth of attorneys are going to be making more than what we're purporting to pay the very highest levels of our judiciary, \$122,000, \$126,000. So I think we need to be doing this to keep the quality of the judgeships up, that is, to continue to attract people who are the better, if not the best lawyers in our system, because they are the people who run the system, and they are the people who ultimately determine if the people of the state get justice from their system. Thank you.

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

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

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bit more on what I had started talking about. Judges should be held to the highest standard of anybody in the society. Higher than doctors, lawyers, preachers, teachers, all of them. They are the ones who make decisions literally involving life or death. They make decisions to deprive people of their freedom for anywhere from a day to natural life, whatever that may mean. They decide who is going to get property in a divorce, and how much of it, who is going to have parental rights, whose parental rights will be terminated. When you look at the awesome responsibilities placed on judges, there certainly ought to be a salary commensurate with the types of responsibilities that attach to and inhere...adhere to the office...inhere in the office. Because some of these judges are attached to the office like barnacles to a ship or parasites to the hide of a mangy critter. Not every judge is upstanding and acceptable in his or her conduct, just as not everybody in any human pursuit meets the standard that ought to be met. Overall, however, I don't think the judiciary in the state of Nebraska is measurably worse or better than the overall judiciary in any other state. This talk of activist judges has been a blight on the body politic. It has enflamed people. It has encouraged people who may be delicately balanced intellectually to take violent action against judges. Some of those people who are opposed to abortion have given lists of judge...not judges--they might be doing it with the judges now--but doctors. And when one has been bumped off, they draw a line through the name, or put some kind of mark to indicate that the list is diminishing in number and size. There is no outcry or criticism of that kind of activity. Judges will hand down a decision which is unpopular, and death threats will ensue almost immediately. The irony is that many of these people identify themselves as God-believing Christians, born-again Christians, and all such things as that. Being a judge at one time may have been a position that commanded respect from any and everybody, except those the judge has sent off to the big house. Now judges who take their work very seriously, who try to do the job that they swore to do, upholding the constitution and the laws, are subjected to all kind of criticism, which they should be able to withstand and bear. They're all grown. All are adults. But the threats against the life of the judge, the judge's family, employees in the courthouse, are things which should not be encouraged.

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Since none of us is able to prevent that from happening, we should try to avoid giving aid and comfort to those who advocate such notions. In a society where freedom of speech is valued highly, there should go with it the notion of...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...responsibility. Not just any and everything ought to be said, although just about any and everything can be said, even threats against the President, even though there are consequences. There has to be a higher level of discourse in this society. Public officials should not use the "f-word," as people in the President's administration will do. Talk show hosts, and others, have vulgarized the language, poisoned the atmosphere, so terrible things happen. What we're doing with this modest salary increase is simply saying that we're going to pay you for being in the position you find yourself in, and we hope you can persevere and do the job we expect you to do. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Further discussion on the Synowiecki amendment? Seeing no lights on, Senator Synowiecki, you're recognized to close on AM1675.

SENATOR SYNOWIECKI: Senator Cudaback, can I get a call of the house?

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

ASSISTANT CLERK: 17 ayes, 0 nays to go under call, Mr. President.

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. The house is under call. All unexcused senators please report to the Chamber. Senator Byars, please. Senator Heidemann, Senator Johnson, Senator Engel, Senator Schrock, Senator Landis. Senator Price, would you check in, please. Thank you. Senator

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Friend, would you check in, please. Senator Preister. The house is under call. Senator Engel, also. Senator Brashear. Senator Synowiecki, if you wish to...as you know, your time is rolling.

SENATOR SYNOWIECKI: Yes. Thank you, Senator Cudaback, members. I very much appreciate the discussion. I very much appreciate the opportunity to bring this alternative to the members. I respect the work of the Judiciary Committee in terms of what they did, although I think it's a bit flawed. I think the collective bargaining agreement that the state enters into is relative to salaries that are substantially below that of judges. It's essentially for workers that are earning, you know, starting wages in the range of \$23,000 to \$25,000, an average range of \$30,000 to \$35,000. And the judges' salaries are far, far outside that scope, in terms of salaries. And that if the judges would have been taken into consideration as a group, we would not be looking at 3 and 3.25 salary increases, "percentagely" speaking. Secondly, we got three members within the state that are under a defined benefit retirement plan. We've got teachers, our hardworking teachers throughout the state; State Patrol officers, our troopers; and the judges. Two of those three will be monetarily participating through membership contributions to help solve the insolvency problems within their retirement plans. The judges are not. The judges will be receiving that from citizens, our constituents that access the court system, that that solvency issue will be taken place, and that the judges themselves will not be participating in that. I simply wanted to give the body an alternative to take a look at this. We would delay the salary increases. We can come back next year after consultation with Senator Stuhr and the Retirement Committee, you know, to take a look at this. You know, I know what I'm up against here. (Laugh) I've got the powerful and distinguished Chair of the Judiciary Committee, the honorable Patrick Bourne, against me on this. I've got the distinguished Speaker of the Legislature against me on this. I've got the senior member of the Legislature, Senator Chambers is against me on this. It's really, truly, the elite and the powerful of the legislative branch, against me, representing south Omaha. But they really do...they really are doing something...I'm going to tell you, seriously, they're doing

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something for the elite and powerful of the judiciary. You know, they have a very powerful lobby, and we're talking about the elite and the powerful of the judiciary. We've got to remember, the judiciary is not just judges. The judiciary comprises county clerks, the clerks that do the hard work within our judicial system. Unlike our judges that are in the middle of the pack in terms of salary, they're in the bottom third. Our judiciary system comprises probation officers. I wish I could sit here and tell you that probation officers, as a member of the judiciary, are in the middle of the pack in terms of compensation. They are not. They're in the bottom third. Our judiciary system comprises probation support staff.

SENATOR CUDABACK: One minute.

SENATOR SYNOWIECKI: I wish I could sit here and tell you that they're in the middle of the pack, in terms of nationwide salary comparison and analysis. They are not. They're in the bottom third. So what we got here is the elite, the powerful members of the legislative branch, doing something here for the elite and powerful within the judicial branch. Let's remember, the judicial branch does not just comprise judges. And if we're serious about a strong judiciary, we got to look at all components of it. I submit that these pay raises are uncalled for. In terms of using the collective bargaining agreement as a vehicle to get where they want to get, it's not...it's flawed logic, as we take a look at this. And I would just hope that the members will look at this from a universal perspective, in terms of the judiciary as a system, as an agency of our government. Please adopt the amendment. Thank you.

SENATOR CUDABACK: Thank you, Senator Synowiecki. You've heard the closing. All members are present but Senator Heidemann. Senator Heidemann, the house is under call. Senator...

SENATOR SYNOWIECKI: Senator Cudaback, could I request a roll call vote in reverse order, please?

SENATOR CUDABACK: Did you wish to start without Senator Heidemann?

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SENATOR SYNOWIECKI: Yes. Yeah.

SENATOR CUDABACK: On the question, the Synowiecki amendment, AM1675, been a request for a roll call vote in reverse order. Mr. Clerk, please call the roll.

ASSISTANT CLERK: (Roll call vote taken, Legislative Journal pages 1702-1703.) The vote is 9 ayes, 23 nays, Mr. President, on the adoption of Senator Synowiecki's amendment.

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

ASSISTANT CLERK: Mr. President, Senator Bourne would move to amend with AM1681. (Legislative Journal page 1703.)

SENATOR CUDABACK: Senator Bourne, to open on AM1681 to LB 348.

SENATOR BOURNE: Thank you, Mr. President, members. This amendment is a technical amendment that changes the lowest tier of the formula...of the formal probate proceeding fee from \$20 to \$22, to comply with a statute that says the informal probate fee shall not exceed the amount of the formal probate fee. There's no fiscal impact in this. It was indicated to me that this was more than an E & R amendment, and that's why we're bringing this amendment. Again, it's technical. It complies...or, it's designed to change the fee from \$20 to \$22, to comply with the statute that says the informal probate fee cannot exceed the amount of the formal probate fee. With that, I'd urge your adoption of this amendment. Thank you.

SENATOR CUDABACK: Thank you. You've heard the opening on the Bourne amendment, AM1681, to LB 348. Open for discussion. Anybody wishing to speak to the Bourne amendment? Senator Bourne, there are no lights on. Senator Bourne waives closing. The question before the body is adoption of AM1681. All in favor vote aye; those opposed, nay. We're voting on the adoption of the Bourne amendment, AM1681 to LB 348. Have you all voted who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: 36 ayes, 0 nays on the adoption of Senator

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Bourne's amendment.

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

ASSISTANT CLERK: Mr. President, nothing further on the bill.

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

SENATOR FLOOD: Mr. President, I move the advancement of LB 348 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 348. Any discussion? All those in favor say aye. Those opposed, nay. Ayes have it. LB 348 is advanced. (Visitors introduced.) Mr. Clerk, please LB 348A.

ASSISTANT CLERK: Mr. President, on LB 348A there are no E & R amendments. I do have an amendment from Senator Bourne, AMI680. (Legislative Journal page 1703.)

SENATOR CUDABACK: Senator Bourne, to open on that amendment.

SENATOR BOURNE: Thank you, Mr. President, members. This amendment provides an emergency clause for, or to, LB 348A, to mirror the emergency clause in the underlying bill, LB 348. Thank you.

SENATOR CUDABACK: You've heard the opening on the motion. Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, I support what Senator Bourne is offering to us. And as a kind of offhand response to what Senator Synowiecki suggested, if he was saying that I'm a member of the powerful and elite because I'm in company with Senator Bourne and Senator Brashear, then I think he underestimated my status. He took something away from me. (Laugh) That's not what you were expecting, was it? But there come times when even if the judiciary, if the judges who are getting this salary increase are characterized as the powerful and the elite, there are times when people holding a

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position such as that are entitled to a salary increase. So however they may be characterized, I support the salary increase. Despite the kinds of negative feelings that many people have toward judges--in some instances, justified--I'm looking at the judiciary as an institution. Decisions have been handed down with which I strongly disagree. Individual judges have engaged in conduct which I have filed ethics complaints against. Even with all of those things being realities, there is a job which judges are to do. The responsibilities of the office are greater than those anywhere else. A salary increase as proposed in the bill is justified. And the A bill funds that salary increase. I support it, as I will continue to support the underlying bill. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Further discussion on AM1680, offered by Senator Bourne? Senator Bourne, there are no...Senator Bourne waives closing. The question before the body is adoption of Bourne amendment, AM1680, to LB 348A. All in favor vote aye; those opposed, nay. We're voting on the adoption of the Bourne amendment. Have you all voted on the amendment who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: 32 ayes, 0 nays on the adoption of Senator Bourne's amendment.

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

ASSISTANT CLERK: Nothing further, Mr. President.

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

SENATOR FLOOD: Mr. President, I move the advancement of LB 348A to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 348A to E & R for engrossing. Open for discussion. Seeing no lights on, all in favor of the motion say aye. Opposed to the motion, nay. LB 348A is advanced. We now go to Select File, 2005 committee first priority bills. Mr. Clerk, LR 12CA, when you

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get time.

ASSISTANT CLERK: Mr. President, there are no Enrollment and Review amendments on LR 12CA. The first amendment I have is offered by Senator Friend. And I have a note that he wishes to withdraw that and substitute the Stuhr amendment, AM1648. (Legislative Journal page 1692.)

SENATOR CUDABACK: Any objection, substitution? Seeing none, Senator Friend, you're recognized to open.

SENATOR FRIEND: Mr. President, I would yield the remainder of my time to Senator Stuhr. Or, if it is her time to open the amendment, I would yield the time to Senator Stuhr.

SENATOR CUDABACK: Senator Stuhr.

SENATOR STUHR: Thank you, Mr. President and members of the body. And thank you, Senator Friend. This has been a joint effort between Senator Friend and myself in the discussion of looking at legislative salaries. Senator Friend's previous amendment had the salary set at \$18,000. The amendment that I was going to introduce, and one of the amendments that I will be withdrawing, had it set at \$24,000, and also then included an increase based on the consumer price index. So after a discussion...and I thank Senator Schimek, because she brought us all together, those of us that had amendments to this bill, and to try to look at some of the options that we might consider this afternoon. So it was just an informal agreement between Senator Friend and myself that I would lower the \$24,000 originally to \$18,000, but then have an index attached to it. After talking to many of my constituents, they felt that this was one way that we would not constantly need to return to the constitution to update our salaries, but to tie it to something that...and also, in the amendment it states, not to exceed 4 percent. And I would like for you to look at the handout that I passed out to all of you, looking at the consumer price index for the last 20 years. And there was a short period in the late eighties that it actually did exceed 4 percent. And only once in the last 20 years did it reach the 6 percent. So we...that is why we came up with just looking at an average of capping it,

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not to exceed 4 percent. So I'm hoping that we might have some discussion this afternoon. I'm thinking that there are other ideas out there. But at least this does tie it to something that...and at one time, I also offered an amendment to look at benefits. Because many people assume that we, as state employees, receive health and retirement benefits. And of course, we all know that we do not. So...but in regards...we thought that the consumer price index might actually be more beneficial and helpful to senators in the future. And by that, I know that most of us that are going to be involved in this discussion this afternoon, will not affect us personally. But looking to the future of the institution and how we might better look at the salary issue. And I would return the rest of my time back to Senator Friend if you would like to add a few comments. Thank you, Mr. President.

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

SENATOR FRIEND: Thank you, Mr. President. How much time remaining?

SENATOR CUDABACK: About six minutes.

SENATOR FRIEND: Thank you, Senator Stuhr. Members of the Legislature, the only thing that I would add...and certainly, when we first addressed this issue, I...out on the floor on General File, the first thing that occurred to me is probably the first thing that occurred to a lot of us in...a lot of my colleagues in here, and then also occurred to some of the people out there who are following this issue. A 100 percent raise these folks are looking at? A 100 percent raise they're actually going to try to procure? Obviously, that was a little bit of a concern from the standpoint of taking too big a bite of an apple...of a particular apple, I believed. That was my thought process for the amendment that I brought. When we got together in an informal meeting, I guess I would say, I would term it, that this seemed to make sense, because you're taking a 50 percent approach to the problem, or to the situation, you're giving the citizens of Nebraska something that I thought was more legitimate to deal with. And Senator Stuhr had an...I guess, a component, or a piece of the equation that I felt like

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filled out nicely what I was trying to accomplish. The goal, again, for me, is to give the citizens of Nebraska something that they can, I guess, feel halfway decent about, and understand that what they're voting for and what they're looking at is something that can be quite productive, I would say, in the future, or at least has a chance to be productive in the future. That's all I'd have, Mr. President. Thank you.

SENATOR CUDABACK: Thank you, Senator Friend. On with discussion of the AM1648 amendment, offered by Senator Stuhr to LR 12CA. Senator Schimek.

SENATOR SCHIMEK: Yes. Thank you, Mr. President and members. I rise to say that I think we will have a discussion of a lot of different possibilities this afternoon. But I want to just brief you ahead of time, in case you haven't had a chance to look at those amendments, what those possibilities are. And as you just heard, the Stuhr-Friend amendment is the \$18,000, plus the CIP...or, CPI. Then the next amendment that we will be discussing I believe is the Redfield amendment, which will be a salary-based, not any higher than the county commissioner's in the capital county, in other words, the Lancaster County Commissioner's. You'll hear her talk about that. Then the next one that you'll hear about is my amendment, which is just to simply put the whole thing on the primary ballot. And we have to have language in here that says it will go on the primary ballot. Then you'll hear from Senator Jensen, who has a proposal that would not change...that would change the salary not to exceed the average wage in Nebraska. And I did leave out...I'm sorry, I did leave out Senator Smith's amendment, which I believe will be the next one up after Senator Stuhr's, actually. And that will be one regarding not paying more than the federal poverty guidelines for a family of four. And then finally, Senator Beutler's amendment, which he filed today, is the one regarding the salary issue/ethics commission issue. So you're going to have, really, five issues to look at. Now, I want to go back just a minute and talk about several of the reasons that I chose the \$24,000 figure. One is, that's just about what our neighbors over in Iowa are getting. And as you saw in a recent release, they are actually have a bill to improve their salaries, which will bring it up to about the

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\$24,000. Secondly, when you look at the rate of inflation and what the \$12,000 figure would buy in 1988, when we actually passed the amendment that's in effect now, today, in 2005, it would cost \$19,471.66 to buy those same goods. So I thought that \$18,000 might be a little low, especially when you have to look prospectively and think about all the years that are coming that we may not have another ballot issue on the ballot, and then we keep falling further and further behind. So those are a couple of the reasons. In addition, I wanted to share with you...and I will pass out a copy of this. I sent a survey out to the constituents in my district about three weeks ago, I think it was, and had quite a few questions on salaries on that survey. And the first question was, do you think that salaries should be increased? And by an 88 to 12 percent margin, they agreed that we should have an increase. And then when I asked them to look at what it should be, I gave them several choices: \$12,000 a year, in other words, keeping it the way it is; \$18,000 a year;...

SENATOR CUDABACK: One minute.

SENATOR SCHIMEK: ...\$24,000 a year; and \$60,000 a year; and other. Believe it or not, we had 1 percent of the respondents said \$60,000 a year; 12 percent of them said \$12,000 a year; 19 percent said \$18,000 a year; and 59 percent said \$24,000 a year. Now, my respondents weren't scientifically gathered. I don't know who responded in terms of demographics. And your districts may be different. But that's a pretty overwhelming number, I think, at the \$24,000 figure. So I think all of these have good components to them, good things to recommend them to you. So be thinking about what's to come as we discuss this amendment. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Schimek. Further discussion. Senator Wehrbein.

SENATOR WEHRBEIN: Yes, Mr. President, members of the body. I'm going to listen to the debate. But I probably at this point am most partial to this particular amendment. I knew the \$24,000 was not probably going to work very well, probably considered too big a jump, and so forth. But I do like the \$18,000 plus

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the inflation factor. And realizing that on the ballot that might be a sticky point. But I do think it is a reasonable part. And I will be opposed to additional perks, if you will, as the health insurance are premiums. And I'll tell you...or, retirement. And I'll tell you the reason for that, because I've seen it at least at the federal level, is, I think some are staying for that reason. Many times, would prefer to get out, not...and it may happen at the state level, too, but I know it happens at the federal level, where their intention was, or their health and so forth, but they get going and they can't afford to get out, so to speak, because of health conditions, loss of health, not ready for retirement, those kind of things. I don't think you should be serving under those circumstances. So at this point, I like Senator Stuhr's and Senator Friend's proposal, and will be voting accordingly, and do not intend to go for other things. I guess I'll leave it open a little bit to see how the debate goes. But I think this is a reasonable figure to start with. It makes it comparable to what I think others around the country are doing, in terms of the responsibilities, and still is probably going to pull in those that want to serve for the sake of service and public responsibility.

SENATOR CUDABACK: Thank you, Senator Wehrbein. Senator Smith, on the Stuhr amendment to LR 12CA, followed by Senator Combs.

SENATOR SMITH: Thank you, Mr. President and members. This is quite a quandary, I believe, for the body to be reviewing various proposals. And I want to do what I can to make sure that those following in my legislative service are adequately compensated for their efforts. As we know, those of us who are the first to fall to term limits will not benefit from any of this. And that is a situation of reality that we must face. But because of that, I do want to prepare the way for future members to be able to serve. And when we have a citizen Legislature, we need to understand that we have folks from a variety of backgrounds. And I believe that we want a representation of Nebraska here, and that is...that should include those folks who are not independently wealthy, or, in my case, who have relatively few expenses and can serve because of that. If you'll notice the amendments, I must say that I'm a

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bit partial to my amendment. And my amendment is the next one on the list, that says that the salary for senators shall not exceed the federal poverty level for a family of four. That's approximately the same amount in this amendment. But it would be passively indexed, and not automatically tied to the consumer price index. I have some concern that if we put language on the ballot of the consumer price index attachment, that there will be several Nebraskans who will vote no because they're not entitled, their individual wage is not entitled to an increase according to the consumer price index. That is a big concern of mine. I want to propose something that I believe the voters can somewhat identify with, perhaps. Not that everyone in Nebraska can identify with the federal poverty wage for a family of four. But they probably know someone who is up against that. And that way, I think there's something tangible there for Nebraskans to review and hopefully cast an affirmative vote in support of. I look forward to the debate here. I seek not to demand that my way is the best way. I want to simply contribute to the cause of a problem...or, cause of a...toward a solution that needs to come about, I think, in a timely manner, especially as we are facing a transition here in the Legislature. So, I'm not sure how I feel yet on Senator Stuhr's amendment, but I look forward to the debate. And I would ask the body to review the amendments to see what they would most prefer. And hopefully, we can arrive at some sort of decision here in a timely manner. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Smith. Senator Combs, on the Stuhr amendment.

SENATOR COMBS: Mr. President, members of the body, I would like to say that I enjoy being in the Legislature. And as most of us know in here, it is somewhat of a sacrifice when we do come in here. We come in here knowing that it's going to be a sacrifice. And employers...I'm very lucky that my employer works very well with me in allowing me to be off and to come here to serve, and also to work on weekends when I'm off, and the days that we're not in session here. However, I think employers are becoming less willing to work with people and allow them the flexibility that this job requires. And it's very few people, as we have had evidenced by the very articulate

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members that recently left the body because of financial reasons. They couldn't afford to support their family. So I do agree with the discussion going on, that a basic poverty level would be appropriate. I would like to read this brief note that was passed around into the record. I think that those of us who got it on our desk and read it, we say, oh yeah, we know that, we take it for granted. But I want it to be part of the record, because I think it is so important that everyone considers all aspects of what we do in this job and how we are compensated and what's going to happen with term limits. This comes from Travis Justice, and this is just his opinion, called "For What It's Worth." He's from KM3 News. Our good and our not-so-good state senators are talking about a pay raise again. For what it's worth, they deserve it, even the bad ones. Nebraska may have the smallest legislative body in the country, but they don't have to be paid like it. Right now, Nebraska lawmakers are making a measly \$12,000 a year, and they don't get state benefits. With that pay scale, they would be better off working at a fast food restaurant. Heck, welfare is a better option, with a lot less hassle. It's not like they are asking for the world. From \$12,000 to \$24,000--that's more than reasonable. I know 100 percent increase sounds like a lot. But when you haven't had a pay raise in 17 years, it's pennies. The last pay increase, in 1988, was more than 100 percent. It went from \$400 a month to \$1,000 a month. There are 40 state governments that have annual salaries for their lawmakers. The average pay for these 40 states, \$30,000 a year. So even if Nebraska voters approved a pay increase, senators would still be below average as far as their pay goes. A job well done is not a reason for a pay increase. I think the real reason is term limits. We the people have an obligation to make sure the best people possible get elected to office. We have to throw a bone to get the best of the best, and that bone comes in the form of money. Being a state senator is really a full-time job. Duties carry over long after the 90-day session is over. And parenthetically, I can say, yes, that's true. Phone calls, meetings, you name it. Once elected, the job is really seven days a week, year-round. With term limits ready to take effect, nobody in their right mind would want to volunteer their services for 12 grand. When it comes to electing state senators, I expect leadership. And to get it, I'm willing to pay for it. I'm Travis Justice.

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That's "For What It's Worth." And that's the end of his quote. I've always told people, 85 to 90 percent of what I do in this job is constituent work--helping people make sense of their government, linkage to essential community resources, state resources, county government, things that people need help and assistance with. It goes on long after, and constantly when we're not in session. I'm on my e-mail constantly. Every day of the week, I'm in touch here, even while I'm at work. And there are meetings, there's things we go to, that we attend, constituent events that we attend, and so forth, to stay in touch with people, because that is so critical. Many of us continue to write our newsletters and newspaper articles and so forth, when we're not in session, just to keep in touch. I also have a citizens advisory task force,...

SENATOR CUDABACK: One minute.

SENATOR COMBS: ...30 people that meet on a regular business and advise me...a regular basis, and advise me. And I also meet with them over the interim. So it is very demanding. I love it. I love my job, I love a challenge, and I love working hard. I always have. I can't say that there are a lot of people who are like me. I can't say that I would want an elitist who cannot...who doesn't have to have an income to afford to work here represent me. And I'm not saying the people are elitists that don't need this income. But me, I'm a working stiff, and I think that's what a people's legislature is all about. I'm a common person, representing the common people. And I would at least like to be paid the poverty level. Thank you.

SENATOR CUDABACK: Thank you, Senator Combs. On with discussion of the Stuhr amendment. Senator Bourne, followed by Senator Friend. Senator Bourne.

SENATOR BOURNE: Thank you, Mr. President, members. Listen, I support increasing the salaries. But I do have a question for Senator Stuhr, if she'd...or perhaps, actually, I'll ask of Senator Friend, since I don't see Senator Stuhr. Would Senator Friend yield?

SENATOR CUDABACK: Senator Friend, would you yield?

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SENATOR FRIEND: Yes.

SENATOR BOURNE: Senator Friend, you're cosponsoring this amendment with Senator Stuhr?

SENATOR FRIEND: Well, I actually...Senator Bourne, just to be technically accurate, I didn't get my name on it. We got together and discussed it. But yeah, part of it...half the idea, I guess, is mine.

SENATOR BOURNE: Okay. And again, I support it. I think the index makes a lot of sense. I'm just...and Senator Stuhr, now that I see you're back, if you would just follow along. Where it says in lines 22 through 24 on page 1, where it says, shall be increased annually thereafter by the change in the prior calendar year in a consumer price index designated by law not to exceed 4 percent, is there an accompanying statute? I guess this is for Senator Stuhr, if you could turn her microphone on.

SENATOR CUDABACK: Senator Stuhr.

SENATOR STUHR: Yes.

SENATOR BOURNE: Is there an accompanying bill or something that...where is the consumer price index that we intend to use going to be set out?

SENATOR STUHR: There would have to be...

SENATOR BOURNE: Okay.

SENATOR STUHR: ...some accompanying legislation, yes.

SENATOR BOURNE: Okay. And that will clarify which...

SENATOR STUHR: Yes.

SENATOR BOURNE: ...price index, and it will have the language that's necessary,...

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SENATOR STUHR: Yes.

SENATOR BOURNE: ...so that it's clear that it's a United States sponsored...

SENATOR STUHR: Right.

SENATOR BOURNE: ...index, and that?

SENATOR STUHR: Yes.

SENATOR BOURNE: And that has...I assume your thought is, because we have time, in the event that this is passed and adopted, there's more than enough time to pass that legislation?

SENATOR STUHR: That's correct.

SENATOR BOURNE: Okay. Thank you, Senator Stuhr. I think it makes sense to tie an index there. I don't know if \$18,000 is the right number, or if it should be \$24,000. I don't know. But I do think that that is one of the problems with how legislative salaries are modified and increased from time to time, is because we don't have the index in there now. So I think this makes some sense, and I intend to support it. Thank you.

SENATOR CUDABACK: Thank you, Senator Bourne. Senator Friend, followed by Senator Beutler. Senator Friend.

SENATOR FRIEND: Thank you, Mr. President. Members of the Legislature, really quickly, I wanted to add a point as we go on in this discussion. And we'll have a little bit more discussion, based on the looks of it, with the amendments out there pending. I think that part of the discussion should revolve around the idea of what the people in this state and what we as representatives of those people believe this Legislature should be. And what I think Senator Stuhr...and I guess, you know, in a way, my amendment would encompass...would be...we're still saying that the citizens of this state want a citizen Legislature. They want what they could ostensibly call a part-time Legislature. But even that type of part-time

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Legislature and citizen Legislature deserves consideration on a...you know, yearly basis, as to what that salary is going to be. That's why I liked this amendment. That's why I like the original amendment that I proposed, because we're saying, gosh, even if you only work half a year, wouldn't it be worth \$18,000? Hopefully, the answer to that, from the people of the state and from the members of this body would be, yes. But if the answer, as we go down through these amendments, or if the discussion changes, and we find the answer to the questions that we pose is that we in the state of Nebraska should be a professional Legislature, then this is not the amendment for you, in my humble opinion. If this is going to be a professional Legislature--I believe this--then we've got amendments down the line that are, I think, a little bit closer to achieving that end. They might not get there, but they're a little bit closer to achieving that. This will never do that. You got the consumer price index attached to it, with an \$18,000 salary. Nobody is going to serve eight years and get to that point where they feel like they've got that professional salary associated with it. So all I would say is...or, I would hope that we can keep that in mind, that the division between the citizen or part-time Legislature and the full-time Legislature has got to come, unfortunately, with a price tag attached to it. And I think if we want to continue down this road where we say, we do have people that are serving a citizen Legislature in a part-time manner, this type of answer makes a lot of sense. Mr. President, that's all I have. Thank you.

SENATOR CUDABACK: Thank you, Senator Friend. Senator Beutler, followed by Senator Kruse.

SENATOR BEUTLER: Senator Stuhr, let me ask you a couple of questions about how this would work. And this may sound self-evident, but I just wanted to be sure it was on the record.

SENATOR CUDABACK: Senator Stuhr, would you respond?

SENATOR STUHR: Yes.

SENATOR BEUTLER: It says, each member of the Legislature shall receive an annual salary equal to \$18,000, and increased

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annually. That doesn't mean that it shall be increased annually? Or it may be increased annually?

SENATOR STUHR: Well,...

SENATOR BEUTLER: I would yield to Senator Stuhr for an answer to that.

SENATOR CUDABACK: Senator Stuhr.

SENATOR STUHR: I think we were looking at the consumer price index, which increases in some manner each year. But we also set a cap, so that it couldn't exceed the 4 percent, if you can understand...

SENATOR BEUTLER: Well, are you anticipating that there would be a bill in the Legislature every year to increase it? Or it would just automatically increase every year by the...?

SENATOR STUHR: Well, I think that would depend on the following...on the legislation that would be accompanied this proposal.

SENATOR BEUTLER: Okay. So...

SENATOR STUHR: So...

SENATOR BEUTLER: ...so that much is not clear from the constitutional language? The other part of that...you know, it's...the language says it shall be...or, it is increased annually thereafter by a change in the prior calendar year in the consumer price index. So it's anticipated that the change would be every year. Because if you use this language and you skip it a year, you can only go back one year. You can't go back two years,...

SENATOR STUHR: Right.

SENATOR BEUTLER: ...for example. So I was just trying to get a...

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SENATOR STUHR: Right.

SENATOR BEUTLER: ...picture of how you were envisioning this would be handled.

SENATOR STUHR: I mean, if you can think of a better way in which to, you know, address the issue more clearly, we're certainly open to that. We were trying to get the concept out that...

SENATOR BEUTLER: Right.

SENATOR STUHR: ...at least we would tie it to something. And it could...you know, we could say the average of, you know,...

SENATOR BEUTLER: Right.

SENATOR STUHR: ...a couple years, or something, if we wanted to. But...

SENATOR BEUTLER: But as far as you're concerned, we could put a statute in place that just said, we hereby increase it by X amount this year, and by the cost of living increase in following years, and have no more to say about it at that point in time? Allow that statute to operate?

SENATOR STUHR: Yeah, I think that we...

SENATOR BEUTLER: Is that kind of what you're thinking about?

SENATOR STUHR: ...I would think...we would definitely need the accompanying statute. And we can certainly make that clarifying language in that statute.

SENATOR BEUTLER: Okay. And then the other thing, with respect to the consumer price index, it says, a consumer price index designated by law. Could we, for example, take the health care consumer price index?

SENATOR STUHR: Again, that...

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SENATOR BEUTLER: Or would it have to be a broad general index that included all different types of spending?

SENATOR STUHR: I think that would be up to the Legislature. What I used was from the U.S. Department of Labor, Bureau of Labor Statistics, which is the consumer price index of all urban consumers, U.S. city average. But...and that's why. That could also, you know, be designated. It would be up to the Legislature.

SENATOR BEUTLER: Okay. So that could be decided by statute?

SENATOR STUHR: Yes.

SENATOR BEUTLER: Okay.

SENATOR STUHR: Yes.

SENATOR BEUTLER: Thank you, Senator Stuhr. Thank you, Senator Cudaback.

SENATOR CUDABACK: Thank you, Senator Beutler. Further discussion. Senator Mines. The question has been called. Do I see five hands? I do see five hands. The question before the body is, shall debate cease on the Stuhr amendment, AM1648, to LR 12CAE? All in favor vote aye; opposed, nay. We're voting on ceasing debate. Have you all voted who care to? Have you all voted? Senator Mines, are you rising for a purpose?

SENATOR MINES: I'll withdraw that motion, Mr. President.

SENATOR CUDABACK: You don't have to withdraw. It just simply doesn't pass. (Laughter) Record please, Mr. Clerk. Record please, Mr. Clerk. I'm sorry.

CLERK: 11 ayes, 10 nays to cease debate.

SENATOR CUDABACK: Debate does not cease. Further discussion? I apologize, Senator Mines. Senator Redfield. Senator Redfield.

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SENATOR REDFIELD: Thank you very much, Mr. President, members of the body. I'm going to support this amendment, because I remember the discussion on General File. Senator Landis stood and sensed that \$24,000 was just too much. We talked about \$24,000, actually, the first year I was in the Legislature. The Speaker of the Legislature that year was Doug Kristensen. He introduced a bill. And it went through the hearing, it came out on the floor, we took it through General File, and I believe Select File, but never actually put it on Final Reading or on the ballot. And I remember that it was \$24,000. And the cry from the public was that it was too much, and that's why we didn't go forward with it. It's very hard for people to accept a 100 percent increase on any salary. I'm not telling you that I think \$24,000 is too much. I know that the hours that people put in and the days that they spend, even outside of our session days, I don't believe the public is aware of the amount of time that people put in on public hearings and research and ribbon cuttings and speeches in their districts, and the phone calls that come in, the constituent work that we do. But at the same time, I think that if we're going to put it on the ballot, we want to be successful. And I believe that Senator Landis was very persuasive in his argument that he thought \$18,000 was a better number. The thing I like the most about the amendment is the fact that it has a growth factor. And I think it's very important that we don't put a set dollar figure in the constitution again without some mechanism for a growth factor, so that we don't have to face this over and over and over again, and wait until a measure is on the ballot four times before any change is granted. Fifteen years is way too long to wait, 11 years, 10 years, for people to look for any kind of cost of living increase. So I'm going to support the amendment, even though I'm going to introduce amendments following this. But I'm going to support the Stuhr amendment, and see if the body does. Thank you.

SENATOR CUDABACK: Thank you, Senator Redfield. Further discussion? Seeing no lights on, Senator Stuhr, you're recognized to close on AM1648.

SENATOR STUHR: Thank you, Mr. President and members of the body. I was hoping we might have a little more discussion on

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this proposal. But I do think that it does bring some balance to what we have been talking about previously. Also, there would be a need for some accompanying legislation that we would set in statute then exactly what price index and such that we would need to use. But I thank Senator Friend for sharing in this amendment. What we are trying to do is just bring something that we believe that the voters would be willing to accept. And it does seem to be the consensus that it isn't an issue that we want to be discussing continually. We want to bring something forth that the voters will support. And I believe as a citizen Legislature that this seems to be pretty much of a compromise. So I would ask for your support on this amendment. Thank you. And I would give some time to Senator Friend if...okay, he passes. Thank you, Mr. President. And I urge your support.

SENATOR CUDABACK: Thank you, Senator Stuhr. You've heard closing on AM1648. The question before the body is, shall AM1648 be adopted? All in favor vote aye; opposed, nay. We're voting on AM1648. Have you all voted who care to? Senator Stuhr, are you...?

SENATOR STUHR: Yes, Mr. President. I would like a call of the house, in my...

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

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

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. Senator Dwite Pedersen, would you check in, please. Senator Cunningham, Senator Pahls, Senator Baker, Senator Foley, Senator Beutler, please. Senator Thompson, please. And Senator Connealy. The house is under call. Senator Cunningham, Senator Foley, please. Thank you. And Senator Connealy. Senator Foley, the house is under call. Please check in. All members are present or

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accounted for. Senator Stuhr, how did you wish to proceed? Stand...will you please stand, so we can hear you, Senator Stuhr? Thank you.

SENATOR STUHR: Call-in votes will be fine.

SENATOR CUDABACK: Call-in votes have been accepted. Mr. Clerk, please accept.

CLERK: Senator Hudkins voting yes, Senator Landis voting yes, Senator Flood voting yes, Senator Cunningham voting yes, Senator Raikes voting yes, Senator Fischer voting yes. Senator Connealy? Senator Dwite Pedersen voting yes. Senator Connealy are you trying to vote? Okay. I'm sorry, I didn't (inaudible). Senator Connealy voting yes, Senator Erdman voting no, Senator Schimek voting no, Senator Thompson voting no, Senator Foley voting no, Senator Baker voting no, Senator McDonald voting no, Senator Brashear voting yes, Senator Aguilar voting no, Senator Stuthman voting no, Senator Kruse voting yes.

SENATOR CUDABACK: Been a request for a roll call vote. Mr. Clerk, when you get time, please call the roll on the question before the body.

CLERK: (Roll call vote taken, Legislative Journal page 1704.) 25 ayes, 15 nays, Mr. President, on the amendment.

SENATOR CUDABACK: The amendment is adopted. I do raise the call. Mr. Clerk, next item to the bill.

CLERK: Mr. President, the next item I have, Senator Smith. Senator, I have AM0950, with a note that you'd like to substitute as an alternative AM1649. (Legislative Journal page 1634.)

SENATOR SMITH: Yes, Mr. Clerk.

SENATOR CUDABACK: Any objection? Seeing none, so ordered. Senator Smith, to open.

CLERK: AM1649, Senator.

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SENATOR CUDABACK: Senator Smith.

SENATOR SMITH: That's correct. Thank you, Mr. President and members. AM1649 has two basic components. It says that the salary of the Legislature shall not exceed the federal poverty level for a family of four. And the other component is that any benefit...that senators may participate in benefit programs, not to exceed that of state employee benefit programs. And I seek to be very straightforward on this, and also add to the discussion the information that Senator Pederson (phonetic) handed out earlier, coincidentally, that shows that poverty level, federal poverty level for a family of four is \$19,350 this year. It is similar to the last amendment. It is my objective to provide an identify to a number that is more than just a 50 percent increase or what have you, or consumer price index. I think that the public may look "disfavorably" on some of those. And so that is why I seek to present this. If it seems to not be so popular in the body, I'll certainly be mindful of that. But again, I think it is a straightforward approach that does provide some useful information and identity to the numbers suggested. I urge a positive response to AM1649.

SENATOR CUDABACK: Thank you, Senator Smith. You've heard the opening on AM1649 to LR 12CA. Open for discussion. Senator Chambers, followed by Senator Schimek.

SENATOR CHAMBERS: Mr. President, that last vote was not wise, in my opinion. It's going to take 30 votes to get it on the ballot. Any time there is something other than a specific amount, the public, in my opinion, is not going to vote for it. They will feel there is some trickery going on, because they have never shown an inclination to allow the Legislature to have a salary increase without it coming by way of a vote. If there's anything the public seems to understand--I emphasize the word "seems"--it's the fact that legislators cannot obtain a salary increase without there being an amendment to the constitution upon which the public can vote. There may not be 30 votes for anything here. But that last will be wasted if you get 25 votes. I'd like to ask Senator Schimek a question.

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

SENATOR SCHIMEK: Yes.

SENATOR CHAMBERS: Senator Schimek, you've been the Chairperson of the Government, Veterans, and Military Affairs Committee for some time. And elections are one of the subjects which your committee has jurisdiction over. Is that true?

SENATOR SCHIMEK: Correct.

SENATOR CHAMBERS: How many votes would it take to put a proposed constitutional amendment on the ballot?

SENATOR SCHIMEK: It depends on whether you're talking about the general or the primary.

SENATOR CHAMBERS: The minimum number.

SENATOR SCHIMEK: Thirty.

SENATOR CHAMBERS: Thank you. Members of the Legislature, the debate is good. Differing proposals should be discussed. But ultimately, there's going to have to be a settling on a realistic approach. The last one barely got 25 votes. I used a stratagem, because I felt I could knock one of those votes off, which happened. Senator Landis used a stratagem which weakened Senator Byars, and he put up a very imprudent, unwise, 25th vote. So now that amendment has been adopted. When something is that weak, and it takes 30 votes, sometimes we ought to think. I talked about that this morning in another context. We should be aware of what the ultimate destination is. If the purpose is to prevent a matter from going on the ballot, that last vote accomplished it. You cannot get on the ballot with 25 votes. Not everything before the Legislature can be settled with 25 votes, as some people delight in saying. Of all sad words of tongue or pen, the saddest are these: what might have been. The coldest words of tongue or pen are only these: I knew him when. The first one was by John Greenleaf Whittier. The second one was a takeoff by some fellow who's not well known.

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The saddest and coldest words you know, sample the sweetest: I told you so. Ernie Chambers, May 23, 2005. I'm going to tell you again, after having said it this morning. Now, don't get angry at me because I'm pointing out these realities. Either you want to put something on the ballot,...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...or you don't. We'll see if any of these other propositions will garner 30 votes. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. On with discussion of the Smith amendment. Senator Schimek, followed by Senator Smith.

SENATOR SCHIMEK: Yes. Thank you, Mr. President and members. Somebody asked me why I didn't speak more forcefully, perhaps, on the Stuhr amendment. And the reason I didn't speak more forcefully is because I think there are some...there were some good arguments...I don't mean for the Smith amendment, I mean for the Stuhr amendment, there were some good arguments for it. And I'm not necessarily...wasn't necessarily opposed. I just happen to agree with Senator Chambers that the cleanest and clearest amendment that we can put on the ballot will be the most readily acceptable to the citizens. I think Senator Smith has a very interesting proposal with his amendment. And in fact, I've told him that I think it's a good way to perhaps sell the amendment that originally...the bill as it was originally written, with the \$24,000, because it gives you some idea of what we're actually asking for. And it depends on whose poverty lines you follow. But I think if you follow the federal ones, which most everybody does, it would be a \$19,000 for a family of four, and approximately, what is it, \$24,000 at 125 percent of poverty. So you know, we're falling somewhere close to there. Again, I have to reiterate, we talked about \$24,000 six or seven years ago, or whenever it was it came up before. But this is later. This is later. And I gave you the figures earlier about what that \$12,000 in 1988 would buy. Then, with \$12,000 worth of goods, it would cost over \$19,000 now to buy the same amount of goods. And we're not even into 2006, when this will be on

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the ballot. So it's going to be close to \$20,000 next year. We have to think about it prospectively. If we have to come back, say, 20 years into the future, we have to think about it prospectively, or we're never ever going to keep up with the rate of inflation. I don't have a real problem with Senator Smith's amendment, except, in a way, it's kind of demeaning to the Legislature to say that, you know, we're asking for the poverty guideline to be used, in a sense. We do work hard, and we do have to have certain skills. And I think that's not to disparage anybody who might be in poverty, because many of them work hard and just had some terrible, horrible breaks in life. But I would like to see us set this salary at a...at a point where we can at least help recruit some new candidates to run for office several years down the road. So with that, I'll be listening. I'm trying to think to myself, what happens if we adopt Senator Smith's amendment? Then what happens after that if we adopt Senator Redfield's amendment, and then after that we adopt Senator Jensen's amendment, and then after that we adopt Senator Beutler's amendment? What happens when we've gone through all of these? Then where do we go back to? I want you all to think about. We do need...we do need 30 votes if we're going to put it on the general election...

SENATOR CUDABACK: One minute.

SENATOR SCHIMEK: ...ballot; we do need 40 votes if we're going to put it on the spring ballot. LR 12CA had 31 votes on General File, and there were...that wasn't a call of the house and there were a number of people who were present and not voting, excused and not voting. In going around to people afterwards, I think we're very close, if not over the line, on the 40 votes necessary at the \$24,000. Whether that will still remain true after this discussion, when we considered all the options, we'll just have to see, but I do feel fairly confident that we can put that on the ballot without a lot of sweat. Getting it on the spring ballot might be a little harder, but I think that we can do that, too. So thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Schimek. Senator Smith, on your amendment. Senator Smith waives his opportunity. Senator Landis, you're recognized to speak when you get to your

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chair.

SENATOR LANDIS: I agree with Senator Chambers when he says there should be an exact number; that the citizenry has spoken that in fact they don't like floating numbers well. We've tried it a couple of times and I think they essentially want to make a decision-by-decision bargain with the Legislature. So, on that score, I agree with Senator Chambers. I supported the Stuhr amendment because I thought the number was right. It's the first time I've seen the number that I thought was right, and it's \$18,000. If there is some variation on that, that I think the public would do, I don't think it is the cost of living index, in which you could get to that problem by dividing the number from the COLA effect of the Stuhr amendment, although I support the Stuhr amendment because I think it pegs to the right number. If there's anything else that the public might do, I think it's in the area of benefits, but even that I think is risky because it's a moving target and they want us to ask them for everything we get, in my estimation. I would not do the poverty level. It's another form of moving target and COLA, even though it has the... (laugh) the high-water mark of using the poverty schedule, which I think is the rhetorical advantage to take here. It's the high ground to say, could we just match the poverty level? (Laugh) But I wouldn't do that. It's a moving target. I'd use 18,000 bucks, and if I would add anything to it, I would ask... I would add the Smith idea of benefits equal to a state employee. So I'm going to vote no on this one because it doesn't mention the direct number. The Stuhr amendment is the most correct that I've seen so far on the list of ones. If it was to be tweaked, I think it should be... we should change the COLA effect, and if there should be anything other than a straight number I think it should be the benefits idea from the Smith amendment. Thank you.

SENATOR CUDABACK: Thank you, Senator Landis. On with discussion of the Smith amendment. Senator Jensen, followed by Senator Brashear. I'm sorry. Mr. Clerk, please, a motion on the desk.

CLERK: Mr. President, Senator Kruse would move to amend Senator Smith's amendment. (FA297, Legislative Journal page 1705.)

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SENATOR CUDABACK: Senator Kruse, to open on your amendment to the Smith amendment.

SENATOR KRUSE: Mr. President and members, thank you. My amendment takes out the benefits section of this, and that's all I'm really going to say about it. It's offered without prejudice. I would prefer that benefits not be put in there for reasons that have already been stated. I think the public distrusts the type of benefit. I'm not speaking to this particular...to the Smith proposal, which does look good to me, but no better than some. At any rate, I think to keep it even we should consider this. So vote it up or down. Please don't talk about it; just vote it up or down. Thank you. (Laughter)

SENATOR CUDABACK: Thank you, Senator Kruse. You've heard the opening on FA297 to AM1649. Those wishing to speak to that are Senator Jensen. Your light was on. Do you wish to address the...

SENATOR JENSEN: Thank you, Mr. President. Members of the Legislature, and I don't know if this is the proper way that we should be conducting this, if we're...maybe we should have passed out a sheet that people could have selected their top choice and then come together on that. But by adopting amendments, and then amendments, and then amendments, I don't know. And certainly, I put one into the mix that, yes, does float. You know, I think the 49 senators here do a good job of representing the public in that we have grocers and carpenters and we have attorneys and farmers and nurses, and so I think we have a good representation of the entire state. Now, along with that, I think we represent a lot of average citizens and I think that that's the reason I put mine in there that said that we would be paid the average wage of working people in Nebraska. Yes, the Legislature would have to determine, should we follow the Nebraska Department of Labor, should we follow the federal labor, whatever that figure would be. And then it would go up and down, and if we were under a depression and wages fell, also the salary would fall, too; no benefits, but just the average wage of the citizens of Nebraska, and that, by the way, is somewhere around \$31,000. I think we need to think a little bit

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about...and, frankly, I would like to get it out of the constitution. This morning, with the bill on the lottery or at least in support of providing services for people who have addiction to gambling, we found out that we had something in the constitution that prevents any change whatsoever. I think that is wrong for a legislative body to be hamstrung in that manner. But whether it be \$18,000 or the poverty level, there's something about that, that I just...I don't know that I would be willing to go with that connotation. Certainly, I would hope that the members here feel that they do a very good job. I'm convinced that they do, and the number of hours that are put in and the dedication of my colleagues is most rewarding, I think, when I think about that, as to the...as to what they do. You know, at night, on weekends I don't go in a grocery store, I don't go to church, I don't go anywhere that somebody doesn't come up to me and say...mention some bill, something before us; or get phone calls day, night, Saturday, Sundays, whenever it is, again. So we...it's almost a 24/7 job, and I spend a considerable amount of time at this position. So that's the reason I threw in that figure. What is the correct figure? I don't know. I do believe that it should be not in the constitution. I think that is the wrong way to go. I think it should be tied to something and, to me, that, the average wage of the citizens of Nebraska, seems hard...or it seems to me that that would be hard for somebody to argue. What does your senator get paid? Well, he gets paid the average wage of the citizens. That, to me, has some connotation. But whatever we do, the citizens have to vote for it and they have to approve it. So I think we should be constantly thinking, what will they vote for? And, you know, if we are a...if we represent the people...

SENATOR CUDABACK: One minute.

SENATOR JENSEN: ...and if we can't agree, perhaps the citizens are not going to be able to agree either on what that figure should be. And we've talked before about turning this over to some commission or whatever. I think whatever we do, it should be tied to something. Whether it's the Lancaster County Board, then you got a county board telling you what you should make. That doesn't seem to fare well with me also. I think we need to

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think pretty long and hard, however, about what we...what we do. It's going to be here probably for a number of years. But for those who are running for office, I think they should be paid a wage that at least they can live off of. I think they should be paid what they can live off of, and I don't know whether \$18,000 is that figure or not. I would like to see it \$24,000 or above, because then I think somebody can serve here and still be able to feed a family.

SENATOR CUDABACK: Time, Senator Jensen.

SENATOR JENSEN: Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Jensen. Senator Brashear, Kruse amendment to Smith amendment.

SPEAKER BRASHEAR: Mr. President, members of the body, I...maybe I don't even have to do this. I felt like I needed to explain my vote on the Stuhr amendment. I'm not fully focused on this because I'm doing one or two other things, and I came out and I sort of saw this groundswell of support and this is sitting there 23 votes and we're having call-ins and so I thought, gee, I want to promote progress. And the one thing that I can contribute to this discussion, then I'll get out of it because I'm doing other things, but the one thing I can contribute is I keep hearing people say that doubling our salary and doing \$24,000, and I know that's contrary to what DiAnna...Senator Schimek's survey showed, but I keep having people tell me that we're going too far when we ask for the doubling from \$12,000 to \$24,000. So in a...I know this has never happened to any of the rest of you, but it was sitting there at 23 votes and I thought, oh gee, I want to be a positive force for good, so I did. Now I've explained my vote. Please go on with the debate and I'll look forward to whatever you work out. Thank you.

SENATOR CUDABACK: Thank you, Senator Brashear. Senator Louden, followed by Senator Smith.

SENATOR LOUDEN: Thank you, Mr. President and members of the body. Much as I would probably go against Senator Smith's amendment, I really don't think there are any place for benefits

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in our pay scale for senators where we're elected officials. I would certainly support Senator Kruse's amendment to the bill, but I don't think I would support Senator Smith's amendment. I don't think it needs to be tied to anything about what the average wage is or that sort of thing. I think we need to go ahead and set a figure. The reason I voted for the \$18,000, mostly because they did have a cost of living increase type deal or an increase, and probably I figured by doing it that way they wouldn't have to be worrying about wages or increasing the salary for several years. There would be a certain amount of increase over a period of years; probably take care of most everything as possible. This isn't something that we do because we're going to make a living at it, I wouldn't think, because if it is, it'd be pretty slim living. I think this is something we do because we think we want to and have a sense of duty, and it is something that people like to do and it is an office to be gained and respected. So there are, whenever there's an office comes up in some of these districts, there are usually a number of people that apply for them. I do think they need to have enough compensation so that they don't go in the hole or completely go broke in the process of doing this type of business, but it is more than just a 90-day job or a 60-day job. And it's...some of the work that I've seen written around here that they call it nearly 24/7, and it is. I found out that usually you have to set your schedule up so that you don't do much on Sundays, or try not to do legislative work in your district on one day a week, whatever day you want to pick, and usually that works the best. So I figure my job is six days a week and I don't complain about it at all. I usually have one day that I try to do something else. I'm gone, or whatever, and that's the day that I work on other things. Consequently, with a pay scale of \$12,000, that's certainly been there for a long time and I don't have any problem with whatever they set and using the voters...have the choice to raise the wages. I think it's been going on that way for quite awhile so I have no problem with it, whether it's in the constitution or how. We only go through this every 12 or 15 years, whatever the time frame is, so that isn't something that should bother anybody that much. I think Senator Stuhr's amendment was probably within reason, so I, up to now, I'm satisfied with the vote I made on her amendment. These amendments, as they go, I feel we

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don't have any business getting mixed up in the state benefits with elected officials. I've been in...on electric utility boards and that sort of thing and they get mixed up in the health insurance of the employees, they get mixed up in the benefits, and usually what that does is cause an increase in benefits for the people that have to depend on that for a living and for retirement. Usually by the time we get in this Legislature, I don't think the retirement benefits should be a question. We should be outside of all of that, so that we're the ones that make some of the decisions on it and we should work from that angle that we're separate from any of the benefits that go on with the state employees. So with that, I'll vote against Senator Smith's amendment and I'll probably vote for Senator Kruse on the idea that I'll put the kibosh to the whole works.

SENATOR CUDABACK: One minute.

SENATOR LOUDEN: Thank you.

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

SENATOR McDONALD: Mr. President and members of the body, I think that when we deal with benefits, that's something that we need to keep out of this conversation. Because if you had a family and you changed your benefit package to the state of Nebraska, term-limited out four years, eight years, whatever, then you have to go on insurance again. And at some point in time many familys' members become uninsurable, and it's very difficult to get insurance if you're constantly switching insurance companies. So I think the added income benefit allows someone to maintain the insurance that they have, or at least keep an insurance intact that will keep them going rather than changing back and forth. As I look at this body, I know that there are senators here that have income coming from their spouses, their farm, their business, which allows those senators to stay in office. Not all senators have other income, and so when they're in the Legislature, they certainly only have to live either on their savings or live on the dollars that they get from the Legislature. And then they have to work very, very hard during the rest of the year to even survive to make up for

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the difference, and I am one of those. I don't have a spouse. I don't have someone that pays my way so allows me to stay here. I have to create the income myself. So when I'm not in session, I am working full-time and trying to keep up with the legislative issues in the summertime, because it is a full-time job. So I look at others that might be running for the position. If they are not retired and have income coming in on their retirement, someone that's independently wealthy, someone that's married, somebody has another income, they can come here and do fine and wouldn't even have to support an increase. But not everyone is that lucky. Not everyone has another income to put in their checkbook so they could survive while they service the state of Nebraska. So we look at ourselves. We need to look at the rest of the state of Nebraska when it comes to how can they run for the office. Maybe it's not going to hurt you whether the salary is \$12,000 or \$18,000 or \$24,000, but others it might and it would keep them out of the Legislature. So I think that we should look at \$24,000. I'm sorry we don't seem to do this often enough. Maybe if we did it more often we could jump from \$12,000 to \$18,000 to \$24,000, but we're always afraid to ask for a raise. And in business, you learn that when you're worthy you ask for a raise, and I think that's what we need to do. We need to ask for a raise, and I think that the people in the state of Nebraska will give us that raise if we ask for it. And I am very much in supportive of the \$24,000. I think that we need to go there because we don't ask for it often enough. Thank you.

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

SENATOR MINES: Thank you, Mr. President. I'd like to yield my time to Senator Kruse.

SENATOR CUDABACK: Senator Kruse.

SENATOR KRUSE: Thank you, Mr. President, members, and Senator Mines. This discussion has revealed the mysterious answer I was after--how does the floor feel about benefits? I think I have my answer. Mr. President, please withdraw the amendment.

SENATOR CUDABACK: Thank you, Senator Kruse. FA297 is

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withdrawn.

SENATOR KRUSE: And I would yield to Senator Smith.

SENATOR CUDABACK: Senator Smith.

SENATOR SMITH: Thank you, Mr. President, Senator Kruse, Senator Mines, and anyone else who wanted to contribute time. But anyway, I would ask that AM1649 be withdrawn as well.

SENATOR CUDABACK: Senator Smith, you're asking for a withdrawal of AM1649? It is withdrawn. The agenda states at 3:30 we move on. In fairness, two minutes would not give us the time on the next amendment. Mr. Clerk, Select File, LB 28.

CLERK: Mr. President, LB 28 on Select File. No Enrollment and Review amendments. I do have other amendments pending, however. The first, Senator Chambers, FA16. (Legislative Journal page 457.)

SENATOR CUDABACK: Senator Chambers, to open on your amendment to LB 28.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I'm ready to roll, and I would like to roll right over this bill. Senator Connealy did not give us an idea of what the bill is about, so I'm going to make a few comments to give my impression and to point out what it is that I'm doing. Then, in the interest of being fair and collegial, I may donate some of my time to Senator Connealy and his most unworthy cause. My amendment, if you have it on your gadget, would take you to page 6, and it proposes striking lines 18 through 23. Those lines are found in Section 9, the totality of which I have an amendment to strike. Section 9 would create a commission. You're creating another commission. Anytime somebody talks about doing such a thing, red flags, I understand, start waving. If this is anything other than a thinly veiled investment scheme, then my name is Matthew Connealy, and my name remains Ernie Chambers. This bill purports to be based on the generosity of people who have more in their possession of material goods than they can make use of. So they're going to

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give it to an endowment so it can be used for worthwhile, uplifting things. And you would think that they're operating in accord with what have been called the better angels of their nature, or the angels of their higher nature; that we have nobility on parade. So you would ask yourself, why then do we need legislation to do that? If this is a compassionate, generous, noble bestowing of excess material wealth or goods or things of value for purposes that are worthy, cannot that be done without legislation? And the answer is yes. Were not people advised in accord with the one who established the religion according to which Senator Connealy patterns his life, to the extent that a sin-cursed individual can? Told people to be generous. He told some to sell everything they had and give to the poor, and they told him, I don't know where you came from. So this bill is flying a false flag. If it were a ship on the high seas in the old days, the flag would be known as the Jolly Roger--skull and crossbones. This is not a selfless, altruistic piece of legislation. It is a different type of investment and it's based on the notion of obtaining tax credits against one's income tax liability. Let them go ahead and do that, if they can, but I don't think the state should involve itself in diminishing the amount of tax revenue which may be needed. These endowments are not a part of the state, so the money that is derived from these tax credits by the generous, I'll put that in quotes, charitable contributor is not going to wind up in the hands of the state. It's going to wind up in the pocket of the generous contributor, and the amount of revenue the state would have is going to be diminished apace. This is a bill that reduces revenue for the state, so why in the world should a commission be established and given quarters in the Department of Revenue when the purpose is to diminish state revenue? Why, that is the most cockamamie thing that I have seen in a long time. So what my amendment would do, this one, is to strike lines 18 through 23, and this is what those lines say: "For administrative purposes the commission shall be located in the Department of Revenue. The department shall provide administrative support to the commission. The Legislature shall appropriate \$250,000 for purposes of this section of which not more than \$12,500 may be used for administrative costs of the department." You are going to create a new commission that costs money, and the money is being

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expended by the state to diminish the state revenue, and that is what this conservative Legislature is being asked to do? I think when I glanced over my right shoulder to the Dr. Johnson who is among us, I think I detected a visible shudder, but I can't be sure. My glasses are good for reading up close, but from a distance things get shaky and wavy, so maybe that was the movement of my glasses and not him shuddering. But I want to hear what others have to say. How much time do I have, Mr. President?

SENATOR CUDABACK: You've used about two minutes, Senator Chambers.

SENATOR CHAMBERS: I've used how much?

SENATOR CUDABACK: You have used about seven minutes.

SENATOR CHAMBERS: I will yield the rest of it to Senator Connealy.

SENATOR CUDABACK: Senator Connealy.

SENATOR CONNEALY: Thank you, Senator Chambers. Thank you, Mr. President and members. LB 28 would establish a credit for endowed giving for endowments here in the state of Nebraska, to try to retain that. But to speak to the amendment in particular, Senator Chambers would strike the one-year advisory commission that would be put in place to help Department of Revenue put this together and also help in promoting the idea that's new in this bill to give an incentive for people to keep their money here in Nebraska. As we talked about early in the session and in the committee when we voted it out, too, we are becoming, to some extent, a tenant state, where we see time and time again where an estate will be...bring in the relatives from outside of state, they'll clear out the bank accounts and sell the assets and move those resources out of the state. I talked about how I farmed for years a little piece of ground south of Decatur and the lady that owned that ground didn't have relatives to donate that asset to and gave it to charity, but ended up giving it to a charity that's in Florida. They do great work and they do work here in our state to some extent,

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but that asset is going to go on giving, to the Shriners in this case, on and on and on through the years, and the majority of that money will go out of state. If we can keep some of these assets here in Nebraska, I think it's going to be good. I rise in opposition to striking this commission that is a one-year. They'll go out of business in 2007. They would help the Department of Revenue put this structure together and they'd take that small nest egg of money to promote it with lawyers and tax planners and the...

SENATOR CUDABACK: One minute.

SENATOR CONNEALY: ...people who are setting up wills and estates. That would help give this a jump-start. These types of proposals have been put in place in I think about 11 different states. The one that we are modeling this after is from Montana, that had a dramatic increase in planned giving in that state when they did institute a comparable bill to this bill. And so I rise in opposition to taking this small commission that would be in place to help the Revenue Department out, and it's not something that's going to go on forever. It's going to be in place just to get this up and running. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Connealy. I take it you do not wish to use your time. Thank you. Senator Chambers.

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

SENATOR CUDABACK: Senator Connealy, would you yield?

SENATOR CONNEALY: Yes, Mr. President.

SENATOR CHAMBERS: Senator Connealy, I read from the green copy, on page 6, starting in line 20, "The Legislature shall appropriate \$250,000 for the purposes of this section of which not more than \$12,500 may be used for administrative costs of the department." But you're saying that \$250,000 shall be appropriated for the purposes of this section, talking about the commission.

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SENATOR CONNEALY: Correct.

SENATOR CHAMBERS: Okay. Now, since the A bill appropriates \$332,000, what is the other money for?

SENATOR CONNEALY: The other money is oftentimes the same as you see with revenue bills where they have to change the way we write forms and change the computer programming and allow that to be set up on an ongoing basis so that the Department of Revenue doesn't have added costs in their operation. We have the...you know, we have a pretty lean Department of Revenue, and if you give them more tasks, then we encourage them to have the correct amount in an A bill so that that would reflect the work.

SENATOR CHAMBERS: So they're going to need about \$82,000 to change forms and things like that. It's kind of an expensive operation, isn't it?

SENATOR CONNEALY: Every time we change the computer run, it's about \$50,000, it seems like, and then there's going to be another FTE or two, I think, in the bill to allow the administration of this program.

SENATOR CHAMBERS: So what amounts of this money that is going to be donated by these generous people to these endowments will come to the state? Does the state get any of that money?

SENATOR CONNEALY: No. No, this would be for planned gifts from estates that would go into Nebraska endowments. And so it would not be...

SENATOR CHAMBERS: Okay, that part...

SENATOR CONNEALY: ...going to the state, no.

SENATOR CHAMBERS: That part is clear. Now, a percentage of the value of whatever it is given can be written...taken as credits against the donor's income, up to \$10,000 per tax year. Is that right?

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SENATOR CONNEALY: That's correct, and we lowered it from 40 percent to 20 percent and...on first round debate, if you remember.

SENATOR CHAMBERS: But the main point here is that the net effect of this bill, if it becomes law, is a reduction in the amount of revenue that the state will be taking in, in addition to the \$332,000 A bill.

SENATOR CONNEALY: Correct. If it's...

SENATOR CHAMBERS: Well, why should...

SENATOR CONNEALY: ...if it's utilized then the credit that would drive expanded donations to in-state foundations would approximately be \$2.5 million.

SENATOR CHAMBERS: Why should I support a bill that's going to reduce state revenues when, with all those giveaways under LB 312 and LB 90, we've given away a lot already? Why should more be given away?

SENATOR CONNEALY: I think that this fits well with what we're doing to drive investment and retention of wealth here in Nebraska. I think that this is a different area and it is an area that isn't trying to promote jobs, but it's trying to promote endowed giving here in the state, and I think that that's a laudable goal, too.

SENATOR CHAMBERS: Can this money go to churches and religious organizations? Can the donations be made to those kinds of organizations?

SENATOR CONNEALY: The determiner is if it's a Nebraska-based endowment and to be used for public purposes that are not for profit, so yes.

SENATOR CHAMBERS: It could go. So then...

SENATOR CONNEALY: For...

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SENATOR CHAMBERS: ...for donating...

SENATOR CONNEALY: ...for libraries...

SENATOR CUDABACK: One minute.

SENATOR CONNEALY: ...and community foundations and...

SENATOR CHAMBERS: For...

SENATOR CONNEALY: ...like (inaudible).

SENATOR CHAMBERS: ...so for donating to a religious operation or activity, tax money can be at least indirectly used by virtue of the credit against the giver's income tax?

SENATOR CONNEALY: They can, you know, churches and religious institutions now have a tax deduct...a tax...no-tax status, and so they...you get a deduction to give to them now. But this would be for just for endowments that were there and not to be used for the principal, and they aren't commonly used for churches, but I think some churches would have those. These are more for community foundations and libraries and long-term institutions that usually do public good.

SENATOR CHAMBERS: Would you be willing to restrict it so that no sectarian purposes can qualify under this bill?

SENATOR CONNEALY: This has to be for a nonprofit organization and that's the restrictions that would...that what...that I agreed to.

SENATOR CUDABACK: Time, Senator.

SENATOR CHAMBERS: Thank you, Mr. President.

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

SENATOR MINES: Thank you, Mr. President, colleagues. Would Senator Connealy yield to a couple questions, please, Mr. President?

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SENATOR CUDABACK: Senator Connealy, would you yield?

SENATOR CONNEALY: Yes, I would.

SENATOR MINES: Yeah, thank you. Senator, I think I was asleep at the switch as this came through, so I do have some questions that I need cleared up, if you don't mind. Endow Nebraska will be administered by the Department of Revenue; funded by, for one year, funded by this body or funded by taxpayer dollars; and then after that how might that group be funded, assuming that we decide it's a good idea and it continues?

SENATOR CONNEALY: In particular, and that really fits with this amendment, that group will go away. The fund to promote it and to administer that promotion is the commission that Senator Chambers is dealing with in this amendment. That's a one-year commission and it's a one-year funding. There will be an ongoing cost with the Department of Revenue with the...just the administration of the program; it will be a lot lower. First of all, they have to do about a \$50,000 computer run...

SENATOR MINES: Yeah.

SENATOR CONNEALY: ...to change, and then there's an ongoing administrative cost and we'll have those costs within the Department of Revenue, going forward. So this is an up-front \$250,000 to promote the program and to run that commission, six members appointed by the Governor, and then it goes away.

SENATOR MINES: Okay. And I understand the credits that...I think that's really the unique thing about what you're doing here, is the credits to individuals and corporations. I'm curious, could you do the same thing through an existing facilitator like the Nebraska Community Foundation, as opposed to setting up a whole new commission? And once this thing gets off the ground, you're not necessarily dealing with taxpayer dollars at that point. I mean, was that part of the thought process?

SENATOR CONNEALY: Yes, I...we believe that promotion of the

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incentive would greatly affect the usefulness of it. We saw it in different states that did it differently, when they promoted it with some funds, that they...

SENATOR MINES: Right.

SENATOR CONNEALY: ...were able to have a larger participation right away. And because of that, we put this in. And how you do it outside of one group, we thought we'd put a six-member that would be low-cost, wouldn't have any salary or anything like that. So the main part of the \$250,000 is actually getting brochures and correspondence to tax planners and lawyers and estate planners, people like that.

SENATOR MINES: But isn't this a lot of what the Nebraska Community Foundation does already?

SENATOR CONNEALY: Don't disagree, yes.

SENATOR MINES: And...

SENATOR CONNEALY: They will and they'll...and every group that would qualify for this, I would think, whether it's...

SENATOR MINES: Is doing it...

SENATOR CONNEALY: ...your local symphony or a community foundation or a library foundation, will probably put it within their materials that they talk to people also.

SENATOR MINES: All right. So they could benefit by the tax...excuse me, the incentive for tax credits. Those dollars could then be funneled...

SENATOR CONNEALY: If they have an endowment that they don't touch the asset,...

SENATOR MINES: Right, and most do,...

SENATOR CONNEALY: ...the principal.

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SENATOR MINES: ...and I think you and I and most members in this body have helped create some kind of a community foundation. And then, as an example, the foundations that might be supported, there's a list of them here, but I heard you say that as long as they have a tax-free status, a 501(c)(3) or a sort, they qualify. And then the dollars are distributed how? I mean, who determines? The committee decides who gets what funding from the base of money?

SENATOR CONNEALY: The committee would decide how to promote the program, not to give the money to any of these...

SENATOR MINES: Okay.

SENATOR CONNEALY: ...any foundation. The money that's in the A bill or in the promotion...

SENATOR CUDABACK: One minute.

SENATOR CONNEALY: ...would be used to contact the public and...

SENATOR MINES: Sure.

SENATOR CONNEALY: ...to contact planners.

SENATOR MINES: But the monies that are left to the endowed area, how are those monies distributed?

SENATOR CONNEALY: If you have an endowment that's based in Nebraska in a tax-free status, I mean a nonprofit status, then you could use this. Your donors could...

SENATOR MINES: Designate.

SENATOR CONNEALY: ...(inaudible) application. The tax credit goes to the taxpayer, not to the...

SENATOR MINES: But you would, as a...let's say you have an annuity and you want to use that, you would designate that annuity to the Omaha Symphony Foundation as opposed to this group...

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SENATOR CONNEALY: Yes.

SENATOR MINES: ...that would then distribute those monies.

SENATOR CONNEALY: That's correct.

SENATOR MINES: Okay. Thank you.

SENATOR CONNEALY: It would flow through. Your gift to a nonprofit would qualify you for the credit on your income tax, Nebraska income tax.

SENATOR MINES: Right. Thank you. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Mines. Further discussion on the Chambers amendment to LB 28? Senator Louden, followed by Senator Chambers.

SENATOR LOUDEN: Thank you, Mr. President and members of the body. May I ask Senator Connealy questions, please?

SENATOR CONNEALY: (Microphone malfunction) Yes.

SENATOR LOUDEN: Senator Connealy, as I look through this, what effect will this have on your county inheritance tax funds? Now, the way I understand this, if these people set up this endowment, then they get credits for the amount of inheritance tax that would be paid on their estates?

SENATOR JANSSEN PRESIDING

SENATOR JANSSEN: Senator Connealy, will you respond?

SENATOR CONNEALY: No, this is an income tax credit. It's not on inheritance tax.

SENATOR LOUDEN: Okay.

SENATOR CONNEALY: If you're doing tax planning now and giving your assets away in your will or if you're doing it through an

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annuity, you already get these tax benefits on that end of it. This would be...give you a state tax credit now to encourage you to do that in the future.

SENATOR LOUDEN: In other words, it would be just on your state income tax is the only place that this affects any...has any effect at all whatsoever?

SENATOR CONNEALY: Yes. Yes, that's correct.

SENATOR LOUDEN: It doesn't affect the valuation of your estates on your counties, your 1 or 2 percent that's assessed on estate taxes on a county level?

SENATOR CONNEALY: No, not unless you don't have any...if you would give away enough of your assets so you wouldn't have any. But it wouldn't do it now. It wouldn't. This credit is on your state income tax.

SENATOR LOUDEN: Okay. Now, if you put this, your...some of your estate in this endowment then does that shield that from the county estate taxes?

SENATOR CONNEALY: Yes, I think so.

SENATOR LOUDEN: In other words, whatever you put into this endowment fund of your estate then wouldn't be liable to county estate taxes in...at the time of doing this, of probating an estate.

SENATOR CONNEALY: Yes. If you're...if you're turning your assets over, if you're...if you don't have the assets, then they aren't in your estate.

SENATOR LOUDEN: Okay. That's what my concern is, is...thank you, Senator Connealy. My concern is, is, you know, what effect this will have on some of our counties with our estate tax. Some of these rural counties, especially out in the western end of the state in the Sandhills area, those smaller rural counties rely on the estate taxes for some of their rainy day funds, and I have a concern about what effect that will have on those

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funds, because the counties do rely on that for any time there's, oh, some type of catastrophe that happens, whether it's blizzards or bridges washed out or anything else that comes along, searching for people or whatever. And this is my concern, that if this has an enormous effect on those type of counties. I'll look through the material that's been printed out on this to see what I can figure out on it, but that's my concern, and as of now I haven't decided whether or not I'll support this bill. Thank you.

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

SENATOR CHAMBERS: I'm going to pass for a minute. I'm trying to write something. Are there any other lights on?

SENATOR JANSSEN: Yes, there are.

SENATOR CHAMBERS: Then I'm going to pass for now.

SENATOR JANSSEN: Senator Beutler, your light is on next.

SENATOR BEUTLER: Senator Janssen, members of the Legislature, I'd like to ask Senator Connealy some questions, if I could.

SENATOR JANSSEN: Senator Connealy, will you respond?

SENATOR BEUTLER: Senator Connealy,...

SENATOR CONNEALY: Yes.

SENATOR BEUTLER: ...there are aspects of this that I'm still not sure I understand, and I want to run them by you to see what your understanding is. I want to talk, first of all, about Section 3 of the bill, which requires that this endowment, and I want to talk about that a little bit too, what is meant by "endowment," but it requires that it be held by a Nebraska corporation. And you have kind of implied in your remarks all along that these monies that we're giving this special tax treatment to would be used for Nebraska charitable purposes. Now, under this language, it seems to me, in Section 3, it could

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be held by a Nebraska organization, but in fact the use of the money could all be to Chicago uses. Is that accurate?

SENATOR CONNEALY: Yes, the way we...the way we defined it was that it's a Nebraska-based foundation, Nebraska corporate foundation, not...we didn't limit what the activity was. But you're correct, the majority of Nebraska endowments and those funds use those funds exclusively in here, but if it's...it could possibly be used in other areas, yes.

SENATOR BEUTLER: Is there any point to, or would you be agreeable to limiting this to...limiting this to endowments that were used either exclusively or primarily for Nebraska charitable purposes? I mean, why would we want to give a big tax break to somebody in Nebraska if they spend all the money in Illinois?

SENATOR CONNEALY: I think that the majority will be used in Nebraska and so I don't think there's a problem. I don't know how that would work with the drafting of it, but I'd be open to looking at that.

SENATOR BEUTLER: Okay. Another thing that seems...that eludes me a little bit is the exact meaning of the word "endowment." The language of the bill talks about an irrevocable contribution and it talks about a qualified endowment. Many of us think of endowment as a fund that is there and whose principal is there forever and only the interest is used, but this bill doesn't necessarily require that kind of endowment, right? I mean, it could...the only qualified endowment is a fund that cannot be revoked. It doesn't have to be a fund, the interest of which only can be used, which is what...

SENATOR CONNEALY: That's my...

SENATOR BEUTLER: ...is often used for the word "endowment." Is that...how are you using the word "endowment"?

SENATOR CONNEALY: My use of it here and the way it's intended is for the principal to stay in the state and stay forever, then use the...just the interest, as you stated before. Qualified

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means one that is qualified as a 501(c)(3), it was a nonprofit. That's what the qualified part is. Endowment, under my...

SENATOR JANSSEN: One minute.

SENATOR CONNEALY: ...definition of it in this bill is, in my understanding, is to be used as just the interest to be used in perpetuity for the...

SENATOR BEUTLER: So they couldn't give it to...

SENATOR CONNEALY: ...purpose.

SENATOR BEUTLER: ...they couldn't give it to a...the ultimate gift to a charity couldn't be used all at once by the charity...

SENATOR CONNEALY: No.

SENATOR BEUTLER: ...to build a new building or whatever.

SENATOR CONNEALY: No, that's...that's what, I think, that gives it more of a credit here to retain assets in a state that tends to lose those, and I see it a lot in my local community.

SENATOR BEUTLER: Senator, thank you. I have one more question, but I think I'll ask that on my next opportunity to speak. Thank you.

SENATOR JANSSEN: Thank you, Senator Beutler, Senator Connealy. Senator Synowiecki, your light is on next.

SENATOR SYNOWIECKI: Thank you, Senator Janssen. Members, I want to thank Senator Connealy for bringing this important piece of legislation. I think it is a real good complement to our other tax incentive programs relative to business and so forth that we are doing this year. Relative to some of the questions, and it's my...Senator Connealy, would you yield?

SENATOR JANSSEN: Senator Connealy.

SENATOR CONNEALY: Yes.

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SENATOR SYNOWIECKI: And basically just to correct me if I'm wrong here, is that essentially what you have is Nebraska-based foundations in the state of Nebraska that individuals give for community betterment, and some of these foundations have different missions. They're multifaceted. You have the AIDS Project in Omaha, all the way to other organizations that have these foundations.

SENATOR CONNEALY: That's correct.

SENATOR SYNOWIECKI: And they're all Nebraska-based.

SENATOR CONNEALY: They'd have to be.

SENATOR SYNOWIECKI: And they do community betterment projects in the sense that nonprofit organizations, for the most part, apply for some of the funds from these foundations for the scope and for the mission of the individual nonprofit organizations that may provide direct service.

SENATOR CONNEALY: A lot of times it really replaces state revenues if they do social service work or community development, and in some states they're seeing an awful lot more new economic development coming out of community foundations.

SENATOR SYNOWIECKI: Thank you, Senator Connealy. That is essentially my understanding as well, and from my work outside of here, is oftentimes the nonprofit organization will make an application or apply for grant funding under these foundations, and then the monies that come from these Nebraska-based foundations in many times offset the budget for some of these nonprofits in terms of the services they provide. I know our nursing homes and our hospitals may, in fact, derive a portion of their service money from a private foundation, Nebraska-based foundation. I know a lot of our child welfare services, that are private providers in child welfare services, depend a lot of...to a large degree on these Nebraska-based foundations. And they make applications, they go through the application procedures. I, quite frankly, am not aware of a domestic violence provider in the metropolitan area, and for that matter

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across the state, I'm not aware of any one of them that does not depend upon some degree of financing or some degree of assistance, monetarily, from these Nebraska foundations. They all have some degree or some level of relationship with a foundation in which the mission of the foundation fits the unique mission of the service provider. And, like I said relative to the domestic violence sector, I'm not aware of a private service provider in our state that does not have some level of relationship with a foundation in the state of Nebraska. It's my understanding also, and some of the questions that have come out on the floor relative to the requirements of these foundations, in order for them to maintain their...in order for them to maintain their identity as a community foundation endeavoring in community betterment operations, they have to give a certain amount of their interest and/or principal amounts to the causes in which these...to which these nonprofits may apply for. And again, they may apply for something as simple as a building or as a statue or something commemorating something, all the way...

SENATOR JANSSEN: One minute.

SENATOR SYNOWIECKI: ...everything in-between, including providing funding to help offset and assist their budgets in providing direct services. Again, I know a lot of child services within the private sector, child welfare services that are dependent upon these foundations. I know domestic violence community, our service providers that do our very, very important work in that area, a lot of them have a relationship with these Nebraska foundations. And what I think LB 28 is simply trying to do is to incentivize the giving to these organizations so we can maximize the amount of wealth that stays here in Nebraska, is given then to our nonprofit base, and many times these are service providers that provide services. And as I indicated on the General File debate, in many of these instances they mitigate state spending. They...

SENATOR JANSSEN: Time.

SENATOR SYNOWIECKI: Thank you, Senator.

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SENATOR JANSSEN: Thank you, Senator Synowiecki. Senator Chambers, and this will be your third time, Senator.

SENATOR CHAMBERS: Yes, thank you. Mr. President, members of the Legislature, Senator Beutler kind of got ahead of where I was going, because I've already got amendments pending. But I want to ask Senator Connealy a few more questions from Section 3, which Senator Beutler commenced.

SENATOR JANSSEN: Senator Connealy, will you respond?

SENATOR CONNEALY: Yes.

SENATOR CHAMBERS: Senator, if a corporation is incorporated in Nebraska, does it have to have its headquarters in Nebraska?

SENATOR CONNEALY: No.

SENATOR CHAMBERS: Does it have to have its operations in Nebraska?

SENATOR CONNEALY: No, but this...

SENATOR CHAMBERS: It has to have somebody there...what does that mean then?

SENATOR CONNEALY: Well, for the purpose of this bill, it would have to be a Nebraska foundation. It would have to operate out of Nebraska and...

SENATOR CHAMBERS: Where is that in the bill?

SENATOR CONNEALY: By the corporate...the endowment is held by a Nebraska corporation. That would mean that it would have to operate in Nebraska.

SENATOR CHAMBERS: It says, qualified endowment means a permanent, irrevocable fund that is held by a Nebraska incorporated or established organization. What does "established" mean, that it was...what does that mean? Because it doesn't have to be incorporated in Nebraska, does it? So it

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doesn't have to be in Nebraska at all. Not only does...can the money be spent someplace else, but the endowment can be located someplace else under this language. Isn't that true?

SENATOR CONNEALY: It would have to operate in Nebraska and it would have to be based in Nebraska under this wording.

SENATOR CHAMBERS: Where does it say it has to operate in Nebraska?

SENATOR CONNEALY: By being a Nebraska corporation. If it's an endowment, it couldn't be like the Shriners, as I mentioned before, who are actually incorporated out of Florida. They operate here and they have membership here. They have a presence here in the state, but the corporate headquarters of their endowment is not in Nebraska.

SENATOR CHAMBERS: Is every corporation that is incorporated in Delaware operating within that smallest state in the Union?

SENATOR CONNEALY: No, those are...but that's a business corporations. Those are for-profit corporations. This is a nonprofit organization that's established at one place and operates there under those tax laws and those operations. It's established or incorporated in Nebraska.

SENATOR CHAMBERS: The one who is getting the benefit under the tax laws is the person who donates to the endowment.

SENATOR CONNEALY: Yes.

SENATOR CHAMBERS: Where is there anything in this language that would restrict what this money is spent for to the geographic location known as Nebraska? That's not in this language, is it?

SENATOR CONNEALY: No, it's not.

SENATOR CHAMBERS: Well, why didn't you tell Senator Beutler you were willing to put that in?

SENATOR CONNEALY: I don't know if I am. I think that sometimes

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a...

SENATOR CHAMBERS: You don't know?

SENATOR CONNEALY: ...foundation that works most of its work here may have an international relief that they want to participate in, or some research or some project that they couldn't do here, that they may want that flexibility. And so if it's in...I believe by being incorporated and the money held here in Nebraska, well, by that incorporation...

SENATOR CHAMBERS: Okay. Let me...

SENATOR CONNEALY: ...establishment that a majority of the assets will be spent here.

SENATOR CHAMBERS: Can a person living in Nebraska establish one of these endowments?

SENATOR CONNEALY: You could establish a nonprofit organization...

SENATOR CHAMBERS: Yes.

SENATOR CONNEALY: ...and do it.

SENATOR CHAMBERS: And could that person contribute to his or her own endowment under this?

SENATOR JANSSEN: One minute.

SENATOR CHAMBERS: If the endowment is qualified...and...

SENATOR CONNEALY: Yes.

SENATOR CHAMBERS: ...and spend the money for the purposes he or she desires or chooses?

SENATOR CONNEALY: Nonprofit...

SENATOR CHAMBERS: Yes.

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SENATOR CONNEALY: ...if you had nonprofit status...

SENATOR CHAMBERS: Yes.

SENATOR CONNEALY: ...and not use it for personal gain? Yes.

SENATOR CHAMBERS: So this person could set up the endowment, give whatever amount he or she wants to, get credits against income tax liability up to \$10,000 per tax year, and do very well. Isn't that right?

SENATOR CONNEALY: The only thing new under this compared to what they could do right now would be that they could get a tax credit for the activity that you're describing.

SENATOR CHAMBERS: Is my time almost up, Mr. President?

SENATOR JANSSEN: You have 20 seconds.

SENATOR CHAMBERS: It's just about up. Thank you.

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

SENATOR BEUTLER: Senator Connealy, another clarification, if I could. I noticed Senator Landis has an amendment to strike Sections 5 and 6 of the bill. Is that something that's going to be done or that you've accepted or not accepted or...?

SENATOR CONNEALY: No, I've not accepted that.

SENATOR BEUTLER: Okay. Section 6 is then, and Section 5, would still be in the bill. My question is this. Section 6 seems to give a credit to a corporation, and this corporation, under Section 6, doesn't have to create any of the complicated trusts that are outlined in Section 2. Is that right?

SENATOR CONNEALY: They have to give to a charitable trust, but they don't have to create any themselves. These are...

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SENATOR BEUTLER: Okay. But they don't have to do it themselves.

SENATOR CONNEALY: Yes. It allows a company to give a gift at a level now...

SENATOR BEUTLER: Okay. But they don't have to use any of the techniques...

SENATOR CONNEALY: ...(inaudible) they don't have to use a...

SENATOR BEUTLER: ...in Section 2, right?

SENATOR CONNEALY: ...planned gift or an annuity or things like that, because they don't end. This would be...allow corporations also to give to endowments and give an incentive to have that happen.

SENATOR BEUTLER: Okay. So if I'm a...if I'm a corporation and the library foundation has an endowment fund, and I'm a corporation and I give to that endowment fund, do I get the tax credit under Section 6?

SENATOR CONNEALY: Yes, if the library fund is a nonprofit that qualifies under this.

SENATOR BEUTLER: Okay. Now if I'm an individual and do the same thing, I don't get any credit under this bill. Is that right?

SENATOR CONNEALY: No, for the individuals, we're trying to ask them to give in the future from their wills or from an annuity, not current giving.

SENATOR BEUTLER: So this bill is not just about planned gifts, but with respect to corporations it's about direct gifts now.

SENATOR CONNEALY: That's correct for endowments, not gifts for the normal use for corporate giving, if it is any. It's for an immediate action, so there's very little corporate gifts to endowments because they want the credit in the public now for

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something to happen. And so establishing long-term funds that are there to be used in generations future are hard to justify for a corporation. So it's believed and shown in other states that driving corporate gifts to endowments is a real asset in this program.

SENATOR BEUTLER: Well, but let's back up a step though. The corporation doesn't really have to give to an endowment that gives only interest, that allows interest only of the money to be used, right? Because didn't we establish before that all of these gifts in this bill, even though you used the phrase "qualified endowment," none of them have to be actual endowments where interest only is used, right?

SENATOR CONNEALY: No, my understanding is it's given to perpetual endowments.

SENATOR BEUTLER: Mean, all of the gifts that are made under this bill are gifts that are made to 501(c)(3)s, and as the 501(c)(3)s hold them only the interest on them can be used?

SENATOR CONNEALY: That's correct. There's an added...

SENATOR BEUTLER: That's your intent?

SENATOR CONNEALY: That's correct. There is a deduction where you give to a charity. You don't have to claim that on your income taxes. This is to give an added incentive to give to keep...

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: One minute.

SENATOR CONNEALY: ...that separate and be used in the community for...whether...for public purposes in perpetuity.

SENATOR BEUTLER: Okay. Thank you, Senator. Thank you, Senator Cudaback.

SENATOR CUDABACK: Thank you, Senator Beutler. Mr. Clerk,

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amendment, please.

ASSISTANT CLERK: Mr. President, Senator Chambers would move to amend his amendment with FA299. (Legislative Journal page 1705.)

SENATOR CUDABACK: Senator Chambers, to open on FA299 to FA16.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, what I'm going after with this amendment, instead of striking all of those lines, is to remove this language that talks about how much money the Legislature is going to appropriate. We do not appropriate any money by way of a green copy of a bill. It's done by way of the A bill, and the A bill contains a larger amount of money than is contained in the green copy. So this amendment that I have, instead of striking lines 18 through 23, would strike the following language, beginning in line 20 on page 6: "The Legislature shall appropriate \$250,000 for purposes of this section of which not more than \$12,500 may be used for administrative costs of the department." I'm striking that, and let them put any limitations on this money in the A bill. I'd like to ask Senator Connealy a question or two about this amendment.

SENATOR CUDABACK: Senator Connealy, would you respond?

SENATOR CONNEALY: Yes.

SENATOR CHAMBERS: Senator Connealy, I've altered my amendment. It...instead of striking lines 18 through 23, it would strike beginning, if you got your green copy...and I'll tell you what it does because I'm going to have to tell you anyway.

SENATOR CONNEALY: (Laugh) Go ahead.

SENATOR CHAMBERS: Are you ready? Do you have your green copy?

SENATOR CONNEALY: Yes.

SENATOR CHAMBERS: Okay. On page 6, I would strike this language talking about what the Legislature shall appropriate.

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This green copy cannot bind the Legislature to appropriate anything, can it?

SENATOR CONNEALY: No, it instructs us to the A bill.

SENATOR CHAMBERS: So the A bill can say whatever this money is and is not to be used for.

SENATOR CONNEALY: Yes.

SENATOR CHAMBERS: So I would strike this language. Are you opposed to my amendment?

SENATOR CONNEALY: I don't know if there's any reason to strike it if we're not going to strike it in the A bill.

SENATOR CHAMBERS: Is there any reason to keep it?

SENATOR CONNEALY: Well, yes.

SENATOR CHAMBERS: In the interest of good legislating, why do we need this, this language?

SENATOR CONNEALY: We do it all the time. I know that we've had this discussion whether the binding bill is the A bill on where we spend the money, but this tells us where and it instructs us as we go forward, I think.

SENATOR CHAMBERS: If this bill passes and there is no A bill, this would give the impression that \$250,000 has been appropriated, doesn't it?

SENATOR CONNEALY: Yes.

SENATOR CHAMBERS: And that's not true, correct?

SENATOR CONNEALY: Correct.

SENATOR CHAMBERS: Okay. And I've brought this up and this kind of language has been stricken from other bills this session.

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SENATOR CONNEALY: That's correct.

SENATOR CHAMBERS: Okay. Now I want...since that's not too difficult an amendment to understand, I want to go back to Section 3 for a little more discussion, because that is a substantive matter that we're dealing with. Senator Connealy, I'm going to go back even further toward the beginning of the bill than Section 3. On page 2, in line 6, we start the discussion about what a planned gift means. There is nothing which says of what this contribution must consist, is there? It doesn't have to be cash, does it?

SENATOR CONNEALY: No, but it's...would be graded for the amount of value it is, so...

SENATOR CHAMBERS: Right, so...

SENATOR CONNEALY: ...it could be some other asset but it would...

SENATOR CHAMBERS: It could be...

SENATOR CONNEALY: ...have to have a number for tax purposes.

SENATOR CHAMBERS: It could be a painting.

SENATOR CONNEALY: It would have to have a number...a number for the tax purposes, because you're getting a number so that you can get the credit up to \$10,000 that you can take off your taxes.

SENATOR CHAMBERS: So, if a person wants to donate a painting, under this bill is that possible, whatever steps would have to be gone through? I'm trying to find out the types of items which could constitute a contribution covered by this bill.

SENATOR CONNEALY: I'm not a tax planner or involved with these foundations, but I know that gifts are made of real assets. If it was a painting of mine, it wouldn't be worth much; if it was a painting of yours, it would be worth a lot. But you could give gifts like that, that would have some value, but you'd have

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to set a value so you could take it off your taxes.

SENATOR CHAMBERS: Could it be a dwelling?

SENATOR CONNEALY: Yes.

SENATOR CHAMBERS: A house?

SENATOR CONNEALY: I think so. I think if it can sold, if it can be fixed a value to it, I think it could be given. Like I said, there's a piece of ground that was given to a charity outside the state and that asset has continued to produce revenue for this charity forever, and that's one of the examples I used, that it would have been better if that asset could have been producing revenue that would have stayed in our state.

SENATOR CHAMBERS: If it was a house, a very large house that might even qualify as a mansion, and I want to contribute it so that I can have some money against my income tax liability, but I also have somebody I want to be able to...I want to be able to live in that mansion, if I have a mansion and I have given somebody a life estate in that mansion, could that be donated under this bill, even though there is a life estate attached to it?

SENATOR CONNEALY: I think it could, as long as there's an end to it, so that there is a transfer at one point. If you're going to use it for your time or someone...or some designated time, I think it still qualifies to these foundations as a gift that you can take a deduction off of your income taxes or your estate taxes at the end of your estate. So I think that those would qualify. They're not normally encouraged or the like, but I think that's part of it too.

SENATOR CHAMBERS: In order that I can understand and I...keeping in mind this is a hypothetical, would they determine the value of this mansion based on what it would bring on the open market without that life estate involved, or on the open market considering that a life estate is involved?

SENATOR CONNEALY: You know, I can get you that answer. I'm not

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positive.

SENATOR CHAMBERS: Okay.

SENATOR CONNEALY: I think that it's with the estate involved, but I'm not positive. I don't think that the Department of Revenue or the Internal Revenue Service allows assets to go away before they're transferred, but I'm sure there's rules, because those kind of estate plans are happen...they happen all the time.

SENATOR CHAMBERS: Okay. Now, if there was a life estate, that means that the building would belong to whomever was in a position to grant the life estate. So if I contributed all of my interest in it, that would be everything I'm entitled to, less the life estate, that period of time. But here's...and then, if somebody who has a life estate, by the way, is wasting the asset, you know, not taking care of it or doing things to it, the life estate can be terminated so that the asset will not be done away with. That wasn't designed to be a trick question. I want to ask you again about Section 3. Why are you reluctant to say that this endowment, this operation, must expend its money in Nebraska or do its work within Nebraska?

SENATOR CONNEALY: Well, examples I can think of off the top of my head, if there was a Nebraska cancer foundation, if they saw a promising research project in Iowa or someplace else, that they'd still be allowed to do that as long as it fit that foundation's goals here in Nebraska.

SENATOR CHAMBERS: Well, here's what I'm talking...

SENATOR CONNEALY: So we decided to limit it to Nebraska foundations, kept the money here and a majority of that most likely will be used in Nebraska.

SENATOR CHAMBERS: Here's what I'm talking about. Specify that any contributions made pursuant to this bill must be used, expended, or exhausted within Nebraska. You'll look into that, won't you?

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SENATOR CONNEALY: Yes, I will.

SENATOR CHAMBERS: Okay. Now, to take it a step further, why should not we leave out religions? Let's say that I'm a jackleg preacher, and all you have to do to be a preacher is say you're one and get a piece of paper that...in other words, I could...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...I could ordain you as a preacher. So we have the Upstanding Holiness Baptist Fundamentalist Church of Nebraska, and you're the pastor and I'm the bishop, and we got a nonprofit operation because we've got a church. We create an endowment. We can start accepting things hand over fist under this bill, as long as we remain nonprofit. Is that true?

SENATOR CONNEALY: You have to be qualified under federal tax law...

SENATOR CHAMBERS: Right, we got all that qualification.

SENATOR CONNEALY: ...and so...

SENATOR CHAMBERS: We can...we can...

SENATOR CONNEALY: ...we don't discriminate anybody as long as they fit within that (inaudible).

SENATOR CHAMBERS: And I can do anything with that money I want to, anywhere in the world, under this bill, can't I? I could turn it over to an organization associated with my religion in Iowa, couldn't I, for their nonprofit purposes? I could do that, couldn't I?

SENATOR CONNEALY: As I...yes, as I said before.

SENATOR CUDABACK: You may continue, Senator Chambers.

SENATOR CHAMBERS: Thank you, Mr. President. It's so interesting, Senator Connealy. I'm granted a boon by being allowed to continue. I won't ask you any more of those

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questions at this point. This is one of those bills which has an allure on its surface, but there are a lot of moving parts which have not been integrated well. So if this were a machine, it would be clunking and clanging and jangling along, and about all you'd know for sure is that it's making a lot of noise, but you don't know for sure what it does. There was a Christmas song that they sang, and I don't remember the rhyme, but this guy gave his...his father had given him this device and when you did one thing it made a noise, when you did something else it made another noise. He said he doesn't know what it is, he doesn't know what it does, and he guess he'll never...he never will, but he loved it. Then he passed it on to his son. His son couldn't figure out any of those things, but he loved it also. That is what I think was the paradigm for this bill. When you push it this way it goes clank. When you pull it this way it goes whir. But you don't know what it's fer and you don't know where it came from or anything else about it, except that if a person wants to find a way to make an investment and get an immediate return without it being called an investment, while getting the credit for being very generous, you can give something to one of these endowments, and it can be your own, then you can get tax credits against your tax liability, up to \$10,000 per tax year, whatever that may mean. And the more I hear this bill discussed, the less sure I am of what anything means for sure or what can be done under this bill and what may not be doable under the bill. It is not written in such a way as to ensure that the people who make these contributions are contributing to an outfit which will do a substantial amount of its work in Nebraska. Before my time runs out, I want to ask Senator Connealy a question.

SENATOR CUDABACK: Senator Connealy.

SENATOR CONNEALY: Yes.

SENATOR CHAMBERS: There is nothing in this bill...first of all, under the IRS or whatever other qualifications there are for one of these nonprofit organizations, there is no specification of what percentage has to be used for the work of the group and what the limit is on administrative costs, is there?

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SENATOR CONNEALY: No.

SENATOR CHAMBERS: And...

SENATOR CONNEALY: I don't believe there are.

SENATOR CHAMBERS: Right. So...

SENATOR CONNEALY: They can't use it for profit...

SENATOR CHAMBERS: So this...right,...

SENATOR CONNEALY: ...or for gain.

SENATOR CHAMBERS: ...this could go to a corporation, I meant endowments, which use 80 percent for administration. Under the law they could do that, can't they?

SENATOR CONNEALY: Yes, as it could be used for 100 percent for their purposes, too, for nonprofit purposes.

SENATOR CHAMBERS: And the state cannot restrict the amount that can be used for overhead or specify the amount that must go for the work that's being done. Isn't that true?

SENATOR CONNEALY: Not under this.

SENATOR CHAMBERS: The state cannot do that.

SENATOR CONNEALY: No.

SENATOR CHAMBERS: Not just under this bill, but can't. Thank you, Mr. President. Thank you, Senator Connealy.

SENATOR CUDABACK: Thank you, Senator. You've heard the opening on FA299, plus five minutes, Senator Chambers. On with discussion. Senator Beutler. Senator Beutler, the Chambers amendment.

SENATOR BEUTLER: Senator Connealy, let me just get one thing straight on the record with regard to your intent, and I think

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just verbally clarifying would probably be enough. But on page 4, line 24, you're talking about a contribution to a qualified endowment by a small business corporation, and one of the people I ran this by suggested that what you intended here were for S corporations under the Internal Revenue Code to be the small business corporations that you're referring to.

SENATOR CONNEALY: Yes.

SENATOR BEUTLER: Would that be accurate?

SENATOR CONNEALY: Yes.

SENATOR BEUTLER: Okay. That's all I wanted to clarify. Thank you, Senator Cudaback.

SENATOR CUDABACK: Thank you, Senator Beutler. On with discussion. Senator Landis.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, I would support Senator Chambers in undoing the commission. I think it's unnecessary. My own amendment, which comes up a little later, differentiates corporate giving from individual giving. When I was approached on this, the story was we needed people who were going to die and give their money to people elsewhere around the country to have a way of building communities. Corporations don't die. There is no need for a cross-generational policy for corporations. So the amendment that I've got strikes them from the use of the bill. If we wanted corporate support for community building, there's a better way to do it and it's in a bill that Senator Janssen supported earlier this year, for we have a community development tax credit for corporations who'll give money for projects, and they're limited to community-building organizations, and they have a darn good track record and that's...and we could expand that program if we wanted more corporate giving for community building. I'd be happy to do that in an amendment as well. But what I want to rise to say is I support Senator Chambers. The commission is unnecessary. I think the corporate giving is unnecessary. I am...I think the bill is overreaching by that score and I will be voting for several of the amendments that

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cut back this measure.

SENATOR CUDABACK: Thank you, Senator Landis. Further discussion on FA299. Senator Chambers, there are no lights on. The Chair recognizes you to close on FA299.

SENATOR CHAMBERS: Mr. President, I'm going to...oh, I'm closing so I can't do it now. I'm just going to withdraw that pending amendment.

SENATOR CUDABACK: FA299 is withdrawn. We're back to FA16, Senator Chambers. That's what's pending before the body now, and there are no lights on.

SENATOR CHAMBERS: I will withdraw that also.

SENATOR CUDABACK: FA16 is withdrawn also. Madam Clerk, where does the body stand now?

ASSISTANT CLERK: Mr. President, the next amendment I have is offered by Senator Landis. Senator, I have FA23. (Legislative Journal page 560.)

SENATOR CUDABACK: Senator Landis, you're recognized to open on FA23.

SENATOR LANDIS: This amendment would strike Sections 5 and 6 from the bill. Section 5 grants the tax credit to Subchapter S corporations, LLCs, partnerships, and other business entities. If the purpose is to retain money that might otherwise be lost to Nebraska as the baby boomer generation dies, which is what I understood is the original intent, then there's no reason to grant the tax credit to business organizations because they have a perpetual life. Second, this provision is especially generous because the maximum amount of the credit is not \$10,000 for the entity as is the case for an individual contribution, but \$10,000 for each member of the organization of these, so you can pile on. This provides an excellent opportunity to obtain far larger tax credits than the bill would otherwise allow, by forming a limited liability company or other similar organization for the purpose of defeating the maximum. This

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allows such a person to receive a credit for such...for each organization of which it is a member. No matter how remote this possibility might be, this consideration outweighs the benefit of allowing the credit for those organizations since the allowance of the credit to an organization is to an organization with perpetual life. Section 6 grants a 20 percent credit for corporations. Again, since corporations have perpetual life, there's no reason to grant the credit for purposes of protecting the state from the transfer of wealth by generational inheritance, which I understood to be the rationale for the bill originally. No case has been made either to the committee or the Legislature as to why this is a necessary part of the bill for that original rationale. The fiscal note assumed that no corporations would take the credit because it would not be permitted if there is a federal deduction for the contribution. The federal deduction would be more valuable to a corporation than the credit provided by the bill. So, in sum, there is no reason to permit corporations to take the credit, both because it would be financially foolish to do so and because the allowance of the federal deduction does not serve in any way to...in any way the underlying intent of the bill. We have, as I said, community development tax credits. These were available to corporations, and let me tell you what they are available for. They are available for human services, medical services, physical facility, and neighborhood development services, recreational services or activities, or financial institutions purchasing shares of stock in a business development corporation, provided to provide debt and equity financing for business development, and they can apply for these credits as well. These credits exist because a local 501(c)(3) goes to Department of Economic Development and says, here's a community development project; authorize us to get some tax credits so that we can get local businesses to give us money for those purposes. They're narrow, they are community development, and they are locally done. If you want corporate money to build communities, expand the limit that's on that bill. Now, Ray Janssen expanded that limit earlier this year. He raised it from \$250,000 to \$350,000. I believe it came through...it might have come through the Banking, Commerce and Insurance Committee when it did, or maybe it came through the Revenue Committee. I can't exactly recall. But my point is this. If you want

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corporate giving for community building, community development, we have a better tool than this one. You can strike the corporate section, expand the corporate tax benefits through the Community Development Assistance Act, and get corporate money to community development programs that are locally administered with local assistance, with a local charity or whomever organizing it, and a narrower limit for what the money can be spent for. They are essentially the nonsectarian kinds of lists of things that I was saying--medical assistance, neighborhood assistance, community centers. And, by the way, we have a track record of it, and it's been a pretty darned impressive track record over time. So that's the motion that I offer to the body.

SENATOR CUDABACK: Thank you, Senator Landis. You've heard the opening on the Landis amendment, FA23, to LB 28. For discussion, Senator Connealy.

SENATOR CONNEALY: Thank you, Mr. President and members. I don't disagree with Senator Landis that the program in place is a good one. It is the kind of program that corporations like to give to, too, also. It provides a benefit right now. It's tougher to get businesses to give to an endowment. It's tougher for all of us to give to something that doesn't show a big payoff right away. And so we put this section in the bill to try to give some incentive for that type of gift, that would not give them automatic bang for the buck right away. I did not ever say that that was the only reason, the transfer of wealth from one generation to the other is the only reason for this bill. The bill is intended to increase giving to...planned giving and corporate giving to endowments so that fund of money is there forever. I rise in opposition to the Landis amendment. I understand if the body agrees to that, if they want to limit this bill to something less, but I still think that there's a positive with this. It's not going to be used very often. It's not going to be used to the extent that I think Senator Landis alluded to, where you would set up a new organization to be able to give assets from a business or from a corporation away to a charity. I don't see that as a problem in this bill. I see that this would be an opportunity for a corporation or a small business to make that small gift to an endowment that is really

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tough for them to do now because they don't see a large benefit to their current business or to the public in general because it doesn't pay off those dividends immediately. That's why we put it in the bill. It's shown to be productive and not a dominant part of any place that this type of credit is. The majority of the credit goes to planned gifts and the majority of the help from this kind of endeavor in other states goes to someone with a will and that generational transfer that we talked about also. But this is also part of it, I don't want to mislead anyone. There is two parts of giving to this. One is persons in their wills or annuities; the other is a current company to give. Because, as Senator Landis says, these companies don't go away, they don't end, and...but they also don't give to endowments very often.

SENATOR CUDABACK: Thank you, Senator Connealy. Senator Beutler, on the Landis amendment, FA23, to LB 28.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, in this day and age I'm not sure when conflicts of interest should be discussed or when they shouldn't, but I think you all know that from time to time I seek to raise money for the city of Lincoln for projects of different types and, although this bill doesn't involve giving money to political subdivisions, it does relate to interests that I have. Nonetheless, what I wanted to comment upon is simply the very great difficulty, and there is a very great difficulty, in giving...in getting either individuals or corporations, or especially corporations, to look at the long term instead of focusing and concentrating their money on the immediate. And, to some extent, if nonprofits, if the donees, the people who accept this money, whether they be nonprofits or political subdivisions of one type, can get themselves into a lot of trouble because they keep...the tendency is to accept money to build something, and you build a building or you put up a big expensive fountain or waterworks, or you can think of any number of things that you can create that corporations like to give to because immediately there's a groundbreaking and an announcement that such-and-such has done this bit of good for the community. But after all of the fanfare and after everything is over, it is then the foundation that holds the asset, or the political entity that holds the

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aspect...that holds the asset that has to come up with maintenance money and operations money, and that is a difficulty. And sometimes part of the problems we get ourselves into, especially as political subdivisions, is we accept all this money to build and to create and to have more trails, for example, and then when it comes time to fix them up, folks aren't nearly as excited about fixing things up or maintaining things as they are about building them in the first instance. And so Senator Connealy has indicated that the true purpose of this bill--and I've put an amendment up there just to further clarify that, that I don't think Senator Connealy will object to--the true purpose of this bill is, in fact, to put money into endowments, to funds that are there for the ongoing support of a community, of a building, of an institution, of a park, whatever you have. And I think it's useful to build in an incentive that creates giving to this kind of fund. So on balance, I'm...I don't think I'm going to support Senator Landis' amendment, although I would like to hear more about and I don't understand completely all of the dimensions of what he calls his preferred way of doing this. Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. On with discussion on the Landis amendment, Senator Chambers.

SENATOR CHAMBERS: Mr. President and members of the Legislature, I am persuaded by Senator Landis' argument. What Senator Connealy has to do is realize he has a bill that I don't think has a whole lot of juice. He should get what he can this year, if he can get anything. I want to strike Section 9 to get rid of that commission. I don't want the state to spend money where the net result is to find a way to reduce the state's revenue. Senator Connealy may agree to do that. If he does, I will not support the bill, I will not vote for it, but I will not fight it as hard as ordinarily I would. With that provision in, I would try to kill the bill because it makes absolutely no sense whatsoever to have a proposition like that in a bill which is being pitched as something of great value to the citizens of this state. I don't see that great value in this bill. But if there were a value, I certainly do not see that value being such that it justifies the creation of a brand new commission that's going to cost the state over \$300,000, and its purpose is to

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reduce the state's revenue. That doesn't make sense. It might make dollars for Senator Connealy's interest but it makes no sense here. I have not heard a convincing argument from Senator Connealy as to why Senator Landis' amendment should not be adopted. In explaining his amendment, I saw reasons why Senator Landis' amendment should be adopted. This heaping up, stacking on, calculating and figuring how to milk something like this for more than what the sponsors of the bill intended is not unusual. I've been watching television and looking at these CEOs who got credit for being magnanimous and humanitarians. They had one on "60 Minutes" last night, had given to this and given to that, and you find out he's one of the biggest crooks going and he sits there and looks the camera straight in the eye and says, all of my chief financial officers, all five of them, are liars, everybody who accuses me is a liar. He's talking to Mike Wallace. Wallace would ask him a question. Mike, you know better than that; that couldn't happen. I wouldn't lie. Why would I lie? I'm not lying. They're lying. Now that approach would impress Senator Connealy and he's say, well, these guys are not going to do anything like what Senator Landis is talking about because they're good guys. Guard against it. This amendment that is being offered by Senator Landis I intend to support. And I have grave misgivings about the rest of the bill. But I certainly don't want to expend money by the state to reduce the state's revenue. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. On with discussion of FA23. Senator Landis, there are no lights on. You're recognized to close on FA23 to LB 28.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, given our numbers, could I ask for a call of the house? I'll explain my amendment one last time. We'll have a vote and we'll be able to move on.

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

SENATOR LANDIS: That's right. As Chris says, we're doing our work; let's get the rest of them.

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SENATOR CUDABACK: Senator Landis, we aren't...I'm sorry, we're not on yet. I have not got the...record please, Mr. Clerk.

CLERK: 17 ayes, 0 nays, Mr. President, to place the house under call.

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

SENATOR LANDIS: Thank you, Senator Cudaback. Let me complete my closing on this amendment. Senator Beutler did ask me a question, and that was to know a little bit more about the community development tax credit program. It is available to assist with an area's self-help effort by building the capacity of local residents, for locally-defined objectives. It applies to the provision of essential services to low- and moderate-income persons and community or neighborhood building. The hope is that a project tangibly contributes to the development of lasting relationships between the neighborhood and corporate citizens. There is a list of criteria in which, for example, experienced chronic economic stress is one; to reduce chronic economic stress is another; addresses state priorities; demonstrates capacity and performance of community betterment; involvement of residents of the affected area in the planning of the project; the extent to which private firm, private sector contributions have been pledged. All of those are tools by which the Department of Economic Development chooses between various people who want to be authorized for these tax credits. Currently, there is a maximum of \$250,000 in any one year, only \$25,000 per any single project, no more than \$100,000 for any targeted area in the state, so it can't be bunched up geographically. The tax credits will not be given to business firms whose contributions are granted for activities that are part of its normal course of business, and that the tax credit must be claimed in a tax year return for the year in which the contribution was made. By the way, we're now roughly maxing out that \$250,000 a year. Senator Janssen's bill this year, LB 334, raises that to \$350,000. It's on Final Reading.

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If you wanted more corporate giving for community building, you'd raise that number and you could still do it this session. You wouldn't have to authorize corporate giving in this form. If the plan is to keep generational money from leaving the state instead of being contributed to a community betterment foundation, then cut off corporate contributions because there is no generational change. There is no death of the corporation by which you then would lose money for an estate tax or the rest. And if you want to access corporate community development gifts by the tax method, fine. We've got a better mechanism to do it than this one, because this one is any 501(c)(3) in the entire state, for whatever purpose. If you want to give...if you want to get corporate dollars to help communities, we have that tool and we could unleash that tool in...

SENATOR CUDABACK: One minute.

SENATOR LANDIS: ...Senator Janssen's bill. I'd ask for the adoption of this amendment which strikes from LB 28 the provision that allows corporate contributions to be tax-exempt, from the regular provisions of LB 28.

SENATOR CUDABACK: Thank you, Senator Landis. Members, the house is under call. Senator Schimek and Senator Schrock. Senator Schrock, would you check in, please. I did not see you there. Thank you. Senator Schimek. Senator Schimek, the house is under call. Senator (inaudible) we may take a vote without Senator Schimek. The question before the body is adoption of FA23, offered by Senator Landis. All in favor vote aye; those opposed vote nay. We're voting on adoption of the Landis amendment, FA23. We're voting on adoption of the Landis amendment, FA23. Have you all voted who care to? Have you all voted? Have you...Senator Landis, for what purpose do you raise your hand?

SENATOR LANDIS: I ask for a roll call vote, Mr. Speaker.

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

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CLERK: (Roll call vote taken, Legislative Journal pages 1705-1706.) 22 ayes, 8 nays, Mr. President, on the amendment.

SENATOR CUDABACK: The motion was not successful. FA23 was not adopted. I do raise the call. Mr. Clerk.

CLERK: Mr. President, the next amendment I have to the bill, Senator Chambers, FA28.

SENATOR CUDABACK: Senator Chambers, to open on FA28.

SENATOR CHAMBERS: I would withdraw that amendment.

SENATOR CUDABACK: FA28 is withdrawn. Mr. Clerk, next motion.

CLERK: Senator Chambers, FA29.

SENATOR CUDABACK: Senator Chambers, to open on FA29.

SENATOR CHAMBERS: I would withdraw that as well as FA30.

SENATOR CUDABACK: FA29 and FA30 are withdrawn.

CLERK: Senator Chambers, FA298. (Legislative Journal page 1706.)

SENATOR CUDABACK: Senator Chambers, to open on FA298.

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, this is the section...oh, what this amendment would do is strike Section 9. This section creates the commission, wants to appropriate \$250,000 to pay for it, and some other things which ultimately would result in reducing the state's revenue. I do not think the state should spend money for the purpose of reducing its own revenue. Senator Connealy and I have discussed this matter at sufficient length to arrive at an agreement. We compromised on this amendment. The compromise is this: I offered it and Senator Connealy accepted it. (Laughter) So I will let him speak for himself in that regard. Senator Connealy, are you going to accept this amendment?

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SENATOR CUDABACK: Senator Connealy.

SENATOR CONNEALY: I am going...thank you, Mr. President. I will accept this elimination of the commission that would promote this, and then the foundations that are in the state would have have to promote it themselves. And I, you know, will probably accept the next amendment, also, of Senator Beutler, that would limit it to Nebraska uses and these other provisions.

SENATOR CHAMBERS: The principle, Mr. President, that guides the King Cobra is that no venom should be wasted on dead or fleeing things. And since the purpose has been accomplished, there's nothing further I need to say to take more time. Thank you.

SENATOR CUDABACK: Thank you, Senator Chambers. You've heard the opening on FA298. Open for discussion. Senator Connealy, did you wish to...Senator Connealy waives his time. Any further discussion on FA298? Seeing none, Senator Chambers, you're recognized to close. Senator Chambers waives closing. The question before the body is adoption of FA298, offered by Senator Chambers to LB 28. All in favor vote aye; opposed vote nay. We're voting on FA298, offered by Senator Chambers to LB 28. Have you all voted on the question who care to? Record please, Mr. Clerk.

CLERK: 37 ayes, 0 nays, Mr. President, on the adoption of Senator Chambers' amendment.

SENATOR CUDABACK: The Chambers amendment has been adopted.

CLERK: Senator Beutler would move to amend with FA300. (Legislative Journal page 1706.)

SENATOR CUDABACK: Senator Beutler, to open on FA300.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, you were listening to prior conversations where Senator Connealy indicated that the intent of the bill is that this credit should pertain only to funds, or the portions thereof, that are used for Nebraska charitable purposes; that is, for uses that

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will...for money that will be used in the state of Nebraska. And this language that I'm proposing to you simply adds some clarification to that, hopefully. Second, in addition, you also heard Senator Connealy indicate that this money is to be used to create endowments, not to be put into current use funds of the various nonprofits that might receive the money, but rather to be...to create true endowment funds where the interest only would be used and the principal would be held and hopefully build up over time. So this amendment, the second thing it does is to clarify that intent of the bill. And with that, I would ask for your consideration.

SENATOR CUDABACK: Thank you, Senator Beutler. You've heard the opening on FA300. For discussion, Senator Connealy.

SENATOR CONNEALY: Thank you, Mr. President and members. The first section of the amendment, as Senator Beutler talked about, clarifies what the intent is, that it's a permanent Nebraska endowment, and second of all is that it's for Nebraska charitable purposes, and that's our goal. And at least talking to the promoters of the bill, they think that that's not too restrictive, so I agree to the Beutler amendment.

SENATOR CUDABACK: Thank you, Senator Connealy. There are no further lights on. Senator Beutler, you're recognized to close on FA300. He waives closing. The question before the body is the adoption of the Beutler amendment to LB 28. All in favor vote aye; those opposed vote nay. We're voting on the adoption of the Beutler amendment, FA300. Have you all voted who care to on the question? Record please, Mr. Clerk.

CLERK: 32 ayes, 0 nays, Mr. President, on the adoption of Senator Beutler's amendment.

SENATOR CUDABACK: The Beutler amendment has been adopted.

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

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

SENATOR FLOOD: Mr. President, I move the advancement of LB 28

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to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 28 to E & R for engrossing. Open for discussion. Seeing no lights on, all in favor of the motion say aye. Opposed to the motion, nay. LB 28 is advanced.

SPEAKER BRASHEAR PRESIDING

SPEAKER BRASHEAR: Members, while the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR 115 and LR 116. Mr. Clerk.

CLERK: Mr. President, amendment to LR 12CA by Senator Beutler; Senator Preister to LB 40 and LB 40A; Senator Cornett, LB 478; Senator Thompson, LB 761. New resolutions: LR 233 and LR 234 by Senator Pahls; both will be laid over. Enrollment and Review reports LB 117 and LB 566 as correctly engrossed. And an amendment to be printed: Senator Smith to LB 70. Senator Byars would like to add his name to LB 373. And an amendment to LB 28A by Senator Connealy. (Legislative Journal pages 1706-1715.)

Mr. President, I have a priority motion, and that motion be that the Legislature adjourn until Thursday, May 24, at 9:00 a.m.

SPEAKER BRASHEAR: Thank you, Mr. Clerk. You've heard the motion to adjourn. All those in favor signify by saying aye. Those opposed, nay. We are adjourned.

Proofed by: AEG