

JANUARY 12, 2006

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January 12, 2006 LB 548, 764, 1051-1053

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Good morning. Welcome to the George W. Norris Legislative Chamber. Our chaplain of the day is Pastor Christopher Lake, Prince of Peace Lutheran Church, Geneva, Nebraska; Senator Combs' district, District 32. Pastor, please.

PASTOR LAKE: (Prayer offered.)

SENATOR CUDABACK: Thank you, Pastor Lake, for being with us this morning. We appreciate it. I call the seventh day of the Ninety-Ninth Legislature, Second Session, to order. Senators, please record your presence. Record please, Mr. Clerk.

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

SENATOR CUDABACK: Are there any corrections for the Journal?

CLERK: I have no corrections, Mr. President.

SENATOR CUDABACK: Messages, reports, or announcements?

CLERK: Mr. President, just one item, an amendment to be printed to LB 548, by Senator Beutler. That's all that I have at this time. (AM1864, Legislative Journal pages 295-300.)

SENATOR CUDABACK: Thank you, Mr. Clerk. First agenda item is introduction of new bills.

CLERK: Mr. President, new bills. (Read LB 1051-1053 by title for the first time.) And that's all that I have at this time, Mr. President. (Legislative Journal pages 300-301.)

SENATOR CUDABACK: Thank you, Mr. Clerk. Next agenda item, General File, Revisor bills. Mr. Clerk, please. Mr. Clerk.

ASSISTANT CLERK: Mr. President, LB 764 was introduced by Senator Engel, in his capacity as Chairperson of the Executive Board. (Read title.)

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Engel, as

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

January 12, 2006 LB 764

Chairman of Exec Board, you're recognized to open.

SENATOR ENGEL: Mr. President, members of the body, there are only two Revisor bills this year. The first one, LB 764, repeals obsolete provisions included in Section 79-1072.01, which provided for payment for school fiscal year 1998-1999. Since this date has passed, this section is no longer needed. The other section repealed by LB 764 is Section 79-1072.02. That section provided for a transfer of all money in the Hardship Fund on May 26, 2001. Since that date has passed, this section is no longer needed. I'd ask for your approval of this. Thank you.

SENATOR CUDABACK: Thank you, Senator Engel. You've heard the opening. Open for discussion on the motion by Senator Engel. Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, I want to ask Senator Engel a question or two about these bills.

SENATOR CUDABACK: Senator Engel, would...

SENATOR ENGEL: I thought you might.

SENATOR CHAMBERS: And I didn't want to disappoint you. Senator Engel, you said, if I understood you correctly, the only thing that's done by this bill, when it repeals these two statutes identified, is to get rid of provisions in the law that contain dates which have passed. Is that true?

SENATOR ENGEL: Right. Right.

SENATOR CHAMBERS: And the date in the first bill...law was what?

SENATOR ENGEL: 1998-1999.

SENATOR CHAMBERS: And what was the date in the other one?

SENATOR ENGEL: Is May 26, 2001.

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

January 12, 2006 LB 764

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, this morning I thought a great deal on the way down here about singers. Frank Sinatra butchered a song which Lou Rawls glorified, but a line in the song said, "When I was 17, it was a very good year." Somebody was 17 in the years that Senator Engel is trying to remove from the statute books. Senator Engel, let me ask you another question, if you will.

SENATOR ENGEL: I will.

SENATOR CUDABACK: Senator Engel.

SENATOR CHAMBERS: Senator Engel, have you no nostalgia, no compassion, no poetry in your soul?

SENATOR ENGEL: Those are my favorite years, Senator.

SENATOR CHAMBERS: So what is going to be benefited, who will be benefited, if we remove them from the statute books?

SENATOR ENGEL: We'll just be cleaning up the statutes, is all; take less space in the statute book.

SENATOR CHAMBERS: Senator Engel, there are provisions of far greater substance than this which I think should be removed in order to clean up the statute books, but that's not done. So I'm going to rephrase the question. If we don't remove them, what harm is done and to whom?

SENATOR ENGEL: Probably none.

SENATOR CHAMBERS: When I was 17, it was a very good year.

SENATOR ENGEL: Yes, me too.

SENATOR CHAMBERS: As long ago as it was, I remember it. Thank you, Senator Engel. I'm not sure that I will support this, this bill. Ultimately, I probably will. But another singer crossed my mind as I was coming down here. I'm the prayer police now, by the way, and some of you all, who don't show up on this floor who voted to keep the preacher and then voted to keep the

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

January 12, 2006 LB 764

prayer, you're going to be cited. And if you can appeal to a higher court and have your citation dismissed, that's all right. But this person is named Al Green, and he turned into a "Chrishian" preacher, but before he lost his way and turned into a preacher he sang a song titled "Lay Your Head On My Shoulder." Some of the lyrics said (singing): Let's just be glad we had this time to spend together. So I want you all to keep that in mind. We have time to spend together this morning, and I want us all to be glad. There is no way you're going to be worn out by me taking this time because the Governor, unelected though he is, will come in to address the senators, but not really the senators, the state, by way of television and the reporters. The Legislature, as often happens, is merely the background,...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...the wall against which a political ball will be bounced. I don't want to waste the time that we have this morning standing around, so I think I'm going to use the opportunity to fill it. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Chambers, your light is next. You may speak if you care to.

SENATOR CHAMBERS: I do care to, and thank you very much. As I read the newspapers, a fellow with whom I disagreed tremendously when he was coaching Nebraska's football team--we even had a couple of disagreements in my office, verbal of course, each of us being a gentleman--many years ago I had told him that Nebraska would never beat Oklahoma because of the racism Nebraska's football team observed by refusing to allow a black man to play quarterback and that always left Nebraska one player short when they played Oklahoma, because their quarterback could run the ball and function effectively. I said, you can keep getting these cornfed, slow-footed Nebraskans, beat all these other mediocre teams, but you won't beat Oklahoma. I don't know if it had any impact, but that practice at Nebraska did change. The man decided to run for the U.S. House of Representatives. He made a statement which, to this date, I have not heard or read that he repudiated, and that statement puts him on record as opposing the death penalty. For my part, that puts him head

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

January 12, 2006 LB 764

and shoulders above anybody against whom he's running. Then the man did what would terrify the ordinary politician. He pointed out the racism associated with trying to maintain Class I or elementary-only schools in Nebraska. Now he's two heads and one shoulder above them. Then his stature was either increased or the present unelected Governor stature was diminished, I call him "Diminutive Dave," by saying this elected representative of the state of Nebraska cannot talk to certain people who work as employees of this state unless the Governor himself, unelected though he is, or some other stooge, snitch, informant or spy from the Governor's inner circle is there. Once again, this man that I'm talking about assumes the stature of Gulliver, and the Governor, unelected though he is, is reduced by his own conduct to the size of a Lilliputian, comparatively speaking. Political smallness, political pettiness could reduce a Goliath or a Paul Bunyan to the diminutive stature of Tom Thumb. So these people are making Tom Osborne--there, I've said it, I spoke the name of him whose name should not be uttered. I got that from Harry Potter. Lord Voldemort was the one whose name was not to be mentioned. They are elevating him higher and higher and higher. When he first ran, people were saying hallelujah. As these others show how petty they are, they're going to begin to say hosanna, hosanna. I read a letter in the Public Pulse this morning by "Nibbity Nability Boo." You've heard that song: "Salagadoola mechicka boola bibbidi-bobbidi-boo, / Put 'em together and what have you got?" Nibbity Nability Doo! Well, he wrote in the Public Pulse about how important it is to pass this bill to give people guns. After all, with these meth labs out there, the citizenry needs to be armed, I guess to become vigilantes.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: Well, I will stop and turn my light on and finish.

SENATOR CUDABACK: Thank you, Senator Chambers. (Doctor of the day introduced.) Senator Chambers, you may continue.

SENATOR CHAMBERS: Thank you. Mr. President, I saw where the current Governor, the unelected, said that he's in favor of a

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

January 12, 2006 LB 764, 765

cemetery for veterans, and he wants to give over a hundred and something thousand dollars for that purpose. Now you know that a man is desperate when he's going to give money to a cemetery, I suspect, hoping that he'll get some votes from the residents. But he needs to know that in Nebraska, to date, those who have departed are not allowed to vote. I think he forgot that it would be better to give money to those institutions that serve people who are alive and can vote. Those in the cemetery cannot. But it's obviously a political maneuver, because those who are dead have been dead. But this move had not been taken, but it's being made now. Before I panic Senator Engel, who has done his job well, I'm going to terminate my remarks on this bill. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Further discussion? Seeing none, Senator Engel, would you like to close?

SENATOR ENGEL: I waive...thank you.

SENATOR CUDABACK: He waives closing. The question before the body is, shall LB 764 advance? All in favor vote aye; opposed, nay. Voting on advancement of LB 764. Have you all voted who care to? Please record, Mr. Clerk.

CLERK: 36 ayes, 0 nays, Mr. President, on the advancement of LB 764.

SENATOR CUDABACK: LB 764 does advance. Mr. Clerk.

CLERK: Mr. President, LB 765 is by Senator Engel, as Chair of the Executive Board. (Read title.)

SENATOR CUDABACK: Senator Engel, you're recognized to open on LB 765.

SENATOR ENGEL: The second Revisor bill simply corrects internal references relating to motor vehicle legislation passed last year. This bill includes the emergency clause so that the Revisor can substitute those sections in bills that might be passed this session. I'd ask for your support.

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

January 12, 2006

of Nebraska to the Legislative Chamber to deliver his State of the State Address.

PRESIDENT SHEEHY: Thank you, Senator Stuthman. I would request...the motion before the body is, shall an Escort Committee be formed to escort the Governor to the Chambers? All in favor say aye. Opposed say nay. Motion carries. I would ask that an Escort Committee be made up of Senators Cornett, Senator Fischer, Senator Baker, Senator Engel, and Senator Landis. Please go and escort the Governor to the Chambers. Mr. Sergeant at Arms.

SERGEANT AT ARMS: Mr. President, your committee now escorting the Governor of the great state of Nebraska, Dave Heineman and his wife, Sally.

PRESIDENT SHEEHY: I would request the committee escort the Governor of the great state of Nebraska, Governor Dave Heineman and First Lady Sally Ganem, into the Legislature. (Gavel) Ladies and gentlemen, legislators, your Governor of the state of Nebraska, Governor Dave Heineman. (Applause)

GOVERNOR HEINEMAN: Thank you. Thank you very much. Mr. President, Mr. Speaker, members of the Legislature, tribal chairmen, distinguished guests, friends and fellow Nebraskans, I am pleased today to join this Ninety-Ninth Legislature at the beginning of a unique session. This may be the last time any Governor will look upon this body and see a group of people with so much institutional knowledge. I'm enthusiastic and optimistic about another opportunity to work with you in the best interests of Nebraskans because we've accomplished so much together in so short a time. This is a good time to govern in Nebraska. Our economy is growing, our schools continue to educate students who are well-prepared for the work force and beyond. As a state, we are continuing to work on the difficult issues of the day, to find common ground and common-sense solutions, both of which are valued traditions in our state. Because the state is headed in the right direction, we have a golden opportunity to keep faith with Nebraska taxpayers. The focus of this session should be to provide meaningful and sustainable tax relief to individual Nebraskans and their

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

January 12, 2006

families. I recognize that you will be under tremendous pressure to pursue additional spending, but I'm here today to make the case for tax relief and spending restraint. We must separate what we'd like to do from what we need to do. And clearly, now is the time for tax relief. The question at hand is not whether we should provide tax relief, but only a question of what kind of tax relief we should provide. The package I'm proposing is designed to provide more than \$420 million in significant relief over the next three fiscal years. My proposal has three important components: income, sales, and property tax relief. People would pay approximately 3 percent less in income taxes across the board. That's \$50 million a year. I want to express my gratitude to Senator Pam Redfield, who has agreed to carry the income tax portion of my proposal during her final legislative session. We all know what is at stake. For Nebraska to continue growing, our state must continue to improve its tax climate for individuals and businesses. We must be willing, in this globally competitive environment, to adjust to new circumstances quickly and intelligently. The next component of my proposal would eliminate the sales tax on construction labor that penalizes individuals and entrepreneurs for improving their homes and businesses. I am grateful and gratified that my own state senator, Senator Ray Janssen, has agreed to carry this initiative. The third component is sponsored by Senator Pat Bourne and would accelerate the property tax relief originally planned for 2009 by investing more than \$170 million in state aid to schools and lowering the levy lid two years ahead of schedule. That represents meaningful and sustainable relief. My goal is simple: to keep Nebraska growing, to make our state an even better place to live, to work and to raise a family. While I am partial to my proposal, I am open to any and all meaningful and sustainable ideas for individual tax relief. That is why I was so pleased when Senator Dave Landis offered his own plan, and a host of others have come forward with additional ideas. When state government is talking tax relief, that's good news for all taxpayers. This session is also unique for the challenges that we must confront. We need to determine the best solution in the fight to protect our children from those who would seek to do them harm by having a statewide conversation about how we can protect our families from sexual

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

January 12, 2006 LB 117

predators. Ours is a goal that cannot be accomplished simply or easily, but no parent needs to be reminded of the cost of complacency. We've come a long way in dealing with sexual predators, yet more can and should be done. We want Nebraska's children to enjoy their schools and neighborhoods without fear. We want parents to worry about their children getting good grades in math and science, not whether their children will come home safe. I have confidence in (sic) Senator Bourne's experience and leadership in this arena will be met with success, as it was a year ago with the enactment of Nebraska's tough, anti-meth legislation. Last year, this body passed LB 117 and I am pleased today to share with you that our law is already making a substantial dent in the problems posed by domestic meth labs. During the first 90 days of implementation of LB 117, our state has seen a decrease of more than 60 percent in reported meth labs over the same period just one year ago. Yet there is more work to be done. We need to discuss the next step in the fight against methamphetamine. Meth addiction has destroyed families. That's why it is so important that we come together to confront this problem. An independent study says we need to fund a meth treatment facility, and I agree. In addition to these important public safety aims, we need to examine how Nebraska serves the vulnerable young people who have become our state wards, and especially the job that we are doing for those in foster care. That's why my budget proposes an independent study of how our system is performing and of how our state can improve its effort. This independent study needs to analyze all of our efforts, from the Health and Human Services System to the courts, from the Foster Care Review Board to other service providers. We need to identify whether there are more efficient and effective ways to organize Nebraska's foster care system. Another challenge our state faces in addressing the health and well-being of Nebraskans is the rising cost of funding Medicaid. If we do not address this issue soon, we will have no room left in the budget for other important priorities, including the education and economic vitality of our state. I have directed our Health and Human Services System to begin the steps necessary to provide community-based Medicaid services as an alternative to institutional care. We have already achieved significant budget savings by encouraging the use of generic drugs and prior authorization, and seeking similar opportunities

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

January 12, 2006

for taxpayer savings is a priority for this administration. Our efforts, if successful, will ensure that children, seniors, and the disabled in Nebraska will continue to receive the protection this program provides without fear for its future. The ongoing dilemma of school district boundaries continues to affect the schools in our smallest communities, as well as those in our state's largest city. If poverty and the concentration of English language learners are the real reason behind the division in Omaha, then we should, as a state, discuss how we can better target our resources to address those specific needs. We all know these challenges are real, but the solution to this issue need not and does not require the OPS takeover of the suburban school districts. Too many of our school districts are spending far too much time and money on lawyers and lobbyists, instead of focusing on our students, our teachers, and our classrooms. Finally, a key issue that I believe compels legislative action in this legislative session involves the long-term supply of our state's most precious natural resource. Water is Nebraska's issue of the decade. Our state didn't get into this situation overnight, and we're not going to get out of it quickly. No place is our challenge more immense or more immediate than in the Republican River Basin, and with these years of extended drought, the issue of water has gained preeminence. Be assured: As long as I am Governor, Nebraska will never forget that our priority is agriculture and the needs of our agricultural producers, nor will we ignore the needs of our cities. While our state faces significant challenges, I am pleased about the opportunity to approach solutions at a time when our state can call upon the counsel of experienced legislators. Any discussion about the 20 senators serving their final terms must begin with the Speaker and my good friend, Senator Kermit Brashear. Senator Brashear faces an extraordinary challenge in his final year, organizing a short session of important and often competing ideas. I know Senator Brashear and I know his commitment to the fair, effective and efficient organization of this body, so that this Legislature can achieve the people's aims in a timely manner. And the Speaker has worked tirelessly to achieve progress on issues where impasse seemed the only possible outcome. I'm proud to call him Mr. Speaker, and I'm proud to call him a good friend. Another leader our state is losing after this session is the

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

January 12, 2006

Chairman of the Appropriations Committee, Senator Don Pederson. Senator Pederson has been a trusted friend for many years. Last year we forged a budget that made significant investments in the education and economic vitality of Nebraska. Those investments targeted K-12 education, the University of Nebraska, and higher education, recognizing each as essential to the future success of our state. While we might not agree on every issue, the Senator has set this body's impeccable tone of cooperation and of professional and courteous disagreements when necessary. I am personally grateful for the leadership of Senator Dave Landis. Together we built a coalition for our state's most comprehensive jobs-creation economic incentive package since the 1980s. The Nebraska Advantage launched a new era of growth on January 1, and I can tell you that economic progress is already being made. In little more than a week, we have received 11 applications for incentives to create more than 3,000 good jobs in our great state. Because we expanded our jobs-creation package to include smaller businesses, the number of employers seeking information on how to grow jobs in Nebraska has skyrocketed. I want to thank all of you who helped Senator Landis pass the Nebraska Advantage in overwhelming fashion, especially Senator Roger Wehrbein, who, as much as anyone, fought to ensure our landmark jobs-creation package addresses the needs of rural Nebraska as much as it does for cities. Two more senators are leaving us this year, after having guided the state through the first steps of overcoming our water challenges. While tax relief may be the dominant issue of this session, water is the most pressing and complicated issue we've approached. Few understand that reality better than Senator Ed Schrock and Senator Elaine Stuhr. The wealth of experience this body is losing doesn't stop there, so I want to extend a brief word to all the senators serving their final terms in the most unique of legislative sessions. Nebraska and I are grateful for your years of dedicated service and we appreciate the contributions that each and every one of you has made. We should not, however, rest on the successes of our past. Future opportunities for our citizens depend in large part on the work we can accomplish together in this short session. Despite the obstacles we face, I am optimistic that Nebraska has a bright future ahead. Our state is on the move. By working together, we have already set the state on a vibrant path towards

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

January 12, 2006

educational and economic success. We are providing our children with a great education. We are investing in our state's economy so that our young people will be able to find a better job right here at home. There are several economic development projects pending, from Scottsbluff to Omaha. Our agricultural export economy is on the mend, particularly in beef sales, and we will continue our aggressive push to help it grow. Nebraska beef is undeniably the world's best and that's why we worked so hard to be the first state serving U.S. beef in Japan. And a new report says Nebraska, more than any other state, stands to benefit economically from the reopening of Asian markets. Economic growth is also why I went to Cuba. We signed a \$30 million trade agreement for dry beans, wheat and soy products, and we've already executed more than \$27 million of that agreement in actual contracts. Ethanol plants are being developed all across Nebraska, because we chose to include energy in our jobs-creation economic incentive package. Since our most recent investments in ethanol, developers have announced plants in Jackson, Fairmont, Mead, Ravenna, Wood River, Ord, Madrid, and Blair, with more to come. Finally, the thing that gives me the greatest hope for Nebraska's future success is my confidence that we live in the greatest state in the greatest country in the world today. And I will never stop promoting Nebraska as the best place to live, to work, and to raise a family, and I know you share that strong belief. Each and every Nebraskan has reasons to be proud of our state, our government, and this Legislature. Governing is about the future, and it is about conquering the next challenge and seizing the next opportunity. We have accomplished an extraordinary agenda together under unique circumstances, and there is no limit on how much more we can do. From LaVista to Beaver City, from Tokyo to Havana, from the most sweeping jobs-creation package to enacting a no-tax-increase balanced budget, we have worked well as a team. That gives me confidence that as long as we continue working together, Nebraska will be on the move. Thank you. (Applause)

PRESIDENT SHEEHY: I would now ask that the committee escort Governor Heineman and First Lady out of the Chambers. Thank you. The legislative body will stand at ease until 10:40.

EASE

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Transcriber's Office
FLOOR DEBATE

January 12, 2006 LB 454, 1060-1064

PRESIDENT SHEEHY: We will call the body back to order. Mr. Clerk, do you have any messages, reports, introduction of new bills?

CLERK: Mr. President, I have new bills. (Read LB 1060-1064 by title for the first time.) I also have a hearing notice, Mr. President, from the Government, Military and Veterans Affairs Committee. That's all that I have at this time. (Legislative Journal pages 308-309.)

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We'll move to the first item on General File.

CLERK: Mr. President, LB 454 on General File. The bill was discussed yesterday, originally introduced by Senator Combs. (Read title.) The bill was discussed, committee amendments were presented, amendments to the committee amendments were presented. Senator Beutler has pending an amendment to the committee amendments. I do have a priority motion, Mr. President. Senator Chambers would move to bracket LB 454 until April 10, 2006.

PRESIDENT SHEEHY: Senator Chambers.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, and for the uninitiated, my colleagues are not intentionally being rude by wandering and speaking, but whenever the Governor has come in, there is always some discussion among the senators about what has been said, so if people see some things, it demonstrates that the public often does not have an understanding of the dynamics of the legislative process. And one of the problems that I find with the public schools, I would say private schools, or any place else where young people are supposed to be taught civics lessons, which means the operation of government, too much is given to theory rather than the reality of what goes on when a political process is in operation. It would be good if the schools in some of these districts would invite their senator or the Clerk, or some person who has knowledge of how the Legislature works in practice, to explain what does take place, and when they see

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

January 12, 2006 LB 454

certain things, they will know what is happening, that it's a part of how the operation works. I'm sure that if a study were to be undertaken by somebody in an academic setting about how a corporation works, there is a tremendous amount that would not be included in that course. Time would not permit, the instructor may not be privy to those things, or the instructor may be afraid to lay out the truth as it is. So we have a situation where new people will come into the Legislature. They may have this notion about what the Legislature is about and how it will operate, from things they have been told by people who do not understand, who have not observed. Well, a lot of time of the senators' will be taken up with legislative matters. We don't have huge staffs, not that we need them. But there is not a distinction in the minds of the public between the Nebraska Legislature and what happens in Congress, when it comes to salary, staff, and other resources. If they were aware of how little we really have to work with, how little money is spent on and by the legislative branch, they could get a more realistic understanding of what is involved, they could assess the Legislature in a more fair and accurate manner. Too many times legislators themselves go along with the program of denigrating the Legislature, ridiculing what it is that we do, never emphasizing that every law in the books which governs all aspects of the lives of citizens come from this Legislature. People can laugh at it if they choose, they can ignore it if they please, but they do so at their own peril. In the same way that those who make lawyers jokes will run to a lawyer as soon as they get in trouble, those who ridicule the Legislature, as soon as they think, "there ought to be a law," here they come to the Legislature, and they expect their wishes to be granted. They have no idea of how many bills, how much work in addition to dealing with bills the legislators give their time to. So when somebody is speaking, even me...now if I thought I was being treated unfairly by people collecting in little groups and discussing things, I'd probably speak more loudly about it than anybody else. But if you understand what the circumstances are, why pretend that you don't in order to make points with the public, which instead of being reinforced in their misinformation, should have their ignorance corrected. Sometimes the only place senators can really get together and discuss or work out issues is on the floor. If they go to their

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

January 12, 2006 LB 454

offices, they miss the debate. Perhaps they want to speak. If they turn on their light, they've got to stay here until they're called on. Somebody may suddenly, in debate, put in a call of the house, and here you have to come running, boogity, boogity, boogity. So in the remaining time that some of my colleagues have, if those of us who are challenging term limits turn out not to be successful, they, along with those of us who have more time, should spend some of it trying to create a clear picture of what the Legislature is about and what it is that we do. You should start by emphasizing that we're not getting those salaries that people get in Congress. I got a letter just the other day, lambasting us for giving ourselves plush insurance programs, adding to the amount we get in our pensions every session, giving ourselves a yearly increase in salary. This was written by a person who was irate and concluded, this is why we need term limits. That kind of ignorance is vincible, which means it can be corrected with information if the person is willing to accept it. Invincible ignorance is that type which cannot be overcome, no matter what. This state is plagued by many people who have opinions on everything about which they are profoundly ignorant. I do blame the schools, to a great extent. Children are not to educate themselves. Parents don't have to educate their children. We encourage their involvement, but if I as a parent am illiterate, that does not mean the teacher is excused from his or her responsibility to teach my child how to read in the classroom. But you know what we've let the teachers get away with saying? Well, the parents don't read books, the parents don't have books, so I can't teach these children. Then you ought to be out of there. You shouldn't be there as a teacher. It would be like saying the only ones who can come into a hospital and expect a positive result are those who are not sick. The hospital is where ill people go to be treated and be restored to health to the extent that can be achieved. And if health cannot be restored, at least receive the kind of treatment which is possible and available under the circumstances. So when we have schools that do not teach the children, there are teachers who do not understand how the government operates, superintendents and other administrators who are equally ignorant, but more culpable because they should know better, we on the floor of the Legislature should be talking about those things. And this session, if we get to the

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

January 12, 2006 LB 454

bill, or some bills, that are going to deal with an issue that the Governor has politicized, namely, the squabble in Omaha between the "Ku Kluxers" in the OPS, and the "Ku Kluxers" in the suburban schools districts, I'm going to have a great deal to say. And so that these news people who don't get things correct can understand my position, I'll put it in a nutshell, which is the same container that holds their brains--a nutshell. I'm going to use this squabble between white folks dealing with white folks' mess, as a leverage to get some of the type of education that our children and poor white children are entitled to, despite the penury or poverty of their parents, the ignorance or lack of sophisticated education of their parents, and the other excuses that are given. We're going to deal with some very down-to-earth, to use the language of the sixties, nitty-gritty issues, and I'm going to see if Jack Nicholson's statement in that movie would be correct: You couldn't handle the truth! Well, whether you can handle it or not, I'm going to lay it on you, brothers and sisters. And the reason I'm saying it on this bill before us,...

PRESIDENT SHEEHY: One minute.

SENATOR CHAMBERS: ...all we're doing is running out the clock. Nothing is going to be accepted in the way of a meaningful amendment. Senator Beutler's might be accepted because it's deemed to be innocuous. But if you look at the amendments that I've offered and go to the locations in the bill they address, you'll see the numbers of defects and flaws in this bill. Thank you, Mr. President.

PRESIDENT SHEEHY: Thank you, Senator Chambers. (Visitors introduced.) Senator Louden, followed by Senator Schimek, Smith, and Chambers.

SENATOR LOUDEN: Thank you, Lieutenant Governor and members of the body. I had the pages circulate this piece of paper this morning around the room, and it was in the Journal Star last Monday, and it was on the blotter page, or whatever it's called there. But anyway, you notice there was a Lincoln woman and her daughter were robbed, and if you notice, the address is on 14th Street, between G and H, and of course, that's down there

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Transcriber's Office
FLOOR DEBATE

January 12, 2006 LB 454

by the Governor's Mansion. And I'm wondering if some of this consideration that we've been talking about, how this would have impacted that lady that was there, walking along, noon, during the middle of the day on a Saturday. If Nebraska would have had a concealed carry law, first of all, whoever decided to accost this lady and her daughter would have to decide whether or not they were carrying a gun. That is one deterrent, just by having the law in place, they have to decide whether those people are actually that vulnerable to be attacked or not. So this is another consideration, by just having the law in place. If you'll notice the law, it isn't necessarily making it mandatory that anybody carries a gun. What it does make mandatory is the education to be able to carry a gun. So in a way, it probably should be considered some type of an education law. I think in days gone by it probably could have been done by the Extension Service of the University of Nebraska, because mostly you have to show proficiency in your firearms, how it's to be used, and have some idea of the laws that are involved. Also, if there is discharge of weapons, why, it has to be reported, and so there's several different areas. It isn't a case where just everybody picks up a shooting iron and starts packing it around. There are laws to follow. Now as I say, it isn't mandatory. If you choose not to follow those laws, you don't have to carry a gun. Just because the law is in place doesn't mean that someone has to go out and purchase one and get your permit and carry it. Just because the law is there doesn't mean you have to do it, no different than just because drivers' licenses are available, that you've got to have a car to drive. There's many people that don't have driver's license. Many people have driver's license and don't drive. So I think that works all the same way. Sometime during the discussion yesterday on it, it was talked about the chance for children to be injured and shooting themselves, and I don't think that is really a valid argument for it. No matter what we have in the household, children are going to...there's going to be instances where children will be injured by whatever it is, whether it's Drano or Sani-Flush or grandpa's heavy-duty pills or your nitroglycerin pills that's sitting in somebody's desk that the kids find out that they can explode them when they hit them with a hammer. There's all kinds of things a kid can...be...get in trouble with. The idea is that this is set up so that you do have to have some

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

January 12, 2006 LB 454

education. You have to know what you're doing with the tools that you have to work with. So I think, after seeing this article in the Lincoln Journal over there, there's a few senators here in this room that walk down that street to and from the office, that live down that street there. So I guess I would ask them whether or not they would probably want to even wait for the chance to have a permit to carry a gun. They would have a valid argument that they could carry one at the present time, because...and have a...

PRESIDENT SHEEHY: One minute.

SENATOR LOUDEN: ...plead an affirmative defense, because this certainly must be getting to be a dangerous area to live in. But we can't allow this to happen right here in the sight of our State Capitol, have somebody mugged. Good Lord, what are we doing here when we're sitting here? We should be considering about what the bad guys are doing. We have murder at the rate of 1 every 12 days or so in Omaha. Last year 30 or so were murdered in the Omaha vicinity, and you figure that out, that's 1 every 12 days. We should be discussing what we're going to do to protect citizens, rather than what we're going to do to help the bad guys. The bad people aren't going to worry about this law. They're going to have their guns anyway. This is something for the concerned citizen and the person that is willing to take training and learn what...how to handle their weapons and go from there, so they have a certain amount of protection in their home. If there's areas that it isn't prudent for them to have guns, because they do not think they can...

PRESIDENT SHEEHY: Time, Senator.

SENATOR LOUDEN: ...defend themselves properly, it shouldn't be done. Thank you, Lieutenant Governor.

PRESIDENT SHEEHY: Senator Schimek.

SENATOR SCHIMEK: Yes, thank you, Mr. President and members. I appreciate the opportunity to renew the discussion today, because actually I've learned a few things, even overnight,

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

January 12, 2006 LB 454

about the concealed carry issue that I would like to share with you today. And, Senator Louden, I think the last sentence in this particular little "From the Blotter" story is instructive because it says neither she nor her daughter were hurt. I personally think that this was a much better situation than if somebody had pulled a gun, and somebody else had deflected that gun, and someone innocently would have been killed. I don't think that's an outcome that would be improved by concealed carry. I had a constituent leave a message on my telephone yesterday, and I didn't get him called back till this morning, but he sent me some information which I think is pretty interesting. And I think if anybody else were to be looking at this open-mindedly, and maybe I'm not open-minded, but I think this is pretty interesting. In Texas in 1995, they passed a concealed carry bill, and it took effect the next year, in 1996. And one of the very, very, very unique provisions about the Texas law was that there would be actually data detailing the day-to-day, real effect of their law. And these statistics would talk about what kind of crimes were being committed in the state, and which ones were actually involving people who were licensed to carry concealed weapons. And the interesting thing about this to me is not that Texas did it, but that no other state in the entire United States has anything in the way of statistics to tell what kind of crimes are being committed by those under a concealed carry law, and who have concealed carry licenses. This law, incidentally, only lasted until 2001, so after 2001, Texas doesn't have any statistics, either. But I would like to share with you some of the information that they did collect in Texas. According to the Texas Department of Public Safety, Texas concealed handgun license holders were arrested for a total of 5,314 crimes from January 1996 to August 31, 2001; 5,314 crimes. And I keep hearing on the floor of this Legislature that crime won't increase with concealed carry laws; that only good people will be allowed to carry handguns. Crimes...this report...and incidentally, this is put out by the group in Texas called the Violence Policy Center,...

PRESIDENT SHEEHY: One minute.

SENATOR SCHIMEK: ...but they go on to say in this report that crimes for which license holders were arrested include murder,

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

January 12, 2006 LB 454

attempted murder, including attempted murder of a police officer, kidnapping, rape, sexual assault, assault, weapon-related offenses, drug-related offenses, burglary, and theft. Now they weren't...I mean, those all weren't part of that 5,314, but...oh yes, they were. There's a smaller number that includes the murder figures. I hope to share more information with you about that Texas study because, in essence, it is the only state in the whole United States that has collected any information on crimes committed after concealed carry laws were passed. Thank you.

PRESIDENT SHEEHY: Thank you, Senator Schimek. We have Senator Smith, followed by Senator Chambers, Erdman, and Howard. Senator Smith.

SENATOR SMITH: Thank you, Mr. President and members. I, too, have heard from constituents on this issue, last night and nights prior, and the overwhelming result is that they are in favor of LB 454. They look at it through glasses of common sense, I believe, without a bias perhaps. But I do have a question for Senator Schimek.

PRESIDENT SHEEHY: Senator Schimek, would you yield?

SENATOR SCHIMEK: Certainly.

SENATOR SMITH: Senator Schimek, and I can appreciate your opinion on this issue. I struggle with how we should address, I think, some realities that do exist. Now in reading the law and trying to study it, it has become apparent that if someone would place a firearm beneath the seat of their car, so as to keep it out of the hands of a thief, they are...they could be held criminally responsible.

SENATOR SCHIMEK: I believe...

SENATOR SMITH: Am I...do I understand that correctly?

SENATOR SCHIMEK: I believe that's true.

SENATOR SMITH: That is true.

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

January 12, 2006 LB 454

SENATOR SCHIMEK: I don't know that for a fact, but I think that's true, Senator.

SENATOR SMITH: Okay, so...okay. Thank you. I just wanted to make sure we were on the same page. And I hope that we look at this issue with the facts, with the obvious, and with the objective of good public policy. I find it unconscionable that we are criminalizing a law...an otherwise law-abiding citizen for attempting to keep a firearm out of the hands of a criminal. Nebraska law says you must display it in the window of your car, because if you put it under the seat--and probably successfully keep it out of the hands of a thief--you're a criminal. I find that amazing, absolutely amazing. When I travel in various places in...on family trips or what have you, I know that my grandma is insistent on putting her purse in the trunk, because even with the car locked, someone can see that, break in, and take it--common sense. Don't you dare do that with a firearm, because then you're a criminal. Amazing, absolutely amazing. Let's come up with good public policy that does take place with LB 454, and use the common sense so that we can have some...a law that's easy to abide by, keep the guns out of hands of criminals, and at the same time have a safer Nebraska. Thank you, Mr. President.

PRESIDENT SHEEHY: Thank you, Senator Smith. Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, because no minds are going to be changed but a record is being compiled, I'm going to say again, during these quiet moments, what I emphasized at length yesterday. The police at the local level, federal officials, know how to conduct stings. They caught a guy in Lincoln, through some undercover work, with fully automatic machine guns, and he went to jail for 27 months. That, in my opinion, is because the authorities felt, these are guns that will wind up in the hands of white people who will use them against white people. This gun dealer is not going to sell me a fully automatic machine gun. They didn't even consider terrorism or possible terrorism against him. If I had a bean shooter and two pockets full of beans and they knew it, they'd want to check me out to see whether I wanted to undermine the

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

January 12, 2006 LB 454

government with force or violence. In Bellevue, as I mentioned yesterday, they conducted a sting at a hardware store, and the operator also had the license to sell guns. And he made a sale to a man he knew, based on the man's representation of his circumstances, could not under the law be sold a weapon. When he did this, and the man who made the purchase was an undercover operative for the federal authorities, they busted him. They know how to conduct stings. There's an article that appeared in the paper about an operation conducted to catch various foreign-born members of gangs, and in the November 29 Omaha World-Herald, page 3B, the headline says: Sweep Nets 47 Gang Suspects. And as they would round these guys up, they would deport them. But here is the significant language in the article, and if anybody wants a copy, I'll give it, but these kind of things I'm not going to just copy and hand out to everybody, in deference to the trees: Officers in the Omaha Police Department gang unit teamed up with the federal agents on most local cases. They offered intelligence and other assistance, while federal authorities were able to use their administrative and criminal powers to deport foreign-born gang members. How is it that they can catch, through a sting, a white guy selling guns that might hurt white people, they can set up a sting and arrest, in Lincoln, a white guy selling machine guns that might be used against white people, conduct a sting to catch foreign-born gang members with the help of the Omaha police gang unit and federal authorities in Omaha, but they cannot put together a program or an approach that will determine the source of the influx of guns into the black community and bring it to a halt? The only reason they won't do it is either they've been bought off, or they want the gang violence, the gun violence to continue. There are people on this floor, at least one, who knows that youngsters of the age, or at least one, seven years had a gun, a real gun, and she had made an arrest. So I'm not making this up. It is impossible for anybody to persuade me that when there is an epidemic of gun violence, that putting more guns in that community will in any way alleviate the problem. What it does...

PRESIDENT SHEEHY: One minute.

SENATOR CHAMBERS: ...is produce an aura of legitimacy to

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

January 12, 2006 LB 454

ordinary people legally having guns. But all the kids will see is that, hey, these guys got guns and nobody bothers them, so it's all right. They imitate what they can imitate that goes along with what they choose to do. And that's why the bad things that adults will do, more often than not, will be imitated by young people than the few good things they will observe in an adult. So I'm going to do all I can to derail this bill and prevent its movement, but if it happens to move, because people are giving a courtesy vote for cloture today, whenever that happens, I'm going to make sure, to the extent that I can, it doesn't appear again for debate on Select File. Thank you, Mr. President.

PRESIDENT SHEEHY: Thank you, Senator Chambers. Senator Erdman, followed by Senator Howard, Senator Schimek, Senator Janssen. Senator Erdman.

SENATOR ERDMAN: Thank you, Mr. Lieutenant Governor. Members of the Legislature, I've sat here for the last day and a half and have listened to Senator Schimek and her research that she's done, and I applaud her for the effort that she has undertaken. I guess my comment would be to check the source. The claim that comes from the Violence Policy Center that Senator Schimek is quoting, that Texas concealed and carry weapon holders are more likely to be arrested--and remember that the Violence Policy Center is actually a gun control policy group that would rather see us not have any guns than actually the issue before us--most of the rest in that study were cited...the individuals were cited for bounced checks or tax delinquency, but they were probably cited for the issues that Senator Schimek did bring up. So the idea that all the people in Texas that have these permits are going to commit the most violent of crimes is simply not true. And the information comes directly from the Texas Department of Public Safety, December 1, 1998. The data also lists arrests. It does not list convictions. And as a member of this Legislature, I've heard many times when some of my colleagues have stood on the floor and said that you are not guilty until you are proven that by the court of law. You are innocent. And so I would caution some of the information that is being presented. When you also compare the entire population of Texas--again, this is the study that Senator Schimek pointed

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

January 12, 2006 LB 454

out--the Texas conceal and carry weapon holders are 7.6 times less likely to be arrested for a violent crime than the general public. So you have to put it in context. And I would yield the rest of my time to Senator Combs, who I believe has some additional information from the research she has done on this specific study.

PRESIDENT SHEEHY: Senator Combs, you have 3 minutes, 20 seconds.

SENATOR COMBS: Thank you. Thank you, Senator Erdman, for yielding your time. Yeah, I did have some data here also from the Violence Policy Center that says...the study suggested that permitholders are 66 percent more likely than nonpermitholders to be arrested for the weapons-related offenses. And here's how that conclusion is brought about. I can explain it. This can easily be explained by the fact that the permitholders, by carrying a firearm on a daily basis, more likely to unintentionally carry a firearm into a prohibited location, and that's listed as a weapons-related offense, not necessarily one where they are trying to assault someone with it, as already discussed. This disclosure is earth-shattering, as one from a study that would say people with drivers' licenses are 66 more likely than nonpermitholders to be arrested for traffic offenses. Of course, it's not shocking. It only stands to reason because driver license holders drive on public roadways where traffic offenses occur. The Violence Policy Center suggested that the weapons offenses involve the use of a firearm, which they did not. The weapons offenses were not using the firearm. The fact is that a vast majority was for technical violations involving a holstered firearm. In 2001, and that's after 1998, the Violence Policy Center conducted the study. The Texas Department for Public Safety reported on the conviction rates for permitholders. So for the weapons-related offenses that they were cited for, permitholders were convicted for 48 of them. Most of these applied to permit...only to the permitholders carrying in a prohibited location. Citizens without permits were convicted for 3,017 offenses. And that further proves the point that you have citizens without permits--3,017 offenses--those...in Nebraska, those would represent the untrained people who currently can carry under

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

January 12, 2006 LB 454

28-, I believe it's, 1202, which this bill is not going...you're still going to be able to do that, just like you do right now. But you see, only 48 of the people committed the offenses who had had the training, compared to over 3,000 in people who did not. The training is an extremely important component. And that's...I took the training. I can tell you it is intense, and it is rigorous. And if Senator Erdman would permit me to use the rest of his time, I just...I had my light on to speak, but I did find out...

PRESIDENT SHEEHY: One minute.

SENATOR COMBS: ...from the NSP, in response to Senator Thompson's question yesterday, about background checks for the mentally incompetent. And by the way, I really doubt that anyone who is mentally incompetent could pass the rigorous training program that I had to go through. Background checks are sent to the state computerized record system, which contains the names and info on the persons determined to be mentally incompetent under the Nebraska Mental Health Act. This check is also sent to a federal criminal history record system. The federal system contains a limited amount of data on mental competency, because it reflects what individual states choose to send to the system under their laws. Nebraska does not send mental competency information on to the federal system. Thank you.

PRESIDENT SHEEHY: Thank you, Senator Combs. Senator Howard.

SENATOR HOWARD: Thank you, Mr. Lieutenant Governor and members of the Nebraska Legislature. This past December there was an article in our own renowned Lincoln Journal Star that discussed how police departments nationwide are rethinking policies that would require officers to carry their weapons with them when they are off duty. Apparently, there have been many incidents of off-duty, plain-clothes police officers being shot by other officers while trying to intervene in life-threatening situations. That makes me wonder. If our law enforcement officials, who receive extensive training, can't distinguish the, quote, good guys from the, quote bad guys when they're carrying weapons, how can it be safe for the average citizen to

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

January 12, 2006 LB 454

carry concealed weapons? This article raised several questions for me. Will people be more likely to be arrested during a routine traffic stop if they have possessions...a weapon in their possession? Does the possession of a concealed weapon automatically give an officer reasonable cause to search? And what about the officers? Will they assume that all citizens could be arrested, and will they act accordingly? I recognize that other states have passed concealed carry laws, but as a parent, when my children were growing up, there were many times when I heard them argue, but everyone else is doing it, or everyone else is wearing it, or everyone else is going there. So I ask you: Just because everyone else is doing it, is it right for Nebraska? Thank you, and I return the balance of my time.

PRESIDENT SHEEHY: Thank you, Senator Howard. Senator Schimek, followed by Senator Janssen, Senator Combs, and Senator Chambers.

SENATOR SCHIMEK: Thank you, Mr. President and members. One of the good things about having more than one opportunity to speak is that you have the opportunity to extend your remarks. And actually, Senator Erdman, I take what you said in stride because that was going to be one of my next points, that the study I'm talking about really does only deal with those people who have been arrested. And there could be some differences between conviction and arrest, but at the same time we're talking about huge numbers here. Actually, I was actually going to break down some of those incidents for you, too: 41 of those arrests were for murder or attempted murder; 14 for kidnapping or false imprisonment; 79 for rape or sexual assault; 279 for alleged assault or aggravated assault with a deadly weapon; 1,315 arrests for driving while intoxicated, 1,315 arrests for driving while intoxicated, these are individuals who have concealed carry permits; 60 arrests for indecency with children; 404 drug-related arrests; 134 individual arrests for sexual misconduct; 19 arrests for impersonating a police officer or a public servant; and 8 arrests for arson. Now, you know, I don't care what you say about where the information comes from. And I'm not reading to you some of the stuff in here that perhaps is biased. I'm just reporting what this group reported, based on

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

January 12, 2006 LB 454

what their Department of Public Safety kept records on. And the fact is that nobody is keeping very good records these days. In fact, nobody these days is keeping records at all. So that means we really don't know what the impact has been in some of these different states regarding the concealed carry. The violent...or, the violence project also reveal that Texas concealed handgun license holders have been arrested for 2.5 crimes a day since the law went into effect; Texas concealed handgun license holders have been arrested for more than 2 serious violent crimes per month, violent crimes per month since the law went into effect; and Texas concealed handgun license holders have been arrested for more than 2 crimes against children per month since the law went into effect. And I'm not going to go through the litany of crimes, but they're not minor. Texas concealed handgun license holders have been arrested for more than four drunk driving offenses per week since the law went into effect. Family violence was identified in 1 in 23 incidents involving concealed handgun license holders. Were there 22 others that involved nonlicense holders? Yes. But would there have been the 23rd one without? I don't know. Texas concealed handgun license holders have been arrested for more than one weapon-related offense every day...every other day since the law went into effect, and so on and so forth. Despite the reporting obstacles and limitations, we know that a good many license holders have been arrested for a wide variety and a wide range of crimes. Arrest data is...

PRESIDENT SHEEHY: One minute.

SENATOR SCHIMEK: ...regularly accepted as a valid measure of crime, reflecting law enforcement response to criminal activity. For example, arrest courts are used as a valid and...I mean, excuse me, arrest counts are used as a valid and reliable measure of law enforcement response to crime by the Federal Bureau of Investigation's Uniform Crime Reporting Program. Regardless of whether or not an arrest involving a concealed handgun license holder results in dismissal or conviction in court, each arrest reflects time and resources spent by law enforcement. In addition, arrest data for the general population of Texas age 21 years and older is also made available by the Department of Public Safety, allowing for

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

January 12, 2006 LB 454

comparison of weapon-related arrests between those that carry and those that don't. And perhaps in the next remarks I can elaborate on that. Thank you very much, Mr. President.

PRESIDENT SHEEHY: Thank you, Senator Schimek. Senator Janssen.

SENATOR JANSSEN: Thank you, Mr. Lieutenant Governor, members of the Legislature. Several years ago, I had a good friend of mine who had taught school in Louisiana, and they stopped in to visit me. I hadn't seen him for years and years. And at that time, this similar proposal was before the Legislature. And in our conversation, I asked Dr. Uhlig what the state that he lived--I believe it was Louisiana--if they had a law that allowed people to carry concealed weapons, with a background check, so on and so forth. And he said, yes, they do. They had one child, a girl. And he and his wife are very well-educated people. They taught in the university in Louisiana. He had a doctor's degree in education. His daughter worked, I believe, as a counselor in one of the schools. And he said, yes, we do, we do have a right to carry in the state of Louisiana. He said, matter of fact, my wife has a permit to carry a concealed weapon, I have a permit to carry a concealed weapon, and our daughter also has a permit to carry a concealed weapon. I said, do you carry that all the time, Dr. Uhlig? And he said, no. But he said, if I'm going to be in an area that I feel that I should need this protection, yes, I do carry it. And this man is a fellow of stout stature, a big man. I went to high school with him, played football with him, and respect him. I mean, he's a very well-educated man. And I listened to Dr. Uhlig as he visited with me that day, and I thought, you know, if this state would ever have this before it, what would happen in Nebraska, you know? And we don't know. We don't know what the consequences are going to be. But looking at the literature that has been passed out to us, it looks to me like every state that has enacted this...and I would imagine there are facts and figures, Senator Schimek has told us some of these facts and figures, complete opposite of each other. If this would become part of our statute, would I go get a permit to carry a concealed weapon? No, not at my age. And Senator Chambers is the same age as I am. I wouldn't. I wouldn't want one, and Senator Chambers wouldn't either. But that's a choice that people would have. I don't believe that

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

January 12, 2006 LB 454

you're going to see a rush of our constituents going to the authorities or whoever...wherever you would get one of these permits. I don't think that's going to happen. But in my opinion, as humble as it is, I think people should have the right to decide for themselves whether they need to carry a concealed weapon. And those people that shouldn't have one are probably going to be carrying one anyway, and probably do now. This is what we're looking at. I think it's a choice of the people of this state,...

PRESIDENT SHEEHY: One minute.

SENATOR JANSSEN: ...whatever their situation is, to have the right, a legal right, to carry a concealed weapon. With that, that's probably all I'm going to say on this bill this year. I've spoken once before. And I think no matter how much discussion we have on this bill, minds are made up. I don't think we're going to sway any of our colleagues one way or the other. If a vote was taken within the next two minutes, it would probably be the same as it's going to be until we go to closure. So actually, I think what we're doing is spinning our wheels. With that, thank you, Mr. Lieutenant Governor.

PRESIDENT SHEEHY: Thank you, Senator Janssen. Senator Combs, followed by Senator Chambers, Senator Erdman, Senator Schimek.

SENATOR COMBS: Thank you, Mr. President, members of the body. I just...I had some other info here that I just wanted to be sure I read into the record. I didn't get it finished the first time I was reading, the actual revocation rate of permits in Texas. Consistent with other shall issue permit states, the Texas permit revocation rate is a fraction of 1 percent. Specifically, according to the Texas Department of Safety, from 1-1-96 to 5-1-02, only 0.7 percent--that's 1,724 of the 240,506 valid permits--were revoked for any reason. Many of these were revoked for technical location violations, offenses unrelated to firearms, like DUI. And it's...this extremely low permit revocation rate and total number of revocations is more evidence that the 3,370 arrests celebrated by the VPC can be misleading. How can all this information associated with the arrest of Texas permitholders be put into proper perspective? Imagine Texas

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

January 12, 2006 LB 454

"Permitholder City," a city with a population slightly smaller than Lincoln's, 250,000, as compared to Texas permitholders, 213,000. Now imagine that only 840 citizens of Texas "Permitholder City" are arrested for crimes of any kind, including traffic offenses, during any given year. That makes two per day. It would be the safest large city anywhere in the country, and probably anywhere in the world. This paints the picture of the law-abiding nature of the Texas permitholders. It is not the picture that many opponents want citizens and policymakers to see. These 2 arrests a day in Texas "Permitholder City" compare to 65 arrests a day in Lincoln, as reported by the Lincoln Police Department in 2003. If LB 454 opponents point to Lincoln for a model of safety already, they should be in awe of the law-abiding conduct of those 213,000 Texans with permits. So I just wanted to make sure that was read into the record. That was a good correlation. And with that, I would return the rest of my time to the Chair.

PRESIDENT SHEEHY: Thank you, Senator. Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, I listened to Senator Janssen, not that I haven't listened to others, and when he said that these people should be able to decide for themselves whether they're going to carry a gun, I disagree. The policy of the state should make that determination. And in my view, the policy should be against allowing concealed weapons to be carried, and that's why I'm going to continue to fight against this bill in every way that I can. I spoke on those Revisor's bills this morning for the following reason: to prove that I intend to use every opportunity to eat up time during this session. So if you give courtesy votes to cloture, you won't get to this bill again, and you won't get to other bills either. And I'm going to do it. So it's fortuitous that the very morning after I made that declaration, I'm up first thing on the first issue on the agenda with the opportunity to deliver on the promise that I made to my colleagues. And one thing I want my colleagues to be aware of, that if I oblige myself to do something, I'm going to do it. Senator Janssen said we're spinning our wheels. That's true. He said no minds are going to be changed. I said that when I started the discussion yesterday. I'm well aware of that. I

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

January 12, 2006 LB 454

have emphasized that my purpose is to compile a record. Everything we say is taped, then transcribed. And some people have made some comments that are, in my opinion, boneheaded. Senator Combs wants to say that 1,074 revocations don't amount to much because you look at the total population of Texas. Well, when you have this many, looking at the actual number, of scofflaws who are carrying concealed weapons, it is a very serious matter. I would have asked her the source of her information, because when people begin to talk about percentages, they do that to get away from talking about the actual numbers that are involved. Senator Louden read...or gave us an article to read from the January 9, 2006, Lincoln Journal Star about a woman walking near where Senator Louden told us was the Governor's Mansion, and her purse was snatched. And he was wondering, if she had a gun in her purse, that might not have happened. They keep saying, those who support this bill, that if a wrongdoer thinks somebody might have a gun, the wrong won't be done. Oh, yes, it will. You walk up, and the first thing you do is grab the purse, and not only do you have the purse; you got a gun now. Or let's say she's suspicious, so she starts fumbling in her purse to get the gun, and he comes...he just swats her upside the head. Thinking a person has a gun endangers the person even more. Cops don't put their guns in their pockets. And some of them who have them on their hip have grabbed them and panicked to such an extent they shot themselves in the leg or in the foot. They're fortunate that they don't...sometimes they wear them, when they want to look real cool, in the small of their back under their shirt, so they can reach back there and pull it out. Some of them, as careless as they are, are lucky they don't stick it in the front of their britches so they look cool, because they'd shoot something else off. That kind of stuff happens. I don't know what is the matter with these cowardly...

PRESIDENT SHEEHY: One minute.

SENATOR CHAMBERS: ...white people in rural Nebraska that they are so terrified they got to be carrying guns. That's all it is, a bunch of cowards out there. And they want to come to the Legislature looking rough and rugged, but they say, but I got to have a gun; I want to walk from my house to the bar; somebody

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

January 12, 2006 LB 454

might slap me and I got to have a gun. That's the way I envision them. That's the way I envision the rural men in Nebraska--scared to death. I started to say shaking in their boots. I don't know what you call those dancing shoes, they've got flat toes so you can stand up on them when you're "balleting," or "ballerinaing." That's what they're shaking in. That's what they wear. (Singing) Tiptoe through the tulips, through the tulips. That's what I envision. It's too bad that...I don't think Tiny Tim is dead. He ought to play that song and dedicate it...

PRESIDENT SHEEHY: Time, Senator Chambers.

SENATOR CHAMBERS: ...to all the scared men in Nebraska. Thank you, Mr. President.

PRESIDENT SHEEHY: Senator Schimek.

SENATOR SCHIMEK: Thank you, Mr. President and members. I would like to call your attention, if you haven't seen it, and some of you, I'm sure, have seen the article from the Lincoln Journal Star this morning, and the remarks by the city administrator in York, and also the city of Lincoln's chief of staff, and others who have some concerns about what this bill really will mean for cities. And it comes back to our discussion from yesterday, and my question about the bill in the first place, which in all innocence I asked. I didn't know the answer to my question as we began the discussion. But I'm becoming more and more convinced that this bill does have a problem. And one, I think it conflicts with existing state statute; and two, I'm not sure that there's any way we can fix it without resorting to new public hearings that will allow us to hear from the cities as to whether they want that ability that they now have to prohibit concealed carry. Unless we provide that opportunity for them to testify, I think that we run into some very serious problems. In addition to that, as we talked about on the floor a little bit yesterday, those particular statutes involving cities of the metropolitan, primary, and first class, and then cities and villages, all four of those statutes are in four different chapters. I don't believe we could amend them onto this bill without running into a germaneness problem, unless, of course,

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

January 12, 2006 LB 454

perhaps, if we did have that additional hearing on the bill. But even if we did do all those things, is there, or should there be some kind of a provision in the bill that says, yes, if this becomes law in the state of Nebraska, do cities and villages have the ability to make the provisions even more stringent? And I referenced the article from the Journal Star this morning, and the chief of staff for the mayor said that the police chief wanted to take a hard look at the bill to see whether it covers the broad array of events and buildings in the city where concealed handguns may not be appropriate. And I can see that there may be, because Lincoln is the capital city, and because we do have a number of events here. The other thing that concerns me about the bill is the great confusion that there's going to be in the public about where it is possible to carry, and where it's not possible to carry. And just the small discussion we had yesterday on church property, and maybe the extreme was, well, does that mean a softball diamond that is on church property is this kind of a place or not? I mean, I think some definitions maybe are missing from the bill that will make it clear not only to the public, but to law enforcement. Then the other thing is, will the public really read the bill? Will they really know what all these multitudes of provisions are?

PRESIDENT SHEEHY: One minute.

SENATOR SCHIMEK: I don't know. But I know how other laws work, and even though ignorance is no excuse when it comes to violating the law, many of us, and I include myself among those many, often have trouble knowing what the law exactly is. Not everybody has a set of statute books in their homes, nor do they have the ability to know what those statutes mean sometimes, because sometimes they're a little convoluted and they reference other statutes as well. So I think just the pure enforcement of this kind of a law is problematic. But my main question is...goes back to what cities can do, and I don't think we have a definitive answer to that, and I think that's a huge concern as to what cities can do under this bill. Thank you.

PRESIDENT SHEEHY: Thank you, Senator Schimek. Senator Erdman.

SENATOR ERDMAN: Thank you, Mr. Lieutenant Governor. Senator

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

January 12, 2006 LB 454

Chambers volunteered to take my time for me, but I think I'll decline his strong-arming, or strong request. Members of the Legislature, I...maybe I'm at a loss and I shouldn't be. It's interesting, as I've been a member of this Legislature, we generally get to this point when we get to controversial issues, Senator Chambers has offered us a bracket motion. And if it hadn't been for the Clerk reading what the bracket motion is, we would have no idea what date it was. But I'm going to rise in opposition to Senator Chambers' bracket motion. But I'm interested in Senator Schimek's comments, as she continually says, maybe we could send this bill back to a committee and have another public hearing. I read the article that she distributed from the Lincoln Journal Star, and I believe it was dated today. It's handwritten the 12th, so I believe that would be dated today, although it's not...oh, there it is, Thursday, January 12. The police chief of Lincoln, I'm assuming, is a member of the Police Chiefs Association of Nebraska. It's just an assumption. I don't have the verification. Senator Schimek is shaking her head. They testified. It would be interesting to see whether they testified on these issues, because according to the fact that he's a member of an association that I'm assuming he had to take a position on, now he says, well, we'd have to take a look and see whether or not we would want to have any other issues in it. He had a chance. The city of Lincoln had a chance. We have a committee hearing process. If the goal of Senator Schimek and the opponents of LB 454 was to fix the bill, I'm sure we could do that. But that's not their goal. It's a tactic. It's, let's send it back to committee. The Chairman of the committee doesn't even want it back, because he knows it's a stall tactic. If you want to fix the bill, we can fix the bill. We could, Senator Schimek, yes, we could. And here's how we could do it, okay? There are amendments filed. They could be substituted. If your concern is, is that if this bill passes, that there are concerns and issues that you think need to be resolved, and you see that it could pass, logically, you would think, well, let's try to figure out a way to make these issues there. But I think your position is, I'm going to exert these "woe is us as a state if this passes" philosophy to try to encourage enough members not to vote for it. And the alternative is, enough members may still vote for it, and your concerns may still be there, whether they're answered or not.

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

January 12, 2006 LB 126, 454

So I guess the strategy that I'm seeing employed is one of uniqueness, but is not unique to this process. I'm concerned about some of the issues, but I think they can be resolved, I firmly do. But that doesn't seem to be the process that this Legislature has undertaken in recent years, to try to resolve these issues where there are strongly held opinions on either side. Now, we have seen in the past couple of years that issues such as even LB 126, there was a resolution. Not that everybody agreed and not that the problem is resolved, but some of the ideas were presented in a way that made sense and were agreeable. That has always been a part of this process since I've been here. I'm a young man. I've only been a resident of the state of Nebraska for 28 years, since I was born. But I have always seen this process to include people of different opinions and viewpoints. They may not be mine. And I guarantee you, there have been things done on this floor, as a member, that I vehemently opposed. But when I looked at the end of the day, I recognized that the process is about a majority, and that's the process that should govern today. Now we have this new idea that has been adopted in this body that 33 is the majority. And that's what it's going to take for Senator Combs to get a vote on her bill, is 33. Now that process is in place so that there's not a rule of majority, that there's not tyranny, okay, that a bunch of people can't get together and say, we're just going to jam something through. Senator Thompson says, jam this through. This has been ten years in the making. This bill has been in the Judiciary Committee for probably five times. We have a lengthy Judiciary Committee amendment before us. We've had discussions year after year. I remember when Senator Tyson sat in my seat, and everybody was in the lounge eating lunch, and there was a few of us on the floor discussing the bill, because everybody thought, well, it's not going anywhere. We've had discussion after discussion...

PRESIDENT SHEEHY: One minute.

SENATOR ERDMAN: ...after discussion, and the same studies and the same comments are presented. They're so predictable, in fact, that there are web sites out there that present Senator Schimek's viewpoint, and then there are web sites out there that present the actual answers to the questions that she was going

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

January 12, 2006 LB 454

to raise. This morning when she brought up the concern from the Violence Policy Center, there's a web site out there that debunks all of their myths. That's how old this issue is. We're not going to change anybody's mind. But if you have legitimate concerns, let's stop this mockery of saying, let's delay, let's delay, let's avoid, let's not do anything. If you have legitimate concerns and you missed your opportunity as a responsible citizen of the state of Nebraska to be a part of the public hearing, then come to the members of the Legislature and try to work out a resolution. The result of the opposition of this will not solve the problem, because they're not willing to accept that. It's nothing, or you're not going to get a vote. And I guess if that's the option before us, cloture sounds really good to me. But I'm willing to work with Senator Schimek or whoever. And I think Senator Flood is going to address...

PRESIDENT SHEEHY: Time, Senator Erdman.

SENATOR ERDMAN: ...some of the concerns that were brought up, as well. But that's not the path we're heading down from the opposition. Thank you, Mr. President.

PRESIDENT SHEEHY: Time. Senator Flood.

SENATOR FLOOD: Thank you, Mr. President, members. I rise to have a conversation with Senator Schimek about some of the statements that were recently made with regard to the germaneness rule, and where we sit with regard to the city versus the state's rights. I think it's a very valid point, and thanks to Senator Schimek for pointing it out yesterday. I think she raised an issue that, if uncorrected, will cause quite a bit of concern among folks trying to determine what is the rule, what is the law in the state of Nebraska. Unlike Senator Tyson's bill, as originally presented back in 1999, Senator Combs' bill does not address the situation of a city's right under the statute to enact ordinances that would essentially prohibit the carrying of a concealed weapon. It's beyond me right now to be able to answer the question as to what would happen if we passed this bill as contemplated in AM0810 that would become LB 454 in communities like Omaha, Lincoln, and cities of the first class. For that reason, I think it deserves

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

January 12, 2006 LB 454

discussion, and I think it's probably going to be a discussion we have, assuming we have the votes to pass this on General File, on a Select File debate. And I welcome that discussion, because I think that's positive. But the issue as to whether or not such an amendment on Select File is germane, I believe is a nonissue for the Legislature in more than one way. In our rules of the Legislature, Section 3...it's actually sub (C), Section 3, sub (d), the germaneness rule is articulated there, specifically on page 49 of the Rules of the Nebraska Unicameral Legislature. "No motion, proposition, or subject, different from that under consideration, shall be admitted under color of amendment. Any amendment that is not germane is out of order. Germane amendments relate only to details of the specific subject of the bill and must be in a natural and logical sequence to the subject matter of the original proposal." Senator Chambers, as a studied lawyer, he knows about subject matter jurisdiction. It's quite different in many regards, but I think if we apply the principles of what we're talking about in this rule, what is the subject matter of this bill? This bill concerns one primary subject--whether or not Nebraskans can carry a concealed weapon, subject to the provisions of AM0810 that becomes LB 454, with the training requirements and the background checks. The bill...the laws on the books now with regard to the...essentially, would be the preemption rights of a city to say, no, you can't do this in Lincoln, no, you can't do this in Omaha, that is germane. This bill is germane to those bills that Senator...to those laws that Senator Schimek referenced earlier, so I do not think the issue of hearings or germaneness applies here at all, and I think that I would join a number of folks in this Chamber in fighting that vehemently. Because if we're going to do concealed weapons, if we're going to address concealed weapons in Nebraska, let's make sure the Legislature communicates very clearly to the rest of the state how we anticipate...how we want the state to address concealed weapons in communities like Omaha, Lincoln, Norfolk, Beatrice, Kearney, and everywhere else across the state. So, Senator Schimek, I guess, as to your germaneness issue, I would oppose any efforts to challenge the germaneness. Certainly, it's within your right to raise whatever questions you want. But I think that after looking at the rules, you would agree with me that that is an appropriate amendment to consider on Select

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

January 12, 2006 LB 454

File. And in fact, failing to consider that amendment, I think, speaks poorly of the Legislature. And to fight the effort simply because you don't like the bill, I don't think that's in the best interest of Nebraskans and those that want to carry concealed weapons.

PRESIDENT SHEEHY: One minute.

SENATOR FLOOD: With that time remaining, I would like to give Senator Schimek, if she so desires, the opportunity to respond to my comments. And I'd be happy to answer any questions she may have of me.

PRESIDENT SHEEHY: Senator Schimek.

SENATOR SCHIMEK: Thank you, Mr. President. I would like to ask some questions, but there won't be time. I'll just make a brief comment. And I appreciate your bringing forth your viewpoint on the issue, and for all I know you're right, Senator Flood. I'm looking at it from the perspective of the cities themselves, who may or may not have involved their city officials, their elected officials, in the discussion of this bill. I don't know that they've had an opportunity to think that they might not be...that they might be covered by this bill, because state statute clearly says they can do their own thing. So I don't know if they've had that opportunity to respond to a situation in which they wouldn't have that opportunity. I mean, do you see where I'm going with that? I'm just concerned they haven't had adequate say on this, and so therefore...

PRESIDENT SHEEHY: Time, Senator Schimek.

SENATOR SCHIMEK: ...it may not be germane.

PRESIDENT SHEEHY: Thank you. Senator Combs.

SENATOR COMBS: Thank you, Mr. President. My LA had told me that, while I was off the floor, that Senator Chambers had asked about the data that I read into the record. And I probably didn't make myself clear when I read it. It is from the Texas Department of Public Safety. We've heard a great deal of debate

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

January 12, 2006 LB 454

on this bill over the past couple of days, and some people are for it and some are against it. The opponents have had a lot to say, had a lot to say about what could happen. This would be relevant if Nebraska was a test case on the issue. But as we look at the maps inside our books here, it's evident that we're not the test case. Forty-six states have some form of concealed carry, as we've said, and thirty-eight states have laws similar to what we are proposing here. We never heard anything yesterday about really bad things happening because of right to carry in those states. We still have yet to hear about permitholders involved in road rage shootings; no rise in accidents, rise in suicides by children or by permitholders, nothing that could be considered relevant or reasonable opposition. The facts are unambiguous. The number of guns in the United States right now is at an all-time high. The number of people carrying concealed firearms legally is at an all-time high. We have 6 million Americans who have these permits now. Despite this, gun accidents still, as we've said yesterday and today, an all-time low; violent crime, 36-year low; murder rate at a 40-year low. And whether or not you want to ascribe that to permits to carry, you cannot say that issuing the 6 million permits has caused an increase in crime, and that is what we heard ten years ago. We're still waiting for that to happen. We've heard all kinds of ideas about what permitholders are going to do wrong. I resent the notion that these permits will go to people who will misbehave. These people will carry, again, without a permit. They're the bad actors we have right now. The Nebraskans that pay the fee, go through the training course, which I have told you is rigorous, pass the background check, and receive a permit, are not the people who should care about. Those are the people...we're the good guys. The bad guys, this...LB 454 has nothing to do with them. The only hope would be that perhaps some of the bad guys, if they turn into good guys, would want to pay a fee and take the course and carry legally. We are citizens who are already carrying them, perhaps illegally in our glove boxes or under our seats, somewhere that they're not laying out in the open, that we don't want to get them ripped off in our car, but we are breaking the law nonetheless. In the state of Florida, the right to carry state which keeps the best records of this kind of thing, permitholders are arrested less often than police officers. And

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

January 12, 2006 LB 157, 248, 454, 1065-1070
 LR 268

let me say that again. In Florida, a state which has issued over 1 million of the permits, they were one of the first ones to begin to do it, recipients of these permits are arrested less than police officers. So I don't think we're afraid of, you know, police officers here in Nebraska who do get arrested from time to time for DUI and other offenses. We still are not reluctant to let them come out and protect and serve. Therefore, I would correlate that with this piece of information that we should not be afraid to have permitholders. I'm not worried about the behavior of good Nebraskans who are going to obtain the permits. We've talked a lot about stats and figures, property taxes. I think we've gotten away from the very core of the issue, and that is safety for victims of violent crimes. The people who have been or will be raped, attacked, robbed, or murdered deserve...

PRESIDENT SHEEHY: One minute.

SENATOR COMBS: ...all that we can give them, a chance to survive, a chance to fight back. Are you willing to look at these victims in the eye and say, I don't trust you to defend yourself? I'm not. I would like to add that I'm thoughtfully considering a lot of the data...the information that has been brought, the amendments that are still on with good ideas. We're going to look at...carefully at things we need to do. And also, when we come to Select File, we will have some changes. Thank you.

PRESIDENT SHEEHY: Mr. Clerk, do you have announcements and items for the record?

ASSISTANT CLERK: Mr. President, I do. New bills. (Read LB 1065-1070 by title for the first time.) Mr. President, a new resolution, LR 268, by Senator Fischer. Amendments to be printed: Senator Baker to LB 157 and to LB 248; Senator Stuthman, amendments to LB 454. (Legislative Journal pages 309-315.)

Finally, Mr. President, a priority motion: Senator Brashear would move to recess until 1:30.

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

January 12, 2006 LB 454, 1071, 1072

PRESIDENT SHEEHY: The motion before the body is, shall the Legislature recess until 1:30, Thursday, January 12? All those in favor say aye. Opposed? We are in recess.

RECESS

SPEAKER BRASHEAR PRESIDING

SPEAKER BRASHEAR: It being 1:30, the Legislature will come to order. All present, please record your presence. Mr. Clerk, please record.

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

SPEAKER BRASHEAR: Matters for the record, Mr. Clerk?

CLERK: I do, Mr. President, thank you. A Reference report referring LB 1025-1050, signed by Senator Engel, as Chair of Reference. Two new bills. (Read LB 1071 and LB 1072 by title for the first time.) And that's all that I have at this time, Mr. President. (Legislative Journal pages 315-316.)

SPEAKER BRASHEAR: Thank you, Mr. Clerk. Members, at this time we will resume debate on Senator Chambers' motion to bracket. Senator Beutler, speaking to the motion.

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, some time ago I filed an amendment, and you probably don't remember what it is because I don't remember what it was. (Laughter) But in the tsunami of cloture, it's going to be washed your way, and I hope you'll recall that it's agreeable to the sponsor of the bill and dismissed by the opposition as inconsequential. So it should be all right with all of you when it gets here, and that's all I wanted to remind you of. Thank you.

SPEAKER BRASHEAR: Thank you, Senator Beutler. Further speaking to the motion? Senator Chambers, you're recognized to close.

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

January 12, 2006 LB 454

Senator Chambers waives closing. The question before the body is Senator Chambers' motion to bracket until April 10, 2006. All those in favor signify by voting aye; those opposed vote nay. Have you all voted? Mr. Clerk, please record.

CLERK: 3 ayes, 28 nays, Mr. President, on the motion to bracket.

SPEAKER BRASHEAR: The bracket motion is not successful. Mr. Clerk.

CLERK: Mr. President, back to consideration of Senator Beutler's amendment to the committee amendments. Senator Beutler, AM1233. (Legislative Journal page 1217, First Session, 2005.)

SPEAKER BRASHEAR: Senator Beutler, you're recognized to open on your amendment.

SENATOR BEUTLER: I believe I've already opened on the amendment.

SPEAKER BRASHEAR: Senator Beutler, would you care to refresh the body as to the intent and purpose of your amendment?

SENATOR BEUTLER: I just refreshed their memory, (laughter) I thought.

SPEAKER BRASHEAR: I'm sorry. I thought you stated you couldn't remember. (Laughter) But the Chair could be in error.

SENATOR BEUTLER: I have a couple images coming back, Senator, so I will say that with respect to the substantive parts of the amendment, there are really just a couple. One of them you may recall, and it prohibits an application by a person who has been declared a mentally...a dangerous, mentally ill person for the last five years; that's changed to the last ten years, to give a little more protection there. And with regard to the violation of certain types of firearm laws and weapons laws, again, the bill prohibited applying for a permit in the last five years; this amendment changes it to ten years. And those...and that is

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

January 12, 2006 LB 454

essentially what the amendment does, other than numerous technical amendments. Thank you.

SPEAKER BRASHEAR: Thank you, Senator Beutler. Further speaking to the amendment? Seeing none, Senator Beutler, you're recognized to close. Senator Beutler waives closing. The question before the body is the adoption of Senator Beutler's amendment, AM1233, to the amendment. All...roll call vote has been requested. Mr. Clerk. We've had a request for a call of the house. All those in favor signify by voting aye; those opposed, nay. Record, Mr. Clerk.

CLERK: 35 ayes, 0 nays, Mr. President, to place the house under call.

SPEAKER BRASHEAR: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Schimek, would you record your presence, please? Members, the question before the house is the adoption of the Beutler amendment to the committee amendments. We have had a request for a roll call vote. Mr. Clerk.

CLERK: (Roll call vote taken, Legislative Journal page 317.) 43 ayes, 0 nays, Mr. President, on the adoption of Senator Beutler's amendment.

SPEAKER BRASHEAR: Senator Beutler's amendment to the committee amendment is adopted. Mr. Clerk.

CLERK: Mr. President, Senator Chambers would move to reconsider the vote just taken.

SPEAKER BRASHEAR: Senator Chambers, you're recognized to open.

SENATOR CHAMBERS: Mr. President, I had a motion up there which I didn't close on. I made no motion to reconsider it, and these people are probably hoping that more people are going to show up. So I'm going to help them take some additional time to do what they want to do. And if they are not going to make their

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

January 12, 2006 LB 454

cloture motion now--and they're free to make it whenever they want to--then I'm going to take a little time to help them get there. But I'm not going to allow movement on any other amendments that are pending on this bill. Even if we reach a point where a vote is taken on my reconsideration motion, the next amendment coming is mine, not Senator Mines'. His follows me, and if we're going to take another afternoon, it's all right with me. As a matter of fact, it helps me in my work the more that is done by others. What Senator Beutler has offered is an amendment designed to bring a partially clean thing out of an unclean thing. If you look at random at any of the amendments that I have pending, other than this first long one that would be next on the docket, you will see that they go to changes that would make the bill better in how it reads. I'm not aware that any of them would substantively alter the bill in any respect, but I can't say absolutely that's the case. Some of them would seem to make changes other than of a grammatical or language nature, but the change is not the kind that would alter the stated intent of this bill. I say the intent of the bill rather than the intent of the introducers, because the introducers are not cognizant of everything in the bill, and they are not knowledgeable about what everything in the bill means. I have a question I want to put to Senator Flood. And are we still under call, Mr. President?

SPEAKER BRASHEAR: We are, Senator Chambers. Senator Flood, will you yield?

SENATOR FLOOD: Yes, Mr. President.

SENATOR CHAMBERS: Senator Flood, yesterday I had brought to your attention a provision in the bill. Do you remember that provision dealing with a reference to a federal statute?

SENATOR FLOOD: Yes.

SENATOR CHAMBERS: It would be on page 5. I think today we're looking at the same version of the amendment, page 5, starting in line 15.

SENATOR FLOOD: Are you referring to Title XVIII, Part 1,

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

January 12, 2006 LB 454

Chapter 44, Section 922 of the U.S. Code?

SENATOR CHAMBERS: Yes.

SENATOR FLOOD: I'm familiar.

SENATOR CHAMBERS: All right, would you tell us what that provision says?

SENATOR FLOOD: Well, it's approximately 26 pages of the U.S. Code, off of the Internet, according to my copy here, that deals with handgun and firearms unlawful acts and practices, wherein Section I, sub (9), I think most of the first part of this section of federal code deals with the restrictions placed on...or the unlawful acts concerning the shipping or transport in interstate or foreign commerce, or possessing or affecting commerce, any firearm ammunition, or to receive any firearm ammunition which has been shipped or transported in interstate or foreign commerce. So much of the bill deals with the commerce clause of the Constitution and its application to restricting certain acts with regard to firearms, but in...on page 9 of my print-off here, much of the bill deals with the restrictions placed around schools, the establishment of school zones, and the prohibition upon bringing a gun into a school zone, as identified and articulated by the U.S. Code. So a lot of what this statute has to deal with is school zones and restricting firearms in those areas. Does that answer your question?

SENATOR CHAMBERS: I want to continue with you. You have not thoroughly read and analyzed all those pages, have you?

SENATOR FLOOD: I did read through this section, 922, of the U.S. Code yesterday, after you had reminded me that we discussed this in the last session. Although I'm not familiar with every page of this, I am somewhat familiar with its contents and would summarize most of it having to deal with school zone and firearms.

SENATOR CHAMBERS: Excuse me. In order that the body is clear, you are dealing only with Section...or this part of it, 922,

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

January 12, 2006 LB 454

correct?

SENATOR FLOOD: Yes.

SENATOR CHAMBERS: Okay, and how many pages does that comprise?

SENATOR FLOOD: On the Internet, from my source, it comprises a total of 26.

SENATOR CHAMBERS: Senator Flood, you are a lawyer. Would a citation from the Internet be accepted by the court as the official version of a statute, if you were quoting it?

SENATOR FLOOD: The citation in the bill, I believe, that you have referenced, is appropriate. I simply use the Internet as my medium to get the information that you had requested I review, for purposes of this conversation. So I...

SENATOR CHAMBERS: Have you...excuse me. Have you compared what you got from the Internet with what is contained in the federal statute?

SENATOR FLOOD: Well, I use the Internet to pull up portions of the U.S. Code. So did I get this out of a book from the Revisor of the U.S. Code in Washington, D.C.? No. Did I get it off the Internet and a reliable source? Yes.

SENATOR CHAMBERS: And what was the reliable source?

SENATOR FLOOD: I used the Cornell Law School, LII, Legal Information Institute, for purposes of obtaining the U.S. Code.

SENATOR CHAMBERS: And is that Cornell citation recognized as an official repository of the federal statutes, the contents of them? Here's what I'm getting at. If a comparison is made between what you got off the Internet and what could be found in a bound volume of the U.S. Code, would they say the same thing? Would they be identical? And that's why I asked had you read first, and you mentioned that you had read through it. Then I asked had you made the comparison between what you read from the Internet and what actually appears in the U.S. Code. And you

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Transcriber's Office
FLOOR DEBATE

January 12, 2006 LB 454

haven't compared the two, have you?

SENATOR FLOOD: I have not compared the two.

SENATOR CHAMBERS: Okay. I'm trying to compile a record. You did not draft this statute, did you?

SENATOR FLOOD: This bill, or the U.S. Code?

SENATOR CHAMBERS: This bill that we're talking about.

SENATOR FLOOD: No, I did not.

SENATOR CHAMBERS: And you did not put that reference to the U.S. Code into this proposal by way of an amendment; did you?

SENATOR FLOOD: No, I did not.

SENATOR CHAMBERS: And had I not asked the question, there wouldn't have been any particular reason for you to have sought out what is contained in this reference; is that true?

SENATOR FLOOD: That would be true.

SENATOR CHAMBERS: So at this point, nobody on the floor really knows the full content of what we're incorporating into this bill by reference to a federal statute; is that true?

SENATOR FLOOD: I can't answer that question because it calls for speculation on my part as to what people in this body do or do not research in any given bill.

SENATOR CHAMBERS: Well, if they don't even know what's in this proposal, you suspect that they do know what is in that statute that you, a lawyer, had to look up and still don't know everything that's in it?

SENATOR FLOOD: Well, I know that...

SENATOR CHAMBERS: You don't want to speculate, in other words. That's what I'm asking you.

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Transcriber's Office
FLOOR DEBATE

January 12, 2006 LB 454

SENATOR FLOOD: I wouldn't speculate as to...

SPEAKER BRASHEAR: One minute.

SENATOR FLOOD: ...as to what my colleagues will, you know, will actually research as far as the bill is concerned. Had I looked at this prior to this year? Yes, I had. In our last debate in the 2004 Session, or 2005 Session, you and I discussed this issue, and I had read it at that time, and so I've refamiliarized myself with it. But I don't know that...I certainly would support the reference in Senator Combs' bill to this section of the U.S. Code because it seems to make sense. We do not want guns in school zones.

SENATOR CHAMBERS: Did you compare what is in that code with the specific provisions of this bill and can tell us with assurance that there is no conflict between anything in that Section 922 that you read, and anything in this proposal that's before us now? Will you give us that assurance? And I'm not going to argue with you; I just want it for the record.

SENATOR FLOOD: There did not appear to be anything in the U.S. Code sections that I read that seemed to conflict with what the bill contained.

SENATOR CHAMBERS: When you use "seems" and like that,...

SPEAKER BRASHEAR: Time. Senator Beutler, I understand. The call is raised. Mr. Clerk.

CLERK: Mr. President, I have a priority motion. Senator Combs would move to invoke cloture, pursuant to Rule 7, Section 10.

SENATOR COMBS: I'd like a...also, for that one, a call of the house and a roll call vote in reverse order.

SPEAKER BRASHEAR: We have a request to put the house under call. All those in favor signify by voting aye; those opposed, nay. Please record.

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Transcriber's Office
FLOOR DEBATE

January 12, 2006 LB 454

CLERK: 42 ayes, 0 nays, Mr. President, to place the house under call.

SPEAKER BRASHEAR: Thank you, Mr. Clerk. The house is under call. Senators, please record your presence. Unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Members, the first vote is the motion to invoke cloture. All those in favor vote aye; those opposed, nay. We've had a request for a roll call vote. Mr. Clerk.

CLERK: (Roll call vote taken, Legislature Journal page 318.)
34 ayes, 7 nays, Mr. President, to invoke cloture.

SPEAKER BRASHEAR: The motion to invoke cloture has been adopted. Members, we now need to dispose of the pending matters with regard to the bill. Our first vote will be the vote on Senator Chambers' motion to reconsider. All those in favor signify by saying (sic) aye; those opposed, nay. Have you all voted? Please record.

CLERK: 4 ayes, 33 nays, Mr. President, on the motion to reconsider.

SPEAKER BRASHEAR: The motion to reconsider is not adopted. The question before the body is now the adoption of AM0810, the Judiciary Committee amendments to LB 454. All those in favor vote aye; those opposed vote nay. Have you all voted? Please record, Mr. Clerk.

CLERK: 39 ayes, 5 nays, Mr. President, on adoption of committee amendments.

SPEAKER BRASHEAR: The committee amendments are adopted. The next question before the body is the advancement to E & R Initial of LB 454. All those in favor signify by voting aye; those opposed vote nay. Have you all voted? Mr. Clerk, please record. A record vote has been requested.

CLERK: (Record vote read, Legislature Journal pages 318-319.)

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Transcriber's Office
FLOOR DEBATE

January 12, 2006 LB 454A, 454

33 ayes, 11 nays on the motion to advance LB 454, Mr. President.

SPEAKER BRASHEAR: LB 454 is advanced. Mr. Clerk. The call is raised.

CLERK: Mr. President, the next bill, LB 454A, is a bill by Senator Combs. (Read title.)

SPEAKER BRASHEAR: Senator Combs, you're recognized to open.

SENATOR COMBS: Thank you, Mr. Speaker. The A bill that we have will have some changes made to it on Select, reflective of some funding differences that have occurred since we changed from the sheriffs to the State Patrol. It eliminates the need to divide the revenue and expenditures between the county and the state. It...AM1854 corrects an error in AM0810, by changing the cash fund to which revenue will be directed from the Public Safety Cash Fund to the Nebraska State Patrol Cash Fund. No General Funds are appropriated by the A bill amendment, and all funds appropriated are cash funds. Thank you.

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Open for discussion on the motion of advance to E & R. Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, when a bill passes from one stage to the other, people usually automatically vote for the A bill, and generally I do, too. But this is such a bad bill, and what it does is so nefarious, that I'm not going to vote for the A bill and it may move. And before Senator Combs, and mainly...Senator Combs, this comment is to the NRA. I don't want you to misunderstand. We had our conversation about that. Before the NRA runs squawking with a sense of victory back to Washington, D.C., or wherever the rock is from which...under which they crawled, they need to know that the session has been delivered into the hands of the honorable Ernie Chambers, representative of the 11th Legislative District. In the legend, as Senator Synowiecki...he's old enough, I think, to understand this story and may have heard it, but the young bloods such as Senator Flood and the others may not know.

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

January 12, 2006 LB 454A

There's a story about a little boy in Holland who stuck his finger in a small hole in a dike to stop the hole from getting bigger and, ultimately, the entire area being flooded. Well, there are more holes in this dike than there are fingers in the Legislature, combined, to stop the water. John Marshall is considered to have been the greatest Chief Justice of the U.S. Supreme Court. He handed down a decision which had the effect of breaking a bank. Then President Andrew Jackson was upset and did not like this. He said, if you don't give me the deed to your ranch, I'm going to throw you on the railroad track. Actually, he didn't say that. But it's to show how brain dead my colleagues are. I'm speaking for the record. He said, John Marshall has issued his decision; let him enforce it. I have issued my declaration of what my position is from here on out. The task of the 48 of you--well, not 48; whatever number voted for cloture--is to stop me. Now do you think that you're going to get the same number of votes on every one of your bills that you gave here today? I personally am curious to find out and the only way to find out the answer to a matter is to put it to a test. I do not feel any of the emotions that one would feel who has suffered a defeat. I feel liberated. It is difficult for me, as mean as some people think that I am, to tie the Legislature in knots without a justification, other than that I don't like a particular bill. But when an act has been placed, which in my opinion goes so absolutely contrary to the public interest, I have a sworn duty to prevent that thing from coming to fruition and being enacted into law. If there are other bills, proposals, or propositions that get in the way, that is the price that my colleagues have agreed to pay.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: And I am prepared to exact it. Look up in the dictionary "Atropos," A-t-r-o-p-o-s. Look up Atropos. And while you're at it, look up "Fates", F-a-t-e-s, with a capital letter. And it probably will have a capital letter, because the word "fate," which does not refer to those three, always has a small letter. I'm going to have a good time this session and the rest of you will have an interesting time. There are lobbyists whom you all should talk to because you believe them more than you believe anything and anybody else. Ask them the

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Transcriber's Office
FLOOR DEBATE

January 12, 2006 LB 454A

consequence of what you have done.

SENATOR CUDABACK: Time, Senator Chambers.

SENATOR CHAMBERS: I figured it. That's why I paused.

SENATOR CUDABACK: You may continue. Your light is next.

SENATOR CHAMBERS: Thank you, and I knew I'd be able to. That's why I was willing to let that dramatic pause take place. I will deliver on my promises. There are senators who made promises to various constituencies and they have violated those promises already. Senator Aguilar probably could give an example. So I never expect the senators to stand firm behind something, when somebody has filtered something into their backbone to give it the consistency of a banana, rather than Jell-O. It will evaporate. The NRA is not going to do their work for them on their specific bills, and we will have the opportunity to see how the Legislature functions. I know that many of you have been told that you ought not let me dominate the Legislature, and when that's brought to me I always say, they can't stop me. You know the only way they're going to be able to stop me, Senator Pahls, is if all of you all stick together on every bill that comes through here, which means that no bill is controversial anymore, because we know the outcome. Every bill on the agenda is going to get at least 25 votes, but they've got to get 33 first. So each one of you is counting on your unreliable colleagues to reach a total number of votes of 33. Your colleagues, you're going to find out, are like a broken tooth and a foot out of joint. You dare not put any force on either one of those, if you don't love pain. And if you love pain, I'm not worried about you, because you've got some issues that will make you outside of the pale when it comes to dealing with these matters. Well, suppose instead of putting all their weight on the foot out of joint or the broken tooth, and they just want to, as Bill Withers said, lean on me--all they want to do is lean on their colleagues. The "Bibble" took care of that. You are like a sharpened stake, which when leaned upon will pierce the palm. That's what you're going to get, and you got it coming. I'm not a vindictive man; I'm filled with forgiveness, but every now and then even God wants vengeance,

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Transcriber's Office
FLOOR DEBATE

January 12, 2006 LB 454A, 454

and He knows it is so sweet. That's why, according to the "Bible," God said, vengeance is mine. It's so sweet that a human being cannot deal with it, once tasted. Maybe that was what was symbolized by that fruit in the garden that Eve allegedly gave to Adam. And I think she was framed. They always blame women for everything. And I'm wondering why people refer to God as "He." What distinguishes male from female? If they don't have physical parts, you cannot make the distinction. But since those who were supposedly divinely inspired by God used the pronoun "he," the masculine, what is it that makes one masculine? If you're in a biology class you'd know, wouldn't you? If you live on a farm and watch the "animals" you know, don't you? In order for God to be identified with a pronoun, that critter, whatever it is, must have dimensions. Have you ever stopped to think what the dimensions of God are that make Him a him, rather than a her? Think about it when you all say these things.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: Not everybody sees these things the same way, just as not everybody sees LB 454 the same way. Rather than having shot me through the heart, which is something I don't have anyway, it has pierced the heart of the Legislature. Now there are some people here who judge me as themselves, and they think I'm as weak as they are. They think, Senator Aguilar, I can be frightened off a position that I've taken, off a commitment that I made, because they can be forced away from a commitment that they made to a constituency. But that is not the way that I am.

SENATOR CUDABACK: Further discussion on LB 454A? Senator Don Pederson.

SENATOR D. PEDERSON: Mr. President, members of the Legislature, what I'm going to talk about doesn't necessarily have anything to do with LB 454A, but a lot of times we talk about things that don't have all that much to do with what is under discussion. What I'm concerned about is that I have always been proud of the fact that this is a nonpartisan Legislature. And I think we all approach issues, as we should, based upon the issues themselves,

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Transcriber's Office
FLOOR DEBATE

January 12, 2006 LB 454A, 454

and not on political affiliation. The other day, I received a letter from the Republican organization that said concealed hand carry is a core Republican belief; therefore, I must support it, since I'm a Republican and have been all of my life. And then today, I received a copy of an e-mail that was sent by the Republican organization, presumably to all the Republicans they could think of, suggesting that we must protect your Second Amendment rights, and you must act now. And it said that there was going to be a filibuster and that we should vote to cease the filibuster. And it says, please contact the following swing senators and encourage them to vote for cloture, and I won't name the six senators on here, but my name is one of those. And they say that this deserves a fair vote and that I would be depriving the people of a fair vote if I didn't vote for cloture. Well, I didn't vote for cloture, but not because Senator Jeanne Combs didn't do a really good job and that she had a worthwhile proposal. I was frankly offended by a political organization suggesting that I should do something because of the political affiliation. I think that we should always maintain our integrity as state senators in a nonpartisan Legislature and view the issues before us on the basis of their quality. I just want to call your attention to the fact that we need to preserve this nonpartisan aspect. Thank you very much.

SENATOR CUDABACK: Thank you, Senator Pederson. Further discussion? Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, I got ahold of a letter, which...it's from Mark Quandahl, oh holy Mark Quandahl, who, in the article I read the other day, said that he believed in the prayer, and he thought we should have prayer. And he now is the chairman of the Nebraska "Repelican" Party. And I'll read the last paragraph: As a Republican member of the Legislature, I think it is important for you to consider that LB 454 strikes at the very core of what we stand for, reflects the common-sense values rooted in Nebraskans everywhere, and is in accordance with both our state and national party platform. As debate begins, I truly hope that you lend your support to LB 454 and ensure that this critical piece of legislation finds its way to the Governor's desk. I had no idea that, from my Republican colleagues, guns is more

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Transcriber's Office
FLOOR DEBATE

January 12, 2006 LB 454A, 454

important than Medicare, Medicaid, homelessness, energy support for those who might freeze in the winter. Senator Jensen is sitting over there tricking me all this time, making me believe he cared about the people who are dealt with through his committee, and his core value is guns, as he proved here today. Well, every bill is within my sights, to use the terminology, and I'm going to show the "Repelican" Party and the NRA and the other parts of the axis of evil that there's one man on this floor who is not going to fold. I don't have to resist you all for a lifetime. I don't have to resist you for a year. I don't even have to resist for 90 legislative days, not 60 legislative days. Do you think if you make an ugly face at me it's going to have any impact in swaying me from what I intend to do? If my intelligent arguments cannot sway nincompoops away from voting for a piece of trash like LB 454, then you know that your ugly faces and dissatisfaction will not sway me from anything. I refrained from offering legislation that I had intended to offer so that my plate would be clean, and all I have to do is clean some clocks around here. And I want everybody to know with whom I may have had discussions in the past on specific bills, every bill that comes before us is in my sights. All bets are off. All bets are off. My job in the Legislature supersedes any and every thing while I'm on this floor. And there is evil abroad in the land, and I must fight that evil, and I must whip that evil. So you all ought to be happy because you know I can bring weaklings and cowards together. I can make them stand together against me, when they will not stand together for something. So I'm going to unify the cowards in this Legislature as Hitler unified all of Europe against Germany, and there was another chancellor of Germany before him who did the same thing. So I'm going to follow those...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...established precedents, and I'm going to unify all of the European Americans, and I'm going to allow Senator Aguilar honorary membership among the Euro-Americans here. In the same way that, in apartheid South Africa, they granted honorary citizenship to certain people from Japan, because they had economic ties to them, I am hereby officially and formally bestowing honorary Euro-Americanism on my good

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Transcriber's Office
FLOOR DEBATE

January 12, 2006 LB 57, 454A

friend, Senator Aguilar. I don't anybody to feel left out, and I would never suggest that he should throw his lot in with me. I don't want any help. I don't want any support. I want to stand alone in my magnificent aloneness, hurling my taunts in their face. And what can they do about it?

SENATOR CUDABACK: Time, Senator Chambers. Further discussion on the advancement of LB 454A to E & R Initial? Motion on the desk, please.

CLERK: Mr. President, Senator Chambers would move to indefinitely postpone LB 454A. Senator Combs, you would have the option to lay the bill over at this time, if you so chose, Senator. Does that mean you'll take it up, Senator? You have the option to lay the bill over. Senator Chambers has filed a motion to indefinitely postpone. You have the option to lay the bill over. You want to lay the bill over? Let's go to the next bill.

SENATOR CUDABACK: Mr. Clerk.

CLERK: Mr. President, next bill. LB 57 is a bill by Senator Foley. (Read title.) The bill was introduced on January 6 of this year...or of last year, excuse me. At that time it was referred to the Judiciary Committee for public hearing. The bill was advanced to General File. I do not have committee amendments, Mr. President, but I do have other amendments to the bill.

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Foley, to open on LB 57.

SENATOR FOLEY: Thank you, Mr. President, members. Four years ago I offered legislation, now referred to as the fetal homicide statute. I was assisted in the crafting of that law on the floor by Senators Brashear, Bourne, Senator Don Pederson, and former Senator Curt Bromm, to whom I'm very grateful. On Final Reading, well over 40 senators supported that legislation. And now, with four years of experience with that law, we can see that this new statute, although used infrequently, has led to the successful prosecution of persons who unlawfully attacked

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

January 12, 2006 LB 57

pregnant women and killed their unborn children. Let me cite one quick example. In the summer of 2004, Kevin Mattini was out driving in the Omaha area. His blood alcohol content was three times the legal limit, and there were traces of methamphetamine in his system as well. Kevin Mattini was driving the wrong way down 30th Street in Omaha, and smashed his vehicle into Linda (sic) Turco, an 18-year-old woman who was eight months pregnant at the time. Linda (sic) Turco, thankfully, did not lose her life, but she did suffer a broken leg. However, her unborn child was killed. Kevin Mattini is in prison today because of his drunk driving that led to the killing of Linda (sic) Turco's baby. The legislation before us today takes the law on fetal homicide a step--a small, incremental step--further, and says if the unborn child survives the act of violence but suffers serious bodily injury, then the actor who inflicted the injury can and should be prosecuted for the injuries sustained by the child. As we enter the debate on this bill, I make this plea. I respect the fact that on the central questions associated with Roe v. Wade there are differing points of view on this floor. But the legislation before us does not address our differences on that matter. This legislation, please understand, is simply an effort to address questions associated with protecting unborn children outside of the context of abortion. The bill only relates to third-party attacks against pregnant women and their unborn children. It does not in any way address actions taken by the mother of the child. Some 33 years ago, the U.S. Supreme Court issued its now infamous abortion decision, Roe v. Wade. Writing for the majority on the court, Justice Harry Blackmun specifically indicated that outside of the context of abortion, it would continue to be permissible to give legal recognition to what he referred to as unborn children. Over the years, as the court has further spoken on matters of this nature, the court has consistently used the term "unborn child" or "unborn children" to give recognition to those instances outside of the context of abortion where the unborn could continue to enjoy legal status and rights. Consistent with those U.S. Supreme Court decisions, I offer today LB 57. LB 57 creates the criminal offense of assault of an unborn child. If a person causes an unborn child to receive serious bodily injury, as that term is already defined in our criminal code, he or she could be subject to

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

January 12, 2006 LB 57

criminal assault charges of an unborn child, depending on the facts and circumstances of the case. Under the bill, a person who intentionally or knowingly causes serious bodily injury to an unborn child is subject to first-degree assault. A person is subject to second-degree assault of an unborn child if he or she causes serious bodily injury to an unborn child as a result of the reckless use of a dangerous instrument. Introduction of LB 57 is a continuation of recent efforts by our Legislature to protect the life of the unborn child from criminal third-party attacks. Again, February 2002, the Legislature acted with overwhelming support to pass the Homicide of the Unborn Child Act, a bill that created criminal offenses for homicidal acts causing the death of unborn children. LB 57 before us today is a natural extension of the work this body has done in recent years to abide by our state's policy regarding unborn children, as enumerated in our statutes, and I quote: to provide protection for the life of the unborn whenever possible. The legal territory LB 57 covers is by no means new ground as to whether...as to what other jurisdictions around the country have established. Fifteen states have enacted some form of fetal assault criminal offenses. Similarly, the federal Unborn Victims of Violence Act, sometimes referred to as Laci and Conner's Law, which President Bush signed into law a couple of years ago, establishes penalties for criminal acts that cause the bodily injury or death of an unborn child which occur on federal property or by federal personnel. LB 57 seeks to model these legislative efforts in providing full legal protection to some of our state's most vulnerable individuals from criminal attack. A need for this bill does exist. Since the Homicide of the Unborn Child Act passed in 2002, there have been four known cases here in Nebraska where pregnant women and their unborn children were murdered. The fetal homicide statute has been used to successfully prosecute the assailants in those cases. However, if the unborn children in those cases had lived through the attack and suffered serious bodily injury, the assailants could not be criminally charged for the injuries sustained by the child. LB 57 fixes this deficiency in our law and closes the loophole. The law is also needed because it has been shown that pregnant women, and consequently their unborn children, are more likely to experience violent attack than women who are not pregnant. LB 57 recognizes this phenomenon, and seeks to

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

January 12, 2006 LB 57

provide full legal protection for the child the woman is carrying. The Nebraska Legislature, in bills that I've voted for, has created felony penalties for animal cruelty. In recent years, the Legislature unanimously passed legislation that made acts of cruel mistreatment of an animal a felony. If state laws can recognize and punish nonfatal violence impacted upon animals, then surely we can offer similar legal protection to unborn children. LB 57 is the logical extension of our successful work of four years ago on fetal homicide. The language of the bill only asks that we show a modicum of respect for the life and dignity of the unborn. I ask for your favorable consideration of LB 57. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Foley. You've heard the opening on LB 57. Mr. Clerk, please.

CLERK: Mr. President, the first amendment I have to the bill, Senator Chambers. Senator, I have FA197. (Legislative Journal page 1312, First Session, 2005.)

SENATOR CUDABACK: Senator Chambers, you're recognized to open on your amendment to LB 57.

SENATOR CHAMBERS: Mr. President, members of the Legislature, this is a bill that I think is preposterous. It is unenforceable, it is simpleminded, and it's a part of that Catholic male agenda of looking at the relationship between a pregnant woman and a fetus, and making the woman less and less significant and the fetus more and more significant. You can kill the mama; keep the fetus, because if the fetus comes to full term, that fetus can be brainwashed. That's why they don't want a provision in these antiabortion bills that they bring that would protect the health of the woman. She's unimportant. She's insignificant. The bill that Senator Foley brought last year that dealt with whatever it did, was one which I thought should have put the woman first. And if she's pregnant, it becomes an aggravation of the offense against the woman. The fetus has no independent existence. I don't care what their religion says. They can say until they're blue in the face that at conception you have a human being, and I say, poppycock. And the church didn't even teach that all the time. And for Senator

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Transcriber's Office
FLOOR DEBATE

January 12, 2006 LB 57

Foley's information, because I'm Jesuit-educated, I graduated from Creighton, at the time I reached my senior year, I had so many credits I just started skipping classes and getting AFs, which are absence failures, because I had way too many hours, and I graduated anyway, naive, black man that I am. I went to Tech High, which was considered a dumb school when I went there, a trade school, not college prep. And when they said "college prep," to show you how little I knew, I thought it was a wing of Creighton Prep. I didn't know what "prep" meant, other than Creighton Prep, and I didn't know what the "Prep" in Creighton Prep meant. At the time I went to Creighton University, Creighton Prep was on that campus, and they were some little hellions, as they probably still are. Seems like on Catholic campuses they have more trouble than on others, because there is such an attempt to regiment and restrict them. And remember, I went to school, I watched them, so I know what I'm talking about. I'm not acting; I'm "facting." And anybody who's gone to a Catholic school or who knows people who go can tell you what I'm telling you is true. But when I went to that Catholic university, Creighton, I made the mistake when I was a freshman of leaving my books in the library. Every one of them was stolen, every one. I never bought another book while I was in undergraduate school. I used the material in the library. And as a result of that, I always knew more in the classes than the other students, because I wouldn't restrict myself to the number of pages that we were given for an assignment. I would get from the syllabus what the purpose of the course was, and then I'd just read and read and read, and I could answer every question that was asked. I had a priest for a teacher named Paul Smith, and he'd let me sleep in class, because he knew I was working at the Post Office, and I worked nights, and sometimes I'd come right to school. He'd let me sleep. And when they couldn't answer a question, he'd say, somebody wake up "Ernst." My name is Ernest. I don't like it, but things happen that way. So they'd wake "Ernst" up, and Paul Smith would say, "Ernst," we have a question; they can't answer it. He'd ask the question, and I could answer it. And you wouldn't have to be a genius. All you would have to have done was read the material. Because I often disagreed with my instructors up there, especially when I was in their theology courses that they call philosophy, I would answer the question, I'd draw a line, I'd say, everything

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Transcriber's Office
FLOOR DEBATE

January 12, 2006 LB 57

above the line is answer to your question as you asked it; everything below the line is my opinion about this. They never graded me down on the stuff below the line, but they would make comments to the Catholics and ask them, why can't you do as well? The courses I took were in lieu of theology, but they were theological courses based on the teaching of the guy they call Saint Thomas Aquinas, the Angelic Doctor, the Cherubic Doctor. He went back to Aristotle, took everything Aristotle said as gospel truth, and as a result he believed in what's called spontaneous generation, which means that life springs up from nowhere. Why did Aristotle say that, as brilliant as he was? Because if you let food rot, then maggots would appear. Not knowing anything about science to the point of understanding what happened, he didn't realize that flies laid eggs in rotting matter, the eggs hatched, and out came maggots. So Thomas Aquinas explained as exhaustively the theory of spontaneous generation as he explained why God exists. Well, if he can't get it right about where maggots come from, why should I believe what he says about God? But that's the kind of Catholic environment I went to school in. My teachers were priests. They wore backward collars and gowns, or whatever they call them. Some of them even taught law courses. I went to Creighton Law School, too, and graduated from there. Didn't attend classes, was prevented from taking my exams, and then barred from returning to the school for several years. And I was very angry, and I had a meeting with the dean. And all this is going to tie into what's here, because it's going to tell you why I know more about this kind of stuff than Senator Foley. But I'll go ahead and say that, so you all won't be lost. The Catholic Church had taught that a male received a soul earlier in its development than a female. That was church teaching. Now, I've said that before. If I'm lying, let their cherubic, angelic doctors come forth and show that I'm lying. He might know that. But anyway, the dean would not let me register. They had thought, because the white boys were upset...I was the only black guy in the school, I was working at the Post Office, I wore T-shirts and khakis, in those days, and combat boots. They would discuss with me how I ought to dress. I'd say, well, if you pay more attention to your classes and less attention to how I dress, you'd have made the dean's list, because I was number four on the dean's list, not that other list that

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

January 12, 2006 LB 57

wouldn't let me come back to school. It finally dawned on them that even though I didn't come to classes, I could pass all the tests, so they wouldn't let me take my exams. And I told the dean that when we reach the level of a professional school, we should be considered mature enough to make a decision about how often we need to come to class to learn what we need to pass; so let me take the exams, and if attendance in the classroom, hearing what the professor has to say, is essential to passing the exam, then my sin carries its own punishment; I will flunk the exam. He said, well, Mr. Chambers--I wasn't a senator then--Mr. Chambers, we know you'll pass any exam they give you. I said, then why don't you want me to stay here? Well, some of the students complained because I cut too many classes. What business is it of theirs? But again, a black man, and I was treated differently from the way the white students had been. As much conflict as I had with various mayors in the city of Omaha, because they kept me out of school for years, even those white mayors would contact Creighton Law School and say, you ought to let this man go to school. And their argument was, if they let me get a law degree, that would tone me down, I'd be a professional, I'd be out there practicing, and I wouldn't be so radical as they thought I was. Ministers, white ministers, would go up there and, giving them their due, some of the Catholic priests from whom I'd taken courses in undergrad school tried to talk to the dean, and talked about social justice and on and on. Got nowhere. When I had a meeting with the dean finally, I said, it's unfair for you to do this and you know it. Well, Mr. Chambers, I'll tell you what I'll do; I will write a letter of recommendation to any law school you can get to accept you. I said, and what are you going to write in the letter?

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: That I think you're capable of doing the work, and on and on. I said, that is really something for the dean of a law school to say to somebody in my situation. You feel I'm unfit to go to your school, but then you would dump me on your colleagues in the legal profession and tell them how capable I am of doing this work. I said, now, if I were like you, I'd let you write that letter; then I'd go to court and use it against you, and ask, why am I not allowed to finish at

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

January 12, 2006 LB 57

Creighton when he has written in this letter I can do the work, and any law school that would accept me, he would recommend that I go there? But I'm not like them, so I didn't do it. Before that, they had tried to keep me out. And now that everybody is spellbound, I'm going to turn on my light again and finish it when I do get a chance to speak again.

SENATOR CUDABACK: Thank you, Senator Chambers. You've heard the opening on FA197 to LB 57. Open for discussion. Senator Chambers, your light is next.

SENATOR CHAMBERS: Thank you, Mr. President. That same tactic had been tried earlier, where they would not let me take my exams, so a group of the law professors got together and signed a petition. And I have copies of all this stuff. My memoirs may be written someday. I document everything, and people in my office know it, and some of my colleagues wish I weren't so thorough, because I bring their words back to them year later. I'm like the great bookkeeper in the sky. When you come trucking up there, thinking you did well, and he's going to say, um-hum, well, let me see here, January 13, 1971, you said such and such. You say, good God, how did you know that? He'll say, I checked out Senator Chambers' archives; he's got everything on all of you. But at any rate, these professors signed this petition and said that in view of the fact that I was a young man and had a family, was working to go to school, had passed all my exams, on and on, that I should be allowed to go to school, something like that. I haven't read it in a long time, so if it's not exactly those words, I don't mean to be lying. But they did sign that petition, and I was allowed to reregister. Well, my circumstances had not changed, so again I was not allowed to register. I never flunked out of school. I was not put out of school. I was not allowed to take my exams. But this time, they waited two weeks before finals, because there was that kind of break between the end of the classwork and taking the finals. I go to take my final; they tell me, Mr. Chambers, you can't take your exams. I said, what? Orders from the dean. So I went to him, and that's when we had that conversation. I said, let me take the exams; if I flunk, then I'm out of here. No, I'm not going to let you take them, because I know you'd pass them. So there was a dean...a

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

January 12, 2006 LB 57

professor named Manfred Pieck, and discussions developed about another petition. He said, Mr. Chambers, there is--the dean--he's as wrong this time as he was last time, but I don't think the professors are going to go again, but I'll sign it. And I said, no, that can't be. If you sign it, you can't help me, but you can hurt yourself, so just let it go, and I appreciate what you were willing to do. So as these stories unfold, years rolled on. Then a man named...his last name was Frankino, came from Yale, was the dean of Creighton Law School, and he wanted a building fund drive to build a new law school. And as fate would have it, he was going through records and found what he described, when we talked, as a file from 8 to 12 inches thick with my name on it. And he found all these letters from people whom I didn't even know had written letters in my behalf. He sent three white guys down to the barbershop where I was cutting hair, and they told me that the dean was requesting that I come back to school, that if I would come back, I wouldn't have to pay a penny of tuition, I wouldn't have to pay a penny for any law book, and I wouldn't have to attend any classes. So I had a meeting with the dean, and...the new dean, and he agreed. And I said, well, why would you do that? He said, it's obvious they wronged you. You'd have a lawsuit even now after all these years. I said, I'm not interested in suing them. He said, what are you interested in? I said, I'm interested, as I told that other dean, in finishing what I started where I started it. He said, well, you can do that. I said, but why would this make any difference to you? He said, I'm not doing this so much for you.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: I'm doing it for the other students at this law school. I want them to learn something that they wouldn't otherwise learn. So after all those years elapsed, I went back to Creighton. Did not go to class. I went to two or three. Did not have to buy any textbooks. Then you know what those white young blue-eyed devils did? Accused me of cheating on an open-book test. And the professor was named Pat Green, and when he was told that, he said, nobody can cheat on my test, and it's open-book. He said, besides that, if they need the book to answer these questions, they're going to flunk the test. That's

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

January 12, 2006 LB 57

why he gave open-book tests all the time. If you didn't know the answers, you couldn't find it in time. And I always finished my exams before the rest of them, because I knew what I knew, and what I didn't know I didn't fake. I had passed the class. So then the dean, who had said he had to talk to me about it, when I talked to him, he was very red-faced. Deans are always white in law schools. He said,...

SENATOR CUDABACK: Time, Senator.

SENATOR CHAMBERS: That's not what he said, but I'll accept that.

SENATOR CUDABACK: Further discussion on the FA197? There are no further lights on. Senator Chambers, you're recognized to close on FA197.

SENATOR CHAMBERS: Thank you, Mr. President. I realize that my time is running. I'm being assisted. Mr. President, members of the Legislature, I did not have a chance yet to go into my amendment, so I have to make sure I get that opportunity, so I have to give myself that opportunity. But to finish the rest of the story, the dean, his name was Rodney Shkolnick--I give names of people, so you can check if you want to--he said, Senator...was I...no, I wasn't a senator then. Yes, I was, because I finished law school at Creighton in 1979; I had been a senator for nine years. He said, Senator, I didn't believe what they said. I had talked to Professor Green. I believe Professor Pat Green is still there, so check it out. And you'll say, boy, Senator Chambers didn't tell us the half of what he was doing up here, because I'm modest, don't you know. He said, but I had to talk to you anyway. And I let him say what he had to say, and then I told him, I'm very disappointed in you. Pat Green told you that there's no way for anybody to cheat. The only thing I had in that examination room was my book and my brains. But I finished the exam quicker than any of them, and some of them flunked, so I was their problem. And you sitting there telling me you knew what they said wasn't true, and Professor Green assured you that there's no way to cheat on his tests, you called me up here for a formal conference. I said, you ought to be ashamed of yourself, and what little respect I

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

January 12, 2006 LB 57

had for you, I don't have it now. That's the way they treat white people. If I began to take time on this floor to tell you all what I've gone through at the hands of white people, you'd believe it's a lie. And that's why I tell you places and the names of people. You couldn't go through what I went through and function as I function. You have no idea what my experiences have been. And they have embittered me, but not in the sense that white people understand. White people get bitter and they go kill their mama, go kill their wife, run off from their children, embezzle money, grab a younger woman, and go down to the Bahamas. I was one of those who helped spearhead a bill called the displaced homemaker bill, because all these white women came in crying, and they said, we didn't work, we stayed home and took care of those children so this man could go to school, then when he finished law school or medical school, then he dumped me; I have no skills, I have no job, I can't take care of my children. And I was the one they came to with an appeal. Suppose I dealt with them based on how I had been dealt with by white people.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: Suppose I gave in to the bitterness that was in me toward white society in general. I'd have said, good enough for you, because every time you bring a man-child into the world, you bring another enemy to fight me. But I didn't do like white people. Those women had not done anything to me. They were being unfairly and unjustly treated, and I fought for them, as I fought for other constituencies composed of more white people than nonwhite people. That's the kind of man I am, but that's not the kind of people there are on this floor or in this state. My next time around, I'm going to talk about my amendment. Thank you, Mr. President.

SENATOR CUDABACK: That was your closing, Senator Chambers.

SENATOR CHAMBERS: Yes, I know.

SENATOR CUDABACK: The question before the body is, shall FA197 be adopted to LB 57? Senator Chambers.

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

January 12, 2006 LB 57, 1073-1076

SENATOR CHAMBERS: Call of the house and a roll call vote.

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

CLERK: 15 ayes, 0 nays, Mr. President, to place the house under call.

SENATOR CUDABACK: The house is under call. All unauthorized personnel please leave the floor. Unexcused senators report to the Chamber. The house is under call. Unexcused senators please report to the Chamber. The house is under call. Senator Jensen, Senator Janssen, Senator Flood, Senator Pahla, Senator Langemeier. Senators Raikes, Schrock, Brown, and Stuhr. Senator...Senator Friend. Senator Beutler. Senator Flood. Senator Beutler, the house is under call. Senator Stuhr, the house is under call, and Senator Beutler. Senator Beutler, if you are within range of the microphone, the house is under call. All members are present or accounted for. There has been a request for a roll call vote on the question of adoption FA197. Mr. Clerk, when you get time, please call the roll on the question.

CLERK: (Roll call vote taken, Legislative Journal pages 319-320.) 0 ayes, 28 nays, Mr. President, on the amendment.

SENATOR CUDABACK: The motion was not successful, and I do raise the call. Mr. Clerk, items for the record, please.

CLERK: New bills. (Read LB 1073-1076 by title for the first time.) And hearing notices from Natural Resources, Revenue Committees, signed by their Chairs. (Legislative Journal pages 320-321.)

SENATOR CUDABACK: Mr. Clerk.

CLERK: Mr. President, Senator Chambers would move to reconsider the vote just taken.

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

January 12, 2006 LB 57

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

SENATOR CHAMBERS: Mr. President, members of the Legislature, I probably deserve those "no" votes, because I did not take the time to tell you what this amendment does. And since, on this bill, as on others, I want to compile a record, I want to get this into the record. My amendment says, on page 2, in line 9, strike "Homo" and insert "Hetero." I'm going to read line 9, but I will read line 8 first, so that it's a complete statement: For purposes of the Assault of an Unborn Child Act, unborn child means an individual of the species Homo sapiens at any stage of development in utero. My amendment would strike the word "Homo" and insert "Hetero." Then it would read in the following manner. And this is yielding to Senator Foley and his penchant to be against anything homo when it comes to giving rights. "For purposes of the Assault of an Unborn Child Act, unborn child means an individual member of the species Hetero sapiens at any stage of development in utero." Why should we not say "Hetero sapiens"? I'm going to see if we have a scientist in here. I'd like to ask Senator Pahls a question.

SENATOR PAHLS: Yes.

SENATOR CHAMBERS: Senator Pahls, I'm going to ask you this question, because with your beard you're very appealing. And I hope with your answer you won't be appalling. (Laughter) Why should we say "Homo sapiens" rather than "Hetero sapiens" when so many in the Legislature here are opposed to granting rights to homosexual people?

SENATOR PAHLS: I don't know if I know the answer to that, but I'm willing to learn from you.

SENATOR CHAMBERS: Are you willing then, without me going into a long dissertation, to use "Hetero sapiens" instead of "Homo sapiens"?

SENATOR PAHLS: I'm under your advisement.

SENATOR CHAMBERS: Okay. Do you believe that every member of

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

January 12, 2006 LB 57

the sapiens family is a male?

SENATOR PAHLS: No.

SENATOR CHAMBERS: Do you believe every member of the sapiens family is a female?

SENATOR PAHLS: No.

SENATOR CHAMBERS: So when you have male and female, you have hetero, correct?

SENATOR PAHLS: It appears you're educating me.

SENATOR CHAMBERS: So shouldn't we have this definition correctly describe what it is we're talking about?

SENATOR PAHLS: Well, logic tells me that. But I think Senator Foley would be the person who you should seek their approval, or his approval.

SENATOR CHAMBERS: Well, I don't seek Senator Foley's approval on anything. That's why I'm talking to you, because I want to talk to somebody who's sensible, who can reason logically and arrive at a conclusion. Now, if your conclusion differs from mine, I'm not going to be offended. But I wanted to take it step by step and see if you could show me a flaw in the logic as I perceive it.

SENATOR PAHLS: It appears that you have a point.

SENATOR CHAMBERS: And if, then, there is no reason to keep the word "Homo," with all of its negative connotations in Nebraska, it would seem that the people who feel that way might prefer "Hetero" to "Homo." What do you think?

SENATOR PAHLS: I see your logic.

SENATOR CHAMBERS: Are you going to support my amendment?

SENATOR PAHLS: I probably won't vote.

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

January 12, 2006 LB 57

SENATOR CHAMBERS: When rubber meets the road, the...

SENATOR PAHLS: (Laugh)

SENATOR CHAMBERS: You would work for that company which is not Capital One. You always say no.

SENATOR PAHLS: (Laugh) Always say no, right.

SENATOR CHAMBERS: Okay. Thank you, Senator.

SENATOR PAHLS: I'm waiting for something to hit me on the head. Thank you.

SENATOR CHAMBERS: Thank you, Senator Pahls. Members of the Legislature, as I stated this morning...oh, it wasn't this morning, this afternoon, the session was turned over to me and delivered into my hands. Such being the case, I can operate the way that I choose, and I don't want this to turn into one of those stodgy, boring afternoons, because we have young people working here trying to earn a more or less honest living so they can attend school or something or other--I'm not going to get in your business--and they shouldn't be compelled to sit here, as I was in church, as a child, listening to the same old sermon Sunday, after Sunday, after Sunday. I don't believe in having a captive audience where the people there feel like captives in the sense of a negative experience of having to remain where you'd rather not be. So I'm trying to engage people's mind and their imagination. I will ask Senator Foley a question or two, since it is his bill.

SENATOR CUDABACK: Senator Foley, would you respond?

SENATOR FOLEY: Yes, Mr. President.

SENATOR CHAMBERS: Senator Foley, from whence came this definition that you put into the green copy of the bill?

SENATOR FOLEY: The attempt in crafting the bill, Senator, was to, as closely as possible, mirror the language of the fetal

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

January 12, 2006 LB 57

homicide statute. That definition is found in the fetal homicide statute that we...

SENATOR CHAMBERS: And did you help craft that amendment for that prior statute?

SENATOR FOLEY: I'm sorry, I didn't catch the first part of your question, Senator.

SENATOR CHAMBERS: Did you help craft the definition which is found in that prior statute and mirrors the one in this proposal?

SENATOR FOLEY: I did.

SENATOR CHAMBERS: Where did you get that definition, which was exactly the same as this definition?

SENATOR FOLEY: Well, we did a lot of research on fetal homicide statutes around the country. About 30-some states have fetal homicide statutes, and they consistently use that definition. Now, I say that with some hesitation. There may be some little wrinkle here or there in other definitions, but I think that's essentially the language you'd find in other statutes.

SENATOR CHAMBERS: Senator Foley, is it your feeling that 38 states in the United States could not be wrong?

SENATOR FOLEY: Well, if I said 38, I misspoke. I don't think it's quite that high, but it's...

SENATOR CHAMBERS: Well, I'm not...I don't care about that. I'm not going to quibble...

SENATOR FOLEY: All right.

SENATOR CHAMBERS: ...about 38, 35, 32. That's not the point. A sizeable number of states, somewhere in the 30 range, cannot be wrong. Is that your feeling?

SENATOR FOLEY: On this matter, I think they're correct.

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

January 12, 2006 LB 57

SENATOR CHAMBERS: But you don't feel that way on every matter.

SENATOR FOLEY: No. No.

SENATOR CHAMBERS: And I know one where you don't feel that way.

SENATOR FOLEY: That's right.

SENATOR CHAMBERS: So neither of us is of the philosophical bent to say that just because it's done somewhere else it ought to be done here also. You agree?

SENATOR FOLEY: Fair enough. Fair enough, Senator.

SENATOR CHAMBERS: So you have reasons other than the fact that 30-some-odd states, whatever it happens to be, have gone this direction, and you mention that only to show that you're not cutting new ground, basically.

SENATOR FOLEY: Fair enough, Senator.

SENATOR CHAMBERS: Okay, to get that out of the way. Why did you accept, as a part of the definition that they came up with, the word "Homo"?

SENATOR FOLEY: I believe it's a correct term.

SENATOR CHAMBERS: What does the word "Homo" mean?

SENATOR FOLEY: Well, Homo sapiens is a...

SENATOR CHAMBERS: There are two words here. We'll get to "sapiens," which means wise. What does "Homo" mean?

SENATOR FOLEY: One who is wise?

SENATOR CHAMBERS: Well, wouldn't you...don't you like "Hetero" activity better than you do "Homo" activity?

SENATOR FOLEY: (Laugh) Senator, I'm not sure I want to get

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

January 12, 2006 LB 57

into that discussion.

SENATOR CHAMBERS: Well, that's tough. You're on the floor and you're agreeing and it's your bill. Would you accept my amendment to say "Hetero sapiens" instead of "Homo sapiens"?

SENATOR FOLEY: I'm a pretty sure "no" vote on that amendment, Senator.

SENATOR CHAMBERS: But you don't know what "Homo" means, other than in a negative sense when you vote against bills that would give rights to people who have that label as a part of their description, right?

SENATOR FOLEY: Well, you're drifting off into another topic, Senator, and it's a little bit...

SENATOR CHAMBERS: Well, is it your view that this fetus would be a human being at some point?

SENATOR FOLEY: Yes.

SENATOR CHAMBERS: Do you agree that homosexual people are human beings?

SENATOR FOLEY: Absolutely.

SENATOR CHAMBERS: So how can you say I'm drifting off into something else? We have a term that applies to adults and those who are not adults--"Homo." We have a term here applied to that which you say is a human being at any stage of development, which I disagree with, but taking your position, why will you apply "Homo" there but you don't like it when it's applied to adults?

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: That's what I want to know, if you can give me an answer.

SENATOR FOLEY: Well, Senator, I know you have a great interest

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

January 12, 2006 LB 57

in the law as it relates to rights for...based on sexual orientation and so forth. You've offered legislation over the years. That was, in fact, it was your priority bill one year. And I know that's a...it's a keen interest of yours, and that's fine. You're welcome to that interest. But as you well know, you and I simply disagree on what you've tried to accomplish legislatively in that area.

SENATOR CHAMBERS: And that's absolutely accurate, but now back to what I was asking you. Since "homosexual" is so abhorrent to you and not...

SENATOR FOLEY: I didn't say that.

SENATOR CHAMBERS: Oh!

SENATOR FOLEY: I didn't say that...

SENATOR CHAMBERS: Oh! Oh, then correct me.

SENATOR FOLEY: Well, I think...I don't want anyone to infer from the record that I believe that homosexual persons are abhorrent.

SENATOR CHAMBERS: So what about them do you consider to be abhorrent?

SENATOR CUDABACK: Time, Senator Chambers. You've heard the opening on the motion to reconsider the vote taken on FA197 to LB 57. Open for discussion on that motion. Senator Chambers, you may continue.

SENATOR CHAMBERS: Mr. President, members of the Legislature, I can't help feeling superior, and let me tell you why. I don't have to stammer and stutter and hem and haw when we're discussing anything that pertains to a human being or the human condition. All I need to know is that it's a human being, and that answers all these questions when it comes to rights, privileges, dignity, treatment, and everything else. That's why I'm against the death penalty even for those who are considered the worst of human beings. There's something in them that

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

January 12, 2006 LB 57

entitles them not to be treated in that manner, but even if some people disagree with that, as obviously a lot of people say they disagree, there is something that is in me which does find state killing abhorrent, and I will say that without qualification, without equivocation, without apology. And as long as I'm in this Legislature, I will do everything I can to try to prevent that from happening. That's one of the reasons I respect Tom Osborne. He has not backed away from his declaration that he opposes the death penalty, and you see how all these other people run from it and run to...run from a position like his and want to embrace the electric chair, embrace the poisonous chemicals, embrace the noose, the firing squad. They love death. They build their career on death. Then they want to impress people with how compassionate they are. More people were executed under Bush than any other person who became President. Bill Clinton ran down to Arkansas to preside over the execution of a mentally retarded man, when Bill Clinton was running for President, because he knew what white Christian Americans demanded of their leaders. There are many reasons why I could never be President, even if I chose, but the one that would stop me the most is that I would never hide the fact that I'm opposed to the death penalty under any and all circumstances. I don't care who the victim is; I don't care who the murderer is. And I had a nephew who was brutally murdered. So when people come up with that kind of stuff, that's a stick they can't beat me with--well, what if this happened to somebody in your family? Well, what if it did? What if it didn't? That has no bearing on the rightness or wrongness of the moral principle. When we come to something such as we're talking about here today, we're discussing what I don't consider to be a human being. I consider the pregnant woman to be a human being. Unless she has other children, I do not consider a pregnant woman a mother. She is a potential mother. They use language very carelessly when they're crafting law based on religious dogma and superstition. This term "unborn child" should not be in the statute, but a Catholic got it there first--Senator Bernice Labeledz, dyed-in-the-wool-hat Catholic. There are more Catholics in the Legislature than any other single religion. Catholics comprise the biggest single religion in this country. That's how they got a Catholic chaplain out there in Washington, D.C., and you see the corruption that has exploded on his watch.

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

January 12, 2006 LB 57

I'm not talking now about the Catholic Church's doctrine. I want those who are Catholics to relax,...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...take it easy. If there was any organization with as much pedophilia and child abuse in it as has been uncovered in the Catholic Church, it would have been shutdown, and everybody here knows it. If they found it in Qwest, if they found it in AT&T, if they found it in T. Rowe Price or whoever else, they would shut it down. The Mafia did not believe in pedophilia. La Cosa Nostra did not believe in pedophilia. But the Catholic Church, the hierarchy, protected it and a priest, who became a bishop, has announced that he was molested as a child by a priest, and it turns out that an archbishop, a bishop engaged in active homosexual misconduct in Boston, and they are all the subject of a lawsuit brought by another priest who could not be silent any longer, because they...

SENATOR CUDABACK: Time, Senator.

SENATOR CHAMBERS: ...attacked him when he criticized the pedophilia and said children need to be protected. Oh, you said time?

SENATOR CUDABACK: I did.

SENATOR CHAMBERS: Which...was that my opening?

SENATOR CUDABACK: That was your second time.

SENATOR CHAMBERS: On this motion to reconsider?

SENATOR CUDABACK: You have...you have one more time this...

SENATOR CHAMBERS: Okay.

SENATOR CUDABACK: You may continue.

SENATOR CHAMBERS: Thank you. I'm fascinated by the Catholic

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

January 12, 2006 LB 57

Church, as I am by the Mafia and La Coaa Nostra, and Americans are very fascinated with crime and criminals. Who are their heroes? Who do they make movies about? Bonnie and Clyde, "Legs" Diamond, Billy the Kid, the Dalton Brothers; there's an aura of heroism about all of them. These are American legends and heroes around whose name is not negativity. The Saint Valentine's Day Massacre is not something that people remember with horror. It's one of those parts of Americana that people think of fondly. In the law, if there are agents of a company who violate the law and the CEOs, or hierarchy of the company, ratify it, adopt it, then the company becomes liable, whereas before it would have just been the one who committed it. But, by the leaders and directors of the company adopting that conduct, that misconduct, it becomes theirs and the company is rendered liable. When the Pope knows about pedophilia and does nothing about it...and Joseph Ratzinger, before he became Pope, knew about it and was against doing anything to these pedophile priests. John Paul II knew about it and wanted to soft-pedal it, wanted to give these guys another chance, thought it was too harsh a punishment on them, and yet these children were the victims. You won't hear anybody come in here talking about doing something to protect these children, but the Pope and the archbishop, the cardinals will talk about protecting fetuses. But when that which starts out as a zygote, becomes an embryo, then a fetus, comes into the world, leaves that birth canal as a living, breathing, squalling human being whom all of us will agree is a full-fledged human being, suddenly their interest is gone. I don't see the Catholic Church, in the form of the Pope, archbishops, bishops, Senator Foley or anybody else talking about the hundreds of thousands of children starving all over this world, especially in Africa. Thousands, tens of thousands die every week. If that many were being aborted in Africa, you'd hear Bush and all the rest of them saying, we can't have this, we can't have that. But the children makes no difference--starving, suffering from diseases that are preventable, that are curable, but they don't count. But if a pregnant black woman in Africa is going to abort one of these who will not count for anything, then they're on their hobbyhorses. The hundreds of thousands of little children sold into slavery and made sexual playthings all over the world, you don't hear the Catholic Church condemning that, or Senator Foley

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

January 12, 2006 LB 57

or his ilk screaming bloody murder. If all these Catholics who jump up and carry signs for fetuses would speak out against the enslavement of young children who wind up as sex objects in this and other countries, the playthings of these rich white men and rich men of other ethnicities and nationalities, something would be done about it. But how can the church say so much about that when, in their midst, they have an ongoing epidemic, a pandemic, because this happens all over the world among these Catholic priests, of child abuse.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: I'm going to be frank with you. In all of my reading about the Catholic Church and reading of various pronouncement by Popes, I don't see any word anywhere that says what these pedophile priests are doing comports with Catholic doctrine. So when they do it, and these bishops and archbishops and cardinals protect and cover for them, and move them from diocese to diocese and set them upon other unsuspecting children, they have to be acting in opposition and contrary to the doctrine. Well, why will the church talk about excommunicating a politician who says he's for choice, but they don't want to defrock a priest who has raped little boys? I used to call that inner sanctum where priests operate the rectory, but finding out what so many of them do there it ought to be called the "rectumry." Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Further discussion? Senator Pahls.

SENATOR PAHLS: Mr. President, fellow members of the Chambers, I'd like to discuss a little bit with Senator Chambers.

SENATOR CUDABACK: Did you...

SENATOR CHAMBERS: Yes.

SENATOR CUDABACK: Did you wish to ask him a question?

SENATOR PAHLS: Yes, please.

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

January 12, 2006 LB 57

SENATOR CUDABACK: Senator Chambers.

SENATOR PAHLS: And I want you to correct me if I'm wrong here, but I've done a little bit of research on "Homo sapiens," trying to clarify this up in my own mind. "Homo sapiens," of course, means human. "Sapiens" means wise. Sometimes the word "Homo" also means man. So we are the wise man. If you were a "Homo Neanderthal," you're gone. A "Homo Cro-Magnon"...

SENATOR CHAMBERS: Cro-Magnon, uh-huh.

SENATOR PAHLS: ...yes, yes, you'd be gone. So apparently those of us who are left are wise.

SENATOR CHAMBERS: What about women, in your definition?

SENATOR PAHLS: Well, "Hetero," the "Hetero" means other or different, and that's from the Greek...

SENATOR CHAMBERS: Okay.

SENATOR PAHLS: ...the Greek. So I just thought I'd clear that up. I (inaudible).

SENATOR CHAMBERS: So I meant your idea is that only men should be considered.

SENATOR PAHLS: No. No, I'm just clearing up the definitions of the...

SENATOR CHAMBERS: Oh, I see. Okay.

SENATOR PAHLS: ...different (inaudible).

SENATOR CHAMBERS: Okay.

SENATOR PAHLS: I just wanted to bring that to light.

SENATOR CHAMBERS: Okay.

SENATOR PAHLS: Thank you.

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

January 12, 2006 LB 57

SENATOR CHAMBERS: I'll accept what you said.

SENATOR PAHLS: Thank you.

SENATOR CUDABACK: Are you...? Further discussion on the motion to reconsider? There are no further lights on. Senator Chambers, you're recognized to close on your motion.

SENATOR CHAMBERS: Thank you, Mr. President. Senator Pahls made my point. Is this talking only about a male fetus? I'd like to ask Senator Pahls a question, now that he has improved all of our education.

SENATOR CUDABACK: Senator Pahls.

SENATOR PAHLS: Yes.

SENATOR CHAMBERS: Senator Pahls, are you going to vote for this bill?

SENATOR PAHLS: You're start...I'm starting with it? Yes, I will vote for the bill.

SENATOR CHAMBERS: Are you going to vote for this bill?

SENATOR PAHLS: Yes, I will. Yes.

SENATOR CHAMBERS: You will?

SENATOR PAHLS: Yes.

SENATOR CHAMBERS: Based on your new education, where "Homo" means man, are you interested in only protecting man fetuses, male fetuses?

SENATOR PAHLS: Well, Senator Chambers, I think it's the intent, and I'll have to rethink what you're discussing with me, but I think it's the intent.

SENATOR CHAMBERS: Well, what is the intent? To protect only

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

January 12, 2006 LB 57

male fetuses?

SENATOR PAHLS: No, I do not think that's the intent.

SENATOR CHAMBERS: Well, if the definition that you...that is here and you went back to the Greek and found out it means man, man means male, doesn't it?

SENATOR PAHLS: Yes. Yes.

SENATOR CHAMBERS: Huh?

SENATOR PAHLS: Yes.

SENATOR CHAMBERS: Okay. So, as it's written, it protects male fetuses, right?

SENATOR PAHLS: I would assume, right now, without further delving into it deeper.

SENATOR CHAMBERS: Then why don't we say "Hetero" so we include women? I love women. My mother was a woman. My grandmother, my sisters, my daughter, my nieces, all women. Even when I had a girlfriend, she was a woman. (Laugh)

SENATOR PAHLS: (Laugh) I think you would appreciate my wife and my daughter and my mother also. I think this...

SENATOR CHAMBERS: So let's include them. Y'all quit laughing. We know what he meant, even though he said...I'm going for your meaning; they're going for your literal words. (Laugh)

SENATOR PAHLS: Yes. Yes.

SENATOR CHAMBERS: Why don't you include your daughters, your daughter, if you only have one, your mother, your wife, my daughter, my mother, even though she's gone, my nieces, my aunts? Why don't we include all...include all them, if we're putting this protection out there, and say "Hetero"? What would be wrong with that?

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

January 12, 2006 LB 57

SENATOR PAHLS: At the moment, I have no disagreements with that issue.

SENATOR CHAMBERS: Then why won't...will you accept my amendment now?

SENATOR PAHLS: That would have to be...

SENATOR CHAMBERS: I'm not...not by my argument; by what you discovered in your research. Your research does not...

SENATOR PAHLS: Right. Yes. If it comes to...if it comes to a vote, you will see my vote.

SENATOR CHAMBERS: Does your research have any impact on you, though?

SENATOR PAHLS: This is very light research at the moment.

SENATOR CHAMBERS: Senator Pahls, you were an educator before you came here, correct?

SENATOR PAHLS: Yes.

SENATOR CHAMBERS: Is the purpose of education to remove ignorance?

SENATOR PAHLS: Yes, and I'm trying to remove that from myself right now.

SENATOR CHAMBERS: Is a way to remove ignorance to present factual information in the area where the ignorance exists so that the ignorance can be replaced with knowledge?

SENATOR PAHLS: Yes.

SENATOR CHAMBERS: And when you do the research and you come up with the origin and the root meaning of a word, and that word is in a statute, and the word does not encompass everybody, you're comfortable with having that word in the statute, are you?

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

January 12, 2006 LB 57

SENATOR PAHLS: Yes, I would be comfortable with this. If this terminology needs to be changed and it's done correctly, I would...

SENATOR CHAMBERS: Well, doesn't your research indicate it should be changed?

SENATOR PAHLS: Like I said, my light research has.

SENATOR CHAMBERS: Well, if your light research is not enough to persuade you, and you're not sure that it's accurate, why did you give it to us? I assume that you thought what you were reading was correct.

SENATOR PAHLS: Right, I do.

SENATOR CHAMBERS: Okay. If it's correct and it shows that this word is too restrictive, why will you not agree to a word that your research showed you was more encompassing?

SENATOR PAHLS: That's what I said. When we vote on it, you will see where I stand.

SENATOR CHAMBERS: Okay. We shall see what we shall see. I appreciate this, Senator Pahls.

SENATOR PAHLS: Thank you.

SENATOR CHAMBERS: Members of the Legislature, I have eight hours and I'm going to take my eight hours. And, frankly, I'm enjoying myself. Some of you might be too, because at least you don't have to sit here, listen to the same old thing over and over, and you don't have to listen to some of my colleagues who are about as exciting as a piece of soggy toast,...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...about as appetizing as a piece of cold half-cooked bacon in half-congealed grease. You don't want that on your plate, so why should we serve it up to you as an intellectual snack? Because that's all we do in this

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

January 12, 2006 LB 57

Legislature. We just kind of snack here and snack there. Senator Foley has brought a bill. I do not agree with it. There is no way this bill could be fashioned which would cause me to agree with it, but I'm going to harry it. I'm going to harass it. I'm going to twist it, turn it, and not let it go, and hope that I can persuade my colleagues to see how ridiculous and senseless it is. It's taking the wrong approach, and it's placing too much emphasis on the wrong part of this situation.

SENATOR CUDABACK: Time, Senator.

SENATOR CHAMBERS: The woman should be the point of reference. I'll ask for a call of the house.

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

ASSISTANT CLERK: 15 ayes, 1 nay to go under call, Mr. President.

SENATOR CUDABACK: The house is under call. All unauthorized personnel please leave the floor. Unexcused senators report to the Chamber. The house is under call. The house is under call. Unexcused senators please report to the Chamber. Unexcused senators please check in. The house is under call. Senators Cornett, Stuhr, and Schimek. Senators Price, Loudon, and Mines. The house is under call. Senators, please check in that aren't excused. Senator Schimek and Senator Stuhr. All members are present or accounted for. The question before the body is to reconsider the motion, the vote taken on FA197 to LB 57. All in favor vote aye; all those opposed vote nay. We're voting on the motion to reconsider. Have you all voted on the motion who care to?

SENATOR CHAMBERS: (Microphone malfunction) Record vote.

SENATOR CUDABACK: Record vote has been requested. Record please, Mr. Clerk.

ASSISTANT CLERK: (Record vote read, Legislative Journal

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

January 12, 2006 LB 57

page 322.) Vote is 1 aye, 23 nays on the motion to reconsider, Mr. President.

SENATOR CUDABACK: Motion was not successful. I do raise the call. Mr. Clerk, next motion when you get time, please.

ASSISTANT CLERK: Mr. President, Senator Chambers would move to amend with FA198. (Legislative Journal page 1312, First Session, 2005.)

SENATOR CUDABACK: Senator Chambers, you're recognized to open on FA198 to LB 57.

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, this amendment would add a new section, and before I read it I'm going to tell you the rationale. Senator Foley's language creates a problem, but before I say anything about what his language means, I'm going to ask him, as the introducer, because I want to compile a record.

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

SENATOR FOLEY: Yes.

SENATOR CHAMBERS: Senator Foley, does the unfertilized egg constitute a phase in a stage of development for a member of the species Homo sapiens? Would that be a stage of development in utero?

SENATOR FOLEY: Just so the record is perfectly clear, Senator, you said unfertilized egg.

SENATOR CHAMBERS: Yes.

SENATOR FOLEY: That would not fall within the definition.

SENATOR CHAMBERS: What does the word "utero" mean?

SENATOR FOLEY: Within the uterus of the mother.

SENATOR CHAMBERS: Where does an egg, when it's not fertilized,

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

January 12, 2006 LB 57

reside?

SENATOR FOLEY: In the ovaries.

SENATOR CHAMBERS: Are you sure?

SENATOR FOLEY: To the best of my knowledge.

SENATOR CHAMBERS: What does the word "ovary" mean?

SENATOR FOLEY: It's a female organ.

SENATOR CHAMBERS: Is it...does that mean egg?

SENATOR FOLEY: No.

SENATOR CHAMBERS: Who's coaching? (Laughter) I'd like to ask Senator Redfield a question. And, Senator Foley, don't go away.

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

SENATOR REDFIELD: Yes.

SENATOR CHAMBERS: Senator Redfield, in a situation where a woman is healthy, you know, there are no problems or diseases that would alter it, where would an egg which is unfertilized reside in a healthy woman?

SENATOR REDFIELD: In the uterus, but before that it comes down the fallopian tubes and the actual, the fertilization of her (inaudible).

SENATOR CHAMBERS: Wait a minute. Ah, see that's why people flunk those law exams that I always passed. I answered the question that was asked. I didn't anticipate or go beyond it. Now I'm going to ask the question again. Where does an unfertilized egg reside?

SENATOR REDFIELD: Unfertilized egg, in the ovary.

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

January 12, 2006 LB 57

SENATOR CHAMBERS: Where does it travel to before being expelled, if that is what's going to happen?

SENATOR REDFIELD: It travels through the fallopian tubes to the uterus.

SENATOR CHAMBERS: When it's unfertilized?

SENATOR REDFIELD: Oh, no.

SENATOR CHAMBERS: Where does it go?

SENATOR REDFIELD: I can't tell you scientifically. I believe that it may actually dissolve after a period of time, but I really don't know if it's not fertilized.

SENATOR CHAMBERS: Thank you. You're very honest. I'd like to ask Senator Pam Brown a question.

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

SENATOR BROWN: Yes.

SENATOR CHAMBERS: Senator Brown, is an unfertilized egg ever in a woman's uterus, as far as you know?

SENATOR BROWN: Yes.

SENATOR CHAMBERS: So if that's true, that would be a stage of development in the species Homo sapiens, wouldn't it? Ponder on it. I'm going to ask Senator Foley some questions now. Thank you. Senator Foley, front and center.

SENATOR CUDABACK: Senator Foley.

SENATOR CHAMBERS: If an unfertilized egg can be in the uterus, is that a part of the stage of development of a Homo sapiens, or don't you know for sure?

SENATOR FOLEY: Not as a definition is applied in this

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

January 12, 2006 LB 57

legislation, no.

SENATOR CHAMBERS: Where in this definition would that not be...would that be covered? Is the egg a part of what becomes the full-fledged person?

SENATOR FOLEY: The egg itself?

SENATOR CHAMBERS: Yes,...

SENATOR FOLEY: No.

SENATOR CHAMBERS: ...does it become...could you have a person without an egg?

SENATOR FOLEY: No.

SENATOR CHAMBERS: So is that a part of the development of a person?

SENATOR FOLEY: I understand how you're reasoning this out, Senator.

SENATOR CHAMBERS: Either you think it is or you don't, because I don't want to try to put words in your mouth. Is it your feeling that an unfertilized egg is not a part of the stage...any stage of development of a Homo sapiens? Because your language says "at any stage of development," is the egg a part of that stage of development?

SENATOR FOLEY: Not as the definition is applied in this statute.

SENATOR CHAMBERS: Not as applied. What...show me in the definition where it says the egg is not a part or any stage of development of a Homo sapiens. Where is that in the definition?

SENATOR FOLEY: The term "Homo sapiens" assumes fertilized.

SENATOR CHAMBERS: I'm not talking about assumes. I want to know where it is in your definition, because your definition

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

January 12, 2006 LB 57

doesn't say assume, seems, I think. It says is.

SENATOR FOLEY: Well, Senator, I'm comfortable with the definition. The definition is used, has been used successfully and...

SENATOR CHAMBERS: I'm not talking about your comfort. I want to understand what you're asking the Legislature to adopt. If you're not sure, that's what I want to hear you say and then I'll leave you alone on this particular part. Are you sure?

SENATOR FOLEY: Repeat your question, please, Senator.

SENATOR CHAMBERS: Okay. Is an unfertilized egg in the uterus a part of the stage of development of a "Homo sapiens"? Is it a part of the developmental stage?

SENATOR FOLEY: An unfertilized egg would be required...

SENATOR CHAMBERS: Is it a part...

SENATOR FOLEY: ...prior to the...

SENATOR CHAMBERS: Is it an element in the stage of the development of a Homo sapiens? And I'm trying to deal only with the language in your definition. I don't want to paraphrase. I'm just using the language of your definition, and your definition does not say fertilized or anything else.

SENATOR FOLEY: Well, it says Homo sapiens. I think that term is clearly understood to mean a fertilized egg.

SENATOR CHAMBERS: No, it doesn't. That's not what's here in your definition. If that is what is clear, there's no need to define it, is it?

SENATOR FOLEY: Well, I think it is important.

SENATOR CHAMBERS: Why then give a definition?

SENATOR FOLEY: I think it is important to have a clear

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

January 12, 2006 LB 57

definition that's been used successfully in other states, and that's why we've used it here.

SENATOR CHAMBERS: Senator Foley, the U.S. Constitution does not define "person." It says no person shall be deprived of various rights without due process of law, and uses that language elsewhere. The definition of "person" is not in the Constitution. People say it's assumed and understood what a person is. So why don't you just say that here? Why do you need to give a definition? That's what I will ask you then. Why is a definition necessary? And I hope you won't tell me, well, other states have decided that's the way to do it, so unthinkingly and imitatingly you did the same thing.

SENATOR FOLEY: Well, often when legislation is crafted you look to successes elsewhere in the country, and Nebraska is obviously not the first state to consider this kind of legislation so we looked elsewhere, what have other states done.

SENATOR CHAMBERS: After listening to you, I'm going to formulate a conclusion which I think is valid, based on what you've said. An unfertilized egg is not...does not comprise any stage of development of a Homo sapiens.

SENATOR FOLEY: Senator, I'm not sure we're having a constructive dialogue here. I'm just going to rely on the definition that I've offered to the body. I'm comfortable with it. I think it's the correct language and that's (inaudible).

SENATOR CHAMBERS: Thank you. I will let you go at this point, because I don't want to push you. I thought I could get an answer from you. Members of the Legislature, you know why Senator Foley doesn't want to go into it? Because he doesn't know the answer. He doesn't have an answer. And that's what happens with this kind of legislation especially. People don't know what they're talking about. They don't know what the definition means, but they want me to accept it because 38 people accepted it, I meant 38 states. Well, there had to be a first state to do it. Suppose some guy at a bar just threw that out there and somebody liked it and they wrote it down and other states copied it. Am I supposed to copy it because it came in

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

January 12, 2006 LB 57

that fashion, in that form, in 38 other states?

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: That's not the way I operate, but you all are being asked to do that. And because you've got to be pro-life, you must be brain dead, too, and accept whatever they tell you. It's got to be what they tell you, the way they tell you, even though you stand up there and you cannot explain what your definition is. I've never brought a bill where I could not comment on what was in my bill. And then to fall back and say, well, I'm comfortable with it, I'll accept it. So if somebody tells me the moon is made of green cheese, I say prove it. Well, I can't prove it, but I'm comfortable with it. I heard that since I was a child. And if you look real closely on a clear night you'll see a cow jumping over that moon, because I heard that as a child, too. And I always, late at night...

SENATOR CUDABACK: Time, Senator. (Visitors introduced.) On with discussion of FA198. Senator Chambers.

SENATOR CHAMBERS: I was going to say this, and then I'll ask Senator Foley another question, not of the variety we just discussed. This person says, late at night, when the stars are bright, I always go in the kitchen and hide; and I keep my eye on those dishes and the silverware, because I was also told that the dish ran away with the spoon, and I don't want that happening in my kitchen. So because other people said it, they're comfortable with it and they accept it. There were people who said the earth is flat, and everybody accepted it. And somebody else said, but no. There was another man put on the rack and compelled to say, under the stress of torture of the cruelest variety, inflicted again by the Catholic Church, the holy Roman Catholic Church, that the earth doesn't move, that the earth is the center of the solar system, and the sun and everything rotates around the earth. This man was...name was Galileo. Both of his names sounded like Galileo, but they weren't. And under that terrible torture he said, okay, I'll say what you want me to say, the earth is stationary. So they were satisfied, because they compelled him to say what they, in their ignorance and religious bigotry and desire to control

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

January 12, 2006 LB 57

people's minds, he said what they wanted him to say. And as they cut him down, he said, but it does move. He knew, as a scientist. He wasn't going to fall back on that nonsense and superstition and the hiding place of people who don't know anything--well, I don't know the answer, but there are smart people who do and they said this so I accept it. Senator Foley doesn't even know the intelligence level of the people in those 38 states who put this together or who accepted it. So because it's there 38 times, or however many, he says it's got to be true. I'm going to read what my amendment is, but I want to ask Senator Foley a question first. Senator Foley,...

SENATOR CUDABACK: Senator Foley.

SENATOR CHAMBERS: ...is it your belief that a fertilized egg constitutes a stage of development in utero of a Homo sapiens, a fertilized egg?

SENATOR FOLEY: A fertilized egg is a Homo sapiens.

SENATOR CHAMBERS: It is a Homo sapiens. So it's not just a phase of the development. It is the Homo sapiens. Well, now if the fertilized egg is the Homo sapiens and the developmental stage precedes that which is completed, then the unfertilized egg has to be a stage of the development, doesn't it, because the fertilized egg is the final thing?

SENATOR FOLEY: Let's talk a little bit further about something, Senator. I think you would agree with me that in areas of law that we're working in right now that these areas obviously are controversial and they are highly litigated. And if that first state, whenever it was, enacted this language, wouldn't you think that that language would have been challenged and litigated if reasonable people had the kinds of doubts about the language that you have?

SENATOR CHAMBERS: Not necessarily, because there are some things that have been on the books for generations until somebody who was thought to be a crackpot challenged it and then years, decades of precedent were overturned, thrown out as being totally without foundation. So the fact that an error has been

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

January 12, 2006 LB 57

persisted in for a long time does not cause it to cease being an error. If a thousand people say the earth does not move, it continues to move. If a million people say the earth is flat,...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...it nevertheless is round. But I'm talking to you about your bill. But the question that I wanted to ask, you answered. You feel that a fertilized egg is a Homo sapiens. Correct?

SENATOR FOLEY: Correct.

SENATOR CHAMBERS: A full-fledged Homo sapiens.

SENATOR FOLEY: Correct.

SENATOR CHAMBERS: Not a potential Homo sapiens, but a full-fledged.

SENATOR FOLEY: Correct.

SENATOR CHAMBERS: Okay. Does it have a head?

SENATOR FOLEY: The genetically...genetically speaking...

SENATOR CHAMBERS: No, we're talking about the reality. Does a fertilized egg have a head?

SENATOR FOLEY: Not developed.

SENATOR CHAMBERS: Does it have arms?

SENATOR FOLEY: Not developed.

SENATOR CHAMBERS: Does it have legs?

SENATOR FOLEY: Same answer, not developed.

SENATOR CHAMBERS: Does it have a body?

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Transcriber's Office
FLOOR DEBATE

January 12, 2006 LB 57

SENATOR FOLEY: Again, not developed.

SENATOR CHAMBERS: How can bodily injury be done to that which has no body?

SENATOR FOLEY: Now that's...now that is a good question, finally. (Laugh)

SENATOR CHAMBERS: But that's not the one I want to ask.

SENATOR FOLEY: I didn't think so. (Laugh)

SENATOR CHAMBERS: Because at this point, we're going to get to that, but I want to take it step by step.

SENATOR CUDABACK: Time, Senator. You may continue, and this will be your third time, as you know.

SENATOR CHAMBERS: Right. And so that my amendment is in the record, the transcribed record, I'm going to read it. Keep in mind our discussion. The provisions...add a new section: "The provisions of this act shall not apply until the individual member of Homo sapiens in utero has reached a stage of development where arms, legs, hands, feet and a head are present." How can that be unreasonable? If it has not reached that stage of development, there can be no bodily injury. But that's what you're being asked to accept. Thirty-eight states said this ridiculous thing and, because they said it, you're to join in and be equally ridiculous--serious bodily injury to that which has no body. It would be unenforceable. A woman would come in and say: I took a pregnancy test from the doctor and the doctor said I was pregnant; this man struck me in the stomach and I went for a pregnancy test a month later and I'm not pregnant anymore; I want this man charged with a crime under this law. If a fertilized egg is a human being, as Senator Foley says, he is a hypocrite. Why doesn't he make it, if it's intentional, first-degree murder? I'll ask a question, because I may be jumping the gun. This bill does not deal with murder. It does not deal with homicide. But Senator Foley told us that a prior statute does. Senator Foley, I'd like to ask you a

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

January 12, 2006 LB 57

question, and you might can correct...

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

SENATOR CHAMBERS: ...a view that I have.

SENATOR FOLEY: Yes, I'll yield.

SENATOR CHAMBERS: Is there a statute on the books now which makes the intentional killing of a fetus murder?

SENATOR FOLEY: Yes.

SENATOR CHAMBERS: What degree of murder is the highest degree that can be involved?

SENATOR FOLEY: Senator, if you can give me a minute or two, I'd have to pull out the statute book and look at that (inaudible).

SENATOR CHAMBERS: Okay. Well, because I'm going to pursue my discussion, I'll give you time. Because I don't want this to be where you need to get information you can, and you don't have it right now, because that's not my purpose. Members of the Legislature, the point I'm trying to get across at this time is that a definition creates a circumstance that makes this bill unenforceable. You should not enact a law which is absolutely unenforceable. This law cannot apply as a criminal statute with a criminal punishment where you have a fertilized egg. First of all, you cannot prove an essential element, that a Homo sapiens is present. You cannot prove that. Senator Foley does not even agree as to what constitutes the completed item and the developmental stage. Everybody saw through his attempts at rationalization. If a fertilized egg constitutes the Homo sapiens, then the unfertilized egg is a phase of development, a stage of development in reaching the finished product, which is the Homo sapiens. It cannot be a stage of development at the same time that it's the completed thing. A work in progress means the work is not completed. When the work is completed, it is no longer in progress.

SENATOR CUDABACK: One minute.

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Transcriber's Office
FLOOR DEBATE

January 12, 2006 LB 57

SENATOR CHAMBERS: It's so difficult in this Legislature, but I'm going to take the time and put it in the record so at least I don't sound like I'm an idiot and a moron. When a thing takes ten steps from its inception to its completion, each step is a stage or a phase in or of that development. Steps 1, 2, 3, 4, 5, 6, 7, 8, 9 are different stages in that development. When you reach stage 10 and you've got the completed object, you are not any longer talking about developmental stages. You have that completed object. So if a fertilized egg is the completed thing, the developmental stage has got to be that which preceded. So what precedes...

SENATOR CUDABACK: Time, Senator.

SENATOR CHAMBERS: ...a fertilized egg? An unfertilized egg. Thank you, Mr. President.

SENATOR CUDABACK: Further discussion on FA198? There are no lights on. Senator Chambers, you're recognized to close on FA198.

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, I am taking this step by step, because we've had a number of bills of this variety, and we'll probably get more. So I've got to lay some groundwork and then maybe all I'll have to do is get the transcript, and I'll take as much time, but all I'll have to do is read it. I won't have to work any of my brain cells. I can send my brain cells on vacation, like those of my colleagues are all the time. I don't even know why some people are in this Legislature. They don't study. They don't work hard. They don't want to make the difficult decisions. They're shunted from pillar to post by special interest groups. They're threatened with damage to their political career. And yet, they want to be here and they swear to uphold the laws and constitution and work for the public good, but they're afraid, and fear is what directs and motivates them. You all know that I'm telling the truth and you know this bill is a crock of nonsense. You know it. But you got to vote for it because you're weak, you're scared. A man most of you "Repelicans" hate was Franklin Delano Roosevelt. He said you have nothing to fear

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

January 12, 2006 LB 57

but fear itself. And you know what my colleagues say? Uh-uh, you don't know what it means to be in the Legislature; I'm afraid of Right to Life, I'm afraid of the NRA, I'm afraid of the Governor, I'm afraid of the head person of the "Repelican" Party, and on and on and on. They scared of everything. And there was somebody else who said, nevertheless, do the thing you fear and the death of fear is certain. Fear usually derives from ignorance. A belief or an apprehension that something harmful, sinister is going to do harm to you if you do or don't do something else, so that feeling of anxiety, dread, foreboding takes over, and you will not act because you don't want to confront whatever that sinister thing is. And that's why people fear the dark. They're not afraid in a room full of light, because they can see there are no monsters in it. Well, here you all (laugh) see one monster, but that's not what we're talking about right now. You know this monster won't eat you, though, because my concern about hygiene is too high, you know, won't allow that to happen. I won't even bite you. When the lights go out and you can't see, then a weak mind takes over and begins to conjure everything that terrifies you. And that's why the ones who write good, effective horror stories are suggestive rather than explicit, because they know nothing can bring fear to you like your own mind. So they try to write in a way to unleash inside of you all of those nameless dreads and terrors that beset you when the shades of night fall and nobody is around but you. Every creak in the house is not floorboards settling, an old house shifting its position like you do when you're uncomfortable in bed at night. Any moving shadow terrifies you, because you live your life based on fear, and I don't. That's why I can talk like I talk and say that something is nonsensical when it is. And this is nonsensical. My amendment attempts to make it "sensical"...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...sensible. It says, for the record: "The provisions of this act shall not apply until the individual member of Homo sapiens in utero has reached a stage of development where arms, legs, hands, feet and a head are present." And if you don't want this added then you've got to do something about your definition...about the definition of

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

January 12, 2006 LB 57

"serious bodily injury," because that's in this bill. How can serious bodily injury be done to that which has no body? And if you say, well, until a body is formed the crime can't be committed, then you're admitting that my amendment ought to be adopted so you'll look like you've got some sense. I'll ask for a call of the house, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. There's been a request for a call of the house. All in favor of the house going under call vote aye; those opposed vote nay. We're voting on a call of the house. Record please, Mr. Clerk.

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

SENATOR CUDABACK: The motion was successful. The house is under call. All unexcused senators please report to the Chamber. Unauthorized personnel please leave the floor. The house is under call. The house is under call. All unexcused senators please report to the Chamber and check in. Senator Schimek, Senator Stuhr, Senator Mines, Senator Louden, and Senator Schrock. Senator Mines, the house is under call. Senator Mines. All members are present or accounted for. The question before the body is, shall FA198, offered by Senator Chambers, be adopted to LB 57?

SENATOR CHAMBERS: (Microphone malfunction) Roll call vote.

SENATOR CUDABACK: A roll call vote has been requested on the question. Mr. Clerk, when you get time, please call the roll.

ASSISTANT CLERK: (Roll call vote taken, Legislative Journal pages 322-323.) Vote is 3 ayes, 22 nays, Mr. President.

SENATOR CUDABACK: The motion was not successful. I do raise the call.

ASSISTANT CLERK: Mr. President, I have a priority motion. Senator Chambers would move to reconsider the vote just taken.

SENATOR CUDABACK: Senator Chambers, you're recognized to open

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

January 12, 2006 LB 57

on your motion to reconsider the vote taken on FA198 to LB 57.

SENATOR CHAMBERS: Thank you, Mr. President. I probably did not spend enough time explaining my amendment. I know my time is running, but I have to make use of a piece of high-tech equipment for a second. Mr. President, members of the Legislature, Senator Landis is a thoughtful person. I'd like to ask him a question. Senator Landis, I'm...

SENATOR CUDABACK: Senator Landis.

SENATOR CHAMBERS: ...I'm not going to start with any presumptions. Is it your...do you accept the premise that a fertilized egg is a stage of development, and I'm not going to say a full-fledged Homo sapiens, as Senator Foley did,...

SENATOR LANDIS: Right.

SENATOR CHAMBERS: ...a stage of development of a Homo sapiens?

SENATOR LANDIS: I hope...we're talking about a fertilized embryo? Are we...is that what we're...

SENATOR CHAMBERS: Just the egg, a fertilized egg.

SENATOR LANDIS: Just the...so that there has been a sperm and an egg and we've got that. Do I think that's part of the stage of development of what eventually is what we would regard as a human being, a child, a baby, et cetera?

SENATOR CHAMBERS: Yes.

SENATOR LANDIS: The answer is, yes, I think it is, but I'm not a scientist. I'm just using a...

SENATOR CHAMBERS: I know.

SENATOR LANDIS: ...common-sense reaction.

SENATOR CHAMBERS: And so that it won't seem like I'm paraphrasing anything, I'm going to read the definition in the

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Transcriber's Office
FLOOR DEBATE

January 12, 2006 LB 57

bill before I go further: "For purposes of the Assault of an Unborn Child Act, unborn child means an individual member of the species Homo sapiens at any stage of development in utero." So that part of the definition about any stage of development would be settled, would you agree, with the fertilized egg? Because it is a stage, a part of the stage, of development.

SENATOR LANDIS: On quick reflection the answer seems to be yes.

SENATOR CHAMBERS: When we get down now into the criminal sections, in line 11, immediately below that definition, is the following: "A person commits the offense of assault of an unborn child in the first degree if he or she intentionally or knowingly causes serious bodily injury to an unborn child." Do you believe that a fertilized egg has a body?

SENATOR LANDIS: I think there is a physical presence.

SENATOR CHAMBERS: Do you think it...

SENATOR LANDIS: When we use the word "body," our common sense certainly conjures a different image and I don't know that a scientist would use the word "body" to describe a fertilized egg.

SENATOR CHAMBERS: Here's the definition of "serious bodily injury" from the statute 28-109, sub (20): Serious bodily injury shall mean bodily injury which involves a substantial risk of serious permanent disfigurement or protracted loss or impairment of the function of any part or organ of the body. Let's take the last part first. Do you feel that a fertilized egg has organs?

SENATOR LANDIS: No, I don't think that in the process of development that a fertilized egg, in an early period of that...you know, just after fertilization has specialized organs. It takes a while for those to develop.

SENATOR CHAMBERS: Now I'm going to read what my amendment would offer. It would say, without going through all the things Senator Foley and I went through: "The provisions of this act

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

January 12, 2006 LB 57

shall not apply until the individual member of Homo sapiens in utero has reached a stage of development where arms, legs, hands, feet and a head are present." Does that seem like unreasonable language to you?

SENATOR LANDIS: Well, it...in fact, I voted it against it, Senator Chambers. I was not sure that...where one would be able to prove the existence of those in the specific criminal case before the court. One might be able to compare it to the development in a book, or whatever, and saying that after X period of time heads and feet have normally developed, but without a sonogram, without an x-ray, whatever, I'm not sure one would be able to establish that fact in this specific case. And it is...

SENATOR CHAMBERS: How...oh.

SENATOR LANDIS: ...for that reason I voted against it.

SENATOR CHAMBERS: How would the crime be established under any circumstances? If all you have is the fertilized egg, how will you establish there's been great bodily injury to that?

SENATOR LANDIS: In fact, I can't envision that there would be a prosecution. I think it would...I'm not sure that it fails to meet the legal test, but I do think it fails probably to meet the factual test of knowing and intentional. At some point, it's true that you might know that a woman was pregnant, she might have told you that or whatever, and you might cause injury early in the development. But I think we're going to have injuries later than that period and so I've got to tell you it's sort of off my radar screen.

SENATOR CHAMBERS: Then they would have to be able to trace that later-appearing injury to some act which was not complained against at the time it occurred, and prove proximate cause of that injury to be that prior act. Would you agree with that?

SENATOR LANDIS: I do think that there has to be a causal connection between the assault and the injury that would have to factually be proven, and there might be a period of time between

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

January 12, 2006 LB 57

the assault and the appearance or evidence of the assault existing.

SENATOR CHAMBERS: And if a person were accused, he or she could say anything in this person's existence or experience could have produced this later-appearing injury.

SENATOR LANDIS: It might be like birth defects, Senator Chambers, in which you could say, was it...I had two beers on a Saturday night when I was pregnant, I smoked three packs of cigarettes, I have an uncle that had a birth defect when he was born, I'm overweight. There could be multiple causes when you work backwards from that fact, that's true. It would represent a fact problem for the prosecutor.

SENATOR CHAMBERS: And here's what I'm getting to now. When we pass a criminal statute which contains extremely harsh punishments, should we create a statute which, if read literally, is unenforceable?

SENATOR LANDIS: My guess is that Senator Foley would not like to have me, of all people, speak for his act. However, I would suggest this; that I think there's some...if you had a Venn diagram, the list of hypotheticals you're creating and the list of hypotheticals or the drawing of the hypotheticals that Senator Foley is concerned about, I think you've identified some overlap at the margin. My guess is that the kind of hypothetical that Senator Foley is concerned about would not have the same set of factual problems. Somebody who's six months pregnant, has a child, would have arms, legs, and a head, et cetera. In that setting my guess is the kind of area where Senator Foley brought the bill and traced down to the fertilized egg. We've probably passed the point that factual evidence would be likely to be available and gotten to a place where, even though the definitions fit under the bill, that I think the chance of a prosecution is, in fact, quite remarkable and unlikely.

SENATOR CHAMBERS: Do you feel...oh, you may not support this bill, but that's not what I'm asking right now...

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

January 12, 2006 LB 57

SENATOR LANDIS: Right.

SENATOR CHAMBERS: ...in this series of questions. Do you feel comfortable putting into law a statute which, since we're talking about any stage of development,...

SENATOR LANDIS: Right.

SENATOR CHAMBERS: ...it runs from conception to birth, premature or otherwise, but it can cover a nine-month period, where a substantial part of that early development would not allow of a prosecution because a prosecutor...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...would know that he couldn't or she could prove the essential elements of the case.

SENATOR LANDIS: You give me a chance to give my feelings about the bill and that is that I think there's a bill that I could not only reluctantly but comfortably vote for that would describe acts that cause injury that...for which there should be very serious consequences, and they involve an assault on a pregnant woman that eventually harms or injures the child that she's carrying. I would have no difficulty trying to get to that problem and describe those acts. I'm uncomfortable with the language of the bill because I think it serves political ends and rhetorical ends, as well as trying to get to that act, and that makes it difficult. If I have to, ultimately, I may acknowledge the social harm of an injury to a pregnant woman whose baby is injured in that assault. I may do that.

SENATOR CUDABACK: Time, Senator.

SENATOR LANDIS: I would like the bill to be worded very differently.

SENATOR CHAMBERS: Thank you, Senator Landis.

SENATOR CUDABACK: Thank you, Senator Chambers. Mr. Clerk, items for the record, please.

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Transcriber's Office
FLOOR DEBATE

January 12, 2006 LB 454A, 810, 844, 949, 954, 965, 966, 996
 1016, 1072, 1077-1079
 LR 265, 269

CLERK: Mr. President, new bills. (Read LB 1077-1079 by title for the first time.) New resolution, LR 269, Senator Burling; that will be laid over. An amendment by Senator Combs to LB 454A to be printed. And some name adds, Mr. President: Senator Preister to LB 810; Senator Connealy, LB 810, LB 844; Senator Cornett, LB 844; Senator Howard, LB 949; Senator Burling, LB 954; Senator Cunningham, LB 965, LB 966, LB 996; Senators Kruse, Preister, Howard, LB 1016; Senator Heidemann, LB 1072; Senator Schimek, LR 265. (Legislative Journal pages 323-325.)

Mr. President, I have a priority motion. Speaker Brashear would move to adjourn until Friday morning, January 13, at 9:00 a.m.

SENATOR CUDABACK: You've heard the motion to adjourn till Friday morning. All in favor say aye. Opposed, nay. We are adjourned. (Gavel)

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