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Transcriber's Office

Floor Debate
January 17, 2008

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PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the seventh day of the One Hundredth Legislature, Second Session. Our chaplain for today is Senator Carlson. Would you all please rise.

SENATOR CARLSON: (Prayer offered.)

PRESIDENT SHEEHY: Thank you, Senator Carlson. I call to order the seventh day of the One Hundredth Legislature, Second Session. Senators, please record your presence through roll call. Please record, Mr. Clerk.

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

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Any corrections for the Journal?

CLERK: I have no corrections, Mr. President.

PRESIDENT SHEEHY: Messages, reports, or announcements?

CLERK: A series of hearing notices: two from the Banking, Commerce and Insurance Committee, signed by Senator Pahls; and two from the Government, Military and Veterans Affairs Committee, signed by Senator Aguilar. And that's all that I have, Mr. President. (Legislative Journal pages 263-264.)

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Do you have new bills for introduction?

CLERK: I have two, Mr. President. (Read LB1012-1013 by title for the first time.) And that's all that I had, Mr. President. (Legislative Journal page 264.) [LB1012 LB1013]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. (Doctor of the day introduced.) We will proceed to the first item under General File. []

CLERK: Mr. President, LR5CA, a constitutional amendment proposed by Senator Friend would amend Article XIII, Section 2. Resolution was discussed yesterday, Mr. President. At that time, Senator Friend had offered an amendment to the resolution that was ultimately adopted. At this point, Mr. President, I have no further amendments

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pending to LR5CA. [LR5CA]

PRESIDENT SHEEHY: Senator Friend, would you give us a short synopsis. [LR5CA]

SENATOR FRIEND: I will. Thank you, Mr. President and members of the Legislature. Quickly, to revisit and to provide a little quick introduction, LR5CA is a way to permit the Legislature to authorize any county, city or village to acquire, own, develop and lease real and personal property suitable for use by nonprofit enterprises, as determined by law, and to issue revenue bonds for the purpose of defraying the costs of such acquisition, financing, and development. The bonds would not be general obligation bonds. They're not an obligation of the governmental subdivision and would be taxable or exempt from taxation to the same extent as private property similarly held and used, and would be during the period of any lease. Now, the amendment that was adopted essentially changed it from 2008 to 2010, during the primary election of 2010. So if there are any questions in regard to LR5CA, I'd be happy to answer them. And, Mr. President, that's all I'd have at this point. Thank you. [LR5CA]

PRESIDENT SHEEHY: Thank you, Senator Friend. Those wishing to speak are Senator Adams and Senator Gay. Senator Adams. [LR5CA]

SENATOR ADAMS: Thank you, Mr. President. Body, I don't know that my statements here will add any new light to this. I think a lot of questions might have got answered off the mike yesterday. But let me give you an illustration of how this might work and maybe it will answer some more questions. Let's assume that we have a community in Nebraska and they are approached by a charitable organization similar to the Humane Society, Red Cross, Goodwill, but let's use the Humane Society Adopt a Pet, something like that, and they operate by charitable donations. That's what keeps them going. And they need a building. And the city makes a conscious decision that having such an entity would be of benefit to them, and what the city could then do is use its bonding authority and, in effect, become the conduit for Adopt a Pet or the Humane Society to get the revenues that they need. Now more specifically, let's say that Adopt a Pet comes up with a plan and they need a quarter of a million dollars to renovate a building where they will keep the animals and care for them, and the city says, yeah, that would be a benefit to us. And that quarter of a million dollars, the city might say in this instance, if this were to pass, that what we're going to do is to issue--because cities legally can do this, Adopt a Pet can't--we're going to issue revenue bonds on your behalf. Now when the city does that, in effect what they're doing, they're lending to Adopt a Pet their capability of issuing bonds that will come in at a little lower interest rate than if Adopt a Pet had to walk into a commercial bank and say, we want to borrow a quarter of a million dollars to put up a building and we can't handle the interest rate on this. So they go to the city. The city, in effect, becomes the conduit for loaning the money. Now the city is not obligated. These are not general obligation bonds where the city, by a vote of its city council or village board or county board, is pledging the tax

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base of the county or the city. All the city is doing is being a conduit for accessing these bonds. So on the two sides of the bond, on the one side you're going to have the nonprofit, and the nonprofit is pledging the lease payment, the rent payment, whatever arrangement they have with the city. They are pledging a revenue stream--that's why they're called revenue bonds--they are pledging a revenue stream to pay off the bonds. The bondholder is not the city. The bondholder is anyone. It may be a financial institution. It may be private individuals who want to buy these bonds. Is there risk to the bondholder? There is always risk to a bondholder, always risk. Is there more risk in one of these bonds than a general obligation? Yeah, because the tax base of the political subdivision is not backing up these bonds. Instead, it a pledge of a revenue stream that's backing them up. So when a bondholder buys, there is a risk. If the revenue stream shut down and Adopt a Pet couldn't make the payments to the bondholders, very possible that their quarter-of-a-million-dollar building would have to go up for sale and the dollars would be recouped to pay back the bondholders, maybe not at full value. The key is here that the city becomes merely a vehicle for getting the nonprofit a little lower interest rate, and the nonprofit is pledging its revenue stream to the bondholder to pay them back. [LR5CA]

PRESIDENT SHEEHY: One minute. [LR5CA]

SENATOR ADAMS: Thank you, Mr. President. [LR5CA]

PRESIDENT SHEEHY: Thank you, Senator Adams. Further discussion? Senator Wightman. [LR5CA]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. I would like to engage in a little conversation with Senator Adams, because he's pretty knowledgeable on this matter. [LR5CA]

PRESIDENT SHEEHY: Senator Adams, would you yield? [LR5CA]

SENATOR ADAMS: Yes. [LR5CA]

SENATOR WIGHTMAN: Senator Adams, just to be clear, these would be tax exempt bonds because they're issued under the name of the municipality. Is that correct? [LR5CA]

SENATOR ADAMS: That's correct. The municipality, in effect, is lending its tax-exempt status to the nonprofit. [LR5CA]

SENATOR WIGHTMAN: They're very much like what we used to have, and thought maybe still have, IDA bonds we used to call them, except they were for an organization that would be a for-profit organization in the community. Is that correct? [LR5CA]

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SENATOR ADAMS: I'm not familiar with that. [LR5CA]

SENATOR WIGHTMAN: Well, just for the education of the body, we used to have industrial development bonds. They were called IDA bonds. A new business would be coming in which was going to create additional growth within the city, and they could issue the industrial development bonds under much the same manner that we're talking here for nonprofits and, again, they were tax exempt. Allowed the city, through its auspices, to pass on the tax-exempt nature of the bonds, which resulted in the lower interest rates. Again, I favor this particular amendment. Obviously, it's not a great deviation because we've had it up before. It did not pass. I think some of it was probably lack of education of the public. But I do think that it's an opportunity, and again it may create economic development. I think of a YMCA. I know a lot of communities have been involved in actually funding part of the YMCA through private/public partnerships. Hospitals, I think, have been involved in YMCAs. But it would be another tool to perhaps make a YMCA a possibility within a particular community. Thank you, Mr. President. [LR5CA]

PRESIDENT SHEEHY: Thank you, Senator Wightman. Any other discussion on LR...Senator Chambers. [LR5CA]

SENATOR CHAMBERS: Thank you, Mr. President and members of the Legislature. I have a question of Senator Friend. [LR5CA]

PRESIDENT SHEEHY: Senator Friend, would you yield? [LR5CA]

SENATOR FRIEND: Yes, I will. [LR5CA]

SENATOR CHAMBERS: Senator Friend, yesterday when you discussed your bill I was listening with one ear and occupied with other things, so I'm not certain if I heard something correctly. Did you say this proposal had been on the ballot and had failed? [LR5CA]

SENATOR FRIEND: Yes, I did. [LR5CA]

SENATOR CHAMBERS: How long ago was it on the ballot? [LR5CA]

SENATOR FRIEND: The general election...well, so two...three years? [LR5CA]

SENATOR CHAMBERS: Okay, three. [LR5CA]

SENATOR FRIEND: Three years ago. [LR5CA]

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SENATOR CHAMBERS: Okay, because I didn't remember it. [LR5CA]

SENATOR FRIEND: Yeah. [LR5CA]

SENATOR CHAMBERS: And why is it necessary to put it on the ballot? Because somebody was suggesting this could be done without a constitutional amendment and I didn't hear the discussion on that point. [LR5CA]

SENATOR FRIEND: Well, it can't be done without a constitutional amendment because we're...actually, we didn't talk about that specifically. I think what...I think that it... [LR5CA]

SENATOR CHAMBERS: But at any rate, you're convinced it takes a constitutional amendment. [LR5CA]

SENATOR FRIEND: Well, in order...yes. [LR5CA]

SENATOR CHAMBERS: Okay. [LR5CA]

SENATOR FRIEND: In order to...for it to mirror what a lot of other states are doing and to also take advantage of federal guidelines, I guess. [LR5CA]

SENATOR CHAMBERS: No, that's not a good argument for me, what other states are doing. [LR5CA]

SENATOR FRIEND: No. No, I know that. [LR5CA]

SENATOR CHAMBERS: Under Nebraska law, why is it necessary to have a constitutional amendment? [LR5CA]

SENATOR FRIEND: Because it's my understanding you're not going to be able to utilize this type of revenue bonding authority unless the constitution is changed. [LR5CA]

SENATOR CHAMBERS: Okay. Thank you. I'd like to ask Senator Adams a question or two. [LR5CA]

PRESIDENT SHEEHY: Senator Adams, would you yield? [LR5CA]

SENATOR ADAMS: Yes. [LR5CA]

SENATOR CHAMBERS: Again, Senator Adams, I was in my office, and between my office and getting here I made a couple of stops, but you were speaking, and I think it may have been you, of how the county and the city work together to obtain a loan, I

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guess, which one or the other could not get, so the city serves as a conduit. Was that you or somebody else (inaudible)? [LR5CA]

SENATOR ADAMS: No, I used that word "conduit." However, it's...this is not a relationship between city and county. This is a relationship between city and a nonprofit, or a county board and a nonprofit. [LR5CA]

SENATOR CHAMBERS: And you were just using your example as an example of how a type of arrangement like this could work. [LR5CA]

SENATOR ADAMS: Correct. [LR5CA]

SENATOR CHAMBERS: Okay. But the city is not involved. It's between the county and the nonprofit. [LR5CA]

SENATOR ADAMS: Or... [LR5CA]

SENATOR CHAMBERS: The city and the nonprofit. [LR5CA]

SENATOR ADAMS: Correct. [LR5CA]

SENATOR CHAMBERS: Okay. Thank you. Mr. President, how much time do I have left? [LR5CA]

PRESIDENT SHEEHY: Two minutes, ten seconds. [LR5CA]

SENATOR CHAMBERS: I might can proceed a bit further. I'd like to ask Senator Friend another question or two. [LR5CA]

PRESIDENT SHEEHY: Senator Friend, would you yield? [LR5CA]

SENATOR FRIEND: Yes, I will. [LR5CA]

SENATOR CHAMBERS: Senator Friend, we're talking about revenue bonds and any revenue derived from the project is what would pay off the bonds. Now why is it necessary to have the political subdivision involved for the benefit of this private operation, if that's what we're talking about? [LR5CA]

SENATOR FRIEND: Well, that's an interesting question, and I think that a lot of the governmental subdivisions look at it as an opportunity for them to promote...I don't like the cliché anymore, but to promote economic development; to have the ability to get a little more creative and have a hand in...I mean, if there's something in York or there's a...Scottsbluff or Broken Bow where they don't feel like they have... [LR5CA]

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PRESIDENT SHEEHY: One minute. [LR5CA]

SENATOR FRIEND: They have some dilapidation, they have infrastructure problems and they're looking at a creative opportunity to try to expand that cliché that we use in regard to economic development. [LR5CA]

SENATOR CHAMBERS: And I was given an answer to the question by Counselor Wightman, so you can thank him. I don't have to continue asking questions of you. [LR5CA]

SENATOR FRIEND: Oh. Thank you, Counselor Wightman. [LR5CA]

SENATOR CHAMBERS: And thank you, Mr. President. Thank you, Senator Wightman. [LR5CA]

PRESIDENT SHEEHY: Senator Chambers, you may continue. Senator Chambers waives. Senator Stuthman. [LR5CA]

SENATOR STUTHMAN: Thank you, Lieutenant Governor, members of the body. I would like to engage in a little conversation with Senator Friend. [LR5CA]

PRESIDENT SHEEHY: Senator Friend, would you yield? [LR5CA]

SENATOR FRIEND: To some questions. [LR5CA]

SENATOR STUTHMAN: Yes, that's what I have, is some questions. [LR5CA]

SENATOR FRIEND: Then I will yield, yes. [LR5CA]

SENATOR STUTHMAN: Thank you. Who would be bond investors for these bonds? [LR5CA]

SENATOR FRIEND: Who would be bond investors? [LR5CA]

SENATOR STUTHMAN: Yes. [LR5CA]

SENATOR FRIEND: Anybody that would want to invest in the idea, I would...I would... [LR5CA]

SENATOR STUTHMAN: And who...and these bond investors are the ones that are really at risk if these bonds don't ever get paid off? [LR5CA]

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SENATOR FRIEND: Well, any time you buy a bond you're taking a risk, correct, Senator Stuthman? So I know that there's risk there, but there's also risk for the nonprofit because you're banking, you're not playing with house money. I mean, you're banking, you're betting on the come, you're betting on revenue. [LR5CA]

SENATOR STUTHMAN: And this revenue would come from what? [LR5CA]

SENATOR FRIEND: The revenue that the nonprofit generates. [LR5CA]

SENATOR STUTHMAN: It would be, in other words, the proceeds from the nonprofit organization that this structure would generate, or this business would generate? Would that be where the revenue would come from? [LR5CA]

SENATOR FRIEND: That's correct. I mean, can I give you a quick example? [LR5CA]

SENATOR STUTHMAN: Yes, you may. [LR5CA]

SENATOR FRIEND: You're talking about...you're talking about the type of nonprofits. We mentioned Goodwill yesterday; we mentioned...I don't know if we mentioned Red Cross, I think I did; CEDARS Home for Children Foundation; Uta Halee Girls; Cooper Village; Lincoln-Lancaster County Human Services Federation; other...thank you...Nebraska Independent Community Bankers; Lincoln Chamber of...I mean, we're...the...I think we can be pretty creative with this thought process except for, you know, the idea, and we dealt with this a few years ago, that there might be a, you know, parochial school in the middle of Omaha that's looking to take advantage of it. Can't happen. The language would not allow for that, so... [LR5CA]

SENATOR STUTHMAN: Thank you, Senator Friend. [LR5CA]

SENATOR FRIEND: You're welcome. [LR5CA]

SENATOR STUTHMAN: It is my understanding that these charitable organizations would get their revenue from people that donate or contribute to these organizations, and it would be up to that organization to make sure that what they are doing in a community would make it of interest to people that want to donate or contribute to that. I think this is a very good idea. I think it creates some economic development in a community, and I think the only risk is for the ones that invest in the bonds, and that's the risk that they take when they invest in those bonds. But I think the charitable organizations, you know, need to upgrade facilities like this in communities, and I think it's very important. And as they are investing in a community, I'm sure charitable donations will come to service these bonds. Thank you. [LR5CA]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. Senator Nelson. [LR5CA]

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SENATOR NELSON: Thank you, Mr. President. I'd like to ask a question or two of Senator Adams, if he will yield. [LR5CA]

PRESIDENT SHEEHY: Senator Adams, would you yield to some questions? [LR5CA]

SENATOR ADAMS: Yes. [LR5CA]

SENATOR NELSON: I've been engaged in other conversations, so I should have...might have missed something, Senator, and I appreciate the way you laid out how this would work. And you talked about the city being a conduit. It's my understanding that the city or the county would actually...they have the authority to purchase or construct these premises or put out the money. Is that the way it works? [LR5CA]

SENATOR ADAMS: Potentially. The city could ultimately be the owner of the building... [LR5CA]

SENATOR NELSON: Right. [LR5CA]

SENATOR ADAMS: ...that the habitat for animals or Red Cross is in. [LR5CA]

SENATOR NELSON: All right. And as Senator Stuthman said, they're dependent then on the revenue that the charity is able to generate to pay the interest on the bonds and eventually pay off. Is there any liability to the city or the county? It seems to me you said it might be necessary, if the revenue was not forthcoming, that they might have to sell the property and recover their costs that way. But would there not possibly be some loss in some events, or you don't anticipate that? [LR5CA]

SENATOR ADAMS: I guess I'm trying to think of a scenario where that might happen, but I would reaffirm to you that using the revenue bond takes the general obligation of the city out of the picture. [LR5CA]

SENATOR NELSON: All right. [LR5CA]

SENATOR ADAMS: And the charitable organization that has contractually committed its principal and interest payment, or its lease payment, rent payment, whatever it might be over a period of time as a commitment to that bond, there's always the potential of that default, and the bondholder is the one that's liable there. [LR5CA]

SENATOR NELSON: All right. And they would bear the brunt of it then. [LR5CA]

SENATOR ADAMS: They would, yeah,... [LR5CA]

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SENATOR NELSON: All right. [LR5CA]

SENATOR ADAMS: ...not liable, but bear the brunt. That's correct. [LR5CA]

SENATOR NELSON: All right. All right. Thank you very much. That answers my question. Thank you, Mr. President. [LR5CA]

PRESIDENT SHEEHY: Thank you, Senator Nelson. Further discussion on LR5CA? Seeing none, Senator Friend, you're recognized to close. [LR5CA]

SENATOR FRIEND: Thank you, Mr. President. I just wanted to thank everybody for the time. LR5CA is a...it could be a valuable tool. I would ask for its advancement. Thank you, Mr. President. [LR5CA]

PRESIDENT SHEEHY: Thank you, Senator Friend. You have heard the closing. The question before the body is, shall LR5CA advance? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LR5CA]

CLERK: 35 ayes, 0 nays, Mr. President, on the advancement of LR5CA. [LR5CA]

PRESIDENT SHEEHY: LR5CA does advance. Do you have items for the record? [LR5CA]

CLERK: I do, Mr. President, thank you. Hearing notice from Natural Resources Committee; that's signed by Senator Louden. Two new bills. (Read LB1014-1015 by title for the first time.) That's all that I have at this time, Mr. President. (Legislative Journal page 265.) [LB1014 LB1015]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We will proceed to the next item under General File. []

CLERK: LB690, introduced by Senator Fischer and others. (Read title.) The bill was introduced on January 17 of last year, at that time referred to the Natural Resources Committee. The bill was advanced to General File. There are committee amendments pending, Mr. President. (AM77, Legislative Journal page 626, First Session, 2007.) [LB690]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Fischer, you're recognized to open on LB690. [LB690]

SENATOR FISCHER: Thank you, Mr. Lieutenant Governor, members of the body. I proposed this bill as a means to introduce more people to the sport of hunting. The

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current number of hunters in Nebraska has been declining and is projected to continue to decline. This means that our state is losing a valuable tradition that exists not only as a recreation, but also as a commercial and conservation industry. LB690 advanced to General File with unanimous support from the Natural Resources Committee. Furthermore, the bill is widely supported by the body, as is evident from the 33 senators who cosponsored this proposal. The focus of this bill is to create an apprentice hunter education exemption certificate program with the primary goal of safely offering the hunting experience to youth while under the direct supervision of a qualified adult hunter. LB690 encourages youth to take interest in the sport by removing the obstacle of age limits, and focusing on recruitment, primarily for those ages 12 to 29, through this apprentice program. The first section of the bill establishes the specific ages 12 through 29 years for those hunters required to complete firearm or crossbow hunter education prior to obtaining a hunting permit. In addition, this portion of the bill requires that the Game and Parks Commission adopt rules and regulations necessary for the implementation of this newly created program. With interest and opportunities for hunting diminishing, we can make a genuine effort to prevent this decline by providing greater opportunities for participation, which is precisely what is accomplished in the following portion of the bill as the main provisions of the hunter apprentice program are developed. A beginning hunter, ages 12 through 29, is allowed to hunt upon purchasing a hunting permit and an apprentice hunter education exemption certificate. The fees for hunting permits vary, but to provide you with some examples of the approximate rates, a small game permit for a Nebraska resident can be purchased for as little as \$14, and a resident statewide buck permit costs \$68.50. The newly created exemption certificate is purchased for a fee of \$5, with the option of a one-time renewal, and it is valid until the end of the year in which it was issued. The rules surrounding the hunting with a hunter education exemption certificate are further outlined by requiring that there be supervision by a person at least 19 years of age who has completed the hunter education course and holds an official hunting permit. The bill outlines certain conditions that must be met by the hunter as part of assuring that all safety precautions are employed. In particular, the lead hunter must at all times remain in unaided visual and verbal communication with the beginning hunter, and may supervise no more than two hunters having this apprentice hunter education exemption certificate. There is absolutely no exception to relax current laws because a person is new to the sport. All rules and laws that apply to hunting must be followed, and the hunters remain accountable to comply with these provisions that are critical to safety and respect for this activity. In Sections 2 and 3, changes have been made to provide a specific age requiring completion of a bowhunter education course. In addition, this bill amends the ages permitted to hunt turkey and deer. More specifically, by removing wild turkeys from the big game species list, the minimum age to hunt wild turkeys is eliminated, so a hunter as young as 10 may pursue this game bird. And a hunter must be at least 10 years of age rather than 12 in order to hunt deer when accompanied by an adult of at least 19 years of age with the proper qualifications. The requirements regarding permits and hunter education exemption certification remain the same as previously stated for

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hunting these species and wild game in Nebraska. The focus of this legislation is to create widespread opportunities for participation in hunting. By encouraging involvement there is an underlying assumption that these hunters will continue to hunt throughout their life and go on to introduce this sport to future generations. Thank you, Mr. President. [LB690]

PRESIDENT SHEEHY: Thank you, Senator Fischer. You have heard the opening to LB690. We will now move to the committee amendment from the Natural Resources Committee, AM77. Senator Louden. [LB690]

SENATOR LOUDEN: Thank you, Mr. President. The committee amendment replaces the bill. This amendment was presented by Senator Fischer to the committee at the time of the bill's introduction. Section 1 strikes the language that refers to a person who was born on or after January 1, 1977, to simply requiring hunter education programs for persons who are 29 years of age or younger if they wish to hunt with a firearm or crossbow, and allows a person between the ages of 12 through 29 to hunt with the appropriate permit and an apprentice hunter education exemption, and who is accompanied by a person 19 years of age or older who has a valid hunting permit. This individual must be in unaided visual and verbal communication with no more than two persons having an apprentice hunter education exemption certificate. The use of ordinary prescription eyeglasses or contact lenses or ordinary hearing aids is permitted. The apprentice hunter education exemption may be issued once during that person's lifetime, with one renewal. The certificate expires on December 31 of the year that it was issued. Section 2 applies the same restrictions, including age limitations, on those who wish to hunt with bow and arrow, and requires the commission to locate as well as train volunteers for bowhunter education instructors. Wild turkey is removed from the list of big game that may be hunted with a bow and arrow. This makes hunting wild turkey consistent with other upland game species that may be hunted with a regular hunting permit. Section 3 restricts the hunting of antelope, elk, or mountain sheep to individuals to be at least 12 years of age, and persons between the ages of 12 and 15 must be supervised by a person 19 years of age or older having a valid hunting permit. Wild turkey is removed from the list of big game that may be hunted with a firearm. This section restricts the hunting of deer to individuals at least 10 years old, and persons between the ages of 10 and 15 must be supervised by a person 19 years of age or older having a valid hunting permit. It also restricts the number of individuals to no more than two that may be supervised at the same time while hunting deer, antelope, elk, or mountain sheep. With that, I would ask for the advancement or the addition of the amendment, AM77, to the bill. Thank you, Mr. President. [LB690]

PRESIDENT SHEEHY: Thank you, Senator Louden. You have heard the opening of the Natural Resources Committee amendment, AM77. The floor is open for discussion. Senator Stuthman. [LB690]

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SENATOR STUTHMAN: Thank you, Lieutenant Governor and members of the body. I would like to engage in a little conversation with Senator Fischer. [LB690]

PRESIDENT SHEEHY: Senator Fischer, would you yield to some questions? [LB690]

SENATOR FISCHER: Certainly. [LB690]

SENATOR STUTHMAN: Senator Fischer, are there two different age groups that we're talking about here, a 12-year-old, 12 to 29, as far as the completion of training courses, and then are we talking about a 10-year-old when it comes to allowing them to hunt deer? Or explain to me the difference in the 10-year-old and the 12-year-old provisions of this bill. [LB690]

SENATOR FISCHER: Are you referring to Section 1 with the hunter safety course, changing it from the date of January 1977 to put in the ages 12 to 29? [LB690]

SENATOR STUTHMAN: I'm really trying to refer to in the amendment part, where it states that the 10-year-old can also accompany a hunter and can be a hunter of deer, antelope, and elk. [LB690]

SENATOR FISCHER: We lowered the age from 12 to 10 because we felt that children currently can be accompanied by a 19-year-old on a hunt if they're 12 years old. A 12-year-old can go out and hunt now. With the hunter mentoring program, the 10-year-old who's going to hunt deer, remember in the bill, has to be under the supervision; and you have to have visual contact, unaided visual contact; you have to have unaided verbal contact under this bill, which means that you can't just send the child over the hill to follow a deer or to wait and watch for a deer, but they have...you have to be able...I have to be able to talk to you, Senator Stuthman, if I was under this hunter mentoring program, without this microphone, and I'd have to be able to hear you. So we felt it was safe enough under this--well, it was safe, not safe enough; I misspoke--it is safe for a 10-year-old to be able to go out and hunt deer. You know, in our area of the state that happens quite frequently. [LB690]

SENATOR STUTHMAN: Yes, Senator Fischer, I think it does. The concern that I have was, you know, the 10-year-olds, you know, having the ability to shoot a deer, which is a very high-powered rifle to shoot a deer. But I think if they're within proximity of an adult, you know, that does help. But I do have a little bit of a concern, you know, of, you know, a 10-year-old is not a very old child and there's a difference between the 10 and the 12. The 12-year-old can be over the hill shooting a deer and not in sight of an adult, but a 10-year-old has got to be in sight of an adult. Is there a lot of difference between, you know, the 10- and the 12-year-old? Maybe the 12-year-old should be in the sight of an adult also. It is a little bit of a concern of mine, you know, of having these 10-year-olds, you know, being able to shoot a deer. But the positive part of it is, is

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they're out there with a family member learning the sport of hunting, and I think that's very good. If there's ever going to be... [LB690]

PRESIDENT SHEEHY: One minute. [LB690]

SENATOR STUTHMAN: ...ever going to be an interest instilled in some of these youth, you know, they will be at age 8, 9, 10, 12 years old, you know, with their parent, doing what their parent enjoys to do. So I do support this bill. I think that this does allow that 10-year-old to be aside of an adult, hopefully his parent or a family member, in the process of hunting deer. So I do support this bill. Thank you. [LB690]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. Senator Chambers. [LB690]

SENATOR CHAMBERS: Mr. President, members of the Legislature, a few days ago I read an item in the newspaper which was tragic, in a sense, ironic in another, and it could be viewed as humorous if it had not actually happened. This man was out hunting, an activity I've never engaged in, I never would engage in. To take a high-powered weapon and kill a nonoffending animal, in my opinion, is the height of cruelty and barbarism. But despite feeling that way, and feeling it very strongly, I've never offered legislation to stop people from doing that. I have a bill that I put in to ban hunting, trapping, and fishing for the purpose of demonstrating the overwhelming political support for such activities in Nebraska, and such being the case, there would be no necessity to clutter the constitution by putting some lamebrain, stupid provision to protect, as they call it, hunting, trapping, and fishing. When it was offered before, I would tender amendments to put into the constitution, protection for things that nobody thought needed protection in the constitution. One might have been breathing air. But to get back to the incident, this man had a dog in the back of his pickup truck and he was going to make this animal complicit in the tracking down and killing of other animals. Somehow this foolish, barbaric man, about to commit the sin of killing for sport and fun, and maybe to satisfy sadistic impulses and even obtain sexual gratification as they found some people do, he propped his gun up in the bed of his pickup truck, and that sin carried its own punishment because the man wound up being shot with that gun, fatally, and the only evidence of the shooter were the muddy footprints of the Labrador around and upon the weapon that carried out nature's judgment on this one who would destroy, in a cruel and barbaric manner, one of her children. I'm not going to oppose this bill other than by voting against it. If these people who hunt want to take somebody out with them who is six years old, I wouldn't oppose that. Children who are young and weak physically and lack coordination may very well accidentally discharge a gun when it ought not be discharged; may intend to point it at object A, which is the animal, and in the child's excitement may move the gun so it actually discharges and strikes... [LB690]

PRESIDENT SHEEHY: One minute. [LB690]

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SENATOR CHAMBERS: ...object B, which is the adult. Poetic justice? I think it creates a dangerous situation. And even though it might be done, to sanctify it in the law says something about the mentality of the people in Nebraska. And I think it's appropriate that such people advertise in their laws their mentality, the circumstances in which they will place children. And if a child accidentally kills a parent, I think that would have very serious, long-lingering consequences of a psychological and emotional nature for that child. [LB690]

PRESIDENT SHEEHY: Senator Chambers, you may continue. [LB690]

SENATOR CHAMBERS: Thank you, Mr. President. When children are abused in any manner, such conduct toward children pushes me to the rim of rage. Children are not able to defend and protect themselves. Children trust adults even when they shouldn't, and they can be exploited because adults know that children are naive, trusting, lacking in experience and understanding of what may happen to them. It is why they can be enticed into every manner of mischief and even harm. I've often quoted or paraphrased a comment attributed to Jesus, two of them: suffer the little children to come unto me and forbid them not, for of such is the kingdom of heaven. Not legislators, not adults, but children are what heaven would be about. He didn't say, bring the little children to me and I'll make them suffer, but that's the attitude of adults. I got, by law, corporal punishment out of the schools, the public schools, because adults took too much pleasure in inflicting physical harm against children, upon children. And the ones most likely to be abused were those who would need help and understanding the most. If it seemed that the child had parents who were not as concerned as they ought to be, if the child was not dressed as well as other children, or, to make a long story short, did not have the earmarks of being from a family with means, that is the child who was selected to have physical violence inflicted. So I stopped it. And when I stopped it, these teachers and others said, well, how do we know what...how do we know what corporal punishment is? I said, you knew what it was when you were doing it, so stop doing what you were doing. They always act like they don't know, and children suffer. There probably is more cruelty and abuse of children in America than any other place in the face of the earth. You even have businessmen leaving America to go to other countries so that they can sexually abuse subteen children. And you're going to put guns in these children's hands and give them a love of the gun, hoping that the child will use that skill, if you want to call it that, to point that gun only at helpless, four-footed creatures, and not be put in a position or a set of circumstances where a parent has treated that child in such a way that the child, feeling unable to protect himself or herself, will now take up the gun against the one in the home. And this does happen. There are parents killed regularly in America by children, and the children use guns in the home. So if you want to send these tykes out here with these guns and teach them to kill, do it. And when you sow the wind and reap the whirlwind, you were warned. The other statement Jesus... [LB690]

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PRESIDENT SHEEHY: One minute. [LB690]

SENATOR CHAMBERS ...allegedly made, "Whoever offends one of these, my little ones, it were better for him that a millstone were hanged around his neck and he be drowned in the sea," to tell you what ought to befall people who do terrible things to little children. And you can harm children other than by merely applying physical violence. How much time did you say I have, Mr. President? [LB690]

PRESIDENT SHEEHY: Twenty seconds. [LB690]

SENATOR CHAMBERS: Then I'll stop at this point. [LB690]

PRESIDENT SHEEHY: Thank you. Senator Langemeier. [LB690]

SENATOR LANGEMEIER: Thank you, Mr. President, members of the body. I would like to ask Senator Fischer a question. Would she yield? [LB690]

PRESIDENT SHEEHY: Senator Fischer, would you yield to a question? [LB690]

SENATOR FISCHER: Certainly, Mr. President. [LB690]

SENATOR LANGEMEIER: Senator Fischer, in reviewing the committee amendment, which is pretty much the bill now, I have a couple questions about taking out the January 1, 1977, date and putting in there ages 12 through 29, requiring them to have hunter safety. And my concern with this is, and I'm going to pick on Senator Erdman here for a minute because I had a little discussion with him, he's just barely past the age of 29. So if there's an individual out there that's at age 28 today and wants to get a license, and now has to have hunter safety and may have taken it back in the 8th grade, back when--that's when I took it was in the 8th grade--is there a registry out there or a database out there that proves that I took hunter safety, or would I have to go take it again because I don't have that card? [LB690]

SENATOR FISCHER: Senator Langemeier, you should have that card if you took the course. It's just like your hunting permit for a deer or grouse or pheasants or whatever, and if you are out hunting, since you happen to be born after January 1977, you are supposed to be carrying that card when you're hunting, under current law. [LB690]

SENATOR LANGEMEIER: I was born in 1971, so I have an excuse. [LB690]

SENATOR FISCHER: Oh, well, Senator Langemeier, you're old enough, then you probably wouldn't have to if this bill was passed. [LB690]

SENATOR LANGEMEIER: How...my second question is how would this affect those of

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us that have lifetime hunting and fishing permits? I already have my lifetime hunting and fishing permit. Let's say I was born after '77. I mean is that a grandfather? Hunter safety, what if they didn't take it and they got that permit? Because when I got my lifetime permit, they never asked me if I took hunter safety. [LB690]

SENATOR FISCHER: I assume... [LB690]

SENATOR LANGEMEIER: How would we check that? How are we going to verify that if you're 28 years old and they want that lifetime hunting permit, or got it last year? [LB690]

SENATOR FISCHER: Under this bill, that changes it. So only those that are 12 to 29, those are the dates that you have...or those are the ages that you have to take the hunter safety course. It doesn't matter if you were born in '77 and you are now older than 29 years old... [LB690]

SENATOR LANGEMEIER: Right. [LB690]

SENATOR FISCHER: ...and you decide you want to go out and hunt. You don't have to take that hunter safety course if you're 30, 31, 32. [LB690]

SENATOR LANGEMEIER: Correct. [LB690]

SENATOR FISCHER: Or if I would decide I would want to go out and hunt, I would not now have to take a hunter safety course in order to begin hunting at my age. [LB690]

SENATOR LANGEMEIER: So you're telling me the age 29 is simply 1977 minus the current year, correct? [LB690]

SENATOR FISCHER: Correct. [LB690]

SENATOR LANGEMEIER: Thank you. Thank you, Mr. President. [LB690]

PRESIDENT SHEEHY: Thank you, Senator Langemeier. Senator Chambers, this is your third time. [LB690]

SENATOR CHAMBERS: Yes. Mr. President, members of the Legislature, I think the term "hunting" is a euphemism. When you know where the animal is, when you know the area where the animal is likely to be and the area in which you can shoot that animal, it should be called more...I meant a more appropriate term would be "ambush." They should call it ambushing. And I think if they really want to show something, whatever hunting is supposed to show, send them out there like the predecessors of Homo sapiens, the wise homos and heteros, the "Hetero sapiens." Give them some

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sticks and rocks and let them go out there. But, no, they're not going to do that. They even have people who are considered great white hunters who will go to countries and be sitting up in a tree and have people drive an animal under them and they shoot that animal, Ernest Hemingway and the rest of their ilk. They take a pelt or a hide, hang it on a door, make a rug of it, put the head of the animal on a wall, stick out their chest and feel great about what they've done. I have yet to see anybody who makes a regular practice of killing animals with high-powered weapons manifest what I could call compassion for other human beings. They have callouses around the edges of their emotions. They've got to do that so that they feel no conscience whatsoever in the bloodletting they enjoy so much. Not every animal who is struck by a high-powered bullet dies instantly or dies at all. Guns and alcohol don't mix, it is said, but among hunters that's not the case. There was one incident where a fellow had taken Dick Cheney out hunting, and if he'd have had better aim or worse aim, an outcome would have occurred which I would accept as the price of people hunting. And speaking of Mr. Cheney, who did recover, he probably, when he talks to the President about the war--in years past I condemned that war and spent time on the floor doing it and I was condemned by people for even bringing it up, but I don't have to do it now because everybody is against the war--he says, you know, George, there's good news and bad news coming from the battlefield. George says, well, which one, Dick? He says, well, let's take both of them, Afghanistan and Iraq. Well, give me the bad news first. A lot of young Americans, a lot of young Americans who are children of people are dying. And George looks sad and he says, okay, Dick, that is bad news; what's the good news? Dick Cheney brightens and he says, but they're not our children; they're not your and my children. Then they have a big guffaw; they toss down, or belt, some liquor, and get their guns and go out and try to kill some helpless animals. [LB690]

PRESIDENT SHEEHY: One minute. [LB690]

SENATOR CHAMBERS: And, by God, that is the life! That's what made America great! And that's what people see who envy America and want to bring America down because they hate America because they have people like George Bush and Dick Cheney carrying on the way and I mentioned it...in the way that I mentioned. You'll have your bill. You'll take your children hunting. And although I won't be around, when that child kills a parent or kills another person, remember I told you so and you shouldn't have put the child in that situation. Thank you, Mr. President. [LB690]

PRESIDENT SHEEHY: Thank you, Senator Chambers. Are there others wishing to speak on the committee amendment? Seeing none, Senator Louden, you're recognized to close. [LB690]

SENATOR LOUDEN: Thank you, Mr. President. And this is just a simple and straightforward amendment, so I'd ask that you advance this amendment with the bill and ask for a affirmative vote for this amendment. Thank you, Mr. President. [LB690]

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PRESIDENT SHEEHY: Thank you, Senator Loudon. You have heard the closing. The question before the body is, shall AM77 be adopted to LB690? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB690]

CLERK: 28 ayes, 1 nay, Mr. President, on adoption of committee amendments. [LB690]

PRESIDENT SHEEHY: Committee amendment AM77 is adopted. We'll return to floor discussion on LB690. Seeing none, Senator Fischer, you're recognized to close. [LB690]

SENATOR FISCHER: Thank you, Mr. President. I would just like to thank you for the support on this bill and I would appreciate your continued support as we move it through the process. Thank you. [LB690]

PRESIDENT SHEEHY: Thank you, Senator Fischer. You have heard the closing. The question before the body is, shall LB690 advance? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB690]

CLERK: 31 ayes, 2 nays, Mr. President, on the advancement of LB690. [LB690]

PRESIDENT SHEEHY: LB690 does advance. Next item under General File. [LB690]

CLERK: Mr. President, LB92 was a bill introduced by Senator Cornett. (Read title.) Bill was introduced on January 5 of 2007, referred to the Judiciary Committee, advanced to General File. At this time I have no amendments to the bill, Mr. President. [LB92]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Cornett, you're recognized to open on LB92. [LB92]

SENATOR CORNETT: Thank you, Lieutenant Governor and members of the body. I would like to give you a little history of LB92 and why it is introduced for your consideration. In 2006, with the help of the Judiciary Committee, I was able to pass LB1149. This bill dealt with the protection of foreign national minors which have been placed into protective custody with the Department of Health and Human Services. The department would notify the appropriate consul to help reunite the child with relatives. When the bill was drafted we used the term "dual citizenship" when referring to a minor. Since the passage of LB1149, it has come to our attention that in some circumstances the minor may actually hold citizenship in more than....in three countries, such as the parents each holding citizenship in separate countries, with the minor being born in a third. This is a technical change to the bill that was passed before to correct the language in regards to dual citizenship into multinational citizenship. LB92's intent is only to change this terminology within the statutes that were passed during the last

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legislative cycle. Thank you for your time and consideration on LB92. [LB92]

PRESIDENT SHEEHY: Thank you, Senator Cornett. You have heard the opening to LB92. Are there senators wishing to speak? Seeing none, Senator Cornett, you're recognized to close. [LB92]

SENATOR CORNETT: Thank you. I just want to urge the body to pass this legislative bill to correct a technical oversight. Thank you. [LB92]

PRESIDENT SHEEHY: Thank you, Senator Cornett. You have heard the closing. The question before the body is, shall LB92 advance? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB92]

CLERK: 33 ayes, 0 nays, Mr. President, on the advancement of LB92. [LB92]

PRESIDENT SHEEHY: LB92 does advance. [LB92]

CLERK: LB467 by Senator Chambers. (Read title.) The bill was introduced on January 17 of last year, at that time referred to the Judiciary Committee. The bill was advanced to General File. There are Judiciary Committee amendments, Mr. President. (AM484, Legislative Journal page 668, First Session, 2007.) [LB467]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Chambers, you're recognized to open on LB467. [LB467]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, we have what is known as the Office of the Public Counsel, more popularly known as the Ombudsman. This person deals with complaints and problems related to state agencies. The Department of Corrections, and you can go down the list of every state agency there is, an employee may have a grievance. A whistle-blower may want to talk to the Ombudsman for fear of talking to anybody else, and it is just what the term "ombudsman" means--a person who is a troubleshooter with reference to all kinds of issues that arise relative to the conditions of employment, the way agencies may operate, but he or she does not have a roving commission to do just any and every kind of thing. Most or much of the Ombudsman's work that legislators would be aware of involves complaints from inmates at the various institutions. Other complaints are sent to me and other legislators from county and city jails. Although the Ombudsman's Office has no statutory direct authority to deal with these lockups, because they're not state facilities, they will do what they can. Because so many complaints were coming in from jails and being funneled to the Ombudsman's Office from other senators, I was requested to bring a bill, which you see before you, that would create a set of circumstances where the Ombudsman would have the same authority to address complaints from county and city jails that is available for dealing with state facilities. So

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if you look at the green copy on page 2, you will see in line 5 a definition, the beginning of it, of "administrative agency." In that listing are the types of facilities and entities that would fit. Beginning in line 13, we would insert "and any county correctional or jail facility and employee thereof acting or purporting to act by reason of connection with the county correctional or jail facility." This language in the green copy relates to the power of the Public Counsel. If you look at page 3, in line 2, you will see the formal designation of the Ombudsman. It begins, "The Public Counsel." The second part of this bill would amend this language on page 3 of the green copy. It would create a new position, but I will wait until the committee amendment is presented because that matter will be raised at that point. But if you start in line 12, you will see this language: "The authority of the deputy public counsel for corrections shall extend to all facilities and parts of facilities, offices, houses of confinement, and institutions which are operated by the Department of Correctional Services," this is the new language, "and all county correctional or jail facilities." By the Ombudsman being involved in these matters, it will remove some of the work from those who operate these county facilities. It will put a member of the Ombudsman's Office, which is a state position, in a position to moderate and help bring resolution to problems that may arise in these county and city jails. I say again, much of this work is being done already, but the county jail facility does not have to cooperate with the Ombudsman. I'm not aware that it happens often. I presume that it may but I'm just not sure, so if you want numbers and figures, I can't give them to you. I'm trying to think if there were any complaints that I funneled to the Ombudsman's Office where they reached a roadblock. If there are none, it could be because the people in these local and county jails know that I do have an interest in what happens to inmates, and they may have determined that it would be best to just work their way through these problems. In some instances I make phone calls to the sheriff, to the jailer myself, but I can't do that with the large volume of complaints that are brought to my office. I hope that this gives you an idea of what the bill is about, and if you have other questions I will answer them. But I didn't want to piecemeal it so that you might not know the totality of what the bill is intended to do. Thank you, Mr. President. [LB467]

PRESIDENT SHEEHY: Thank you, Senator Chambers. You have heard the opening to LB467. Senator Ashford, you're recognized to open on the committee amendment, AM484. [LB467]

SENATOR ASHFORD: Mr. President, the amendment...committee amendments are a bill introduced by Senator Pedersen, and I don't presume to know a great deal about the issue or nowhere near as much as Senator Pedersen does, so I know Senator Pedersen will talk about this. But as Senator Chambers suggests, this committee amendment adds language on page 3 of the hard copy of the green copy of the bill, and it adds one assistant as a deputy public counsel for institutions into the bill and expands the jurisdiction in that regard of the Ombudsman. And the amendment provides that the authority of the deputy public counsel for institutions would extend to all mental health and veterans' institutions and facilities operated by the Department of Health and

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Human Services, and to all complaints pertaining to administrative acts of the department when those acts are concerned with the rights and interests of individuals placed within those institutions and facilities. And, Mr. President, I know, again, Senator Pedersen has a lifelong commitment to these issues. And if he would like, Senator Pedersen, would you like to explain a little bit about your bill and this amendment, or would you like to wait? Senator. Okay. Thank you, Mr. President. I would just move the committee amendments. [LB467]

PRESIDENT SHEEHY: Thank you, Senator Ashford. You have heard the opening to AM484, the amendment from Judiciary Committee. Those wishing to speak are Senator Gay, Senator Pedersen, Senator White, and Senator Flood. Senator Gay. [LB467]

SENATOR GAY: Thank you, Mr. President. I saw this on the agenda and Senator Chambers did a good job explaining what he's trying to accomplish here, and then we have this amendment we're going to look at. So I think this is a great opportunity for members to learn quite a bit about jails and how we're protecting those who can't maybe protect themselves. His interest is well known and...but I do have...if Senator Chambers would yield to a few questions. [LB467]

PRESIDENT SHEEHY: Senator Chambers, would you yield to questions? [LB467]

SENATOR CHAMBERS: Yes, I will. [LB467]

SENATOR GAY: Thank you, Senator. Senator Chambers, you said that you brought this bill because there are some complaints, but you said you weren't sure how many. You receive those complaints a lot of times, I know. [LB467]

SENATOR CHAMBERS: Yes. [LB467]

SENATOR GAY: The Ombudsman's Office, how...can we get those figures at some point, though? Because when I was in the county, we toured the jail. I think every commissioner has to tour their jails once a quarter. You know, the necessity of that, I don't know how...you go and you kind of walk through and give a glance over, but then you do deal with those problems as they come. But I guess the question would be, right now, when we say we have so many...you said you're not aware but you presume that there's problems, well, you hear those but I don't know if anyone else in this body...how many other problems we get. You're always going to have some complaints in a jail system, obviously. [LB467]

SENATOR CHAMBERS: Right. [LB467]

SENATOR GAY: So the legitimacy of those...and we saw one in the Omaha jail that is being handled in a different way. Why then, on this, where's the big problem that we

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need to expand the Ombudsman into this role? [LB467]

SENATOR CHAMBERS: Well, you mentioned the Omaha situation. This is for the people who may not be aware of it. A man was complaining in the jail about pain and he began to vomit. He vomited up blood. And he was told by one of the jailers, go ahead and die. And they left him in that condition for over a day. Don't hold me to that because there was a period of time involved, but at any rate, they took him eventually to the hospital where he died of perforated ulcer. Had he gotten medical attention earlier he would not have died. If the family, which had been concerned, had some resource other than that jail, they could have contacted the Ombudsman's Office, who could have gone in. Many of the complaints do relate to the inadequate medical care that is provided, and on the other part of your question, I'm sure the Ombudsman would share anything in terms of numbers that they have on...of complaints of this kind. [LB467]

SENATOR GAY: Yeah, well, I'll check into that. I guess on that, I think there's reasonable...those...that was wrong, obviously, and that's going to a court and we'll see those things. But I do know for a fact that many times meals or many of these things have been dealt with, complaints. And, like I say, I never heard in 12 years a whole lot of complaints. I did get some calls from some people in jail. I've, you know, I've had a few complaints and they were dealt with promptly in Sarpy County. Now I can't speak statewide. Maybe they run things different. We have...it's a pretty big operation they run. [LB467]

SENATOR CHAMBERS: But I have received complaints from Sarpy County jail... [LB467]

SENATOR GAY: I have... [LB467]

SENATOR CHAMBERS: ...and I was able to call the sheriff and we talked about some of these things, but... [LB467]

SENATOR GAY: Very good. [LB467]

SENATOR CHAMBERS: ...the people didn't feel confident and, in some cases, they had been turned...they had been given a cold shoulder. [LB467]

SENATOR GAY: Okay. Well, and I guess this is an opportunity to learn the Ombudsman's Office, what they do. Because I think many of these things are resolved at the local level with the sheriff, and if they can't do that we need to do some investigating to see, well, what's my next step. What's the level you ratchet this up before we go create a new position that now, with an amendment, would go in--and I'm interested in having this discussion, too--but would go and look at other facilities and... [LB467]

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PRESIDENT SHEEHY: One minute. [LB467]

SENATOR GAY: ...expand the role here of what they're going to be doing? I think in many of these cases where the state is in...taking care of someone, there are many rights and privileges given to these...to inmates, and I assume--I've toured a few of the facilities around the state, in Norfolk and Beatrice and some of these other areas--there are many opportunities in place that if you have a complaint you can go give your complaint and it goes through a process. So I don't know if this is a huge problem that needs to be dealt with, with a new person. Are we going to create a bigger problem by expanding the role and then, all of a sudden...and I'm not saying, you know, that these aren't being addressed. I just want to get a little digging in here and have some conversation of why we're doing this and the overall benefit. Because if we don't know the numbers and some of the complaints he's received, if you receive...there's a lot of complaints, I guarantee you, going on in the state. We all know that. We've had to deal with them from constituents and everyone else. [LB467]

PRESIDENT SHEEHY: Time, Senator. [LB467]

SENATOR GAY: Thank you, Mr. President. [LB467]

PRESIDENT SHEEHY: Senator Pedersen. [LB467]

SENATOR PEDERSEN: Thank you, Mr. Lieutenant Governor and colleagues. I, first of all, want to tell you, especially being as we have so many new senators last year, what a gem this Legislature has in the Ombudsman's Office. They work for us. They've been here since 1976, and I think Senator Chambers had a lot to do with creating that office. But as you know, being a citizen Legislature, we do not have the time to investigate a lot of the complaints that come to us. These people are trained in this and it's an art for them. I have used the Ombudsman's Office extensively since I've been in the Legislature. We have constituents who are complaining about different things that have happened to them, or just want to know why different things are happening in government, and it may be the individual, somebody locked up in jail, somebody in an institution like Beatrice or the veterans' homes. And these numbers of people who need these things investigated has grown and grown. The amendment we're talking about, the committee amendment, has to do with a bill of mine that was turned into this amendment for this bill of adding one more person for the sake of doing nothing but looking at mental health and other institutions run by Health and Human Services, not keeping a tab on them but investigating situations for us, at our request, so we get that information. They have the power to subpoena records and bring that information to us. They write reports and they make recommendations. You all remember the problems we've had in Beatrice State Home, you've heard them; the problems we had at the Thomas Fitzgerald Veterans' Home in Omaha that was in my district. They took a lot of

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time for investigations, and there's more and more of them happening. So this amendment says we could put another one of them people in there to work for us to do them investigations that we can't do and bring that information to us. They are really a gem, people. They take a lot of weight off from our shoulders. We need this, so please support it. It's for you. Thank you. [LB467]

PRESIDENT SHEEHY: Thank you, Senator Pedersen. Senator White. [LB467]

SENATOR WHITE: Thank you, Mr. President. I have done a lot of civil rights litigation involving prisoners in both county and state jails. The Ombudsman Office has done an enormous amount of good to prevent liability, to save the state money by correcting what are illegal and often just flat-out inhumane behaviors. I can think of no more fiscally sound idea than to have an outside inspector available to correct problems, before they rise to the level of a lawsuit, than this bill. I handled a case in Senator Gay's county where a man was wrongfully just taken off an antianxiety drug. It's documented it causes suicidal thoughts. He complained repeatedly, he was ignored, and he hung himself. That was very expensive for Sarpy County. That happens regularly. What happened in Omaha was a man--and my understanding, Senator Chambers, he as there for three days--screaming for help and bleeding to death, vomiting blood, and he was ignored. He was actually told just go and die. That is not unusual. I have sworn statements from the case I handled in Sarpy County before of nurses picked up for DUI, taken off of their hypertension medicine, complaining that their ears were pounding, their chest was tight. These are registered nurses who work in hospitals in the area, asking, begging for their hypertension medicine and being denied it. I have statements from people who have had their prosthetic legs taken away in Sarpy County. I have statements from a gentleman whose son had stolen property in his garage. He had a variety of ailments, including emphysema. The police picked him up for receiving stolen property. They brought his inhaler for his asthma with them. He was repeatedly denied it, even though he was on the ground, unable to breathe, and prisoners were beating on the door asking the guards to please bring the inhaler. This happened in Sarpy County. I have the cases. I have sworn statements to that effect. Abuses occur all the time in our jails. And a lot of times prisoners lie, a lot of times they manipulate, a lot of times they're baseless, but it does not hurt us at all to have an independent agency available to check up to see if in fact the jails are being run according to standards. I would urge you that the jail standards are a statewide set of regulations and they are to ensure a minimum level of care across our state. If we have those statewide regulations, it only follows that we should have an agency available on a statewide basis to investigate those complaints. It will save us money. It will also ensure that we treat people humanely, even though they deserve to be in jail, humanely under the constitution. Thank you. [LB467]

PRESIDENT SHEEHY: Thank you, Senator White. We have Senator Flood, followed by Senator Stuthman, Senator Lathrop, Senator Gay, and others. Senator Flood. [LB467]

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SPEAKER FLOOD: Thank you, Mr. President, members. I'm just trying to understand the relationship between the Ombudsman's Office and some of the state-owned and operated facilities that are identified in the bill. If I may, I'd like to ask Senator Chambers a question or two. [LB467]

PRESIDENT SHEEHY: Senator Chambers, would you yield to some questions? [LB467]

SENATOR CHAMBERS: Yes, I will. [LB467]

SPEAKER FLOOD: Senator Chambers, does the Ombudsman's Office currently have the authority to investigate claims or situations in and arising from regional centers, to veterans' homes and the Beatrice State Developmental Center? [LB467]

SENATOR CHAMBERS: I know they have looked into complaints I've given them about...for things that happened at Norfolk and that happened at the regional center in Lincoln and at Beatrice, so I know that they have looked into those things specifically. [LB467]

SPEAKER FLOOD: I appreciate that. I guess I was thinking of the Nebraska Advocacy Services as being the primary agency that deals with concerns raised by patients of those types of facilities or residents of the facility in Beatrice. And I don't have any explicit objection to what the bill and its amendment proposes. I guess one of the questions I have, now that we've endeavored upon behavioral healthcare reform in Nebraska that was enacted in 2004, should we be giving the Ombudsman the ability to follow a patient out of the regional center that goes into a community-based service that is primarily state funded through...by the state of Nebraska? That way we can track what's happening and the services provided to the patient. Because oftentimes a patient leaves a secure facility and goes into a secure facility inside the community. Would you agree with--maybe we could do this on Select File, we could do it today--amending that to give the Ombudsman the ability to follow the patient into the community? [LB467]

SENATOR CHAMBERS: I think it would be a very good idea. And since state money is going to be involved at some point anyway, to have that independent representative from the state given authority and the wherewithal to do what you're mentioning would be, I think, of great value. And the reason Senator Dwite Pedersen and I defend that office so much, we would do it anyway, but it is under the aegis of the Legislature. It is our office, so it's associated and connected with the Legislature because it had to have a home somewhere. It's not under the court. It's not under the executive. So they have a level of independence that they wouldn't otherwise have and they could do the thing that Senator Flood is talking about, and I don't think there would be too many who would stand in their way if they're coming as a representative of the state from an office under

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the Legislature. [LB467]

SPEAKER FLOOD: Well, Senator Chambers, given your position on that, if I may, I may work on an amendment between now and Select File, and I will share the same with those that are interested and discuss it when LB467 comes up on Select File in the event that it advances. Thank you, Mr. President. [LB467]

PRESIDENT SHEEHY: Thank you, Senator Flood. Senator Stuthman. [LB467]

SENATOR STUTHMAN: Thank you, Lieutenant Governor and members of the body. I'd like to engage in a little conversation with Senator Chambers. [LB467]

PRESIDENT SHEEHY: Senator Chambers, would you yield to some questions? [LB467]

SENATOR CHAMBERS: Yes, I will. [LB467]

SENATOR STUTHMAN: Senator Chambers, I see when the hearing was taking place that the Sheriffs Association were in opposition to this. Can you give me a reason why they would be in opposition to this? [LB467]

SENATOR CHAMBERS: I don't know whether it was just a kind of general something with reference to the state looking at what happens in the jails or what. To be quite frank with you, and you can ask other members of the Judiciary Committee, I just don't recall specifically what it was. [LB467]

SENATOR STUTHMAN: Senator Chambers, do you feel that this would be another level of agencies that would be coming down onto the county jail and correctional systems? But I do think we do have the Public Counsel that has the authority already to deal with these issues if there's an inmate that does have a complaint. There is a method in place. [LB467]

SENATOR CHAMBERS: What Public Counsel? What Public Counsel are you referring to? [LB467]

SENATOR STUTHMAN: In the committee statement it says currently the Public Counsel has authority to investigate any administrative agencies. [LB467]

SENATOR CHAMBERS: But county jails and city jails don't fall under that, so those jails have nobody overlooking them, and the Jail Standards Board does not resolve complaints of inmates. So there is nobody looking into complaints of inmates when they occur from county jails or city jails. [LB467]

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SENATOR STUTHMAN: So, Senator Chambers, do you feel that there is no method in place at the current time where an inmate, if he's being abused or anything in the county jail system, that his voice will be heard? [LB467]

SENATOR CHAMBERS: Right. The one he'd have to complain to, he or she, would be the one doing the wrong, as in the case in Omaha where the man died and was told by the jailer, die, and had been there several days. Had the Ombudsman been given that authority, a family member could have contacted the Ombudsman's Office, somebody could have gone there right away, reviewed that situation, and they have the authority under the law to see that corrective action is taken. So when you have a jail facility which is the one harming the person, and the only one you can complain to is the one harming you, you're not going to get a result. And inmates are often told, there's nobody who's going to listen to you; there's nobody who can make the sheriff do anything. Senator Stuthman, if I wasn't convinced there's a serious problem, I would not bring a bill like this. [LB467]

SENATOR STUTHMAN: Yes, I realize this. Serving as a county supervisor, and we did jail inspections on a regular basis of the county jail facilities, I think there is a method in place where an inmate, you know, would contact the sheriff's department, or the sheriff's department would contact the county board of supervisors, the ones that are in direct responsibility of the correctional facility. I think that, you know, things could happen. But maybe there's nothing in the regulations or any authority that outlines that the county board is responsible, you know, for any complaint that does arise at the jail. We've had numerous complaints in our county correctional facility, but the county board always...their attention was drawn to it. We did take care of the issues, and I think we took care of that at that time. I just feel that, you know, that this is something that is probably needed. I'm going to support the bill, that I will, but I was just wondering, you know, I think there is a method in place already where a complaint from an inmate, you know, is...it is heard. We've got...yes. [LB467]

SENATOR CHAMBERS: May I take a second, since we're... [LB467]

SENATOR STUTHMAN: Yes, you may. [LB467]

SENATOR CHAMBERS: ...kind of engaging? The Jail Standards people just make inspections. [LB467]

PRESIDENT SHEEHY: One minute. [LB467]

SENATOR CHAMBERS: They don't resolve inmate complaints. They don't receive inmates' complaints and, if they do, all they can tell them is, our job is not to resolve these complaints. And in the same way that Senator Gay thought everything was all right in Sarpy County till Senator White pointed out specific cases that he has handled, I

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assure you that in every jail there is abuse of inmates going on, in every one, because these county sheriffs know that there is no place for the inmates to turn--no place. [LB467]

SENATOR STUTHMAN: Thank you for that information, Senator Chambers. That does give me some of the answers that I was trying to get because, you know, we went according to our county state jail standards and we did inspect it. And we did deal with some issues of complaints, but the complaints, I think, were handled by the sheriff's department to hopefully take care of that part of it. So with that, I do support the bill. Thank you. [LB467]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. Senator Lathrop. [LB467]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I'm standing in support of LB467 and would like to join in the remarks of Senator White and others who have expressed the importance of this office and expanding its role into the county facilities and the county jails. And I think it's important for us to view LB467 as an investment by the state because these ombudsmen, sometimes we think of them, and it's important not to think of them, as troublemakers and people that are simply trying to cause problems or conduct unnecessary investigations that tie up county staff. That's not their purpose. An Ombudsman who has authority to go into the county jails will sort out the complaints from those that involve the frivolous to those that involve serious concerns, and there are many. I get these calls in my law office from people in Douglas County who have concerns about the treatment, and from different county jails across the state. The most common complaint is not being provided the medication they're on. I don't know why sheriffs think it's okay to have a policy where you're not going to get prescription medication, but it happens and it's silly, and people are injured and hurt and they have conditions that need to be addressed. If we don't expand the role of the Ombudsman into the county jails, what we will have instead of an Ombudsman doing an investigation and listening to these folks, is more lawsuits. If you are sitting someplace under the 24-hour custody of a mental health facility or the county sheriff, and you can't get medication, you can't get care, no one is responsive to a need that you have inside the facility, a basic fundamental right that you have, even incarcerated, if we don't have someone such as the Ombudsman involved in that process, we'll have lawsuits instead, and we'll be in federal court defending the counties from treatment. Senator Stuthman asked about, well, we have jail standards, and I appreciate that you're supporting the bill, but we do have jail standards, but if you understand the process and what this bill is trying to correct, and that is you can have jail standards, but if the jailer is not living up to them, you're going to then complain to the jailer that he's not living up to them, and nothing is going to happen or they would have done it in the first place. So I think expanding the role of the Ombudsman into the county jails is a very good idea. It's an investment that we as a body and the state of Nebraska ought to make, and I support Senator Chambers' LB467. Thank you. [LB467]

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PRESIDENT SHEEHY: Thank you, Senator Lathrop. Senator Gay, followed by Senator Carlson, Senator Chambers, Senator Pahls, and others. Senator Gay. [LB467]

SENATOR GAY: Thank you, Mr. President. This is a good discussion, and the reason we need the discussion is to understand. When I say, what is the need, that doesn't mean I'm not for protecting somebody's civil rights in jail or something like that. And most things are okay in Sarpy County, Senator Chambers, but we've had problems, as Senator White pointed out. I'm not ignoring that fact. And Senator Lathrop brings up some good points. If you deal with this, you can save yourself money in the long run. The question I had though is what between the frivolous and legitimate concerns, where are they? Every day, if you're running a facility, you're going to get a lot of frivolous ones. And if you have a lot of time, maybe you run those. And I assume the Ombudsman knows what to handle and what not to handle. I kind of did get some help from my colleagues under the fiscal note, and this kind of came up. It does say that if this is done there is an extra 500 cases probably will be coming from just the county jails. Now, if we go and include on the amendment for mental health facilities and other facilities, that will obviously be more cases probably. What I'm interested in here, between now and as we move on, is are we duplicating services? If I'm now asking the Ombudsman's Office to enforce jail standards, fine, and we should, I'm going to then go expand their...am I ever going to remove someone else in the process that needs to be removed? So that's the question when we talk about all these things. They all come at a cost. Now I'm creating a different "who's in charge here now." The Ombudsman's Office, we just gave more authority, and maybe we need to, and I'm listening. But are we ever going to get rid of some advocacy group that's out there? What's their role in this thing then? Because now I have an advocacy group possibly standing up for some residents, let's say, and then I have the Ombudsman. And then now I have...and they're all directing their complaints back to the sheriff and their staff and everyone else that's trying to run these facilities, and pretty soon they're overwhelmed. So I'm just saying, what is the process as we go and talk about this? What are the processes? Is there any we can get rid of if this works better that we could get rid of something else? And I'm just trying to learn the process. And like I say, I think it is a saver, because if you can prevent a lawsuit from happening, and whether it's withholding medicine from somebody in jail or something like that. We don't...no one here wants to see that happen. I'm just saying, many times how is the process going to work? So we're learning and having a good discussion on this, but I don't think by asking any questions that we're opposed to what's happening here, and I don't want the debate starting to go that way. So all I'm saying is, if we do this is it going to promote any efficiency? Should we look at other ways? Should we look at the current process, and say, you know, we don't need these other agencies? Or maybe we do. I don't know. I don't know enough about it. I don't claim to be an expert in this. So I'm interested to hear that, how the process works. If I have a complaint, if I'm a resident in Norfolk or Beatrice or Hastings or any other facility, how is this going to affect the current process? Is it just adding another layer and can

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we get rid of something along the way? And maybe we shouldn't get rid of something along the way either, I don't know, but. So anybody that wants to shed any light on that, I'd be interested in hearing, as well. Thank you, Mr. President. [LB467]

PRESIDENT SHEEHY: Thank you, Senator Gay. Senator Carlson. [LB467]

SENATOR CARLSON: Mr. President and members of the Legislature, if Senator Chambers would yield to a question, I'd appreciate it. [LB467]

PRESIDENT SHEEHY: Senator Chambers, would you yield to a question? [LB467]

SENATOR CHAMBERS: Yes, I will. [LB467]

SENATOR CARLSON: Senator Chambers, Senator Stuthman asked you about, during the hearing, the Nebraska Sheriffs Association was in opposition, and you couldn't recall why. The Nebraska Association of County Officials was also in opposition. Can you recall what their opposition was? [LB467]

SENATOR CHAMBERS: Senator Carlson, I'm not trying to be evasive, but it was...it might have been that generalized objection to the state being involved in a county function. If they had had something specific, I would have addressed it during the hearing, so I genuinely can't tell you. But I do know that when we have matters like this that come before the Judiciary Committee, any entity that is opposed to it will try to rally similar ones to come and support their position. [LB467]

SENATOR CARLSON: Okay, thank you, Senator Chambers. And I think that as we have opposition, and those of us that aren't on the committee we're not in on the hearing and all of a sudden there is a bill in front of us, it is important to understand what some opposition may have been. I'd like to address a question to Senator Ashford. [LB467]

PRESIDENT SHEEHY: Senator Ashford, would you yield to a question? [LB467]

SENATOR ASHFORD: Yes. [LB467]

SENATOR CARLSON: Before I ask you that though, Senator Ashford, on the amendment itself I think the fiscal bill calls for two additional positions. [LB467]

SENATOR ASHFORD: Yes. [LB467]

SENATOR CARLSON: And if I'm understanding the amendment correctly, this would add a third position. [LB467]

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SENATOR ASHFORD: That's correct. [LB467]

SENATOR CARLSON: Okay. So the fiscal bill would be changed on this. [LB467]

SENATOR ASHFORD: Yes. [LB467]

SENATOR CARLSON: Do you recall what the oppositions were from either the county officials or the Nebraska Sheriffs Association? [LB467]

SENATOR ASHFORD: Yes. Senator Carlson, there was no opposition to the committee amendment portion of it, so there was no opposition to that. On the county portion, there was an appearance made by the county sheriffs and by the county officials. There were no documents or any written materials presented to the committee. And my recollection--because this was an important bill--my recollection was that Senator Chambers I think is correctly reflecting the points. I don't think there was any zealous opposition. My recollection is there was discussion about cost and what might happen with the state coming into county business in a general sense. There was not any...it was not a zealous kind of opposition, and it was a general concern about it. But again, there...usually if someone is...in our committee, if someone is very, very concerned, they will submit some written materials that we could have for the record. None of that was done. But they did appear and I do recall them testifying and it was general comments about county business. I believe Senator Chambers is correct. [LB467]

SENATOR CARLSON: Okay. Thank you, Senator Ashford. You know, you listened to Senator White's testimony, and it makes you aware that certainly there are problems that exist, and those problems need to be addressed. We have a need in whatever division of government that we are discussing to be effective as we try and solve a problem, and be efficient. And Senator Gay has brought a concern forth that I think is legitimate, and we'll just hear the rest of this debate. But so often we approach a problem and we understand and believe it needs to be addressed, so we take a bill that adds a position or two or three or whatever it may be, and that may effectively address the problem. But the efficiency sometimes goes by the wayside because those responsibilities... [LB467]

PRESIDENT SHEEHY: One minute. [LB467]

SENATOR CARLSON: ...that may have been with another group are now taken over as a result of this new bill, and it will help us be more effective, but we lost efficiency someplace. And I think that is a concern and we can't...we shouldn't forget that as we move forward. But again I appreciate this debate and this bill, and will listen to the remainder of the testimony. Thank you. [LB467]

PRESIDENT SHEEHY: Thank you, Senator Carlson. Senator Chambers. [LB467]

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SENATOR CHAMBERS: Mr. President and members of the Legislature, Senator Gay raised some legitimate questions. The Ombudsman's Office does have judgment. They have dealt with a lot of issues. They can filter out those things that are frivolous on their face. But when there is a serious complaint made, if it turns out to be frivolous, that's one thing. They will not just turn away and say, this sounds frivolous to me and I'm not going to do it. I just turned a case over to them the other day where an inmate who has diabetes, is on insulin, was given another inmate's medication. He objected to it, and he said, I don't have confidence in what's happening in this jail because you gave me somebody else's medication, and if I didn't know how to determine it, I would have taken that medication, so I want to give myself my insulin injections to make sure it's correctly done. They were offended that he was upset. So they said, no, you will not do it; we're going to do the injecting. He said, well, when you draw the insulin, you might get an air bubble; I know how to do this. They said, then you will not get your insulin, and they put him in solitary confinement. And that's the complaint I sent to the Ombudsman's Office just the other day. Those are the kind of things that happen, and inmates and other people will go where they think they can get some help. Down through the years, I meant ever since I came here, I've been concerned about what happened to people in prison. It was under my leadership that the old jail that looked worse than the Bastille was torn down and a new facility was built. I constantly persuaded the Legislature to provide money to put programs into the prison system. There is a lot that I've done through the years, and some men have been in jail longer than I've been in the Legislature, although if we compared notes I might tell one or two of them, you've had it easier than I've had it. But at any rate, the word gets out quickly among people who have problems, of those who might offer help. So I got flooded with these complaints. I could not even respond to all the letters. So Senator Schmit and I worked to create the office of the Ombudsman, and it was created initially to deal with problems of prison inmates. Once it was created, other employees from state agencies, and sometimes high-level, not just the grunts as they would be called, midlevel and above, with complaints and no place to go, would come to the Ombudsman's Office, and the authority was not there sometimes, and the guy, the first one there was Murrell McNeil, would try to do something. We divided the office to deal with prisoner complaints. We had an ombudsman for Corrections. The Ombudsman's Office on the other side handled these general complaints, and they all worked together in the office, but at least there was a line of demarcation so the office was not dedicated just to inmate complaints. Inmates in jails--and I'm not going to repeat everything I've said--flood me with these complaints that I cannot resolve and that I don't even have the time to look into. The Ombudsman's Office will look into these complaints. There is an employee of the Ombudsman's Office under the balcony, and I can say it now and it won't seem like I'm boasting because you can ask for verification, my name is invoked when they go into these county jails, and the invocation of my name, although some people here may think I carry no weight whatsoever, does carry some weight. And rather than fight me, they will do what they ought to have done in the first place. If we have this bill... [LB467]

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PRESIDENT SHEEHY: One minute. [LB467]

SENATOR CHAMBERS: ...and these jails know that somebody is looking over their shoulder, it's easier to do the right thing than not. They will not withhold medication as a punishment. They will not tell a person we're going to withhold your medication until you enter a plea. And the police will be in on this stuff. The Ombudsman's Office does have access to the State Patrol as an investigative agency. If a problem warrants it they can turn to the Attorney General's Office. This is not going to be where counties are going to be paying money. The state is going to lift some of the problems that they say they have now off their shoulders. And in the meantime, those counties and cities will be spared some huge judgments. One judgment of the kind that have been given already will more than pay for the A bill here. And similar judgments will be forthcoming if there is not somebody to prevent these problems from growing into a catastrophe. Thank you, Mr. President. [LB467]

PRESIDENT SHEEHY: Thank you, Senator Chambers. We are going to proceed to some new bill introduction and then we'll return to floor discussion on the committee amendment. Mr. Clerk. [LB467]

CLERK: Mr. President. (Read LB1016-1024 by title for the first time.) That's all that I have, Mr. President. Thank you. (Legislative Journal pages 266-267.) [LB1016 LB1017 LB1018 LB1019 LB1020 LB1021 LB1022 LB1023 LB1024]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Those wishing to speak are Senator Pahls, followed by Senator Pedersen, Senator Engel, Senator Wightman, and others. Senator Pahls. [LB467]

SENATOR PAHLS: Thank you, Lieutenant Governor and members of the body. As you can tell, I'm not Senator Chambers and I'm not an attorney. We've had a couple of attorneys call..talk to us today. One of the questions that was asked: Have you received any inquiries? I, this past year, two individuals from Douglas County did contact my office. We referred them to the Ombudsman. And I'd be honest with you, I do not know what happened past that. But my past experiences with this office has been very positive in other situations, so I do see that we probably do have a need to what I call sort of the double-check. This sort of reminds me...I do also have friends who work in the Douglas County system, and some of the stories they tell me, it would be a difficult job to have. It truly is. It sort of reminds me, yesterday when we're talking about bullying in schools. That's a difficult job, to find the truth. So maybe you need some additional help. And to me this could be one direction of doing it. Any time...one, another question was asked, would having an Ombudsman...there were people who spoke against that. Well, I found that out last year when I suggested that we have one in the metropolitan area just dealing with schools. The superintendents and the school boards probably

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were ready to run me out of town, and I was doing that because Senator Chambers told us of a number of plights that he had when he dealt with the Omaha school system. So, to me, it seems like this would be a logical move. If we have a concern that this is not going to be utilized or overutilized, I read in the bill I did not see any kind of a reporting system. Maybe that's something we need to know for a few years to see if this concept is being utilized. Thank you. [LB467]

PRESIDENT SHEEHY: Thank you, Senator Pahls. Senator Pedersen. [LB467]

SENATOR PEDERSEN: Thank you, Mr. Lieutenant Governor and colleagues. A little history--a couple examples might help you out. I don't know if any of you people have seen this little form here that I have that you get in your office. It comes out about once a month from the Department of Corrections. It tells you how many people we have, different levels of crimes, different institutions, what it costs to run the place. But I can tell you, 16 years ago when I first came to the Legislature the overall actual population, Department of Corrections, was somewhere around 2,000. We are now at 4,371 as of January 3. Put the numbers together, people. And I'm not trying to lecture to you or talk down to you. If we've doubled that many people in prison, then we've doubled that many people in our county jails, and our mental institutions also have gone up in number with the troubled world that we have, then those of us who are legislators, all of us who are legislators, need to have our thumb on the pulse of what is going on in these areas. We never think it's going to happen to us, and it's pretty easy to say, you know, they're not anything but a bunch of criminals who have broken the law, and what do they deserve anyway. It has happened once in my tenure in the Legislature that a senator called me at 4:00 in the morning, and said, Dwite, my son is in the county jail and he is in danger; what can we do about it; can you help me? Yes, I could, and the only reason I could is because I happened to work in that system and knew the people and was able to make some calls. And there wasn't any big deal over it, but this man and his wife were scared to death. They were constituents, it wasn't the criminal, the person who had committed the crime. And when we use "criminal," does that mean just the people we have locked up, or does that mean some of us who never got caught? They need help too. And most of the times these are things that need to be investigated, and that's what the Ombudsman's Office can do. Another example is I got a call from a patient at the Lincoln Regional Center a couple years ago, and I think it was a little long than that. Time passes, obviously. They had a...they wanted somebody to know in the Legislature that there was a patient who had been restrained in a five-point restraint for over 48 hours. And this other patient was worried about him. I was able to call the Ombudsman's Office and say, can you go out and check on this right away? And they did within the next day. And they have the authority to do that. What came from the hearing, why the county people, sheriffs and county commissioners did not want this to happen, is because they were concerned that we were going to come in there and try and take over their places and investigate them and hide behind the pillars and catching them doing something wrong. [LB467]

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PRESIDENT SHEEHY: One minute. [LB467]

SENATOR PEDERSEN: You can't blame them for that. That isn't what this is about. This is to investigate, make a report, and let us know, in most cases, what's going on. It is very necessary. And as far as the efficiency goes that Senator Carlson was talking about, I've already given you the numbers. That's where the efficiency goes up. Every time we change a law in here that has to do with crime, the people we need to handle that goes up: judges, probation officers, law officers, counselors, let alone remodeling your courthouses to make another court room and the staff that goes with each judge. That's where the cost goes up. And we don't often talk about that when we're going to be tough on crime. [LB467]

PRESIDENT SHEEHY: Time, Senator. [LB467]

SENATOR PEDERSEN: It costs. Thank you. [LB467]

PRESIDENT SHEEHY: Thank you, Senator Pedersen. Mr. Clerk, do you have an amendment on your desk? [LB467]

CLERK: Mr. President, Senator Flood would move to amend the committee amendments with FA156. (Legislative Journal page 267.) [LB467]

PRESIDENT SHEEHY: Senator Flood, you are recognized to open on your amendment to committee amendment, FA156. [LB467]

SPEAKER FLOOD: Mr. President and members, thank you. I appreciate the work of the Clerk's Office to get this put on the gadget so quick this morning. This is a simple amendment to the committee amendments. On line 7, in addition to the language that already exists, on line 7 where it basically says, "The authority of the deputy public counsel for institutions shall extend to all mental health and veterans institutions and facilities operated by the Department of Health and Human Services," and at that point I add the following language, "or any community based mental health service provider that contracts to provide services with any Behavioral Health Region." And the reason I think this is important is LB1083 in 2004 created a continuum of services, an array of services where the patient is committed in the process--involuntarily, quite often--placed in an emergency protection custody unit. If the situation demands the same, that patient would then go to a regional center or into the community, or the individual gets out of the regional center, goes into a less-restrictive environment as required by the Olmstead decision in Kansas. This gives the Ombudsman's Office the chance and opportunity and authority to follow along with the patient to make sure that they are placed in the most...the least restrictive care throughout the process, but also an environment that protects them and others from anything that may be dangerous to

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themselves or others. So I think this is a needed addition. It gives the Ombudsman the ability to follow the patient through the process and make sure they're receiving the proper care, the care that doesn't present a safety risk to the community, and at the end of the day the care that is the least restrictive to the patient as required by law and within the spirit of LB1083. I would hope that you see fit to adopt FA156. Thank you, Mr. President. [LB467]

PRESIDENT SHEEHY: Thank you, Senator Flood. You have heard the opening to the amendment to the committee amendment. Those wishing to speak are Senator Engel, Senator Wightman, Senator Stuthman, and Senator Gay. Senator Engel. [LB467]

SENATOR ENGEL: Mr. President and members of the body, I'm not here to speak on the amendment but I certainly think that's a good...if the bill goes through, I think that's necessary to have that amendment on it. And I do appreciate the value of our Ombudsman's Office in the state of Nebraska. I think it's really helped fix a lot of wrongs and helped people through a process that they needed to be helped through; they couldn't get it any place else. The only thing is, I noticed on the fiscal note it says two people, and of course that was amended in the...that was in the green copy. And then in the...but in the amendment, that's three people, and three people is, that would be about \$160,000 a year plus expenses. And like Senator Pedersen says, it's the expense portion, many times, is more than the actual salaries, etcetera. And I'm not saying this isn't worth it. It's something we need to do. But also another thing it creates, and Senator Pedersen just alluded to that, is the space problem. I checked with the Ombudsman's Office, and they could absorb one more person in their office but they would have to find additional space somewhere in the Capitol or somewhere in the area to house the two other people. So it's a little broader than what the original bill says as far as...I mean, I think there's a little bit more to it. Now, I'm not saying anything against the bill itself except I think many times when we expand something, how far does it go? I mean, are we going to...will these three people? And I could probably ask Senator Chambers this. Do you think these three people will be able to handle all the demands that's going to become upon them because of your bill itself, and then Senator Flood's amendment, etcetera, etcetera, etcetera? [LB467]

PRESIDENT SHEEHY: Senator Chambers, would you yield? [LB467]

SENATOR CHAMBERS: Yes. Senator, what Senator Flood's amendment is doing is putting specific language in to say what these individuals are going to do for sure. The authority to do this work is already in the Ombudsman's Office, but the people are not there to do it. There are mental health agencies with the state and those that are in communities who are pointing out the great difficulty they have with even keeping track of people who might come into the community from one of the state facilities. So one of the things that Senator Flood is interested in doing is having the state be in a position to track and keep tabs on some of these people. If we would simply put that additional

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responsibility on the Ombudsman's Office staff, that as it is, they couldn't do it. Even if they tried, they couldn't. So for what we're telling them to do in this bill, they can do it now. I don't think I've ever offered a bill where I said that what it's dealing with now will never change and it will not be necessary to modify it. So I'm not in a position to counter what you're saying, but I will say this as my honest belief: They will not be coming back here next year, saying we need more now to do what that bill said. I spoke with people in the Ombudsman's Office; I'm convinced that they were straightforward with me. But here's what could happen: If they once begin doing this work in the mental health area, and things crop up that none of us anticipated, I don't want them to feel that they cannot bring that issue to the Legislature. Everything that we know about is going to be covered by the bill now. But if, as it's implemented, and even those in these state institutions--I meant those who run them--become aware of what the Ombudsman's Office will do, they may want to put more on them to do, at which time it would behoove the Ombudsman's Office to try to persuade the Legislature to address that aspect of it, too, and maybe some of these entities... [LB467]

PRESIDENT SHEEHY: One minute. [LB467]

SENATOR CHAMBERS: ...who are using the Ombudsman's services would come in and support them. And that's about the best answer that I can give you. [LB467]

SENATOR ENGEL: Well, thank you very much, but I think several of those things need to be brought up when we pass legislation like this, and so that was an adequate answer. Thank you. And as far as looking, you just can't tell what's happening in the future? I thought you could see into the future (inaudible), so thank you. I turn the rest of my time back to the Chair. [LB467]

PRESIDENT SHEEHY: Thank you, Senator Engel. Senator Wightman. [LB467]

SENATOR WIGHTMAN: Thank you, Mr. President and members of the body. I'm trying to understand exactly where we may go with this bill. I understand and am aware that many of the people that are located in our county jails are state prisoners, and I think that leads me to support this bill. If they're state prisoners, then it seems to me that there is a rather fine distinction between allowing the Ombudsman to represent people that are in the state-owned facilities, but yet they send those prisoners out to county jails and contract for their imprisonment there, and that the Ombudsman would have no authority to represent those people. I know we have a couple members of our Legislature that have served as county commissioners. I know one of them is Senator Gay and Senator Stuthman; there may be others. I guess I would like to engage in some conversation with Senator Gay with regard to the fact that many of these are state prisoners. [LB467]

PRESIDENT SHEEHY: Senator Gay, would you yield? [LB467]

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SENATOR GAY: I would. [LB467]

SENATOR WIGHTMAN: Senator Gay, in a prior life, prior to coming to this august body, you did serve as either a county commissioner or a county supervisor in Sarpy County, is that correct? [LB467]

SENATOR GAY: Yes, for 12 years, Senator. [LB467]

SENATOR WIGHTMAN: For 12 years. So you've had a lot of experience in this. Is it true that many of the prisoners in, or inmates of our county jails are actually state prisoners? [LB467]

SENATOR GAY: Yes, absolutely. The numbers, I can't tell you exactly, but all the time. And that's throughout the state. [LB467]

SENATOR WIGHTMAN: It could be half or more, could it not? [LB467]

SENATOR GAY: I wouldn't...I would be speculating if I asked, but it's a large number. [LB467]

SENATOR WIGHTMAN: And one of the issues that's going to face us later in this session is jail reimbursement policies and jail reimbursement amounts, is that correct? [LB467]

SENATOR GAY: Yes, absolutely. [LB467]

SENATOR WIGHTMAN: I'm suspecting that some of the objection of the county sheriffs and the NACO may well have been that the budgetary restraints of the counties makes it very difficult to respond to suggestions that the Ombudsman may have. I don't know that but I wonder if that isn't one of the issues. But when they're serving the state by boarding the prisoners, is that prisoner any different, in your knowledge, from a state prisoner that's serving in another state-owned facility or a state-controlled facility? [LB467]

SENATOR GAY: No, I don't think so. What you bring up, Senator Wightman, is absolutely where I'm going with it too. You asked the Ombudsman. He currently is already dealing with some of the county issues, thanks to Senator Chambers and his...you know, he's been pursuing this for a long time. So they are currently doing that. The worry that the counties have is it's now another unfunded mandate, I think. I mean, I wasn't in Judiciary to listen to this, and that's what I'm trying to get to. Is this one of those situations where, okay, you're going to tell us to do these things, with no money. So your point, bringing up the nonreimbursement that the state is withholding--I don't

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know what the number is now; it's probably \$6 million or more--they ask you to do some certain things, and rightfully so those counties should be doing those things. But I think, as Senator Chambers alluded to, they just put up their shield: We don't want to do it; we don't want to do it. I'm just looking for the best way to do it. So you bring up a great point. [LB467]

SENATOR WIGHTMAN: Well, I think that Senator Chambers suggests that they'll be no additional costs to the county, but the actual cost to the county will probably be, will it not, responding to the Ombudsman's response to complaints that are made? Some of this, I assume, will cost the county money. Would you agree with that? [LB467]

SENATOR GAY: Absolutely. And some of it should cost the county money. If the Ombudsman finds a problem... [LB467]

PRESIDENT SHEEHY: One minute. [LB467]

SENATOR GAY: ...it should be corrected. Absolutely. Otherwise you run into cases like Senator White. These are tough places to run and things happen. But absolutely it will cost money, and specifically I don't know, but it's going to cost. [LB467]

SENATOR WIGHTMAN: I believe, and I could be mistaken on this amount, that the county jail reimbursement is about \$35 per day. I would also suggest that if we look at what it costs to keep a inmate in a state-controlled facility, that's probably several times \$35 a day. So that is going to be an important issue that comes to us later, but I think it directly reflects upon this issue. Thank you, Mr. President. Thank you, Senator Gay. [LB467]

PRESIDENT SHEEHY: Thank you, Senator Wightman. Senator Stuthman. [LB467]

SENATOR STUTHMAN: Thank you, Lieutenant Governor and members of the body. I have been very interested in this bill, and as I stated earlier, that I initially supported the bill. But I've been doing some research with my county detention facility. I'm very familiar with the people there, the ones that run the facility, and did get into some discussion with them as to why the Sheriffs Association opposed the bill and the county officials opposed the bill. And I'll give you some of the reasons that was told to me. The Crime Commission is the commission that sets up the jail standards and policy. Jail standards and policy vary some from county facilities, from one county to another, as far as some of the policies that take place in accomplishing some of the things that need to be done. What the main concern of the county jail supervisor is concerned with is that the Ombudsman would walk in tomorrow morning and say, hey, I've got a real concern, you know, about a complaint that was given to me, and I'm going to investigate it. The Ombudsman's Office has no idea what that county's jail standard policy is then. And that's what they're concerned about, you know, that it's another layer of bureaucracy

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that comes in and not really understanding what their policy is. And I'll explain to you some of the differences in policy, and it was an issue that Senator Chambers brought up, about administering drugs. You know, some of them have it that the nurse will administer the drugs; some have it that the drugs are given to the inmate, and it's his responsibility to take the drugs, to take the medication, because that does differ...it does difference...in different counties it's different. So I just think we do have the Crime Commission, which I think is the head of setting up the jail standards and policies, and I think they're followed by the counties, very closely. Their concern was, like I stated before, that the Ombudsman would come in tomorrow morning, unannounced, and inspect something that's going on, when they have no idea as to what their jail standards and policies are. So I'm going to listen to the debate a little longer before I make my decision on the vote. Thank you. [LB467]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. Senator Gay, followed by Senator Chambers. Senator Gay. [LB467]

SENATOR GAY: Thank you, Mr. President. Senator Stuthman and Senator Wightman, and even Senator Pedersen, have all addressed the issue that I'm trying to get to. No one is opposed to the Ombudsman's work. It's a good work and it's necessary work. In many ways, and these counties are just, and this says county jails so I'm going to talk a little bit more there. But now we're expanding it a little bit with the Judiciary amendment to go to other facilities, and now we've expanded it a little bit more, Senator Flood's amendment, to expand it to one more level. And I don't know where I'm...I'm still listening too. Because it is a good...it's something we need. The question would be then, the county administers state programs. The state has another program, and if the Ombudsman said something, we should at least...it has to be implemented. And it should be. Because if you're going to pass a law and give him more authority and jurisdiction, you should at least back up what you're doing and pay for that. And now we have two or four, and Senator Chambers, I think, brought up quickly on Senator Flood's about, well, what will the cost be down the road? We don't know. But if we're going to do that, he can't do it for free, and that you can't have very few people doing a lot of work. So they're already engaging in this work. I'm not so sure that it's a bad problem here. The point is, what is the cost? And if we're not reimbursing the counties now and we have other things that they need to correct, and rightfully so, they probably should be corrected in many of these cases. I don't know what's going on in all the counties that have jails. But so we say, well, go correct that problem; go correct...give this medicine; do this, do that. Well, that all costs money, and Senator Stuthman knows, and anyone else who's been on a local level--we have this discussion about property taxes--if you've been on any local level and the state tells you to do something, it's going to cost you. And, of course, so the county is going to come in, and maybe they did come in and they testified against this bill, and maybe they testify, you know, they just get it, well, I'm against that, I'm against that. I don't know what their theory was. I wasn't in the committee. All I'm trying to point out here, when you vote, just think about what you're

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doing, and you're making jails and jailers and county officials and everyone else, it's probably going to cost them. How much? I don't know but I can guarantee it's going to cost them. So as we look at that, just keep that in mind. And I'd just...like I say, I'd like to kind of say what's...the fiscal note will come back, I guess, and we'll see what this is all going to cost, but. So when the fiscal note comes back, we'll take a hard look at it before this thing keeps advancing. So that's what I have to say. Thank you, Mr. President.
[LB467]

PRESIDENT SHEEHY: Thank you, Senator Gay. Senator Chambers. [LB467]

SENATOR CHAMBERS: Mr. President and members of the Legislature, I'm glad Senator Stuthman spoke, because it gave you an idea of just the kind of general statements that were made, that went nowhere. The Ombudsman's Office is not going to come out there--and I made it clear with the roving commission to just go looking for jails to find problems. They're working hard now. If they had their way...let me not put it on them. If I were working in that office, I would not be unhappy if fewer complaints came in. Their work is complaint-driven. If no complaint comes from a jail in Senator Wightman's district, they don't go there. They don't just go around saying, we love complaints, we want work to do so we're going to look in these jails and see. But if they come into a jail as a result of a complaint, their job is to handle that complaint. And many of them relate to the withholding of medication. When Senator Stuthman speaks, when Senator Gay speaks, they're not focusing on why something like this is necessary. Some of you all may be old enough or you have members in your family who are ill enough to require medication. If that is withheld, that is a serious problem, and it could lead to catastrophic results, even death, as it did in Omaha. If we...Senator Stuthman will tell me on a bill, if you save one baby that justifies the bill. We can give you cases where people died in these jails, and it makes you no difference. You say, well, this cost so much and costs so much. But if it's something you want to do, you say if it saves one person, that's enough. We've got people who died. The grand jury meets periodically. I pay attention because I got the bill through that made them call a grand jury when a person died in custody. So I keep what tabs I can from the newspaper on these things happening. We have people dying in these jails. Senator White mentioned a person was denied medication. That person wound up hanging himself. Do you all see why I say there's no compassion here? That's a ho-hum. Those things reached me, maybe because I don't have that overlay of religion that let's me say, well, somebody else will do it. I don't believe in anything supernatural. I don't believe in anything magical. If anything is going to be done in this material, physical world, I'd better do it or it's not going to be done. And that's why I work so hard. I think if I see the problem, I've got to do it. I can't pray and it be done. If I fast, all I do is get hungry. In the meantime, I get these complaints, not just from the inmates, but from their family members: grandmothers, wives, nieces, children, brothers, fathers. Even people with cancer sometimes are not allowed to receive the visits that they need or go to the doctor they need to go to. And I'm going to tell you all something else that happens in your counties.

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Counties don't want to give medical care because they say it costs money, so we will just deny this inmate all medical attention because he'll be out of here in a couple of weeks. There could be an abscess. A person could open his mouth and it's so foul you don't want to be around him. There could be an oozing and they will not let that person go to the dentist because the county would have to pay. So they have policies, some of them, of saying, we are not going to allow this person to have medical care because he'll be out of here. If we give the medical care, the county pays. If the Ombudsman's Office is there, they have somebody they can appeal to, and I think they ought to have that. They ought to have somebody they can go to. I just wished that everybody... [LB467]

PRESIDENT SHEEHY: One minute. [LB467]

SENATOR CHAMBERS: ...on the floor of this Legislature were as godless as I'm supposed to be. I wish everybody on this floor would be as hateful as I'm supposed to be. I wish everybody on this floor was as intolerant and racist as I'm supposed to be. But it's a funny thing, most of the complaints I get in my office are from white people. And I'm the one who will react to those and respond when I can, but I want us to do something institutionally so that a person doesn't have to go to one person, and if that person is busy, nothing can be done. This that we're offering is not unreasonable. I believe, although I don't have any way of knowing, that if that family of the man who died in the Omaha jail, being told go on and die, and two jail persons were indicted, if they file an lawsuit, they will get more money, several times over, of what this bill costs by way... [LB467]

PRESIDENT SHEEHY: Time, Senator. [LB467]

SENATOR CHAMBERS: ...of an A bill. Thank you, Mr. President. [LB467]

PRESIDENT SHEEHY: Senator Gay. [LB467]

SENATOR GAY: Thank you, Mr. President. I don't think it's a...I think it's a legitimate discussion to talk about cost. I don't think it...there's nothing wrong with that, and I don't think that we're getting to things cost money. I mean, ideas cost money here. When you do something, it goes down to the property tax level. That's all there is to it. So I don't think it's being heartless or whatever to ask these questions, and I don't even know how I'm voting on this bill, quite honestly. I didn't wake up today and say, gee, I want to go kill this bill. I think there are good things in this bill. So all I'm saying, how does it work? So that's what we're asking. I like Senator Flood's amendment. It's going to cost money because you cannot ask the Ombudsman to continue to do more things. That's why we are having the discussion today. He's already doing more things that he has people for. So it's going to cost more money. I'm just saying, those things, it just trickles down. So it's not...I don't think we're wrong to ask that question. I guess where I'm going to go

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with it, would Senator Chambers yield to a question? Chambers? [LB467]

PRESIDENT SHEEHY: Senator Chambers, would you yield, please? [LB467]

SENATOR CHAMBERS: Yes, I will. [LB467]

SENATOR GAY: Senator Chambers, the question I have is, when these...? This is already being done. You've already stepped in. When counties have complaints you're stepping in and getting results here. [LB467]

SENATOR CHAMBERS: Sometimes. [LB467]

SENATOR GAY: Sometimes. But up to 300 cases, I've heard, have been county cases already being done, okay? So you come in, and you ask...how does the process work then if there's a frivolous complaint versus a legitimate complaint? If you're withholding medicine, if you're doing some of these things, those are real serious complaints and charges. How does it work though? [LB467]

SENATOR CHAMBERS: Senator Gay, right now, when a complaint is brought to me by an inmate and I give it to the Ombudsman's Office, they know that I want a report on how it's resolved. I get many letters where they'll write the inmate and say, you don't have a legitimate issue here; that this has been resolved already; or will say, this should first go to your unit manager. So they don't just automatically take everything at face value. But if it is a serious complaint about medicine being withheld, I say again, it may turn out to be frivolous, but because the consequences could be so grave, they do establish priorities. That would be looked into. And if it turns out that the inmate has lied, maybe an administrator will say, ha-ha, see they lied. But they still had an obligation to look at it. I don't know if you all heard it, but this morning there is a...one of these dispatchers, 9-1-1, on trial, because when a five-year-old child called to say his mother was having a heart attack, the first one said, stop playing on the phone, and hung up. The second time the child called, the person, the dispatcher said, stop playing on the phone or I'll send the police out there and they'll put you in jail. Well, finally the police were sent, and the mother had died. So you cannot, when these complaints are brought, say on the face of them, inmates lie; I'm not going to look at it. And if it's serious, they will act. [LB467]

SENATOR GAY: Senator, so it is through experience that you learned that this is frivolous or this is legitimate or what? Is there any kind of rules they follow? Or is it just kind of, you just...gut instinct. [LB467]

SENATOR CHAMBERS: Courts look at these things when they're presented with them, case-by-case basis. What may look frivolous on its face, upon further review will be shown to have something very substantive in it. So there is no rule of thumb you can put

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in place, and lay a case beside it and say, this one doesn't measure up so it's frivolous. They have been doing this kind of work. They look at it. They make judgments just like we do about things to determine whether they're worthy of further action. They have even told inmates, on occasion, this is a grievance, but the Ombudsman's Office is not the one authorized to handle it so you'll have to seek an attorney. [LB467]

SENATOR GAY: All right. Thank you. One more question then. So... [LB467]

PRESIDENT SHEEHY: One minute. [LB467]

SENATOR GAY: ...the Ombudsman can give an opinion, but he can't enforce action. Who enforces the action? He gives an opinion and says we have something wrong here in this jail; go fix it. Can he...? Does the Ombudsman have that power? Or does he go, and then go to Jail Standards, or how do they resolve these issues? [LB467]

SENATOR CHAMBERS: If there is something that needs to be investigated and it shouldn't be done by that entity, they can call on the State Patrol. They can seek assistance from the Attorney General's Office because they are a state operation just like these others. But they're not an enforcement agency. [LB467]

SENATOR GAY: Okay. That's what I was wondering. So this is not--and I'm learning about this too; I'm no expert--so this is not an enforcement agency. This is a voice that you could go to. And I'm just wondering how the process works when I have a "my dinner is cold" or something like that, that would be frivolous obviously, and I know they wouldn't follow up on something like that. [LB467]

SENATOR CHAMBERS: Oh, not necessarily. Because if they're serving cold meals when they're supposed to be hot... [LB467]

PRESIDENT SHEEHY: Time, Senator. [LB467]

SENATOR GAY: Thank you, Mr. President. [LB467]

PRESIDENT SHEEHY: Mr. Clerk, do you have items on your desk? [LB467]

CLERK: Mr. President. Senator Flood, I understand you want to withdraw FA156, Senator? Is that right? [LB467]

PRESIDENT SHEEHY: FA156 is withdrawn. [LB467]

CLERK: Senator Flood would move to amend with FA157, Mr. President. (Legislative Journal pages 267-268.) [LB467]

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PRESIDENT SHEEHY: Senator Flood, you are recognized to open on FA157. [LB467]

SPEAKER FLOOD: Thank you, Mr. President and members. I want to thank Senator Synowiecki for calling to my attention the breadth of my last amendment, LB156 (sic--FA156). It included anybody receiving services from a behavioral health region, and that's not my intent. I think if you look at your computer, this FA157 accurately...it does a better job, I should say, of accurately portraying what I'm out to accomplish. It just basically says that the Ombudsman can look into any patient's situation, for a patient that's in a community-based mental health service provided and contract...provided for or, I should say, contracted with a "Behavioral Health Region to provide services for any individual that was a patient of a state owned and operated Regional Center within the prior twelve months." Here's the issue here, for two reasons. One, if a patient comes out of a regional center, is in a more restrictive care setting than they need to be, obviously the Ombudsman should have the opportunity to look into that. On the reverse end, if a patient is in a care setting, and a loved one says this isn't working, this is an outpatient setting or this is a group home setting or this is something that endangers the patient and the community, I want the Ombudsman to have the ability to look into that so that they can follow the patient through the system. I live in a town--I'm not going to refight the regional center battle over again today--I live in a town that for 100 years has cared for the people of Nebraska that are the most vulnerable, along with Beatrice, along with Hastings, and along with Lincoln. And a lot of times these people don't have families that call them on Christmas. They don't have families after living in an institution. And so when they walk out of a regional center, if the right care is not there, when they commit suicide or jump off a bridge, there is no way to go back and look into what happened unless there is an opportunity...and the family calls the state senator. I don't have the ability to look into someone's medical records and determine what happened. You give the Ombudsman the chance to at least look at the situation. Oftentimes, nothing can be done to prevent it. Sometimes maybe something can be done. And I care for those people. I live in a community that embraces the most vulnerable that are mentally ill, and I want the Ombudsman to be able to look at whether the right continuum of care existed for that patient, wherever they go, after leaving one of our state-owned hospitals. And right now I can't do that. Not many people can. It requires access to records that I will never see as a member of this branch of government, but an Ombudsman can under this, and I think that's appropriate. We have to care for those whose family doesn't acknowledge or raise the issue or look into it further; for those who a provider says, I wish something could have been done for Joe or Mary or whoever it is. This is important to me, and it's something that I have learned a lot about since serving in the Legislature, and I would hope that you find your way to supporting it. And the reason we narrowed it down is, is it's not my intention to create a whole bunch of new FTEs in the Ombudsman's Office. I think that this can be done within the scope of what the deputy counsel will be doing as envisioned by Senator Chambers. And I would give the balance of my time to Senator Synowiecki because I know he has a lot of experience in this area. Thank you, Mr. President. [LB467]

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SENATOR ERDMAN PRESIDING [LB467]

SENATOR ERDMAN: Thank you, Senator Flood. Senator Synowiecki, you have 6 minutes and 30 seconds. [LB467]

SENATOR SYNOWIECKI: Thank you, Senator Erdman. I assure you I won't take that much time on this opening. When Senator Flood put the original amendment in, it struck me as being very broad and truly cast too big of a net for the Ombudsman's Office to competently handle the load. I contacted the department...my office contacted the Department of Health and Human Services. The original amendment would have been applicable to about 50,000 citizens in the state of Nebraska. I think this narrows it significantly, and I think it, as Senator Flood indicated, these folks that are in the institution at this time are afforded the ability under the original amendment...are afforded the services of the Ombudsman's Office. I think it's perhaps appropriate that they continue to be afforded the services of the Ombudsman's Office as they go through the entire continuum of care. And perhaps between General File and Select File, the Department of Health and Human Services can comment relative to what ramifications might be, as well as the Ombudsman's Office. But my original concern that I brought to Senator Flood is I felt we'd be looking at one heck of a fiscal note, given the broad nature of the original floor amendment. Thank you, Mr. President. [LB467]

PRESIDENT SHEEHY PRESIDING [LB467]

PRESIDENT SHEEHY: Thank you, Senator Synowiecki. And, Senator, you are next in the queue. [LB467]

SENATOR SYNOWIECKI: Thank you. My comments are not directed towards the floor amendment. I will support the floor amendment. What I had was questions relative to the underlying bill and the underlying committee amendment, if Senator Chambers would yield. [LB467]

PRESIDENT SHEEHY: Senator Chambers, would you yield? [LB467]

SENATOR CHAMBERS: Yes, I will. [LB467]

SENATOR SYNOWIECKI: Senator Chambers, as you are very well aware, those individuals in our county jail system oftentimes might receive 24 hours in county jail; might get three days in county jail. Is it your envision here that once...for these individuals that spend a relatively short time in our county jail, and that they are subsequently released from the county jail system, that they will have access then to the Ombudsman relative to their time that they were under the jurisdiction of the county jail? [LB467]

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SENATOR CHAMBERS: You have to see how the Ombudsman deals with situations where a person is no longer locked up. There conceivably could be an issue, and it's why I don't try to give every specific example that could happen where there would be a legitimate reason for the Ombudsman to look at something that happened while that person was in county jail, but I can't just give you an example off the top of my head. [LB467]

SENATOR SYNOWIECKI: Senator Chambers, Senator Gay asked some questions relative to jurisdiction, and I have some questions relative to jurisdiction, as well. The Ombudsman's services are available to individuals that feel that they may be aggrieved by a state agency. I think the thinking there or the philosophy is that the state Legislature has jurisdiction over these state agencies, administrative agencies; and the state Legislature can react accordingly to the Ombudsman's Office relative to problem areas. We don't, and the Ombudsman's Office does not have any jurisdiction relative to the running of the county jails. That is...once you agree that's relegated exclusively to the individual county boards and boards of supervisors and so forth. [LB467]

SENATOR CHAMBERS: Oh, yes; right. And this will not give them the power to run the jail. They respond to complaints only. [LB467]

SENATOR SYNOWIECKI: So I'm trying to think practically. The Ombudsman's Office goes into Hall County; investigates a matter in response to an inmate. And they find cause or they find reason to believe that there was something done wrong on behalf of either the employees or the county sheriff or what have you. As a practical matter, what would be the benefit then to that inmate, given that the Ombudsman's Office really has no standing with the Hall County board? [LB467]

SENATOR CHAMBERS: You mean without this legislation? Or with this legislation? [LB467]

SENATOR SYNOWIECKI: With this legislation; I'm sorry, Senator. [LB467]

SENATOR CHAMBERS: Then if any...if they make a finding and it's not going to be acted on, they can seek the aid of the Attorney General, and in some instances they can go to a judge. But they do not enforce anything because we did not create them as an enforcement agency, but they will have access to other enforcement mechanisms to have what they come up with carried out. [LB467]

SENATOR SYNOWIECKI: Thank you, Senator Chambers. If you don't mind I have one more question, and that is with educate...how...if we pass this bill, how will those that are being held in county jails and facilities throughout our state, how will they be...how will they know that they have the access to the Ombudsman's Office? [LB467]

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SENATOR CHAMBERS: They may not because they send me complaints. But I would be able to notify, and family members call me, that the Ombudsman's Office looks at this, and then I give them the phone number or the address. But if it's the kind of thing that I think I ought to look into, then I do it myself. But I don't know how we can make them aware of it unless we would require the county jails to make some kind of notice available to inmates that they have access to the Ombudsman's Office. I just hadn't thought about that aspect of it, to be frank. [LB467]

PRESIDENT SHEEHY: One minute. [LB467]

SENATOR SYNOWIECKI: Thank you. Thank you, Senator Chambers, and thank you, Mr. President. [LB467]

PRESIDENT SHEEHY: Thank you, Senator Synowiecki. Are there further senators wishing to speak on FA157? Seeing none, Senator Flood, you're recognized to close. [LB467]

SPEAKER FLOOD: Thank you, Mr. President and members. I want to thank Senator Synowiecki for his help on this amendment and for calling our attention to it. We'll still see where it comes back on Select File. I would ask that you vote to adopt FA157. Thank you. [LB467]

PRESIDENT SHEEHY: Thank you, Senator Flood. You have heard the closing to the amendment. The question before the body is, shall FA157 be adopted to the committee amendment? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB467]

CLERK: 30 ayes, 0 nays, Mr. President, on adoption of Senator Flood's amendment. [LB467]

PRESIDENT SHEEHY: FA157 is adopted. We will return to discussion on the committee amendment. Seeing none, Senator Ashford, you are recognized to closed. [LB467]

SENATOR ASHFORD: Thank you, Mr. President. There's been great discussion on this issue, and I appreciate the work of Senator Pedersen in our committee on this issue and many issues like it. His experience in the trenches on these issues will be sorely missed when he leaves this body. Again, this amendment deals with...does not deal with the jail portion of the bill, which Senator Chambers has very adequately explained and there's been a great deal discussion about, but deals with Health and Human Service issues. So with that, I would move the committee amendment to LB467. [LB467]

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PRESIDENT SHEEHY: Thank you, Senator Ashford. You have heard the closing. The question before the body is, shall the committee amendment be adopted, AM484, be adopted to LB467? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB467]

CLERK: 31 ayes, 0 nays, Mr. President, on adoption of Senator...or the committee amendments, excuse me. [LB467]

PRESIDENT SHEEHY: Committee amendment AM484 is adopted. Mr. Clerk, do you have an amendment on your desk? [LB467]

CLERK: Mr. President, Senator Ashford would move to amend with AM1585. (Legislative Journal page 268.) [LB467]

PRESIDENT SHEEHY: Senator Ashford, you are recognized to open on AM1585. [LB467]

SENATOR ASHFORD: Thank you, Mr. President. This amendment quite simply just makes it clear that the bill, or Senator Chambers' bill, includes city as well as county jails. And I believe that was...? Senator Chambers, may I ask you a quick question? [LB467]

PRESIDENT SHEEHY: Senator Chambers, would you yield? [LB467]

SENATOR CHAMBERS: Yes, I will. [LB467]

SENATOR ASHFORD: Senator Chambers, was it your intent...? I believe it is your intent to include city jails in this bill, is that correct? [LB467]

SENATOR CHAMBERS: Yes. [LB467]

SENATOR ASHFORD: With that, Mr. President, I would just move the amendment. [LB467]

PRESIDENT SHEEHY: Thank you, Senator Ashford. You have heard the opening to AM1585. Senators wishing to speak are Senator Gay. Senator Gay. [LB467]

SENATOR GAY: Would Senator Ashford yield to a question? [LB467]

PRESIDENT SHEEHY: Senator Ashford, would you yield? [LB467]

SENATOR ASHFORD: Yes. [LB467]

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SENATOR GAY: How many city jails are there that we're talking about here? [LB467]

SENATOR ASHFORD: 1,730. (Laughter) [LB467]

SENATOR GAY: Well, let's do it. [LB467]

SENATOR ASHFORD: I'm not certain (laugh), Senator Gay. [LB467]

SENATOR GAY: I assume Omaha would be one. You're... [LB467]

SENATOR ASHFORD: It's what? [LB467]

SENATOR GAY: Omaha would be one, of course. [LB467]

SENATOR ASHFORD: It would be one. I'm sorry; it's a legitimate question and I didn't mean to be flippant. Very, very legitimate. [LB467]

SENATOR GAY: It is a legitimate question because now you're asking this man to do more work, and...how many does Lancaster...is it Lancaster County jail is it here in Lincoln? I don't know. [LB467]

SENATOR ASHFORD: I believe...is there a city jail? I believe there...is there? Yes, there is a city jail apparently. [LB467]

SENATOR GAY: Okay. Well, the question is that maybe we just add...and now we're going to have him do some more work, and then...I don't know how many people he's going to need, because he's got a lot of work to do from here on out, so. I'm just bringing that up, not to be...(inaudible). I'm going to vote for this and I'm going to vote for the amendment. I just think that we need--and vote for the bill--but I just think we need it when we do these things. I'm just making a point here, so thank you, Mr. President. [LB467]

PRESIDENT SHEEHY: Thank you, Senator Gay. We have Senator Chambers, followed by Senator Lathrop and Senator Pirsch. Senator Chambers. [LB467]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, this is one time that you can throw a rock at me because the language in the bills is county and jail or correctional...correctional facilities refer to counties generally, and jail usually will refer to a city, so Senator Ashford and others felt that it should be specified that city jails are included. So the language in my discussion throughout has been with the assumption that city jails are included, and that's why I mentioned the incident in Omaha. So you caught me not having been as careful and precise as I ought to have

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been, and for that I'm grateful. We want the legislation to say what we mean and mean what we say. So Senator...what's that guy's name over there? Senator Gay has really asked a lot of good questions. I don't know that we've ever had a discussion of the Ombudsman's Office, the work that it does, of the type that we had this morning. And has been pointed out by somebody, I think, a bunch of us are not going to be here after this session, so it's good that this discussion was had so those who remain will know what that office is, have an idea of what it does, and will be able to direct questions to that office if they have questions put to them. I'm supporting Senator Ashford's amendment. I'm supporting the bill. And I'm appreciative, and I really mean it, of all the discussions that we've had. The questions that were put, opened avenues for clarification. And if somebody wants to look at the history of this bill based on our discussion, I don't know that they'll find issues left unmentioned. I think we probably have covered everything that needed to be or that could be. Thank you, Mr. President. [LB467]

PRESIDENT SHEEHY: Thank you, Senator Chambers. Senator Lathrop. [LB467]

SENATOR LATHROP: Thank you, Mr. President. And I find myself now speaking after Senator Chambers has just said we've said everything that needs to be said. Nevertheless, I did hear and do want to comment on Senator Gay's remark that in some respects this is an unfunded mandate, because I think it misses the point of the Ombudsman's Office, and that is we can look at it as somebody who's meddling and coming up with ideas that are eventually going to cost the counties, and I certainly understand the members who have come from that previous service in county government having a concern. But the things that the Ombudsman will do for us are the very things that will end up the subject of litigation if they don't happen. So I view the Ombudsman, in some respects, as a troubleshooter, a mediator, somebody who is the first line, and if used properly and if their role is expanded, will save us some litigation expenses and then liabilities, as pointed out by Senator White. So again, I support Senator Ashford's amendment and the bill. Thank you. [LB467]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. Senator Pirsch. [LB467]

SENATOR PIRSCH: Thank you, Mr. Lieutenant Governor, members of the body. I was...just towards what Senator Chambers spoke about, clarification, I wonder if he might yield to a number of questions. [LB467]

PRESIDENT SHEEHY: Senator Chambers, would you yield to questions? [LB467]

SENATOR CHAMBERS: Yes, I will. [LB467]

SENATOR PIRSCH: Thank you very much for the dialogue that's been going on here today. I guess my question stems from the language that's on the fiscal note. I guess

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your comments earlier are that your original bill envisioned that both the city jails, as well as the county correctional facilities, or the county correctional facilities would be encompassed by the bill. Is that correct? [LB467]

SENATOR CHAMBERS: Yes. [LB467]

SENATOR PIRSCH: Okay. With respect to the fiscal note, I think they have put out an expenditure estimated at \$114,000 for the addition of, I believe, two new employees to carry out these responsibilities. Is that...? Have you had a chance to see that fiscal note? [LB467]

SENATOR CHAMBERS: Well, there will be an amendment based on the Judiciary Committee amendment, because there will be an assistant to be a deputy public counsel, so there will be an amendment. There will be a total of three people based on the way the discussion has developed. [LB467]

SENATOR PIRSCH: A total of three people. [LB467]

SENATOR CHAMBERS: Yes. [LB467]

SENATOR PIRSCH: Okay, so that would...it would just basically add one new public counsel employee. [LB467]

SENATOR CHAMBERS: To the existing A bill there will be an amendment to account for that other one who will come on board as a result of the committee amendment dealing with those mental health facilities. [LB467]

SENATOR PIRSCH: So a total of three new employees then, correct? [LB467]

SENATOR CHAMBERS: Yes. [LB467]

SENATOR PIRSCH: And since two were envisioned earlier at \$114,000, probably safe to say it would be somewhere around \$170,000, \$180,000 perhaps, for the three employees then, the A bill? [LB467]

SENATOR CHAMBERS: If you'll let me do what Senator Ashford did, I would say closer to maybe \$500,000 or \$600,000. No, somewhere in there. I just can't tell you specifically. [LB467]

SENATOR PIRSCH: Okay. And do you think that that's a...that given the new responsibilities with these added, I guess, areas to be covered, do you think that those three employees could adequately cover those new responsibilities? [LB467]

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SENATOR CHAMBERS: Yes. With what we've put in the bill, I believe it, and I have to add "at this time." [LB467]

SENATOR PIRSCH: Okay. My next question pertains to it. It seems pretty clear from the fiscal note, though, that they refer to...that only...that two new employees would be required just to cover the 70 active county jail facilities, and they specified county jail facilities. Do you...? How many--and I know that it's...if it's not on the top of your head, it's something we can look at--but do you know how many city jail facilities exist other than obviously in Lincoln and Omaha? [LB467]

SENATOR CHAMBERS: That question was asked of Senator Ashford, and he said something like 1,700, facetiously. [LB467]

SENATOR PIRSCH: Yeah. [LB467]

SENATOR CHAMBERS: And Senator Janssen came over and said, had that question been asked maybe 20 years ago, that might have been the number. The number of these kinds of jails has diminished, but I don't know to what extent. However, you might find some of these jails comprising the back room in somebody's house who has the means to keep somebody there. I really don't know the number... [LB467]

PRESIDENT SHEEHY: One minute. [LB467]

SENATOR CHAMBERS: ...but here's what I'm getting to. There is work, Senator Pirsch, that will be done, and although these employees are coming on board because of the county facilities, in that office it's kind of like people working, not just in that one little area, but wherever somebody needs to do something. They might have to do a little more today than they did yesterday, but they will cover the waterfront among the people they have working with them. [LB467]

SENATOR PIRSCH: Okay. So you feel comfortable that that amount of new employees can cover that vast of addition to the responsibilities? [LB467]

SENATOR CHAMBERS: Yes. I think so. [LB467]

SENATOR PIRSCH: Okay. Thanks for very much. I'd yield back the balance of my time to Senator Chambers if he has any other comments. [LB467]

PRESIDENT SHEEHY: Twenty seconds. [LB467]

SENATOR CHAMBERS: Duh-the, duh-the, duh-that's all folks. [LB467]

PRESIDENT SHEEHY: Senator Carlson. [LB467]

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SENATOR CARLSON: Mr. President and members of the Legislature, in this discussion that's taken place, as with anything else, I very often still end up with a fear of the unfunded mandate. And I didn't intend to, but I would like to address another question to Senator Chambers. [LB467]

PRESIDENT SHEEHY: Senator Chambers, would you yield? [LB467]

SENATOR CHAMBERS: Yes, I will. [LB467]

SENATOR CARLSON: Senator Chambers, I would like to ask the Ombudsman's Office this, but I'm going to ask...I can't, so I'm going to ask you. When they receive a complaint, they don't really have a choice of saying, well, this is frivolous and we're not going to follow it up. They have to follow up every complaint, don't they? [LB467]

SENATOR CHAMBERS: No. Let's say that somebody says, they told us on the menu this morning we were going to have beans and ham; what they really gave us was pork and beans, and there were the beans but not the ham. The Ombudsman's Office would say, well, things like that happen in life. [LB467]

SENATOR CARLSON: Well, I think they're hamming it up a bit. You know, I also heard the term this morning, because I had a good discussion with the representative of the Ombudsman's Office, that they have frequent flyers, and these would be people that complain a lot. So I could see how these people could be identified. So they do have the ability and they would make a decision, without delving into it, this isn't worth looking at. [LB467]

SENATOR CHAMBERS: Right. That's correct. [LB467]

SENATOR CARLSON: Okay. Well, I hoped that that would be the case. Now, I think in the system that we have here, that there are times that a bill is submitted, a bill is scheduled for hearing, and some of the groups that should have a real interest in that bill for whatever reason, don't feel like they were notified. It's not the fault of the person entering the bill. But I took it that the opposition from the Sheriffs Association and the Nebraska Association of County Officials was kind of a boilerplate opposition that didn't have any meat in it, but just kind of against it. Well, in listening to the discussion and going through and voting on this bill, I'm going to shortchange the whole system here a little bit so I don't have to spend time or postage, but I have...I believe I'm going to vote for this bill. So between now and Select File, people in the Sheriffs Association and the county officials that have real concerns about that, I invite them to make those concerns known, and in our process we still have the opportunity to change our mind. So with that I conclude my comments. Thank you. [LB467]

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PRESIDENT SHEEHY: Thank you, Senator Carlson. Further discussion on AM1585. Seeing none, Senator Ashford, you're recognized to close. [LB467]

SENATOR ASHFORD: I would just urge the adoption of AM1585. [LB467]

PRESIDENT SHEEHY: Thank you, Senator Ashford. You have heard the closing. The question before the body is, shall AM1585 be adopted to LB467? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB467]

CLERK: 34 ayes, 0 nays, Mr. President, on adoption of Senator Ashford's amendment. [LB467]

PRESIDENT SHEEHY: AM1585 is adopted. We will return now to LB467. Speaker Flood. [LB467]

SPEAKER FLOOD: Thank you, Mr. President. One quick note before we adjourn today and before this vote, which will happen, I'm sure here, pretty soon. We will come back at 1:30 this afternoon to discuss LB575, and after that, after we consider LB575, in the event that we should go to a vote on it, we are not going to go back up at the top of the agenda; we will be done for the day. And we're doing this in light of the fact that tomorrow, as you know, is the last day to get requests to Bill Drafters. We have made a lot of progress this week. We've considered a number of bill. And I want you to know that we will not be returning to the top end of the agenda. In the event that we ever do that on the agenda, you'll see it noted. On this agenda it would have been where the 1:30 is at. So after we're done with LB575 we'll be done for the day. Thank you, Mr. President. In the event that it goes the distance, we'll be adjourning around 5:00 tonight. [LB467 LB575]

PRESIDENT SHEEHY: Thank you, Speaker Flood. We will return to floor debate on LB467. Seeing none, Senator Chambers, you're recognized to close. [LB467]

SENATOR CHAMBERS: A wise man knows when to keep silence. I ask that you vote to advance this bill. Thank you, Mr. President. [LB467]

PRESIDENT SHEEHY: Thank you, Senator Chambers. You have heard the closing. The question before the body is, shall LB467 advance? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB467]

CLERK: 32 ayes, 0 nays, Mr. President, on the advancement of LB467. [LB467]

PRESIDENT SHEEHY: LB467 does advance. Do you have items, messages, for the record? Next item under General File. [LB467]

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CLERK: Senator Chambers. LB467A, Mr. President. (Read LB467A by title for the first time, Legislative Journal page 268.) [LB467A]

PRESIDENT SHEEHY: Senator Chambers, you're recognized to open on LB467A. [LB467A]

SENATOR CHAMBERS: Mr. President and members of the Legislature, in order that the A bill may keep up with the underlying bill, I ask you to advance this bill, and an amendment will be made on Select File, drawn up by our Fiscal Office. So I ask that you advance the bill to let it stay up with LB467. Thank you. [LB467A]

PRESIDENT SHEEHY: Thank you, Senator Chambers. You have heard the opening to LB467A. Is there discussion from the floor? Seeing none, Senator Chambers, you're recognized to close. Senator Chambers waives closing. The question before the body is, shall LB467A advance? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB467A]

CLERK: 31 ayes, 1 nay, Mr. President, on the advancement of the A bill. [LB467A]

PRESIDENT SHEEHY: LB467A does advance. Items for the record or messages? [LB467A]

CLERK: Mr. President, new bills. (Read LB1025-1028 by title for the first time.) A hearing notice, Mr. President, from the Business and Labor Committee, and it's signed by Senator Cornett as Chair. An amendment by Senator Pirsch to be printed to LB619. And Senator Fischer would like to add her name to LB157 as cointroducer. A reminder: Reference will meet upon recess in Room 2102. (Legislative Journal pages 268-270.) [LB1025 LB1026 LB1027 LB1028 LB619 LB157]

And a priority motion, Mr. President. Senator Raikes would move to recess until 1:30 p.m.

PRESIDENT SHEEHY: You have heard the motion to recess until 1:30 p.m. All those in favor say aye. Opposed, nay. We are adjourned.

RECESS

SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: Good afternoon, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber, for the afternoon session is about to reconvene. Senators, please record your presence. Mr. Clerk, please record.

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

SPEAKER FLOOD PRESIDING

SPEAKER FLOOD: Thank you, Mr. Clerk. Do you have any items for the record this afternoon?

ASSISTANT CLERK: One item, Mr. President. I have a Reference Committee report adopted by the Executive Board through the lunch hour. That's all at this time. (Legislative Journal pages 270-271.)

SPEAKER FLOOD: Thank you, Mr. Clerk. We will proceed to the first item on this afternoon's agenda. Mr. Clerk.

ASSISTANT CLERK: (Read title of LB575.) The bill was read for the first time on January 17 of last year, referred to the Revenue Committee. That committee reports the bill to General File with committee amendments attached. [LB575]

SPEAKER FLOOD: Thank you, Mr. Clerk. (Visitors introduced.) Senator Kruse, you are recognized to open on LB575. [LB575]

SENATOR KRUSE: Thank you, Mr. Speaker and colleagues. LB575 has a narrow target and that is to remove the sales tax liability from one section of nonprofit nursing facilities. The other facilities are already exempted, and this is, to my mind, correcting the list, but we'll see what is in your mind. This assisted living matches the status of other nonprofit healthcare facilities, and it's my contention that assisted living should be in the list. I'd like to remind you that this statute is old enough that it came into existence before skilled assisted living and therefore was left out of the list, and that's the only reason it's out of the list. Let me read the rest of the list there for you, though you can see it in the bill: skilled nursing facility, a home health agency, hospice, hospice service, respite care service, child caring agency, a child placement agency. I would submit to you that assisted living belongs in that list. There is a fiscal note to it which assumes would be about a \$500,000 a year, plus \$100,000 on the local level. I simply note that that figure is really hard to say because we do not know how much of their...we know what their present budgets are, but we don't know how much of that would be available to this, since skilled wing is a part of many of the care facilities that we already have. And the office is the main office for that, and we're assuming that they don't pay sales tax for new items any more than they have to. I'm not making any negative remarks about it, that's simply the way that you would manage your system. So we don't really know how much taxes they are actually paying. This LB575 has been prioritized by Senator Wallstrom (sic). I appreciate that. I thank him for that. And I now, Mr. Chairman, yield the rest of my time to Senator Wallstrom (sic). [LB575]

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SPEAKER FLOOD: Senator Wallman, Senator Kruse has yielded you the balance of his time remaining. We have 7 minutes and 20 seconds. [LB575]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. And I want to reemphasize what Senator Kruse just explained. Assisted-living facilities were created in statute in 2000. So I feel it was an oversight when they were created not to have them sales tax exempt. And some of us might see this as a narrowing of the sales tax base. The problem is it was never meant to be on the sales tax rolls to begin with. So it is something as a state we missed. And, as we have in the past, sometimes we have to fix it. Also, this would only apply to nonprofit licensed assisted-living facilities. So these facilities are for people needing assistance with the activities of daily living but still wish to live independently. So it's actually saving Medicare and Medicaid money. And it makes most residents...they are happier there than if they are in a nursing home. So they bridge a gap between independent living and a nursing home. And residents in assisted-living centers, they're not able to live by themselves, generally, but they do not require constant care by RNs either. So that's where I am on this bill. I think it's the right thing to do and it's fair for those facilities. And the fiscal tax thing, it's hard to get a handle on that. I don't know. So thank you. [LB575]

SPEAKER FLOOD: Thank you, Senator Wallman. Senator...we now go to a discussion on LB575. Senator Stuthman, you are recognized. [LB575]

SENATOR STUTHMAN: Thank you, Mr. Speaker and members of the body. I would like to engage in a little discussion with Senator Kruse. [LB575]

SPEAKER FLOOD: Senator Kruse, will you yield to a question for Senator Stuthman? [LB575]

SENATOR KRUSE: Yes. [LB575]

SENATOR STUTHMAN: Senator Kruse, this just applies to the nonprofit assisted-living centers or does it apply to other assisted-living centers also? [LB575]

SENATOR KRUSE: Thank you for that kind of a question because we need to clarify it. It is as you stated, only nonprofit assisted living. There's quite a few of the others around and they would continue to be taxed. And while I have the microphone, Senator, I want to thank Senator Wallman for responding on behalf of "Senator Wallstrom," as I was saying it earlier. (Laugh) I'm sorry about that. Thank you. [LB575]

SENATOR STUTHMAN: Yes, I think this is something that we got to keep in mind. It's not all of the assisted-living centers. And there are, in my mind, only a few of the nonprofit assisted centers. There's a lot of them that are in there. We have one in Columbus that's a nonprofit, the other ones are for profit. And I think this is something...I

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did visit with the assisted-living place in Columbus that this would affect. The biggest concern that they have is the sales tax that we enacted on services. That's the big item that they have: services for electrical and plumbing that is performed in the assisted-living place. That's what they're really concerned. That adds to their cost and they have to, in turn, put that on to the charge that they have for this level of people. It does become a little bit of a bookkeeping nightmare for the assisted-living places that are nonprofit on part of their wing of their assisted living, because part of the establishment that I'm referring to does have a for-profit part also. But they said the electrical and the plumbing part could be divided very easily because of the situation as to what they get into on that side or wing of that village. I think this is something that we're trying to take off. I'm very aware, though, of continually with more exemptions, exempting more people out. But since we have a group that are the nonprofit group, I think we should take a serious look at this... [LB575]

SPEAKER FLOOD: One minute. [LB575]

SENATOR STUTHMAN: ...because it does create a little bit more cost to the establishment, which they in turn put onto the residents of that village. So I'm going to listen to the debate. I'm concerned about eliminating another exemption, but I'm also concerned about adding cost that we did put in place just several years ago on services, sales tax on services. We put it in and now we're trying to take it out. Maybe it shouldn't have been put in originally. Thank you. [LB575]

SPEAKER FLOOD: Thank you, Senator Stuthman. Mr. Clerk. [LB575]

ASSISTANT CLERK: Mr. President, I do have committee amendments from the Revenue Committee. (AM750, Legislative Journal page 892, First Session, 2007.) [LB575]

SPEAKER FLOOD: Senator Janssen, you're recognized to open on your committee amendments to LB575. [LB575]

SENATOR JANSSEN: Thank you, Mr. Speaker, members of the Legislature. The committee amendments to LB575 was filed last year and set an operative date of October 1 of 2007. Senator Kruse has the next amendment which will update the operative date, so I ask for your support of his committee amendments and the committee amendments. Thank you. [LB575]

SPEAKER FLOOD: Mr. Clerk. [LB575]

ASSISTANT CLERK: Mr. President, Senator Kruse would offer AM1577 to the committee amendments. (AM1577, Legislative Journal page 271.) [LB575]

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SPEAKER FLOOD: Senator Kruse, you're recognized to open on AM1577. [LB575]

SENATOR KRUSE: Thank you, Mr. President and colleagues. It is, as has been said, and we've been doing this before, we're into a new year, we need to update the date. This changes '07 to '08. Thank you. [LB575]

SPEAKER FLOOD: You've heard the opening on AM1577. We now return to discussion on LB575. Senator Wightman, you're recognized, followed by Senator Carlson. Senator Wightman. [LB575]

SENATOR WIGHTMAN: Thank you, Mr. Speaker, members of the body. I would have some questions of Senator Kruse, if he would yield to a question or two? [LB575]

SPEAKER FLOOD: Senator Kruse, will you yield to a question from Senator Wightman? [LB575]

SENATOR KRUSE: Certainly. [LB575]

SENATOR WIGHTMAN: Senator, we've been discussing that this would only apply to nonprofit facilities. Is that correct? [LB575]

SENATOR KRUSE: Correct. [LB575]

SENATOR WIGHTMAN: And can you give us a figure of about how many assisted living there are in the state and maybe how many of those are for profit and how many are not for profit? [LB575]

SENATOR KRUSE: I cannot. My estimate is that about...that's about half, and that just comes from references. We've had quite a few conversations with Revenue and others, but there will come up, other discussion on this, and I certainly welcome it. The present statute is somewhat vaguely written and the question of whether there is profits or nonprofits in there. They said they've been very direct in enforcing that all of those that you see in the top part of the list are nonprofit. [LB575]

SENATOR WIGHTMAN: As I looked through here I wasn't sure that I even saw anything that limited it to nonprofit. But I guess I'm more concerned...obviously \$400,000 to \$500,000 is not a particularly hefty fiscal note. I might have suspected that it would be more than that. Right now, of course, we're not talking food because that's exempt anyway, or we're not talking what the patient pays in the first place. We're really talking, aren't we, about their purchases of other than food items? [LB575]

SENATOR KRUSE: That would be correct: office supplies, furniture, and plumbing services. [LB575]

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SENATOR WIGHTMAN: I think we probably have a bigger issue here, and I don't want to interject that, but it's certainly going to come before this body before this session ends, and that's going to be reimbursement rates and particularly on Medicaid patients. I think that's placing a lot more burden upon facilities such as we have here, assisted living. I guess I would have one more question, and that is, a lot of these assisted-living facilities--and I'm not so sure that that applies to the not-for-profit as much as it is for the for-profit facilities--but don't many of them also provide services called independent living? [LB575]

SENATOR KRUSE: Yes, many of them would though. Generally that's a package under the basic nursing home when it's not for profit. There is a nursing home facility and they got various wings, and then they have some independent living, maybe on the same campus across the street. [LB575]

SENATOR WIGHTMAN: Once this exemption was applied, it would be to the facility, whether or not we were talking about independent living residents or whether we're talking about assisted-living patients, is that correct? [LB575]

SENATOR KRUSE: That is correct. I would not interpret this to apply to independent living. That's another ball game. We're trying to make consistency to be resident care, in-resident care for persons that need that. [LB575]

SENATOR WIGHTMAN: And so far as I know, and I've observed this in a facility in Lexington, Nebraska, they have independent living, but I don't know that they have separate furniture and very many separate fixtures that couldn't be classified as part of the assisted-living furniture. Mostly it's in the same facility as far as I've observed. Do you know if that's the case? [LB575]

SENATOR KRUSE: I do not know if that's the case. The independent living that I'm looking at, and I was on one of those boards, was... [LB575]

SPEAKER FLOOD: One minute. [LB575]

SENATOR KRUSE: ...across the street in a separate apartment, places like an apartment. [LB575]

SENATOR WIGHTMAN: Okay, thank you, Senator. Thank you, Mr. Speaker. [LB575]

SPEAKER FLOOD: Thank you, Senator Wightman. Mr. Clerk, any announcements? [LB575]

ASSISTANT CLERK: Mr. President, the Rules Committee will meet under the north

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balcony at 2:00. That's Rules Committee, under the north balcony at 2:00. [LB575]

SPEAKER FLOOD: Continuing with discussion on AM1577, Senator Carlson, you are recognized. [LB575]

SENATOR CARLSON: Mr. President, members of the Legislature, I rise in support of LB575. I think it's the right decision for us to make, and I really think the bill may be more revenue neutral than we might think. In many long-term care facilities, full care and assisted living are separated by a door, and so it could be very difficult, in some cases, to even separate the purchases that are for the full-care home versus those for assisted living--for example, kitchen utensils that may be purchased to prepare meals for both levels of care out of the same kitchen. It would also be tempting for a care home to classify purchases as being for full care when in fact a portion is being used in assisted living, but this would escape the sales charge. And so there is a fine line between full care and assisted living. I think it's the right thing to do to eliminate this portion of the sales tax, and I do fully support the bill. Thank you. [LB575]

SPEAKER FLOOD: Thank you, Senator Carlson. There are no other lights on. Senator Kruse, you are recognized to close on AM1577. [LB575]

SENATOR KRUSE: AM1577 is to change the operating date from '07 to '08. [LB575]

SPEAKER FLOOD: You've heard the closing on AM1577. The question before the body is, should AM1577 be adopted? All those in favor vote yea; all those opposed vote nay. Have all those voted who wish to? Mr. Clerk, please record. [LB575]

ASSISTANT CLERK: 35 ayes, 0 nays, on the adoption of the Kruse amendment to the committee amendments, Mr. President. [LB575]

SPEAKER FLOOD: AM1577 is adopted. Mr. Clerk. [LB575]

ASSISTANT CLERK: I have nothing further pending to the committee amendments. [LB575]

SPEAKER FLOOD: There are no other lights on. Senator Janssen, you are recognized to close on the committee amendments to LB575. [LB575]

SENATOR JANSSEN: Thank you, Mr. Speaker. Only to say that the correct date is now in the committee amendments. With that, I ask for your support and the passage of the committee amendments. [LB575]

SPEAKER FLOOD: You've heard the closing on the committee amendments to LB575. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record.

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[LB575]

ASSISTANT CLERK: 36 ayes, 0 nays, on the adoption of committee amendments.
[LB575]

SPEAKER FLOOD: The committee amendments are adopted. [LB575]

ASSISTANT CLERK: Mr. President, Senator Raikes would offer AM1583. (Legislative Journal page 271.) [LB575]

SPEAKER FLOOD: Senator Raikes, you're recognized to open on AM1583. [LB575]

SENATOR RAIKES: Thank you, Mr. President and members. AM...this amendment, AM1583 I think is what you said, is not actually the one that I am going to ask you to propose. That one is hopefully here shortly. But I'm going to use the opening on this amendment to raise the issues to you that I would like to raise. First off, I was one of the members of the Revenue Committee that did not support this bill coming out of the committee, and I'd like to give you a little bit of an insight maybe as to why. My first and foremost is this is a reduction in the sales tax base. I can hardly ever bring myself to support something like that. We have important functions to perform at the state level. They require funding. We need to have a funding base in order to do that. Most of you would argue, I think, that of the tax burdens placed on taxpayers, sales tax is maybe the least onerous. Income and certainly property are more onerous. So if that's the case, why in the world would you reduce the sales tax base rather than something else? If you are convinced that we can do less in the way of sales tax receipts, then let's lower the sales tax rate and pass the benefit to everyone. Let's not exempt certain people or certain businesses or whatever from the sales tax base. So that's probably first and foremost. The second one, and Senator Kruse has certainly been totally forthright about this, this bill has a fiscal note. It's nearly \$500,000, something less than that. And we've heard comments, you know, as we always do: Maybe this one is correct, but, oh well, that's way too high and it wouldn't cost near that much. And certainly you hear the comments, which I would endorse, that these are great people, they're doing great things, we ought to do everything we can to encourage them. I don't disagree with that up until exempting that service from the sales tax base. Okay, finally, as Senator Kruse mentioned, there is, I think, some...it requires a little bit of a labor to read this statute. Now those kinds of things happen over time, and I'm not blaming anybody, but it is a little bit laborious. I will tell you before I go through that with you in some detail, I am willing to concede, reluctantly I will admit, that if we focus only on nonprofits, if the sales tax exemptions applies only to nonprofits, that is at least more nearly acceptable as far as I'm concerned. So let me just kind of take you through the statute as I read it. First off, we're--and I'm looking at the green copy actually--the "Sales and use taxes shall not be imposed," and some other words, on "purchases by." Okay, that's the critical stopping point. The first stop is, "any organization created exclusively for religious

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purposes." That doesn't say nonprofit. Now I don't know if you can have a for-profit church or a for-profit religious organization? I would say if you do, they should be exempt or they should be required to pay sales and use tax. I don't think they should be exempted. The next one is, "any nonprofit organization providing services...to the blind." Okay, that clearly designates nonprofit. I'm okay with that. The third one is, "private educational institution." Again, if you can have a for-profit private educational institution, I would say that institution ought to be subjected to sales tax. The next one is "any private college or university." Now it's subject to a certain section. I haven't looked at those sections to see if they mandate that people in these...or that institutions in these sections be nonprofit--and if so, fine. But that would...without that I would suggest that they ought to be nonprofit. And then the fifth one, and this is the real section that Senator Kruse is working on, it starts out with "any hospital," but there are a number of others, "hospital, healthcare clinic when two or more hospitals" and so on, "skilled nursing facility, intermediate care facility, assisted-living facility, intermediate care facility," and a few others. And the final phrase is, "licensed under the Health Care Facility Licensure Act and organized not for profit." So I think as I read the statute, and hopefully our amendment may clarify that a little bit, we are including assisted-living facilities that operate on a nonprofit basis only. The next one says, "any licensed child-caring agency," and that is not restricted to not for profit. So apparently, currently, if you have a for-profit child-caring agency, and I think as far as I know there certainly are some of those around, they are exempted from sales tax. I don't really see why that's an appropriate thing to do. The next one, "any licensed child placement agency." Again, I don't believe there is any not-for-profit restriction on that one. And finally the last one is a "nonprofit organization certified by the Department of Health," and so on. That one clearly is restricted. My suggestion would be to make it clear that every entity within this section must be nonprofit. If Senator Chambers, for example, decided to establish a for-profit church, he would need to pay sales tax on whatever he bought for that organization. So--many of you seem to agree with that--so at any rate, that's my pitch on this. And as I say, we have an amendment being prepared that I think does, I will just tell you, a couple three things. It includes a clear not-for-profit for each one of those categories including, for example, the religious purposes. It also repunctuates the sections so I think it is a little bit easier to read. It puts a not-for-profit before licensed child-caring agency and also licensed child placement agency. And it would suggest to you that I don't know this, but it's possible that that change in this statute could turn the fiscal note around; that you may pick up more by including those than you do excluding assisted-living facilities, as is being proposed by Senator Kruse. So with that, I'll stop. If you have questions I'd be happy to address them. [LB575]

SPEAKER FLOOD: Thank you, Senator Raikes. You've heard the opening on AM1583. We now return to discussion on LB575. Senator Langemeier, you're recognized. [LB575]

SENATOR LANGEMEIER: Thank you, Mr. President, members of the body. I, too, rise

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as the only...the second dissenting vote out of the Revenue Committee on this bill. And I share many of the same thoughts that Senator Raikes has. And some of my constituents would say, why in the world? But anyway, I do have some truly concerns with the way this bill is written. I'm going to support Senator Raikes's amendment that is yet to come that clearly defines Section 3 on what each of these--excuse me, Section 1--each of these facilities is. If you read the committee statement out of Revenue Committee, it definitely...that statement says it should be nonprofits. But I really...if you read the legislation and you read it word for word, it is very unclear, not only on assisted-living facilities, but on many others. And I think Senator Raikes's amendment that hopefully will get here as we've drafted it or as we've discussed it takes each of those out and separates those into individual categories which will clearly define what they are, and for the Department of Revenue to fully understand what they are supposed to enforce. Now we do get opinions back from the Department of Revenue saying, we only do nonprofits, we only give it to nonprofits. But it's truly an interpretation of law. And I think even with this bill out there and for discussion, it's going to get blurrier. I know earlier in the discussion before the body that this assisted living was a step between the nursing home and your home to give people an opportunity to pay their own way and stay in that type of situation. But I was informed that there are a number of people that get state assistance, even in assisted-living facilities. So it's not clearly a pay your own way in all cases. And so I guess my objection is to, as we look at a number of bills before our body--to raise funding for roads, Senator Fischer--as we look for new revenue sources to fund a lot of things, I think it's really...a question here is, how much are we going to expand the other areas of government so we can increase it in some other area? And I think we have to look at that very seriously, and especially if we're going to allow this to go to for-profit agencies that pass their costs along. And with that, I would return my time. Thank you, Mr. President. [LB575]

SPEAKER FLOOD: Thank you, Senator Langemeier. Senator Kruse, followed by Senator Pankonin. Senator Kruse, you're recognized. [LB575]

SENATOR KRUSE: Thank you, Mr. Speaker and colleagues. I welcome Senator Raikes's comments and might even welcome his amendment as it comes along. I certainly do not resist what he is saying and what Senator Langemeier is saying. I affirm that my thought on the bill and Senator Wallman's thought on the bill is not to change the sales tax base but to make this section consistent; that when some of these wings are being run out of the same office and so on we need to be consistent in what we are defining as nursing care facilities. However, I would...that part aside, I would agree that this piece of statute is really...ends up poorly written. I think it's like Topsy, it just "grewed" that way. It's been amended many times and inconsistently. I would have several ideas about the ways to improve it. I would affirm that we're talking nonprofit here as far as I'm concerned. I would not want to get into the question about child-caring agency, because I don't know. But on all that's above that--and we've checked with Revenue--this is nonprofit and that's where they enforce it. If we cannot rewrite this on

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the spur of the moment, I would certainly welcome an amendment on Select File to simply do a rewrite of this statute and put it in language that could be better understood. And it's the only fair thing to do to the Department of Revenue. At present, they're left to kind of interpret it. And if they get challenged by somebody, (laugh) they're going to be depending upon their own authority. Well, when they're challenged by somebody they should have legislative authority behind them, and we need to make that clear in this total thing. So I welcome that initiative. Thank you. [LB575]

SPEAKER FLOOD: Thank you, Senator Kruse. Senator Pankonin, you're recognized. [LB575]

SENATOR PANKONIN: Thank you, Mr. President, members of the body. While they're working on this amendment, and I would agree that we want to make sure we know what we're doing on the nonprofit side, I wanted to just give you a little bit of my experience with these type of facilities in Louisville, Nebraska. We have a city-owned care center that was established in the mid-1970s and has been a very successful part of our community and has given good service to the residents because so many of them are local and the people that work there are local, and I think it has a great reputation. I was mayor of that community. And while that happened, while I was mayor, we decided to add an assisted-living addition to the nursing home. And the reason why this has happened in many of these small city-owned or community-owned centers is that the business model changed over the years on how you run a nursing home. Back in the '70s, when it was established, we called them rest homes, we called them places where folks could go for retirement with some medical care. But over the years they became doing much more acute service, acute medical conditions that they had to tend to, and so the folks that went there had pretty severe, many times severe situations that needed that type of acute care. So to actually make this business model work you almost have to have the assisted living. So a couple maybe starts in assisted living, and as one of them progresses into ill health or some kind of condition, that they could then live in the nursing home wing. And as Senator Carlson said, usually a door is all that separates these buildings, and in our case we share some common area for food prep and also therapy. So you actually use the assisted living to help maintain the nursing home. And there are a number of communities, smaller communities that have these city-owned facilities. I know my wife is from Laurel, Nebraska, and they have the same type of situation there. So I think what this is doing is just extending...this business unit has, the one...the nursing home part has the sales tax exemption already, and we want to make it clear in the language that's what we're working on. But it's really one business, it's one entity. And many of our communities rely on these to...so our seniors can have a place, or the folks that have a disability and need these type of services have this type of assisted living, and then nursing home, and they work together. And so over the years most of the nursing homes have had to add assisted living that are the city-owned and the nonprofit public entities. So that's a little bit of the background and that's why I'm going to be for this bill if we can amend it to get the proper language. Thank you.

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[LB575]

SPEAKER FLOOD: Thank you, Senator Pankonin. Senator Raikes, it's my understanding you want to withdraw AM1583. Is that correct? [LB575]

SENATOR RAIKES: That's correct, Mr. President. [LB575]

SPEAKER FLOOD: AM1583 is withdrawn. Mr. Clerk. [LB575]

ASSISTANT CLERK: Mr. President, Senator Raikes would now offer AM1587. (Legislative Journal pages 271-273.) [LB575]

SPEAKER FLOOD: Senator Raikes, you're recognized to open on AM1587. [LB575]

SENATOR RAIKES: Thank you, Mr. President, members of the Legislature. This amendment is the one I talked about earlier, if you happened to be listening to that. I'll run you through quickly. First off, it is a repunctuation, if you will, of the section, and hopefully makes it a little bit easier to follow as you try to read through it. But it also makes several substantive changes, and I would mention that it includes the substantive change that Senator Kruse has proposed, namely, adding assisted-living facilities in the nonprofit section. But it also does these additional things: it restricts exemptions from sales tax to nonprofit organizations created for religious purposes; it restricts the exemption for private educational institutions to nonprofit; also for private colleges or universities they have to be nonprofit. Then finally, a couple of sections that I think, in discussions with the Revenue Department, have been treated as exempt would be included in the tax base in this right because up to now it's been any licensed child-caring agency. This would restrict it to any nonprofit licensed childcare agency and also any licensed child placement agency has been exempted up to this point. This amendment would restrict it to a nonprofit child placement agency. So those are the main changes that are being proposed here. I know that there may be some people that are interested in these changes, particularly the substantive ones. I would remind you that this is a General File discussion so there is time for us to react to whatever input there may be. I will also suggest to you, without really knowing that I'm telling you the truth, that this may turn the fiscal note on this bill from a negative to a positive if these changes were adopted. So with that, I would offer to address questions you may have and urge your support for this amendment. Thank you. [LB575]

SPEAKER FLOOD: Thank you, Senator Raikes. You've heard the opening on AM1587. Senator Raikes, your light is on next. Senator Raikes waives his opportunity to speak. Senator Langemeier, you're recognized. [LB575]

SENATOR LANGEMEIER: Thank you, Mr. President and members of the body. At this time I want to support the new amendment now that it's up there. I think it clarifies in

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statute what the Department of Revenue should be doing, and I think that's crucial that we send clear signals to them and so we all understand from the end of our day to the start of their day that it's clear. Thank you, Mr. President. [LB575]

SPEAKER FLOOD: Thank you, Senator Langemeier. There are no other senators wishing to speak at this time. Senator Raikes, you're recognized to close on AM1587. [LB575]

SENATOR RAIKES: Thank you, Mr. President, members. I again urge your adoption. I think this offers some clarification in terms of punctuation and phrasing, but it also offers some substantive changes and a change, I think, in the fiscal note. So with that, I urge your support. Thank you. [LB575]

SPEAKER FLOOD: You've heard the closing on AM1587. The question before the Legislature is, should this amendment be adopted? All those in favor vote yea; all those opposed vote nay. Have all those voted who wish to? Mr. Clerk, please record. [LB575]

ASSISTANT CLERK: 32 ayes, 2 nays, on the adoption of Senator Raikes's amendment, Mr. President. [LB575]

SPEAKER FLOOD: Senator Raikes's amendment, AM1587, is adopted. Mr. Clerk. [LB575]

ASSISTANT CLERK: Mr. President, Senator Chambers would move to amend. (FA158, Legislative Journal page 273.) [LB575]

SPEAKER FLOOD: Before we proceed with discussion on LB575 and the opening on Senator Chambers' amendment, one note before we adjourn for the day today. Senator Nantkes' bill, LB235, will be on the agenda tomorrow. It has not been on the agenda today. It has been designated as a priority bill measure. Continuing with the discussion, Senator Chambers, you're recognized to open on your amendment. [LB575]

SENATOR CHAMBERS: Thank you, Mr. President. Brothers and sisters, we are gathered here together today in the presence and sight of each other to transact some very important business. And since my amendment deals with the realm of religion, I thought I should introduce it by conducting myself in a way that is appropriate for such purpose. If you will turn to page 2 of the green copy, my intent is to amend some existing language. On page 2 in line 6 are the words "any organization created exclusively for religious purposes." What my amendment would do is to add two words, after the word "created" would be "and operated." I do not want a situation to arise where something can be put together for a given purpose and then not conduct it in accordance with the purpose for which it was created, so I am offering this amendment. I can't call mine up on the gadget. But, Mr. Clerk, there are those two words, aren't

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there, "and operated"? Thank you, I just wanted to be sure that I put both of them in there. We are allowing certain entities to not pay taxes that everybody else pays. No law can be made respecting any establishment of religion. Some people take that to mean, by the term "established," one that the state establishes. Others interpret it more broadly. It can be a cult that is established by anybody but endorsed and favored by the state, which would make it a violation of the constitution for the state to so behave. I am distrustful of religious organizations. I tend to be distrustful of people who call themselves religious. I tend to be. I didn't say I always am. I think there are some very sincere people who very sincerely hold some beliefs which are sincerely wrong and screwy. But in the realm of religion you're allowed to believe anything that you want to. Be as nutty as you please as long as you don't harm anybody else. And the mere fact that your belief is obnoxious is not sufficient to qualify it as harming somebody else. The language that I am offering will in no way take away from these religious operations the ability to pick the pockets of their fellow citizens. It would seem to me that all of these religions should do as the Mormons used to do anyway, which is to pay taxes. But all these religions want a free ride. When I was a little tyke--and I was, long, long ago--there was a verse that people liked to quote from Psalms, "the cattle on a thousand hills" are thine, meaning God's. Well, if the cattle on a thousand hills are his, why do these churches need to slide by without paying taxes? If they build their building, as they will do on a street, the services that are provided by everybody else they benefit from, but they don't pay any taxes for them. Street lighting benefits them, they don't pay any taxes. They don't pay any taxes on anything. They might even get their cars without having to pay taxes. I should think that they would set an example for all the rest of us heathens and "shethens." Isn't that right, brothers and sisters? If you agree with me, say amen. All right. Now let me give you something to think about. Jesus was a person who created trouble wherever he went, one way or the other. People tried to trick him and catch him in his words, as the language went in those days. So somebody brought him a question. They said, should people pay taxes? So Jesus, knowing how tricky these people are, said, pull a coin out of your pocket. So the person pulled out...pulled a coin out of his robe or wherever they kept it in those days. He said, now whose image and superscription or writing do you see on that coin? And the fellow said, why Caesar's, of course. So Jesus said, render unto Caesar what is Caesar's and unto God what is God's. In other words, you pay your taxes. All of you religious people who are running around here telling everybody else how to live and how the law is a terror only to the wicked, you pay your taxes. Well, because the churches don't want to pay taxes, they say, well, Jesus didn't mean that, we can't take that literally. But everything else where they can condemn somebody, that's literal, like going to hell and burning forever--that's literal they say. I think they ought to pay taxes. And they certainly should not object to language that will make it clear that the hustle they're running will be no more than what it appears to be. You can create something for a purpose and that purpose exists at the time you create it, but you don't have to maintain it for that purpose under the language of the law here. And you can establish that it was created for that purpose. You can look at your articles of incorporation. The Raikes's Holy Bible,

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God-trusting church is created hereby exclusively for religious purposes, and he doesn't have to pay these taxes, these sales taxes on gross sales or whatever. Then tomorrow he turns it into a casino. It was created exclusively for religious purposes, and the document proves it, but it doesn't say anything about maintaining it exclusively for religious purposes. See, these religious people are tricky and slick and sly and slippery. So I want to get a hold on them, and I want to make sure we tie them down to what they're supposed to be doing here. Senator Carlson takes note and is interested every time I talk about the "Bible." And there are things in the "Bible" which indicate either they're not true or Jesus told a fib. I won't say a lie because Senator Carlson will pick up that gadget and hurl it back here in the name of the Lord. Jesus said, and Senator Carlson will stop me if I get it wrong, "He that believeth on me, though he were dead, yet shall he live." Am I correct so far, Senator Carlson? Correct so far. He "that liveth and believeth on me shall never die." Is that correct? And Jesus supposedly said that? Everybody in the cemetery lived at one time, correct? [LB575]

SPEAKER FLOOD: One minute. [LB575]

SENATOR CHAMBERS: But the fact that they're dead means that they never believed on Jesus, they didn't believe on him or Jesus lied. But you know what the Christians say about that, because the facts that I got will nail them to the wall, well, he didn't mean that literally. Well, how do I know what he meant literally? How do I know what is figuratively? Either he meant it all or he didn't. And if you can interpret and construe it the way you want to, so can I. I didn't write it. You all say it's the divinely inspired, infallible word of God as written. Well, what you'll tell me, it wasn't written in English, it was written in Aramaic and when you translate the Aramaic into English then you lose something in the translation. So Jesus didn't really say what the English version says. He said something else. Well, what did he say? Well, I don't know, I wasn't there, but he didn't say this, obviously, because everybody whoever lived who is in the cemetery was dead. But some of them had to believe on him. [LB575]

SPEAKER FLOOD: Time. [LB575]

SENATOR CHAMBERS: Even his disciples didn't believe on him. Thank you, Mr. President. [LB575]

SPEAKER FLOOD: Thank you, Senator Chambers. Senator Fulton, you're recognized, followed by Senators Kruse and Pirsch. Senator Fulton. [LB575]

SENATOR FULTON: Thank you, Mr. President, members of the body. Would Senator Chambers yield to a question or two? [LB575]

SPEAKER FLOOD: Senator Chambers, will you yield to a question from Senator Fulton? [LB575]

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SENATOR CHAMBERS: It all depends. Yes, I will. (Laugh) [LB575]

SENATOR FULTON: Senator, you're just trying to keep us here longer today, I think, aren't you? [LB575]

SENATOR CHAMBERS: Well, when we finish this bill are we out of here? Oh-h-h. (Laughter) [LB575]

SENATOR FULTON: That's what I thought. (Laughter) Senator, I'll admit I haven't had an opportunity to reflect too much on your amendment here. But in reading it something comes to mind, and I'm going to utilize some logic and hopefully you can help me. Schools presently, some churches operate schools, one of which my children go to. Would you say a school's main function is what? What would the school's main function be for? [LB575]

SENATOR CHAMBERS: It ought to be for education, but that's not always the case. And I think you're asking me, what it ought to be? Correct? [LB575]

SENATOR FULTON: Yes, I think so. [LB575]

SENATOR CHAMBERS: Okay. It should be for education purposes. [LB575]

SENATOR FULTON: Okay. Would...if your amendment were to pass, "an organization created and operated exclusively for religious purposes," would not then a school, which doesn't operate exclusively for religious purposes, would they not have been discounted if your amendment goes forward? [LB575]

SENATOR CHAMBERS: Say that differently. [LB575]

SENATOR FULTON: Well, if a school... [LB575]

SENATOR CHAMBERS: They would be exempted you're saying? Okay, ask it the way you want to. I'll try to follow you. [LB575]

SENATOR FULTON: Yeah. If a school is for educating,... [LB575]

SENATOR CHAMBERS: Yes. [LB575]

SENATOR FULTON: ...could it not be construed that a religious school is not operating exclusively for religious purposes? [LB575]

SENATOR CHAMBERS: You could say that. [LB575]

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SENATOR FULTON: Then would it not then be...would the logic not follow that introducing your amendment would then place a tax on religious schools? [LB575]

SENATOR CHAMBERS: Bingo. But not necessarily so. [LB575]

SENATOR FULTON: Okay. B-i-n-g-o. That's another thing that happens in churches, which I don't necessarily agree with, but you said it. (Laughter) There's another question, I guess, of operation here which I'd like to clarify. The floor amendment is to LB575. And, Senator, as I understand it, we just passed an amendment. So would the floor amendment not need to be to the amendment which struck Section 1? [LB575]

SENATOR CHAMBERS: I don't know that that amendment struck the existing language of the law. [LB575]

SENATOR FULTON: Okay. [LB575]

SENATOR CHAMBERS: Did it strike... [LB575]

SENATOR FULTON: My understanding was, things happened really fast here, and I think I'm getting caught up. So I'm just...I'm asking for help, I guess. (Laugh) The amendment that we just passed I believe struck Section 1 of LB575. So this floor amendment, being to LB575, would be ineffectual one way or the other is the way I (inaudible). [LB575]

SENATOR CHAMBERS: Well, here's what I'm getting at, Senator. The way I look at the green copy of the bill there is only one section which contains textual material, and the only thing that Section 2 does is to strike the original sections that would be amended by Section 1. So if Section 1 indeed was stricken and not replaced by something else, then there is nothing left of this bill. I thought they were amending the green copy of the bill. [LB575]

SENATOR FULTON: That was my understanding too. That does help clarify. Well, thank you, Senator Chambers. Respectfully I will oppose FA158 because I don't want to place a new tax on religious schools. I mean there could be other instances, but this is one that jumped out to me just by the logic. When you add the words "and operated exclusively for religious purposes," it seems then to discount schools which don't operate exclusively for a religious purpose. Our private schools or schools that are operated by churches also educate, so for that reason I'll be against FA158. Thank you, Mr. President. [LB575]

SPEAKER FLOOD: Thank you, Senator Fulton. Senator Kruse, you're recognized. [LB575]

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SENATOR KRUSE: Thank you, Mr. President and colleagues. And thank you, "The Right Reverend, Holy Chambers, Pastor of the Church of Ernie," whose church has been prohibited from being profit-making by Senator Raikes's amendment. First, to speak to the issue just raised and that we all be singing from the same page, if we're now in church, on the green copy and the white copy we're talking about line 6. On the amendment that we have just adopted we're talking about line 8, Raikes's amendment added "nonprofit," so that line 6 now reads, "any nonprofit organization." And Senator Chambers' addition to that: "created and operated exclusively for religious purposes." So if we can by common consent agree that he is amending the amendment which simply replaced that language but did not really change this sentence much, it does not affect the weight of what he's doing here, I would welcome his amendment and I support it, for one of the problems we have in the real world of church is that some people like to operate their facilities for personal benefit. I would also want to have on the record that it would be my understanding, in terms of Senator Fulton's question, that operating a school, referring to a lot of law here with which I am quite well acquainted, that operating a religious school is operating something for religious purposes. And finally, this word for Senator Chambers--pardon me: "Pastor Chambers"--there's many a time a pastor has been in trouble because he's standing between the people and the door. I found it helpful in my early years to have a 25-minute sermon, and then a 20-minute, and my last sermons have been 12-minute. And if he would like to limit himself to that, the crowd will get through the door faster and will greet him with a warm handshake as we leave the chapel. I support the intent of the amendment and would state, Mr. President, that it does fit with the last amendment. Thank you. [LB575]

SPEAKER FLOOD: Thank you, Senator Kruse. Senator Carlson, you're recognized, followed by Senators Chambers and Pirsch. Senator Carlson. [LB575]

SENATOR CARLSON: Mr. President, members of the Legislature, I'd like to address Senator Chambers with a question or two. [LB575]

SPEAKER FLOOD: Senator Chambers, will you yield to a question from Senator Carlson? [LB575]

SENATOR CHAMBERS: Yes. Yes, I will. [LB575]

SENATOR CARLSON: Senator Chambers, Senator Kruse has referred to you as pastor. You are a minister whether you want to be or not. [LB575]

SENATOR CHAMBERS: (Laugh) [LB575]

SENATOR CARLSON: I'm a minister whether I want to be or not; we all are. We're either positive or we're negative. I admire you for the way you can quote scripture,

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because you quote it right whenever you want to and you know it. [LB575]

SENATOR CHAMBERS: (Laugh) [LB575]

SENATOR CARLSON: I might remind you that Jesus said, "I am the way and the truth and the life, and no one," not even Senator Chambers, "comes to the Father but by me." He also said, "The fear of the Lord is the beginning of wisdom." [LB575]

SENATOR CHAMBERS: ...beginning of wisdom. [LB575]

SENATOR CARLSON: Now I have a question about your amendment. [LB575]

SENATOR CHAMBERS: Yes. [LB575]

SENATOR CARLSON: Would you accept it if we had an insertion of the "and operated" behind the word "exclusively" instead of in front of it? And to that we said, and operated, or excuse me, and to "operated" added "primarily"? It would read: "an organization created exclusively and operated primarily for religious purposes." [LB575]

SENATOR CHAMBERS: I would disagree with that and oppose it. Senator, here's what I'm getting at, when this language was put into this section it was dealing with the idea of something being exclusively for religious purposes. And when Senator Fulton asked me about the schools, we established that they were not created exclusively for religious purposes, but rather education purposes. There are other sections that deal with schools. We're dealing here with sale...gross receipts from sales or purchases. Now these schools are not falling under that. We're talking about these organizations that do other things. But it has to be an exclusively religious organization. [LB575]

SENATOR CARLSON: Okay. And I think that Senator Fulton has a really important point. And I would say that a religious school operates exclusively for religious purposes. Education is part of that process, education takes place, but there's one purpose in mind. And in the case that Senator Fulton is referring to, that school is in the business of serving God, doing it through educational means. And so I think that the wording is probably okay as is, and certainly I oppose your amendment and I would oppose my own. Thank you. [LB575]

SPEAKER FLOOD: Thank you, Senator Carlson. Senator Chambers, you're recognized. [LB575]

SENATOR CHAMBERS: I'm going to borrow the white copy from Senator Adams so that what I say will be keyed to what you all are looking at instead of the green copy. Senator Fulton, do you have a white copy? Senator Fulton, would you look at line 8. Now if you look at Sections 79-1601 to 79-1607, what do you find? But in the meantime,

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I will read the language. You adopted an amendment that says, any nonprivate educational institution. Then it mentions established under, and then it gives these sections. But there are other provisions of law that relate to schools. This that I'm talking about is general language. It's describing the types of entities that can receive this sales tax exemption. When the language "any organization created exclusively for religious purposes" was put in, that carried the idea, which I think is inappropriate, but the idea that these churches are not going to be taxed. So perhaps rather than put synagogue, church, chapel, mosque, and every other word that could designate a place where people assemble for religious purposes, they just used general language to tell you that the organization is created exclusively for religious purposes. If you accept what Senator Fulton is telling you, then you must accept the example I gave at the outstart, which may have seemed laughable and ridiculous, namely that you organize, you create an organization in the first instance "exclusively for religious purposes," but you don't maintain it for that. You then turn it into a casino, if a casino is legal. If a casino is not legal, you turn it into something else which is legal but has nothing to do with religion. And you remain entitled to the exemption because it relates only to that moment in time when the act of creation took place. I'd like to ask Senator Fulton a question or two, if he will yield. [LB575]

SPEAKER FLOOD: Senator Fulton, will you yield to a question from Senator Chambers? [LB575]

SENATOR FULTON: I will. [LB575]

SENATOR CHAMBERS: Senator Fulton, with the existing language unamended by what I'm offering, what I have given as an example could occur, couldn't it, namely that you create it in the first instance for exclusively a religious purpose, then tomorrow or the next day you turn it into some other purpose? [LB575]

SENATOR FULTON: Ostensibly, that seems to be the case. Again, I have not thought through and looked through all the different statutes, but what you say seems that possible could occur, yes. [LB575]

SENATOR CHAMBERS: Now if, upon further review, you discover that my amendment has no impact on the schools that you are concerned about, what objection then would you have to the two words "and operated"? [LB575]

SENATOR FULTON: The only other objections possible would be entities... [LB575]

SPEAKER FLOOD: One minute. [LB575]

SENATOR FULTON: ...that I have not considered. Schools is the first that came to mind. I don't want to have existing entities or structures or organizations that are

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exempt. [LB575]

SENATOR CHAMBERS: Such as if they were created exclusively for that purpose and that's how they got the exemption, you would want them to be able to go against what they promised and asserted was their purpose, and change it to something else and continue to enjoy the exemption that they got based on that representation that they were exclusively religious? That's what you're saying? [LB575]

SENATOR FULTON: No, I would not want them to be able to do that. [LB575]

SENATOR CHAMBERS: Okay then, how would my amendment be obnoxious if they have to continue to operate on the basis of their creation in order to get that benefit? Remember, they could continue to operate, but they couldn't get this exemption. [LB575]

SPEAKER FLOOD: Time. [LB575]

SENATOR CHAMBERS: Well, think it over. Thank you, Mr. President. [LB575]

SPEAKER FLOOD: Thank you, Senator Chambers. Senator Nelson, you're recognized. [LB575]

SENATOR NELSON: I'd like to pursue this with Senator Chambers with just a couple of questions, if he will yield, Mr. President. [LB575]

SPEAKER FLOOD: Senator Chambers, will you yield to a question from Senator Nelson? [LB575]

SENATOR CHAMBERS: Yes, I will. [LB575]

SENATOR NELSON: Thank you, Senator. I'm interested in your amendment here about including then or adding the words, exclusively, "and operated." As you said, this is a sales exemption, a tax exemption. If you're not operational, what is there to tax or exempt? You aren't going to have any purchases, as I see it. You aren't going to be doing anything that would have anything to do at all with exemption. [LB575]

SENATOR CHAMBERS: Well, yes, you could start another business in that...with that organization and it wouldn't have to be religious. [LB575]

SENATOR NELSON: Well, then under the purview of the taxing authorities, if you're not carrying on what you were created to do, they're not going to allow you to continue under that exemption, are they? You're not fulfilling the purpose that you were created for. [LB575]

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SENATOR CHAMBERS: If that is true, what harm is done by the words that I would put here in my amendment? [LB575]

SENATOR NELSON: Perhaps no harm, but can't we apply the same thing? Wouldn't, for instance, going to "(c) any nonprofit, private educational institution established," shouldn't we then say that they are going to have to be operational? Don't we have these fly-by-night organizations where you can get a certificate of some sort? And, you know, they're really not a credible educational institution. [LB575]

SENATOR CHAMBERS: Well, if they cease to function altogether, you're right, we don't have a problem... [LB575]

SENATOR NELSON: That's right. [LB575]

SENATOR CHAMBERS: ...because there is nothing to exempt. [LB575]

SENATOR NELSON: That's right. So I make the same point with an organization created exclusively for religious purposes. If they cease to function altogether, what's the point of including this language? [LB575]

SENATOR CHAMBERS: No, they would continue to function. They would continue to say they're a religious operation, but they would do other things that have nothing to do with religion. [LB575]

SENATOR NELSON: Well, I can't see that that can happen as a practical matter. And therefore, I guess,... [LB575]

SENATOR CHAMBERS: Well, suppose they put on boxing matches? Is a boxing match religion? Is that religious? [LB575]

SENATOR NELSON: No, it is not. [LB575]

SENATOR CHAMBERS: Okay. [LB575]

SENATOR NELSON: All right. [LB575]

SENATOR CHAMBERS: So the organization could do that. [LB575]

SENATOR NELSON: So if anyone complains about that, they are no longer going to have the benefit of the exemption, because they haven't fulfilled or they have varied or moved from the purpose for which they were created. That's my point. I think we're going to cause some problems here if we include this language. And respectfully, I think

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we ought to leave the statute or the amendment just as amended and leave it alone.
[LB575]

SENATOR CHAMBERS: Well,...oh, I'm on your time. I'll make my comments after I'm recognized. [LB575]

SENATOR NELSON: All right. Thank you, Senator. Thank you, Mr. President. [LB575]

SPEAKER FLOOD: Thank you, Senator Nelson. Continuing with the discussion, Senator Fulton, you're recognized, followed by Senators Pirsch, Kruse, Wightman, and Chambers. Senator Fulton. [LB575]

SENATOR FULTON: Thank you, Mr. President. Would Senator Chambers yield? I'd like to continue with this. [LB575]

SENATOR CHAMBERS: Yes, I will. [LB575]

SENATOR FULTON: Okay. The...you understand logic and the way logic works. For my position, in order for me to become entirely comfortable with this, I'd have to go through and identify all of the potentialities which could spring from a church, which I can't do, and so I'm hesitant to give the old Fulton okay on this. So I will reverse this, give this the contra, and ask if you could present a specific case which would require this amendment? [LB575]

SENATOR CHAMBERS: Well, I just did. You start out saying that this is exclusively for religious purposes. Then you build an arena and you have boxing matches, wrestling matches, races, and every other thing that you can imagine. [LB575]

SENATOR FULTON: Yes, Senator, I under...I do follow that. [LB575]

SENATOR CHAMBERS: And all the things you purchase are going to be exempt from the sales tax and if you sell stuff there. [LB575]

SENATOR FULTON: Okay. [LB575]

SENATOR CHAMBERS: But, here, let me ask you a question so I understand your logic. Every lemon is not necessarily acidic, is it? [LB575]

SENATOR FULTON: Excuse me, say it again, I didn't... [LB575]

SENATOR CHAMBERS: Every lemon does not have the traits that mark a fruit referred to as citrus, does it? [LB575]

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SENATOR FULTON: Correct. [LB575]

SENATOR CHAMBERS: Not every lemon does. Is that true? [LB575]

SENATOR FULTON: That's true. [LB575]

SENATOR CHAMBERS: Nor does every orange. [LB575]

SENATOR FULTON: I guess it depends on who you're asking. But I have to take that back. [LB575]

SENATOR CHAMBERS: Well, here's what I'm getting to. Senator Fulton, before an absolute statement can be made you would have to examine every individual item in that generalization to make sure that it complies with the generalization you're making before you can state it as an absolute. Isn't that true? [LB575]

SENATOR FULTON: That would be true, yes. [LB575]

SENATOR CHAMBERS: So if you examined every existing lemon and had examined every lemon that exists up to today and they all had the same basic elements, we couldn't say that the lemons that are produced next season are going to be the same, can we? [LB575]

SENATOR FULTON: We couldn't say it with any empirical knowledge,... [LB575]

SENATOR CHAMBERS: Right. [LB575]

SENATOR FULTON: ...but I don't think it would...it would be intuitive that I would say it, so I'm going to take back my original no and say that, yes, every lemon is a citrus fruit, Senator. [LB575]

SENATOR CHAMBERS: But you cannot establish that by the facts, can you, because you haven't examined every lemon even that exists right now, true? [LB575]

SENATOR FULTON: That's true, experientially you're correct. [LB575]

SENATOR CHAMBERS: Okay, so now getting...maintaining that sensible realm or zone of thought you're engaged in now, you cannot come up with anything that would militate against my amendment, can you? You want to say there might be things unknown which this might apply to, and because these unknown things may be out there, you don't want this amendment. [LB575]

SENATOR FULTON: No, that's not the point that I'm making. How about if...at our

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church there is a point in time during the service at which children go downstairs and they are watched by, I guess what could be construed, a day-care provider. Would that day care--it's not a day care, I guess it would be like an hour-long care--would that not be something that is not...that's not exclusively religious, that's caregiving. [LB575]

SENATOR CHAMBERS: It's a part of the activity which is exclusively religious. [LB575]

SENATOR FULTON: Not necessarily. [LB575]

SENATOR CHAMBERS: Well, see... [LB575]

SENATOR FULTON: I could see how it would be construed such that watching children in the basement while the service is occurring, that's not an exclusively religious activity. [LB575]

SENATOR CHAMBERS: Well, yes it is, because Jesus said to bring them unto him, and church is where Jesus is,... [LB575]

SPEAKER FLOOD: One minute. [LB575]

SENATOR CHAMBERS: ...so you brought them to church, you brought them to Jesus. So it's got to be religious, unless that's another lie. [LB575]

SENATOR FULTON: If you were the judge then I could accept that, but I think that it would be reasonably construed...let's say that there is a pancake feed. Is that an exclusively religious activity which occurs? [LB575]

SENATOR CHAMBERS: Jesus said, feed my sheep, and he was referring to people. So if you're feeding his sheep at church, yes. [LB575]

SENATOR FULTON: Senator, the sheep that eat pancakes are sheep I'd be interested in seeing. I'll give whatever time is left here. If you could supply a specific which would require this amendment, then perhaps I could grant. And I'll yield to Senator Chambers. [LB575]

SPEAKER FLOOD: Senator Chambers, you have 12 seconds. [LB575]

SENATOR CHAMBERS: I will say thank you. [LB575]

SPEAKER FLOOD: Thank you, Senator Fulton, Senator Chambers. Senator Pirsch, you're recognized, followed by Senators Kruse, Wightman, Chambers, and Langemeier. Senator Pirsch. [LB575]

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SENATOR PIRSCH: Thank you, Mr. Speaker, members of the body. I guess towards clarifying the intent of this amendment, I wonder if Senator Chambers might yield to a series of questions again? [LB575]

SPEAKER FLOOD: Senator Chambers, will you yield to a series of questions from Senator Pirsch? [LB575]

SENATOR CHAMBERS: Yes, yes, yes, yes, yes. [LB575]

SENATOR PIRSCH: Thank you very much. I guess, from a background perspective, could you tell me how long this statute that does grant this treatment to religious entities has existed? [LB575]

SENATOR CHAMBERS: I can't say, but there seems to be a recollection I have that I was opposed to something like this being put in the statute that would give exemptions, and that's when the word "exclusively," I believe, was put in. And it has cropped up in other areas of the statute and maybe even in a constitutional amendment, because I was insistent that we not let this thing spread out. [LB575]

SENATOR PIRSCH: Do you know when that was? What year? [LB575]

SENATOR CHAMBERS: No. [LB575]

SENATOR PIRSCH: Okay. With respect to, I guess, just focusing on your legislative intent, as the individual who is bringing forward this amendment, is your legislative intent such that you seek to capture religious schools? [LB575]

SENATOR CHAMBERS: No. [LB575]

SENATOR PIRSCH: You don't seek to...okay. [LB575]

SENATOR CHAMBERS: No. I can say what I have in mind. [LB575]

SENATOR PIRSCH: Okay. [LB575]

SENATOR CHAMBERS: Those places that are set aside for worship which are recognized, and I don't mean by the state as a recognized religion but which people in this society apprehend as being for religious purposes--I don't want to state a denomination such as Baptist, Catholic, Methodist, or anything like that--but any of these organizations, and that's why the word "church" is not there, which is created exclusively for the religious purpose and operated for that purpose, would get the exemption. And I would not be one to challenge them, even though I don't think they should have it. [LB575]

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SENATOR PIRSCH: Um-hum. Okay. And that's clearly your legislative intent. The question is whether or not the language as amended would in fact...that is it possible that some may infer that result from the suggested language in your amendment? [LB575]

SENATOR CHAMBERS: We would have to look at other places in the statute related to schools and see whether or not the fears that Senator Fulton expresses would come to fruition based on my amending general language. You know that the general gives way to the specific. And in this discussion I'm saying repeatedly there is no intent on my part to touch these schools in any manner that they are not already touched without my amendment being in place. [LB575]

SENATOR PIRSCH: Thank you very much. I appreciate those answers. Those are all the questions I have at this time. I'll yield back my time, Mr. Speaker. [LB575]

SPEAKER FLOOD: Thank you, Senator Pirsch. Senator Kruse. [LB575]

SENATOR KRUSE: Thank you, Mr. Speaker and colleagues. This has developed into an interesting discussion and gets confusing, and because of that I will take back what I said before. I certainly support the discussion but I'll not be voting for this amendment. However, I would stand by what has been said in the dialogue between Senator Chambers and Senator Fulton on the part of Senator Chambers. What a church does, to take a church, is exclusively for religious purposes. It may be running a school, it may be having a pancake feed, it may be doing other things, it can even have a day-care center, as long as that day-care center doesn't set up their own...that operator doesn't set up their own salary and become a benefit to an individual. I'm assuming that in the background of Senator Chambers' mind as he goes at this are some of these national figures who really abuse this thing. But when they go to court, and their mansions in the sky as well as other places, they will defend it on the basis of exclusively religious purpose. And that will be the question. I have dealt with this issue for 50 years in terms...in courts of law and in other places, especially in terms of incorporation papers. Churches and other nonprofit institutions have to get tax-exempt status from the IRS, and that includes an annual filing that indicates exactly how that money is used. And if they fail to make the annual checkout, they will lose that tax-exempt status and they will lose thereby the tax-exempt status that we provide. So again, what a church does is either for religious purposes or it ought not to be doing it, and that can be a debate and it often is. I've chaired those debates within a church: Is this what a church should be doing? That's a legitimate debate. That's where it needs to be held. I would insist that any nonprofit religious institution, which is what our amendment now brings us to, nonprofit organization, must continue to operate by...in an exclusively religious way or it's going to have its exemption pulled federally and through that process within the state. We are assuming they continue for what they applied for, for what they

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incorporated for, for the status that they did. And if they don't do it, there is a price to pay and they'll be called to account for it. But again, Senator Chambers raises an important point, that, you know, I would close with. I think it's up to us to be alert as citizens, as legislators, to be sure that the operations of any nonprofit group, not just churches, any nonprofit group is truly nonprofit. That's what the word is and that's what we should continue to make it mean. And hopefully, with that, we as pastors can release the congregation from this sermon. Thank you. [LB575]

SPEAKER FLOOD: Thank you, Senator Kruse. Senator Wightman. Before we go to Senator Wightman, Mr. Clerk, anything for the record? [LB575]

CLERK: I do, Mr. President, thank you. Enrollment and Review reports LB269 and LB402 to Select File. Enrollment and Review also reports LB39, LB171, LB171A, LB177, LB204, LB204A, and LB246 as correctly engrossed. New bills. (Read LB1029-1041 by title for the first time.) That's all that I have at this time, Mr. President. Thank you. (Legislative Journal pages 273-278.) [LB269 LB402 LB39 LB171 LB171A LB177 LB204 LB204A LB246 LB1029 LB1030 LB1031 LB1032 LB1033 LB1034 LB1035 LB1036 LB1037 LB1038 LB1039 LB1040 LB1041 LB575]

SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Wightman, you're recognized. [LB575]

SENATOR WIGHTMAN: Thank you, Mr. Speaker. I have several questions that I would like to pose to Senator Chambers. I have problems with understanding exactly what the impact of the "and operated exclusively" means. So if he would yield to some questions, I would like to ask him a few. [LB575]

SPEAKER FLOOD: Senator Chambers, will you yield to a question from Senator Wightman? [LB575]

SENATOR CHAMBERS: Yes, I will. [LB575]

SENATOR WIGHTMAN: I think probably the real question here is whether there are operations within a church or another religious organization, that that activity is for-profit but it is used for church purposes? And I'll pose you some questions. I know some of the religious organizations have concession stands at our county fair. Obviously, they're operated for a profit, as far as that particular activity is concerned, but the money goes back into the church, and that money is then used for religious activities. Could you reflect upon how your amendment, in your opinion, would impact that? [LB575]

SENATOR CHAMBERS: It wouldn't, because, Senator Wightman, with the amendment that was adopted it says that the organization is nonprofit because they amended it so that it says, in the white copy, "nonprofit organization created exclusively for religious

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purposes." So now they've put the word "nonprofit" so that it cannot be a profit-making organization that has a religious purpose. It can operate, but it cannot get this particular exemption, this sales tax exemption. There might even be others it can get. But with this particular sales tax exemption it must be a nonprofit organization created and operated exclusively for a religious purpose. Now if you can show me an activity which may be away from the church grounds but is for the purpose of advancing the religious--I hate to keep using the word "purposes," but I don't want to introduce different words--it's advancing the religious purpose of the organization, then that activity is all right. It's being operated exclusively for that religious purpose. Not everything that a religious organization does, would, standing alone, be considered a religious purpose. [LB575]

SENATOR WIGHTMAN: And that's exactly what I'm referring to. And I guess my fear is that at some point your amendment might be interpreted to make taxable some of those functions that a church carries on outside, and I mentioned the concession stand at the fair, I think a lot of them do that. We have the Catholic Church in town that conducts kind of an ongoing garage sale or yard sale. I think it would be the same type of function. But I have some fear that that couldn't, at some point, be used by someone who was not particularly religious or opposed to organized religion, and that they might use that. [LB575]

SENATOR CHAMBERS: But, Senator Wightman, if you say nonprofit, and correct me if I'm wrong because you know from the standpoint of the law what it means, does it simply mean that you do not generate money in excess of what you need to operate? Now if you pay people a salary, that's not considered profit for the purposes of a nonprofit organization. Is that true? [LB575]

SENATOR WIGHTMAN: Well, I think that's correct. If you pay somebody a salary or pay him compensation, that is part of the ongoing organizational expenses or operational expenses of the church. [LB575]

SENATOR CHAMBERS: Okay. So somebody conceivably could put together one of these huge operations that Senator Kruse touched on, but he was talking about mansions and personal things for the individual, which in fact are commercial operations, but they make sure... [LB575]

SPEAKER FLOOD: One minute. [LB575]

SENATOR CHAMBERS: ...that the money is all consumed in salaries, so you don't show a profit. And it would be clear to anybody that that activity has no religious purpose. [LB575]

SENATOR WIGHTMAN: Well, I like some of what your amendment does. As you...I've always said and you affirmed that yesterday, that the devil is in the details,... [LB575]

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SENATOR CHAMBERS: Yes. [LB575]

SENATOR WIGHTMAN: ...and we all know that. [LB575]

SENATOR CHAMBERS: And that's where I hang out, you're right, in the details.
(Laugh) [LB575]

SENATOR WIGHTMAN: Thank you, Senator Chambers. Thank you, Mr. President.
[LB575]

SPEAKER FLOOD: Thank you, Senator Wightman. Senator Chambers, you're
recognized. [LB575]

SENATOR CHAMBERS: Mr. President, I'm not going to hold us on this particular item all day. I'm willing to take a vote on it. But if it's not adopted today, when this bill comes up again I'm going to stay on it. And if I lose it, then I'm going to go after other parts of the bill. I think from what I've said it would be hard to say that I'm trying to destroy churches or their ability to do certain activities that have nothing to do with praying and moaning and groaning that people might think of as being associated with a religious service. I'm not limiting what the religious purposes are to that kind of activity. And the fact--let me get the language so that I won't misstate what the law says--the fact that the word "purpose" is plural, "purposes," to me tells you that it goes beyond just those religious ceremonies. It's interesting how difficult it is for people to understand a straightforward amendment when it might encroach on something they want to protect. What they ought to say is, I understand what you're doing, but there's a certain activity that might be knocked out that I want to leave there, so I'm against what you're doing. But there should not be an attempt to say that I'm using this as a subterfuge to do away with churches or their exemptions. If that was my intent, I would offer a straightforward amendment to do that, and that's what we would argue on. This language is talking about a particular kind of sales tax exemption. The exemption is made available to both the sacred and the profane, the holy and the unholy, the saved and the lost, the just and the unjust, the good and the bad. In other words, all those on whom the sun shines and the rain falls can get in on this exemption. It's not just for religious activities. But I want to make sure because I am skeptical about entities that fly a religion banner, I want to be sure that they don't use this to expand into other areas where most people would acknowledge have nothing to do with religion. As big an operation as Wal-Mart is, if all family members and friends and others were put to work there and people were given exorbitant salaries so that they could fix their books so that there is no profit shown, Wal-Mart is a religious operation under this statute and can get an exemption for every purchase and sale made. They wouldn't have to worry about any sales tax. So you all want to talk about some little thing like a pancake feed. I have bigger fish to fry than that. You all think the devil is looking for you all to cripple you and make you yield to

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temptation. No, you do that on your own. I can tell you what I know. We are interested in the heads of state, Vladimir Putin, George Bush, Solzhenitsyn, and such people as that (laugh). You little people are not worthy of the devil's attention. I'm looking at those that are, because they think big. They're not little people with little minds with little brains that have little half-baked thoughts rattling around in their semi-empty skulls. That's not what the devil gives his time to. [LB575]

SPEAKER FLOOD: One minute. [LB575]

SENATOR CHAMBERS: When these people in Jesus's day were possessed, they were not possessed by Satan, little demons that could be put into hogs and run off into the sea. The devil spent his time contesting with God in the book of Job and trying to trick Jesus into jumping off a mountain. He dealt with big ideas. The devil is a creature of vision. He is the prince of this world, not a servant or a flunky. You all understate the devil. You take away from his majesty. And if you want to know what his majesty is, Senator Carlson can tell you where to go in the Old Testament to read about all of the powers and the greatness of Lucifer. And nothing is there in that book to indicate he doesn't have those things now. [LB575]

SPEAKER FLOOD: Time. [LB575]

SENATOR CHAMBERS: Thank you, Mr. President. [LB575]

SPEAKER FLOOD: Thank you, Senator Chambers. Senator Wallman. [LB575]

SENATOR WALLMAN: Thank you, Mr. President. Senator Chambers, I'd like to ask you a question. [LB575]

SPEAKER FLOOD: Senator Chambers, will you yield to a question from Senator Wallman? [LB575]

SENATOR CHAMBERS: Yes, I will, "Chaplain Wallman." Carry on. [LB575]

SENATOR WALLMAN: Talking about the Old Testament, do you know why the original tabernacles and synagogues were set up? [LB575]

SENATOR CHAMBERS: Well, I'd like to hear your reason for it. [LB575]

SENATOR WALLMAN: The temples and synagogues were set up for welfare. The widows and orphans, if they didn't have any relatives, were supposed to go there for money. And that's what tithing was all about. It was the original social welfare program of Israel. And the Muslim countries, as such, probably today the same way. The Buddhists, we had a Buddhist foster child and that's how her widowed mother had to go

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to the temple to get her money. So religious institutions, that's why they were tax-exempt. We were supposed to tithe to give to them if you decide to be there. Thank you. [LB575]

SENATOR CHAMBERS: But the state was not underwriting them, correct? And didn't the early Christian church work on a principle that is called communism where they all came together and contributed based on what they had, and they were able to take according to what they needed. Correct? And Ananias told a lie, and Sapphira, about what they did not have because they didn't want to contribute. One was struck dead. Then the other one came in and was asked, do you have such and such? And this one told the same lie. And the statement was made, behold the feet of those who carried away the corpse of your spouse are here and they'll carry you away too. And that one was struck dead on the spot. Isn't that correct? [LB575]

SENATOR WALLMAN: Yes. [LB575]

SENATOR CHAMBERS: Okay. [LB575]

SENATOR WALLMAN: And the tax collectors went around and get your money. [LB575]

SENATOR CHAMBERS: Say again. [LB575]

SENATOR WALLMAN: Tax collectors were appointed, you know? [LB575]

SENATOR CHAMBERS: So they should pay taxes, shouldn't they? Thank you, Senator Wallman. (Laugh) [LB575]

SPEAKER FLOOD: Thank you, Senator Wallman. There are no other lights on. Senator Chambers, you're recognized to close on FA158. [LB575]

SENATOR CHAMBERS: Mr. President, members of the Legislature, I'm conflicted on this issue. I don't know whether I really want to take it to a vote right now or just let the bill go ahead, because what I'm bringing up is not anything that was contemplated by those who are for the bill or those who might be opposed to it. But the issue has been, as they might say, vetted. It has been discussed. So when it comes up again nobody can say they didn't know. I watch old movies. There was one called Something Wicked This Way Comes. There was a man named Mr. Dark. He was a member of a group of people who during certain times of the year periodically would come back to this town, and trouble and disaster would follow them. And he would get people's souls. He would find out what somebody wanted, give that person what it was, and then when you saw the circus marching down the street these people had become parts of the circus. There was one man that Mr. Dark was trying to get and he couldn't get him. So he told one of

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his minions, a very beautiful woman, he said, give him a taste of death so that he will recognize it when it comes again. Brothers and sisters, friends, enemies and neutrals, I'm giving you a taste of this so that you will recognize it when it comes again. Mr. President, I will withdraw that motion. [LB575]

SPEAKER FLOOD: FA158 is withdrawn. Mr. Clerk. [LB575]

CLERK: I have nothing further on the bill at this time, Mr. President. [LB575]

SPEAKER FLOOD: There are no other lights on. Senator Kruse, you're recognized to close on LB575. [LB575]

SENATOR KRUSE: Thank you, Mr. Speaker and colleagues. Thanks one and all for this exercise in religious philosophy. And frankly, thank you to Senator Chambers for an instructive exercise in understanding religious purpose, something which we talk about in religious circles but don't talk about it enough here. I want to draw everybody back to the point of the bill. The point of the bill is to add assisted living, which often is a wing of a nursing care home, which once upon a time was called rest homes, then it's been called intermediate care some have pointed out. And now we talk about assisted care, which is part of the concept of progressive care for seniors in a home, trying to treat them the same with the tax-exempt status. The question raised earlier is, what percentage of the assisted living are not for profit? Fifty-five of them in the state are not for profit, 34 are government-owned, out of a total group of about 258, so 1 out of 3 are nonprofit. I appreciate the discussion and I request your vote in support. [LB575]

SPEAKER FLOOD: You've heard the closing on LB575. The question before the Legislature is, should LB575 advance to E&R Initial? All those in favor vote yea; all those opposed vote nay. Record please, Mr. Clerk. [LB575]

CLERK: 38 ayes, 0 nays, Mr. President, on the advancement of LB575. [LB575]

SPEAKER FLOOD: LB575 is advanced. Items for the record, Mr. Clerk? [LB575]

CLERK: Mr. President, one new bill, LB1042 by Senator Howard. (Read LB1042 by title for the first time.) I have a motion to be printed with respect to LB202. A series of name adds: Senator Aguilar to LB51; Senator Preister, LB809; Senator Pankonin, LB983; Senator Christensen, LB1022. (Also notice of committee hearing from the Revenue Committee.) (Legislative Journal pages 278-279.) [LB1042 LB202 LB51 LB809 LB983 LB1022]

Mr. President, a priority motion. Senator Nelson would move to adjourn until Friday morning, January 18, at 9:00 a.m.

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SPEAKER FLOOD: You've heard the motion. All those in favor of adjournment say yea.
All those opposed say nay. We are adjourned.