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Floor Debate
May 21, 2013

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SPEAKER ADAMS PRESIDING

SPEAKER ADAMS: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the eighty-first day of the One Hundred Third Legislature, First Session. Our chaplain for today is Senator Hadley. Please rise.

SENATOR HADLEY: (Prayer offered.)

SPEAKER ADAMS: I call to order the eighty-first day of the One Hundred Third Legislature, First Session. Senators, please record your presence. Record, Mr. Clerk.

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

SPEAKER ADAMS: Are there corrections for the Journal?

CLERK: I have no corrections.

SPEAKER ADAMS: Messages, reports, or announcements?

CLERK: Mr. President, I have neither messages, reports, nor announcements at this time.

SPEAKER ADAMS: While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR176, LR177, LR178, LR179, LR180, LR185, LR195, LR196, LR197. We'll now proceed to the first item on the agenda, Mr. Clerk. [LR176 LR177 LR178 LR179 LR180 LR185 LR195 LR196 LR197]

CLERK: Mr. President, LB306A, Select File. I have no amendments to the bill. [LB306A]

SPEAKER ADAMS: Senator Coash for a motion. [LB306A]

SENATOR COASH: Mr. President, I move to advance LB306A to E&R for engrossing. [LB306A]

SPEAKER ADAMS: You've heard the motion. All in favor say aye. I'm sorry, Senator Chambers. Senator Chambers, you are recognized. [LB306A]

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SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I'd like to ask Senator Nordquist a question. [LB306A]

SPEAKER ADAMS: Senator Nordquist, do you yield? [LB306A]

SENATOR NORDQUIST: Yes. [LB306A]

SENATOR CHAMBERS: Senator Nordquist, is this...are the judges' salaries included in this bill? [LB306A]

SENATOR NORDQUIST: Yes. [LB306A]

SENATOR CHAMBERS: And this is the money for that salary increase? [LB306A]

SENATOR NORDQUIST: That is included in here, as well as a couple of retirement provisions. [LB306A]

SENATOR CHAMBERS: And if that salary increase for the judges were stricken, the bill would still say that they were entitled to the increase, correct? [LB306A]

SENATOR NORDQUIST: That's right but, I believe, then the Supreme Court would not have the additional funds to fund that. So they would have to find it somewhere else, I think, is how they would have to do it. [LB306A]

SENATOR CHAMBERS: Thank you. I'd like to ask a question to Senator Karpisek if he's here. [LB306A]

SPEAKER ADAMS: Senator Karpisek...he's not here, Senator. [LB306A]

SENATOR CHAMBERS: Mr. President, members of the Legislature, Senator Karpisek and I have developed a kind of rapport. And I figured that if he heard me mention his name, he would not be too far away from the floor. So now what I would like to do is ask Senator Karpisek a question or two. [LB306A]

SPEAKER ADAMS: Senator Karpisek, would you yield for a question? [LB306A]

SENATOR KARPISEK: Yes, I will. [LB306A]

SENATOR CHAMBERS: Senator Karpisek, this will give you time to catch your breath in case you were running. Are you aware that this A bill includes the funding for an increase in judges' salaries? [LB306A]

SENATOR KARPISEK: Yes, I am, Senator Chambers. [LB306A]

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SENATOR CHAMBERS: And you have made up your mind, if I understand you correctly, not to resist that increase. Is that correct? [LB306A]

SENATOR KARPISEK: I will not file any motions, but I will not vote in favor either. [LB306A]

SENATOR CHAMBERS: Would you like me to file some motions, if I were of a mind to do so? [LB306A]

SENATOR KARPISEK: I don't think it probably matters what I think, given what you're going to do, but... [LB306A]

SENATOR CHAMBERS: Well, Senator Karpisek, when I ask a question of you, it does matter to me what your answer is. Would you... [LB306A]

SENATOR KARPISEK: I would, I guess, prefer that you would let this go and get to Final Reading. [LB306A]

SENATOR CHAMBERS: And is that because if I filed a motion that you may have wanted, then the burden would, at least, be partially shared by you for holding up this bill? Is that correct? [LB306A]

SENATOR KARPISEK: A little bit. I don't really care. I guess I've thought about it enough to think that there are enough judges that aren't involved in what I'm upset about and I will not make any more problem on it other than to vote no. [LB306A]

SENATOR CHAMBERS: Thank you. I'd like to ask Senator Lathrop a question or two. [LB306A]

SPEAKER ADAMS: Senator Lathrop, would you yield? [LB306A]

SENATOR LATHROP: Yes, I would. [LB306A]

SENATOR CHAMBERS: Senator Lathrop, I don't know if you paid any attention to what I said yesterday because, maybe, nobody did. [LB306A]

SENATOR LATHROP: I listened intently. [LB306A]

SENATOR CHAMBERS: But I had expressed displeasure with the fact that...first of all, are you aware that once the Supreme Court commences its activities, nobody is allowed to come in during that time? [LB306A]

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SENATOR LATHROP: I heard you say that, and I probably knew that the last time I was down there, which is two years ago. [LB306A]

SENATOR CHAMBERS: And the last time I was there, that's the way it was, because I'm not trying to trick anybody. The judge, the Chief (Justice), could change that by rule if he chose. He wouldn't even have to enter...make a rule. He could just say that that's not going to be the case if he wanted to, couldn't he? [LB306A]

SENATOR LATHROP: I expect that's a rule of the court, much like rules that we have for maintaining decorum in this institution. [LB306A]

SENATOR CHAMBERS: And you see how far those rules go. But anyway, the chief judge...the Chief Justice is in a position to address that issue if he chose to do so. [LB306A]

SENATOR LATHROP: I expect so. That's not a statute. [LB306A]

SENATOR CHAMBERS: I didn't hear you. [LB306A]

SENATOR LATHROP: That's not a statute, that they can close the doors and people are done coming and going. [LB306A]

SPEAKER ADAMS: One minute. [LB306A]

SENATOR LATHROP: I... [LB306A]

SENATOR CHAMBERS: And... [LB306A]

SENATOR LATHROP: If you want me to, I'll respond, but... [LB306A]

SENATOR CHAMBERS: Oh, okay. [LB306A]

SENATOR LATHROP: Well, what I'll say is I've argued cases in the Supreme Court. I've been in the Supreme Court while cases are being argued and they go one after the next. And what happens is they have sort of a movement of people, and the next guy up can't concentrate, speak, be heard, and the court is trying to hear cases. I get your concern, Senator Chambers, and it seems a little petty. But if you've been in there and somebody's trying to argue their case to the court and half of the place gets up and starts shuffling out and the door is banging and the court is trying to hear the litigants and the litigants are trying to concentrate on their arguments, and I think it's...I think it can be disruptive, and that's probably the nature or the basis for the rule that they have. [LB306A]

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SENATOR CHAMBERS: I think the word "petty" is a selection of word... [LB306A]

SPEAKER ADAMS: Time, Senator. [LB306A]

SENATOR CHAMBERS: Thank you, Mr. President. [LB306A]

SPEAKER ADAMS: Senator Karpisek, you're recognized. [LB306A]

SENATOR KARPISEK: Thank you, Mr. President and members of the Legislature. I think, as Senator Lathrop said yesterday, somebody waves the red flag in front of your face and gets you all fired up. I'm not going to try to get fired up today. I tried to listen to music to get me happy on the way this morning. (Laugh) And I think it worked. We'll see. I do want to say, on my angst with the judges, there was an article written in the paper that the Supreme...Chief Justice and I were into a war or something like that, and that is not the truth. The Chief (Justice) and I have talked a little bit about why I was upset, and we really haven't spoken since then. But I'm hoping, in the interim, that we will. I do respect the Chief (Justice). We've always gotten along very well. And I don't want that sort of fight to be going on because, well, number one, I'm sure I'll lose; but, number two, he doesn't need it and I don't need it. My whole point is that I think a few select judges very much overstep their bounds, and the Chief (Justice) stepped in to protect his people. Or maybe he didn't even step in, but he was asked, much as I would do the same to this body. I don't agree with what he said about what they can do, but I think there's a very fine line there. And again, I think, over the interim or sooner, I want to sit down with the Chief (Justice) and talk those things out. It does not make me any happier about what happened. There was really nothing else I could do than go after the judges' salaries to get my point across and try to get some of my points on my priority bill onto the floor. So that's the vehicle that I used. Again, there's too many others that I think are doing a good job; not to even say that these aren't, but I really think they crossed the line and I think we will move forward from there. I do think that a 10 percent increase in two years is far too much. And we can argue about, well, it's because they have to be...have their law degree and all these sort of things, and that's very true. But 10 percent in two years, to me, is far too much. I do not plan to file any other motions on any of those bills but I will vote against them. Thank you for letting me get a little bit of that out there for the body. Thank you, Mr. President. [LB306A]

SPEAKER ADAMS: Thank you, Senator Karpisek. Senator Chambers, you're recognized. [LB306A]

SENATOR CHAMBERS: Thank you, Mr. President. I would like to continue pursuing my petty concerns about the court. [LB306A]

SPEAKER ADAMS: Senator Lathrop, would you yield? [LB306A]

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SENATOR CHAMBERS: Senator Lathrop, if I am to be there to argue a case...and I've argued cases before the Supreme Court, too, and won. I even achieved... [LB306A]

SENATOR LATHROP: I didn't mean to suggest that your concerns were petty, Senator Chambers. Perhaps the rule that tells people they can't come and go during the middle of someone's argument may seem petty, not your concerns. [LB306A]

SENATOR CHAMBERS: Then I misunderstood. [LB306A]

SENATOR LATHROP: So I want to clarify that so that you're not... [LB306A]

SENATOR CHAMBERS: I misunderstood. [LB306A]

SENATOR LATHROP: Okay. [LB306A]

SENATOR CHAMBERS: And I apologize for having attributed something to you that you didn't intend because I'm very serious about this. [LB306A]

SENATOR LATHROP: No, no, no, that's fine. I'm glad we cleared that up. [LB306A]

SENATOR CHAMBERS: If I were to be arguing a case and the doors closed before I got there, would they open the door to let me in? [LB306A]

SENATOR LATHROP: I do not know the answer to that. [LB306A]

SENATOR CHAMBERS: I'll find out. [LB306A]

SENATOR LATHROP: I know that there's plenty of lawyers that have lost motions because they didn't show up before the scheduled or appointed time when the court said, it's 9:00, we're taking up *Kolowski v. Krist*, and lawyers aren't there, one isn't there, somebody gets a...loses their motion. [LB306A]

SENATOR CHAMBERS: I think *Kolowski* had something to do with *Krist* not...his lawyer not being there. (Laughter) But at any rate, the other one was that invocation. But before they get to the invocation, they say...well, when the judges come in, they say, all rise, or words to that effect, and they expect everybody to stand up. In your opinion, is that an essential part of dispensing justice in the Supreme Court? [LB306A]

SENATOR LATHROP: You know what, I think that is all about not the individuals who wear those robes but the office of the Supreme Court or the office of the district court. When a judge enters the room it has nothing to do with Judge...whoever it is. It has everything to do with the office of "judge," and that is a tradition of our judiciary that goes back I don't know how far, probably to the beginning of the country and our judicial

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system. Is it essential? [LB306A]

SENATOR CHAMBERS: There was a case...oh, excuse me. [LB306A]

SENATOR LATHROP: It's not essential, but I think it is a tradition that demonstrates respect for the court. [LB306A]

SENATOR CHAMBERS: There was a case before former federal district Judge Warren Urbom and it involved Native Americans. And I'm not sure if it was in connection with Wounded Knee, but what Judge Urbom indicated is that nobody had to stand when he entered the courtroom. So Judge Urbom did not feel in any way demeaned; he didn't feel the court was demeaned; he didn't feel that the administration of justice was hindered in any way. But he also didn't feel it was necessary to compel people to stand because he, a mere mortal, walked into the room. You would not be...would you be in favor of a bill that said, no longer may any court require that people stand when the judge enters the courtroom? [LB306A]

SENATOR LATHROP: I don't think so. I think it's appropriate that we show respect for the court. We call them judges or "Your Honor," just as people call you "Senator," and you wouldn't appreciate people in the...certain circumstances just referring to you as "Ernie." [LB306A]

SENATOR CHAMBERS: People do... [LB306A]

SENATOR LATHROP: I think it's about the office, in the end, and I wouldn't support that measure. [LB306A]

SENATOR CHAMBERS: Well, you know, there are people who come before the Judiciary Committee and their intent, obviously, was to show disrespect, and they would call me by my first name. And I didn't tell them, call me "Senator," because I felt they were on a certain level and they have a right to free speech. And they're not required by the law to refer to me as "Senator." Children refer to me as "Ernie." And when their parents become concerned, I say, Plato had one name, Aristotle had one name, Jesus had one name, Socrates had one name. [LB306A]

SPEAKER ADAMS: One minute. [LB306A]

SENATOR CHAMBERS: Ernie is a name that's known, and a lot of people wish that the mere first name could be mentioned and the person whose name it is would be known. Now to another item. Mr. President, since I only have one moment...minute, I'll stop, and then I'll continue. [LB306A]

SPEAKER ADAMS: Senator Seiler, you're next in the queue. [LB306A]

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SENATOR SEILER: Senator Chambers, I'd like to bring it to your attention that that case that you're talking about with the Native Americans involving Judge Urbom followed a judge by the name of Nichol, who was having American Indians arrested for not standing and taken to jail. And when he came in, in the middle of that case, he did not ask them to stand. The next day after a one-day trial, a full day of trial and motions and listening to the judge rule on those trials, he walked in the next morning and all the Native Americans stood to honor him. So there's a follow-up for that, that he didn't have to have them arrested. He didn't have to. He just had to show them fairness and he won. [LB306A]

SPEAKER ADAMS: Thank you, Senator Seiler. Senator Chambers, you are next. [LB306A]

SENATOR CHAMBERS: Thank you for that elaboration, Senator Seiler. I don't believe, when any man walks into a room, that others have to stand up. You all cannot require anybody to stand when prayer is uttered. The Quakers wouldn't stand for the king. They wouldn't take their hat off. And the king didn't have them arrested. If somebody is so fragile and the institution is so shaky that the state will apply its coercive force to compel somebody to stand, I think it's wrong. The court cannot compel me to speak. The court cannot compel me to do anything. But I'd like to ask Senator Lathrop another question. [LB306A]

SPEAKER ADAMS: Senator Lathrop, would you yield? [LB306A]

SENATOR LATHROP: I'd be happy to. [LB306A]

SENATOR CHAMBERS: Senator Lathrop, have you heard that invocation when the court convenes, God save this honorable court and the United States? [LB306A]

SENATOR LATHROP: Yeah, it's like, God save the United States and this honorable court, or the state of Nebraska. [LB306A]

SENATOR CHAMBERS: Yes, yes. [LB306A]

SENATOR LATHROP: Sure. [LB306A]

SENATOR CHAMBERS: Do you feel that that is essential? Suppose I don't believe in God. I've got to be there. Otherwise, if I'm in...before the Supreme Court, I can't come in because all of that starts after the doors are closed. So if I'm there to argue a case, I've got to participate in this religious invocation. And the U.S. Supreme Court denominated it that when they were arguing my case to get rid of the paid chaplain. And the Chief Justice incorrectly said that the very district court that struck down this chaplain idea

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and the prayers uttered that invocation. Judge Urbom was the judge. A book that he wrote that came out a few months ago corrected that. And he said the Supreme Court was wrong when they made that statement because he did not have that invocation uttered. Now do you feel that invocation is essential to the administration of justice and the dispensing of justice and proper respect for the court? [LB306A]

SENATOR LATHROP: I think it's part of proper respect for the court. I don't think it's essential. Can they decide cases without having that...those words uttered before the case is heard? The answer to that is yes. Is it part of the traditions of the court, much like them wearing black robes, much like standing when a...when the court enters, much like referring to a judge as a judge and not just, you know, Harry or Warren. So I think it's about the traditions and demonstrating respect for the office, not the particular men and women who serve at any particular time, just like "Senator." I may have contempt for a senator, but at...when it's about their office and when you address a senator, it's "Senator." And I think that that's demonstrating respect for the office and not about the individual. [LB306A]

SENATOR CHAMBERS: What about the... [LB306A]

SENATOR LATHROP: And is it essential, Senator Chambers? Of course it's not. [LB306A]

SENATOR CHAMBERS: What about the invocation, the invocation? And if you look up that word... [LB306A]

SENATOR LATHROP: The reference to "God save the United States and this honorable court," is that essential? [LB306A]

SENATOR CHAMBERS: Um-hum. [LB306A]

SENATOR LATHROP: It's not essential. Is it part of our tradition in demonstrating respect for the office or the...what's about to take place? [LB306A]

SPEAKER ADAMS: One minute. [LB306A]

SENATOR LATHROP: A critical part of our...the third branch of government is deciding disputes between people, and it is about demonstrating respect for that process and respect for those who...respect for the office that's going to decide a dispute between citizens. [LB306A]

SENATOR CHAMBERS: Thank you for your cooperation, Senator Lathrop. And I've put a motion up there because this is an issue that sticks in my craw. And I'm going to give some forewarning to the Chief Justice of actions I intend to take. Thank you, Mr.

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President. [LB306A]

SPEAKER ADAMS: Thank you, Senator Chambers. And, Senator, that was your third time. Mr. Clerk for a motion. [LB306A]

CLERK: Mr. President, Senator Chambers would move to indefinitely postpone LB306A. Senator Nordquist, you have the option to lay the bill over or take it up at this time, Senator. [LB306A]

SENATOR NORDQUIST: Take it up. [LB306A]

SPEAKER ADAMS: All right. Senator Chambers, you are recognized to open on your motion. [LB306A]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, I take the court system, I take the constitution, I take the concept of justice very seriously. And I, as a black man, have to do it on the basis of an academic or theoretical approach to it because it certainly is not fair, that complex, nor any one of them individually. When I can read that constitution and see at least three protections for slavery, I cannot respect the document. But it's all that we have, and so we have to make do with it. When I filed the lawsuit against God, I pointed out why I did it. Senators were offering bills that would prohibit certain types of lawsuits from even being filed in this state. And it started when somebody had spilled coffee on himself or herself in a McDonald's and filed a lawsuit. People were filing lawsuits based on too much fat in food that they purchased. So some senators, numbskull as they were, offered bills prohibiting the filing of certain lawsuits. And I read from their constitution where it said, the doors of the courthouse are open to everybody, every man--that is supposed to include women--to vindicate his or her rights. And I'm paraphrasing. So I told them that you cannot prevent a person from filing a lawsuit, even if you write it in the law, because the person can file it nevertheless. And the remedy is that if it lacks all merit, then the judge or the court would dismiss. But you don't have anybody standing at the courthouse doors, unless you're a black person in certain parts of the country, with a military weapon and a bayonet to stop you from entering the courthouse door. When I do things I have a reason. I've read history, I've studied it, and I've lived in this country all of my life. I have relatives who were victimized by this country. When my son was six years old and we lived in the projects, a cop was harassing my six-year-old son and I happened to be near. So when I ran toward the car, the cop took off. And that is going to teach my child respect for the law? I told him, about people in a car like that: When you see that kind of car, the person in it is not your friend; don't you approach that car and don't you approach anybody who gets out of that car; anybody who wears that uniform is not your friend; I'm your father; I will protect you; I am your friend and I will tell you what you need to do. I don't know whether he understood all that as a child. But one thing he knew: The one in that car had frightened him, and his father had frightened the one who

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frightened him. So that established paramountcy in the mind of my son. So here's what I did with the Senators: I said, a person can file a suit against anybody he or she pleases, including God. So I gave them an object lesson and I filed the lawsuit. And a man whom I respect greatly, not only for his legal knowledge but for the issues that he has been willing to fight for--and I won't call his name; I might, as I go along--had written a piece in the paper saying that if anybody other than Senator Chambers had filed this lawsuit, it wouldn't go anywhere, it would not have even been accepted for filing, but...and Senator Chambers knows that. But he has filed it and he knows that because he cannot serve the defendant, it will be dismissed as a matter of law after six months. That meant nothing to me. He also wrote, a judge will probably never even see it, there would be no proceedings. And because people whom I...his name is Friedman. He wouldn't mind me mentioning his name. And he wasn't condemning. But he was pointing out, because people were up in arms that it's not going to cost anything, it's not going to take time from the court, and all such things as that. I was not deterred. Far more than six months passed. Then I got a notice from a court employee indicating that that action was going to be dismissed by action or operation of law because there was no evidence that I had served the defendant. And I told this person that I'm well aware of the law, but the fact that six months passed and additional months passed, I was entitled to presume that because of the unique nature of this case, that particular law was not going to be applied and there would be no dismissal by operation of law, so I demand a hearing on the basis of this notice that you gave to me and my being misled by the failure of the court itself to take action on which I could rely. Well, a judge was out of the country, so a different judge filled in and set a hearing date, set a hearing date. And I went to the hearing and I argued my motion. And my motion was at the court, take judicial notice of God, and pointed out that the case before me involved the administration of an oath and the one administering the oath said, so help you God. So it appears to me the court is already acknowledging the existence of God. And the concept of God includes one who is all-knowing, omniscient, so one who is all-knowing knows everything. So since the court has acknowledged God, the defendant knows about this lawsuit. And a god has to be omnipresent or everywhere at the same time. Beyond that, we have to presume that the defendant is in this courtroom right now because you've acknowledged God. So he took the matter under advisement, and I argued all of my points. Then he made a fatal mistake. He allowed his religion, as some people on this floor will do and on certain committees will do, to intervene and override what the law said. I study the law when I file a lawsuit. And the law says that if the defendant is not served within a certain period of time, then the action is dismissed without prejudice by operation of law. And the only order that can be entered by the court is that, pursuant to operation of the law, the defendant not having been served, this action is dismissed without prejudice. The judge's bias or prejudice intervened. His order said, in effect, that: the defendant was not served; the defendant, furthermore, cannot be served; therefore, this action is dismissed with prejudice. And I had him by the law, by his law, and it was by his constitution that I filed the action. And everything else I did, including paying my filing fee and getting a hearing, when nobody else could have even gotten a hearing, was all

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done within the context of the law. So when I filed my appeal, all I would have had to do was point to the law that said the action is dismissed without prejudice. [LB306A]

SPEAKER ADAMS: One minute. [LB306A]

SENATOR CHAMBERS: But because all briefs filed with the Supreme Court are retained, I wrote out all my arguments, all of my arguments in that brief. But then I pointed out that: the judge dismissed with prejudice; that violated the law; he abused his discretion; therefore, his decision should be vacated. Rather than it going to the Supreme Court, it went to the appellate court. That's what you can do when you're the boss and you don't want to be bothered with something. So all they would have had to do, and all the lower court judge would have had to do, is say that where there is no existing controversy and the court does not answer theoretical questions, this action will be dismissed. [LB306A]

SPEAKER ADAMS: Time, Senator. Senator Carlson, you're recognized. [LB306A]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. As Senator Chambers brings up his lawsuit against God, it brings to mind that, when he did that a few years ago, my wife and I were on a tour in Germany, Switzerland, and Austria. We were at an inn one night and Margo wasn't in the same room. She was in another room and I turned the TV on to see if I could find anything that I could understand. And there's Senator Chambers' picture, covering the entire screen, in Austria. And I yelled at her. I said, Senator Chambers is on TV. And by the time she came in, he was gone and, of course, we couldn't find it. And she said, you had to be...you're kidding me, he was not on TV. I said, he was too. Well, about a day and a half later, we're in the airport in Germany on a Sunday morning ready to board the plane with the 40 other people that were on the tour with us. And I looked over the shoulder of a young man reading the Sunday morning newspaper, and there was Senator Chambers' picture, big as can be, on a full page. And so my wife asked the young man, can you speak English? Yes. Well, what does this say? And the young man smiled and he said, I think this senator is suing God. So, of course, I went and bought a copy of the paper and took it around to the people in our group and showed them the article and I said, this is my colleague. And I didn't say it out loud but under my breath I'm thinking, in whom I am not well pleased. But, nevertheless, Senator Chambers got some ink across the ocean for that lawsuit. Now as all of you know, he brings us a poem every day, some kind of writing. And I read almost all of these and, certainly, I read the one today, and I'm adding a verse: Senator Chambers is quite a poet; by now, all of us in the body know it; he took Psalm 46 from the holy book and it caused me to take a look; a riddle and rhyme was penned in '93, but I can add and subtract, you see; the fact is, in all this mix, in '93, he and I were both well beyond age 46. Thank you, Mr. President. [LB306A]

SPEAKER ADAMS: Thank you, Senator Carlson. Senator Chambers, you're

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recognized. [LB306A]

SENATOR CHAMBERS: Thank you, members. Mr. President and members of the Legislature, to take up where I left off, the appellate court did indicate...and they wrote something. I don't think it was published in their Opinions. But I was sent their ruling and it dealt with the notion that they don't handle theoretical issues. But they vacated the decision of the lower court. They threw it out. So what did I do? I got a judge to read it, which nobody thought would happen. I got a hearing, which nobody thought would happen. I lost, which everybody thought would happen if there were a hearing. I appealed it and the appellate court accepted my brief, my argument, and vacated the lower court's judgment, threw it out, and nobody thought it would go that far. And I did have invitations for interviews from all over the country and other parts of the world. One Polish station actually sent a crew to my office in Lincoln to do a film interview with me. I had phone conversations with the BBC. And they even had the mayor of an Irish city in the studio, and she was very incensed that I would file such a lawsuit. I mentioned one time--I think I did--that from Nova Scotia came a television crew. And they do a program something like Saturday Night Live where they lampoon politicians and talk about the actions of the day. And they came to the barbershop in Omaha. A young man interviewed me, and we wound up talking for two hours. And he asked me something that led to me giving a brief little rhyme. And he asked me, do I do that all the time? I said, well, yeah, I do it for therapy. He said, can you write a rhyme about me? I said, I'm not going to write it, but I'll say one to you. And it was about eight lines, and he was very pleased. And after we discussed it further he said, Senator Chambers...he's a white kid. He's...I say a kid. He was a grown man, but compared to me, Senator Kintner is a kid. He said, Senator, I wish you were my grandfather. And then he said on camera, I hope that you win. And the part of his...he hopes that I'll win was shown. The rhyme that I gave him, about him, was shown. And he also did a fairly good job of giving my rationale. And when I explained why I brought the lawsuit, he said, well, why did you have to sue God? Why couldn't you just explain that everybody should be allowed to come into the courthouse? I said, have you heard that idea expressed before? He said, yes, it's probably like that everyplace where there's a democracy or even a semidemocracy. I said, have you ever traveled any distance to interview somebody who said that? He said, no. I said, if I'd said it the way you were saying I should have said it, would you be here now? And he smiled. He said, well, no. I said, what good is a song if nobody will heed it,... [LB306A]

SENATOR ADAMS: One minute. [LB306A]

SENATOR CHAMBERS: ...what good is a book if nobody will read it, because of the way I did it, it raised the issue throughout the world, literally, and your presence establishes that. I'm not quite through yet. So I'm going to put on my light, take some time, because I'm talking about judges, the court system, and the administration of justice and things that people take for granted but which other people are deeply

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offended by, justifiably so. Thank you, Mr. President. [LB306A]

SPEAKER ADAMS: Thank you, Senator Chambers, and you are next in the queue. [LB306A]

SENATOR CHAMBERS: Mr. President and members of the Legislature, I am offended by that invocation. You all believe in God. So if you believe in God, everybody else is going to be compelled to listen to your invocation. Suppose I'm a Muslim and I said, Your Honor, since my case is the only one here this morning, I would ask that you invoke the name of Allah and you ask that Allah intervene and see that justice is done in this case. What do you...you think he would...what do you think would happen? You know what would happen. You all are Americans. You all are Christians, and you know how intolerant that religion is. And you know how offended they become when anybody takes issue with it because they want to force everybody into their mold, even in the court system, where there is to be justice. Now the U.S. Supreme Court and the Nebraska Supreme Court echoes it, that there can be no religious test to hold any office. That's why the U.S. Constitution and the Nebraska Constitution do not require an oath that contains the name of God. Even when the President is sworn in, it does not say, so help you God. When Congresspersons and senators are sworn in, no "so help you God." When a warrant is sought, oath, or affirmation, you cannot find anywhere in the constitution that requires those words. But if I go to court, the court where the constitution says that the door should be open to me, I've got to listen to them invoke the name of God. Don't get antsy. You all can leave whenever you want to because you're not in court. You don't have to listen to me. I would have to listen to that. I believe in object lessons, and that's why I put you all through this. All you're doing is listening to words. You know how upset and offended you get, and I don't do anything to you. I don't make you do anything. But I'm talking about people who make us do things under pain of being punished if we don't, and you don't understand it. But you can understand your getting offended because I take some time. And I'm going to take the time. I will tell you when I will feel that I have achieved the acme in this place--when my conversation empties this Chamber entirely, all of you take flight and get on out of here. And I will continue to talk because I'm not talking to you. I'm talking at you, but I'm talking to other people whose ears are open, whose minds are receptive. It's like these two little boys, side by side, at a table in this television movie about one of Charles Dickens' stories. These were little urchins, little orphans at an orphanage, and they were partaking of their thin gruel and hard bread, which is the fare of orphans, little children who can't help themselves and will not be helped by anybody else. So one little boy bowed his head and he was saying grace. And the little boy next to him said, I can't understand you. And the other little boy said, I'm not talking to you. So I'm not talking to you all. But I will quote from Senator Carlson's favorite "Bibble." [LB306A]

SPEAKER ADAMS: One minute. [LB306A]

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SENATOR CHAMBERS: They that have ears to hear, let them hear. You can stop your ears if you want to, but this is a part of the record. And I'm going to bring some legislation to force some public hearings and some considerations of every one of these issues that I've raised so you can't run away from it. And that's what the rules of the Legislature allow me to do. I will not be silenced and, in some cases, I will be heard. And you can feel these things are not important because they're not important to you. But I dwell on them a lot of the time and I think about what can be done to rectify an unfair situation. And I think it's unfair for the courts to conduct themselves in the way that they do. [LB306A]

SPEAKER ADAMS: Time, Senator. [LB306A]

SENATOR CHAMBERS: Thank you, Mr. President. Is that my third time? [LB306A]

SPEAKER ADAMS: That was your third time. There's no one else in the queue if you'd like to close on your motion. [LB306A]

SENATOR CHAMBERS: Thank you. And just to be mean, because I know how you're going to vote, I may offer a reconsideration motion because I'm rolling now and we're going to be here late anyway. If you look at your agenda, 1:30, we go to something; then, no later than 6:00, we go to something else. Yesterday I noted how tired you all were. That was before 6:00. This is like a marathon, and you all have never run a marathon before. And when we get to 6:00, we're just getting to the place where a marathoner is getting his or her second wind, and you're exhausted. The big safe is on your back. Your legs are leaden. You feel like the force of gravity is coming into play more than it should. You feel like you weigh 100 pounds more than your real weight, and each step adds another 100 pounds. And that's when I'm in my element. I will not be tired and I will not be silenced. We're in the last few days. And Senator Carlson's book says...I'd like to ask Senator Carlson a question. [LB306A]

SPEAKER ADAMS: Senator Carlson, would you yield? [LB306A]

SENATOR CARLSON: Yes, I would. [LB306A]

SENATOR CHAMBERS: Senator Carlson, in that book which I referred to...and I won't use the term "Bibble" because you don't like that. But in the book that you like, are these words found, in the last days, perilous times shall come? [LB306A]

SENATOR CARLSON: Yes, it is. [LB306A]

SENATOR CHAMBERS: Thank you. Members of the Legislature, we're in the last days of the session, and maybe perilous times are here. And I know you all think that I'm just bluffing, that I won't do what I say I will do. So I won't tell you what I will do. I will just do

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it. When I saw Senator Nordquist's bill on here this morning, I made up my mind that I was going to force a discussion of the court system, the way judges behave, even what the concept of justice would entail. I'm going to bring an editorial that was written some time ago by the Lincoln Journal Star about the work that I've done in trying to police the judiciary because nobody else will do it, nobody. I don't know that Senator Lathrop has ever filed a complaint against a judge, and I will not ask him. But he said much about the dignity of the court as an institution, the dignity of the position of judge. But there are a lot of judges, in their conduct, who besmirched the judiciary, the robes that they wore, and the concept of justice. And they brought the court into disrepute and I was the one who had to do something about it. And when I came after judges, many times they had sinned against white women. And I'm the one who's supposed to be the sexist and the racist, and I defended white women who were offended by white judges when none of the white men would utter a word. But what other people do will not dictate what I do, Senator Scheer. I will do what I think I ought to do and, being grown, I will do anything that I want to do. And as a member of the Legislature, if I choose to do, I will force you to invoke your cloture rule. But you can't do it while I'm talking now because your cloture rule works when a bill is before the body. [LB306A]

SPEAKER ADAMS: One minute. [LB306A]

SENATOR CHAMBERS: Why don't you try to adopt a rule that will apply to me for the remainder of the session so that when you become tired or offended, somebody can make a motion to deny me the right to speak, and then I'd like to see you enforce it. I believe there was a guy called "Old Hickory" who did not like a judge, and he was more upset with the judge than Senator Karpisek has been. And he said, John Marshall has made his decision, let John Marshall enforce it. Maybe nobody ever read anything like that. But when people even imagine that they're going to find a way to make me shut up, then I want them to try it. I challenge them to try it, and it'll be like pouring gasoline on a fire. [LB306A]

SPEAKER ADAMS: Time, Senator. [LB306A]

SENATOR CHAMBERS: Thank you, Mr. President. [LB306A]

SPEAKER ADAMS: Members, the motion before us is to indefinitely postpone LB306A. All in favor vote aye; all opposed vote nay. There has been a request for a roll call vote, Mr. Clerk. [LB306A]

CLERK: (Roll call vote taken.) 4 ayes, 38 nays, Mr. President, on the motion to indefinitely postpone. [LB306A]

SPEAKER ADAMS: The motion fails. (Visitors introduced.) Do you have a motion, Mr. Clerk? [LB306A]

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CLERK: Mr. President, Senator Chambers would move to reconsider the vote just taken. [LB306A]

SPEAKER ADAMS: Senator Chambers, you are recognized on your reconsideration motion. [LB306A]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, I shall continue. I don't know if any of you all have ever boxed before. I don't believe any of us have done it professionally. But what you want to do is make your opponent angry. Anger does not suit an individual in a prize fight to do a successful job of fighting. Anger wipes out all of the training and the person becomes a windmill who can be jostled and defeated easily. If there is a long race, the thing you would like to do is get your opponent to start running 100 miles an hour at the beginning of the race and have no gas when you get to the end. You all ought to be glad that I'm doing what I'm doing because we're going to stay here late tonight. And if I exhaust all of my energy now, then I'm not going to be able to do anything later on during the day and certainly not after 6:00. But don't count on it. I'm going to continue with what I was talking about, and I'm going to give an example that involved a judge in Omaha named Hartigan. He was in his chambers and there was a female attorney and there was another lawyer, at least one other person in there, maybe two. And he became very incensed and he used the F word toward the female attorney. That's what the judge did, that courageous judge who wears the robes of dignity that Senator Lathrop lionized. And he was standing on his pedestal as gods are to do. And when a complaint was filed, it went nowhere. You know why it didn't go anywhere, allegedly, because the remark was passed in chambers. Somebody brought it to my attention and I filed a complaint against the judge. And you know how I started it? Dear Chief Justice--because he is the chairperson of the Judicial Qualifications Commission--"F" you, and asked him how he would react if somebody who was a lawyer referred to him in that fashion, in a proceeding, and then went on to explain what Judge Hartigan had done. And I always release these complaints to the media. Joe Steele was then the Administrator of the Court, Court Administrator. And he had pointed out that a complaint had been filed on that issue and dismissed, so that was probably the end of it. But it was not the end of it for me. It was the beginning. And I pushed that issue and the court wouldn't do what they should do. But they gave him, at least, a public reprimand--it was in the newspapers--and Judge Hartigan said that he was a better man and a better judge for that. You know who got that done? The one who is supposed to be anti-law enforcement, Ernie Chambers, the one who is not afraid to sue God, knowing how these hypocrites would react to it but also knowing that their court system is unfair. And this female lawyer was messed over. And you know one of the things that I pointed out? I always use the rules that govern those I'm attacking. And it said, a judge's conduct has to be circumspect in private life as well as public life, everywhere. And it didn't matter that what he said was in chambers. It was wrong. And even though no white man would stand up for this woman, I did, and her dignity as a

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human being and as a lawyer was vindicated. There is a judge named Bartu who had offended against a number of white women and nothing was going to be done about it. And I got involved. And Bartu got sick, but that didn't end my quest. I went after his law license and he said that rather than contest with Senator Chambers, he would give up his license. White women had no place to turn. And they think that a black man is chasing everything white in a skirt. Some black men have to protect those white things in skirts from those white men in britches who are not men, who are cowards, who take advantage of women and know they can get away with it. There was another judge. I call him the "randy rogue judge of Richardson County." And he was feeling on women, trying to put them under his robe. So what I had said is that I'm going to seek a resolution of impeachment against him in the Legislature. So he resigned. Then there was a judge called "Deacon" Jones who had cursed women out. He had used that "C" word toward women, that most vicious word that can be applied to a woman, and he used the word. He urinated on the rug of a fellow judge who happened to be a female. And all of this was known in the courthouse. Senator Ashford has a brother who is a judge. And this man, not Senator Ashford, made a threat against Senator Ashford's brother, I believe. Just nod if that's true. And it was so serious that the police took it serious and were talking about providing security. He threw firecrackers in another judge's office. He was known to carry his pistol in his robe, on the bench. He had a reign of terror going and nobody would deal with it. So when I found out from a city employee about him urinating on the carpet of this judge, I began to make inquiries. And then court employees found out what I was doing and they began to talk to me about things that had happened to them. And I said, I'm going to file a complaint against this man, and are you willing to let me use what you've told me as a part of the complaint? And several of them said that complaints had been filed before and nothing had been done. But the reason they would work with me was because they knew that I wouldn't quit and I wouldn't leave them swinging in the wind. So they told me their stories and I detailed them in a complaint to the Judicial Qualifications Commission. And that man, "Deacon" Jones, thought he was so far above the law that he was having contact with this female judge of a kind that was inappropriate. So I had continued to, kind of, prod the court, and they entered what, in effect, was a protection order and told him to stay away from that woman, to stay away from that woman, a judge. [LB306A]

SPEAKER ADAMS: One minute. [LB306A]

SENATOR CHAMBERS: And people knew this and not a white man would stand. But a black man did because I respect all women. Then I wrote to the Chief Justice and I said, the fact that what, in effect, is a protection order was put against this man, he should be suspended and he should not handle another case while this matter is pending because nobody can have confidence in his integrity, his impartiality. At that time, Senator Brashear was in the Legislature. I don't remember if he was the Speaker. But he had indicated that there...is my time up on that one? Is my light on? [LB306A]

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SPEAKER ADAMS: Right now, and your light is on. [LB306A]

SENATOR CHAMBERS: Okay. [LB306A]

SPEAKER ADAMS: You can proceed on your next option. [LB306A]

SENATOR CHAMBERS: Thank you. And I'm going to put it on again. Other experts said, and they were correct, no judge had ever been suspended prior to a public hearing on a complaint, it had never happened. And Senator Brashear agreed. But there's a guy. His name is James Martin Davis, and he is a renowned criminal defense lawyer in Omaha. And you know what he said in the newspaper? Senator Chambers does not shoot blanks. And guess what happened. I had written a lengthy brief speaking about the inherent power of the court to protect the court, its processes, and the administration of justice and that power should be invoked. And it's a power that doesn't come from the law or from the Legislature but it adheres in the very nature of the court and to protect that court and its integrity, this man should be suspended. And the suspension is not a prejudging of the case. It does not mean that he has been found guilty of anything by the court because there has been no hearing. He will not be denied any of his salary because that would be in the nature of a punishment. This is not done by way of punishing this miscreant. It was done to protect the integrity of the court system. And guess what happened. He was suspended, first time it ever happened, when all the experts said it couldn't be done. They all laughed at Christopher Columbus when he said the world was round. They said that Edison would never make that light. They laughed at Mr. Franklin with his key and his kite. And all of them were wrong. And you all are going to find that out about me. You can all say what you want to. You can all do what you want to. It can be everybody against me, which it won't be because there are some intelligent people here. But the rest of you...and I'll have my way. You think, because you won't do what I'm doing right now, that I won't do it. You're not me. And the funniest thing of all is when somebody will come and tell me, Senator Chambers, if I were you, this is what I'd do. I said, if you were me, you'd do exactly what I'm doing. What you're saying is that if you were in my position, this is what you would do. But the reason you won't do it: because you won't even stand up in the position you're in now. So don't bring that to me. I'm going to do what I think I ought to do, and that's what I'm doing this morning. So "Deacon" Jones was suspended. Then he put together what he called a "truth squad" and went after then...I think he was a U.S. Senator then, but he was Governor Nelson. And "Deacon" Jones had said that Governor Nelson is a Democrat and he's behind all this because he wanted to kick Jones off the bench so he could appoint a Democrat. Even the World-Herald and these talk show people were...wouldn't accept that. And I laughed. So he got kicked off the bench, but he wasn't through. He sued me for a million dollars. And I told him, I hope you find a million dollars, I'll plead guilty, and we'll split it. But that case was thrown out. Everything he did couldn't get anywhere because I followed the law. [LB306A]

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SPEAKER ADAMS: One minute. [LB306A]

SENATOR CHAMBERS: He fought the law and the law won because it was vindicated by me, the one who is lawless, the one who is antipolice, and the one who will stand for those who have nobody to turn to. And I'll continue to do that. And I'm particularly upset with the courts for the reasons that I've mentioned but, also, this Legislature because there are people who are vulnerable, who cannot stand up for themselves, who are crushed down by this heartless Legislature. It is wrong. And if the Legislature had any sense of decency... [LB306A]

SPEAKER ADAMS: Time, Senator. [LB306A]

SENATOR CHAMBERS: Was that my third time? [LB306A]

SPEAKER ADAMS: This is your third time, Senator. [LB306A]

SENATOR CHAMBERS: Thank you, Mr. President. And I may offer some more motions on this...on Senator Nordquist's bill just to show what can be done by somebody who is prepared to do it. I'll bet that no preachers or senators who come up here and pray and know what we're dealing with would talk about the little children. Oh, they'll talk about the unborn because it doesn't cost anybody anything. But they won't talk about the born children. They won't talk about doing for the little children what the Jesus that he or she is praying to said you ought to do. They don't talk about that. I listen to these prayers, when I'm in my office and I get a chance to and I don't forget to turn on the television set, because it's funny to me. It's comedy hour. People get the long face, long, like that impresses God, the longer the face is. There was this young seaman. And his captain said, Son, I want to talk to you. And the guy said, yes, sir, Captain. He said, oh, we can dispense with that, we're just talking man to man, I've watched you around here and you do a good job, but you always have such a long face, why is that? He said, well, begging your pardon, Captain, am I allowed to speak honestly? He said, if I did not want you to speak honestly, I wouldn't have asked you that, why do you wear such a long face? Senator Schumacher messes with me through his facial expressions, and that's all he has to do, so I won't look at him right now. He said, Captain, it has to be long. And the captain said, why? He said, well, to stretch from my scalp to my chin, it has to be long. And the captain hadn't even thought of that, but there it was. And the young guy didn't even realize that he had said something that somebody else thought was clever and witty. And sometimes those are the funniest things when the person saying it does not intend it to be funny, does not even realize it's funny. But I'm not going to tell you a lot of jokes this morning. I'm going to talk, as I've said in the past, whenever I get the opportunity, about how wrong it is for this Legislature to turn its back on the people who need help, the people whom we can help, the people who can be helped through total financial underwriting by the federal government for three years. You all accept all this federal money for your projects. But again, as I said, you're worried about cities but not

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the people who live in them. Your projects, you're talking about water, water, and you're willing to spend millions of dollars in state money to study water. I can tell you all you need to know. The formula for water...what is the makeup of water? H₂O, two parts H, one part O, and you get water. Now you don't have to give me a million dollars to know that. Water will freeze at 32 degrees. What else do you need to know? [LB306A]

SPEAKER ADAMS: One minute. [LB306A]

SENATOR CHAMBERS: Rain comes from the clouds. When there are no clouds, there's no rain. You're going to give somebody millions of dollars to tell you that? If you put contaminants on the soil and they seep down into the groundwater, you have a problem. How long you have to study to find that out? If you let some people, to make money, take a whole lot of the water, how much studying do you need to figure that out? But when it comes to people who need medical care in a country which if it doesn't have the highest standard of care, among the highest standard, and that money is available and you turn your back on these people because you don't like a black man in the White House, that's what it is. And you know it. If there were a "Repelican" there, you'd be praising him or her to the highest. [LB306A]

SPEAKER ADAMS: Time, Senator. [LB306A]

SENATOR CHAMBERS: Thank you, Mr. President. [LB306A]

SPEAKER ADAMS: Senator, there are no other lights on. You are recognized to close on your reconsideration motion. [LB306A]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, I think I'm going to keep us here until noon maybe. Are you upset with what I'm saying, with my talking? Are you? Or are you...Senator Nordquist has one of the widest, most cherubic grins or smiles I've seen on the face of a senator since I've been here. But he has kind of that cherubic face anyway. If you do any art, you can tell what features to emphasize to create an expression or the appearance that you want. If you want to make a baby's face, you can put it on a body that would look like Mr. America. But you'd say he's baby-faced because there's certain features that you associate with a baby. Now I don't think any of that applies to me. But I'll tell you what, I'm concerned about the babies. And you know what people bring to me and they're snarling, they even use profanity, well, what about the unborn, huh, huh, you're talking about saving these criminals, what about the unborn? I'll say, what about them? Well, you don't save them. I said, I don't save them and I don't hurt them, so what do you want me to do, what are you upset with me for? Well, you don't speak in behalf of the unborn. I say, uh-huh, and I speak on behalf of the women who will become the mothers when that unborn is born. And there are poor women in that situation. And in this rich country, they cannot get the medical attention and healthcare they need to produce a healthy child if they want to carry the

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pregnancy to term. So you're going to be telling me, don't let her have an abortion. But you don't care about the conditions under which she lives that might cause her not to be able to bring a pregnancy to term even if she wants to, because her health is at risk, the health of her fetus is at risk. And you don't care about that. You're going to talk to me theoretically about abortion, a fetus, a zygote, an embryo? Well, you don't sound like you think very much of human beings. I said, if I didn't think much of human beings, I certainly wouldn't be talking to you. Well, you don't think a fetus is a human being? I said, is an acorn an oak tree? Is an egg a chicken? Don't be stupid when you talk to me, go to those dyed-in-the-wool-hat other people, they're the ones you talk to about that mess. If you want to talk to me, talk to me about the children who are here, right now. But you don't want to talk about that, do you? I didn't think so. And it won't be talked about on this floor either. I don't know what it is about me that will draw little children to me. I'll be walking down the halls. I don't know these little children. And they'll come around me. They say, you catch more flies with honey. Well, I'm not attracting flies, I'm attracting little children. I don't know what it is that will draw them. But children perceive things about people. Do they flock around you all? Some of them even come here to visit you all. They don't even know who you are until they come in your room and somebody tells them, that's so and so, and they get restless. [LB306A]

SPEAKER ADAMS: One minute. [LB306A]

SENATOR CHAMBERS: But I'm going to talk a little bit more about the little children. There's even a song: England swings like a pendulum do, bobbies on bicycles, two by two, Westminster Abbey, the tower of Big Ben, rosy-red cheeks of the little children. They're even in songs. But you don't love the children; you don't care about the children. But you won't be man enough and woman enough to stand on this floor and say you don't care about them. You lie. You hide. You hypocrite. You know why I say it? Because you have the power to do good and you won't. Thank you, Mr. President. [LB306A]

SPEAKER ADAMS: Thank you, Senator Chambers. Members, the motion before the body is to reconsider the last vote. All those in favor indicate with aye; all those opposed, nay. There has been a request for a roll call vote, Mr. Clerk. [LB306A]

CLERK: (Roll call vote taken, Legislative Journal page 1506.) 5 ayes, 35 nays, Mr. President, on the reconsider. [LB306A]

SPEAKER ADAMS: The motion to reconsider fails. (Visitors introduced.) Mr. Clerk, you have another motion on the desk? [LB306A]

CLERK: Senator Chambers would move to recommit the bill to... [LB306A]

SPEAKER ADAMS: Senator Chambers, could you approach please? Mr. Clerk for a

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motion. [LB306A]

CLERK: Mr. President, Senator Chambers would move to bracket LB306A until June 5, 2013. [LB306A]

SPEAKER ADAMS: Senator Chambers, you are recognized to open on your bracket motion. [LB306A]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, I said I was going talk about the children and I will. And I'll start with a verse from Senator Carlson's favorite book. There was a time when Jesus was talking to people as he always does. Then the little children who seemed to be drawn to him were pressing close to try to come and see him and listen, maybe even touch him. And the disciples who ran around with Jesus and should have understood what he was about obviously didn't just like the people on this floor who yammer in their prayers every morning here to Jesus don't pay attention in their lives to what he is supposed to be about, the disciples got irritated. Jesus was a popular man. He was like a superstar or rock star and here these little children underfoot getting in the way as little children will do, forgetting, these adults did, that they at one time were little children, that they wanted to get close to whatever was happening and see it and touch it and understand because they were curious as children are. But these grown men had forgotten about it, so they wanted to shush the little children away. And Jesus said, hold on! This is my show not yours. These children want to see me and I want to see the little children. So here's what I'm going to tell you hardheaded men who have been walking with me, talking with me, watching what I do, you haven't learned anything so I have to stop you and tell you just like I would teach these little children. Suffer the little children to come unto me and forbid them not for of such is the kingdom of heaven. And unless you, you hardheaded, hardhearted hypocrites, unless you become as these little children, you will not see the inside of heaven. Now put that in your pipe and smoke it. And the disciples were kind of afraid of Jesus because they had seen him do certain things. There's a song this woman sings about this guy, he's a magic man. Well, they thought Jesus was a magic man. They had seen him raise, of all things, a little girl from the dead. She was dead, Senator Wightman, stone-cold, graveyard dead. And Jesus came upon the scene and all these people were mourning and crying and going through what they go through when a child dies. And maybe some people remembering how mean they were to that child, how unattentive they were to that child, the things they should have done and said that they didn't and now there was no chance to do any of that. And Jesus said, what is all of this commotion and confusion about. And they said, well, the little girl laid out there on that cooling board, she's dead. He said, uh-uh. They said, um-hum. And if she's not dead, Jesus, what is she? He said, well, she looks so peaceful, so restful. If she had been feeling pain, she doesn't feel it now. She's peaceful. They said but she's dead. He said, no, she's sleep. Not the sleep of death and I'll prove it to you because you don't believe anything after all of this time. And he took the little girl's hand and uttered some

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magic words which I won't utter but Senator Carlson could and said, child, sit up. So the little girl sat up and she did like people do when they've been asleep, she stretched and she yawned and she looked around and she saw her mother. She said, Momma, why are all these people here? And those hypocrites, you know what they did? They all took off running, disappeared because the magic man had worked magic again. So he thought a lot of children and he brought one back from the dead. We can't do that. But we might can prevent some of those born children from dying and we won't. We can do it and we choose not to. You all ought to stop those prayers every morning. There should not be another prayer uttered in here unless it's one of thanksgiving or that god you say you believed in cracked open your hard heart and poured a little bit of kindness into your hard heart, your seared conscious, and changed you into what you used to be all those years ago when you were a child and you could see a little animal being harmed and it would break your little heart and you would cry and you would tell the person you shouldn't do that. But as you grew older and became more overlaid with layer after layer of hardheartedness, unkindness, meanness, you can watch children suffering and it won't bother you. As that song say, it's so easy to hurt others when you don't feel pain. So Jesus had as much trouble, more trouble than I'm having trying to get those hardheaded, mean people to treat these children right. So it became more than he could bear at one point. And he said, because he saw somebody abusing a child, he said stop. He said, if you raise your hand to that child again, your hand will never return to your side. Your arm will be frozen in that position forever. Don't touch that child in anger. Then he looked around at all these other hypocrites who had done the same thing because children are vulnerable and helpless and they cannot defend themselves as we won't defend them now. And he said, if any one of you offends against one of these, my little ones, it's better for you if a millstone were hanged around your neck and you were drowned in the depths of the sea. And I am the magic man and if you think it can't be done, try me. And everybody was as quiet as they are in this room right now. But the message didn't carry down through the centuries because little children are abused everyday in this society. And before we start pointing the finger at others, I even read an article or talked about one based on how viciously this little baby boy had been treated and a picture of him was on the front page of the paper. His eyes swollen shut, his lower lip burned, face swollen. And everybody who saw it said what a terrible thing. But that's as far as it goes. The kindness is like the smile from the teeth out, more like a snarl. And the little children whose families we could help... [LB306A]

SPEAKER ADAMS: One minute. [LB306A]

SENATOR CHAMBERS: ...and by helping those families we would help the little children. We won't do it. And we're going to talk about other matters today. Oh, we're going to be concerned about the businesses. We're going to be concerned about how difficult it is for them to understand how to get these benefits. And I'm going to talk about those things too. And watch how many of you participate to counteract what I'm saying because these businesses must be served and they've got to be given taxpayer's

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money. But we're making it too difficult for them to get that money, so we have to make it easier. Then I stand up and say, what about the little children. We don't care about children. What are you talking about? You talked about that this morning. You had your chance. Now we're getting down to the business of the Legislature and the business of the Legislature's business, businessmen, businesswomen, giving them taxpayer money. That's what the Legislature is about. [LB306A]

SPEAKER ADAMS: Time, Senator. And, Senator Wallman, you're next in the queue. [LB306A]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. We aren't really talking about the judges here anymore I don't think. But we are judges here, and we make laws, rules, and regulations. And as far as, please don't call me a hypocrite, Senator Chambers, that I don't love the children. And I do love children. And it is in the Good Book our duty to take care of the children and woe be to us if we harm a child, and...or we don't take care of a child. That's harming a child. So thank you, Mr. President. [LB306A]

SPEAKER ADAMS: Thank you, Senator Wallman. Senator Chambers, you're next. [LB306A]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Wallman. Members of the Legislature, we've only got, how many days, ten days. You can't think I can't do this for ten days. You think anything on the agenda means anything to me. Obviously not. But you can get rid of me. Give me what I want. And what do I want? I want what's best for the poor people and I want what's best for children. I want what's best for the sick, the marginalized, the rejected, the scorned, the friendless, the powerless, the vulnerable, the voiceless. Give me that and you won't hear another word from me because there's nothing else for me to talk about. You know why there would be nothing else for me to talk about? There are plenty of people to talk about the rich people, to look out for the business people, to look out for the cities, to look out for the counties, to look out for those cities that want to build swimming pools, build roads. You don't need my voice for that. There are plenty of people who will speak for those things, but who will speak for those who have no voice? When it's convenient you'll pretend. When we talk about aid to schools, that's what it ought to be called, not aid to education. We want to do what's best for the children. Well, the children are props. They can be used for that purpose, but it doesn't carry over to anything else. But it does for me, and I'm going to do everything that I can to get something out of this Legislature. And if the children don't get anything out of it, why should I let anybody else get anything out of it? Why should I let the judges get anything out of it? Why? There's no reason. If somebody can give me a reason why others should get something while the children get nothing, then they can make me reconsider what I've decided ought to be the path I will walk the rest of the session. Now I'm not going to do on every bill what I'm doing on this bill,

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maybe. If I could find the words that would reach each one of you, I would say those words. Now if I was a magic man after the order of a Jesus, I say "a" Jesus because down through history there were men in all societies considered saviors. Hiawatha may have even resulted from a virgin birth before the Christians even came up with that. And it wasn't until the 1850-something that the pope talked about the immaculate conception. So up until 1850-whatever-it-was there was no immaculate conception. And if there wasn't nobody who knew about it, men do things and say things that are convenient. I just wish they would find it convenient to do something this once for the children. If you have a parent who is depressed, I mean deeply depressed either from the circumstances he or she is facing or a chemical imbalance,... [LB306A]

SPEAKER ADAMS: One minute. [LB306A]

SENATOR CHAMBERS: ...that person is not going to be as attentive to anything as he or she ought to be, and that extends to children. But let's say that some proper diagnosis would result in the understanding that this person is suffering from an ailment that can be treated with medicine or drugs but the person cannot afford to go and get that diagnosis or purchase the medication, then that person continues to suffer and the children suffer. And we sit here day after day and deny to those families the opportunity... [LB306A]

SPEAKER ADAMS: Time, Senator. [LB306A]

SENATOR CHAMBERS: ...to get the care that they need. Thank you, Mr. President. [LB306A]

SPEAKER ADAMS: And, Senator, you're next. [LB306A]

SENATOR CHAMBERS: I hate to keep asking, is this my third time? [LB306A]

SPEAKER ADAMS: Yes. [LB306A]

SENATOR CHAMBERS: Thank you. And I'll find opportunities to speak yet again. Mr. President, members of the Legislature, I would know better than to try to stand here and talk as long as I've talked about trying to get the hardhearted legislators who are so busy trying to find ways to give business ways to rob the public till, take taxpayers money, I know better than to talk like this about persuading you to use General Fund money to help poor people. That's out of the question. I'm saying there's a pot of money there for the taking and we will not be thieves, we will not be cheats, we will not be crooks. We will be doing something that is virtuous. It doesn't even matter what our motivation is. There are some actions where your motive determines the quality of it. But when it comes to making available to people who have a crying, excruciating need, you do what is necessary to address that need. It doesn't matter what your motivation

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is, that need will be addressed, relief will be forthcoming. Somebody in pain and suffering will have been rescued. And that person wouldn't even care why you did it. They say, whoever they are, that if a person is drowning and you handed a person a Samurai sword, extremely sharp, the person would grab it knowing what it is because not to grab it means you will surely die. Grabbing it means you might have a chance to live. Why should it even be necessary to talk about all these kind of things to you good people, you good people? And I think every one of you is more good than you are bad. But when it comes to human beings, that really ain't saying much. But it's better that somebody says you're good than that they say you're bad. But I believe you all have more good in you than bad. The worst liar tells the truth more often than he or she lies. So if all of you are more good than you are bad, why don't you just give free reign to that goodness that all of you share? I'm going to adopt the story line that "Parson" Carlson would give you if he were talking to you. You're made in the image of the one you worship, and the one you worship is all good. You cannot be perfect as the one you worship is perfect, but you're supposed to try and approach as near to that perfection as is humanly possible. And when you really set your mind and your heart to it, I'm giving you credit for something that I don't have. If you really set your mind and your heart to it, you will surprise yourself not only at how good you can be but how much better you will feel. You're afraid to give into it. You're afraid to accept the liberation that doing a good deed will bring to you. [LB306A]

SPEAKER ADAMS: One minute. [LB306A]

SENATOR CHAMBERS: It's yours for the taking. Just reach out and there it is. It's not going to break the budget. It's going to help a lot of people and it's going to bring happiness even to some people. There are parents who might be able to get subsidized medical care for their children, but if they themselves cannot obtain that medical care, then the child is not likely to be afforded the opportunity to take advantage of what is there for the child. And if we say we care about the child and they are taken...children are taken care of, why do you not care about the parents? Aren't you all the ones who talk about family values? Aren't you all the ones who get incensed when the issue of same-sex marriage comes up because you say the family is being harmed thereby? [LB306A]

SPEAKER ADAMS: Time, Senator. [LB306A]

SENATOR CHAMBERS: Thank you, Mr. President. [LB306A]

SPEAKER ADAMS: Senator, I believe that was your third time. There are no other senators in the queue, so you are recognized to close on your bracket motion. [LB306A]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, what chance do you think there is that my motion will be successful? I think there's no chance

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whatsoever. So I'm going to have to accept my fate and be voted down again. All of those red lights, but the first time around I won't be able to vote because you know what I have to do and I'm preparing to do it now. This is only a part of one day out of your long life. How much is it hurting you to listen or pretend you listen or to do something else? I'm vindicating my existence. Now I don't believe there's...oops, I don't want to offend the "Parson", as far as I know there's nothing after here. I mean, when you croak. That's it. There are mummies over a thousand years old and if they were going to go someplace, a thousand years is enough time to go ahead and leave but they haven't left. But maybe there are mysteries that I don't understand and cannot fathom. But one thing I do understand, that I'm here now and that I know what's going on right now and I know I'm very displeased by it and I feel an obligation to try to do something about it. And all I have is the opportunity to speak. We cannot even get the issue to a vote. I'm not the Speaker. And those who don't want to help the poor and the sick are lucky I'm not the Speaker. You know what I'd tell these people? I set the agenda. There comes a point when principle should prevail and that issue should come before the Legislature and you're going to vote it down. You're not going to be rescued by intimidating me, the Speaker of the Legislature, by saying we will not allow it to come to a vote, then that's the way it's going to have to be. But you're not going to have me tuck my tail and give into you in that fashion. That's what destroys the integrity of this institution. Bring the matter to the agenda. Make us take that position. This is a moral crisis. We have sick people in this state. In the rural areas, you have sick people and you're not going to do anything about it. I like the Speaker. I respect the Speaker. But there are things that transcend my feeling for the Speaker and we can change the Speaker's agenda. We can't get 33 votes, you think, for cloture. Can I get 30 votes to put it on the agenda? I'm going to try. You all may say it's over, that there is no hope. Where there is life, there has to be hope. And I hope I can find 29 of you who will join me in saying that this matter is going to be on the agenda this session. And if this cannot be on the agenda, why in blazes should anything else? [LB306A]

SPEAKER ADAMS: One minute. [LB306A]

SENATOR CHAMBERS: What means more to you than helping these people who can be helped? Nothing on the agenda means more to me. You see what I'm willing to do at my age taking this time. This is just the first part of the first day. How long can I carry it on? We'll find out, won't we. But I won't be like that guy in Congress, Ron Paul or whoever it was, where people bring me water. I would not accept it. Why should I drink water if there are people thirsty and can get no water? Why should I consume food when there are people who are hungry? If I have a headache, why should I take an aspirin when there are people far sicker than that and they can get no medical care? What kind of people are you? What kind of state is this? What kind of Legislature is this? [LB306A]

SPEAKER ADAMS: Time, Senator. Members, you have heard the closing on the

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bracket motion. The question before the body is, should LB306A be bracketed? All those in favor vote aye; all those opposed, nay. Mr. Clerk, there has been a request for a roll call vote. [LB306A]

CLERK: (Roll call vote taken.) 3 ayes, 34 nays, Mr. President, on the motion to bracket. [LB306A]

SPEAKER ADAMS: The bracket fails. (Visitors introduced.) Mr. Clerk for an amendment. [LB306A]

CLERK: Mr. President, Senator Chambers would move to amend LB306A by striking Section 1 thereof. (FA87, Legislative Journal page 1506.) [LB306A]

SPEAKER ADAMS: Senator Chambers, you are recognized to open on your amendment. [LB306A]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, there are seven sections to this bill. The first section if you want to know what's being stricken, you can look in your bill book that has the red covers. But maybe you don't have a bill book anymore. So maybe I ought to read to you what Section 1 says. "There is hereby appropriated (1) \$51,704 from the General Fund for FY2013-14 and (2) \$105,994 from the General Fund for FY2014-15 to the Nebraska Supreme Court, for Program 3, to aid in carrying out the provisions of Legislative Bill 306, One Hundred Third Legislature, First Session, 2013." This would strike the money for the judges. But you're not going to agree to the motion and I don't mind because I just want to take some time. How am I going to tell you that this expansion of Medicaid should be important if it's not important enough for me to take a little bit of time? We've only been here two hours, a mere two hours. We've got 12 more hours and 59 minutes to be here. That's a good long time. Somebody...I was mentioning to somebody the other day as we left here following a bit of discussion that went for the Legislature a little while into the evening. We were leaving around 6:00. And I mentioned that my motor was just getting warmed up and there are some engines that require warming up. And he said, yeah, just like a diesel. And that's true. They make a lot of noise and racket, especially in the wintertime. But once they get going, you've seen these big old trucks, and there are some trains that have diesel engines, once they get rolling don't get in front of them unless you're prepared to meet your maker, whoever that might be. But as mean as the Legislature has been, you don't want to meet your maker today. You want time to clean up that dirty old well-used, misused soul that you supposedly have. If I could stir that pure part of your mind that may still exist, that's what I would like to do. So I'm going to continue to hammer away. Senator Kolowski used to be...I'd like to ask Senator Kolowski a question so I won't misstate anything. [LB306A]

SPEAKER ADAMS: Senator Kolowski, would you yield? [LB306A]

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SENATOR KOLOWSKI: Yes, I will. [LB306A]

SENATOR CHAMBERS: Senator Kolowski, were you once a teacher? [LB306A]

SENATOR KOLOWSKI: Yes, sir. [LB306A]

SENATOR CHAMBERS: Was it a part of teaching to have certain subjects where repetition was necessary and the repetition wasn't occurring just to punish the students? [LB306A]

SENATOR KOLOWSKI: Yes. You can do that and it's a good reinforcement tool. [LB306A]

SENATOR CHAMBERS: What type of matter might require repetition? [LB306A]

SENATOR KOLOWSKI: Well, depending upon what the lesson was about and what various ways you might go about trying to repeat something in different manner, not just in a complete rote manner of doing the same thing, you try to give students a conceptual view of the topic from a number of different angles. [LB306A]

SENATOR CHAMBERS: And if a subject is difficult, is that the kind of subject which generally would require more repetition? [LB306A]

SENATOR KOLOWSKI: Generally to get the concept across as best as you possibly could, that would be the method I would try to use, yes. [LB306A]

SENATOR CHAMBERS: And if I further refined the term "difficult" by saying it was highly complex or complicated because of the number of moving parts that might be there and not only to understand the parts but the interrelationship of the parts, it might be necessary to proceed slowly, state a principle, then as you indicated say it in more ways than one. Then if the students have that puzzled look on their face, you may feel that there is a little more that has to be said and maybe even some repetition. [LB306A]

SENATOR KOLOWSKI: Yes, and you might want to break the parts down into smaller bits. [LB306A]

SENATOR CHAMBERS: Thank you, Senator Kolowski. That was very helpful. And as I look around the Chamber, sometimes I see looks that indicate that a bit of repetition is necessary. And Senator Kolowski was a good teacher. In fact, I don't know the intent, he probably intended, but when he was the chairperson of the Learning Community, he had to do some teaching on occasion and there were things that occasionally had to be repeated. And I would attempt on occasion to be persuasive; generally I was not. But I

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would repeat. And on the floor today I think it's going to be necessary for me to use some repetition. A month from now we'll all be gone away from this place, by that I meant the Legislative Chamber. And since none of us knows when that awful, awful hour might come for us, some of us may be gone, period, never to be seen or heard from again. But while we're here, we're facing something that may seem unbearable--having to listen to me go on and on and on which I'm prepared to do. And I really mean it when I say I'm going to try to get those 30 people, with myself included, to alter the Speaker's agenda, which would mean putting the expansion of Medicaid on the agenda. If we are going to allow ourselves to be prevented from voting for that which is essential and crucial, that by which we can and should justifiably be judged, then whatever harsh, insulting, demeaning thing that can be said about us ought to be said. And for those so-called pro-life people with all their yammering and yakking, they ought to be told where to go every time they raise that issue if they are not in favor of providing this expansion of medical care. I'm concerned about this material world. I can feel that. I can see it. I know that it's there. If there's an odor, I can smell it. All five of your senses are located in your skull. Sight, hearing, smelling, tasting, and touching, all located in the headquarters. That's why they call it a headquarters. Everything is there. And it's like a toolbox. Everything you need to negotiate this planet and find your way through this world, everything is inside your head. You actually live your life inside your head. That's where you live because that is where you determine what your reaction is to anything outside of you. [LB306A]

SPEAKER ADAMS: One minute. [LB306A]

SENATOR CHAMBERS: So what I've got to do is show that I'm willing to take the time to repeat over and over and over what I think we ought to be paying attention to. And maybe it will have some impact and maybe it won't. But as people like to say, at the end of the day my head can rest easy on the pillow because I will have done everything I could do. But in reality when it comes to this issue there won't be any genuine rest. Thank you, Mr. President. [LB306A]

SPEAKER ADAMS: Thank you, Senator Chambers. And, Senator, you are next in the queue. [LB306A]

SENATOR CHAMBERS: Thank you, Mr. President. And, see, there's an example. I talk about object lessons. What does the Speaker always say? Senator Chambers, you're next in the queue. He repeats it. And see the impact it has on me. I step to the mike and I respond and I begin to speak. So maybe I will say something that will touch a cord in you. Right now as you might be thinking about that meal you're going to have whether you or somebody else pays for it, your mind may not be on what's happening here. But maybe after you get that meal and your belly is full, maybe you'll be in a mellower mood and maybe you will be receptive. One thing I can tell you that will maybe make you feel better and maybe not, I am not going to do this on every bill. But that next bill is

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interesting and offers possibilities. LB583A. But I like Senator Haar with the two a's rather than the two r's. I'm not saying I dislike the other one. I'm only speaking of one. And to say that I like one doesn't mean necessarily that I dislike the other. But the fact that I say it doesn't mean I dislike the other doesn't mean I don't dislike the other, but that's not what I'm talking about. You know what my next amendment is going to be? To strike Section 2. And I'm going to work my way through this bill and see how far I decide I should go. I read some comments in the paper and have heard some things on television about this vicious doctor, if he can be called that, who killed some babies that were born alive. And although one of the female patients that he had, she should be called a victim, died, there's no way to know what kind of agony or problems he created for other women that he and the people in his butcher shop dealt with. He was smart and he saved the state money. He pleaded guilty. Then I read about all of a sudden this need to talk about anybody who's performing abortions in Nebraska and the additional scrutiny that's needed, they'll use anything to try to focus on that issue and say that there's nobody like that in Nebraska, but just in case. Just like Agenda 21, just in case. You never know. That's why you look behind trees. That's why you look under the bed. That's why you worry when you're in a room that's dark and you hear something go bump even though when the light was on there was nothing in the room to frighten you. But darkness brings fear because the things that people fear can hide in the darkness. [LB306A LB583A]

SPEAKER ADAMS: One minute. [LB306A]

SENATOR CHAMBERS: So we're going to have the opportunity next session to talk about antiabortion attitudes from the very people who are also anti providing an expansion of medical care. You see how they can reconcile these kind of things inside one head because they really don't care about either. But there are some people who care about both. They care about those people who need the medical care and they care about what they call the unborn. And when people have deeply held convictions for whatever reason, they hold those convictions and nothing is going to sway them. But I've read instances of senators who are very much... [LB306A]

SPEAKER ADAMS: Time, Senator. [LB306A]

SENATOR CHAMBERS: Thank you, Mr. President. [LB306A]

SPEAKER ADAMS: And, Senator, this is your third time. [LB306A]

SENATOR CHAMBERS: Thank you, Mr. President. Very antiabortion on the floor of the Legislature, on the floor of this Legislature. And one of those senators, and it was in the newspaper, while married, impregnated a women and tried to help her get an abortion and she didn't want one. The antiabortion senator and for the sake of those here, none of those who are here and it's been some time since he was here, but if you go back

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and look at who was leading the charge, you might be able to figure it out. But at any rate, when people are dealing with a hypothetical situation they can make a lot of assertions that are unqualified and absolute. But then when it comes to their own house, then it becomes different. There was one of these "Repelicans" in Congress who didn't find out until his son was 21 that his son was gay. That was in the paper. And you know what happened? That homophobic congressman changed his view and announced it. And he didn't know that his son was gay. How could somebody live in your house all those years and you not know something like that? Because the child is not going to tell you. And why will not the child tell his father that? Because he may have heard the very hateful things his father said about children who were just like him. So he kept it to himself--ashamed, embarrassed, feeling less than human. And his father pontificating, self-righteous, hate those people. They ought not be doing this. They ought not be doing that. Marriage is this. Marriage is that. Then when his son reached an age, a level of maturity and he had all he could take, he told him. He said, dad, you know those people you used to sit around the dinner table and say bad things about, the ones you'd stand on the floor of Congress and talk about. You were talking about somebody in your house. You were talking about me. You were talking about your son. All those years you put me through hell. I watched other little boys with their father going to ball games, playing in children's sports, and the father was proud. And my father was talking about me like I'm not even human. And I have no father that I can talk to. You need to be careful. You don't know. You think you know. And I know some things about some of you that you don't think that I know, but I won't tell on you. You know why? I keep a secret better than an icebox that's not broken. But you need to think. Now you're against abortion under all circumstances and you have a daughter. And some scruffy guy, the worst guy you can think of, impregnates her. And you tell her, you're going to have that child, you're going to have that child. You're not going to raise the child. [LB306A]

SPEAKER ADAMS: One minute. [LB306A]

SENATOR CHAMBERS: You're not going to carry the child for nine months. And I say child because that's what you say that it is. Then if a child is born you're going to mistreat the child because of who the child's daddy was. And I've seen that happen. And the child is an outcast in a family who insisted that he be born because they're against abortion. Then they're against the child that they said to the daughter you've got to have that baby. Hateful! I see it all the time. That's why I speak with such contempt. And then I hear the hypocrites on this floor with all of the stuff they say and all the praying everyday, and then we won't expand the medical coverage. And you're going to be against abortion in every case. [LB306A]

SPEAKER ADAMS: Time, Senator. [LB306A]

SENATOR CHAMBERS: Thank you, Mr. President. [LB306A]

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SPEAKER ADAMS: Senator, you are recognized to close on your amendment.
[LB306A]

SENATOR CHAMBERS: Thank you. Members of the Legislature, I'm not going to move to reconsider that one because I've got plenty of other motions. There was a catholic hospital and I'm going to shorten the story. Some people came together and they studied a group, all these medical experts. And if this woman carried the pregnancy to term, she and the fetus were likely to die. Then one of these old dirty-minded catholic bishops jumped in and muddied the water. But there was a woman who was in charge of things and the abortion was allowed and the woman survived. And these catholic men said even if it meant that both should die, that's what it should be. Hateful! I even wrote an article about it. I'm going to try to find it and I'm going to spread it around. Since I'm telling you what it is, you can tear it up when you get it and you don't even have to read it. In Ireland a woman needed an abortion. They refused to allow her to have it and she died. So they began to make some changes in how the law would be administered, men making these decisions, and women go along with the program, some of them quietly, they're socialized, brainwashed into going along with all these horrible things that they see happening to other young women. They hear the horrible things said about women. And yet they let these same narrow-minded, dirty-minded men dictate to them. Look at all these pedophile priests protected by the church hierarchy all the way up to Benedict XVI. See, he was the top dog in Berlin in Germany, Cardinal Joseph Ratzinger. And while he was there, the worst examples of child abuse in all of Europe, then he became the pope and he protected pedophile priests whether they were cardinals, archbishops, bishops, priests, deacons, brothers, it made no difference because the children didn't count. They were protected, these rats...rats are not that bad. Let me not name any animal to demean by comparing that animal to these rotten priests. And what they would do knowing that this rascal had sexually abused little children, they'd transferred him to another diocese without telling them that they were sending a wolf among the lambs. And he'd carry on his depredations there also. One of the worst offenders was Bernard Law, cardinal of Boston, more cases of child abuse by priests than anywhere else at that time. So the pope brought him to Rome and put him over... [LB306A]

SPEAKER ADAMS: One minute. [LB306A]

SENATOR CHAMBERS: ...the second most significant basilica in Rome. Tainted, sinful, Cardinal Bernard Law, protected and elevated in that fashion by the pope. And these men are going to dictate to women. But not all of them are accepting it. Thank you, Mr. President. [LB306A]

SPEAKER ADAMS: Thank you, Senator Chambers. Members, the vote is on FA87. All in favor indicate aye; all opposed, nay. Mr. Clerk, there has been a request for a roll call

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vote. There is a request for the call of the house. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB306A]

CLERK: 25 ayes, 0 nays, Mr. President, to place the house under call. [LB306A]

SPEAKER ADAMS: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel, please leave the floor. The house is under call. Senators Mello, Dubas, Scheer, Howard, Pirsch, Ashford, Bolz, McCoy, Smith, Krist, Christensen, Schilz, and Carlson, please record your presence. Senator Scheer, Senator Ashford, Senator Mello, Senator Christensen, Senator Krist, Senator McCoy, Senator Schilz, Senator Carlson. Senator Ashford. The question is the adoption of FA87. Mr. Clerk. [LB306A]

CLERK: (Roll call vote taken, Legislative Journal pages 1506-1507.) 4 ayes, 40 nays, Mr. President, on the amendment. [LB306A]

SPEAKER ADAMS: The amendment fails. [LB306A]

CLERK: Mr. President, Senator Chambers would move to amend with FA88 and would strike Section 2 from the bill. (Legislative Journal page 1507.) [LB306A]

SPEAKER ADAMS: Senator Chambers, you're recognized to open on your amendment. [LB306A]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, I'd like to ask Senator Carlson a question. [LB306A]

SPEAKER ADAMS: I raise the call. Excuse me, Senator Chambers. [LB306A]

SENATOR CHAMBERS: That's all right. [LB306A]

SPEAKER ADAMS: I raise the call. [LB306A]

SENATOR CHAMBERS: Because I'm going to raise Cain. (Laugh) [LB306A]

SPEAKER ADAMS: Senator Carlson, do you yield? [LB306A]

SENATOR CHAMBERS: Senator Carlson... [LB306A]

SENATOR CARLSON: Yes, I'd yield. [LB306A]

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SENATOR CHAMBERS: ...do you recall an incident that Jesus spoke of where this person had arranged a wedding--he was an important person--and nobody came? So he sent his servants out and he sent them to the highways and byways and compelled them to come. Do you remember that story having been told? [LB306A]

SENATOR CARLSON: I do. [LB306A]

SENATOR CHAMBERS: And the words were compelled them to come. Those are the words. [LB306A]

SENATOR CARLSON: Invite them. [LB306A]

SENATOR CHAMBERS: Yes. Here's the...thank you, and that is correct. That was the first call of the house. So every time I ask for the call of the house, Senator, I am fulfilling scripture. Senator Kintner had said that god put me in office here. Remember the god put every...the government in place. Look at me. Which of you has anybody said was put here by god? Which of you? Senator Carlson raised his hand. Well, why won't you listen to the one whom god put here? And why do you think I was put here? To try to enlighten you, and it's not working any better for me than somebody 2000 years ago. But fortunately if you invited me to a place where there were two big pieces of wood in a cross configuration, I wouldn't back up close to that configuration because I learn that under our rules you don't have to call your colleagues back who decide to leave. But generally we do honor a call of the house to bring people here. And when we get to this time of the day I will ask for a call of the house because if we don't have 25 people, then we no longer are functioning as a Legislature because we don't have a quorum. So if one of these times enough stay away so that the number falls below 25, then we're out of here. I'm going to tell you all something else. If I'm in the process of trying to take some time and I get so caught up in what I'm doing that I neglected to get another motion or amendment on the desk and it looks like I'm going to be cut off, you know what I will do? I will move to recess because that is a priority motion. It might even be prior to an adjournment motion. But regardless, recessing, a motion to recess, or a motion to adjourn will not yield to each other. So if I move to recess, then that has to be taken up. And like any other motion I can ask for a call of the house and I can ask for a roll call vote and that buys me the time that I need. And if it doesn't and that motion is voted up...voted down which it probably would be, then I'll just move to adjourn and I'll still have more time, just to let you know that you're not going to be able to get rid of me very easily. And the same applies to everybody else who might be in that situation. I've only got 27 minutes to go and we will reach high noon. And speaking of high noon, I think it was Gary Cooper who sang that song or somebody sang it, "Do not forsake me, oh my darlin' on this our weddin' day." Because he had to face down this guy who'd been in prison and he was on his way to town. "He made a vow while in state prison. Vowed it would be my life or his'n. I'm not afraid of death but, oh, what can I do if you leave me." That's what he's telling this woman. A woman...a man always needs that

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fallback and the woman is going to be his rock, his strength. When you catch one of these scheming, no-good politicians and he's caught with his trousers down, so to speak, you see that stony-faced, ever-loyal wife behind...beside him, probably thinking she ought to kill him. But it's too late now. She should have killed him before he did what he did. But she's there. Now if a woman was caught in bed with another man, do you think the husband is going to be standing there next to her? Hmm? Do you think if a woman were governor of a state and she said that she had to travel up to Alaska to whatever they do in Alaska that's official business, then you find out that she went down to Rio de Janeiro to have a rendez-vous with a lothario, with a Romeo, with a Valentino while she's governor. And then she comes back with the smell of ropy smut upon her body which came there from lying in bed with this sinful man and committing adultery and she's the governor. And she leaves office shamed. Then she says, you know what? Governor position is nothing. I think I'll run for Congress. What chance do you have...think that woman would have of winning a seat in Congress? Huh? Didn't a man just do that? Didn't the man just do that? And besides he divorced his wife, but he believed in the American Christian institution of marriage. So what did he do? He divorced his wife and married his sweetie and now they will live happily ever after on the public dole while he's on the Congressional roll in Washington, D.C., making laws for everybody else. And he said, I know a god who forgives. And then he told on himself six times and people didn't even know he had been catting around six times. But he's in Congress now. And these women still let these men trick them and dictate to them how they're going to live their life and what they're going to do. And if a woman is raped and impregnated, then they going to make here carry that pregnancy to term. And if a man impregnates a woman, first thing he's going to do is go through the yellow pages and look up abortion clinic. And then he's going to run to Congress or the Legislature and speak against a woman's right to have an abortion. America is a strange place and there are strange people who walk the streets of America, who pass the laws that dictate how other people shall live, who prosecute people for breaking those laws and will see that they go to prison. But then when they break laws, they bring their second in command to downplay the seriousness of it and say that's nothing, that's just a technicality because this man is above the law. And the law that he was sworn to uphold and enforce does not apply to him. [LB306A]

SPEAKER ADAMS: One minute. [LB306A]

SENATOR CHAMBERS: So it brings me back to what I've been talking about. We're going to hear discussions about the importance of the judiciary. We've heard some of that already. I think the windmill bill might be on there too. I'll be jousting with the windmill this afternoon. Don Quixote. Now he was the...he was kind of a joking guy and he had a sidekick named Sancho Panza. And Sancho was the one who like the court jester could say what nobody else in the story was going to say. The royal feast, the jester was allowed to say things. "The royal feast was done." [LB306A]

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SPEAKER ADAMS: Time, Senator. And, Senator Chambers, you're in the queue next. [LB306A]

SENATOR CHAMBERS: Thank you, Mr. President. I timed that like they used to do the serials. Just when something exciting is going to happen, it blanks off and you have to come back the next day or the next week. "The royal feast was done; the King sought some new sport to banish care, and to his jester cried: 'Sir Fool, kneel now, and make for us a prayer!' The jester doffed his cap and bells, and stood the mocking court before; they could not see the bitter smile behind the painted grin he wore. He bowed his head, and bent his knee upon the Monarch's silken stool; his quavering voice arose: 'O Lord, be merciful to me, a fool!' Then so you don't have to listen to it all, he went through this recitation of various things that all these people did throughout society. And his refrain was after each recitation, "O Lord, be merciful to me, a fool!" And you know how these rhymes have to end. There was a guy named Jim Croce and he sang a song about this guy who could shoot pool. And he cheated a wrong guy. This guy, the bad pool shooter was named Jim. "Uptown got his hustlers; the bowery has got his boss. 42nd street got big Jim Walker, he's a pool shootin' son of a gun. He's big and dumb as a man can come, but he's stronger than a country hoss. And when the bad folks all got together at night, they all called big Jim boss. You don't tug on Superman's cape. You don't spit into the wind. You don't pull the mask on the old Lone Ranger, and you don't mess around with Jim." "Out of south Alabama came a country boy. He said, 'I'm looking for a man named Jim. I am a pool shootin' boy by the name of Willie McCoy but back home they call me Slim.' He said, 'I'm looking for the king of 42nd street. He's driving a drop top Cadillac. Last week he took all my money, and it may sound funny, but I've come to get my money back. This is the part I want to get to. "A hush fell over the poolroom. Jimmy came boppin' in off the street. And when the cuttin' was done the only part that wasn't bloody was the soles of the big man's feet. He was cut in about a hundred places. He was shot in a couple more. And you better believe I sung a different kind of story when big Jim hit the floor. You don't tug on Superman's cape. You don't spit into the wind. You don't pull the mask on the old Lone Ranger, and you don't mess around with Slim." Slim had taken over. Well, about the hush that fell over the poolroom, there's a hush that sometimes will fall over a gathering. And that can happen at any time. And what usually causes it to happen is when something is going to be said or something is going to be done that people don't want to miss any of. So even when nature... [LB306A]

SPEAKER ADAMS: One minute. [LB306A]

SENATOR CHAMBERS: ...seems to hold her breath and everything is still, like now until the Speaker says "time" or until I talk again, what will hush me up is to tell me that you'll give me what I'm asking for--29 people who will sign a motion to put the expansion of Medicare on the agenda. Thank you, Mr. President. [LB306A]

SPEAKER ADAMS: Thank you, Senator Chambers. And, Senator Chambers, this is

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your third opportunity. [LB306A]

SENATOR CHAMBERS: Thank you, Mr. President. And I love the way you phrased that--my third opportunity, the opportunity to speak yet again. I like to talk about songs because people who write songs create lyrics that can fit every situation. And I'm not going to sing it all but I've quoted "Henry the Eighth, I am, I am," and it reaches that point, "second verse, same as the first." When is the second verse of this oratorio going to occur? I don't know if oratorios have verses. But at 1:30, at 1:30 I wrote a poem and handed it around. I know it was too long for anybody to read, but it was about this farmer who was antagonized by a lawyer and he stabbed the lawyer. The farmer wound up on death row. And he was wondering what would have happened had it been the other way around. If a lawyer or some big shot had killed a farmer or an ordinary person, would that individual be on death row? Well, there's really no way to tell for sure what would happen. But one of the lines talked about how this fellow had no idea when he looked at himself in the mirror that morning that before the sunset that night he would be a murderer. Who thought when they came here this morning, including me, that this first bill LB306A was going to keep us here until noon? Who thought that? I didn't. I didn't plan it. Things happen. So here we are. And that bill hasn't even gotten a vote yet. But when time comes to vote, it will move. And at least on that particular bill "Baby Face" behind me will be able to make his motion to move the bill. Now he's got his name. That's his moniker from now on. Doesn't it fit? I select carefully and when the moment is right and the hush has fallen over the poolroom, that's when I strike. Over the noonhour people can let me know or if you don't, I'm going to track down every senator at some point to see if I can get those 30 people, which would include me, to put the expansion of Medicaid on the agenda. Even if we say it takes 33 votes to cut off debate, we have to get the matter before the body first. We cannot let this session end without our addressing that matter head on at least one more time. I left here Thursday thinking that I would succeed in adding an amendment to a bill. But once the reality set in on me and I became aware of how hard the League was working, mayors they had called and senators, and I know how...that my colleagues are not burdened by an overabundance of courage that that was out the window. (Laugh) That was over. So there might be a possibility if we get the matter before us that changes can take place. But what do they say about the lottery? You can't win if you don't play. We've got to get the bill before us. [LB306A]

SPEAKER ADAMS: One minute. [LB306A]

SENATOR CHAMBERS: And it's within our power to do that. So I'm not through with that issue and I'm not through talking about it. I will be refreshed at 1:30 when we come back and resume our deliberations. Am I closing now, Mr. President, or is that my third time? [LB306A]

SPEAKER ADAMS: You still are entitled to a closing. [LB306A]

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SENATOR CHAMBERS: And I probably this time is out, right? I've reached the end?
[LB306A]

SPEAKER ADAMS: Yes, 20 seconds. [LB306A]

SENATOR CHAMBERS: Then I'll stop at this point. I, as my colleagues say, yield the time back to the Chair, although in a Legislature there's no such thing. [LB306A]

SPEAKER ADAMS: And the Chair recognizes you to close on your amendment.
[LB306A]

SENATOR CHAMBERS: Thank you, Mr. President. Do you know something, brothers and sisters, friends, enemies, and neutrals? The Speaker and I have communicated more with each other publicly during this morning than we have at any other time since either of us or both of us has and have been in the Legislature. I speak and recognize him; he speaks and recognizes me. We're having that exchange and nothing else is happening. But I'll tell you this. There was a very bad tornado in a place called Moore, Oklahoma, and the last I heard 51 people had been killed and 20 children. And it seemed that the announcers were most affected when they were talking about the children, and it seemed that when they were interviewing people, what had happened to the children had affected people the most. An elementary school had been obliterated and nobody had thought that would happen. This tornado supposedly had some of the strongest, fastest moving winds of any that had been recorded in the history of recording those things, and the wind was that near the surface of the earth and it just swept through. It came out of a clear blue sky, sat down right over the town, something that nobody had expected, something nobody heard of. The tornado, the main vortex was one mile across and then the side winds were another mile. Something two miles across, sounding like the mighty, rushing roar of winds and the ocean combined with a train coming for one purpose--to kill and destroy. And it acted in accord with its nature. It destroyed, devastated, and it killed. And it reminded human beings with all of their arrogance that there's nothing, nothing that a man can construct that will withstand the fury and force of nature when she decides to let it go and remind people who's in charge. There were a lot of children still listed as missing which means probably more have died. And we will all feel that pain. It's not hard to empathize with somebody who lost a child. But we cannot carry that over to prevention which is better than cure. We can prevent children and their parents from dying and we won't. Maybe if I would stand up here one morning with you in one of your prayers in exchange for your signing that motion we might could strike a deal. You might feel it's worth making me stand in here while you pray or some other hireling comes in here and prays to get from you a signature that will give us the opportunity to behave as a Legislature comprising compassionate, responsible, caring lawmakers... [LB306A]

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SPEAKER ADAMS: One minute. [LB306A]

SENATOR CHAMBERS: ...should respond. Forget about the 17 whoever...16, Senator Johnson removed himself, but forget about those people and let us do what the rest of us ought to do. If we take the first step, when I was little they used to tell you this, you take the first step and god will take all the other steps necessary. You've all heard that. You've also heard god helps those who help themselves. That's the philosophy of a thief and he always winds up in jail. (Laugh) So we got to be careful how we phrase those things. But I do want you all to help me to help us help ourselves and help those who cannot help themselves whom we have an obligation, not just as legislators but as human beings and our brothers' and our sisters' keepers. Thank you, Mr. President. [LB306A]

SPEAKER ADAMS: Time, Senator. Members, the motion before the body is the adoption of FA88. All those in favor indicate with aye; all those opposed, nay. [LB306A]

SENATOR CHAMBERS: Roll call vote. [LB306A]

SPEAKER ADAMS: There has been a request for a roll call vote. [LB306A]

CLERK: (Roll call vote taken.) 3 ayes, 32 nays, Mr. President, on the amendment. [LB306A]

SPEAKER ADAMS: The amendment is not adopted. Mr. Clerk. [LB306A]

CLERK: Mr. President, some items. Senator Kolowski offers LR346. It's a resolution. It'll be laid over at this time. Enrollment and Review reports LB66, LB140, LB366, LB366A, LB497, LB561, LB634, and LB634A, all reported correctly engrossed. Senator Campbell offers LB577A. (Read LB577A by title for the first time.) And an amendment to LB429A by Senator Crawford to be printed. (Legislative Journal pages 1507-1510.) [LR346 LB66 LB140 LB366 LB366A LB497 LB561 LB634 LB634A LB577A LB429A]

Mr. President, I have a priority motion. Senator Kolowski would move to recess the body until 1:30 p.m.

SPEAKER ADAMS: Members, you have heard the motion to recess. All those in favor indicate aye. Opposed. We are in recess.

RECESS

PRESIDENT HEIDEMANN PRESIDING

PRESIDENT HEIDEMANN: Good afternoon, ladies and gentlemen. Welcome to the

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George W. Norris Legislative Chamber. The afternoon session is about to reconvene. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

PRESIDENT HEIDEMANN: Thank you, Mr. Clerk. Do you have any items for the record?

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

PRESIDENT HEIDEMANN: Thank you, Mr. Clerk. We proceed to the first item on this afternoon's agenda. Mr. Clerk.

CLERK: Mr. President, LB104. Senator Murante, I have Enrollment and Review amendments first of all. (ER86, Legislative Journal page 1182.) [LB104]

PRESIDENT HEIDEMANN: Senator Murante for a motion. [LB104]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB104]

PRESIDENT HEIDEMANN: The question is the adoption of the E&R amendments to LB104. All those in favor say aye. All those opposed say nay. The amendments are adopted. [LB104]

CLERK: Senator Smith, AM1236, Senator, I have a note you wish to withdraw AM1236. [LB104]

SENATOR SMITH: That is correct. [LB104]

CLERK: Senator McCoy, AM1216. I have a note, Senator, you wish to withdraw AM1216. [LB104]

SENATOR McCOY: That is correct. [LB104]

CLERK: Mr. President, the next amendment I have to the bill, Senator Smith, AM1408. (Legislative Journal page 1376.) [LB104]

PRESIDENT HEIDEMANN: Senator Smith, you're recognized to open on your amendment. [LB104]

SENATOR SMITH: Thank you, Mr. President, and good afternoon, colleagues. You're going to hear more about LB104 during this discussion. And you may recall from General File that this is a wind bill for Nebraska. There was a competing wind bill as

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well that followed this one on General File, that was LB402. And at the time of the General File, I did support LB104. And I've thought long and hard about this and there are numerous concerns I have on LB104. I want to speak to those today with this amendment, and this amendment is a legitimate amendment. I am looking and working to get it adopted, and I'll talk more about the specific amendment in a moment. But the chambers of commerce, the developers, the lobbyists are all saying LB104 is a revenue bill. It's a tax issue. It's about economic development. But, colleagues, I believe it is about more. I believe it's about a clear and comprehensive energy policy for our state. And LB104 in its current form, I believe, is a piecemeal approach to addressing I think a greater issue, a larger issue in our state. I attended an OPPD stakeholders meeting last Friday during a recess day. And I think it's one of the great things that our public power companies do in Nebraska. They try to stay in touch with their citizens and the businesses they serve. And during that stakeholders meeting, I heard from the participants in that meeting three things that they want out of their energy company. They want a voice and, of course, public power has always been very, very good at being accountable and responsive to their customers. They want clean energy. I heard that very clear in that meeting. But they did not dismiss low emission fuel sources as well. It was not all about solar or wind. It was about low emission as well. They do want clean energy, and they want lower and competitive prices. You know, 3 percent, roughly 3 percent of gross income for our families and our individuals in the state is spent on electricity to their homes. And a significant portion of business costs and industry costs today is energy. So energy is a huge piece of our state's cost of doing business and our families' expenses. There are four points that underline my concerns about LB104. First of all, Nebraska is unique as a public power state. We can't really be compared to Iowa or to Kansas or to the other states around us directly. There are some things very, very unique about Nebraska, that energy is essential to our citizens, the businesses in our state, and the economic well-being of our state and the competitiveness of our state. And it's not to be taken lightly with a piecemeal approach to solving the problem. A large swing in energy prices or cost for a business or an individual can be very devastating. It can be as devastating as the tax structure on our citizens and on our businesses. And, colleagues, we've heard a lot of discussion about lower income in our state. And a swing in energy prices can be very harmful and most harmful to our low-income residents in the state. And finally, clean energy and competitive pricing, colleagues, are not mutually exclusive or incompatible. We can have both. So I want to talk about three points that underline this amendment. First of all, LB104 was written without consideration of the restrictions the Power Review Board has for approving such projects under Chapter 70 of the statutes. So Chapter 70...77, of which LB104 is written, does not consider the type of language that exists elsewhere in statute regarding the review and approval of generation in the state. LB104, though considered to be an incentive for renewable energy, it makes no attempt to possibly address the causes of underdeveloped wind resources in our state. So what are the reasons? Why do we have the amount of renewables that we have in our state? Why is Iowa producing more renewable energy than we are? Why is Kansas? We really don't know, and I don't think

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we really have taken the time to understand the reasons. And finally, LB104 seems to ignore electric ratepayers in Nebraska and the best solutions for rural economic development. And you're going to hear more about that through another amendment that will follow mine. So I plan to address each one of these concerns in more detail as we continue discussions on LB104. Colleagues, I don't believe we have to be on the bleeding edge. We can be on the leading edge. We have great valuable resources in our state in wind power. But we don't have to be on the bleeding edge where it cuts into the muscle of the state in our resources and our taxes. We can do a much more constructive, thoughtful, long-term approach to bringing on more renewable energy in the state and making certain that our citizens and our businesses are not the ones who suffer with higher electric rates nor with the loss of tax incentives whenever those benefits are going strictly to citizens in neighboring states, not even our state. So with that, I'm going to put myself back in the queue, and then I'll start going through and addressing each one of these issues in a bit more detail. Thank you, Mr. President. [LB104 LB402]

PRESIDENT HEIDEMANN: Thank you, Senator Smith. Those wishing to speak on the proposed amendment: We have Senator Mello, Senator Ken Haar, Senator Schilz, Lathrop, and others. Senator Mello, you are recognized. [LB104]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. I have a lot of area to cover, so I'll try to be as brief and to the point as possible. As many of you may remember, I had a separate bill on General File, LB402, that looked to try to increase our ability to do wind development in our state, but took a different approach than LB104. I appreciate the work of the Natural Resources Committee and Chairman Carlson for ultimately making the bill a priority of the committee this year, as well as working with the bill with me to get it out of committee. But as we discussed on General File for LB402, I asked the body to advance that even though we'd already advanced LB104 a week earlier because I felt we needed to have a discussion with the supporters of LB402 and LB104 to see if there was a way that we could come to consensus on trying to create some kind of game-changing incentive for wind development in our state. I appreciate the work Senator Hadley, Senator Lathrop, Senator Carlson, and Senator Schilz put in with meetings we had in regards to both TradeWind, who is a very large project, probably the largest wind project our state may see in the near future, as well as a lot of interested parties that came in support of LB402, in regards to looking if there was a way to be able to combine the concepts. Unfortunately, there wasn't. There wasn't consensus in regards to a way to be able to combine both concepts because they look at development and they look at incentives in a different fashion. And the reality is this: LB104 works for the TradeWind project in Dixon County. LB402 doesn't work for it. Senator Carlson, myself, and Senator Schilz asked multiple times ways to make LB402, the C-BED model, work for this \$300 million to \$400 million project. They said it couldn't work no matter any way we try to draft it based on the way that they were going to do their project. I took that in the sense that LB104 was a simpler, easier way

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to be able to do wind development in our state comparison to what we had in LB402. As part of the agreement that I felt I laid out on General File with LB402 that if we weren't able to make consensus on these bills, LB104 would go ahead and LB402 would be left behind. And the body would have to make the determination if they supported the policy in LB104 because it was advanced out of committee first, it was ahead in the worksheet order, and it was prioritized by a senator well ahead of my bill coming out of the committee and before it got a committee priority designation this year. I feel I'm keeping my word with what I told the body and what I told the public in regards to the debate we had on LB402 when I asked the Speaker to hold LB402 for the remainder of the year. I feel, colleagues, that I don't want to see a bill which, by the way, I know there's a lot of political gamesmanship being played, not only within this body but outside the body with the Governor and his staff, I've yet to see the Governor say he'd support LB402 publicly. I know he doesn't support LB104. But the one thing in the conversation I've had with multiple members over the last two weeks is that we are at a precipice right now of having two bills on Select File that could change the landscape of our state both energy developmentwise and economic developmentwise. And I refuse to allow a bill that ultimately, while I believe is a good public policy, be used as a political weapon to try to take down another senator's bill, where we had an agreement that if we couldn't come to consensus, LB402 would be held and LB104 would go ahead. That doesn't guarantee LB104 will pass. But I'm going to support it, and I hope other people will support it too. But the reality, colleagues, is this. There are other amendments that are filed. I'm not intending to talk any more times than this one allotment. But I can tell you this: One, there's an amendment that tries to take my bill, gut LB104 and insert my bill in there. I don't support that, not that I don't support the policy, but I don't support the process because I held my bill for a reason, because my word ultimately is my bond and I made my word to Senator Lathrop, Senator Hadley, and to the floor of the Legislature when you decided to pass LB402 over a number of objections that I heard, of senators not wanting to have to pick one or the other; seeing two bills on Select File and seeing a collision, so to speak, occur. You gave me your vote to move LB402 to Select File with the hopes that we could negotiate a compromise. We tried. Unfortunately, we were not successful. I think LB104 is not a bad public policy. That's why I'm voting for it. I think it goes about wind development a different way than LB402. Of course, I would love to see as much investment in Nebraska companies, in Nebraska workers, in local communities as humanly possible. And I think LB104 can do a good number of that without having all the provisions of LB402 included in it. I think you're going to hear an awful lot of arguments of, one, why LB402 is great and why it's much better than LB104. [LB104 LB402]

PRESIDENT HEIDEMANN: Time. [LB104]

SENATOR MELLO: Thank you, Mr. President. [LB104]

PRESIDENT HEIDEMANN: Senator Ken Haar, you are recognized. [LB104]

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SENATOR HAAR: Mr. President, members of the body, if you would grab those color handouts that I handed out, and I'd like to spend just a little bit of time with them. The first one, of course, the message, the three-pager, wind development, Texas is number one; California is number two; Iowa is number three. And when you say, where is Nebraska, well, if you look over to page 3, we're still sort of tying our shoes. And my concern, folks, in this discussion is that we're going to be stuck tying our shoes when all is said and done and the race may be over. That's my fear. My hope is that we look at this as an opportunity and one way or the other we pass wind legislation because there is a time deadline. December 31 is the end of the time that Congress has given the production tax credit, the incentive at the federal level for producing wind farms. If we don't get our act in place this session, we're going to be...we're going to get our shoe tied and, folks, in the end of the race is going to be over. The second one I handed out is a series of graphs. And, of course, one of the reasons we're interested in this is because what I would call show and tell. You can go to every state around Nebraska and you can see wind turbines all over the place. If you notice from the graphs, in terms of wind potential, Nebraska is number four. Actually Texas is number one, our colleague state to the south, Kansas, is number two, we're number four. But look where we rate in terms of percent of wind penetration. And I know there are reasons for it and I'm sure we need to talk about these and get it done, but other states around us have figured out how to do this. We have got to figure out how to do this. There is so much at stake. There's property tax income, there's jobs, there's industry for Nebraska; and we'll talk about all these as we go along. And if you notice in the purple graphs at the bottom and, again, there is some reasons but there are some companies now like MidAmerican across the border in Iowa where the energy rate is lower and they have a huge wind penetration than it is for NPPD. Certainly when we look at the future, developing our renewable energy sources are not going to stop the rise of energy, but they're going to put it on a more reasonable path than if we keep going on the path we're on right now. And then finally in this turn at the mike I'm going to try out a Spanish phrase, so if you know Spanish you'll know I'm murdering this, but here it is: No corte la nariz pesar de su cara--translation is don't cut off your nose to spite your face. And, you know, cutting off your nose to spite your face is an expression used to describe a needlessly, self-destructive overreaction to a problem. I have some concerns that through this discussion... [LB104]

PRESIDENT HEIDEMANN: One minute. [LB104]

SENATOR HAAR: Thank you...we have friends fighting friends on this issue. And in the end, we could wind up cutting off our nose to spite our face. And we just can't let this happen. If we don't get in this wind race soon, there won't be any race left. And every state around us will be benefiting, and we're going to be left tying our shoes. Thank you very much. [LB104]

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PRESIDENT HEIDEMANN: Thank you, Senator Haar. Senator Schilz, you are recognized. [LB104]

SENATOR SCHILZ: Thank you, Mr. President, members of the body. Good afternoon. I stand here today hopefully with everybody understanding my intentions, and my intentions are not to cause this wind bill or any other wind bill to fail. My intentions are to make sure that we as the deliberative body of this state of Nebraska have the opportunity to take a look at and understand that we have two bills out there, both of which were passed through General File, that sit on Select that both have proponents for, both here on the floor as well as in the lobby and the greater...the state of Nebraska and the rest of the country and the rest of the world if you look at who's interested. So I don't necessarily disagree with Senator Haar. I think he's correct. But I do think that we must be careful and we must have these discussions as we go forward. And I can tell you that in my mind, if we had to do it all over again, I would hope that we would ask...that we would have asked for a joint hearing between the Natural Resources Committee and the Revenue Committee because both bills essentially look to do the same thing. They just look to do it a little bit differently. And I'm going to ask some questions of some folks because I want to understand, and I think I do, and I want to see if all this is going to fit within our time line. So would Senator Mello yield to a question, please? [LB104]

PRESIDENT HEIDEMANN: Senator Mello, will you yield? [LB104]

SENATOR SCHILZ: Okay, I'll wait for him. I can get on the mike again. Would Senator Hadley answer a question, please? [LB104]

PRESIDENT HEIDEMANN: Senator Hadley, will you yield? [LB104]

SENATOR HADLEY: Yes, I will. [LB104]

SENATOR SCHILZ: Senator Hadley, thank you very much and thank you for your leadership on this as well. I know this hasn't been an easy road for you, and this hasn't been an easy session for all of us, and I appreciate your hard work. We come down here to a difference of what we think is right as depending on whether or not we should take Nebraska Advantage and move it forward or whether or not we should take the C-BED model as is out there and move forward on that. And so with that, I have a few questions. I see here with tier 5 that there's a couple of things there. If we introduce this and put this in place, will there have to be rules and regulations promulgated so that we understand what a project is, what a renewable project is, when that project actually becomes a project, and nature such as that? Or is that spelled out somewhere? [LB104]

SENATOR HADLEY: I would guess that would be up to the Department of Revenue in dealing with their rules and regulations. What we're saying is that renewable energy

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would come under level 5 of the Advantage Act. [LB104]

SENATOR SCHILZ: Okay. But we know this is that when we come down, and under Senator Smith's amendment, to be a certified renewable export facility there has to be certain things in place. Do you foresee or do you think that that would be the direction that the Tax Commissioner and the Department of Revenue would go into to help define that? [LB104]

SENATOR HADLEY: Well, I would guess if we adopt this amendment, which I stand opposed to, that could very well be. [LB104]

SENATOR SCHILZ: And then if we don't do that and we don't adopt that, then what definition will they use? [LB104]

SENATOR HADLEY: I would guess that they will use the definition that they use in their rules and regulations that they make up when they do them. [LB104]

SENATOR SCHILZ: Will they have to look back to any other legislation to figure out what those are? Or will they just... [LB104]

SENATOR HADLEY: You know, I really don't know, Senator Schilz. [LB104]

SENATOR SCHILZ: Okay, thank you. [LB104]

PRESIDENT HEIDEMANN: One minute. [LB104]

SENATOR SCHILZ: Thank you. And I appreciate that, Senator Hadley. I think that this shows one of the things...one of the issues that we look at. If we've got a December 2014 date and we don't know what a project is as defined by the Department of Revenue because it's never been done before under tier 5, how long does the average rules-making process take? And then once that's done, how long does the application process take to get in on Nebraska Advantage? I can tell you this...oh, and then once that's done, you can't start construction until after your application is approved. So all of this has to go forward first before we can turn around and get this project going. I will contend that C-BED already has that already in place because we've done it before. It's not a model. It's not something out there in the ether. It has been done. [LB104]

PRESIDENT HEIDEMANN: Time. [LB104]

SENATOR SCHILZ: Thank you. [LB104]

PRESIDENT HEIDEMANN: Thank you, Senator Schilz. Senator Lathrop, you are recognized. [LB104]

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SENATOR LATHROP: Thank you, Mr. President and colleagues. Good afternoon. The amendment...well, let me start with this. I want to acknowledge that the work of the Natural Resources Committee, not just this year, but the first year I got here was really when this body started to pay attention to wind. And a lot of the work that's been done to get us to the point where we can talk about what's the next step for Nebraska in the development of wind, much of that's happened in the Natural Resources Committee. I appreciate the work of Senator Carlson and his committee, as well as the work of Senator Langemeier, who was the Chair when a great deal of the steps that we've taken to develop wind were taken. I also appreciate the work of the Revenue Committee as they try to put forth a policy and participate in LB104 and advance a policy that puts wind on par with other economic development undertakings. And we've done this many, many times since I arrived in this Legislature seven years ago. We have done various amendments to the Advantage Act to entice business into Nebraska. And I got to tell you in my experience in watching the Advantage Act, the amendments to the Advantage Act, rarely do they generate much more than a lovefest. That's what we typically we do. I mean, when somebody says I'm thinking about bringing \$300 million to your state or \$400 million to your state to build a datacenter, we pass an amendment to the Advantage Act. When someone wants to expand a business and make a significant investment in Nebraska and provide economic development, we do another amendment to the Advantage Act. Now it's got to make sense. It's got to pass the nose test or the smell test over in the Revenue Committee. But by the time it gets to the floor, they are generally embraced, warmly embraced. And now we have an opportunity in LB104--it's not a datacenter, although we might have lost one because LB104 didn't come first--it's wind. And you have seen more handouts in the time you've been here about where Nebraska ranks in terms of its potential and where Nebraska is in terms of its development. And clearly, the potential is enormous and the development lagging behind. And now we have a company that wants to bring a large project here. They have told us LB104 will work. And LB104 is in keeping with the way we have amended the Advantage Act in the past to incent business to come to Nebraska. Now this isn't just theoretical because this development is going to be beneficial to Nebraskans and it's going to be beneficial to the county where it will be located. And I say the county, there will be more after the first one, but let me talk about TradeWind. They will come into Dixon County and spend \$300 million to \$400 million. They will put up a significant project. They will pay landowners \$10,000 to \$15,000 a year for each one of those towers. Now that's a lot of money. And they will pay a nameplate tax. It's like a substitute for property tax. I've seen estimates between \$700,000 and \$800,000 a year to Dixon County. This meets all the criteria. This thing looks good. It should be warmly embraced like we've done it for the last seven years. [LB104]

PRESIDENT HEIDEMANN: One minute. [LB104]

SENATOR LATHROP: And I think ultimately it will, and we may have a conversation

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when we get to Senator Schilz's amendment about whether we can require, which would be a first with an economic incentive, require certain hoops that you jump through or spend in certain places money before you can take advantage of a disincentive. And we'll deal with that when we get to Senator Schilz's amendment. But this is not a piecemeal approach. We will take care, with the Hadley amendment that we'll get to, all wind energy projects as a practical matter. And we will throw the welcome mat out and they'll be into your county. It will provide a means for development in your county. You will be the beneficiaries, rural Nebraska, when LB104 is embraced. And when the developers come here and invest in Nebraska, the counties and the landowners are winners. [LB104]

PRESIDENT HEIDEMANN: Time. [LB104]

SENATOR LATHROP: Thank you. [LB104]

PRESIDENT HEIDEMANN: Thank you, Senator Lathrop. Senator Smith, you are recognized. [LB104]

SENATOR SMITH: Thank you, Mr. President. And as I mentioned in my opening, there were three points I wanted to cover. And the first one I want to get to is the primary reason for this amendment. And, colleagues, this is extremely confusing. I understand. And I was listening to Senator Hadley and Senator Lathrop and Senator Mello how they've all said they oppose this amendment. I don't think they understand what the amendment does because I don't think they understand what restrictions there are in Chapter 70 of the statutes and the statutes in which the Power Review Board must abide by in order to grant and approve those requests for generation construction. In Chapter 70, there's three paths, colleagues, three paths in which new generation can be approved by the Power Review Board. Don't believe me, talk to the Power Review Board. There's three paths. The first one is a standard approval process which most public power companies follow to get their generation approved. There's two reasons that they look at that it must satisfy before they approve it: that that new construction serves public convenience and necessity and it's the most economical and feasible supply. Now it doesn't say it has to be a public power owned generation. It can be private, and I know that's a huge debate; but that's what the statute says. So you can follow that path with this, and it can be for imported, it can be for native load inside the state or outside. The second path it can follow is special generation, and that's found in 70-1014.01. Look at it for yourself. Wind is allowed there and it has to be a C-BED or renewable project and it's for sale to state utilities. And then there's a third path: 70-1014.02 and this is the certified renewable export facility language that Senator Schilz was talking about, and this is the export language. If you're building, if it's a privately owned, an investor-owned company that's building that generation and it's for export, you have to follow CREF language. There's no way around it. That's where you talk about the 90 percent export. And in that language it defines what type of generation

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can be used. It very specifically says wind, solar, biomass, and landfill gas. In LB104 as it stands, it uses different language. It includes transmutation of elements and hydro. That's not language that's consistent with CREF. So Senator Lathrop, Senator Hadley, if this generation is for export and it's privately held companies, then it has to follow the CREF language. All that my amendment, AM1408, says, and I'll read it right here, it says, "The production of electricity by a certified renewable export facility as defined in section 70-1001.01." All I'm trying to do is make Senator Lathrop's bill consistent with statutes elsewhere. And yet I hear opposition from Senator Lathrop, I hear opposition from Senator Hadley. This tells me they don't know what the other part of the statutes even say about the development of generation in the state. That, colleagues, if you can't adopt a simple amendment... [LB104]

PRESIDENT HEIDEMANN: One minute. [LB104]

SENATOR SMITH: ...that just lines up the statutes, then we're not far enough along to have this discussion about renewable development in Nebraska. We don't really understand this topic. This is extremely complicated, and we're trying to solve this on the floor and not have one simple amendment that gets everyone hung up. Thank you, Mr. President. [LB104]

PRESIDENT HEIDEMANN: Thank you, Senator Smith. Senator Carlson, you are recognized. [LB104]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. I want to talk a little bit about both LB104 and LB402 and then some concerns that I have with each. As I understand it now, LB104 we're focusing on one big project, which is 200 to 300 megawatts which would be a \$400 million to \$600 million project, the money that would come into the state to construct this particular TradeWind project. I understand that with LB402 there are three projects: one of them 75 megawatts, another one 75, and a third one possibly 200, so about 350 megawatts total. As I understand it, these three projects do have power purchase agreements and at this point TradeWind does not have a power purchase agreement. Now I'm going to cover some of my concerns about LB402, the C-BED. C-BED has mandatory participation requirements, which simply means when a company comes into the state under C-BED they are required to purchase and invest a certain percentage of the total cost of the project in Nebraska. And most of us would say that's good. In 2013, if I understand the amendment properly, which would have to be amended again to get to this point, it would require that 10 percent of the total cost be spent in Nebraska. In 2014, it would require 15 percent of the total cost be spent in Nebraska. In 2015, it would jump to 25 percent. C-BED right now is at 33 percent. That's too high in my view. There's also an element of protectionism in the C-BED concept and that is when you mandate that companies coming in have to spend so much money in your state, you do it with good purpose, but it's protectionism. And most of us that consider ourselves conservatives

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don't like the idea of protectionism. When I served on the Business and Labor Committee, I was very much opposed to bills that were presented that mandated the hiring of Nebraska employees for projects in the state of Nebraska. First of all, do they have the skills that are necessary is a question. Secondly, if you continue to do that, I think you're just jeopardizing your business position with the rest of the states around us, and you're probably jeopardizing the position of a Nebraska business that wants to do a project in Iowa or Kansas or another state, mandating that employees be hired from the state. We'd like to see that, but it ought to be a choice of the firm that's constructing that project. My concerns about LB104, as I understand it at this point, TradeWind has no power purchase agreement. Second question I would have that if we pass LB104 will the other three projects come to Nebraska? I don't know that. And anybody that does and would testify that they have a good handle on that, that would be good information for us to have. I have a concern and I'm trying not to be negative about it, about wind projects in general. Because when we talk about a 200 megawatt project, that's probably a \$400 million investment. [LB104 LB402]

PRESIDENT HEIDEMANN: One minute. [LB104]

SENATOR CARLSON: And after that money is invested and most of it is in the construction of the project, when that's all done, the object is to export most of the power that's generated. It's not going to be used in Nebraska unless there's a power purchase agreement with a public power company in Nebraska that will take so much of the energy and deliver it to our customers. So it's most of the energy is going to be exported. We don't have a good way of receiving any money for all the export of that power. That doesn't seem to be a part of wind projects. And when somebody invests \$400 million or whatever it is, you know that when they export power there's a lot of volume of dollars involved with that export year in and year out, tremendous amount of money that goes out of the state. And there's a lot of employment that occurs during construction, but there's not a lot of permanent jobs that are here after the construction is done. [LB104]

PRESIDENT HEIDEMANN: Time. Thank you, Senator Carlson. Senator McCoy, you are recognized. [LB104]

SENATOR McCOY: Thank you, Mr. President and members. I rise in support of Senator Smith's AM1408 as I think it's an important function of this bill if it is to move forward that it line up with certified facilities for export. You know, I rise as a four-year member of the Natural Resources Committee, now serve on the Revenue Committee. I was here for LB1048, as a good number of you were. Many times in the last five years we've dealt with the topic of wind. I think it's an important component, not only for rural Nebraska, but for our state as a whole and its economy as we go forward. I think, however, that we need to be cautious as we move forward in making certain sure that we're going about this the right way. I'll probably have an opportunity to talk at a later

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time on the microphone, but a lot of our colleagues in North Dakota, in particular, with the Bakken oil field up there, different energy source I know, if you talk to them today, they would tell you that there are things that they would have done different had they to do it over again on how they would have gone about the development of those resources. Different energy source, but I think we need to be cautious about that we do this so that it benefits the most Nebraskans possible. With that, I would yield the remainder of my time to Senator Smith. [LB104]

PRESIDENT HEIDEMANN: Senator Smith, 3 minutes and 27 seconds. [LB104]

SENATOR SMITH: Thank you, Mr. President; and thank you, Senator McCoy. I just want to...we have several different discussions going on here about this amendment, and some really are about amendments that will be following AM1408, dealing with LB402. And I just want to make it clear, I want to bring everyone back where AM1408 is, I'm not particularly enamored with LB104 or LB402. I really am not. And I guess if I had to decide, and I think I've told Senator Hadley this before, if I had to decide, I would go with LB402 because I believe it provides the most economic benefit to Nebraskans and it's the best stepwise approach to a very complex issue. And behind the scenes, we're going to have to continue to understand how to develop renewable resources in Nebraska. So that's where I am on LB402 and some of these other discussions that are taking place. But I want to come back around to AM1408 and touch on a couple of things that were said. First of all, Senator Mello mentioned that...I think he alluded to that we're taking direction from the Governor again on this and that we're not thinking for ourselves. And I'm certain that's not what he intended to say or meant to say. I spent 30 years in the electric utility industry and these are my thoughts so I'm concluding this on my own. No one is telling me what to do and what to say. Senator Haar, will Senator Haar yield to a question, please? [LB104 LB402]

PRESIDENT HEIDEMANN: Senator Haar, will you yield? [LB104]

SENATOR HAAR: Yes. [LB104]

SENATOR SMITH: Senator Haar, you talked about us being in last place, we're tying our shoe. [LB104]

SENATOR HAAR: (Laugh) Yes. [LB104]

SENATOR SMITH: Why are we there? [LB104]

SENATOR HAAR: Well, in my opinion, the main reason we're there is we haven't made a commitment to go forward. [LB104]

SENATOR SMITH: What does that commitment look like? [LB104]

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SENATOR HAAR: Well, to me, again, in my opinion, the commitment looks like the desire to move forward to use renewable energy. It's in my opinion again, it's probably our second greatest resource in terms of natural resources, water being the first, and I would say our wind is second. [LB104]

SENATOR SMITH: I agree with you, Senator. [LB104]

PRESIDENT HEIDEMANN: One minute. [LB104]

SENATOR SMITH: That's all. Thank you, Senator. You know, Senator Haar and I, we've had our differences in the past on energy policy, but we both love energy and we come at it from different directions. And I'm not particularly opposed to a strong renewable plan in the state. I think we need to have a plan in the state, but it needs to be well thought out. And once again, we're taking a piecemeal approach to it. There's a number of reasons, I believe, that we're behind; and once again, it's complicated. It's not one single issue. And I'm going to start trying to go through a few of those and in my further comments on the floor, but I totally agree with Senator Haar--we need the development of renewable resources, but we need to approach it in a very thoughtful, constructive, planned out way. Thank you, Mr. President. [LB104]

PRESIDENT HEIDEMANN: Thank you, Senator Smith and Senator McCoy. (Visitors introduced.) Senator Hadley, you are recognized. [LB104]

SENATOR HADLEY: Mr. President, members of the body, first I want to apologize to Senator Smith. I found myself falling into the trap that I never wanted to. So much of this session it seems like every time we have a bill come up and someone has an amendment we immediately think, well, how is this amendment trying to kill the bill or how is this amendment trying to do damage to the bill. And I guess I've forgotten that we can have amendments that if are appropriate can help bills. So I apologize to Senator Smith, you know, for taking that right off the top. Would Senator Smith yield to a few questions? [LB104]

PRESIDENT HEIDEMANN: Senator Smith, will you yield? [LB104]

SENATOR SMITH: Reluctantly, yes. [LB104]

SENATOR HADLEY: No, I'm going to make it pretty easy, Senator Smith. Just for the members' knowledge, would you just, you know, take a minute and tell us what the Power Review Board does? [LB104]

SENATOR SMITH: Yes. In our state, public power is not...doesn't really have an ongoing regulatory body, if you would. It's all local boards that govern that. But at the

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onset of generation development, there's a governing body, a regulatory body called the Power Review Board. And they are the process in which a utility, privately or publicly owned utility or I shouldn't say utility...entity supplier of electricity has to go through this Power Review Board to site a new power generation facility. [LB104]

SENATOR HADLEY: Senator Smith, I actually did start reading 70-1001.01 and it talks about a facility approved under Section 70-1014.02. Could you tell me a little bit about that approval process? Is that a long, drawn out type of approval process? [LB104]

SENATOR SMITH: Senator, I don't know the length of the review process by the Power Review Board. Tim Texel would probably be the best person to ask about that. But...and I don't want to take your time so interrupt me if I am doing that. But this amendment, it just specifies that you have to follow the process that's already in statute. And so there's only three paths to approval. And for an exporter, you have to go through the path of the certified renewable export facility that's shown in 70-1014.02. [LB104]

SENATOR HADLEY: So are you saying that basically LB104 or LB402, which either one is approved, any of these projects will have to go through this process? [LB104]

SENATOR SMITH: They have to go through one of these three paths to approval. [LB104]

SENATOR HADLEY: One of these three paths. [LB104]

SENATOR SMITH: That's right. [LB104]

SENATOR HADLEY: So there is no bypassing this particular path or this method. [LB104]

SENATOR SMITH: There is not. [LB104]

SENATOR HADLEY: Okay. Well, thank you. I just wanted to be clear what your amendment does. One last question, if you were on the other side, could you make any argument that this is not an appropriate amendment? [LB104]

SENATOR SMITH: I'm not certain which other side since I'm not really partial to... [LB104]

SENATOR HADLEY: No, no, I mean your amendment. [LB104]

SENATOR SMITH: A reason why it would be a bad amendment to adopt? No. It seems to align the statutes. It makes LB104, I think, a better bill. [LB104]

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SENATOR HADLEY: Okay. Thank you, Senator Smith. And again, I got off on the track of, you know, saying that anytime somebody brings up an amendment it's bad. I think it's worthwhile talking about it, and I appreciate your explanation. Thank you, Senator Smith. Thank you, Mr. President. [LB104]

PRESIDENT HEIDEMANN: Thank you, Senator Hadley. Senator Schilz, you are recognized. [LB104]

SENATOR SCHILZ: Thank you, Mr. President, members of the body. And I want to thank Senator Hadley for taking Senator Smith's amendment at its word and understanding what it does. And I think this goes a long way to starting to understand the intricacies that we have and the things that we have to do to comply with what we're saying. We can talk all day long about how we want development within the state of Nebraska. And don't get me wrong, guys. My district is...I mean, we need it. We need it bad and we've got the resource. So don't think that I'm sitting here trying to kill anything. I don't want that. But when people tell me that they've got a certain amount of time that things need to be done, I want to make sure that we're not telling them something that just can't physically happen. And I wonder if we aren't doing that a little bit. I didn't even think about the Power Review Board and the process that they have to go through as well before this can be done. So once again, I reiterate the question. What is a project under Nebraska Advantage tier 5 when it comes to renewable? Is it a CREF? If that's the case, how does that get into the Advantage language that we have? Will those rules have to be put into place? Another thing that I look at and as I read the Nebraska Advantage criteria here, is that in 2008 the state of Nebraska expected you to spend \$31 million and to maintain your base of employees from the year before you apply, which is called the base year. In 2009, that number moved up to \$34 million so we're stairstepping. We have an approach out there that says, hey, look, as we move forward it means more. You have to do more to qualify. In 2010, we dropped it to \$32 million; 2011 we went back up to \$33 million; 2012 was \$36 million; and in 2013, according to the bill and the amendment that will be coming up and Senator Hadley's amendment, drops that threshold to \$20 million. But it's interesting that when it drops it to \$20 million it didn't necessarily change the fiscal note. And what have we all learned...what have we learned around here? That if a fiscal note doesn't change from one to the next, it doesn't really do much. That means there wasn't any project within that distance that fit, that would apply. And so I think that's important as background to think about that. We also have this employment section that's in there. And I wonder why somebody in tier 5 would put employment in there if it's all just about investment. And it's my contention and my belief that when they put tier 5 in place that they fully expected that this would mostly be used by Nebraska companies with Nebraska employees because let's think about this. If a company comes in and is already within the state of Nebraska, if they want to do a project under LB104 under what's proposed here as we looked, what happens is they have to look a year back and that's called the base year, and they have to see how many employees they had. And moving forward, they have to maintain

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those employees for the life of that project basically or until they get their money...no, for the life of the project... [LB104]

PRESIDENT HEIDEMANN: One minute. [LB104]

SENATOR SCHILZ: ...or the six years. A company that comes in from outside of the state that has no employees doesn't have to maintain any employees. So if you wonder why the in-state companies maybe have a little bit of heartburn is because they're being treated differently even though they showed up and they're here and they are with us. And I'm not saying that TradeWind shouldn't be, but I'm saying how do we make that equitable moving forward if that's what we want to do? And it's a question. We've done it before. But we've always heard about the message that should be sent. Should the message be sent that the people that are doing the investment and creating the opportunities and doing that right now in the state of Nebraska and been on the bleeding edge, should they be the ones that through LB104 get left in the dark on the employment thing? It's a question. Now they can move forward and use it, but they will always be under different stipulations than a new company coming in. [LB104]

PRESIDENT HEIDEMANN: Time. [LB104]

SENATOR SCHILZ: And I think that's an important thing. Thank you. [LB104]

PRESIDENT HEIDEMANN: Thank you, Senator Schilz. Senator Smith, you are recognized. [LB104]

SENATOR SMITH: Thank you, Mr. President. Is this my second time? [LB104]

PRESIDENT HEIDEMANN: You have your close left. [LB104]

SENATOR SMITH: Okay. Well, my next point is on LB104, though considered to be an incentive for renewable energy, it makes no attempt to address possible underlying causes of underdeveloped wind resources in our state. That's the second point that I wanted to make. I have a legislative resolution request 3222, take a look at it, colleagues. And this goes back to the Natural Resources Committee, and it says: For the purpose of this resolution is that...the purpose of this resolution is to study the generation of energy in Nebraska through the use of renewable energy sources and to provide a comparison with other states. The study shall include but not be limited to examination of the following: the prevalence of energy generation through the use of renewable sources by Nebraska's public power system. And let me step back for a moment. You know, we're using studies to understand the best water policy and we're using studies to understand the best tax policies. Energy is a huge, huge issue for our state. Development of renewable energy in this state is huge, not only in revenue, potential revenue for the state, but for energy prices for the state. So this is a big issue,

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colleagues. And why can't we at least do a study on this so to understand the role of privately held generation? And I know for a fact, colleagues, that we have met the renewable standards for large datacenters. I don't know anyone was talking about that, but these datacenters that are coming to Nebraska and looking at Nebraska, I've heard about Facebook, but sources tell me that we met the renewable standards. That it was more than just renewable standards that drove Facebook away from Nebraska. So we are meeting the renewable standards in Nebraska. The prevalence of energy generation, here's another thing that we want to do in the study, the prevalence of energy generation through the use of renewable sources by private entities generating energy for in-state consumption and for export. We need to create language in Chapter 70 that's more flexible with our purchase power agreements. Right now it's exported or it's all in or all out. There's no in between. That's going to make us more flexible for what Senator Haar is looking to get us in that race. Number three, federal and state tax incentives provide to entities generating energy through the use of renewable sources. How important are these items for investors to determine siting? Infrastructure needs and costs associated with generation and transmission of energy generated through the use of renewable sources. Making the right decisions for our ratepayers, that's a huge piece. Renewable energy mandates. And are these appropriate and what's the right balance for our state, for our taxpayers? Long-term supply strategies in Nebraska and other states, that's the generation portfolio. What's the right thing for our state? We need a long view of this, colleagues. And once again, LB104 is a piecemeal approach to solving I believe possibly a problem, maybe not as big of a problem as some may think. I'm going to move on to my last point and that LB104 seems to ignore electric ratepayers in Nebraska and the best solutions for rural economic development. Colleagues, you heard Senator Haar mention, and I agree with him, that if you... [LB104]

PRESIDENT HEIDEMANN: One minute. [LB104]

SENATOR SMITH: Thank you, Mr. President. Comparing Nebraska to a six-state area, we're not all that competitive any more. We're equal to the rates on that six-state average for businesses; we're above it for industrial customers; and we remain below it for residential. But we're losing our competitive edge. And if you look at a five-year growth rate, we are certainly outgrowing the six-state average for growth in electric rates. We need a comprehensive approach to this problem. And once again, this doesn't do anything to address it. I wanted to refer to something John Hansen from Nebraska Farmers Union wrote. And if I am timed out, I'll get back to this in my closing. There are currently three wind projects in Nebraska that have signed power purchase agreements and will be making efforts to achieve construction starts before the existing federal PTC or production tax credit... [LB104]

PRESIDENT HEIDEMANN: Time. [LB104]

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SENATOR SMITH: Thank you. [LB104]

PRESIDENT HEIDEMANN: Thank you, Senator Smith. Senator Murante, you are recognized. [LB104]

SENATOR MURANTE: Thank you, Mr. President. I'll yield my time to Senator Smith. [LB104]

PRESIDENT HEIDEMANN: Senator Smith, 4 minutes and 56 seconds. [LB104]

SENATOR SMITH: Thank you, Mr. President; and thank you, Senator Murante. Notice I said that right, Murantee (phonetically). Let me go back to something that John Hansen wrote in an e-mail to me, and I think he may have sent it to a number of the senators. It's from the Nebraska Farmers Union, and he writes: There are currently three wind projects in Nebraska that have signed power purchase agreements and will be making efforts to achieve construction starts before the existing federal PTC, or production tax credit, expires the end of this year. Those three projects Invenergy, 200 megawatts at Elgin; Edison Mission, 75 megawatts at Broken Bow; and NextEra, 75 megawatts at Steele City. If those three projects amounting to 350 megawatts do apply for and receive sales tax abatement, the tax giveback will likely amount to \$26 million to \$34 million of windfall for those three companies. Those sales tax givebacks will not result in lower rates for either NPPD or OPPD consumers. That approach seems neither cost effective nor prudent. Thank you, Mr. President. [LB104]

PRESIDENT HEIDEMANN: Thank you, Senator Smith. Senator Krist, you are recognized. [LB104]

SENATOR KRIST: Thank you, Mr. President. Good afternoon, colleagues; and good afternoon, Nebraska. I stand to make a couple of points. And to Senator Carlson's point about conservatives not supporting mandatory quotas or jobs in the state of Nebraska, I am not going to tell you and stand here and tell you that I am totally in support of that, but I'll give you a real story. This really happened. We had a construction program that was supposed to start at Offutt Air Force Base to build a brand new headquarters building. It is billions of dollars. It hinged on the fact that the state of Nebraska would not collect any tax on the construction project. And then Senator Nelson came, there were a few of us involved, we thought we were going to have to bring this to the floor. We thought we were going to have to say you're exempt for this project. And instead we found a clause within the Corps of Engineers contracting regulation and the state of Nebraska Revenue that allowed for a tax exemption for that project. So guess what? We didn't get any tax on the construction program on the material, and we had no mandatory quotas for jobs in Nebraska. Now if you know a steel worker, you go out and ask him how many hundreds of thousands, if not millions, of dollars we've lost in tax for personal income tax because the state of California and the state of Colorado sent

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people in to build that building. I recall the figure somewhere around 600,000 man-hours that would have been if they would have been unions in the state of Nebraska, and they were capable of doing that. In fact, they were looking at their rainy-day fund to supplement if they had to go over that contract. And the unions, in their contract negotiation, didn't get there. So we lost the tax on the program and we lost the benefit of those people actually being taxed and living here and spending that money. So all along while I'm considering the pros and cons and I relate this to this particular issue, when I'm considering the pros and cons of giving away a tax base in order to get a construction program, that whole philosophy was wrong. It was wrong because there were...I think the number is in the neighborhood of 70 percent of the jobs that should have been let and held here in the state of Nebraska or could have been, let me say that, could have been because we had the technical expertise, we had the labor, we had the capability, it's gone. So when we say we're going to take \$25 million in tax incentive and we're going to give it to these people from out of state and we're going to...but we're going to make it back on the back end, we better make sure that the back end is paying what the front end investment is giving us. And I'm sure there's people outside that glass can tell you all the numbers. I don't think they can. I don't think they can say for sure this is what happens. I'm not speaking poorly of wind. I'm not speaking poorly of LB104 or LB402. I haven't made my mind up at this...LB402 I think, right, 401...LB104 and whatever, whatever the bill numbers are. I haven't made my mind up yet on the two bills and the amendments and the rest of it. But I'm saying let's walk cautiously because that story is real. That consideration should be real for us. Secondly, I really think that in this whole discussion there should be some consideration of whether or not we are getting what our money has invested is supposed to give us. To that point, I would say there are transmission fees that are going to come back to us. And we do know... [LB104 LB402]

PRESIDENT HEIDEMANN: One minute. [LB104]

SENATOR KRIST: ...how many kilowatts are going across that line, going into the grid. So when the windmill produces power, puts it on the grid, sends it out of state, and it passes through the grid that's owned by NPPD or OPPD, we know exactly how many kilowatts are going out and we're charging them...there is a transmission fee and other fees that are coming back in this community. And I don't think anybody has really talked about that yet as well. This is a good discussion, and it will continue to be a good debate. But I offer those two little things that I think are not necessarily little in this discussion when we trade off the base and the investment, we need to see a return on the investment when it comes back in. Thank you, Mr. President. [LB104]

PRESIDENT HEIDEMANN: Thank you, Senator Krist. Senator Carlson, you are recognized. [LB104]

SENATOR CARLSON: Thank you, Mr. President, members of the Legislature. Last time

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as I ran out of time, I was talking about that wind projects in general have a high front-end investment to complete the project and then really don't have a whole lot of permanent jobs. Now that isn't to say that I'm not for wind development. It's not to say that I don't support these bills. That's not to say it at all. I do know, I think I know, when an A bill gets figured if the project is completed, it's assumed the project is completed, and if it's a \$5 million project, we've lost x number of dollars in sales tax that we either didn't collect or we didn't keep. And it does take a long time to recoup those in this kind of project. However, if the project doesn't come to Nebraska, we don't lose a single dollar in sales tax and we don't get one new job either. So we don't lose what we don't have. And I am not against wind projects coming to Nebraska. I would like to ask Senator Lathrop a question if he would yield. [LB104]

PRESIDENT HEIDEMANN: Senator Lathrop, will you yield? [LB104]

SENATOR LATHROP: I'd be happy to. [LB104]

SENATOR CARLSON: Senator Lathrop, let's talk about the TradeWind possibility a little bit. [LB104]

SENATOR LATHROP: Okay. [LB104]

SENATOR CARLSON: If...does this work that if they come, if they make a commitment to come, we're going to give them so many dollars in sales...there really is giving up sales tax? We're going to give them dollars. Is that true? [LB104]

SENATOR LATHROP: They will not...they will be refunded the sales tax they pay on their inputs. [LB104]

SENATOR CARLSON: And the argument that I hear is that we have committed that to them. What do they have to do in return to make sure that we get our money's worth? [LB104]

SENATOR LATHROP: They build the project and they pay the landowners \$10,000 to \$15,000 per tower per year over the life of the project. They will also pay a nameplate capacity tax to the county. In this case, it will be \$700,000 to \$800,000 per year to Dixon County. [LB104]

SENATOR CARLSON: And the nameplate tax is a tax that really ends up, you just said, it ends up to the county, doesn't it? [LB104]

SENATOR LATHROP: Yes, it does. [LB104]

SENATOR CARLSON: It's an advantage that the county has. As far as the state is

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concerned, that nameplate tax...and I don't know this. I don't have anything in mind, what benefit is that to the state? [LB104]

SENATOR LATHROP: I suppose in state aid. It's hard to imagine that these school districts would ever need aid from the state when they're sharing part of the \$700,000 to \$800,000 a year, yeah. [LB104]

SENATOR CARLSON: Okay. Thank you, Senator Lathrop. How much time do I have? [LB104]

PRESIDENT HEIDEMANN: One minute 50 seconds. [LB104]

SENATOR CARLSON: Okay. I'm done for right now. Senator Lathrop could have the balance of my time if he wants it. [LB104]

PRESIDENT HEIDEMANN: Senator Lathrop, 1 minute and 40 seconds. [LB104]

SENATOR LATHROP: Let me make this point...thank you, and thank you, Senator Carlson. Let me make this point, and that is you've heard that there's three projects with power purchase agreements that are ready to go. TradeWind doesn't have a power purchase agreement. They'll have one if LB104 passes. I fully expect that to happen. But here's the thing about the amendment, Senator Hadley's amendment that we'll get to: All projects--this is important--all projects will work under LB104, but not all projects will work under LB402, okay? So those projects that might be lined up, that have power purchase agreements, they will...they can... [LB104 LB402]

PRESIDENT HEIDEMANN: One minute. [LB104]

SENATOR LATHROP: Those types of projects can take advantage of LB104. The threshold has been lowered so that they can benefit. TradeWind can't come here under an LB402 model or...as Senator Schilz's amendment that you'll see. They are competing with Kansas. When we do an export project, we are competing with Kansas and we have to have our costs low enough to make it make sense to come to Nebraska to generate the wind. If we're higher than it costs to do the same project in Kansas, we don't get the deal. And that only works under LB104 and that's the point. LB104 works for everybody; LB402 does not work for TradeWind. And that's a project that will benefit, in this case, Dixon County and the TradeWind projects to come, and I mean that in a generic term. Those export projects that will follow TradeWind into Nebraska can avail themselves of LB104. We can be competitive... [LB104 LB402]

PRESIDENT HEIDEMANN: Time, Senator, but you are up next in the queue and you can continue. [LB104]

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SENATOR LATHROP: Okay, and thank you. In the end, colleagues, in the end, this is an economic development issue. It is about economic development. The Advantage Act has always been about economic development. I was looking at a sheet, incidentally. We've probably had, since I've been here, I'm guessing, five or six things out in La Vista, where Senator Smith is from. And when those projects were on the floor we didn't call for more study or suggest that action could be substituted by another interim study. We know what the benefits are. Ask the folks in Petersburg. Ask the people in Broken Bow, what happens when these projects come? It is a great tool of economic development for those communities, a great tool. People come in and, by the way, it is nothing near the problems they have in North Dakota. If it was, we would be raking in dollars with their...North Dakota has a problem with oil that...and the development of oil, as Senator McCoy mentioned, and that's not even analogous to wind. But when those projects come in, look at the cities that have done it--Broken Bow, Petersburg. Here's the thing: Folks come to this floor and they talk about economic development in rural Nebraska. How do we keep our kids here? How do we get them after they've been to the university? How do I get them back to Oshkosh? Look, we've got to do some things here and we've got to quit...this is an opportunity to provide economic development not in Sarpy County, not in Douglas County, not in Lancaster County, but out in your part of the world, out in your part of the world. Now will it work if we saddle it down with requirements that they buy locally? That will be the Schilz amendment. I can give you a preview of that. As soon as you require somebody buy something, it would be, Senator Bloomfield, like me telling you, you can have an exemption on your inputs provided they were manufactured in Nebraska. And you'd say, well, some of it I get over in Iowa. And the guys in Nebraska don't want that because as soon as we put restrictions on those incentives, Iowa is going to do it and Nebraska is done playing over in Iowa. And Kansas will do it and our...and the people in Nebraska will be done building roads and they'll be done developing wind in Kansas. That's the problem. If we pass LB104, we will start the development of wind in earnest. And when we start the development of wind in earnest, I tell you today that the companies that build towers will come to Nebraska. Behlen Manufacturing, Valmont, those companies will start manufacturing this. We've just got to get out of the way. Level the playing field and the companies that build, that manufacture, will come to Nebraska because there will be an explosion of wind development. But it won't happen, it will not happen, if we saddle down our incentives with requirements that can't be met now. And that's the debate we're having. And by the way, we don't do that with any other level of the Advantage Act. We don't burden the Advantage Act by saying, you must use a minority company, you must use union labor, or that you even have to use Nebraska construction companies. We don't do that anywhere else, nowhere else. It doesn't work, colleagues. And you start a race to the bottom where Nebraska businesses will be on an island because when we do it, Kansas will do it, South Dakota, Iowa, Colorado, Wyoming, and then Nebraska companies will be stuck in Nebraska and we will have isolated our businesses. [LB104]

PRESIDENT HEIDEMANN: One minute. [LB104]

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SENATOR LATHROP: You know, we had a bill down here, and this is where I went to school on this one. We had a bill that would have required that you choose local contractors. I think it might have been a roads bill. I got a call from a fellow whose family business is building roads in Nebraska, and he's...he called me. It was on the floor. We're debating it. And he said, terrible idea, do not do the protectionist thing, do not do the protection, I'll get more business in Nebraska but I'll never get any in Iowa, I'll be done building roads in Missouri, in Kansas, in Colorado, Wyoming, South Dakota. It's a race to the bottom. We have never done it with the Advantage Act. We have never burdened the Advantage Act with these kind of requirements and it won't work. It won't work. [LB104]

PRESIDENT HEIDEMANN: Time. [LB104]

SENATOR LATHROP: Thank you. [LB104]

PRESIDENT HEIDEMANN: Thank you, Senator Lathrop. Senator Ken Haar, you are recognized. [LB104]

SENATOR HAAR: Mr. President, members of the body, thank you. What...and Senator Smith and I have been talking about this some. But certainly, if you pass AM1408, it makes LB104 an export bill, export only, and that means 90 percent has to go out of the state. And so it really, in terms of selling electricity to Nebraska, doesn't make sense for Nebraska ratepayers. So we're looking at those three paths right now and, again, at least presently, I'm voting against AM1408 because that would make LB104 export only. And I give the rest of my time to Senator Lathrop. [LB104]

PRESIDENT HEIDEMANN: Senator Lathrop, four minutes. [LB104]

SENATOR LATHROP: Thank you. And, you know what, and I'm going to--thank you, Senator Haar. I'm going to segue off that into the Smith amendment, which I can't help but notice that Senator Haar is the only one that's talked about it in the last eight speakers, which is fine. We do that around here. The Smith amendment is an attempt to tidy up language between Chapter 70 and LB104, and it doesn't strike transmutation of elements, which is really what this is about, the difference in the language. It turns this into an export-only bill and, as soon as you do that, you cut out the local people. You take somebody who is going to...if OPPD wants to enter into a project with a developer to develop wind for its energy portfolio and they want to do it all in the state of Nebraska, they won't be able to take advantage of LB104. Doesn't seem, really, to be responsive to the difference in language between the two provisions, but it does damage LB104 considerably, in the sense that it becomes an export-only bill. Now why, if you are going to develop wind energy to be used by one of our own public power companies, wouldn't you afford them the same privilege or the same benefits or

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incentive that you'd provide an exporter? This would take away the benefits available to someone who wants to work with one of our public power providers to develop wind energy or renewables in the state of Nebraska. I urge you to oppose AM1408. It is the wrong answer to what amounts to a difference in language between the two provisions, which does not need to be addressed for LB104 to work in the state. Thank you.
[LB104]

PRESIDENT HEIDEMANN: Thank you, Senator Lathrop, Senator Haar. Senator Burke Harr, you are up next. [LB104]

SENATOR HARR: Thank you, Mr. President, members of the body. The economic well-being of Nebraska is an issue of vital importance to state and local policymakers, and that's what we're looking at with this bill. That's what all economic incentives are. We, starting with LB775, have used the tax system for economic development. I've heard a lot of information being thrown around, a lot of concern about foreign businesses coming into the state of Nebraska and taking over. When we did LB405 and LB406, one of the things that was stated repeatedly was, gosh, it'd sure be great if we could be like those states that don't have income tax. And when you looked at those states that don't have income tax, one of the common denominators is they've found a way to export their taxes, whether that be oil, tourism, or other options, but those were the main two. Well, we don't have a lot of ability to export our taxes here. But one of the ways we can is by taking energy created in Nebraska and send it to other places and tax that, not a pass-through but to create it here and export it. Wind energy is an opportunity to do that, export energy, export taxes. Now do we have to give a little bit to get them here? Yes, but we do that with other economic incentives. This is new money being invested in the great state of Nebraska. I heard, we don't want foreign companies coming in and their baseline is zero while companies who have been here forever have a higher baseline and so, therefore, they're at a disadvantage. That's a half-truth. A sophisticated company located here in Nebraska would create a new LLC and have that LLC run the program. And it would start from zero, just like a company from outside Nebraska. And by the way, there is absolutely nothing wrong with businesses coming from outside Nebraska. I encourage businesses to come here. We run ads in other states to encourage businesses to come here. Nebraska is a great place to do business and we should be encouraging businesses to come from (sic) Nebraska. We shouldn't be chastising them. We shouldn't...we're sending, right now, the wrong message that, gosh, we really want your money but we don't want you. It's...we're saying, Nebraska is not open for business. Folks, Nebraska is open for business. We want you here. We will do whatever it takes to get you here. We are for economic development and not just for the three largest counties, as we talked about, but for greater Nebraska. I don't think I'm talking out of school when I say we need less farmers to farm the same amount of land as we did 50, 80 years ago. Farms are larger. We have to find a way to diversify our economies in our small towns to keep our population there. And it's not just farms. All businesses are consolidating. It takes less labor to do what it did 50 years ago. So we

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have to find a new... [LB104 LB405 LB406]

PRESIDENT HEIDEMANN: One minute. [LB104]

SENATOR HARR: Thank you, Mr. President...new ways and new businesses to come to these small towns. This is one of those. This is a great one. It's great-paying jobs and we get to export our taxes. So I really hope we pass LB104 and we do something to develop not just the big cities but all Nebraska. Thank you, Mr. President. [LB104]

PRESIDENT HEIDEMANN: Thank you, Senator Harr. Senator Hansen, you are recognized. [LB104]

SENATOR HANSEN: Thank you, Mr. President, members of the Legislature. I harken back to yesterday's debate when Senator Chambers was talking about Cabela's in the Omaha area. And he said, they were asking for peanuts, we didn't give them the peanuts, and they still came. I thought that was a pretty good line, really. If we don't give TradeWind the peanuts, then we're still going to have the wind and, eventually, someone will figure out that that wind is valuable. Seven years ago, when I came to the Legislature, I was all in favor of producing wind power. I thought we could really utilize it in this state. Over the years I've learned and asked some questions. And I asked a question a couple of weeks ago when we were talking about this on General File of what production of electricity do we have in this state. Senator Haar was asked, or asked a little while ago, why haven't we done wind power in this state? And the reason is: It's a public power state, number one; number two, we produce way more power than we need. We passed LB1038 two years ago. And it said, unless you have an agreement with a municipality, that all that...all the wind power has to be exported. That's what Senator Lathrop is planning on doing with LB104. Who are we subsidizing here? Are we subsidizing Nebraska? Well, we're...at least, with this one, we're subsidizing one of the 93 counties in the state. TradeWind is being subsidized by a refund of sales tax that wouldn't be here unless they came. And the electric ratepayers in another state...and it looked to me like the map I saw was going down around in the Alabama area, Alabama/Arkansas...that we're subsidizing power for them by giving them this low rate. In my district we have a large coal-fired plant that produces 1,365 megawatts. It's the facility in Sutherland, Gerald Gentleman Station. It was built in...one part was built in '79; the second generator was put in, in 1981. So it's been there about 80...about 33 years. And it's half-life is about there; 33 years, and it's reached its half-life. The windmills and the technology that we have now, they have about a 20-year life span and, in 20 years, they turn into scrap iron and are headed for Nucor. Nucor would probably really appreciate some of that high-quality iron that we have. There are reasons we don't have wind power in this state--because we have base load, we have natural gas, we have oil, we have coal, we have some hydro. Fifty years ago we looked west, and we saw the hydro that was going on in Wyoming and Montana. We don't have the places for all the hydro plants that they do. So we had to develop something. What

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did we develop? We've developed base load through coal, and it's worked rather well. Mr. President, I yield the rest of my time to Senator Smith. Thank you. [LB104]

PRESIDENT HEIDEMANN: Senator Smith, 1 minute and 40 seconds. [LB104]

SENATOR SMITH: Thank you, Mr. President, and thank you, Senator Hansen. Would Senator Lathrop yield to a question? [LB104]

PRESIDENT HEIDEMANN: Senator Lathrop, will you yield? [LB104]

SENATOR LATHROP: Yes, I will. [LB104]

SENATOR SMITH: Senator Lathrop, under LB104 (sic--Chapter 77-5715) as it exists, without my amendment, item (j): The production of electricity by using one or more sources of renewable energy to produce electricity for sale. For purposes of this subdivision, sources of renewable energy includes, but is not limited to, wind, solar, geothermal, hydroelectric, biomass, and transmutation of elements. Senator Lathrop,... [LB104]

PRESIDENT HEIDEMANN: One minute. [LB104]

SENATOR SMITH: ...under LB104, under that language as it exists, which path would they follow with the Power Review Board to get approval? [LB104]

SENATOR LATHROP: I don't have that statute up in front of me, Senator Smith. I'm looking at your amendment. And so I... [LB104]

SENATOR SMITH: Would it follow the... [LB104]

SENATOR LATHROP: I don't have that in front of me. [LB104]

SENATOR SMITH: All right. Once again, you're either going to follow...this is not a C-BED project, doesn't meet the conditions of C-BED. We're in agreement there. So it's not going to follow that path for approval. It's not going to follow the standard approval process because it...you can't measure it by whether it serves public convenience and necessity or the most economic and feasible supply. So there's only one remaining path, and that's certified renewable export facility. My language aligns it with that. And by the way, I've checked with public power and they say that my amendment doesn't do any harm to them in contracting with another developer of electricity. So thank you, Mr. President. [LB104]

PRESIDENT HEIDEMANN: Thank you. Senator Schilz, you are up and recognized. [LB104]

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SENATOR SCHILZ: Thank you, Mr... [LB104]

PRESIDENT HEIDEMANN: This is your third time. [LB104]

SENATOR SCHILZ: Thank you, Mr. President and members of the body. I do stand in support of Senator Smith's amendment, AM1408. I think it's important. I think we need to understand that. You know, as we look at public power...and somebody can correct me if I'm mistaken, but I think...and, Senator Smith, you can correct me and I'll...I plan on giving you some time. But I think, as we look at that and as you look out, I think, part of the deal is that public power when they build generation, I think they pay sales tax. Senator Smith, would you yield to a question? Senator Smith, would you yield? [LB104]

PRESIDENT HEIDEMANN: Senator Smith, will you yield? [LB104]

SENATOR SMITH: Yes, I will. [LB104]

SENATOR SCHILZ: Thank you. Do you...can you tell me that? Do you know? You've been involved with public power. You've worked with them for...worked within public power for a number of years. Do you know, on their projects, do they pay sales tax, as public power, on generation facilities? [LB104]

SENATOR SMITH: You know, I don't want to speak incorrectly on that. There are some things that are paid, and then there are payments in lieu of taxes as well. So that's...it's complicated. [LB104]

SENATOR SCHILZ: Okay, so we've got a process in place for public power to get the benefits already when it's in-state power, in-state generation, in-state use, correct? [LB104]

SENATOR SMITH: That is correct. [LB104]

SENATOR SCHILZ: Thank you. And with that, I would yield the rest of my time to Senator Smith. [LB104]

PRESIDENT HEIDEMANN: Senator Smith, 3 minutes and 30 seconds. [LB104]

SENATOR SMITH: Thank you, Mr. President. Thank you, Senator Schilz. You know, I didn't really want to blindside Senator Lathrop with that last question, and I'm going to bring that back up to him a little bit later so that he can have some time to prepare to answer that. But I...as you can see, colleagues, this is tremendously complex. And we have a component sitting over in the Revenue Committee. And this is not a turf battle, and I really applaud Senator Hadley's tone a little bit earlier, the way, you know, he

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addressed me. And I really appreciate that, Senator Hadley. This amendment, I believe, truly is constructive for LB104, although, if LB104 (sic) is adopted, I may not vote on LB104. I believe this is a constructive amendment for that. It's a complex issue and we do need a long-term, comprehensive plan for Nebraska. I don't like this stepwise approach, this piecemeal approach, to solving those problems. And I do want to be...to have as many colleagues engaged in this interim study that we're going to have. It's going to go to the Natural Resources Committee. And I truly want to be comprehensive. I don't have a bias in what the outcome is on that. But as you can see, as we sit around here and we talk about this issue, everyone gets confused as to, you know, what is a CREF, what is a C-BED, what are the three paths, what is the Power Review Board. This is not the type of legislation we need to be trying to fix on the floor. This is something that really should be addressed through a resolution to do a special study. And it needs to go to a joint committee of...if it involves revenue and taxation, it should include Revenue and Natural Resources. This is way too important, colleagues, than to just try to piecemeal it together here on the floor. And, Senator Lathrop, I'm going to come back to you. If you have...I don't know how much time we have. But if you'd like to come back around to that question I had for you earlier... [LB104]

PRESIDENT HEIDEMANN: Senator Lathrop, will you yield? You have 1 minute and 20 seconds. [LB104]

SENATOR LATHROP: I still don't have an answer for you. I'm looking at the...I'm trying to find the statute, Senator Smith. [LB104]

SENATOR SMITH: Okay. [LB104]

SENATOR LATHROP: But... [LB104]

SENATOR SMITH: And, Senator Lathrop, I'm certainly willing to work with you, off to the side here, in the walkway between our areas, to try to help you understand what the statute is. [LB104]

SENATOR LATHROP: Senator Smith, what I can...the observation I can make is,... [LB104]

PRESIDENT HEIDEMANN: One minute. [LB104]

SENATOR LATHROP: ...if you want to study it for a year, this company will be gone, the economic benefits to Dixon County will be missed, and you will have another study. I know you've been on the committee for, what, four years? [LB104]

SENATOR SMITH: Just seems that way. [LB104]

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SENATOR LATHROP: The opportunities will be lost while you're studying something and, frankly, I don't think there is the confusion you're representing. I don't think there's confusion at all. There might be some confusion with your amendment because it goes into a separate section of the statute that isn't even in LB104. But there's no confusion about the benefits of this bill, the importance of doing it this year, and the opportunity that will be lost if we accept your proposal or suggestion that we not do this because you've characterized it as piecemeal, which it is not, and we'll miss the opportunity. And we didn't do that. There's no reason to do it. It's not piecemeal, it's not confusing, and, frankly, we'll miss an opportunity. [LB104]

SENATOR KRIST PRESIDING

SENATOR KRIST: Time, Senator. Senator McCoy, you are recognized. [LB104]

SENATOR McCOY: Thank you, Mr. President and members. I yield my time to Senator Smith. [LB104]

SENATOR KRIST: Senator Smith, you are yielded 4:52. [LB104]

SENATOR SMITH: Thank you, Mr. President, and thank you, Senator McCoy. Senator Lathrop, I can't say with perfect certainty that we're going to reap the benefits that you're saying we're going to reap with LB104. And that's not really what the goal of my amendment is. And so I'm going to weigh in on that particular point a little bit later, whenever Senator Schilz has his amendment up. I think that deals more with the tax benefits and financial benefits of one method over the other. But, you know, this is a highly complex issue, Senator, and I don't think...and you're...as sharp as you are, I don't think you totally understand as, I mean, there are so many parts of the statute in Chapter 70 that I don't understand. And we want to make certain we have the right policy for Nebraska. Renewable energy, we do want to develop that. And I don't know whether the process we have in place is as good as other states. Or maybe it's better than other states. You know, Nebraska is different. And we've all talked about the Nebraska way that is different. We're the only state in 50 states that is all public power, you know, and I've always been very proud of having to work for public power. I'd worked for investor-owned utilities in the past, and public power is known to be accountable to its ratepayers, affordable, and reliable. And they make very prudent, wise decisions in the way they make their investments, and we want to keep down that path. But I've been told that data centers that come to the state, we don't miss opportunities. When they have renewable standards, we work hard to meet those renewable standards. So I don't think we're going to miss an opportunity here, Senator. And there's other opportunities; there's better ways. I'm going to read excerpts from Chuck Hassebrook's Journal Star letter today, dated May 21. He writes, and I'm just...these are just excerpts: But we believe there is a better way to encourage wind development that will enhance the return on such tax incentives to Nebraskans. That

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alternative is found, he says, in LB402. He promotes LB402. Again, I'm not sold on LB402, necessarily, but there's a difference of opinion here. A broad coalition, he says, of Nebraskans and Nebraska businesses support LB402. LB402 continues and encourages development of supporting industries by requiring that a modest level of the inputs and investment in the wind project come from Nebraskans. What harm is there in asking that there be more benefit to Nebraskans than just the delivery of renewable energy to citizens outside this state? The other bill, LB104, simply gives away Nebraska's sales tax dollars to wind energy developers, thus, it squanders the opportunity for broad economic development and local wealth creation that comes with local inputs and ownership. That's his words, and he represents a broad section of rural Nebraska. All I'm asking for is, if we're going to adopt LB104, we need to make certain that the language in AM1408... [LB104 LB402]

SENATOR KRIST: One minute. [LB104]

SENATOR SMITH: Did you say time, sir? [LB104]

SENATOR KRIST: No, one minute. [LB104]

SENATOR SMITH: Okay...that it aligns, it aligns with Chapter 70. If you're going to export energy from this state and you're going to be a private developer, you have to follow CREF language in Chapter 70. My amendment, simply, says, make certain it aligns with LB104. That's all. It's very simple. Thank you, Mr. President. [LB104]

SENATOR KRIST: Thank you, Senator McCoy and Senator Smith. Senator Bloomfield, you are recognized. [LB104]

SENATOR BLOOMFIELD: Thank you, Mr. President. I'd like to ask Senator Lathrop a question. [LB104]

SENATOR KRIST: Senator Lathrop, will you yield? [LB104]

SENATOR LATHROP: Yes, I will. [LB104]

SENATOR BLOOMFIELD: Senator Lathrop, if LB104 passes and becomes law, is TradeWind coming for sure, or are they just going to look at us a little closer? [LB104]

SENATOR LATHROP: No, I think they're...they've...I expect them to come. I've been given assurances that they expect to come. They are working on the power purchase agreement. They expect that to be approved because it's with a customer they've done two other projects with. I...they'll be here. [LB104]

SENATOR BLOOMFIELD: You expect them to come. There's no lead-pipe cinch

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guarantee they're going to be here, though. Is that...would that be fair? [LB104]

SENATOR LATHROP: I would say it's the same degree of certainty that we have for all of the projects that precipitate an amendment to the Advantage Act. [LB104]

SENATOR BLOOMFIELD: Okay, thank you. I'd yield the rest of my time to Senator Smith if he could use it. [LB104]

SENATOR KRIST: Senator Smith, you're yielded four minutes. [LB104]

SENATOR SMITH: Thank you, Mr. President, and thank you, Senator Bloomfield. I'm not much one for talking on and on and on. But I do believe that this is an important issue for Nebraska, just as Senator Carlson--he gets very passionate when he stands up here and talks about water issues for Nebraska--and Senator Lathrop, when he stands up and talks about judicial issues in Nebraska. I spent 30 years in the energy field and I feel very passionate that we need to have a comprehensive plan for Nebraska in developing our renewable resources. And I guess I need to apologize to my colleagues that, you know, it took this point for me to bring forward a legislative resolution to say, let's do a study, let's understand what all the issues are and how we further develop those resources. But you know what? It's never too late. I sense that there is...we're probably getting close to calling the question, and that's okay. But AM1408 is going to be a litmus test here as to how serious we are about having solid legislation, good legislation. When we identify that there's inconsistencies in a bill in between the statutes, aren't we to bring this to our attention? Am I supposed to bring this to your attention? I have. I think I've made a strong reason for adopting my amendment. I feel very passionate about it. And I'm hoping that if you don't understand what this is attempting to do, talk to me. Ask me those questions on the mike. Let's make certain it's very clear. But AM1408, supposedly, is doing exactly what Senator Lathrop is attempting to do with LB104, but it just creates a pathway through the statutes in Chapter 70. Thank you, Mr. President. [LB104]

SENATOR KRIST: Thank you, Senator Smith. Senator Murante, you are recognized. [LB104]

SENATOR MURANTE: Thank you, Mr. President. I'll yield my time to Senator Smith. [LB104]

SENATOR KRIST: Senator Smith, 4:50. [LB104]

SENATOR SMITH: Thank you, Mr. President. I'm going to waive. [LB104]

SENATOR KRIST: Senator Nelson, you are recognized. [LB104]

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SENATOR NELSON: Thank you, Mr. President, members of the body. Senator Smith, I was going to yield you more time but, apparently, you have all the time you need. May I ask you a question or two? [LB104]

SENATOR KRIST: Senator Smith, will you yield? [LB104]

SENATOR SMITH: Yes, I will. [LB104]

SENATOR NELSON: I'm interested in the Power Review Board. I've been familiar with that over the years. It's my understanding that that was set up originally as a policy of the state of Nebraska to have some oversight and approval of transmission facilities and electric generation within the state of Nebraska. Would that be correct? [LB104]

SENATOR SMITH: Yes. I believe, also, to resolve territorial disputes. [LB104]

SENATOR NELSON: Right. Okay, so that's what we went with until the Legislature saw fit, I think, in 2010 or 2011 to pass 70-1014.02, and that dealt with certified renewable export facilities. So they were envisioning there that this is going to happen, that we're going to, perhaps, have generation of electricity and then transmission outside the state of Nebraska. Would that be correct? [LB104]

SENATOR SMITH: That is what I understand. [LB104]

SENATOR NELSON: All right. And I've looked at the statute. It runs...and it goes into a great deal of detail about what the Power Review Board has to look at and all the factors considered, and it's tailored to exporting. And so, with that, then you take a look at the definition of terms. And under 70-1001.01, under (2), it says, certified renewable export facility means a facility approved under Section 70-1014.02 that will generate electricity using solar, wind, biomass, or landfill gas, (b) will be constructed and owned by an entity other than a municipality. And it goes on and on. So there's a complete definition about what we're talking about here. Would that be correct? [LB104]

SENATOR SMITH: That is correct, Senator (inaudible). [LB104]

SENATOR NELSON: All right, and so that's the import of AM1408, is just through LB104 referring to that, referring to 70 as a guideline and making certain that all the things are followed, as I understand. What your amendment does: It provides a pathway. Is that correct? [LB104]

SENATOR SMITH: That is correct, Senator. [LB104]

SENATOR NELSON: Okay. Do you happen to know...I guess there has to be a purchase power contract. But then, once that's obtained, it has to be approved by the

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Power Review Board as part of the package, would that be correct? [LB104]

SENATOR SMITH: That is my understanding, yes. [LB104]

SENATOR NELSON: Okay. Do you have any idea how long a time that process would take then? [LB104]

SENATOR SMITH: No, I do not, Senator. [LB104]

SENATOR NELSON: Okay, well, it talks about here that they can take up to 18 months, the applicant, to make changes and to get everything in order. Not that it would take that long, but it does indicate to me that it's not a 30-day process. There has to be a notice and hearing and...just as in a lot of other board reviews. So thank you, Senator Smith. [LB104]

SENATOR SMITH: And... [LB104]

SENATOR NELSON: You know, I stand, colleagues, in favor of AM1408. I don't think it does any harm. I think it makes certain that we're getting the bill itself in good shape. I really don't see any reason why it would preclude the development or keep an entity from outside the state coming in here. And I don't see Senator Lathrop to ask him what his further objections are. But I will just leave it at that and say that I stand in support of AM1408. Thank you. [LB104]

SENATOR KRIST: Thank you, Senator Nelson and Senator Smith. Senator Carlson, you're recognized. [LB104]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. And I would address a question to Senator Lathrop if he would yield. [LB104]

SENATOR KRIST: Senator Lathrop, will you yield? [LB104]

SENATOR LATHROP: Yes, I will. [LB104]

SENATOR CARLSON: Last time on the mike, I talked a little bit about that \$16 million and came up short in terms of talking about it. Explain again how you believe that money would be distributed. [LB104]

SENATOR LATHROP: The \$60 (sic) million... [LB104]

SENATOR CARLSON: The \$16 (million). [LB104]

SENATOR LATHROP: Pardon me? [LB104]

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SENATOR CARLSON: Sixteen, as...it was my understanding that there's \$16 million that they're going to get if they come here. [LB104]

SENATOR LATHROP: I think that's all of their tax credits. I think that might include the federal. I think the fiscal note is \$7.5 (million). There may be some in the out years. But let me just do, sort of, the math for you, if I can. [LB104]

SENATOR CARLSON: Okay. [LB104]

SENATOR LATHROP: What's the benefit to the state? First of all, I think it's indistinguishable from a datacenter, okay, and we've done those. But besides that, the math would work out this way: The landowners are going to receive payments each year of about \$10,000 to \$15,000 per turbine or per tower. From those payments they will pay income tax. Then the local community or the local county government will receive nameplate taxes of \$700,000 to \$800,000 per year for the life of the project. I think this is a 40-year project, so that's...for the county in which these things are built, it is a benefit that benefits citizens of the state of Nebraska, but it's isolated to the county where it's at. There are jobs that are created by it. I think 25 or so would be the number of jobs created by this. Those folks will pay taxes. But when they develop this, they come into the community and they're buying things. They're moving into the community where these are built and for the time they are there, actually during the construction phase, they're filling up the hotels, they're filling up the restaurants, they're buying things from the locals, and then they're leaving jobs behind when they depart. [LB104]

SENATOR CARLSON: Okay, I want to ask you again because you gave it and I didn't jot it down. But the nameplate tax, you thought was \$700,000-and-some thousand a year? [LB104]

SENATOR LATHROP: Seven hundred to \$800,000, I've seen the estimate in that range. [LB104]

SENATOR CARLSON: For forty years? [LB104]

SENATOR LATHROP: Yes. [LB104]

SENATOR CARLSON: Okay, all right. Thank you, Senator Lathrop. And that's the only question I have this time, Mr. President. [LB104]

SENATOR KRIST: Thank you, Senator Carlson and Senator Lathrop. Senator Kintner, you're recognized. [LB104]

SENATOR KINTNER: Well, thank you, Mr. President. I think rather than ask some

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questions which might confuse me further just by asking the question, let me yield my time to Senator Schilz. [LB104]

SENATOR KRIST: Senator Schilz, 4:50. [LB104]

SENATOR SCHILZ: Thank you, Mr. President, members of the body. Thank you, Senator Kintner. I appreciate that. And I know the time is moving on and, you know, once again, this is important conversations that we need to have. And it's good that we're having them here. But I want to jump forward because I think we've heard it alluded to before that there is an amendment that I have put in place. And I want to explain a little bit about what that does and what that is and why we see some of the opposition and where the opposition comes from between LB104 and AM1359, which is my amendment. And here's what it does: It eliminates the sales tax on the renewable energy developments that buy 10 percent of inputs in Nebraska in 2013. So if it would go into place in 2013, a company such as TradeWind would have to use only 10 percent of Nebraska inputs, not ownership--that's been taken out of C-BED--not the 33 percent that's in C-BED now--that goes away. In fact, you could even argue that this amendment really changes C-BED to its core, and it does. So the question then becomes, what after that? Do you raise it up like they did in the Advantage (Act) tier 5 and say, hey, this next year you have to come up with this much of a percentage, which is 15 percent. And then the last one, which we've talked about, and we haven't decided yet whether 25 percent is too much or not but it's surely worth the conversation of Nebraska inputs. I've seen a lot of these companies come around and talk about contracts and talk about things like that. I watched as Senator Dubas introduced a bill to make sure that the contracts, right, were favorable for the people of Nebraska. Guess what? When that went out, some companies left. There are companies out there that will take advantage of things. They will. And I'm not saying that it's any of these, but we all know they're there. So we need to be careful of that. My contention is, and my question is, that we all hear that AM1359 won't work for TradeWind. And Senator Mello said that and Senator Lathrop has said that. And I guess I'm just trying to figure out, if this amendment goes into place and it's that and it's 10 percent or 15 percent, I would like to know why it won't work. And once their project is in place, I mean, they're set up, they're done. So I think it's an important question and I think it needs to be looked at. And I think that it is a philosophical difference because here's what we have: It's like a datacenter, you know. It's a big investment with small employment opportunities, right? So we need to keep that in mind. Now I don't disagree that the counties get some major benefits from whichever route we go. Whether it's the AM1359 route or the LB104 route, counties get that. That is because of what was put in place in LB1048. It doesn't have anything to do with LB104, LB402, or AM1359. [LB104 LB402]

SENATOR KRIST: One minute. [LB104]

SENATOR SCHILZ: That is done because of LB1048. That doesn't change. So those

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counties get that, no matter what, if a thing...if a project gets put in place. The question is, how much of a gift or how much of a payback did these guys get for putting it here in Nebraska? A C-BED project is an exemption, a straight-out exemption, or rebate if they've already spent some money. Nebraska Advantage is a rebate after they've paid the tax and after they have proven that they've earned it. So there is a little bit of a difference there, and we need to keep that in mind. So as we hear that one process is more complicated than the other, I went and I got both the processes. And I invite anyone to go look, and see which looks more difficult. Remember, there has been a C-BED project that's moved through, through the old C-BED, and we simplify it extensively with AM1359. So I wanted everybody to hear that. I don't want to take up all the afternoon, but I...it's a serious thing so I wanted to get that out there. [LB104]

SENATOR KRIST: Time. [LB104]

SENATOR SCHILZ: Thank you very much, Mr. President. [LB104]

SENATOR KRIST: Thank you, Senator Kintner and Senator Schilz. Senator McGill, you're recognized. [LB104]

SENATOR MCGILL: Question. [LB104]

SENATOR KRIST: The question has been called. Do I see five hands? I do see five hands. The question is, shall debate cease? All those in favor vote aye; opposed, nay. Senator McGill, for what reason do you rise? [LB104]

SENATOR MCGILL: I'd like a call of the house. [LB104]

SENATOR KRIST: There has been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; opposed, nay. Please record, Mr. Clerk. [LB104]

CLERK: 28 ayes, 0 nays to place the house under call. [LB104]

SENATOR KRIST: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Conrad, Senator Nordquist, Senator Karpisek, Senator Ashford, Senator Larson, Chambers, Lautenbaugh, and Price. Senator Smith, would you like to start your close? [LB104]

SENATOR SMITH: Yes, thank you, Mr. President. [LB104]

SENATOR KRIST: Okay, wait one second, please. Please record, Mr. Clerk. Senator

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Conrad, please check in. Senator Price, please return. Senator McGill, everyone is accounted for. How would you like to proceed? We'll accept call-ins. [LB104]

CLERK: Senator Ashford voting yes. Senator Nordquist voting yes. Senator Karpisek voting yes. Senator Murante voting yes. Senator Howard voting yes. Senator Wightman voting yes. Senator Davis voting yes. Senator Wallman voting yes. Senator Larson voting yes. [LB104]

SENATOR KRIST: Please record, Mr. Clerk. [LB104]

CLERK: 25 ayes, 1 nay to cease debate, Mr. President. [LB104]

SENATOR KRIST: Debate does cease. Senator Smith, you're recognized to close. [LB104]

SENATOR SMITH: Thank you, Mr. President. I did not oppose the calling the question. I want to be constructive here, and I believe that AM1408 is a constructive amendment to LB104. It reflects the intent of LB104 which, I believe, was the intent of LB104. But hearing so much opposition from the sponsors of LB104, it makes me wonder. I'm going to, once again, explain. Chapter 70 of the statutes, there are three pathways for approval of generation in this state by the Power Review Board. There's a standard approval process as defined in 70-1014. And I don't think there's any way that LB104 is going to be able to clear that path because you have to show you serve the public convenience and necessity and that it's the most economic and feasible supply. That's reserved for public power generation primarily, haven't seen it used other places. I think there was a Black Hills transmission line once, but that's about it. Then there's special generation pathway. That's 70-1014.01. And I hope, colleagues, that you've just taken a look at that if you're not trusting what I'm saying. And that's reserved for generation facilities that meet C-BED conditions. And they are restricted to selling that power inside the state. I don't think that's what you're wanting to do with LB104. I'm hearing that this is for export. So that's...there's only one remaining pathway, and that's 70-1014.02, certified renewable export facility language. That's where the restriction is at. Ten percent stays home; 90 percent leaves the state. That is right of first refusal by the utilities. And it could be privately owned, like a TradeWind. And then there's requirements for language in there. There's language in there about what type of source of energy--wind, solar, biomass, and landfill--once again, colleagues, very simple amendment. I'm just saying your AM1408 needs to follow that pathway. If it doesn't follow that pathway, tell me the other pathway it's going to follow for approval. And if you vote against this amendment, you're not understanding the statutes, you're not serious about this legislation. I do have a legislative resolution to study the role of renewable energy in this state. I think we need to have a comprehensive energy policy for this state and develop our renewable resources for export. I think that's a great idea. But we have to do it thoughtfully. If AM1408 is not adopted, I do not believe that there is much

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regard being given to a meaningful and responsible energy policy in this state. We're simply going through the motions of doing what the lobbyists in the Chambers and everyone else is telling us to do. And, you know, I listen to these folks, too, and they usually have great information. There's just more information on this particular issue. This is a complicated issue. Colleagues, this is a straightforward amendment. Mr. President, I ask for a reverse order roll call. [LB104]

SENATOR KRIST: You have heard the closing on AM1408. The question is, shall the amendment to LB104 be adopted? Mr. Clerk. [LB104]

CLERK: (Roll call vote taken, Legislative Journal page 1511.) 14 ayes, 23 nays, Mr. President, on the amendment. [LB104]

SENATOR KRIST: The amendment fails. Mr. Clerk. [LB104]

CLERK: Mr. President, the next amendment I have is Senator Hadley, AM1446. (Legislative Journal page 1418.) [LB104]

SENATOR KRIST: Please raise the call. Senator Hadley, you're recognized. [LB104]

SENATOR HADLEY: Mr. President, members of the body, I brought this amendment because when we were originally talking about LB402, the sponsor of that bill had a concern about smaller projects. So I...the purpose of this amendment is to lower the requirements in tier 5 down to \$20 million of investment. I want to talk a little bit about the Advantage Act and why I think it's appropriate for these type of projects. Since its inception, over 300 businesses have applied under the act with an estimated benefit of over 19,000 new jobs and \$8.4 billion in new investment in the state. In 2012 alone, the department received over 50 applications that could result in over 2,000 new jobs and \$2.8 billion in new investment in this state in the Advantage Act. Let me tell you about one of those 2012 applications. Those of you that were serving here last year, you might remember Project Edge, which was the Kearney datacenter, known as Facebook, that we lost to Des Moines. We tried. We worked hard. We didn't get it. But I...if you remember back, we amended that tier to bring down the investment from \$300,000 (sic)--I'm sorry--\$300 million to \$200 million. I have no idea in whose district Project Photon is in. It's in Papillion. That came in under this particular act. And I have a note here: Work on Fidelity Data Center, also known as Project Photon, to begin immediately. There is a whole list of people that are talking about how great it was: David Black, mayor of Papillion; Steve Scullen, president of corporate operations for Fidelity; Dave Heineman, Governor of Nebraska; David Brown, president and CEO of the Greater Omaha Chamber; Rusty Hike, chairman of Sarpy County Board of Commissioners; and on and on. Let me tell you about this project. There has been concern about the fact that wind energy is just a construction project with very few jobs. Project Photon, Fidelity invested \$200 million for 30 jobs, 3-0. The product they're using

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is being exported from Nebraska. This is their datacenter. This isn't the datacenter for Nebraska. This is part of their datacenter for the United States. So I don't see how this is different than a wind energy farm, and I would be happy to have somebody tell me. Should we have put restrictions on this project last year that they had to use Nebraska labor, Nebraska contractors? Should we have done that? Maybe we wouldn't have the project now. It's just interesting to me that last year this type of project was good, excellent, wanted it. If I remember right, I think this went through without a dissenting vote. I would like somebody to tell me how that's different from a wind energy bill. I don't think it is. And I'll say more about this later, but I have the Journal Star from back in 2007, interesting article, talks about the C-BED as the greatest thing since sliced bread ever to hit Nebraska. They talk about Nebraska being the same as the homestead days when earlier settlers staked their claims to 160 acres. We were going to have wind farms all over the state of Nebraska under C-BED. "Nebraska has not seen this kind of gold rush mentality," said John Hansen, president of the Lincoln-based Nebraska Farmers Union. "Nebraska is sitting on a ton of wind capacity." I guess that's still true, but we aren't doing much about getting it built and used. This was in 2007. They listed all of these projects that were going to happen. I don't think most of them have come about. So again, the reason I put in this amendment was because the sponsor of LB402 wanted it for smaller projects. We bring it down to \$20 million. And I would ask you, how is this different than datacenters, which we seem to be more than willing to go out to try and get? The last thing I'll say: Sometimes you don't always believe what you read in the paper, but the only reason Facebook has--concrete reason--given for building in Des Moines, Iowa, is the lack of green energy in Nebraska. It may not be true, but that's the only reason in print that they've given for not building in Nebraska; or one of the critical reasons was the lack of green energy. And it makes sense. They're a socially conscious company, right? And I assume that green energy is important to them. That's the only reason that they have publicly given that they went to Iowa. Thank you, Mr. President. [LB104 LB402]

SENATOR KRIST: Thank you, Senator Hadley. You've heard the opening on AM1446. Returning to debate, Senator Ken Haar, you are recognized. [LB104]

SENATOR HAAR: Mr. President, members of the body, earlier there was an article in the Journal Star quoted. And I've got friends on both sides. It makes it difficult. But he said, LB104 simply gives away Nebraska sales tax dollars to wind energy developers. Well, I disagree with that. Here are the...it's a return on investment. Earlier, Senator Krist said, are we going to have a return on our investment? Yes. There's all of these things. First of all, there's the property tax that goes from a wind farm to a county. Talk to Bloomfield. I think we've gotten a handout from there. But Bloomfield will tell you the blessing that a wind farm gives to their community in terms of property taxes. Then there is property rental. Every turbine pays a rental to the landowner where it's located. And according to a bill that I got passed a few years ago, if a wind turbine is on public school lands, the profit from that wind...the rental from that wind turbine will go to

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teachers. It's going to create some local jobs. Now the local jobs will be there, most of them, during construction. We know that. But there are Nebraska entities that train people for those jobs. For example, IBEW Local 22 in Omaha, the electrical workers union, actually has a small part of a tower on their property so they can train technicians/electricians to service those towers. Northeast Nebraska Community College has a curriculum now for people working with wind. I met a couple of those young graduates when I was campaigning last time. They were very interested, very enthusiastic. And then there will be some permanent jobs because every tower has to be inspected regularly. But it will create jobs. And then there's all the spin-off, especially, again, during construction, in the local community, in terms of the motels, the eateries, and so on and so forth. And then there's industry. Now there is a tipping point, I believe, for industry, and...but you've got to have the resource developed. If we develop our wind potential in Nebraska, the industry will come because transporting all those parts is expensive. But they're not just going to come to Nebraska and produce wind turbines and blades and things like that if we haven't developed wind. They'll go to Iowa, as we've seen. But we need to reach that tipping point where it pays for these wind developers to use Nebraska industry. We don't have to hit them over the head with a hammer. If we're developing our wind industry, then the development, the wind industries, will come to this state. There's the investment. A huge amount of investment we've heard about. Long term...and this is my opinion, of course. Others may disagree. But using renewables like wind is going to lower, over time, our electrical rates, whereas using carbon, using carbon fuels, the rates keep going up and up at a pace that's greater than they will if we transition to renewables. And there is... [LB104]

SENATOR KRIST: One minute. [LB104]

SENATOR HAAR: Thank you. There is a national benefit, of course. We're not just a state unto ourselves. If...you know, once the wind goes across Nebraska, it's gone. If developers can come in and harvest that wind, so much the better. And they will spend money in Nebraska. We're going to get a return on investment. So let's not pass up this opportunity. We're not just giving incentive to somebody from out of state. We're going to gain in many ways, the counties are going to gain in many ways, and Nebraska will benefit for this development. Thank you very much. [LB104]

SENATOR KRIST: Thank you, Senator Haar. Senator Lathrop, you're recognized. [LB104]

SENATOR LATHROP: Thank you, Mr. President, and, colleagues, once again, good afternoon. I support Senator Hadley's amendment, AM1446. This really is the product of a conversation we had with those who were supporters of LB402. And the idea was, when we were out here on General File, we talked about LB104 being suitable for large projects and LB402 being, perhaps, more suitable for smaller projects. And as we sat around the table and talked about it and as we tried to sit down and come to some

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consensus, as we told you we would, this is the result of that undertaking. We have lowered the threshold so that the smaller projects may avail themselves of this same incentive. I think it makes sense. It...wind and the incentive provided to the developers needs to be there for small and large, it needs to be there for export, and it needs to be there for those who would enter into power purchase agreements to sell all of their wind to a local utility or a local public power. I wanted to...in response to a question Senator Carlson had of me, I got some numbers for...this project would be 40 years. But the power purchase agreements are typically 20 years to 25 years in duration. I can tell you some projected numbers for this, assuming...over the first 20 years, okay? Some of them you can double; some of them you wouldn't. You wouldn't double a capital investment. But the landowner royalties, as well as the nameplate capacity taxes, you could. So let me give you a couple of numbers here. The capital investment will be \$300 (million) to \$400 million. The landowner royalties for the first 20 years would be \$36 (million) to \$45 million. The jobs during the construction phase would be 250 to 300. During the operation phase, it would be 20 to 25. That's how many people they have to leave behind to maintain the wind farm and to do the different things that need to be done there to make sure the plant, which is this wind farm, functions properly. Over on the impact for rural Nebraska: the nameplate capacities over the 20 years, \$14 (million) to \$17.5 million; property taxes, \$15 (million) to \$18.5 million; state income taxes on those landowner royalties are likely to be \$3 (million) to \$3.8 million--that's just over the first 20 years or the first half of this project; state income tax, jobs during the operation phase, \$2 (million) to \$2.5 million; state income tax on the construction job, \$1.3 (million) to \$1.6 (million). So if you...obviously, the construction jobs you're not going to multiply by two. But a number of those you would, and we'll get our money back. We'll get our money back. And this is not to get into what happens when you drop a dollar into the local community--somebody goes to the restaurant and they spend a dollar there or they get a hotel room and they stay in the hotel room during the period of construction--all of the economic development or the economic activity that takes place in that community when this project is being undertaken or that the 20 to 25 people are going to spend that live in that community. And the practical matter is they're probably going to be younger guys with families, right, because they're good jobs. And they can't do these from Omaha and drive up to Dixon County all the time to do them, so they're going to be people that put their roots down and call this new community their home. [LB104 LB402]

SENATOR KRIST: One minute. [LB104]

SENATOR LATHROP: And they're going to spend money that they're making at these jobs in the community. And that's what economic development is all about. I think this is good. The amendment is good because it lowers the threshold. The LB104 is good because it brings these projects to Nebraska. And, you know, at the risk of repeating myself, when you look at where Nebraska is in terms of potential and you look at where we are in terms of development, you have to ask, what's been the problem? What's

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been the barrier? How come Iowa is ten times ahead of us? And I saw in the paper they're entering into a deal with MidAmerican to do, like, 1,000 megawatts. That's a lot of wind. And when those jobs...when we develop wind in that fashion, at that pace, the folks that make the blades, the ones that make the towers, they'll come here. They'll come here. You can't make them come here, but they'll come here because the business is here and the work is here. [LB104]

SENATOR KRIST: Time, Senator. [LB104]

SENATOR LATHROP: Thank you. [LB104]

SENATOR KRIST: Thank you, Senator Lathrop. Senator Sullivan, you are recognized. [LB104]

SENATOR SULLIVAN: Thank you, Mr. President, and good afternoon, colleagues. It's been said by, I think, one person in this body, occasionally, that rural Nebraska just settles for the crumbs. Well, I don't think wind energy is crumbs. I think wind energy development is good and it's unique to rural Nebraska. Kind of hard to put a wind turbine on "O" Street or Dodge Street. And I'm inclined to think that we should do everything we can not to pass up an opportunity that's something more than crumbs. And, you know, it...some of the comments that have been made so far make it seem like these developers, wind energy developers, move into a community, they get up there...set up the turbines, and then they leave. Petersburg is, I think, kind of, a shining star in my district and in rural Nebraska of what happens to a community when wind developers move in and help that community to develop and thrive. Two different wind developer companies have been in Petersburg, one of which has been there long before I was even here in the Legislature. They worked with that community, educated that community, and they now have 27 turbines there. Another company has 54, for a total of 81 turbines. And you've heard, through comments from Senator Lathrop and others and Senator Carlson, what that does to a community. Now those landowners, there's 81 turbines on land that local people own, and they're reaping an annual benefit, annual royalty. The nameplate capacity tax adds to the property tax rolls. We've got a nonequalized school district in Boone County that doesn't receive any equalization aid, in large part because of the additional resources that are being reaped through property taxes in that local area. One of the very unique things that I think is a direct result of wind developers being in that community is we have a brand-new grocery store building in Petersburg. And you've heard me say many times how important a grocery store is to these small communities. I'd venture to guess that would never have happened had wind development not come to that part of Boone County. And as I've said, one of those companies has been there for more than five years, developing a strong relationship with that community, helping to educate them, helping to see what the benefits are going to be. And they haven't left and they don't intend to leave. I've been out to one of their facilities and seen the several people that they are employing, all local people.

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They've invested in that community and they intend to stay. And, you know, I struggle with the C-BED concept because part of me says, yeah, there should be some buy in. But, you know, we are at the point in rural Nebraska of we have to look at that bird in the hand and we have to look at the advantages of having that company that's willing to work with a local community to get a big project up and running, to work with the landowners, to develop a relationship with that community that has so many other trickle-across benefits. So at the end of all of this, I don't want to settle for the crumbs. I want it...I don't want to settle for something that could be. I see the reality of what has happened and what is. [LB104]

SENATOR KRIST: One minute. [LB104]

SENATOR SULLIVAN: And I stand in support of AM1446 because I think that then brings in part of me that says, we need to bring in some of these smaller entities, and I stand in strong support of LB104. Thank you. [LB104]

SENATOR KRIST: Thank you, Senator Sullivan. Senator Bloomfield, you're recognized. [LB104]

SENATOR BLOOMFIELD: Thank you, Mr. President. I heard a little bit ago, ask Bloomfield. Well, Bloomfield don't know. I realize you're not talking about me. You were talking about the town. But this is right in my backyard, and I'm not sure where I'm going to go on it yet. I'm told the economic development would be a great thing up there, and any economic development we can get in rural Nebraska we want. But Dixon County is located approximately 30-35 miles from Iowa. We're told all these people are going to come in and do wonderful things in Nebraska when they come to build. I'm not yet convinced that they're not going to drive from Iowa to build the towers. And perhaps the maintenance will be done by people from Iowa. I would love to see the \$700,000 a year going to Dixon County. That sounds good. But I am sitting and listening to this. We have people up in my district that do this type of work. I'd love to see them doing it. But I see nothing that guarantees me that they will be doing it. I also see nothing that guarantees me that this will, in fact, happen, if we pass this bill. But I am going to sit and listen and continue to ponder this. And I'll yield the rest of my time to Senator Lathrop, if he has any use for it at all. [LB104]

SENATOR KRIST: Senator Lathrop, 3:13. [LB104]

SENATOR LATHROP: Thank you, Mr. President, and, Senator Bloomfield, I appreciate that. I don't know if the town is named after you or not. It would be if you were the guy responsible for the wind project up there, I'm sure. (Laughter) I think it's timely that I got time right after Senator Bloomfield or from Senator Bloomfield because you received today a letter from Nelson Engineering, which is a South Sioux City company in Senator Bloomfield's district. And we talked about these guys and I think it illustrates, sort of, the

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philosophical difference between LB104 and an amendment we may get to later on today, and that is: What do we do with the idea that we're going to mandate or require that somebody buys certain percentage of the inputs from Nebraska companies? And Nelson Engineering weighed in on that. They're a South Sioux City company, a Nebraska company. It's Nelson Engineering Construction, and they're actually in support of LB104. And you'd think a Nebraska company would be in support of the amendment Senator Schilz has proposed and spent a good part of today talking about, but it's the opposite. You see, Nelson Engineering Construction is doing work in Kansas. They're building wind farms down in Kansas. And their concern that you'll see in this letter is, wait a minute, as soon as you say we must use Nebraska companies, then I'm done down in Kansas because it won't take very long before Kansas says, you've got to use Kansas companies. And that's the way that protectionism works. It becomes a little bit of a tariff war or a trade war, and that's the problem with it. We've never done that to the Advantage Act; we've not done that to our incentives. We haven't said, you have to buy in Nebraska. We have a lot of exemptions in our sales tax, right? We have farm exemptions, manufacturing exemptions, and the like... [LB104]

SENATOR KRIST: One minute. [LB104]

SENATOR LATHROP: ...that we certainly got a good at when Senator McCoy's bill was introduced to tax those folks. None of those incentives require that the inputs be manufactured in Nebraska. There are a number of exemptions for folks in ag. We don't require that they buy stuff that's made here, manufactured here. It's an exemption because we know that this is an industry we want to incent. And by the same logic, as soon as we start putting those requirements that you buy local, I get that there would be a greater economic advantage, but we're going to diminish the opportunity, diminish the growth prospects of wind energy. And the other philosophy is: Let's level the playing field, throw out the welcome mat, and then when wind energy gets developed at a pace that we all want to see, the folks who manufacture those blades will come to Nebraska because, they'll say, Nebraska is catching up, they have all this potential. [LB104]

SENATOR KRIST: Time, Senator. [LB104]

SENATOR LATHROP: Thank you. [LB104]

SENATOR KRIST: Thank you, Senator Lathrop and Senator Bloomfield. Senator Janssen, you're recognized. [LB104]

SENATOR JANSSEN: Thank you, Mr. President and members. And I've been following this as a...been a supporter of wind energy, as I'd mentioned before, since my first year down here. And I can understand that it's an extremely complex issue, and that's why I was very disappointed that the last amendment didn't pass. I'm not even certain if it got full consideration from everybody about what Senator Smith was saying. It's...as a

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person with his expertise on this, I was hopeful that...and perhaps you did. You came to a full decision on it. But we talked about Facebook. And Facebook is a socially conscious company, green company, I think, was the word used, and they actually did come under criticism for not being a green company. And if it's their goal...and a question arose to me. If it is Facebook's goal to change the world geographically, or United States--the world, I think, is their goal--one Facebook status or post at a time, to green energy, why not go to a state which has been well-documented, as Nebraska is, well-documented by everybody here? I don't think there's an opponent of wind energy on this floor. It has been well-documented that Nebraska is one of the best states for it and it's underdeveloped. Why wouldn't they come here? Mark Zuckerberg...there's a "Wealth-o-Meter." You can go to Google, ironically, to find this. Go to Mark Zuckerberg. Google it and "Wealth-o-Meter." It tracks his daily wealth. When the IPO came out he was worth \$19.4 billion. Today, May 21...that was at \$38 a share. Today he is just under \$13 billion. I'm sure he's making it past. I'm sure he's covering rent still and everything is okay. But if the leader of the company--and, I assume, the leader of the company is in charge of this, the CEO--is so encouraged to expand his green energy empire, then why would he not come to a state like Nebraska and say, if you do this, we can expand this across the United States? Yeah, Iowa has already done it. That's great. And they're doing good. And we plan on doing something for them. But for the \$715 million and, actually, probably, a lot more than that, that is proposed here, in the original bill, would have been nothing, if that's truly a belief of theirs. Now as a businessman, I can understand making a rational business decision. I believe they have plants in North Carolina, a big coal plant there. So the question...well, and then I recall, in this same article, oh...it was in the World-Herald, I think. I didn't read it anywhere else. But it was kind of...I don't know, you could say it was political. I thought it was, that wind energy was the reason, green energy. Well, it also said, oh, by the way, one of the lead members of the search team is a native "lowegian" and had a key...it was a key decision maker in this. I don't know if they go by lowan or "lowegian." I may be getting some nasty e-mails. But I'm not on Facebook, so...well, certain parts. So the question is not, why didn't they come here? Why are they leaving the state they're from? Why are they leaving? What are the policies of the states... [LB104]

SENATOR KRIST: One minute. [LB104]

SENATOR JANSSEN: Thank you. What are the policies of the state that they are leaving? You can have datacenters where they're from. There is plenty of territory out there. There's plenty of places that they could fit. Does it cost too much? Wind energy is a good idea. I agree with that. But let's don't use this propaganda machine of Facebook going to Iowa as a reason to pass a bill that...I disagree with how it came about, the changing of who had it and what...I disagree with that. Just...and I do. But if it's a good bill, I can agree with it. And we had an amendment up to really look at this and truly understand it. I'm not there yet. I want to be there, just not there yet. [LB104]

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SENATOR KRIST: Time, Senator. [LB104]

SENATOR JANSSEN: Thank you, Mr. President. [LB104]

SENATOR KRIST: Thank you, Senator Janssen. Senator Schilz, you are recognized. [LB104]

SENATOR SCHILZ: Thank you, Mr. President, members of the body. I apologize, I got caught out there, so I got a little exercise in, which can never hurt, as you can see I don't miss many meals. You know, now we're talking about what we want to talk about. And we're talking about serious stuff which means we're going to give money to businesses that come here in the form of a sales tax exemption, or in this case with Senator Hadley's amendment, a sales tax rebate. It's real money, folks. And everybody can argue that, well, it wouldn't be there but for this or everything else, but when you look at the bottom line and you see a \$300 million project that's going to net back to somebody, an entity, a company, almost \$28 million that then is going to be transferred into cheaper utility costs and electrical costs for some customer, that's what we're talking about here. And because Nebraska produces enough energy of it's own through public power, the only real opportunity for these large wind farms, and we've heard about 80 megawatts, we've heard about 200 megawatts, we've heard about 300 megawatts, there's a lot bigger ones out there than that that are possible, but it's all got to be export. So let's think about this. Ninety percent of that has to go out of state; 10 percent of it has to stay here. If we incent all of those export projects first and they get all the prime areas, then in 20 years what's left for the ratepayers of the state of Nebraska? Of if we find out that that's actually cheaper than what we're doing, then what's there for the people of the state of Nebraska, the ratepayers of the state of Nebraska? Because remember, that's public power's job to keep that in mind and to make sure cheap, reliable electricity. So when we talk about what we want to do and how we want to incent things, we really do need to think about the future and what goes on. And remember, I can go to a map and I can show you the spots on that map where the best wind is. Whose wind is it? Who should get the benefit for it? And how long should that benefit last? We are under the constraints right now through LB1048 because of the negotiation that happened there, that only 10 percent of that power can stay in Nebraska; the rest of it all has to go. And I get that and I understand why. But in the future if our economy does grow and if our population doesn't continue to decline and/or if there are things out there that require even more energy than what we have now, will we still have the best and same opportunities to go out and harvest that wind for our purposes? And I think that's part of the bigger picture that we need to look at. Not one year down the road, not two years down the road, but these power purchase agreements on these wind farms are 20-year deals. As I said before, Senator Dubas' bill that put in statute what should be in those contracts was an important piece of legislation,... [LB104]

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SENATOR KRIST: One minute. [LB104]

SENATOR SCHILZ: ...because it looked to those 20 years to say, hey, make sure you're protecting Nebraskans. And I think that that makes sense. So as we look at this, it's something different than we've done before. Let's make sure that as a public power state, the only one in the union; remember, we can't look like Kansas, we can't look like Colorado, we can't look like California, because we are Nebraska. We are a public power state and that means we're different from everybody else. And there's no other way to slice it. So make sure, as you think about this stuff, that you're thinking with a broad enough picture out there to understand moving that far into the future. And I think Senator Smith's study makes a lot of sense after what I saw here just a little while ago. [LB104]

SENATOR KRIST: Time, Senator. [LB104]

SENATOR SCHILZ: Thank you. [LB104]

SENATOR KRIST: Thank you, Senator Schilz. Senator Smith, you're recognized. [LB104]

SENATOR SMITH: Thank you, Mr. President. And, colleagues, I was disappointed with that last vote, of course, because it was a sensible amendment and it just continues to reaffirm to me that we don't know what this bill does and we don't know what the statutes mean. A simple bill to try to align this bill, LB104, to Chapter 70 where we talk about certified renewable export facilities. But what's done is done, that's fine. I do want to keep...set the record straight. A lot of discussion about datacenters that may not have come to Nebraska because we did not have a renewable standard and Facebook and I asked permission to share this, but this came from NPPD. This is what the Facebook representatives told NPPD's economic development staff. If you're really concerned and serious about why companies don't come to Nebraska, just listen colleagues, this is what Facebook representatives told our economic development staff regarding selection of Iowa over Nebraska. One, the fiberoptics in Kearney were not quite as robust as in Altoona, Iowa. I don't know whether that's correct or not, but that's what they're saying. Number two, it's easier to fly into Des Moines from San Francisco than into Kearney from San Francisco. I've been to Kearney and I think that's probably correct. Number three, access to green energy was more important than the site consultant realized. NPPD said, had they known that, they would have offered Facebook their green rate. That is a rate structure that marries up renewable energy with what the standards are for those companies. So doesn't sound like it was important enough for them to have said that whenever they were looking at the sites. Number four, electric rates were not an issue. They said that Nebraska rates competed well. So all of this that I'm hearing, and we saw in the media as well, and I guess we have to believe everything we read in the media, and everything a large corporation says as to why they make their decisions,

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but we're led to believe that Facebook chose Iowa over Nebraska because we don't have as much wind power or renewable power in this state as Iowa has. Based on what the conversations were between NPPD and Facebook, that doesn't measure up. So I just want to get that on the record to make certain that we were clear as to why or why not Facebook chose another state over Nebraska. Thank you, Mr. President. [LB104]

SENATOR KRIST: Thank you, Senator Smith. Mr. Clerk. [LB104]

CLERK: Mr. President, Senator Chambers would move to amend, I might indicate to the membership it will be available on your Chamberviewer shortly. (FA91 Legislative Journal page 1511.) [LB104]

SENATOR KRIST: Senator Chambers, you're recognized. [LB104]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, while you're waiting for that to come on your Chamberviewer, Chambers will tell you what the amendment would do. In two places you will find my amendment. But I don't know if you have it on your gadget, but if you look at Senator Hadley's amendment, my amendment would be on page 1 in line 9, a period would be inserted after 2015; you would then strike the remaining matter through the period in line 10. And the matter stricken would be the words "without further authorization of the Legislature." Then the exact same amendment would be found on page 2 beginning in line 3; after 2015 you would insert a period. You would strike the remaining matter through the period in line 4. And the matter stricken would be these words, "without further authorization of the Legislature." Members of the Legislature, I have not had a chance to analyze Senator Hadley's bill beyond page 2. And when I first start reading legislation I look at the grammar, the syntax, and just the ordinary things that a person without expertise in the subject matter can grasp. I'd like to ask Senator Hadley a question. [LB104]

SENATOR KRIST: Senator Hadley, will you yield? [LB104]

SENATOR HADLEY: Yes, I will. [LB104]

SENATOR CHAMBERS: Senator Hadley, did I read that slowly enough for you to see what it is that I'm doing by looking at your amendment? [LB104]

SENATOR HADLEY: Would you repeat it, Senator Chambers? [LB104]

SENATOR CHAMBERS: Did I state slowly enough what I was doing to give you the opportunity to read it on your amendment...on your bill? [LB104]

SENATOR HADLEY: I have not seen it yet. I will look at it right now. [LB104]

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SENATOR CHAMBERS: All right. After you looked at it, tell me that you've looked at it. Have you looked at it? [LB104]

SENATOR HADLEY: Yes, I have. [LB104]

SENATOR CHAMBERS: Now here's what I want to ask you, if you go up to line 6, are you with me, on page 1? If you go up to line 6 on page 1, have you found that? Senator Hadley, are you there? [LB104]

SENATOR HADLEY: I'm looking right now, Senator Chambers. [LB104]

SENATOR CHAMBERS: I can't hear you. [LB104]

SENATOR HADLEY: I'm looking right now, Senator Chambers. [LB104]

SENATOR CHAMBERS: All right. Tell me when you're with me. This is the first time I've seen a filibuster carried on by means of utter silence. (Laughter) [LB104]

SENATOR HADLEY: Senator Chambers, I'm going to have to find that if you would bear with me. [LB104]

SENATOR CHAMBERS: Yes, I will. I actually have a copy...a paper copy of your amendment, because I'm old-fashioned and I have to feel things and visualize them so I'm not looking at the gadget. So I'm looking at the white copy of your amendment. [LB104]

SENATOR HADLEY: I have it now, Senator Chambers. [LB104]

SENATOR CHAMBERS: Thank you. Now on line 6, are you with me? [LB104]

SENATOR HADLEY: On page 1. Yes. [LB104]

SENATOR CHAMBERS: Yes. Okay. Tier 1 investment and qualified property of at least \$1 million and the hiring of at least ten new employees; there shall be no new project applications for benefits under this tier filed after December 31, 2015, and then this language is in it: without further authorization of the Legislature. Do you mean what you say in your current amendment that after December 31, 2015, there shall be no new project applications filed? [LB104]

SENATOR HADLEY: This is tier 1. My amendment actually deals with tier 5, Senator Chambers. [LB104]

SENATOR CHAMBERS: But are you on page 1? [LB104]

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SENATOR HADLEY: Yes. [LB104]

SENATOR CHAMBERS: All right. I'm going to read again, have you looked at your amendment? [LB104]

SENATOR HADLEY: Yes. [LB104]

SENATOR CHAMBERS: Because I look at everything in this amendment as being yours. [LB104]

SENATOR HADLEY: Okay. [LB104]

SENATOR CHAMBERS: In line 6 on the copy of your amendment that you have... [LB104]

SENATOR HADLEY: Um-hum. [LB104]

SENATOR CHAMBERS: ...does it being with (a) and then it says "tier 1." [LB104]

SENATOR HADLEY: Um-hum. [LB104]

SENATOR CHAMBERS: Okay, you're with me on there. [LB104]

SENATOR HADLEY: That's correct. Yes. [LB104]

SENATOR CHAMBERS: Okay. Now drop down to line 8, that's where I want to begin reading. [LB104]

SENATOR HADLEY: Yes. [LB104]

SENATOR CHAMBERS: "There shall be no new project applications for benefits under this tier filed after December 31, 2015." If that... [LB104]

SENATOR HADLEY: Yes, I understand now, Senator. [LB104]

SENATOR CHAMBERS: Then we don't need the words "without further authorization of the Legislature" because once you reach December 31, 2015, no new applications can be filed. Isn't that correct? [LB104]

SENATOR HADLEY: Senator Chambers, that's correct. [LB104]

SENATOR CHAMBERS: So if we strike "without further authorization of the Legislature"

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we don't need that language because it's clear that once you want to allow the filing of new applications after that date, it could only be done by means of an amendment adopted by the Legislature, is that correct? [LB104]

SENATOR HADLEY: That's correct. [LB104]

SENATOR CHAMBERS: So, you would not be opposed to my striking this surplusage in the form of these words "without further authorization of the Legislature," correct? There's no trickery here. [LB104]

SENATOR HADLEY: Okay. Senator Chambers, the only thing I can explain is that I was a member of the Revenue Committee when Senator White brought this and this was a type of sunset, in essence, that we were going to say at this point in time the Legislature would look at the Advantage Act and that's why we put this particular date in there. [LB104]

SENATOR CHAMBERS: Who brought it? [LB104]

SENATOR HADLEY: Senator White. [LB104]

SENATOR CHAMBERS: You mean who is no longer here? [LB104]

SENATOR HADLEY: Who is no longer here. [LB104]

SENATOR CHAMBERS: All right. But even if it was a sunset, I'm leaving the date alone. [LB104]

SENATOR HADLEY: I understand, and at first glance I think you're absolutely correct that we can absolutely...we would have to do something positive to extend it past that date. [LB104]

SENATOR CHAMBERS: Right. So in order to ease my mind on this particular point, would you agree with my amendment to strike those words "without further authorization of the Legislature?" [LB104]

SENATOR HADLEY: I would. [LB104]

SENATOR CHAMBERS: I'm not touching the date or anything. [LB104]

SENATOR HADLEY: I would. [LB104]

SENATOR CHAMBERS: Thank you. Members of the Legislature, I got a call while I was in my office watching the festivities that were occurring on the floor so I could get an

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idea of what it looks like when I'm speaking on the floor, because unlike the ameba I cannot divide myself and be in two places at the same time. So although we describe the ameba as a lowly form of life, it can do what we cannot do. And I envy the ameba for that. But as I watched, it occurred to me that my absence might be noticed, but I didn't want to be arrogant and I'm too modest to say that I'm modest. But a call came and wondered if I had died because I'd been so active on the floor of the Legislature this morning and I am so old that that could have taken all of my energy and therefore I was no longer walking the earth, otherwise I would have been up here participating. So I began to look at what was being done, listening to what was being said, and I felt that what Senator Smith was discussing was being adequately addressed by Senator Smith and other members. So when there is conversation going on, and I just want the clock to tick, tick, tick, I don't have to contribute. And those who have an interest in the bill, different from my interest, when I talk on some of these bills, I don't get in their way. [LB104]

SENATOR KRIST: One minute. [LB104]

SENATOR CHAMBERS: But then when I looked at Senator Hadley's amendment, I did notice that it was inserting a new section and as I began to read through it, the language was familiar and I'm not sure if I see anything stricken in his amendment and that can be pursued later. But I did notice that there was some superfluous language and when I see that, I like to remove it to improve the quality of our work product. Thank you, Mr. President, and I will turn my light on. [LB104]

SENATOR KRIST: Thank you, Senator Chambers. Senator Pirsch, you are recognized. [LB104]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I wonder if Senator Chambers would yield for clarifying questions? [LB104]

SENATOR KRIST: Senator Chambers, will you yield? [LB104]

SENATOR CHAMBERS: No. (Laugh) Yes. (Laughter) [LB104]

SENATOR PIRSCH: And I'll be brief. Your intention is just to...tell me if I'm incorrect, I've just briefly taken a look at your amendment, but it's just to get rid of the words--without further action of the Legislature, something to that effect? [LB104]

SENATOR CHAMBERS: Yes. [LB104]

SENATOR PIRSCH: And you feel that's superfluous because that...doesn't add anything? [LB104]

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SENATOR CHAMBERS: Right, because the preceding language says that after December 31, no new applications can be accepted. So with that language in place, the only way new applications could be accepted is if the Legislature took further action. [LB104]

SENATOR PIRSCH: Very good. So you don't think it's substantive, just grammatical is your purpose? [LB104]

SENATOR CHAMBERS: No, this is merely getting rid of some unnecessary language. [LB104]

SENATOR PIRSCH: Thank you. I appreciate that. I wonder if Senator Lathrop might yield to a question or two? [LB104]

SENATOR KRIST: Senator Lathrop, will you yield? [LB104]

SENATOR LATHROP: Yes. [LB104]

SENATOR PIRSCH: Thank you. With respect to...just a couple of questions, under the main line, LB104 that you proposed, is there a requirement whereby 10 percent must be offered to NPPD/OPPD for their purchase should they decide that they want to make that purchase? [LB104]

SENATOR LATHROP: Yes, I believe that's part of the process. [LB104]

SENATOR PIRSCH: Okay. And a second question, with respect to such purchase then, with respect to the price that NPPD/OPPD would pay for the energy created, would they receive the lowest...what type of a rate would they receive...would they have to pay to the generator of the wind energy? Would they necessarily receive the lowest rate that that generator offers to any customer? [LB104]

SENATOR LATHROP: Yes. [LB104]

SENATOR PIRSCH: Okay. So... [LB104]

SENATOR LATHROP: So if they're selling it for "X" to somebody in Tennessee, there's the price of it and there's some transmission expense that some guy down in Tennessee is going to pay for the power. But the cost of it is the same cost to the guy in Tennessee, who also has to pay the transmission, as they would offer to the public power entity in Nebraska. [LB104]

SENATOR PIRSCH: That type of a benefit doesn't generally accrue to any potential customer of the generator though. So for instance, if you had a purchaser in, say, Illinois

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and a purchaser in Alabama they can charge those two customers different rates, is that correct? [LB104]

SENATOR LATHROP: I think they're typically sent to one utility in some place outside of Nebraska, the export projects are. I don't think they put it on there and sell a little bit to somebody in Illinois and a little bit to some guy in Tennessee and a little bit to somebody in Alabama. [LB104]

SENATOR PIRSCH: Okay. Well I do appreciate that, your answer. [LB104]

SENATOR LATHROP: Sure. [LB104]

SENATOR PIRSCH: I guess for me, in asking you and the underlying premise with LB104, so it would be sales tax abatement. Is there a sense, do you have a sense that...but for that action by the state that this type of wind power development would not...this type of development would not come to the state and therefore we would not... [LB104]

SENATOR LATHROP: That's the representation that's been made to me. But beyond that, I think that's our history. If you look at...and I have a map, anybody is welcome to come by and look at it, if you look at... [LB104]

SENATOR KRIST: One minute. [LB104]

SENATOR LATHROP: ...the map of where the good wind is, and there's plenty of it, it's right down the middle, right from South Dakota down to Texas, and when you look at that map and you see the...and set next to it where we are with development, we're alongside Missouri, we have the same number of megawatts developed as Missouri and their wind is subpar. And it illustrates that we have done, in terms of incentives, and in terms of leveling the playing field to compete, down that middle of the high plains, that is...we're doing something wrong. This is the one that will level the playing field and then I think wind energy development will take off. [LB104]

SENATOR PIRSCH: Thank you. [LB104]

SENATOR KRIST: Thank you, Senator Pirsch and Senator Lathrop. Senator Lathrop, you're next in the queue. [LB104]

SENATOR LATHROP: Thank you, Mr. President and colleagues. You know, I hope you heard what Senator Schilz said a moment ago. He made an important observation which is most of the wind energy development that's going to take place is going to be for export. Let me say that again. Most of the wind energy development that will take place in the future, not all of it perhaps, but most of it is going to be for export. And I

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want to talk to you about export math. Okay? When you are talking about an export project, it isn't...it is about whether we can provide the lowest cost place to do business when you compare Nebraska to Kansas and Oklahoma, Texas for that matter. They all have good wind. If you look at the map, we don't have a monopoly on good wind. There are a lot of states that have good wind. When we leave a sales tax exemption in there, we automatically have a higher cost of doing business, that's what LB104 is intended to address. So the question is, we have Senator Schilz with an amendment that we may get to today and if we do then we're going to debate whether or not we can apply to these incentives certain requirements. And that gets to the question of whether or not we will be competitive if we do. So think of it this way. When you say you must get 25 percent of the inputs from Nebraska, understand right now the blades, the turbines and the tower are probably 75 percent of the cost and we don't do that here. Okay? So everything has to come from Nebraska other than those components. That means the guy that erects it, the lawyers, the engineers, the guy that does the road, everybody has to be from Nebraska after that. And once you come in here and you're trying to bid this out and you can only get bids from guys in Nebraska, if the guy in Nebraska knows that he's the only show in town, pretty soon his cost is going to be higher. If you went to business college you know why; you would, I would. You'd increase the cost of your product if you knew you had a monopoly on it. And maybe it's not a monopoly, maybe it's only two companies instead of across the Midwest there's 25. Those companies prices are going to be higher and pretty soon...pretty soon we're asking people for the sales tax exemption to take away the competitive bidding process. And now the cost of that project is going to get higher and we've just stepped out of the competitive market for export. It is that simple. When you burden the incentives with a requirement that you buy a certain percent locally, you increase the cost of the project. And when you increase the cost of the project, Kansas now has an advantage and we will find ourselves not developing wind energy at the rate that we hope this incentive will get us to. So that's the struggle I have. I appreciate what Senator Schilz...I certainly appreciate his interest in the subject matter. I appreciate that his interest is genuine and his interest in his own amendment is genuine, but I can tell you the fact that the...the play in the future is going to be in export means that Nebraska must be as competitive as possible because we are competing with the guy in Kansas who does not have similar limitations. [LB104]

SENATOR KRIST: One minute. [LB104]

SENATOR LATHROP: That's the point. And I think Senator Schilz is right about export being where the play is going forward and we cannot do anything that would make us less competitive in that market which is Kansas, Nebraska, Oklahoma, Texas. Thank you. [LB104]

SENATOR KRIST: Thank you, Senator Lathrop. Senator Hadley, you are recognized. [LB104]

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SENATOR HADLEY: Mr. President, members of the body, I did make the statement about Facebook and going to Altoona. I'd like to back that up with some information, if I might. Facebook, this is an article in the Des Moines Register, it quotes Facebook as: their goal is to implement energy, efficiency, technology that has been yet to be seen. They use amount...Open Source, it's datacenter technology. What this means is that they give its datacenter technology to anybody in the world that wants to use it, because their goal is to make their datacenters more efficient. Their goal is also by 2015 the company wants its datacenters to have at least 25 percent of their energy based on renewable sources, it's a quote from Facebook. It goes on: so we did the open computer project contributing our technology to that project so that others can learn and also take our designs and make them better. Now, let's get to the real reason that Facebook is interested in green energy. Technology information giants like Facebook, Apple, and Google have all felt the heat from Greenpeace, an environmental group, for their huge consumption of energy. Over 1 percent of the nation's energy is now in datacenters. But the international group said Facebook's decision to build in Iowa was a good sign. This is a quote from Greenpeace senior IT analyst, Gary Cook, in a statement: in Iowa, Facebook has chosen a location where it has great potential to power its newest datacenter with the wind energy that is booming there. But to do so, it must show a willingness to work with Iowa's major utility, MidAmerican Energy, to provide more clean energy to the grid. MidAmerican is still powering its grid with a mix of mostly dirty energy sources like coal and gas. Let me connect the dots. Two weeks later, headline: Midwest Energy announces \$1.9 billion investment in additional wind generation capacity. So let's see: Facebook says we want more green energy; Greenpeace says, you're not good enough in green energy, you got to work with MidAmerican Energy. Two weeks later Midwest Energy announces a \$1.9 billion investment in additional wind generation capacity. I don't think you have to be brilliant to connect those dots, do you? Do you think that Midwest Energy wasn't cognizant, wasn't included in the conversations with Facebook in coming to Iowa? Do you think they came up with this \$1.9 billion investment because they just thought it might be a good idea? Or do you think they might have committed to Facebook that you come, we will commit for this? By the way, I don't think it's any secret that MidAmerican Energy is owned by Berkshire Hathaway, an Omaha-based concern that is funding green energy in Iowa. So I just wanted to clear up the record. I think that green energy was a significant part of Facebook's decision. Now maybe NPPD knows things that I don't know, but here's data that connects the dots between Facebook, green energy, Greenpeace and Midwest Energy. And I think the dots... [LB104]

SENATOR KRIST: One minute. [LB104]

SENATOR HADLEY: ...connect very closely. Thank you, Mr. President. [LB104]

SENATOR KRIST: Thank you, Senator Hadley. Senator Chambers, you are

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recognized. [LB104]

SENATOR CHAMBERS: Thank you. Mr. President, since I have put up an amendment and it doesn't need discussing, I'd like to ask Senator Lathrop a question or two. [LB104]

SENATOR KRIST: Senator Lathrop, will you yield? [LB104]

SENATOR LATHROP: Yes, I will. [LB104]

SENATOR CHAMBERS: Senator Lathrop, I've acknowledged that this is a subject about which I know next to nothing. But there was talk about a federal renewable energy production tax credit which will expire when? [LB104]

SENATOR LATHROP: End of the year. [LB104]

SENATOR CHAMBERS: Now is it true or not that this credit has expired and it is routinely, more or less, renewed by Congress and that has been going on for about a decade? [LB104]

SENATOR LATHROP: I don't think that's the case. [LB104]

SENATOR CHAMBERS: It will be renewed in other words. [LB104]

SENATOR LATHROP: No, I don't think it...I think the best information that the wind developers have is that there is a great deal of uncertainty about whether it will be renewed. I don't think you or I can say that it, yes, it will or no, it won't; but I think their best estimate is that it is in jeopardy. You've seen the sequestration and the budget cuts in Washington, D.C., and this could very well be a casualty of some kind of a budget bill. [LB104]

SENATOR CHAMBERS: Okay, then not going toward the future, has it been renewed...has it expired in the past and then been renewed? [LB104]

SENATOR LATHROP: Yes, I think it was renewed in the last year, Senator Chambers, in one of those budget deals. [LB104]

SENATOR CHAMBERS: Okay. Now does TradeWind itself operate these wind farms or do they sell them? [LB104]

SENATOR LATHROP: I think they operate them. [LB104]

SENATOR CHAMBERS: Have they sold any to General Electric if you know? [LB104]

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SENATOR LATHROP: I do not know the answer to that. [LB104]

SENATOR CHAMBERS: Is TradeWind operating right now wind farms in Kansas? [LB104]

SENATOR LATHROP: Yes, sir. [LB104]

SENATOR CHAMBERS: Why then...why don't they just operate more farms there or is all the capacity that can be used in Kansas gone? And so you know what my question is getting at, if Kansas is mentioned as a possible alternative to Nebraska and TradeWind is there already, why don't they just expand there? [LB104]

SENATOR LATHROP: I think they're looking at sites in Kansas as they look at this project I think is called Rattlesnake. And this particular project in Nebraska, they like the wind, they like the opportunity, they like the proximity to getting the electricity on the grid and it makes sense to them. I know that they are looking at other projects...or additional projects in Kansas however. [LB104]

SENATOR CHAMBERS: But as of now, with what is developing here, your understanding would be that TradeWind feels that there would be an advantage over Kansas that Nebraska would have if the concessions were granted that Nebraska is talking about granting in this bill? [LB104]

SENATOR LATHROP: Yeah, that's a great question. Is there an advantage or is it equally attractive? It may be equally attractive and they're prepared to enter the market in Nebraska. [LB104]

SENATOR CHAMBERS: If you lived in a house and you were going to have to add some additional living space and in a state next door you could build the size house you have and add the living space that you needed and it would cost no more and no less than what you have now where you live if you would add that space, why would you move someplace else where the two locations would be equal, if the question is clear that I'm asking? [LB104]

SENATOR LATHROP: I think I understand what you're saying is, what's tipping the scales in favor of Nebraska.... [LB104]

SENATOR CHAMBERS: Yes. [LB104]

SENATOR LATHROP: ...after these incentives? And the answer is, it would have to be in getting into the Nebraska market, having a foothold here and then, perhaps, developing more. But I have to be honest with you, what's going to make the difference

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after the two have the same tax structure and the same opportunity and virtually the same wind, that would have to be...that's some decision that probably goes to cost of transmission... [LB104]

SENATOR KRIST: One minute. [LB104]

SENATOR LATHROP: ...or something like that. [LB104]

SENATOR CHAMBERS: And in this minute that I have on this time to speak, what is the actual benefit that is being offered by Nebraska to TradeWind? [LB104]

SENATOR LATHROP: Sales tax exemption on the inputs. [LB104]

SENATOR CHAMBERS: And that would amount to roughly how much under the bill? [LB104]

SENATOR LATHROP: The fiscal note is \$7.5 (million); I think over the project it's closer to \$16 (million). [LB104]

SENATOR CHAMBERS: Sixteen? [LB104]

SENATOR LATHROP: Million. [LB104]

SENATOR CHAMBERS: Million, okay. That's all that I will ask right now, but I'm going to draw a connection to something else, as you might imagine. Thank you, Senator Lathrop. That's all that I have, Mr. President. Thank you. [LB104]

SENATOR KRIST: Thank you, Senator Chambers and Senator Lathrop. Mr. Clerk for items. [LB104]

CLERK: Mr. President, I have communications from the Governor. (Read re LB407, and LB194.) I also have, Mr. President, an amended conflict of interest statement from Senator Avery. And finally, an amendment to be printed to LB507 by Senator Campbell. Thank you, Mr. President. (Legislative Journal pages 1512-1513.) [LB407 LB194 LB507]

SENATOR KRIST: Thank you, Mr. Clerk. Senator Chambers, there are no others in the queue. You are recognized to close on your amendment. [LB104]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, when I was speaking at length on Senator Nordquist's bill earlier, I think I made it clear that I was not trying to defeat the bill. I'm not in a position right now to say yea or nay on this bill. But I'd indicated, while I was talking this morning, that this afternoon we'd be talking

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about big companies and we're talking about giving them at some point \$16 million. That's tax money generated in Nebraska and if the state is going to give it, part of it comes from the sales tax. And if in the future the state would add another half-cent sales tax, then the poor people in Omaha are going to be burdened with it and that sales tax is not helping the people in Omaha and this energy is going to be exported so it's not going to reduce the rates that they pay, from everything I've heard, to OPPD. So how is it that this concern that I predicted would be shown, and we all knew it would, to the big companies, but we don't show it for the people who need healthcare and cannot get it. And the federal government is paying for that. How much of this money that Nebraska is offering to TradeWind is going to be underwritten by the federal government so that it doesn't hurt Nebraska money that it takes in at all? It's not federal money where Nebraska is a pass through and it goes through Nebraska to whomever Nebraska wants to give it. Nebraska is coming up with the money and some people don't turn a hair about that. But three years of federally funded medical care to citizens who need it is going to be rejected. And I've listened to the discussion this afternoon. And other than something Senator Sullivan said about how the windmills have helped...done something someplace in Nebraska for somebody, the people are not the ones who are being given the consideration. And that is disturbing and it underscores the arguments that I've been giving which could be offered by anybody on this floor, maybe in a different way, a less forceful, less confrontational, less accusatory fashion, but we have to be what we are and use the tools at our disposal. And I don't know how to bite my tongue and pussyfoot and be apologetic when I'm speaking for those who are entitled to some help and we're able to give the help and we refuse to give it. Why should I come apologetically when I haven't heard one person in talking on this bill for \$16 million may be involved has spoken apologetically? They speak forcefully for their position. And we expect that on bills that people bring. But when it comes to the poor and the people I know who might be benefited are working, but serfs worked also. [LB104]

SENATOR KRIST: One minute. [LB104]

SENATOR CHAMBERS: Minimum wage people work also. And there are people who have jobs not covered by the minimum wage. And they cannot afford healthcare and we're talking about windmills and the health of the people is being blown away so that it's gone with the wind. Good wind in Nebraska, maybe there's good wind in Nebraska, but there's a bad moon rising in Nebraska. And it is a curse against the people who need our help and we refuse to give it. Thank you, Mr. President. [LB104]

SENATOR KRIST: Thank you, Senator Chambers. You have heard the closing on FA91 to AM1446. The question is: shall the amendment to LB104...I'm sorry, to the amendment be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted that wish to? Please record, Mr. Clerk. [LB104]

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CLERK: 26 ayes, 1 nay, Mr. President, on the adoption of the amendment to the amendment. [LB104]

SENATOR KRIST: The amendment is adopted. Seeing no one else in the queue, Senator Hadley, you're recognized to close on your amendment. [LB104]

SENATOR HADLEY: Mr. President, members of the body, again this amendment brings the tier 5 required investment from \$32 million down to \$20 million. It was brought because the original person involved with...that brought LB402 was concerned about smaller projects fitting under the tier 5 of the Advantage Act. I think it is a good amendment. I would appreciate your green vote on the amendment. Thank you, Mr. President. [LB104 LB402]

SENATOR KRIST: Thank you, Senator Hadley. You've heard the closing on AM1446, the questions is: shall the amendment to LB104 be adopted? All those in favor vote aye; opposed, nay. Have all those voted that wish to? Please record, Mr. Clerk. [LB104]

CLERK: 25 ayes, 0 nays, Mr. President, on the adoption of Senator Hadley's amendment. [LB104]

SENATOR KRIST: The amendment is adopted. Mr. Clerk. [LB104]

CLERK: Senator Schilz would move to amend with AM1359. (Legislative Journal page 1514.) [LB104]

SENATOR KRIST: Senator Schilz, you are recognized. [LB104]

SENATOR SCHILZ: Thank you, Mr. President, members of the body. We seem to have had the opportunity to use up the afternoon here, so I thank everyone for their indulgence. I've explained a little bit about what AM1359 does and what we've been talking about. And I've heard from Senator Hadley, Senator Lathrop, and all those that are in favor of LB104 and moving it to Advantage Act and making that work and I understand that. But when I was in economic development in Keith County and president of that for five years, and don't get me wrong, we didn't deal with a lot of these issues that we're talking about here, we were looking for five jobs, ten jobs, three jobs, some investment here and there. But what we found out really quick, at least in my opinion, is that when you have a project that comes to town and continually pushes and pushes and pushes and pushes to get what they want, it may not necessarily be the best fit for your community. And if you continue to give, to give, to give, to give to get those, then that's the race to the bottom. Give more and more and more so that you can take it away from somebody else. Then there's another idea on how to do economic development. And we've heard about that here too, and Senator Hadley is a champion of this and it's called economic gardening. And economic gardening says, hey, you take

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the resources you have, you fit them with the companies that you need and you make that work. My amendment looks to do more of that than what we know, conventionally, as the race to the bottom. People that have been heavily involved in Nebraska Advantage and Super Advantage and LB775 will tell you that, you know what, it's not a perfect process, albeit it is a process and it's the one we have and it has worked, there is no doubt, and it has worked both in the urban areas and in the rural areas, so we have that. I would remind everybody that wind development, once again as Senator Smith said, has not happened for a number of reasons. The economic slowdown was huge. It caused everybody to take a step back and say hold on, maybe we need to take a look at what's going on. So some of that is why we aren't seeing development. Some of it is because we don't have incentives like other states do. But don't worry, we're running as fast as we can to get there, even though we're late to the game. But remember, we have the resource and don't forget that resource is valuable and it's ours. In the '90s there was a bunch of people that wanted to go to the Sandhills, drill a bunch of wells, take a bunch of water and throw it on trains and take it back to Denver. Don't worry, don't worry, they were going to pay for the land, they were going to pay to put the wells in and they were going to do all this. So everything should be okay because then, of course, they're using that water benefit...the state and everybody in the state went crazy, with good reason. What advantage did Nebraska get from that? Now I know water and wind are a little bit different, well a whole lot different, but it's still ours. And we can go to those places on the map and we can look at where they are and we can see how valuable that is. And the value of that wind energy over time is not going down. It will only continue to increase. I believe wholeheartedly that this amendment, AM1359, is the best path for us here in Nebraska. Is it the best path for those that may want to come in? We've heard both sides. We can each hold up letters saying, yes, I agree, or, no, I disagree, or we should do this or we should do that. So we can go out there and we can line them all up on either side and if we want to count that up, we can do that. But in the end we have to make that decision here. I want the investment. I want the economic development. I want engineers to move back to rural Nebraska. I want wind energy schools that are opening up and coming to Western (Nebraska) Community College. We need that. I don't want my folks out in western Nebraska that have to pay Tri-State rates because of renewable energy standards that Colorado has and Nebraskans get to pay for that expansion. So when you talk about it and you talk about an island, we are already hurting Nebraskans and there's no doubt about it. I believe that this amendment makes sense. I believe that this amendment will work, but I've also listened to what people have said. And what people have said is, hey, 25 percent is too much. And I get that, I understand. I wish it wasn't; I wish we didn't have to worry about whether or not Nebraska has the expertise to be able to do this stuff. I guess if we don't, then that's fine. I think we do. So I do, I believe in this amendment. I want to take the opportunity to be able to debate this amendment fully and I want to make sure that everybody has had a chance to understand the differences in what we're talking about and to move that forward. And we will get that opportunity. And I'm happy for it, because I think that that's the kind of discussions that we need to have. So off we go again. I was

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disappointed to see that Senator Smith's amendment did not get in there. I think...I really do think that there was confusion there, because I don't think it was meant to be a poison pill. I think it was meant to do just the opposite. Mr. President, how much time do I have? [LB104]

SENATOR KRIST: Two minutes. [LB104]

SENATOR SCHILZ: Thank you. Wind energy in rural Nebraska in my area is extremely important. Ever since the day I got here I have advocated for it and worked for it and tried to figure out banging my head against the wall night after night through all the LB1048 meetings and through everything else to try and find a way to bring our public power state to where we could get wind development. Did the original C-BED do that? No. Do we understand that? Yes. But you have to remember, here in the state of Nebraska we have to bring a lot of people on board to get them to understand, to get them comfortable so that we can move forward. As Senator Smith said, it is a very complex issue with a myriad of players and interests. And all of those interests...all of those interests... [LB104]

SENATOR KRIST: One minute. [LB104]

SENATOR SCHILZ: ...get into our wallet because we pay the rates. We are public power and we need to make sure that we protect Nebraska's interests and Nebraska's resources. And I will continue to do that. At this point, Mr. President, I will pull my amendment. [LB104]

SENATOR KRIST: Amendment withdrawn. Thank you. [LB104]

CLERK: Mr. President, the next amendment I have to the bill, Senator Chambers, AM1484. (Legislature Journal page 1514-1517.) [LB104]

SENATOR KRIST: Senator Chambers, you are recognized to open on your amendment. [LB104]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, yes, it's me and I'm back again. The original form of this amendment was drafted by Senator Carlson. It deals with the local option sales tax. To put the thing in a nutshell because if you read the amendment itself it covers several pages. But what it does is to leave everything in the local option tax that is on the books now in place. What it says is that a city of the metropolitan class can levy a sales tax of 1.5 cent, which is what Omaha does now. But the other provisions of that law that was enacted last year allowing an increase up to a total of 2 cents would not apply to a city of the metropolitan class. The effect of that is to remove Omaha from that local option sales tax authority that would remain in place for the rest of the state. When I brought LB266, as I've stated on the

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floor, my view is that the sales tax is hurtful to people who are poor and on limited income anywhere they may reside in the state. Unfortunately for me and for the League of Municipalities for the rest of the time that I'm in the Legislature, they were able to peel enough senators off that attempt that I had made to amend LB266 into LB308. That having occurred, I have to try to get what I can. I spoke with representatives of the administration because this is a Revenue Department bill. They have no objection to this amendment whatsoever. It does not have any financial impact on the state. Omaha does not need and is not planning to use this authorization. So somebody might ask me, why then am I trying to remove it? Because there are vagaries in politics and no way to predict what politicians may wind up doing. But unlike those three little municipalities in Nebraska who have already acted under the existing local option tax authorization to impose on their citizens an additional amount of sales tax thinking and hoping that the bulk of it will be paid by people who don't live in those municipalities. I will do everything I can to protect the people in Omaha who are burdened down by taxes now, and especially the ones that I designate the poor, and this is one of the steps being taken in that direction. The issue is clear-cut. There is no trickery or slight of hand being employed by me. I'm trying to make it as clear as I can what this amendment will do. Even when a lobbyist, who may not be the lobbyist for Omaha much longer under the new administration, sent a letter out, and I received a copy of that letter, the address was handwritten, the copy that I get they must have been running out of ink because it's not well printed, so maybe I was an afterthought. He said that there's no plan in Omaha to make use of this taxing authority, but some senators had worked so hard to get that bill in place that their hard work ought to be respected and when has any lobbyist been concerned about the hard work that senators do on anything? That is a part of the sham. This is not anything of interest to the League of Municipalities. It's of no interest to Emperor Walt Radcliffe. So those who were influenced by those two can forget them. Unlike Senator Carlson who lives in a different district, I live in Omaha and I've lived there all of my life up to this point, and I hear somebody back there laughing because they're saying they hope that this point may be the end of it, but I assure them that if I have anything to do about it, it won't be. I've stated what the amendment does and if you have any questions I'm prepared to answer them. Thank you, Mr. President. [LB104 LB266 LB308]

SENATOR KRIST: Thank you, Senator Chambers. You've heard the opening to AM1484. Senator Lautenbaugh, you are recognized. [LB104]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I do rise in support of this amendment. I think it addresses concerns that were expressed earlier in an amendment that I supported earlier, although on a smaller scale this one is, so I think it's fine. As far as the underlying bill, it is what it is. I've never been what you would call an unabashed proponent of wind power, quite the opposite. The good news is we've reached that sweet spot in the session where absolutely no one is paying attention to each other. So it doesn't really matter what I say at this point. So, but yeah,

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if the nation were listening, I would say we should build a bunch of nuclear power plants and start relying on fossil fuels until we can't. But since we're not going to do that and we're not going to have a serious energy policy, I think we're going to chase windmills because everyone else is chasing windmills and the federal government is going to keep on paying for windmills and so we might as well get our share. So it's possible one of these bills does that better than the other bill or maybe they do it differently or equally or in different places. So until such time as we have an adult energy policy which, again, I can't stress enough would be nuclear power plants which are safer than anything, have killed fewer than anything and actually produce energy, you can go to Europe, you can look it up, until such time as we find our nerve and actually have a serious energy policy that will actually build those because they have the virtue of working on calm days and on windy days and otherwise where people are and where people aren't, then we have these bill. So I rise in enthusiastic support of Senator Chambers' amendment and my enthusiasm peters out quickly after that. Thank you, Mr. President. [LB104]

SENATOR KRIST: Thank you, Senator Lautenbaugh. Senator Smith, you're recognized. [LB104]

SENATOR SMITH: Thank you, Mr. President. And I just wanted to rise in support of AM1484. I have in the past on these repeal motions not been supportive, but I do agree with this. And I'm looking forward to the construction of "Schumacher Unit 1" or "Schumacher Nuclear Power Plant" in Nebraska. And with that I'll return my time to the Chair. Thank you, Mr. President. [LB104]

SENATOR KRIST: Thank you, Senator Smith. Seeing no one else in the queue, Senator Chambers, you're recognized to close on your amendment. [LB104]

SENATOR CHAMBERS: Thank you. Members of the Legislature, with the adoption of this amendment, I assure you that the existing authorization for the 1.5 percent increase in the sales tax will be left undisturbed by me. If it's not adopted, then that is what is known as status quo. You did not hear anybody from Omaha stand to speak against this. So rid yourself of my making use of other bills as carriages to raise this particular issue. It is not LB266. So I'm going to ask Mr. President for a call of the house and then I'll take the vote. Thank you. [LB104 LB266]

SENATOR KRIST: There's been a request to place the house under call. Question is: shall the house go under call? All those in favor vote aye, opposed, nay. Please record, Mr. Clerk. [LB104]

CLERK: 34 ayes, 0 nays, Mr. President, to place the house under call. [LB104]

SENATOR KRIST: House is under call. Senators, please record your presence. Those unexcused senators outside the Chamber please return to the Chamber and record

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your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Wightman, Senator Gloor, Senator Nordquist, Senator Christensen, please return to the Chamber. Senator Gloor, thank you. Senator Chambers, everyone is accounted for. How would you like to proceed? [LB104]

SENATOR CHAMBERS: Machine vote. [LB104]

SENATOR KRIST: The question is, shall the amendment to LB104 be adopted? All those in favor vote aye, all those opposed, nay. Have all those voted that wish to? Please record, Mr. Clerk. [LB104]

CLERK: 30 ayes, 5 nays on adoption of Senator Chambers' amendment. [LB104]

SENATOR KRIST: The amendment is adopted. [LB104]

CLERK: I have nothing further on the bill at this time, Mr. President. [LB104]

SENATOR KRIST: Raise the call please. Senator Murante for a motion. [LB104]

SENATOR MURANTE: Mr. President, I move to advance LB104 to E&R for engrossing. [LB104]

SENATOR KRIST: You've heard the motion, all those in favor aye. Opposed, nay. It advanced. Mr. Clerk. [LB104]

CLERK: Mr. President, LB306A, back to the agenda as per the Speaker's order on the agenda. Senator Chambers, I now have pending FA89 as an amendment to LB306A. (Legislative Journal page 1518.) [LB306A]

SENATOR KRIST: Senator Chambers. [LB306A]

CLERK: You filed this this morning, Senator, to strike Section 3 to the bill. [LB306A]

SENATOR CHAMBERS: I will withdraw that. [LB306A]

SENATOR KRIST: Withdrawn. [LB306A]

CLERK: Mr. President, I have nothing further on the bill at this time. [LB306A]

SENATOR KRIST: Senator Murante for a motion. [LB306A]

SENATOR MURANTE: Mr. President, I move to advance LB306A to E&R for engrossing. [LB306A]

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SENATOR KRIST: You have heard the motion. All those in favor aye. Opposed, nay. It advances. Mr. Clerk. [LB306A]

CLERK: Senator, LB583A, I have no amendments to the bill. [LB583A]

SENATOR KRIST: Senator Murante for a motion. [LB583A]

SENATOR MURANTE: Mr. President, I move to advance LB583A to E&R for engrossing. [LB583A]

SENATOR KRIST: You have heard the motion. All those in favor, aye. Opposed, nay. It advances. Please stand at ease. Please return to your seats for Final Reading. I'm sorry, I changed my mind. Senators, please return to your seats for Final Reading. [LB583A]

SPEAKER ADAMS PRESIDING

SPEAKER ADAMS: First bill on Final Reading is LB6. Mr. Clerk, the first vote will be to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB6]

CLERK: 38 ayes, 5 nays, Mr. President, to dispense with the at-large reading. [LB6]

SPEAKER ADAMS: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB6]

CLERK: (Read title of LB6.) [LB6]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB6 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB6]

CLERK: (Record vote read, Legislative Journal pages 1518-1519.) 48 ayes, 0 nays, 1 excused and not voting, Mr. President. [LB6]

SPEAKER ADAMS: LB6 passes with the emergency clause attached. We'll now proceed to LB6A. [LB6 LB6A]

CLERK: (Read LB6A on Final Reading.) [LB6A]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB6A pass with the emergency clause attached? All those in

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favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB6A]

CLERK: (Record vote read, Legislative Journal page 1519.) 48 ayes, 0 nays, 1 excused and not voting. [LB6A]

SPEAKER ADAMS: LB6A passes with the emergency clause attached. We'll now proceed to LB242. [LB6A LB242]

CLERK: (Read LB242 on Final Reading.) [LB242]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB242 pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB242]

CLERK: (Record vote read, Legislative Journal page 1520.) 48 ayes, 0 nays, 1 excused and not voting, Mr. President. [LB242]

SPEAKER ADAMS: LB242 passes. We'll now proceed to LB265. Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB242 LB265]

CLERK: 39 ayes, 5 nays to dispense with the at-large reading. [LB265]

SPEAKER ADAMS: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB265]

CLERK: (Read title of LB265.) [LB265]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB265 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB265]

CLERK: (Record vote read, Legislative Journal page 1521.) 48 ayes, 0 nays, 1 excused and not voting, Mr. President. [LB265]

SPEAKER ADAMS: LB265 passes with the emergency clause attached. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LB6, LB6A, LB242, and LB265. [LB265 LB6 LB6A LB242]

SENATOR KRIST PRESIDING

SENATOR KRIST: Mr. Clerk, next item.

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CLERK: Mr. President, Final Reading. Senator Smith would move to return LB225 to Select File for a specific amendment. That amendment being AM1379. (Legislative Journal page 1345.) [LB225]

SENATOR KRIST: Senator Smith, you're recognized on your motion. [LB225]

SENATOR SMITH: Thank you, Mr. President. And you may recall LB225 is the testing for newborn children for critical congenital heart defects. This would be part of the protocol for screening newborns in Nebraska. Roughly 3 percent of Nebraska children are born with some form of CCHD, and this would just make it part of the mandatory testing along with various blood disorders, hearing, etcetera. I ask your support, colleagues, to pull LB225 from Final Reading for the purpose of adopting AM1379. LB225 has a fiscal note of \$16,000 and with the adoption of this amendment, the fiscal note will go away and there will not be any costs associated with the implementation of LB225. My staff and I have worked very hard to try to reduce and eliminate this fiscal note. We did not want there to be any risks to this bill as we see as very, very, important for the children of Nebraska. AM1379 would strike lines 8 through 12 on page 4 of the Final Reading copy which would eliminate the requirement for the Department of Health and Human Services to develop educational materials for birthing facilities regarding the screening for critical congenital heart disease. We have learned recently that Children's Hospital in Omaha has partnered with National Children's Hospital in D.C. in developing a comprehensive toolkit for birthing facilities to help educate them about CCHD and it's detection using pulse oximetry. There are also a series of Webinars available for appropriate hospital staff. So in short, colleagues, educational materials will be made available without the fiscal note expenditures. Thank you, Mr. President. [LB225]

SENATOR KRIST: Thank you, Senator Smith. You have heard the opening on the motion to return to Select File. Seeing no one in the queue, those in favor say aye; opposed, nay. Please record, Mr. Clerk. [LB225]

CLERK: 40 ayes, 0 nays, Mr. President, on the motion to return the bill. [LB225]

SENATOR KRIST: Motion passes. Senator Smith, you are recognized to open on AM1379. [LB225]

SENATOR SMITH: Thank you, Mr. President. And, colleagues, thank you for that vote. Again, AM1379 would eliminate the requirement for the Department of Health and Human Services to develop educational materials for the screening process in LB225. Amending LB225 will afford the elimination of LB225A, which will follow, which is for the appropriation of funds to carry out LB225 and the production of educational materials. Thank you, Mr. President. [LB225 LB225A]

SENATOR KRIST: Thank you, Senator Smith. Seeing no one in the queue, Senator

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Smith, you're recognized to close on your amendment. Senator Smith waives closing. The question is: shall the amendment to LB225 be adopted? All those in favor vote aye; opposed, nay. Please record, Mr. Clerk. [LB225]

CLERK: 44 ayes, 0 nays, Mr. President, on the adoption of the Select File amendment. [LB225]

SENATOR KRIST: The amendment is adopted. Senator Murante for a motion. [LB225]

SENATOR MURANTE: Mr. President, I move to advance LB225 to E&R for engrossing. [LB225]

SENATOR KRIST: You've heard the motion. All those in favor, aye. Opposed, nay. Passed. Mr. Clerk. [LB225]

CLERK: Mr. President, LB225A, Senator Smith would move to return the bill to Select File for a specific amendment. That amendment being to strike the enacting clause. (FA78, Legislative Journal page 1345.) [LB225A]

SENATOR KRIST: Senator Smith, you're recognized. [LB225A]

SENATOR SMITH: Thank you, Mr. President. Thank you for that, colleagues, thank you for that last vote on LB225 as amended with AM1379. As I explained before, there's no longer a need for this A bill and I ask that you approve this amendment. Thank you. [LB225A LB225]

SENATOR KRIST: Thank you, Senator Smith. Seeing no one wishing to speak; you've heard the motion, all those in favor aye; opposed, nay. Please record, Mr. Clerk. [LB225A]

CLERK: 39 ayes, 0 nays, Mr. President, on the motion to return. [LB225A]

SENATOR KRIST: It returns. Senator Smith, you're recognized to open. [LB225A]

SENATOR SMITH: Thank you, Mr. President. And as I explained, this A bill is no longer needed and I ask that you help me with the adoption of this amendment. [LB225A]

SENATOR KRIST: You have heard the opening. Senator Mello, you are recognized. [LB225A]

SENATOR MELLO: Mr. President, members of the Legislature, would Senator Smith yield to a question? [LB225A]

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SENATOR KRIST: Senator Smith, will you yield? [LB225A]

SENATOR SMITH: I will. [LB225A]

SENATOR MELLO: Senator Smith, by striking the enacting clause in FA78, that essentially eliminates all the real content of LB225A. Do you have any intention to utilize LB225A for any other vehicle knowing that it serves as a vehicle for other potential amendments, knowing that there's not really a germane issue now that this is, essentially, an empty vehicle? [LB225A]

SENATOR SMITH: Great question, Senator. And, no, I do not plan to use it. [LB225A]

SENATOR MELLO: Thank you, Senator Smith. [LB225A]

SENATOR KRIST: Seeing no one else in the queue, Senator Smith, you're recognized to close on your motion. Senator Smith waives. The question is the advancement of FA78 to LB225A. All those in favor vote aye; opposed, nay. Please record, Mr. Clerk. [LB225A]

CLERK: 45 ayes, 0 nays, Mr. President, on adoption of Select File amendment. [LB225A]

SENATOR KRIST: It advances. Next item, Mr. Clerk. [LB225A]

CLERK: Mr. President, Select File. Senator Murante, I have E&R amendments, Senator. (ER45, Legislative Journal page 947.) [LB216]

SENATOR KRIST: Senator Murante for a motion. [LB216]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB216]

SENATOR KRIST: You've heard the motion. All those in favor, aye. Opposed, nay. They're adopted. [LB216]

CLERK: Senator McGill would move to amend with AM1466. (Legislative Journal page 1522.) [LB216]

SENATOR KRIST: Senator McGill, you're recognized. [LB216]

SENATOR MCGILL: Thank you, Mr. President, members of the body. This, again, is the bill to extend some foster care services to those kids who are aging out of the system. The elements of this amendment...the amendment itself replaces the bill because there were so many small little technical changes that it was easier for Bill Drafters. But I'll

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explain the primary purposes, the substantial changes. The first being that after discussions with DHHS this allows the department to wait to implement this new program until after the federal government reviews and approves a program to see if we can get those draw-down IV-E dollars. This issue came up after the General File discussion where we made the difficult decision to exclude the OJS population from this program. The department raised concerns that excluding the OJS population might not be federally permissible. We have since received correspondence from the feds indicating that this structure will be eligible for IV-E dollars and I fully expect the program will be approved. Nevertheless, the department is still hesitant about final federal approval. They've had some other issues with the federal government in recent memory. And so we've created a backstop or a safety valve within this legislation to say if we aren't given those federal dollars, then we would do a state-only, a state-only-funded plan so the \$2 million that we're allocating towards this program would just be...go towards a state-only plan. The second thing this does is takes out Medicaid funding for the remainder of this calendar year. The federal government, with the new Affordable Care Act, picks up Medicaid for former foster youth anyway January 1. And so that's when the rest of the program would start anyhow, and so we just are taking out funding it from July 1 until the end of year. And there are also, as I said, a number of technical changes that clean up wording, clarify definitions and add a few references to the federal code. Federal requirements for the extended program only includes kinship guardianship, this is one of those amendments. And in an effort to be fiscally responsible, but not create a disincentive to permanency for young people for nonrelative guardianships, the amendment creates a capped program to serve as many of these young people as possible while still keeping the fiscal impact near \$2 million for the biennium. And with that, I would ask for your approval of the amendment. Thank you, Mr. President. [LB216]

SENATOR KRIST: Thank you, Senator McGill. You've heard the opening. Seeing no one wishing to speak, Senator McGill, waives her closing. The question is: shall the amendment to LB216 be adopted? All those in favor vote aye; opposed, nay. Please record, Mr. Clerk. [LB216]

CLERK: 26 ayes, 0 nays, Mr. President, on the adoption of Senator McGill's amendment. [LB216]

SENATOR KRIST: The amendment is adopted. [LB216]

CLERK: I have nothing further on the bill, Mr. President. [LB216]

SENATOR KRIST: Senator Murante for a motion. [LB216]

SENATOR MURANTE: Mr. President, I move to advance LB216 to E&R for engrossing. [LB216]

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SENATOR KRIST: You've heard the motion. All those in favor, aye. Opposed, nay. Advanced. Mr. Clerk. [LB216]

SENATOR KRIST: LB216A, no E&Rs. Senator McGill would move to amend. (AM1474, Legislative Journal pages 1522-1523.) [LB216A]

SENATOR KRIST: Senator McGill, you're recognized. [LB216A]

SENATOR MCGILL: Thank you, Mr. President, members of the body. This, of course, is the appropriations bill and the amendment that reflects the changes that I just spoke of. It takes out the Medicaid funding, but then puts in some legal staff for the department; makes sure that we're estimating for an appropriate number of children that will be going into the program. And with that I ask for your approval. [LB216A]

SENATOR KRIST: You have heard the opening. Seeing no one wishing to speak, Senator McGill waives closing. The question is: shall the amendment to LB216A be adopted? All those in favor aye; opposed, nay. Senator McGill, for what reason do you rise? [LB216A]

SENATOR MCGILL: I, unfortunately, have to request a call of the house. [LB216A]

SENATOR KRIST: There's been a request for a call of the house. All those in favor aye; opposed, nay. Please record, Mr. Clerk. [LB216A]

CLERK: 24 ayes, 0 nays to place the house under call. [LB216A]

SENATOR KRIST: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Hansen, Senator Lathrop, Senator Christensen, and Senator Schilz; Senator Lathrop, please check in. Senator Christensen please check in. Everyone is accounted for. Senator McGill, how would you like to proceed? [LB216A]

SENATOR MCGILL: (Microphone malfunction.) [LB216A]

SENATOR KRIST: And accepting call-in. [LB216A]

CLERK: Senator Coash voting yes. Senator Hadley voting yes. Senator Carlson voting yes. [LB216A]

SENATOR KRIST: Please record, Mr. Clerk. [LB216A]

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CLERK: 26 ayes, 0 nays, on adoption of Senator McGill's amendment. [LB216A]

SENATOR KRIST: The amendment is adopted. [LB216A]

CLERK: I have nothing further on the bill, Mr. President. [LB216A]

SENATOR KRIST: Senator Murante for a motion. [LB216A]

SENATOR MURANTE: Mr. President, I move to advance LB216A to E&R for engrossing. [LB216A]

SENATOR KRIST: You've heard the motion. All those in favor, aye. Opposed, nay. Raise the call, please. [LB216A]

CLERK: Mr. President, next bill, LB579. Senator, I have no amendments to the bill. [LB579]

SENATOR KRIST: Senator Murante for a motion. [LB579]

SENATOR MURANTE: Mr. President, I move to advance LB579 to E&R for engrossing. [LB579]

SENATOR KRIST: You've heard the motion. All those in favor, aye. Opposed, nay. It advances. [LB579]

CLERK: LB579A, Senator, I have no amendments to the bill. [LB579A]

SENATOR KRIST: Senator Murante for a motion. [LB579A]

SENATOR MURANTE: Mr. President, I move to advance LB579A to E&R for engrossing. [LB579A]

SENATOR KRIST: You have heard the motion. All those in favor, aye. Opposed, nay. It passed. Mr. Clerk. [LB579A]

CLERK: Mr. President, LB97; Senator, I have Enrollment and Review amendments first of all. (ER55, Legislative Journal page 994.) [LB97]

SENATOR KRIST: Senator Murante for a motion. [LB97]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB97]

SENATOR KRIST: You have heard the motion. All those in favor, aye. Opposed, nay. It

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advances...I'm sorry, that is adopted. [LB97]

CLERK: Mr. President, Senator Mello would move to amend with AM1326. (Legislative Journal page 1288.) [LB97]

SENATOR KRIST: Senator Mello, you're recognized. [LB97]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. AM1326 is a technical amendment that addresses an issue brought to my attention by the Department of Revenue. The department was unsure how to interpret whether revenues from a TIFF project had been "previously divided" under the language that was adopted on General File. AM1326 would simply strike the word "previously" ensuring that property tax revenues on a property that is part of an existing TIFF project would be directed towards repayment of the TIFF bonds and would not be remitted to the land bank unless otherwise agreed upon between the city and the land bank. I'd urge the body to adopt AM1326. [LB97]

SENATOR KRIST: You have heard the opening on AM1326. Seeing no one wishing to speak, Senator Mello waives closing. The question is, shall the amendment to LB97 be adopted? All those in favor vote aye; opposed, nay. Please record, Mr. Clerk. [LB97]

CLERK: 27 ayes, 0 nays, Mr. President, on the adoption of Senator Mello's amendment. [LB97]

SENATOR KRIST: The amendment is adopted. [LB97]

CLERK: I have nothing further on the bill, Mr. President. [LB97]

SENATOR KRIST: Senator Murante for a motion. [LB97]

SENATOR MURANTE: Mr. President, I move to advance LB97 to E&R for engrossing. [LB97]

SENATOR KRIST: You have heard the motion. All those in favor, aye. Opposed, nay. It is adopted. [LB97]

CLERK: Mr. President, LB556; Senator, I do have Enrollment and Review amendments first of all. (ER105, Legislative Journal page 1447.) [LB556]

SENATOR KRIST: Senator Murante for a motion. [LB556]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB556]

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SENATOR KRIST: You have heard the motion. All those in favor, aye. Opposed, nay. Adopted. [LB556]

CLERK: Senator McGill would move to amend with AM1478. (Legislative Journal page 1524.) [LB556]

SENATOR KRIST: Senator McGill, you're recognized. [LB556]

SENATOR MCGILL: Thank you, Mr. President, members of the body. The original version of LB556 contained a provision that authorized each behavioral health region to establish an implementation and development team to aid in the implementation of telehealth services for children's behavioral health and to develop recommendations for future actions to improve children's behavioral health services. I remove this provision in an effort to reduce the overall cost of the bill. But I'm introducing AM1478 because behavioral health regions have offered their assistance as outlined in the amendment and have made a commitment to collaborate with those implementing the pilot and they've offered to do this at no cost. I'd like to thank the regions for their commitment to this bill and this initiative and look forward to continued collaboration. Thank you, Mr. President. [LB556]

SENATOR KRIST: Thank you, Senator McGill. You've heard the opening on AM1478. Seeing no one wishing to speak, you're recognized to close. Senator McGill waives closing. The question is, shall the amendment to LB556 be adopted? All those in favor vote aye; opposed, nay. Please record, Mr. Clerk. [LB556]

CLERK: 26 ayes, 0 nays, Mr. President, on the adoption of Senator McGill's amendment. [LB556]

SENATOR KRIST: The amendment is adopted. [LB556]

CLERK: I have nothing further on the bill, Mr. President. [LB556]

SENATOR KRIST: Senator Murante for a motion. [LB556]

SENATOR MURANTE: Mr. President, I move to advance LB556 to E&R for engrossing. [LB556]

SENATOR KRIST: You have heard the motion. All those in favor, aye. All those in favor, aye. Opposed, nay. It is adopted. [LB556]

CLERK: LB556A, Senator, I have Enrollment and Review amendments first of all. (ER104, Legislative Journal page 1447.) [LB556A]

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SENATOR KRIST: Senator Murante for a motion. [LB556A]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB556A]

SENATOR KRIST: You've heard the motion. All those in favor, aye. Opposed, nay. It's adopted. [LB556A]

CLERK: Senator McGill would move to amend with AM1471. (Legislative Journal page 1524.) [LB556A]

SENATOR KRIST: Senator McGill, you're recognized. [LB556A]

SENATOR MCGILL: Thank you, Mr. President. This amendment is for the transmission costs for telehealth. It's just \$1,300 in the first year and 16...\$1,600...no, I guess it's \$1,300 in both fiscal years and I ask for your adoption. [LB556A]

SENATOR KRIST: You've heard the opening on AM1471. Seeing no one wishing to speak, Senator McGill waives closing. The question is, shall the amendment to LB556A be adopted? All those in favor vote aye; opposed, nay. Please record, Mr. Clerk. [LB556A]

CLERK: 25 ayes, 0 nays, Mr. President, on the adoption of Senator McGill's amendment. [LB556A]

SENATOR KRIST: The amendment is adopted. [LB556A]

CLERK: I have nothing further on this bill, Mr. President. [LB556A]

SENATOR KRIST: Senator Murante for a motion. [LB556A]

SENATOR MURANTE: Mr. President, I move to advance LB556A to E&R for engrossing. [LB556A]

SENATOR KRIST: You have heard the motion. All those in favor, aye. Opposed, nay. It advances. Next item, Mr. Clerk. [LB556A]

CLERK: Mr. President, LB34 on General File has been discussed. A bill originally introduced by Senator Hadley. (Read title.) It was discussed on May 20. Mr. President, when the Legislature left the issue that day, Senator Chambers, you had pending a bracket motion bracketing the bill until June 5, 2013. [LB34]

SENATOR KRIST: Senator Chambers. [LB34]

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SENATOR CHAMBERS: I withdraw that motion. [LB34]

SENATOR KRIST: Withdrawn. Thank you, sir. [LB34]

CLERK: Senator Chambers, FA86, Senator. (Legislative Journal page 1525.) [LB34]

SENATOR KRIST: Senator Chambers. [LB34]

SENATOR CHAMBERS: Mr. President, may I approach the Clerk's desk for a second and my time can be running. [LB34]

SENATOR KRIST: Absolutely. [LB34]

SENATOR CHAMBERS: Mr. President, members of the Legislature; Mr. President, thank you for your indulgence. This is what the amendment would do. There is language in the pending committee amendment and there's language in the bill itself; so this amendment that I'm offering is crafted in such a way that it would amend the language in the committee amendment and also the language in the bill because it is the same in both instances. What is being discussed in this bill is whether or not several entities that one of these persons or businesses will try to use to amass enough employees to be entitled to take advantages of benefits offered under this legislation. The current language would create a presumption that if this particular business activity involves several entities, the presumption will be that all of these entities are interdependent to such an extent or degree that the employees may be taken cumulatively from all of them to generate enough to cross the threshold required to take advantage of these benefits. I am opposed to having that presumption. Since we are talking about a million dollar investment and the creation of at least ten jobs, the company that would have the status, the success, the ability and expertise to meet these criteria certainly possesses the capability through its staff to demonstrate that all of these entities are interrelated. If you look at the bill itself, whether it's the amendment or the actual bill where this language is found, you will see that adequate documentation is required to demonstrate certain things about the nature of the employee, the salary and things of that kind. So if you're going to require documentation of those factors, I'm taking similar language and this is what my amendment would do: on page 1 in line 21 of the committee amendment, we would strike beginning with the word "then" through the word "be" in line 22. And this is the operative language: the plan shall include sufficient documentation to show that all such locations are; and the word that would be left--interdependent. In other words, oh, and the language would be the same both in the amendment and in the bill itself. It's not going to be too burdensome on the one making this application to take advantage of this tax money to simply provide documentation that will establish the interdependence of all of these entities that operate under the umbrella of the person seeking these benefits. The way the law is written, if you don't accept this amendment, would allow that entity to the benefit of a

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presumption that all of these various components are interdependent to such an extent that they can be viewed as one for the purpose of amassing enough employees to meet the minimum criterion of ten employees. Now to sum it up, and I'm doing this for the record, because I know people may feel a sense of mental fatigue about this time of evening. But as I've stated before, my internal engine being similar to that of a diesel engine, it takes a while to get going and I'm just getting warmed up and everybody else is cooling down. So I'm speaking for the benefit of having it clear in the record what I want to do. I have not had it demonstrated to me that it is an unreasonable burden on one of the entity seeking these benefits to include in its application documentation sufficient to show that there's interdependence among these various components. Let's say that I am the one who am seeking the benefits. I'm familiar with all of my operations. If they are interdependent, I know why and what makes them interdependent. So when I fill out the application and have to give documentation of all these other elements, it is nothing at all for me to include the documentation establishing the interdependence. Senator Harr, Burke Harr, when he was speaking yesterday about the kind of companies they're seeking, they're high-end companies: people in research and development, science, all of these kind of things which would indicate there's certainly is enough intelligence and ability to provide this documentation. If there still remain questions about what I'm talking about, I'm prepared to answer them. I'm not opposed to this bill. I'm opposed to the proposal in the amendment to create a presumption that would take away the necessity for the one seeking the money to establish interdependence among these various elements. Thank you, Mr. President. [LB34]

SENATOR KRIST: Thank you, Senator Chambers. You've heard the opening on FA86. Senator Hadley, you're recognized. [LB34]

SENATOR HADLEY: Would Senator Chambers yield to a question? [LB34]

SENATOR KRIST: Senator Chambers, will you yield? [LB34]

SENATOR CHAMBERS: Yes, I will. [LB34]

SENATOR HADLEY: Senator Chambers, if I put in an amendment, which I have holding in my hand, that basically says on page 1, lines 20 through 22 strike the new matter, would that satisfy you? [LB34]

SENATOR CHAMBERS: You mean that takes all of this out about the presumption? [LB34]

SENATOR HADLEY: Yes. [LB34]

SENATOR CHAMBERS: That's better than what I have. [LB34]

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SENATOR HADLEY: I know that. [LB34]

SENATOR CHAMBERS: Mr. President, I would withdraw my amendment. (Laughter) [LB34]

SENATOR KRIST: Consider it withdrawn. Remind the members, it will take a minute for this to arrive on your gadget, but in the meantime Senator Hadley, you are recognized to open on your floor amendment. (AM1481 Legislative Journal page 1525.) [LB34]

SENATOR CARLSON PRESIDING

SENATOR CARLSON: Senator Hadley, you're recognized to open on your amendment. [LB34]

SENATOR HADLEY: Mr. President, members of the body, my amendment is very simple. It basically strikes the new language in subsection (c) on page 1 of the amendment, AM650 to LB34. And so it leaves the current language exactly the way it is. [LB34]

SENATOR CARLSON: Thank you, Senator Hadley. Senator Krist, you're recognized. [LB34]

SENATOR KRIST: Thank you, Mr. President and colleagues. And this is an obvious attempt to let everything catch up to where it needs to be. I won't read the phone book. I won't take up your time needlessly. But this is a compromise that was reached in terms of Senator Hadley putting a floor amendment in, AM1481. And if we are ready, I would encourage you to vote yes on AM1481 and LB34. Thank you, Mr. President. [LB34]

SENATOR CARLSON: Thank you, Senator Krist. Are there other senators wishing to speak? Seeing none, Senator Hadley, you're recognized to close on your amendment. He waives closing. The question is, shall AM1481 be adopted? All those in favor vote yea; all opposed vote nay. Record, Mr. Clerk. [LB34]

CLERK: 26 ayes, 0 nays. [LB34]

SENATOR CARLSON: The amendment is adopted. We return to discussion on the underlying bill, LB34. Are there senators...okay, we are back to the discussion of the committee amendments. Are there senators wishing to speak? Seeing none, Senator Hadley, you're recognized to close on AM650. (Legislative Journal page 753.) [LB34]

SENATOR HADLEY: Mr. President, thank you. Basically, AM650, it places deadlines on the department and the taxpayer to approve applications in a more timely manner. And it corrects a drafting error as to the appropriate code section. I would appreciate your

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green vote on AM650. [LB34]

SENATOR CARLSON: Thank you, Senator Hadley. The question is, shall AM650 be adopted? All those in favor vote yea; all opposed vote nay. Record, Mr. Clerk. [LB34]

CLERK: 29 ayes, 0 nays, Mr. President, on the adoption of committee amendments. [LB34]

SENATOR CARLSON: Committee amendments are adopted. We return to the discussion of LB34. Are there any senators wishing to speak? Senator Chambers, you're recognized. [LB34]

SENATOR CHAMBERS: Mr. President, members of the Legislature, just for a clarification and to reassure me, I would ask a question of Senator Hadley. [LB34]

SENATOR CARLSON: Senator Hadley, would you yield? [LB34]

SENATOR HADLEY: Yes. [LB34]

SENATOR CHAMBERS: Senator Hadley, in the green copy of the bill itself, on page 2... [LB34]

SENATOR HADLEY: Yes. [LB34]

SENATOR CHAMBERS: Anyway, that language that you...your amendment would strike that language wherever it appeared in the amendment or in the bill itself, is that correct? [LB34]

SENATOR HADLEY: That is correct. [LB34]

SENATOR CHAMBERS: About the presumption. Thank you. That is the only clarification I needed. Thank you, Mr. President. [LB34]

SENATOR CARLSON: Thank you, Senator Chambers. Seeing no other senators wishing to speak, Senator Hadley, you're recognized to close on LB34. [LB34]

SENATOR HADLEY: Thank you, Mr. President and members of the body. I do appreciate Senator Chambers' questions over the last couple of days. I think they have given everybody a little better understanding of the Advantage Act, how it works and what we're trying to do. And just to give you in summary, LB34, it amends the definition of a taxpayer to fix the inconsistent treatment of what we call pass-through entities. It changes the definition of a year from taxable year of the taxpayer to calendar year. It clarifies the rules for statewide projects; we have changed that so it is the old language.

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It allows the tax commissioner to disclose project information to a purchaser. It simplifies the employment calculation and it eliminates unnecessary reporting requirements. With that I would appreciate a green vote on LB34. [LB34]

SENATOR CARLSON: Thank you, Senator Hadley. Members, you've heard the closing. The question is, shall LB34 be advanced to E&R Initial? All those in favor vote yea; all opposed vote nay. Record, Mr. Clerk. [LB34]

CLERK: 31 ayes, 0 nays to advance LB34. [LB34]

SENATOR CARLSON: LB34 does advance. Mr. Clerk, next item. [LB34]

CLERK: Mr. President, LB326 is a bill by Senator Howard. (Read title.) Introduced on January 17; referred to Health and Human Services. The bill was advanced to General File. There are committee amendments, Mr. President. (AM434, Legislative Journal page 625.) [LB326]

SENATOR CARLSON: Thank you, Mr. Clerk. Senator Howard, you're recognized to open on LB326. [LB326]

SENATOR HOWARD: Thank you, Mr. President, members of the body. Today I bring you LB326, a bill to allow long-term care facilities to more efficiently meet the pharmaceutical needs of their residents. LB326 would allow long-term care facilities to house automated pharmacies within their facilities when those automated pharmacies are owned and overseen by Nebraska pharmacies. This bill is highly technical, but at its core it is a modernization bill brought in response to a growing recognition that pharmacists serving long-term care facilities need to be able to store and dispense medication on sight. Automated pharmacies are commonly referred to as robots. And currently these machines can only be operated within a retail pharmacy or a hospital. The method of distributing medications at a long-term care facility involves a pharmacy delivering bags full of medicine either on a weekly or monthly basis. After the prescriptions are delivered, nurses or nursing assistants must spend as many as four hours a day counting and distributing pills instead of working with their patients. LB326 would allow pharmacies to house on-sight and automated pharmacies saving valuable time for pharmacists and nurses, reducing waste of prescription medications, and ensuring better care for residents. Under LB326 the Nebraska pharmacy maintains responsibility for the machines. Operation without pharmacist oversight is prohibited. The pharmacist in charge of the pharmacy is responsible for policies and procedures surrounding the medications and the machine and he or she must ensure that the process used is in compliance with pharmacy laws and regulations. LB326 would also allow pharmacists overseeing these robots to supervise and verify tasks completed by the pharmacy technician via real-time audio and video communication technology rather than in person monitoring. The technology in LB326 authorizes can make a big

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difference for long-term care facilities throughout the state, but especially in communities who may not have a pharmacy or enough pharmacies to fulfill their needs. Moreover these robots are an effective mechanism for preventing waste and abuse of medication. Automated pharmacies are, obviously, not going to be the solution for every long-term care facility, but LB326 recognizes that this technology is a vital option that allows long-term care facilities to deliver medication more expeditiously, cut down on waste, and improve resident care. This bill was supported by the Nebraska Pharmacists' Association, the Nebraska Health Care Association, and the Nebraska Board of Pharmacy. It was advanced unanimously from committee with amendments. And I very much appreciate Speaker Adams making it a Speaker priority. I would also like to take a moment to provide an outline of the committee amendment, AM434, which is largely technical in nature and becomes the bill. Section 1 uses the language of a real-time audio/visual communication system. Section 2 clarifies that verification of the pharmacy technician's work must occur on sight by a pharmacist at that facility when the medications are being dispensed, but may occur via real-time audio/visual communication when the meds are administered by a credentialed individual to a patient or resident of the facility. Section 4 adds the definition of a long-term care automated pharmacy and the definition of chart order. And in Section 9, the committee amendment addresses that some of the language concerns brought by the Department of Health and Human Services in regards to licensure policies and procedures. It adds a five-year record keeping requirement and clarifies drug labeling requirements. Thank you for your time and attention to LB326. [LB326]

SENATOR CARLSON: Thank you, Senator Howard. As the Clerk mentioned, there are committee amendments. Senator Campbell, as Chair of the Health and Human Services Committee, you're recognized to open on AM434. [LB326]

SENATOR CAMPBELL: Thank you, Mr. President and members of the Legislature. Just a few additional points that I wish to make from Senator Howard's introduction. In Section 4, Senator Howard mentioned that this has been amended by adding to the definition of long-term care automated pharmacy, the requirement that the system be installed and operated by a pharmacy licensed and located in Nebraska. The committee, obviously, felt this was a very important change and that it needed to be in the committee amendment; expands the definition of chart order to authorize medications for residents. In Section 9, Senator Howard started going through there. I would like to remind you that the changes for the recommendations of the Board of Pharmacy to requiring licensure of the pharmacy meets the licensure requirements in the act. Provides further clarification that the pharmacist in charge of the licensed pharmacy is responsible for all of the licensure, policies and procedures and operation of the automated medication system, in the long-term care automated pharmacy. Clarifies that policies and procedures should include the process for review and verification of drugs and medical orders by a pharmacist prior to the medications being released from the automated medication system and given to the residents. Includes

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the requirement for clarification of the process for accessing emergency doses of medications and clarifies drug labeling requirements. I just wanted to make sure that we had all of those included in the explanation to you. And would certainly encourage your support of the committee amendment to the bill. Thank you, Mr. President. [LB326]

SENATOR CARLSON: Thank you, Senator Campbell. Mr. Clerk for an amendment. [LB326]

ASSISTANT CLERK: Mr. President, Senator Howard would offer AM456 to the committee amendments. (Legislative Journal page 846.) [LB326]

SENATOR CARLSON: Senator Howard, you're recognized to open on AM456. [LB326]

SENATOR HOWARD: Thank you, Mr. President, members of the body. AM456 is a cleanup amendment adding a section we missed in the committee amendment. The amendment simply adds language requiring a prescription when a controlled substance is dispensed from the long-term care automated pharmacy. The change is necessary to ensure this bill is compliant with the drug...DEA regulations...Drug Enforcement Administration. Thank you. [LB326]

SENATOR CARLSON: Thank you, Senator Howard. Members, you've heard the opening on LB326; committee amendment, AM434, and the amendment to the committee amendment, AM456. The floor is now open for debate. Seeing no senators wishing to speak, Senator Howard, you're recognized to close on AM456. She waives closing. The question is, shall AM456 be adopted? All those in favor vote yea; all opposed vote nay. Record, Mr. Clerk. [LB326]

CLERK: 28 ayes, 0 nays, Mr. President, on the adoption of Senator Howard's amendment to the committee amendments. [LB326]

SENATOR CARLSON: The amendment is adopted. Mr. Clerk for an amendment. [LB326]

CLERK: Senator Schumacher would move to amend with AM1357. (Legislative Journal page 1487.) [LB326]

SENATOR CARLSON: Senator Schumacher, you're recognized to open on your amendment. [LB326]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. This amendment deals with concerns that come about in looking closely at where this trend is taking us and it regards vertically integrated monopolies. Basically, how does this thing work? I mean, we hear about this automated machine. So I understand it, the way

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it is supposed to work and why it's important is because this would enable a large nursing home chain, or maybe a smaller one, but definitely a larger one, to have a central pharmacy somewhere. And at that central pharmacy, the drugs that are to be given to the nursing home residents would be packaged and be packaged according to whatever administration time it was. These are the drugs for "hall A" for the morning administration. This would save a worker, a nurse, administrator of some kind going and packing the drugs at each nursing home door and delivering them. They'd be packaged at a central facility, stacked in a loaded cartridge of some kind, distributed by courier, put in this machine, and then when the nursing home staff was verified by the Web camera on the machine that they were ready to do the thing, they would enter some code and get the canister or cartridge out and go down the hallway and more efficiently distribute the particular material. Now, what does this mean? This means one pharmacy for a bunch of patients. Put yourself in the shoes of the local pharmacist. The guy who helped grandma raise her children, the guy who on a Sunday afternoon left mowing his lawn to go down to the pharmacy and get the asthma medication for the kids, the guy who is first in line to make a donation for the local park fund or the local United Way fund, all of a sudden his customer who is now in the nursing home cannot get access to him or her, the pharmacy, because everything has got to go through this particular machine where the protection is a Webcam. What this amendment does on the first order is simply say, unless they're permitted by state or federal law, and I understand there is a lot of permissions in those state or federal laws where they may be able to do this anyway, but this is kind of a shot across the bar...across the bow amendment. Unless they're permitted, the nursing home, they have got to give the patient freedom of choice of choosing the pharmacy they purchase it from. Now if they're on their own nickel and not going through a government program, they may have the latitude to do that. So this says, unless they're permitted under another state or federal law, their freedom of choice of pharmacist should not be impaired by the fact that one of these automated drug-dispensing machines are on premises. It's not much protection for the local pharmacist, but it is an indication that we are concerned about the process that could squeeze that local competitor out of the entire picture and centralize drug distribution out of one central pharmacy far away from the actual sight of utilization of the drugs. The second thing, and I think this is a bigger picture and a little more academic in nature, is that as our population ages and goes into retirement centers and goes into pharmacies...or these nursing home kind of situation, the more integrated the system is the less outside surveillance there is. So if somebody is in a nursing home and they get their drugs through the nursing home pharmacy, they get their CAT scans through the nursing home CAT scan, they get their medical checkups through the nursing home clinic staff, they may even have a hospital that is affiliated or co-owned that as that system happens, the more outsiders you freeze out of the system the less supervision there is of what is going on internally and the greater the chance of somebody to misuse the profit motive, these are for-profit institutions, the profit motive in determining their care decisions. If you ever have concern about death panels in Obamacare, it seems to me the likelihood of the profit motive and the expenditures

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being influenced by a...in an internally closed vertical monopoly of healthcare is something that we should be concerned about, even though this is...and this is the first toe in the water of that kind of action. This is simply a little shot across the bow of the system saying, you know, this is something that the Legislature is concerned about and that we're watching. And, yes, we're agreeable to going ahead and allowing you to have this efficiency and this cost-saving method where you don't have to have somebody actually there, you can do it over Webcam. But, you know, folks, pigs get fat and hogs get slaughtered and just do this with the utmost care because we're watching. And it's a simple amendment. It's fairly toothless; there's no penalties involved other than it's a statement of the law and it is the kind of thing that I think we should be concerned about because it has an immediate competitive effect on the local basis, and long term, it may be the kind of thing that affects the quality of care for old folks in 10 or 20 years and I'm really concerned about them because I'm one of them. Thank you, Mr. President. [LB326]

SENATOR CARLSON: Thank you, Senator Schumacher. Senators wishing to speak include: Davis, Howard, and Dubas. Senator Davis, you're recognized. [LB326]

SENATOR DAVIS: Thank you, Mr. President, members of the body. I'm in strong support of Senator Schumacher's amendment and I want to talk a little bit about a personal experience that I had with nursing homes which makes me such a strong advocate for this legislation and this amendment. My own mother was in a nursing home and went in in 2006. And the nursing home was in Alliance, Nebraska, where there are two nursing homes. So when my mom wanted to get her medication she wanted to get it from the local nursing home. Now she was a private-pay patient her entire time at the nursing home. The nursing home told me no, you have to buy the medication through our supplier. We appealed that decision to the state. I got the state Ombudsman involved in it to stand up for senior rights and we were told that we had no choice, we had to comply with what the nursing home ordered us to do. And so my mom never could buy her medication from the local pharmacist. Despite the fact that the entire staff at the nursing home in Alliance felt that the law was in error, the owner of the nursing home, who happened to be a business man in eastern Nebraska, had made that decision and that's the way it was. So I wrote to him and asked him to give us a waiver and I was denied that. This is just unconscionable and it's wrong and it's one of the bills that had I decided I was going to put forward next year to try to get some rights for the people that are in nursing homes who are on private pay. They need to have the right to purchase medication from the pharmacist of their choice. If you live in a smaller town, you realize that the local pharmacists are the guys you really need to rely on. And let's be honest, who are the most profitable patients in a small town? Probably people in a nursing home. So when you take that revenue source away, you jeopardize the business of that local pharmacist. Now the interesting aspect of this whole process was if there was a storm or something, the nursing home in question would call the local pharmacist and he would bring things up so they could get by. So Senator Schumacher

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is completely correct in this. We need this amendment and we need to take it further. I would urge the body to support it. Thank you. [LB326]

SENATOR CARLSON: Thank you, Senator Davis. Senator Howard, you're recognized. [LB326]

SENATOR HOWARD: Thank you, Mr. President. I rise in absolute support of Senator Schumacher's amendment, even though I think he thinks he was being a troublemaker on this one, he was not. And I would just like to give a little overview of how automated systems would be used for some of the patients. So the medications from automated systems will be used for Medicare part A and B patients, and any patients that choose to obtain their medications from the systems, such as part D and private pay. Patients may chose to get their Medicare part D medications or their private-pay medications from their local pharmacy and not from the automated medication pharmacy system. And there's nothing in the bill that prohibits a patient from exercising their freedom of choice, but I appreciate that this amendment reiterates that. I also wanted to note that residents are guaranteed a right to choose a Medicare part D plan. And nursing homes are required to have a safe and accurate system for delivery of medication to their residents. Not only is it important to have timely delivery of medication, but the medication also has to be packaged appropriately and in the system utilized by the nursing facility. The federal regulations require that the facility provide routine and emergency drugs and biologicals to its residents or contract for the services. And most long-term care facilities contract for those services with their local pharmacy which is Nebraska based. This bill, we had a little bit of a run around because in the bill it requires that the pharmacy be Nebraska based which I feel was an important part of what we were doing. Thank you, Mr. President. [LB326]

SENATOR CARLSON: Thank you, Senator Howard. Senator Dubas you're recognized. [LB326]

SENATOR DUBAS: Thank you, Mr. President. I, too, rise in support of Senator Schumacher's amendment; the comments that Senator Davis made, I appreciate the comments that Senator Howard just made because those were some of the concerns that I had visited with her earlier when this bill was brought to my attention by my local hometown pharmacist who had some questions and concerns about how it would impact him and his ability to continue his relationship with his patients in the local nursing home. And so I feel pretty confident that this should not, if he wants to continue and the patient wants to continue with the local pharmacy that that will be able to happen. But I do have a question regarding Section 9 of the bill related to the automated system if Senator Howard would yield please. [LB326]

SENATOR CARLSON: Senator Howard, would you yield? [LB326]

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SENATOR HOWARD: I absolutely would. [LB326]

SENATOR DUBAS: That there needs to be a pharmacist in charge of oversight of these robots, is that...am I reading that correctly, there has to be some oversight by a licensed pharmacist? [LB326]

SENATOR HOWARD: Yes. [LB326]

SENATOR DUBAS: Okay, so if a nursing home facility doesn't have a pharmacist on staff, they're going to have to rely on someone from the...a pharmacist from the community, correct? [LB326]

SENATOR HOWARD: Yes. [LB326]

SENATOR DUBAS: What if, for whatever reason, that pharmacist says, I mean, I can't imagine a pharmacist saying no, but what if a pharmacist and it's the only one in town, it's the only nursing home in town and that pharmacist says, no, I don't want to have that responsibility, is there any other recourse or direction that that nursing home facility can go? [LB326]

SENATOR HOWARD: Right now, I believe the intention...because the robot is a robot that is accompanied by a...there is a telemedicine aspect to this bill and that there is a computer that sits right next to the robot with a pharmacist connected to it. And that pharmacist approves dispensing. So it's nobody...there's no automatic dispensing the way you would say from a vending machine. And so if...they would just need to find a Nebraska-based pharmacist in order to be that pharmacist on the other end of the line. [LB326]

SENATOR DUBAS: Okay, but there is an opportunity then here for kind of a cooperative effort between a local pharmacist and the nursing home through the use of this robot? [LB326]

SENATOR HOWARD: Absolutely, absolutely. [LB326]

SENATOR DUBAS: Okay, well thank you very much. I've appreciated your willingness to answer my questions on behalf of my local pharmacist. And I think this is a good bill and I think it's made better by Senator Schumacher's amendment. Thank you. [LB326]

SENATOR CARLSON: Thank you, Senator Dubas and Senator Howard. Senator Nelson, you're recognized. [LB326]

SENATOR NELSON: Thank you, Mr. President, members of the body. I do have some questions for Senator Howard if she will yield. [LB326]

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SENATOR CARLSON: Senator Howard, would you yield? [LB326]

SENATOR HOWARD: I would. [LB326]

SENATOR NELSON: Senator Howard, I had to make a decision between eating dinner and being out here on the floor, so I did miss a good part of your introduction. With regard to this, I read the bill, when we're talking about automated machines here, it looked to me like in the description in the bill that that was going to be filled by computer, or something of that sort. Is that the way it works? Could you just very briefly tell me how this...is it prepackaged away from the premises and then brought in, or is there a machine on the premises that is controlled by a pharmacist or someone else that dispenses these pills...the pills that are prescribed for an individual patient? Could you just run me through that. [LB326]

SENATOR HOWARD: Good question. The latter scenario is the accurate one. The pharmacy that owns and operates the robot on sight at the long-term care facility will refill it, most likely on a monthly basis, and then the dispensing will occur through the real-time audio/visual communication and they'll get one bag per day for each patient. So say previously what they were getting were large bags with a monthly supply for a patient and they had to sort through them. That was what, generally, took up to four hours of nursing time to sort the medication. And with the robot, now they'll get one bag that comes out and it's dispensed by a real-time audio/visual communication. [LB326]

SENATOR NELSON: But it doesn't...does it come out of a machine? [LB326]

SENATOR HOWARD: It does come out of a machine. [LB326]

SENATOR NELSON: On the premises? [LB326]

SENATOR HOWARD: On the premises of the long-term care facility. [LB326]

SENATOR NELSON: Okay. And you keep talking about a local pharmacist, and Senator Schumacher, whose amendment I support, sees a problem with that because if you've got a centralized...if you've got...oh, I think out of Omaha, for instance, we have a nursing home, they have 39 nursing homes around the state, they could establish that and there's really nothing in the bill to prevent them from saying, this is the only way you're going to get your medication if you want to be in our facility, isn't that correct? [LB326]

SENATOR HOWARD: Well, what prevents them from saying that you're only using the automated pharmacy is actually their payer source and that's based on federal law. So Medicare part A and B, the nursing home is required to offer them to take care of their

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medications. But for Medicare part D and private pay they can choose a local pharmacy. [LB326]

SENATOR NELSON: So there isn't any hammer over the head of the patient that's going...if they want to go to another pharmacy and have the pills brought in and dispensed to them, then the nursing home, you're telling me, under federal regulations has to do that. [LB326]

SENATOR HOWARD: Yes. [LB326]

SENATOR NELSON: All right. Well, thank you. That gives me some assurance. Thank you, Senator Howard. Nevertheless, I think to be on the safe side I am supportive of the amendment here, AM1357, to just, as Senator Schumacher says, to guarantee to the extent that we can that these individual rights are not put aside in the interest of...as a vertical conglomerate of some sort taking control of this. I think we see too much of that. Thank you very much, Senator Howard. Thank you, Mr. President. [LB326]

SENATOR CARLSON: Thank you, Senator Nelson and Senator Howard. Those still wishing to speak include: Gloor, Krist, and Bloomfield. Senator Gloor, you're recognized. [LB326]

SENATOR GLOOR: Thank you, Mr. President. And I stand in support of LB326 and the amendments, as long as Senator Howard continues to be supportive of the amendments. I, as a bit of history, introduced several years ago LB220 which was passed by this body which enacted into statute that these automated machines could, in fact, be used in the state of Nebraska in long-term care facilities. So it was, to a certain extent, some of the enabling legislation that Senator Howard is now building on. This is the way that hospitals dispense medications for the most part; not in their main pharmacies, although I would imagine in some small hospitals that could be the case, but on individual units of hospitals, so that a pharmacist doesn't necessarily have to run up and get medications to nurses who then pass them on to the patients, nurses can 24 hours a day, 7 days a week be able to access some at various places across a hospital, maybe in the surgery department, maybe in the cancer treatment center, maybe on the individual patient units. The legislation that I passed, up until that point in time, most long-term care facilities operated like the corner drug store. If medications were needed, the pharmacists had to come out and go through the process of dispensing. What that legislation, LB220, did was then to allow us to have enabling legislation that allowed long-term care facilities to act like hospitals do, to have these automated machines also under the control of pharmacists. But in automated basis where the pharmacist not necessarily having to be there 24/7, yet medications being available 24/7. So Senator Howard is appropriately building on that particular enabling legislation and, I think, making all the appropriate things in place that protect both the patient, as well as provide opportunities for local pharmacists to be involved in this process; good bill. We

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all get excited about telemedicine and then when it actually hits us in the face, we go, well, wait a minute, I've got questions about this. Good, we should have questions about it. But I point out the fact that telemedicine isn't one nice slick slope that we can slide down. There are some bumps that require us to sit down and pass legislation to lay things out because the practice of medicine, whether it's through pharmacists or physicians or nurses, is a pretty complicated and involved thing that involve a lot of statutes. Senator Howard said, as an example, Medicare requires choice. All those things come into play and I believe Senator Howard has done a great job trying to touch all of those bases to make sure that this piece of legislation will accomplish what it is supposed to do. I'd vote green all the way down the line, members. Thank you. [LB326]

SENATOR CARLSON: Thank you, Senator Gloor. Seeing no other senators waiting to speak, Senator Schumacher you're recognized to close on AM1357. [LB326]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. I just don't know where she got the idea I might be a troublemaker. But you'll notice I didn't call it a Webcam drug machine like I said I would. With that I'd better stop talking while I'm ahead. I ask you for your support on the amendment. Thank you. [LB326]

SENATOR CARLSON: Thank you, Senator Schumacher. The question is, shall AM1357 be adopted? All those in favor vote yea; all opposed vote nay. Record, Mr. Clerk. [LB326]

CLERK: 31 ayes, 0 nays on adoption of Senator Schumacher's amendment to the committee amendments. [LB326]

SENATOR CARLSON: The amendment is adopted. We return to discussion of LB326 and underlying amendment, AM434. Are there senators wishing to speak? Seeing none, Senator Campbell, you're recognized to close on AM434. [LB326]

SENATOR CAMPBELL: Thank you, Mr. President and colleagues. I think that this has been an excellent discussion. As the Health Committee moves forward into the future, we're ever mindful of what technology can do to help us in a health system. But in the end, we also want to make sure that we don't lose that human oversight, so we appreciate Senator Schumacher's bill. Thank you. And with that, Mr. President, that concludes my remarks. [LB326]

SENATOR CARLSON: Thank you, Senator Campbell. The question is, shall AM434 be adopted? All those in favor vote yea; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB326]

CLERK: 34 ayes, 0 nays, Mr. President, on the adoption of committee amendments. [LB326]

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SENATOR CARLSON: The committee amendments are adopted. We return to discussion of LB326. Are there senators wishing to speak? Seeing none, Senator Howard, you're recognized to close on LB326. [LB326]

SENATOR HOWARD: In closing, thank you, Mr. President and members of the body. In closing I would just like to thank Senator Schumacher, Senator Campbell, and Senator Gloor for letting me stand on their shoulders on this bill. It's a great bill that modernizes some of our pharmaceutical methods in long-term care facilities. And I do think we would be able to see improved patient outcomes from it. And also I would just like to apologize to my mother for missing her mother's day gift tonight and I apologize that I won't be seeing Garrison Keillor with you at 7:30. I urge you to vote green on LB326. Thank you very much, Mr. President. [LB326]

SENATOR CARLSON: Thank you, Senator Howard. The question is, shall LB326 be advanced to E&R Initial? All those in favor vote yea; all opposed vote nay. Record, Mr. Clerk. [LB326]

CLERK: 37 ayes, 0 nays, Mr. President, on the advancement of LB326. [LB326]

SENATOR CARLSON: The bill does advance. Mr. Clerk. [LB326]

CLERK: Mr. President, LB308, on General File, has been discussed, a bill originally introduced by Senator Schumacher. (Read title.) Senator Hadley has presented the committee amendments, Mr. President. Those amendments are pending. (AM583, Legislative Journal page 711.) [LB308]

SENATOR CARLSON: Thank you, Mr. Clerk. Senator Schumacher, would you give a brief review of LB308. [LB308]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. LB308 deals with the alternative minimum tax calculation. It's a way you figure your income tax in an alternative way. You figure it the regular way and then you use special rules to figure it a second way, and this being government, whichever comes out higher you pay. The AMT dates back to the 1960s. It was designed to catch about 200 millionaire earners...people making more than a million dollars a year back in the 1960s, that would be today's equivalent of over a million dollars a year and not paying any tax. They were using a thing they developed called a tax shelter in which it was a sophisticated mechanism that enabled them not to have to figure certain income into their income. Congress became aware of this in 1968 and passed the Alternative Minimum Tax which had them add back in what was called tax preference item, the biggest one of which was these tax shelters. The Congress in 1968 thought that would solve the problem. It also had them add in some other items like capital gains, second mortgage interest,

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depletion allowance, state and local taxes, miscellaneous expenses such as charitable contributions, all were in a very long complicated form that I distributed to you when this bill was first introduced a couple of days ago. That didn't work so well and in 1986 when President Reagan reformed the tax code, the tax shelters were basically gutted from the system and no longer worked and no longer were feasible. But the Alternative Minimum Tax did remain on certain items. Nebraska got involved with it when we coupled our tax system to the federal tax system before we later decoupled it when we figured that that brought too much instability to our system. As a result of that, it's in our law and it is basically affecting folks who are not wealthy Nebraskans who make more than \$75,000 a year. It is something that President Obama, as well as the National Republicans agree should be repealed. We're in that same category. Repealing it, incidentally, in Maine's case, boosted its ratings in the tax foundation thing from 37 to 30. There are only a few states, nine that remain with the Alternative Minimum Tax; most of them are on the coast. It is something that no longer serves the function it was intended to serve and should be retired. Thank you, Mr. President. [LB308]

SENATOR CARLSON: Thank you, Senator Schumacher. Senator Hadley, would you please review AM583? [LB308]

SENATOR HADLEY: Yes, Mr. President, thank you. This is a bill that was brought to us by Senator Krist. It is a bill that I had brought a few years before. It deals with operating loss carried forward. In a nutshell, we use five years for a corporation in order to carry forward a loss. They can offset gains for that five years against the loss. The federal government, the IRS, allows 20 years and 24 states allow 20 years. It's just too short a time, especially for start-up businesses to be able to offset losses against gains. It's a good bill. It put us consistent with most other states and with the federal tax rolls. I would ask for a green vote on AM503. Thank you, sir. [LB308]

SENATOR CARLSON: Thank you, Senator Hadley. The floor is now open for debate. Senator Watermeier, you're recognized. [LB308]

SENATOR WATERMEIER: Thank you, Mr. President and members of the body. I guess I would like to thank the Revenue Committee and Senator Hadley, Senator Schumacher, and Senator Krist for the bills in front of me as well. I decided to prioritize these two bills. Roughly, the AMT bill was created in 1969 on the federal level to stop some loopholes that allowed some taxpayers to pay virtually no tax; it was meant to be a tax for the rich, but over the years it became more of a tax for the middle class. In 1970, about 19,000 people were affected by this. In 2009, 9 million people were affected by the AMT bill, the AMT tax and it really is cumbersome. Married couples are adversely affected by the AMT tax, personal exemptions are added back to income for AMT calculation purposes. Medical expenses are added back as well, but in a different way. On the federal return you can deduct medical expenses in excess of 7.5 percent of your income, for AMT it's only 10 percent. Repealing the Alternative Minimum Tax

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would result in a simplifying of the calculation and of the understanding of the Nebraska individual income tax liability. I'm also strongly in favor of the net operating loss gain here too. Five years is just too short, not necessarily for a start-up business, but for most businesses that have a high degree of not being profitable. We're operating under 5 percent return which is very typical of a small business. It's pretty tough to have a loss one year and make that up in five years. So I would urge your support on both the amendment and the bill, LB308. Thank you. [LB308]

SENATOR CARLSON: Thank you, Senator Watermeier. The floor is now open for debate on LB308 and AM583. Seeing no senators wishing to speak, Senator Hadley, you're recognized to close on AM583. [LB308]

SENATOR HADLEY: Again, this is strictly a...dealing with loss carried forward. It aligns us with other states. It aligns us with the federal tax code and it's a good bill. Thank you and I appreciate your green vote. [LB308]

SENATOR CARLSON: Thank you, Senator Hadley. The question is, shall AM583 be adopted? All those in favor vote yea; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB308]

CLERK: 34 ayes, 0 nays, Mr. President, on the adoption of committee amendments. [LB308]

SENATOR CARLSON: Committee amendments are adopted. Mr. Clerk. [LB308]

CLERK: Senator Burke Harr would move to amend with AM1480. (Legislative Journal page 1526.) [LB308]

SENATOR CARLSON: Senator Harr, you're recognized to open on AM1480. [LB308]

SENATOR HARR: Thank you, Mr. President, members of the body. So earlier today we voted to...amendment on the local option sales tax to pull the city of Omaha or city of the metropolitan class out, which is limited to the city of Omaha. And let's just do a little history of why the local option sales tax exists. The reason it exists is because there are capital projects that towns, cities across the state want to do. And we, as a legislative body, over the years have added more and more to the cities and counties of what we expect out of them. And for a while there we used to say, we'll give you aid. Well, two years ago we yanked that aid away from them. So last year we worked on a half-cent sales tax, and it was very controversial, very difficult, and we overrode a Governor's veto because we saw the importance of capital projects for towns across the city of Omaha. Well, today we've kind of said...we've turned our back, which we'll get to, on Omaha and said, yeah, Omaha, you can raise your property tax if you want to do something. We've limited occupation tax so now we're going to say raise your property

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tax. So what I'm proposing in this amendment is to provide a public-private partnership so that it is not exclusively on the shoulders of the public sector but to provide incentives for capital projects in the city of Omaha. Again, we have a very active philanthropic community in Omaha. We're very fortunate in Omaha. And so I'm going to give you a little history of the turnback. In 1999, the Nebraska State Legislature passed the Convention Center Facility Financing Assistance Act, as well as the Local Civic, Cultural, and Convention Center Financing Act. The Legislature found that it would be beneficial to the economic well-being of the people of this state that there be a convention and meeting center facility of appropriate size and quality to host events. The Legislature further found that such facilities may generate economic activity, as well as additional state and local taxes from persons residing within and outside the state. So again, it found a way of exporting our taxes, getting people from outside of the state of Nebraska to pay our taxes, which is always nice. And it also creates new economic opportunities for residents. The bill allowed political subdivisions that constructed a facility to apply to the state to allow the state to pay back the political subdivision's taxes that would not have been collected but for the economic activity generated by the facility. This helped create the Qwest Center, and now called the CenturyLink Center. Seeing the success of that, these two acts, in 2007 the Legislature passed LB551, which added sports arena facilities and hotels to the act so that the state financial assistance included sales tax collected around the facility. It also added the distance from the hotels, which was 200 yards, and this was meant to assist Lincoln's arena. And then there was LB912 in 2008 which extended the distance to 450 yards and created the Pinnacle Bank, whoops, so I'm sorry, LB912 created the Pinnacle Bank Arena; LB551 just created a turnback zone. And then we had LB779 in 2010 which created the Convention Center Facility Financing Assistance Act and Sports Arena Financing Act. This now extended, so we started out with 200, then we went to 450, this extended the distance to 600 yards, included more checks and balances in the application. LB779 created the Ralston Arena act. What I'm proposing is not another arena act, but what we've seen is that--and I've used this example a thousand times--is when we had the Qwest Center what we found is that a lot bars opened up around there. People might go in to get a screwdriver, a drink, before the game. Well, with the Ralston Arena what we found is that you create a center of economic vitality and other businesses want to be there. So the Ralston Arena, for instance, within 600 yards, Menards went there. Now obviously now, they're not related, but Menards would not have gone there but for the Ralston Arena. So now, before you go in the Ralston Arena, you might get a screwdriver, just a different kind. So...yeah, that was bad. (Laughter) So what this bill does is it extends that turnback to municipality, city-owned property. So downtown Omaha, as an example, we have Central Park Mall, which is badly in need of work, revitalization. We have Fontanelle Park up in north Omaha, which is badly in need of some capital improvement. We have Swanson Library downtown, which is badly in need of renovation. And we can't use the 10 percent that most of the cities and towns can use on their libraries, because we get the turnback on the Qwest Center, so we cannot get that 10 percent fund. So how this program works is, and I'll look at the

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language, an eligible project means any new or revitalizing project with the governing body, so that would be the city of Omaha, has determined is intended primarily to provide cultural, recreational, educational, or public purposes that will enhance the quality of life in Omaha. I've limited this to Omaha. This is, quite frankly, a knockoff of LB571, which was heard in front of the Revenue Committee. The only reason I'd limit it to Omaha is because Omaha received the short end of the stick on this local option sales tax. If someone wants to extend this across the state, again, I would not object to that. But what happens is you get...you decide on a project that you want in your city, in the city of Omaha. For simplicity, again, this is project...or policy legislation, is not based on any project currently pending. But for simplicity, to give you an idea, I'm going to use Central Park, downtown Omaha. So we have a park that was built in the early '80s. It sinks down and somewhat a safety issue and no one really uses it, but it's in prime real estate. So we decide, city gets together with private enterprise and says, we want to do something here. Under the bill, you would have to get a minimum of one-third of the money from private sources, whomever that may be. It can be foundations. It can be individuals. It can be a combination. But you get one-third of the money up-front, up to a half, and then the state will match whatever portion the private sector puts up. So you get the city has to be a part of the applicant and you get private enterprise investing. They then make an application. They go down to the state of Nebraska and you apply, and you apply to a board. That board shall consist of the Governor, the State Treasurer, chairperson of the Nebraska Investment Council, chairperson of the Nebraska State Board of Public Accountancy, and a professor of economics on the faculty of a state postsecondary institution. This is, coincidentally, to keep the fiscal note low, is the same board we used on those previous legislations. You must get approval of the majority of that board. But on top of having a majority, you must also have one of those five be the Governor. So the Governor, whoever she or he is, can ultimately decide if you want this...if they want the project to go forward. And now, because this is a little unique, what we found is, as I talked about each project we've done previously, we've had to change the turnback zone, and that's based on really the geography of where this new project is located. [LB308 LB571]

SENATOR CARLSON: One minute. [LB308]

SENATOR HARR: Thank you. So what we do is then you go through the rules and regs to come up with what you want that turnback zone to be. I have my light lit. I'm willing to talk about this some more. But I think this is a prime opportunity for private industry to encourage philanthropy and private industry to work with the public sector to create new projects to help make the city of Omaha better in a planned way, again, with public and private input. Thank you, Mr. President. [LB308]

SENATOR CARLSON: Thank you, Senator Harr. Members, you've heard the opening on AM1480. Floor is now open for debate. Those wishing to speak include Senators Ashford, Burke Harr, and Scheer. Senator Ashford, you're recognized. [LB308]

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SENATOR ASHFORD: Thank you. Could I ask Senator Harr a question? [LB308]

SENATOR CARLSON: Senator Harr, would you yield? [LB308]

SENATOR HARR: Yes. [LB308]

SENATOR ASHFORD: Senator Harr, are you going to take this to a vote or are you going to pull it? [LB308]

SENATOR HARR: I would like to have a conversation on this. I plan to pull it at this time, at the end, if the votes are not there, but I think it's important we have a conversation about this because I think this is an important concept. And if need be, we can put it on to a different bill. [LB308]

SENATOR ASHFORD: Okay. Thanks. I...with, I believe, Senator Harr is suggesting that he will pull the amendment, which I think is probably a good idea on LB308. But I want to commend Senator Harr for his creativity on this bill, on this amendment, which is I think before the committee, the Revenue Committee. And it does, as Senator Harr suggested, expand the turnback concept. Of course, we all love the turnback concept. I was talking to Senator Avery today about his project, the arena that they...what I was amazed by is they call it the Pinnacle Arena, Pinnacle Bank Arena, but I don't know why that is exactly. I don't know why it isn't the Bill Avery Arena. I got his attention. He was sleeping back there. I don't know why they don't call it the Bill Avery Arena. I mean it is a beautiful arena and built in a way that Senator Avery would have liked, with a nice, round, metallic building. No, truthfully it's...Lincoln has done a wonderful job with the arena. It is remarkable to see the area. The Haymarket area is vibrant. So the turnback does work and I know that with the Ralston Arena, Senator Lathrop's project, they didn't name it after him either. And the Qwest Center, which they never called it the Ashford Center either. So that's just the job we do here. We don't expect to have anything named after us and we just go ahead. But Senator Harr actually has brought us a good idea, no question. The idea of expanding turnback with private investment is an excellent idea. We are one of the only states that utilizes turnback and it has worked. When I...when we first started thinking about turnback years and years ago, I think there was only one other state, Arkansas, that even delved into the idea of turning back new sales tax dollars to develop public projects. And I know that Senator Dubas has been a champion of dealing with the 30 percent fund that was built into the Qwest Center bill for rural Nebraska. It's been a very exciting part of that concept to see dollars in rural Nebraska. And I will say I am very happy that we, in the last bill or the bill on city aid, I am, I am, for the record, very happy that we are continuing to give small cities the option to raise their sales tax. I think I gained a tremendous amount of respect for the mayors I worked with when we did LB357. I applaud the body for supporting the bill and certainly, as usual, Senator Carlson comes in with these one-sentence amendments that change

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the whole dynamic of the debate. But again, Senator Harr has got a good concept, I think we should listen to him, and very creative. And he may pull it off this bill but there may be another vehicle or we can deal with it in the ensuing... [LB308]

SENATOR CARLSON: One minute. [LB308]

SENATOR ASHFORD: ...session next year. Thank you. [LB308]

SENATOR CARLSON: Thank you, Senator Ashford. And, Senator Harr, you're recognized. [LB308]

SENATOR HARR: Thank you, Mr. President. So I spent a good portion of my interim study time looking...interim looking at ways to keep young people in Nebraska, because that's our future. If we don't have young people coming back, then we don't have anything. And so I looked at what is it that young people want. They don't really care about Social Security, taxes. What they want is somewhere that's fun, that offers them something to do outside of work. We don't have mountains, we don't have oceans, and we don't have a whole heck of a lot of water. What we do have are festivals. What we have are the Qwest Center. We have less than average, I would argue, parks. This is a way to do something with parks. So what I started to say is you take Central Park Mall in downtown, beautiful swatch of land right in the heart of downtown, but it's not really being used or taken advantage of. This has the ability to come in, revitalize it, and you're going to have private input and you're going to get the power of the private industry working with you on this. That's the key. So it's not just a planning director saying, this is what I want to do, and pushing it by the city council. You're going to have input from the private sector and they're going to provide their know-how and knowledge, probably for free. Matter of fact, they're going to pay to provide their input and knowledge. And they're going to sit there and say, here's what we think the best use is and they're going to come together and they're going to work together, and that's a great thing. And then, because of that, people are going to come downtown even more. They're going to come away from the Old Market. They're going to come away from the Holland Center. They're going to spend more time in downtown and you're going to get more restaurants. You're going to get more businesses right around downtown and around Central Park Mall. It stimulates growth and it gets people excited about new areas. Now we did a turnback. We did a 30 percent fund. I've done it a little differently here because of the amounts are smaller, but I have created a 20 percent fund. Ten percent will go to kids ages 18 to 22 to provide for job training for low-income students. These are kids that haven't been given a fair chance merely because they lost the ovarian lottery. But this gives them a chance to receive some job training. So again, we're using this money for an economic good to help promote...and this is across the state. This isn't limited to Omaha. And then another 10 percent goes to the Water Cash Fund because this is very important. Water is an important, important natural resource for the state of Nebraska and we have to make sure that we take care of that. And so if

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this is going to help the city of Omaha only, and it is, because again I'm willing to expand it to the whole state but right now Omaha is the only one that can't do the local option sales tax. But the whole idea is that while the money comes from Omaha, we're going to spread it across the state. That 20 percent fund, none of it could come back to Omaha. Ten percent probably isn't because, again, it's going to the Water Resources Fund. I ask you to look at this. I'm very serious about this bill. As I stated to Senator Ashford, I'm going to have to pull it, but I want your input. I want to hear from you whether you like this or not, whether you think this is just some crazy, harebrained idea. Is this Senator Schumacher's personal banking all over again or is this something better? But there is a fiscal note. It will probably end up being \$2 million. But the good news is we aren't hitting up the floor for it. We're hitting up all of us. But we're creating new economic development and we're helping to make the city of Omaha a better place not just for the citizens of Omaha but for people to come to the city of Omaha,... [LB308]

SENATOR CARLSON: One minute. [LB308]

SENATOR HARR: Thank you, Mr. President,...whether that is individuals from outside the state or whether that is individuals from within the state who come to visit for, let's say, state track. Maybe we can use this money, the city of Omaha can come together and create a wonderful facility up in Fontanelle to have state track. Or maybe we can create a wonderful arena football stadium to have state football, maybe a place for North High to play football. The projects are only limited by one's imagination and the approval of the Governor. Thank you, Mr. President. [LB308]

SENATOR CARLSON: Thank you, Senator Harr. Senator Scheer, you're recognized. [LB308]

SENATOR SCHEER: Thank you, Mr. President. First and foremost, I wanted to rise because I took offense by Senator Harr's comment that we on the floor turned our backs on Omaha. I would only mention that I was waiting for some senator from Omaha to say something in regards to the loss of the potential of the sales tax. I heard none. So please don't accuse the body of not turning...of turning their back on the Omaha metropolitan area. I followed your lead, Senator Harr, and no one from the Omaha area stood up to say a thing in relationship to that legislation. That would be the first. My opinion on what the bill is would be, one, it's 7:15 at night, probably not a lot of our brains are working to the extent of trying to utilize a new concept. But I did hear you say a few things that were of interest, that you didn't have the turnback available to you because you already used it on the Qwest Center. Well, you did have that. Now this would be an additional use or some new type of funding that would be available. I would tell you that in your definition of what you're trying to accomplish, I would beg to differ that I think this is something that the rest of the state, if it was engaged, would want to utilize. Every community, regardless of size is trying to find a way to maintain increased population. So it is not exclusive to the metropolitan area. I think your concept maybe

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has merit, but I certainly don't think this late in the legislative time frame. I would say that trying to add this concept on to a bill this late in the year is problematic. I think it would cause probably a slower pace than we would maybe want to continue, that we've had. But I do acknowledge your thought pattern in this. It's a concept, but I don't think it's ready for a statute yet. But I do appreciate your bringing it forward tonight and I was glad to hear that it was a trial balloon, not a serious attempt at legislation. So thank you, Mr. President. [LB308]

SENATOR CARLSON: Thank you, Senator Scheer. Senators wishing to speak include Avery and Burke Harr. Senator Avery, you're recognized. [LB308]

SENATOR AVERY: Thank you, Mr. President. I like this idea and I like the way you think, Senator Harr. I'm not sure if this is the right time for it, but these are the kind of creative ideas that we need to be talking about in here more often. I was a part of getting a turnback bill to help with the arena here in Lincoln, but it is not my idea. I took that idea from Omaha and I'd tell you right now it was a great idea. I took it from Senator Ashford. In fact, Senator Ashford is the grandfather of this mechanism for funding arenas and public projects of that sort. He, at his own expense, years ago went down to Arkansas because he heard that they had a creative way of financing their downtown arena. And he went down there and he found the people that he needed to talk to. He got the ideas, found out how they did it, went back to Omaha and convinced Omaha that that was the way they should build the convention center and the new arena there. I had the privilege of accompanying Senator Ashford to Louisville, Kentucky, this summer and got a chance to see him picking the brains of people down in Louisville, Kentucky, on city-county mergers. The guy is a seeker of ideas. I like the way you think and we need more of this from both you guys and everyone else here; hope you can teach me how to do it. Thank you, Mr. President. [LB308]

SENATOR CARLSON: Thank you, Senator Avery. Senator Harr, you're recognized. [LB308]

SENATOR HARR: Thank you, Mr. President. Senator Scheer, I'd like to address some of your comments. First of all, turnback is more of a play on words. It wasn't meant to be taken literally because this is a turnback bill. So if that offended you, I apologize. It was meant in good jest, maybe poorly, but that was the intent. And I'm excited to hear that people across the state like this idea, because I think it's a great idea and I don't think it needs to be limited to the city of Omaha. The only reason I did limit it to the city of Omaha is because we have another piece of legislation out there, an alternative way of funding capital projects, that after today excluded the city of Omaha. I did not vote for that; I understand people from Omaha and those from outside obviously did. But we in Omaha are facing a \$7 million hole and we're going to have to fill that. And you know, when you're facing a hole, one of the things...first things you put on hold are capital projects. And the longer you put capital projects on hold, the more expensive they are

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down the road. And so I'm trying to find an alternative way to help create new capital, money for capital projects within the city of Omaha. It is expensive. It's a \$2 million fiscal note. I get that. We have to prioritize and decide if we want to do that. As far as this coming too late in the session, you know, we hadn't addressed CIR by this time, we hadn't addressed learning community. I think the fact of the lateness of the hour and the lateness of the session is not necessarily an inhibitor. I think, much like in college when you get towards the end, you become a little...thank you, Mr. President...you become a little more motivated and so...and you pay a little bit more attention. Sometimes in the doldrums of the middle it's kind of easy to think we have plenty of time. So is there anyone else in the queue, Mr. President? [LB308]

SENATOR CARLSON: No, there isn't. [LB308]

SENATOR HARR: Okay. Thank you. Again, I think this is a great idea. It's not just my idea. I think this is a great way for communities across the city...across the state to possibly a new form...I keep hearing we got to come up with new ideas, new ways for our cities to earn money. Well, folks, here it is. I'm going to look forward to your comments. I don't want to hear my city this, my city that, because we have an alternative way of doing this. Right now it's to the city of Omaha only, but I'm excited to hear other people like it. I hope maybe we can expand this across the state. I don't want to lower it to any less than one-third because I don't want to give away too much of the base. I don't want...I want private enterprise to have a valuable stake in the game because I want them to know what's going on. I want them to apply their know-how. I want them to apply their money so that we do have skin in the game. With that, Mr. President, I would go ahead and remove...withdraw AM1480. Thank you. [LB308]

SENATOR CARLSON: Thank you, Senator Harr. So ordered. Seeing no other senators wishing to speak, Senator Schumacher, you're recognized to close on LB308. [LB308]

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. LB308 has two components at this stage. One is repeal of the alternative minimum tax calculation and the other is a conforming of the Nebraska loss carryforward rules to what the federal standard is and most of the other states. The alternative minimum tax calculation has proved to be an outdated tax, a calculation that dates back to the 1960s, was intended to target the super wealthy, and, in fact, now targets hardworking middle-class people. If they actually don't have to pay it, they have to go through a very complicated calculation to find out they don't have to pay it. It is a tax which sets Nebraska apart unfavorably in the world of taxation. We're one of only nine states that has the tax, making us not competitive. And most of those particular states are on the east or the west coast that retain the tax. Maine got rid of it in a bill much similar to this that addressed both the alternative minimum tax calculation and the net loss carryforward and carry back, and picked up 7 points in the Tax Foundation rankings. It is a tax that no longer serves the original purpose of it, that would be to get the

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extremely wealthy tax dollars, who in today's...or tax dodgers, who in today's money would be making around \$1.4 million a year. It affects people with itemized deductions for charitable giving, for buying stock in their employer's business according to some stock option plans, things that they could avoid if they simply spread them out over a number of years. Those who are naive or not counseled properly end up tripping the tax by doing it in one year. It gets folks for mortgage interest on a second mortgage on a house; high medical expenses; and other itemized deductions. It was a well-meaning attempt to get at the super wealthy who were not paying tax. It is now a burden on middle-class folks that both the President and the GOP in Washington agree that the time has come to get rid of in the Washington era. We are stuck with it right now because we dittoed it in, in the 1980s, and haven't brought it to a head until now. It is clearly an outdated mechanism for calculating tax. It is not competitive, not fair, and it's time that we retired it and also made the adjustment to the standard adjustment on the net loss situation. I would ask for a green vote on LB308. Thank you. [LB308]

SENATOR CARLSON: Thank you, Senator Schumacher. Members, the question is, shall LB308 be advanced to E&R Initial? All those in favor vote yea; all opposed vote nay. Record, Mr. Clerk. [LB308]

CLERK: 40 ayes, 0 nays, Mr. President, on the advancement of LB308. [LB308]

SENATOR CARLSON: LB308 does advance. Mr. Clerk, next item. [LB308]

CLERK: LB573 by Senator Burke Harr. (Read title.) Introduced on January 23, referred to Revenue, advanced to General File. I have no amendments to the bill, Mr. President. [LB573]

SENATOR CARLSON: Thank you, Mr. Clerk. Senator Harr, you're recognized to open. [LB573]

SENATOR HARR: Thank you, Mr. President. Members of the body, LB573 clearly defines exactly who should be considered a shareholder in Nebraska with respect to the one-time capital gains with respect to employee stock ownerships or ESOPs. Again I want to emphasize it's employee, not employer, stock ownership plans. These programs called ESOPs are an employee benefit plan which make the employees of a company owners of stock in that company. An example of local companies that are ESOPs are DLR Group Inc., Farmers National, HDR, Travel and Transport, Farris Engineering, and FBG Service Group. In the state of Nebraska there are currently over 22,000 employees participating in ESOPs. An ESOP is unlike any other employee benefit plan in that the ESOP trust is designated as the primary stockholder of the sponsoring employer. A company establishes a trust to which the company contributes stock or cash to purchase the stock. The stock is then allocated out to the employees' individual accounts within the trust. When the cash is contributed, it is used to purchase stock

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from shareholders and then allocated out to individual employee accounts. When the Legislature passed LB775, it exempted capital gains tax for the transfer of stock or sale of stock by employees of a corporation, so long as the company had five or more stockholders located in the state of Nebraska. Recent Department of Revenue audits prohibit ESOPs from getting the advantage laid out in LB775 because the state would default to the federal law which differs. The federal definition states that the number of shareholders within ESOP trust equals one shareholder even though you may have over 1,000 employees. The Nebraska statute does not have a definition of the number of shareholders within ESOP, so therefore we default to federal. This definition is purely for administrative purposes and has no true tax benefit. You could have a company with 1,000 employees who participate in an ESOP. The federal government does not want 1,000 K1 statements filed, so they say an ESOP trust equals one shareholder. That's basically why...should they're treated that way. Federal law does allow for each state to craft their own definition of what an ESOP is, and that is exactly what LB573 does. I'm trying to summarize this due to the lateness of the hour. It allows for each participant in an ESOP trust to be considered a qualified shareholder. I ask that you please support LB573. So just quickly, if you have a stock option plan with your company, you are eligible for this exemption, but if you have an employee stock ownership plan, you aren't; and we want to encourage employees to own companies. So I would ask that you please support this bill, and I would entertain any questions you may have. Thank you. [LB573]

SENATOR CARLSON: Thank you, Senator Harr. Members, you've heard the opening on LB573. The floor is now open for debate. Senator Ashford, you're recognized. [LB573]

SENATOR ASHFORD: Just very briefly, I stand in support of LB573. When we passed LB775 and LB772, in 1987, there was a provision that dealt with treatment of capital gains for employees who work for LB775 companies. There was a...and those employees have been treated for a number of years as stockholders, even though they were in an ESOP. So with the change in federal law, as Senator Harr has talked about, it's necessary for us to redefine a definition of ESOP for state law purposes, so the Department of Revenue can make a determination on the capital gains treatment for these employees, many of whom are not executive employees but are line personnel. When we passed LB775, we delineated or defined a corporation eligible for capital gains treatment as one that has more than five stockholders, I believe I'm right in that. And so this simply makes the change consistent, I think very consistently, with what we had intended in LB775, so. And these companies that Senator Harr named have many, many employees across the state, and many of them are, as I say, line personnel. There are some executives, obviously, but many are not. So with that, I would...it's somewhat of a technical change, but it's important to those 22,000 employees, and I thank Senator Harr for bringing it. Thank you. [LB573]

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SENATOR CARLSON: Thank you, Senator Ashford. Are there other senators wishing to speak? Senator Chambers, you're recognized. [LB573]

SENATOR CHAMBERS: Mr. President, members of the Legislature, Senator Ashford, I would refer to this as ESOP, as an "ESOP fable." I did not like LB775 and I did all I could to stop it, and obviously I was unsuccessful. I didn't know that the bill would come up today, so I'm not prepared to give substantive arguments against it. And I'm not going to do this evening what I did this morning, talk just to talk, apparently. But I had a message, or several, that I wanted to get across this morning. Circumstances alter cases. Since I'm not prepared to deal with this bill in the way that I should, I'm not going to manufacture motions just to hold the bill here. But I want to assure Senator Harr and Senator Ashford, who represent the forces not of evil but certainly not the forces of good, in my opinion. So I'm not going to have anything to say about the bill except that I am not in favor of it. And if it comes up on Select File, if things fall into place in such a way that an unmeritorious bill such as this shows up on Select File, I am going to be locked and loaded, Senator Harr, to steal an expression from those gun lovers, and it will be a different day from what it's turning out to be right now. But I'd like to ask Senator Harr a question or two. [LB573]

SENATOR CARLSON: Senator Harr, would you yield? [LB573]

SENATOR HARR: Yes. [LB573]

SENATOR CHAMBERS: Senator Harr, this bill doesn't have an A bill, does it? [LB573]

SENATOR HARR: I believe it does. [LB573]

SENATOR CHAMBERS: Could you speak in your mike, do you mind? [LB573]

SENATOR HARR: I'm sorry. I believe it does. [LB573]

SENATOR CHAMBERS: Do you have any idea what the A bill would call for? [LB573]

SENATOR HARR: Yes, I do; and it's approximately \$900,000. [LB573]

SENATOR CHAMBERS: How much? [LB573]

SENATOR HARR: Nine hundred thousand dollars. [LB573]

SENATOR CHAMBERS: That's almost a million dollars. [LB573]

SENATOR HARR: That is. [LB573]

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SENATOR CHAMBERS: And that would come from where? [LB573]

SENATOR HARR: That would come from...well, from...it would be a tax refund. [LB573]

SENATOR CHAMBERS: And is it going to be among those bills that have to fit within what money is available for various programs? [LB573]

SENATOR HARR: Yes. [LB573]

SENATOR CHAMBERS: And you feel that this bill has a high priority? [LB573]

SENATOR HARR: I believe we should reward the employees of the state of Nebraska; this is a retirement program. So yes. [LB573]

SENATOR CHAMBERS: They should be rewarded? What have they done for the state? I thought they were working for a company. [LB573]

SENATOR HARR: They have provided taxes over the years for the great state of Nebraska. [LB573]

SENATOR CHAMBERS: Well, so have I. What distinguishes them from other people? They weren't working for the state. They were working for themselves and profiting by the company they worked for paying them wages, or salaries. Is that correct? [LB573]

SENATOR HARR: Yeah. How I would differentiate this is, we already...and I know you don't like this. But we've already said that we want to give it...if you have an employee stock option plan, then if you contribute to that, contribute, you get a one-time exemption. We've already said that in statute, and so you don't pay when you cash out at retirement. And so all we're saying is that we want to treat an employee stock ownership...again, this is an employee ownership trust. And so what happens is you buy and sell within that trust, those stocks. And so we're saying just treat these the same way we do an employee stock option plan. [LB573]

SENATOR CHAMBERS: So when you say we want to do this, who do you include within that "we"? [LB573]

SENATOR HARR: Well, it came out of committee, so I would include the Revenue Committee. [LB573]

SENATOR CARLSON: One minute. [LB573]

SENATOR CHAMBERS: How many are on the Revenue Committee? [LB573]

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SENATOR HARR: I believe there are seven. [LB573]

SENATOR CHAMBERS: You believe there are how many? [LB573]

SENATOR HARR: I'm not sure. I haven't thought about it lately. [LB573]

SENATOR CHAMBERS: You believe a lot of things but you're not sure of anything. Are you a member of the Revenue... [LB573]

SENATOR HARR: There are eight. Well,... [LB573]

SENATOR CHAMBERS: Are you on the Revenue Committee? [LB573]

SENATOR HARR: I am. [LB573]

SENATOR CHAMBERS: How many meetings, roughly, have they had? [LB573]

SENATOR HARR: Too many and too long. I'll say eight. [LB573]

SENATOR CHAMBERS: And you'll say eight but you're not sure. [LB573]

SENATOR HARR: I am positive. [LB573]

SENATOR CHAMBERS: Who coached you? [LB573]

SENATOR HARR: I attended those meetings. [LB573]

SENATOR CHAMBERS: Who just told you the answer? [LB573]

SENATOR HARR: Would you like me to recite the members? I can even do that. [LB573]

SENATOR CHAMBERS: No, I don't want that. I want to know who told you the answer. [LB573]

SENATOR HARR: I had to think. I was not prepared for that question. I was prepared for a lot, not that. [LB573]

SENATOR CARLSON: Time. [LB573]

SENATOR CHAMBERS: I think your colleagues on the committee ought to feel very proud to have a member such as you who don't even know how many of them there are. [LB573]

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SENATOR CARLSON: Time. [LB573]

SENATOR CHAMBERS: I'll tell you what though...oh, you said time. [LB573]

SENATOR CARLSON: Time. Senator Chambers, you're recognized. [LB573]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, I would like to go back to what I was asking Senator Harr, not about the number of members on the committee... [LB573]

SENATOR CARLSON: Senator Harr, will you yield? [LB573]

SENATOR HARR: Yes, I will. [LB573]

SENATOR CHAMBERS: (Laugh) Senator Harr, when you said "we," you were referring to the members of the Revenue Committee? [LB573]

SENATOR HARR: I was. [LB573]

SENATOR CHAMBERS: Anybody else? [LB573]

SENATOR HARR: I would assume, based on Senator Ashford's comments, he would be for it. And I think pretty soon we're going to get a good feel of how many members of the Legislature are part of that "we." [LB573]

SENATOR CHAMBERS: Okay. Now you had said these employees should be rewarded. [LB573]

SENATOR HARR: Well, it might have been a poor choice of words. [LB573]

SENATOR CHAMBERS: Well, give me the choice that you would like to use that is not a poor choice. [LB573]

SENATOR HARR: I would say they should be treated equally to those in an employee stock option plan. [LB573]

SENATOR CHAMBERS: Equally to employees who what? [LB573]

SENATOR HARR: Who receive employee stock options. [LB573]

SENATOR CHAMBERS: What is the benefit to the state of this bill? [LB573]

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SENATOR HARR: It would be the same as it is for the employee stock option. And the advantage to this is that we encourage businesses to stay in Nebraska. There are a lot of businesses that could easily pick up and move to other states. But one of the things they like is that their employees, upon retirement, are able to cash in their stock, employee stock, without paying capital gains. Again this is a one-time; and it keeps a lot of businesses here. [LB573]

SENATOR CHAMBERS: They can cash in their stock though, right now, can't they, if they want to? [LB573]

SENATOR HARR: On ESOPs? Not on an ESOP. [LB573]

SENATOR CHAMBERS: So what can they do with it? [LB573]

SENATOR HARR: ESOP you can only cash in upon retirement or upon when quitting the job. [LB573]

SENATOR CHAMBERS: And what would this bill allow them to do? [LB573]

SENATOR HARR: It would be the same, it's just that they wouldn't have to pay that one-time...they would get a one-time exemption on the capital gains if they choose. They may have worked for a company previously and they had a stock option plan and they used that one-time exemption there. And if you use it there, you can't use it on your ESOP. [LB573]

SENATOR CHAMBERS: But the state is going to be out of \$800,000 to \$900,000 if this bill passes. [LB573]

SENATOR HARR: Yes. [LB573]

SENATOR CHAMBERS: Thank you. That's all I will ask you. And I am not going to try to delay the bill this evening. But on Select File, I will have some questions, because I have serious concerns about the bill and I may do everything I can to stop it. I just want you to be forewarned, but tonight I'm not going to engage in that. Thank you, Mr. President. [LB573]

SENATOR CARLSON: Thank you, Senator Chambers and Senator Harr. Seeing no other senators wishing to speak, Senator Harr, you're recognized to close on LB573. [LB573]

SENATOR HARR: Thank you. Thank you. Foretold is forewarned, so I will be more than ready in all aspects of LB573, because I do wish it to go forward because I do think it is a good bill. This is employee stock option ownership. We shouldn't treat...we should

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provide a preference, I would argue, for businesses that have employees who own it. I think that's good public policy. Maybe that's me, but I think it's a good thing. I understand Senator Chambers and he is very wise, and I understand he doesn't necessarily agree with the underlying logic behind LB775 and the one-time capital gains exception. And maybe if I were around in LB775, I would have voted with him. But the fact of the matter is, it's on the books right now, and this just merely extends it on to companies in which employees own the company. This is what the World-Herald used to be, this is how some of our better companies operate. You look at the most profitable companies in our state, and a lot of times they're employee-owned, because when you're employee-owned there's a sense of longevity. You look at the long picture because you don't have to worry about quarterly reports. So I'm okay with employees owning a company. Call me crazy, but...and I do think because of a hiccup between federal and state law on how they handle the stock within the trust, that the federal government treats it as one entity instead of for each individual within that trust. Part of the reason it wasn't addressed in LB755, to be quite honest, is it's more a placement in time. When that was around, ESOPs...when LB775 was passed, ESOPs really didn't exist. They've become very popular and for good reason. It's a great way to allow employees to have ownership not just in their work but in the company where they work. So I would ask that you please advance LB573. Thank you. [LB573]

SENATOR CARLSON: Thank you, Senator Harr. Members, you've heard the closing on LB573. The question is, shall the bill be advanced to E&R Initial? All those in favor vote yea; all opposed vote nay. Record, Mr. Clerk. [LB573]

CLERK: 33 ayes, 3 nays, Mr. President, on the advancement of LB573. [LB573]

SENATOR CARLSON: LB573 does advance. Mr. Clerk, any announcements or items for the record? [LB573]

CLERK: Mr. President, I have an explanation of vote from Senator Coash (re LB6, LB6A, LB242, and LB265). Bills read on Final Reading this evening were presented to the Governor at 5:53 p.m. (re LB6, LB6A, LB242, and LB265). Senator Krist, a new resolution, Mr. President (LR347). That will be laid over. An amendment to LB224 by Senator Krist. Name adds: Senator McCoy and Schilz to LB225A. [LB6 LB6A LB242 LB265 LR347 LB224 LB225A]

And Senator Bloomfield would move to adjourn the body until Wednesday morning, May 22, at 9:00 a.m. [LB573]

SENATOR CARLSON: Thank you, Mr. Clerk. Members, you've heard the motion. All in favor say aye. Opposed, nay. We are adjourned until 9:00 tomorrow morning.