

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
April 07, 2014

[LB71 LB104 LB145 LB218 LB266 LB276 LB276A LB383A LB383 LB390 LB397
LB464A LB485 LB505 LB526 LB559A LB559 LB565 LB670 LB671 LB690 LB690A
LB700 LB719 LB744 LB744A LB750 LB752 LB768 LB788 LB799 LB811 LB849 LB883
LB907A LB907 LB916 LB961 LB972 LB976 LB994 LB994A LB1032 LB1042A LB1042
LB1074 LB1092 LB1098 LB1098A LR41CA LR427 LR482 LR617 LR619]

PRESIDENT HEIDEMANN PRESIDING

PRESIDENT HEIDEMANN: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the fifty-sixth day of the One Hundred Third Legislature, Second Session. Our chaplain for today is Reverend Nancy Erickson from the First-Plymouth Church here in Lincoln, Nebraska, Senator Haar's (sic) district. Would you please rise.

REVEREND ERICKSON: (Prayer offered.)

PRESIDENT HEIDEMANN: Thank you, Reverend Erickson. I call to order the fifty-sixth day of the One Hundred Third Legislature, Second Session. 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. Are there any corrections for the Journal?

CLERK: I have no corrections, Mr. President.

PRESIDENT HEIDEMANN: Thank you, are there any messages, reports, or announcements?

CLERK: There are. Your Committee on Enrollment and Review reports LB464A as correctly engrossed; LB565, LB719, LB994, and LB994A, those reported correctly engrossed. Enrollment and Review also reports LB976, LB383, LB383A, LB788 to Select File, some having E&R amendments attached. New resolution by Senator Davis, LR617; that will be laid over at this time. Amendments to be printed: Senator McCoy to LB976; and Senator Conrad to LB485. Mr. President, I have communications from the Governor. (Read re LB744, LB744A, and LB768.) The second message, Mr. President. (Read re LB690 and LB690A.) Mr. President, pursuant to that, I have motions from Senator Bolz that LB690 and LB690A become law notwithstanding the objections of the Governor. That's all that I had, Mr. President. (Legislative Journal pages 1417-1422.)
[LB464A LB565 LB719 LB994 LB994A LB976 LB383 LB383A LB788 LR617 LB485
LB744 LB744A LB768 LB690 LB690A]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
April 07, 2014

PRESIDENT HEIDEMANN: Speaker Adams, for an announcement.

SPEAKER ADAMS: Thank you, Mr. President. Members, as you all know, time is now of the essence. And as a result of that, today you can see we have a full agenda of General File, and we're going to stay on that tonight. We may be here till 10:00. That's the reality of the time crunch that we're under. Tomorrow my intention will be to fill the agenda with Select File. And again we will go late. But something else I want you to recognize tomorrow on Select File, in order for us to read those on Final Reading on Thursday of this week, Wednesday will be the layover day. That means tomorrow they need to move, go to Bill Drafters, and be back here and read across before we adjourn tomorrow. And Bill Drafters can only work so fast, particularly with bills with a lot of amendments. So we're going to have to stay here. And there may be a point in time tomorrow evening where Bill Drafters says: we've taken all that we can take and still get back to you before you adjourn tomorrow night. So please be aware of that as the week progresses. We have a lot to do; we're going to have to stay here late. And recognize, Bill Drafters can only do so much so fast on Tuesday evening. Thank you, Mr. President.

PRESIDENT HEIDEMANN: Thank you, Speaker Adams. (Doctor of the day and visitors introduced.) Mr. Clerk.

CLERK: Mr. President, LB485 was a bill originally introduced by Senator Conrad. (Read title.) The bill was introduced on the 22nd of January of last year. It was discussed, Mr. President, on last Thursday, April 3. At that time committee amendments were offered. Senator Christensen moved to amend the committee amendments with FA301. Those amendments are pending, Mr. President. (Legislative Journal page 1293.) [LB485]

PRESIDENT HEIDEMANN: Members, we are going to let three senators refresh us. First, we'll have Senator Conrad on the bill, Senator Ashford on the committee amendment, and Senator Christensen on his amendment to the committee amendment. Senator Conrad, you are up first. [LB485]

SENATOR CONRAD: Thank you, Mr. President. Good morning, colleagues. I appreciate the opportunity to refresh your recollection on LB485. LB485 simply updates our state's employment nondiscrimination act to include the basis of sexual orientation and then, with the committee amendment, gender identity. I believe that this is a matter of justice and fairness and no one should be fired for who they are and who they love. [LB485]

PRESIDENT HEIDEMANN: Senator Ashford, would you refresh us on AM2111. [LB485]

SENATOR ASHFORD: Would you ask Senator Mello to go back to his seat, please. (Laugh) Thank you, Mr. Lieutenant Governor. The committee amendments, as you may

Floor Debate
April 07, 2014

recall from last week, have two components. One is a broader religious exception to the application of the law...of the bill. The bill would not apply, if passed, to religious organizations, colleges and universities, which is a broader exception than what was in the original bill as introduced. And then the second part of the amendment deals with the addition of, I believe, with the addition of "sexual orientation" to the wording of the bill. So that's really it. Thank you. [LB485]

PRESIDENT HEIDEMANN: Thank you, Senator Ashford. Senator Christensen can refresh us on FA301. [LB485]

SENATOR CHRISTENSEN: Thank you, Mr. President. FA301 just strikes a section of this bill out. It's just part of what I said right up-front, a filibuster on the bill. I'm just totally...I'm opposed to the bill as it stands. And that is...all it does is strike that out, because it strikes...just part of the series of bills I have for trying to handle this situation. I believe that it's on their side to show us the strong need of this bill. And so far, I guess what I feel like I've heard is, they're born this way. Yet I've given the example of identical twins. If it's genetic and we're born that way, why aren't identical twins either both heterosexual or both homosexual. And they're not. And the percentage of the second one, if one is, is a very small percentage. And, you know, if they are born that way, then they should be never changing. Yet we see people that are heterosexual change to homosexual and then back to heterosexual. We see change both ways. And so I do not believe it is they're born that way. I don't believe it's genetic. I don't think we've seen the evidence of that which matches up with the other exemptions that we have in law of race, color, nationality, age, things that we can't control. I'm a firm believer yet that this is still a decision they make, and I believe that I haven't heard the evidence to prove otherwise. And so that's where I'm at, Mr. President. [LB485]

PRESIDENT HEIDEMANN: Thank you, Senator Christensen. (Visitors introduced.) Those wishing to speak on LB485: We have Senator Cook, Senator Ken Haar, Senator Conrad, Senator Burke Harr, Mello, Gloor, Dubas, Nordquist, and others. Senator Cook, you are recognized. [LB485]

SENATOR COOK: Thank you, Mr. President. And good morning, colleagues. I rise in opposition to FA301 and in support of the bill and the committee's amendment. And I'm only going to speak on this bill this time. We bring who we are to the Legislature. And as someone who has lived in the state of Nebraska for most of her life, I feel like I've been in variations on a theme of this conversation since I was 16 months and we came to Nebraska and I got outside my family circle. It's ridiculous. But it is pervasive. What I want to offer is that this particular floor amendment, from what I recall in reading it last week, also eliminates the rest of the protected classes, which include race and gender. I don't brag about being a member of two protected classes. I think it is abhorrent that we had to go back and adjust what the United States was supposedly about, equality and inclusion and justice, and that in 2014, in the great state of Nebraska, we're still talking

Floor Debate
April 07, 2014

about inclusion of all. I won't go into some of the things that I fantasized about saying on the microphone, in terms of true commitment to family that is or is not exemplified by members of this body. I will just keep that to myself and to my friends perhaps over a glass of wine and in my own journal. But I want to rise again in support of the proposal, and still kind of stupefied that in this state in which I've lived for most of my life, for some reason, we are still having conversations like this in the lawmaking body for the state. With that, Mr. President, I would yield the balance of my time to Senator Conrad. Thank you. [LB485]

PRESIDENT HEIDEMANN: Senator Conrad, 2 minutes and 50 seconds. [LB485]

SENATOR CONRAD: Thank you, Mr. President. And thank you, Senator Cook. Again, colleagues, I urge your support of LB485. This updates our state's nondiscrimination laws to ensure that no citizen in our state is fired or denied a job based upon their sexual orientation or gender identity. And that's important, because in the workplace, people should be judged on merit, qualification, and performance, not issues that don't relate to their performance in the workplace, like who they are and who they love. Senator Christensen and some opponents said they've heard absolutely no evidence that this is not a choice. Well, friends, that position has been rejected by every major medical association in our country. They have been crystal clear that this is inherent in our citizens' humanity, and there is nothing wrong in having a sexual orientation other than heterosexuality. And it's time to reject those sort of sad arguments that are grounded in junk science and focus on the issues at hand. Again, every scientific medical association that has significant, well established credibility has rejected those viewpoints, so it's time for the Nebraska Legislature to do so as well. Let's talk about who this legislation applies to, what it does, and what it doesn't do. Friends, this has nothing to do with marriage equality; this has nothing to do with public accommodations and the clients that businesses serve; this has nothing to do with same-sex insurance benefits. This has to do with hiring and firing and the conditions of employment. It's a very narrow proposal that seeks to ensure that we have equal rights in the workplace for all Nebraskans, including gay Nebraskans. Because not only does it impact them and their families negatively when we do have... [LB485]

PRESIDENT HEIDEMANN: One minute. [LB485]

SENATOR CONRAD: ...pervasive discrimination, it impacts us negatively when we have pervasive discrimination. And we'll have plenty of opportunity to go into that later. This legislation is supported by the business community, is supported by faith leaders, and is supported by 64 percent of Nebraskans. It's time for Nebraska to move forward and ensure that we have sent a message across this country that we're open for business to all who are willing to work hard and play by the rules. Thank you, Mr. President. [LB485]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
April 07, 2014

PRESIDENT HEIDEMANN: Thank you, Senator Cook and Senator Conrad. Senator Ken Haar, you are up next and recognized. [LB485]

SENATOR HAAR: Mr. President and members of the body, I'd like to yield my time to Senator Conrad. Thank you. [LB485]

PRESIDENT HEIDEMANN: Senator Conrad, 4 minutes and 50 seconds. [LB485]

SENATOR CONRAD: Thank you very much, Mr. President. And thank you to Senator Haar as well. Friends, I do want to let you know, because there were some questions as to the very strong results from the public opinion polling that we did on this topic in January 2014 and folks wondering, is that an aberration, or what's going on with that poll. And to be clear, again, the pollster that local, national partners and myself have worked with has been declared to be one of the top three most accurate pollsters in D.C. by Nate Silver. In full disclosure, they are a Democratic polling firm, but their results are not an aberration. And we can look no further than to a national poll conducted in December 2013 by a different set of actors: United Technologies/National Journal Congressional Connection Poll resulted in the overwhelming support for legislation on the federal level, showing 67 percent of Americans support this effort. Also, in Mississippi, in Mississippi, a state arguably as conservative if not more conservative than the state of Nebraska, in July 2013, another group worked with a different set of pollsters. That was actually a joint effort by Greenberg Quinlan Rosner Research, a Democratic firm, and TargetPoint Consulting, a Republican firm, and they conducted similar polling activities in June and July 2013 in Mississippi and found overwhelming support: again, 58 percent of Mississippians supporting this legislation, under 30, while 64 percent of Mississippi adults saying they support such legislation as well. Then we look to Utah in January 2014, a state, again, as conservative if not more conservative than the state of Nebraska, a poll conducted not by any interest groups but by one of their state's major newspapers. The Deseret News/KSL survey found in January 2014: 72 percent of residents in Utah said it should be against the law to fire somebody solely because they're gay or transgender. Look to North Carolina, June 2013; 71 percent of North Carolinians oppose employment discrimination based on sexual orientation. Again, this was based on a nonpartisan effort by the Public Policy Polling firm out of that state that was not authorized or paid for by any political organization or campaign. So, rest assured, we are very confident that our strong results on this matter are consistent with national and state efforts on the same. And to be clear, the public opinion is important because it demonstrates that the public is way out in front of the Legislature on this. However, it's not the only factor we should look at. We should also look at the actual, heartbreaking effects of discrimination that does impact gay citizens, that do impact gay citizens in Nebraska and the economic impact, the negative economic impact, that discrimination has on our state as a whole. And so I think when you start to look, then, at the specific research from Nebraska, we can even learn more about this topic. There was a research paper titled, "Correlates of Suicide

Floor Debate
April 07, 2014

Ideation among LGBT Nebraskans," that was published in December 2013 which demonstrated that gay Nebraskans have an unemployment rate of 9 percent. Nine percent, that's significantly higher than the historically low unemployment rate that our state has enjoyed even in this recessionary period. Also, go no further than our own UNMC, widely established, well respected researchers in our own state... [LB485]

PRESIDENT HEIDEMANN: One minute. [LB485]

SENATOR CONRAD: ...thank you, Mr. President, who have studied this topic and published a report, an amendment to an initial report, in February of 2012 that demonstrated, according to the author, Dr. Fisher, the incidence of job discrimination among the LGBT population in Nebraska is sizable, is sizable. And we'll have plenty of time to dig more into that specific report as well. Every study on the state and national level indicates discrimination is real for this population; it is pervasive. It crushes the hopes, it crushes the dreams, it crushes the productivity of some of our citizens, who deserve nothing less than equal treatment that we all enjoy under the law. Thank you, Mr. President. [LB485]

PRESIDENT HEIDEMANN: You're now on your time. You have five minutes. [LB485]

SENATOR CONRAD: Very good; thank you, Mr. President. I'm going to take some time to go a little bit deeper into this UNMC report because I think it is astonishing for some members, and I hope that they will listen carefully. Again, I think that we're all very proud of the good work that researchers at UNMC do on a variety of topics and, thankfully, that we don't have to fumble and wonder what the related impacts are, in relation to LB485, because we have information from our own state's and from unbiased, nonpartisan, researchers, who back up the need for this legislation and who identify legislation like this as a solution to addressing public health issues surrounding gay Nebraskans in the work force. So in February 2012, an on-line survey of the LGBT community in Nebraska determined that a third of respondents had experienced some job discrimination because of their sexual orientation or gender identity. This information was released as an addendum to the 2011 "Midlands LGBT Needs Assessment Community Report" that was issued last June. It was conducted by researchers with the Midlands Sexual Health Research Collaborative, and the aim of the community report was to assess the physical, mental, social, and sexual health of LGBT persons in Nebraska. Then it goes on, the report, to detail the scientific and educational credentials of the lead authors and researchers. And then, again, the notable conclusion from Dr. Fisher, one of the lead authors of the report, said the incidence of job discrimination is sizable. He goes on to report in this addendum, and we're happy to make copies available to anybody who would like to see that: Based upon the scientific literature and the results of these specific data, it is possible that a lack of legal protection from discrimination may have negative consequences for LGBT persons. A lack of policy does not promote discrimination; however, it does create, potentially create, a

Floor Debate
April 07, 2014

workplace environment that is unsupportive of LGBT citizens and thus does not stop or discourage discriminatory practices from happening, end quote. Friends, this is powerful information about the status of employment rights and public health for our gay citizens in Nebraska. And it is time that you join with the effort to adopt...to support this very, very narrow proposal that I have put forward to ensure in the workplace we have equal treatment and we have equal rights for all citizens. Because if we don't, it has negative impacts for gay Nebraskans who work hard, pay their taxes, serve in the military, attend faith services, and participate in their communities; all they're asking for is equal rights. As government, it is our duty to ensure all citizens are treated equally before the law and should not be discriminated against based upon who they are and who they love. Let's look even further, to additional studies on this topic. Published in November 2013 by the U.S. Congress Joint Economic Committee Democratic staff, wherein they pulled together an aggregate of different studies to demonstrate the economic consequences of discrimination based on sexual orientation and gender identity are real and have negative impacts on the U.S. economy. Their report demonstrates that, again, about 75 percent of all Americans support workplace fairness legislation like I'm putting forward in LB485. They also go on to note, based on an April 2013 report by the Williams Institute, which is considered... [LB485]

PRESIDENT HEIDEMANN: One minute. [LB485]

SENATOR CONRAD: ...thank you, Mr. President, which is considered the preeminent research think tank on these topics, out of UCLA Law School, that a majority of the top Fortune 500 companies report pro-diversity policies increase profitability. And, moreover, it appears there is strong support among small businesses for laws to end workplace discrimination. Another poll found 63 percent of small businesses supported greater legal protections for LGBT workers, because, beyond just the inherent unfairness, discrimination based on sexual orientation and gender identity carries significant economic cost. Folks, let's talk about the small business question. U.S. census data demonstrates there's about 41,000 firms in Nebraska. Because my legislation and similar federal law components only apply to businesses with 15 or more employees, 30,000 of the 41,000--30,000 of those businesses--are exempted. There is no... [LB485]

PRESIDENT HEIDEMANN: Time. [LB485]

SENATOR CONRAD: ...specific burden on small business. Thank you, Mr. President. [LB485]

PRESIDENT HEIDEMANN: Thank you, Senator Conrad. (Visitors introduced.) Senator Burke Harr, you're up next and recognized. [LB485]

SENATOR HARR: Thank you, Mr. Lieutenant Governor, members of the body. Well,

Floor Debate
April 07, 2014

where I left off last Friday was I had a question as to whether there was a freedom of religion issue involved with this bill; I wasn't sure. The Supreme Court was going to weigh in on an Opinion. If you recall, I talked about this; it was Elane Photography down in Utah (sic), where a person refused to take pictures of a gay wedding. And the question was, was that a violation of their First Amendment right? And the Utah (sic) Supreme Court said, no, it's not, because, their reasoning was...alleging that its refusal to photograph a same-sex wedding is protected on religious grounds. Oh, excuse me, it's New Mexico. However, the New Mexico Supreme Court ruled against the claim, saying the business service can be regulated because it is a public accommodation. A public accommodation, no different than churches have to abide by city zoning rights. So they appealed it on to the Supreme Court. And just this morning the Supreme Court--after having four conferences, which, if you know anything about the U.S. Supreme Court, is very unusual, to hear the bill, or, excuse me, to hear the lawsuit--decided against it, which means the New Mexico Supreme Court ruling stands. So then you have to ask yourself: If there isn't a constitutional issue--and there doesn't appear to be--is there a religious issue? My own religion, the Catholic Conference, has come out against this bill, even though a similar bill in the Omaha City Council, they didn't take objection to. And let me just say, I don't disagree with my church, but I do disagree with their interpretation sometimes. And I think they're wrong on this; I think their interpretation is wrong. And let me tell you why. The Old Testament talks about God as a vengeful God, to be feared. The New Testament takes a different view; it takes a view of love: love your neighbor. And this isn't loving your neighbor. This is saying, it's okay to discriminate against somebody because you don't agree with them. There is a reading in the Bible where, on the Sabbath, a prostitute is brought forward to Jesus. They're ready to stone her--only her, mind you, not the male, but that's for another day. And what happens? Does he join in? Does he say it's okay? No. He says, go and sin no more. He says, those who have...without sin can cast the first stone. Well, none of them do; they all slowly walk away. And he says, go and sin no more. He doesn't say, and if you sin again, by the way, I will stone you; I will be the first in line. No, he leaves that up to somebody else. And I think...because that's the ultimate in love, is to love someone for who they are. And there may be some of you who don't agree with this sexual/gender equality, but you have to love that person. We don't want to encourage bullying; we don't want to encourage suicide, if you're pro-life. You bully a kid enough, and guess what happens, he loses all self-respect, or she; and that leads to suicide... [LB485]

PRESIDENT HEIDEMANN: One minute. [LB485]

SENATOR HARR: Thank you. Could lead to worse. And it leads to anger and frustration. These are people who, for every other reason, can produce in the work force, who do a great job in the work force. And no one is denying that. What we're saying is: yeah, they do a great job, but I don't like what they do at home in the privacy of their own bedroom. And I just...I don't think that's very probusiness; I don't think that's

Floor Debate
April 07, 2014

very pro-Nebraska. We have kind of a mentality here, a very populist mentality across the state that says: get government out of my life; have them leave me alone. Well, here we are saying we can regulate...government can regulate what goes on in a bedroom; businesses can regulate what goes on in a bedroom. And I think as long as someone does what they're supposed to do, then you need to get out of the way and let them do what they do best and not worry about something that is completely arbitrary and capricious to what their work is. So I would ask you to please vote against FA301.
[LB485]

PRESIDENT HEIDEMANN: Time. Senator Mello, you're up next and recognized.
[LB485]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. I rise in support of LB485 as amended by the committee amendment. And I thought about this on Thursday and thought about it a little bit over the weekend, in regard to some of the floor comments I heard from both proponents and opponents, friends of all. And a couple things that stuck out with me a little bit is that there are some guiding values that we, I think, as Americans and as Nebraskans hold very dear. And one of those values is the "golden rule" that we've heard as children and we try to instill in our own children, that we treat others the way we would like to be treated. And I think that's one value that I hold fairly dear to me, and I talk about it an awful lot with children back in Omaha as well as just people, sometimes, who get a little worked up over issues, in the sense that that is something that holds us close together even when we have disagreements, is that it's a value that's endearing, it's long lasting, because it holds so much about who we are as people. I see the golden rule apply in what we have in front of us in LB485, that we want to treat people the way we would want to be treated. Another, I think, key value that I really thought about and I really feel speaks volumes about what we're discussing in LB485 are the two values that kind of go together, is freedom and meritocracy. I remember Senator Brasch mentioned on Thursday about meritocracy, about we want to be able to judge people based on their merits. Colleagues, I think that's something that both the opponents and proponents of this bill agree on, is that meritocracy is something that sets us apart, that no one should be punished or rewarded on anything except on the merit of what they're doing. And that's what we're trying to do with LB485, that someone...that freedom itself should be freedom for everyone and that no one should be denied that freedom because of who they are. Colleagues, I've heard some amazing stories from amazing people last week and over the weekend about this bill. And, yes, I am...I share some frustration and disappointment, the way Senator Nordquist does, as a practicing Catholic, to hear fellow Catholics talk about needing the ability...needing the religious liberty to discriminate against an individual. That weighs heavy on me as a person, and it weighs heavy on me as a Catholic, because that's not the faith that I practice and that's not the faith that I try to instill in my child, my family, my relatives, because it's something so basic and so "in front of us." It's something that no religion teaches, or no Christian religion teaches, and

Floor Debate
April 07, 2014

no Christian religion should be advocating for that. But there is something deeper. And I thought about this talking with my wife Thursday night when I got home, which is--we have a nine-week-old daughter--and something so personal and meaningful she said. "When you're done in the Legislature, and you have to explain to our daughter where you were at on an issue," she's like, "don't you want to be able to explain to your daughter 16 years from now that you did the right thing, that you were on the right side of history when it comes to dealing with discrimination?" And my wife, usually always being correct in most circumstances, was correct in that particular instance, that of all the bills that I'll vote on in my six to eight years here in the Legislature, there are very few... [LB485]

PRESIDENT HEIDEMANN: One minute. [LB485]

SENATOR MELLO: ...very few bills that I will look back on in my time that really sets apart knowing what I did was right and what I did was wrong. And I know I have, no doubt, friends and family who disagree with me on this issue. But in the future, I know that we are on the right side of history with LB485. And I know someday along the lines my daughter will ask me that. And I want to be proud to be able to tell her that I was on the right side of history, that I didn't support discriminating against an individual because they're gay or lesbian, because who they are is who they are. And that, colleagues, is why I support LB485. Thank you, Mr. President. [LB485]

PRESIDENT HEIDEMANN: Thank you, Senator Mello. Those wishing to speak on LB485: We have Senator Gloor, Dubas, Nordquist, Nelson, McCoy, Chambers, Wallman, Christensen, Hadley, and others. Senator Gloor, you're up next and recognized. [LB485]

SENATOR GLOOR: Thank you, Mr. President. Good morning, members. I guess it was the intention somewhere that I would continue through with a line of discussion started by Senator Mello, although probably with a little different perspective. I speak as a parent. And I speak on this issue, having thought about it, knowing that issues having to do with sexual orientation would likely come up during my tenure as a state senator. And I speak out of concern; I don't speak out of fear. I have two children. Interestingly enough, they are about Senator Mello's age, and so we come at this generationally a little different. Both of my children have, it appears, a sexual orientation that fits into what society would probably call the norm. My daughter is getting married in a matter of weeks, and, given this discussion, to a young man. And so if she is going to change her mind and come out of the closet, I hope she does very quickly, before I spend any money on this wedding, because this might be a surprise to him. I was concerned about my kids' sexual orientation, and, especially given their areas of study, the careers that they originally chose for themselves, I was concerned about it. But I was concerned for one reason only, and that is: life is hard; it gets even harder when you make a decision to be outside the norm with your sexual orientation. And issues of fairness come into

Floor Debate
April 07, 2014

play. And as a parent, you don't want life to be any harder for your kids. And that was my only bias when it came to my kids' sexual orientation. They eventually developed friendships with young men, in particular, who were gay. Those relationships were obviously friendships. And I got to know these young men very well. And they are fine, upstanding citizens. They work hard; they're dependable; they're honorable. And I wouldn't hesitate in a minute to hire them, nor will I hesitate in a minute to let them take care of any grandchildren I may have in the future without fear of any sort of perversion. They're good people. And I know their parents. And when I met their parents, it couldn't help but go through my head what went through my own head, and that is, I'll bet they're worrying about their children in a way I don't have to because of their children's sexual orientation, and how sad that was and what an added burden of worry it was for them as a parent. So I'm here X number of years later with an opportunity to cast a vote that might make a difference in easing some of that burden of worry for parents who just want their kids to be treated fairly, without discrimination, the way they're treated everywhere else. I know this: a bill like this will pass, if this one doesn't, at some future date because the millenials, and even those younger, don't care about sexual orientation. In fact, we're told they care about as much about sexual orientation as they do the color of the eyes of their friends. So I know at some point in time that fear that parents carry on behalf of their children who have an alternative lifestyle will go away. I think now is the time it should go away. I'll vote against amendments that try and bring down this bill. I'll be supportive of AM2111, the underlying bill, and I'll vote for cloture. Thank you. [LB485]

PRESIDENT HEIDEMANN: Thank you, Senator Gloor. Senator Dubas. [LB485]

SENATOR DUBAS: Thank you, Mr. President. You know, there's been some comments made about we really don't need this bill, that these protections already exist. But I'm here to tell you we do need this bill. And these protections do not exist for the LGBT community. I'd like to share just a couple of e-mails that have come to me over the past few days. This one talks about they had been watching a television show, and on that talk show was a young person who talked about the fact that he had been bullied for being gay; and he made the comment about how he had never had anyone stand up for him, and so he felt alone. He said it made him feel worthless, and that feeling is something he still struggles with as an adult. This person who sent me this e-mail completely related to this. Although he wasn't picked on as a kid, he went the other direction; he was the bully, and he hid behind that. It was fear. Never once did he feel or believe that anyone would stand up for him if they knew the truth. He felt alone, no confidence: I wasn't hearing anything from school, from the people in my community, and nothing from the government that helped me believe that I was okay and that I was worth saving, protecting, or caring about; and I still struggle with that feeling today; I'm not sure how much has really changed; yes, gays are more visible, but there is still a strong message that we are not worth protecting; the state I was born in and raised in, Nebraska, still sees me as "less than"; the bottom line is, if I shut my mouth and keep

Floor Debate
April 07, 2014

who I am to myself, I don't need to worry about anything; however, if I'm honest about who I am, well, then it's my own fault if I get fired or if I'm treated unfairly; the current debate is only reinforcing to gay people in Nebraska that they are still "less than." And another e-mail: I love Nebraska, but, sadly, I had to move somewhere that would accept me for being openly gay; I found it detrimental to be in a state that did not protect me simply because I was gay; I now live in a state where I am afforded every right under the law that other citizens have; and I hope that one day I'll be able to return to Nebraska, and that will be because of people fighting for me; it hurts my heart not to be able to live where my entire family lives--eight nieces and nephews, two sisters, parents, and extended family; why did I move out of the only state I knew and loved? Because that state chooses not to protect me or my well-being; it's not about granting marriage for gay people, it's not forcing people to do things against their religion, but it is, however, something that could help people feel safe in their surroundings; if Nebraska were more open and accepting to all people, I full-heartedly know I would still be living there, probably teaching, and contributing to the betterment of the state. These are just a couple of examples of the fear that the LGBT community lives in on a daily basis, fearful of telling people who they really are. We could take this bill and remove the words "sexual orientation," and we could put into them what Senator Cook mentioned earlier; we could put in "gender," we could put in "religion," we could put in other protected classes that are already there. And those were debates that we have had over the generations. And they weren't easy debates either. And they came with a lot of the same arguments that we're hearing today. People of color that have had to live with, and continue to live with, discrimination... [LB485]

PRESIDENT HEIDEMANN: One minute. [LB485]

SENATOR DUBAS: ...thank you, Mr. President, of being thought of as "less than human." It was only through those fights, it was only through those debates, it was only through our willingness to have public discussions where we could put to rest stereotypes and we could talk about people as people, not trying to pigeonhole them or make them "less than" or "inferior to," but people who want to live, just like all of us want to live, raise families, work, contribute to their communities, and just be simply accepted for who they are. And that's what LB485 is about. It's simply acceptance; it's not forcing anything on anyone. It's simply acceptance. Thank you. [LB485]

PRESIDENT HEIDEMANN: Thank you, Senator Dubas. Senator Nelson, you are up next and recognized. [LB485]

SENATOR NELSON: Thank you, Mr. President. Members of the body, I rise in opposition to AM2111 and also to LB485. We've heard a lot of rapid-fire information about polls, about specific instances; it all goes by so fast we can't write it down. I'm going to take a little slower approach. And let me say, after hearing some of the emotional and descriptive e-mails, I have to say this. These are the words I hear:

Floor Debate
April 07, 2014

"acceptance," "equality," "I am uncomfortable," "I am afraid of being fired"; and because of those things, this is discrimination. That necessarily does not follow. I want to talk about policy in the state of Nebraska and what kind of policy we adopt. And, as others among you, I've had time to do some thinking and some rather extensive reading that added up to a lot of hours here since we last discussed this on the floor. Let's talk about sexual orientation. That's a de facto term of art. It's not limited to inclination; it extends to behavior. The American Psychological Association defines--and I'm going to read this, as to what their definition is--defines sexual orientation to include a person's sense of identity based on sexual attractions, related behaviors, and membership in a community of other persons who share those attractions. I think we need to talk in terms of behavior. We've heard talk about, "I work hard," "I raise a family," "I support myself," "I do everything I'm supposed to do," "And yet I'm afraid of being fired," "I don't feel comfortable living in the state of Nebraska because I'm afraid of being fired or I don't feel accepted or I don't feel equal." Because behavior is exercised in freedom, it has to be subject to moral scrutiny, whether religious or just the standard morality or the accepted morality of our culture. People of good faith can disagree about what morality of sexual conduct, for instance, outside of marriage between a man and a woman. This disagreement regarding proper behavior, just because we disagree of sexual efforts or relationships outside of marriage, doesn't mean that we are bigoted. Likewise, decisions based on moral implications of sexual behavior are not based on invidious discrimination. So I think, then, that we can say that sexual orientation differs from non-behavioral, non-morally-relevant characteristics such as race, sex, and national origin. Those are defined; those are visible; those we know. They have a proper place in statute because they're not subject to interpretation. Because employers may establish normal norms regarding sexual behavior, sexual orientation doesn't belong in the list of nonbehavioral characteristics proscribed from discrimination under the Nebraska Fair... [LB485]

PRESIDENT HEIDEMANN: One minute. [LB485]

SENATOR NELSON: ...Employment Practice Act. Thank you, Mr. Speaker. Regardless of what we've heard here, it doesn't seem to me that there is any demonstrated need for including discrimination on the basis of sexual orientation and gender identity in our Nebraska employment nondiscrimination laws. I've really yet heard of any large amount of specific instances where people have actually been fired. Everybody in the workplace is afraid of being fired at one time or another. I think there have been four or five instances in the last two years in Omaha where someone has claimed discrimination, and we've heard that two were dismissed and others are under investigation. Is this a basis that we're going to change our state law and put sexual orientation... [LB485]

PRESIDENT HEIDEMANN: Time. [LB485]

SENATOR NELSON: ...and gender identity in our statute? [LB485]

Floor Debate
April 07, 2014

PRESIDENT HEIDEMANN: Thank you, Senator Nelson. (Visitors introduced.) Senator McCoy, you're up next and recognized. [LB485]

SENATOR McCOY: Thank you, Mr. President and members. I'd like to start off this morning by reiterating my opposition to LB485. I really believe this is an unnecessary piece of legislation. And I immediately want to rise with a strong objection to something that Senator Conrad said earlier this morning, I think in her opening remarks, that this bill is supported by the business community. Well, I would merely ask all of you to direct your attention to the committee statement. Unless I'm mistaken, and I might be, but I don't think I am, I don't see one of the trade organizations or the business community organizations that we are all very familiar with testifying in support of this legislation. Nor do I know of any letter of support offered on behalf of this legislation to the committee by any such business organization or business community. I really believe that this is very detrimental to our business community. You know, Senator Burke Harr earlier said that...that opposition of this bill...or, you know, government shouldn't be in the business of regulating what goes on in bedrooms across Nebraska, or something to that effect; I'm paraphrasing what he said. Well, I would say that that's exactly why I'm opposed to this bill, because our state government, in my opinion, should not be in the business of telling small business owners across Nebraska, the backbone of our state's economy--and I'm part of that group and proud of it, as a lifelong small-business owner or involved in a family small business, agriculture and construction--our state government shouldn't be in charge of telling small-business owners who have religious objections to check their religious faith at the door of their home when they leave for work in the morning. Let me reiterate that. Senator Harr talked about, well, the nature of this bill is that government shouldn't be in charge of regulating what goes on in the bedrooms across Nebraska. I don't disagree with that. I don't think that's the nature of the objection to this bill. The nature of my objection to this bill is that we shouldn't be forcing small-business owners into a situation of checking their faith at the door. I have every bit as much of a right, and so does any small-business owner across Nebraska, to have a faith, and a strong one, and to also be involved in business. That's the wonder of the free enterprise system that we have. And then I want to start in talking about what was hit on just very...at the...towards the end of our discussion on Thursday, before we headed home for the long weekend. And that is, I brought up on the microphone that Senator Conrad had talked about a poll that was taken. And I think she talked about it again this morning. I asked her, as many of you heard: Who paid for this poll? And she told me a group called Equal Nebraska. If you search for this organization on your gadgets--perhaps you already have--it says right there that the start-up funds for this organization are paid for by the Human Rights Campaign. And that's who paid for this poll. I received--because I asked for it on the microphone, and I appreciate... [LB485]

PRESIDENT HEIDEMANN: One minute. [LB485]

Floor Debate
April 07, 2014

SENATOR McCOY: ...thank you Mr. President, and I appreciate Senator Conrad providing it to me--the two-page executive summary of this poll. I asked Senator Conrad off the microphone for the remainder of the poll: what the questions were, all of the data that's provided when you pay for such a poll. Senator Conrad said that would not be provided to the public. I find that objectionable, I find that problematic, because I would like to know a number of questions about this poll. Why was it based upon the 2010 electorate, not the 2012 electorate? What were the questions asked? How were they asked? All of these are necessary to understand the veracity of this poll. [LB485]

PRESIDENT HEIDEMANN: Time. Thank you, Senator McCoy. Senator Chambers, you're up next and recognized. [LB485]

SENATOR CHAMBERS: Mr. President, members of the Legislature, I'm listening to what I call cold, unmitigated hatred. When these people can stand on this floor and say the cruel things that they say and then call themselves religious, it shows what a mockery they make of what it is they believe. I was giving a talk out at Norfolk, and it was at night. Some guy stood up and said how offended he was at the concept or the idea of same-sex marriage because the "Bible" says "Adam and Eve" and not "Adam and Steve." So I let him say what he had to say. Then he went on to indicate that nothing could be more disgusting to him than to be in a restaurant and see two people of the same sex "making out," as he called it. When he sat down, I said, "You're confusing good conduct, ordinary courtesy, with something else. No people, heterosexual, homosexual, should be, as you call it, 'making out' in a restaurant." The fact that you have to reach so far to find what you consider an argument to justify treating people as not members of the human race indicates that you yourself know that you don't have an argument. So that's beneath contempt, as far as I'm concerned. And when I see these people who are running for office stand up here and give their campaign speeches about what's happening to business and they're not concerned about people, then it shows the hypocrisy. When there are religious, so-called, people doing that, it's the same. In my community, there are a lot of black people who are against homosexuality, homosexuals, gay, lesbian, transgender, any- and everything related to that topic. So I'm unlike people in this body who say, well, my constituents don't like this, so I do what they say. It's my job to educate them. And I let them know that they can say what they want to, they can believe what they want to, they can call it a sin, but they'll never get me to cast a vote that would deny somebody the right to live and function as a human being. And these are the things, for whatever it's worth, that I judge my colleagues on. And then when these white people come to me and talk about how bad these gay people are, I'll say, well, you're the same one who hates black people; the only time you talk about something pertaining to black people is when you're trying to get me to discriminate against somebody white. But after all that people of my complexion have gone through in this country in the past and still endure right now, how in the world can I look at myself and mistreat somebody the same way I and my kind have been mistreated? There shouldn't have even had to be this much discussion. But

Floor Debate
April 07, 2014

these people are easy targets. You won't see some of these candidates talking about big business and how they cheat people, because they're cowards and they want that money from them. But everybody hates the gay people, so attack them. And that's why I see it as being all the more contemptible. And I want to make my position as clear as I can. Jesus said things would be shouted from the housetops; I'd shout it from Mount Everest if I could get that high, so everybody knows, with any doubt or equivocation, what my point of view is. Any right that is allowable to anybody... [LB485]

PRESIDENT HEIDEMANN: One minute. [LB485]

SENATOR CHAMBERS: ...under the laws of this country should be allowable to every human being. There is a hate crimes bill; it's a statute now. And there are three sections, three statutes comprising this hate crime complex. And it uses the term "sexual orientation" 11 times, and I'll bet Senator McCoy doesn't know, because he hasn't looked it up. That's in the statute right now. And if you commit a crime against somebody because of their sexual orientation or their association with somebody based on sexual orientation, your punishment is the next step higher. So it's already in the statute books. The rules governing the judges states that there can be no bias by a judge based on sexual orientation, and that judge must make sure that no lawyer or any staff member mistreats anybody because of sexual orientation. Then we got hypocrites in here sworn to uphold the law saying, "This is bad for business; these are bad people." [LB485]

PRESIDENT HEIDEMANN: Time. [LB485]

SENATOR CHAMBERS: Senator McCoy said we should love our fellow man. To me, I interpret that to mean he is homosexual, because if he loves his fellow man, who is he loving? That's the way they play, and two... [LB485]

PRESIDENT HEIDEMANN: Time. [LB485]

SENATOR CHAMBERS: ...can play that...oh. Thank you, Mr. President, I'm sorry. [LB485]

PRESIDENT HEIDEMANN: Thank you, Senator Chambers. Senator Wallman, you are up next and recognized. [LB485]

SENATOR WALLMAN: Thank you, Mr. President. What I said the other night about, if you didn't vote for this, people, you hate people, I will take that back because I don't know everybody's heart. But this morning when I pledged allegiance to the flag, it hit me like a cement block: liberty, justice for all. And also we put in there, "one nation under God." So why do you think our forefathers had it in the Constitution the separation of church and state? Why do you think that was? Some of them came from England, some

Floor Debate
April 07, 2014

were from Scotland, Ireland, Germany, Poland, Czechoslovakia, where the church ruled things. And they didn't exactly like it. My ancestors decided, we want to go to the United States, where there's freedom of speech, freedom of religion, and lots and lots of freedoms. And so I want to thank the Speaker for putting this bill up, Senator Conrad for putting this bill up. I'm a strong supporter of this bill, because seven or eight years ago I would have never voted for this, and I think I've grown--and maybe some people don't think I have--but I'm still a sinner. So why should we have something like this on the books? Because it looks like we have to. If we didn't have a problem, this wouldn't be brought up. Thank you, Mr. President. [LB485]

PRESIDENT HEIDEMANN: Thank you. Senator Christensen, you are up next and recognized. [LB485]

SENATOR CHRISTENSEN: Thank you, Mr. President. I thought I'd go through a few of the examples of how sexual orientation, gender identity laws have been used as a sword to compel acceptance, not as a shield against discrimination. The following are real-life examples of how sexual orientation and gender identity laws have been used to compel acceptance. Censored: photos of traditional families. At Sandia National Laboratories in Albuquerque, New Mexico, Christian employees were told they could not use the company bulletin board or were forced to remove posters and screen savers that contained any religious content. Even family pictures were forbidden after homosexuals complained they found it offensive, pursuant to a sexual orientation nondiscrimination policy, to see photos of traditional families. I keep hearing about tolerance, acceptance, it's not an agenda. How can you say that is tolerance? To say you can't have a family picture of a heterosexual family? That's going in the opposite of the intent of this law. But that's been the case of what we have found as we go across this nation that has adopted this agenda. Martinez v. County of Monroe, this case involved a religious-motivated employer which was forced to extend the same employment benefits to the same-sex partner of an employee because the company extended these benefits to married spouses of the opposite sex. Specifically, the court found that an employer violated executive law which forbids an employer from discriminating against an employee because of his or her sexual orientation, by refusing to recognize employees' same-sex relationships or provide benefits to a same-sex partner. Walden v. Centers for Disease Control and Prevention, Case Number 1:08; magistrate judge final report and recommendations. This case involved a licensed counselor in Georgia and demonstrates the far-reaching threats to religious liberty. Like many people of faith, this counselor held religious beliefs about homosexual behavior, and those beliefs prohibited her from using her skills as a counselor to encourage or promote same-sex relationships. At work one day, due to her religious convictions, she politely referred a prospective client seeking same-sex relationship counseling to a colleague, who, within minutes, provided the referred client with the counseling she sought. That same day, however, the referred client complained to the counselor's employer, citing a sexual orientation nondiscrimination policy as support for her claim

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
April 07, 2014

that the counselor should not have referred her, and threatened to file a complaint under the employer's nondiscrimination policy. At that point, the employer took swift action against the counselor, suspending her within days and terminating her thereafter. [LB485]

PRESIDENT HEIDEMANN: One minute. [LB485]

SENATOR CHRISTENSEN: Thank you, Mr. President. Is that tolerance? Bulletin boards off limits to opposing views. The city of Oakland, California, despite generally allowing its employees to advertise their political views and activities on a bulletin board, prohibited religious employees from posting a flier advertising their discussion group--a flier that included statements that marriage is the foundation of a natural family and sustains family values--because the city claimed the flier's statement about marriage promoted harassment based on sexual orientation. See how I say this is constantly a law that's used for reverse discrimination? Immediately they go on the proactive to eliminate all pro-family, traditional male-female marriages... [LB485]

PRESIDENT HEIDEMANN: Time. [LB485]

SENATOR CHRISTENSEN: ...to quiet it. Thank you, Mr. President. [LB485]

PRESIDENT HEIDEMANN: Thank you, Senator Christensen. (Visitors introduced.) Senator Hadley, you are up next and recognized. [LB485]

SENATOR HADLEY: Mr. President, members of the body, I'd like to read you an e-mail, not one I received but one I sent this morning to my constituents who have been nice enough to e-mail me their positions on this bill. LB485 deals with a very complex issue. I have received over 300 e-mails on both sides of the issue of sexual orientation and discrimination in the workplace. LB485 has nothing to do with refusing to service a customer in a business. In Nebraska, any business can refuse service to any customer. The reason I put that in there is someone wrote a letter to the editor Saturday saying that this bill would allow businesses to discriminate...that their...they would have to serve any customer that walked in the door. That is not true. It basically says that if you have 15 or more employees...15 or more is an important issue because if you look at all of the federal legislation that's important, it involves 15 or more employees. One of them, if you have 15 employees, you come under the ADA. I wonder, how many small businesses out there understand that they come under the Americans With Disabilities Act if you have 15 employees. It basically says it adds sexual orientation and gender are added to the list of items that a person cannot be discriminated against in the workplace. It adds these to the current list of gender, age, disability, race, color, religion, marital status, veteran status, and national or ethnic origin. Omaha has sexual orientation in its workplace discrimination policy and it's had it for two years now. So over 20 percent of the people and businesses in Nebraska are under the policy right

Floor Debate
April 07, 2014

now. I fully understand the passion this issue raises on both sides. It is a very personal issue for many people both pro and con. This leads me to determine my vote. I worked for four organizations in my life: Eastman Kodak; the University of Colorado; the University of South Dakota; and the University of Nebraska at Kearney. All have a policy banning discrimination in the workplace for sexual orientation. In fact, UNK has had the policy since March of 1995. I sat on the executive council that drafted this discrimination policy and it was a unanimous vote by every dean, every vice president, and president of the University of Nebraska at Kearney that we will not discriminate based on sexual orientation. That is also the University of Nebraska's systemwide policy. I also found it unique--this is Creighton University, a Jesuit institution--this is their policy also. The bill is being filibustered so it will take 33 votes to end the filibuster. Because of my background and beliefs, I have decided to vote yes for cloture or to end the filibuster, and put the bill up for an up-or-down vote. If it does reach and up-and-down vote, I will vote to pass LB485. I do not feel it is appropriate to discriminate against a human being in the workplace because of their sexual orientation or gender identity. One last thing. We've talked a lot and I would guess that everyone here has a relative, maybe a close relative, that has a different sexual orientation. I have a close relative. If that relative called me right now and said, should I move to Nebraska, I don't know what I'd tell him. If we do not pass this bill we've effectively said, yes, it's okay to discriminate in the workplace. So I would tell that relative, if you come here, you'd better find out what your company's policy is... [LB485]

PRESIDENT HEIDEMANN: One minute. [LB485]

SENATOR HADLEY: ...and whether you can live with that. Someone mentioned Omaha and the business associations and such as that. I looked up the Fortune 500 that are basically nationwide 98.7 percent have a policy against discrimination in sexual orientation. The five in Omaha all have a policy against sexual orientation as a discrimination policy. I agree with Senator Gloor. Four or five years we don't pass and now we're going to pass this. It's going to be the new young people but it's also going to be economics. It's going to be hiring the most capable person you can hire. It's going to be an economic issue, as well as a moral issue, and Nebraska cannot stand out as an island by itself if we're going to move ahead. Thank you, Mr. President. [LB485]

PRESIDENT HEIDEMANN: Thank you, Senator Hadley. Senator Kintner, you're up next and recognized. [LB485]

SENATOR KINTNER: Well, thank you, Mr. President. You know, Senator Gloor said the millenials, they don't care about your sexuality. You know, I'm not a millenial, but I don't care either. I really don't care what someone does in the privacy of their own home. As I said previously, it's none of my business. I'll tell you what, it's darn well...it's not the state's business either who you're in a relationship with. And, you know, there...we've talked a little bit about the ramifications of this bill and I want to continue talking about

Floor Debate
April 07, 2014

what this bill, if enacted, would actually do. And I've got to tell you, I've probably got more mail on this than anything else that we've looked at. And when you try to impose a government solution on people that don't want it, they're going to push back and in this case, I believe, rightly so. But I want to look about...at this amendment here as it's worded, and let's kind of walk through what it says. Most business owners, you know, especially a business which promotes a certain message or idea, they want to be able to hire employees who agree with that message of their business, and this would hamper, this bill would hamper the owners from the ability to make these distinctions. For example, a gay bar could not discriminate against heterosexual applicants over homosexual applicants. In turn, a for-profit Christian bookstore could not favor a heterosexual candidate with a traditional understanding of sexuality over a gay candidate who did not hold the same traditional views. Under this bill, a Catholic university or school would be forced to violate its conscience and hire a person who is actively engaged in a lifestyle or conduct that's inconsistent with its religious principles, such as food-service worker or secretary who is deemed as an employee who is not furthering the religious purposes of the university. We were told that this is a very, very tight proposal. No, it's not. It's a very broad proposal. The uncertain nature of sexual orientation included in LB485 exposes Nebraskan businesses and other institutions to similar charges of discrimination. In particular, it could force individuals or organizations, in violation of their sincerely held religious beliefs, to extend the same employment benefits to their employees' same-sex partners that they give to married employees' spouses of the opposite sex. In LB485, if it's enacted, Nebraskans could face fines and penalties, which include possible jail time, for simply seeking to run their business in accordance with their conscience and their values. That, my friends, is not the Nebraska way. For example, a family-owned religions bookstore that advertises its employment opportunities only to those living a lifestyle consistent with Christian values could face substantial penalties if a religious photographer advertiser that she is seeking to hire an assistant that shares her beliefs. [LB485]

PRESIDENT HEIDEMANN: One minute. [LB485]

SENATOR KINTNER: Or if a Jewish counselor advertises to hire another person or individual to provide counsel inconsistent with her Judeo-Christian faith, both individuals would be penalized under this law if their actions fail to meet the law's bona fide occupational qualifications for employment, and that's a quote. Indeed, the penalties are so punitive they could cause a company to go out of business. That, my friends, is not the Nebraska way. Thank you, Mr. President. [LB485]

PRESIDENT HEIDEMANN: Thank you, Senator Kintner. Senator Brasch, you are up next and recognized. [LB485]

SENATOR BRASCH: Thank you, Mr. Lieutenant Governor, and thank you, colleagues. This morning I wanted to look closely and carefully at what is under consideration here.

Floor Debate
April 07, 2014

I pulled up the introducer's statement of intent and I read in part from there. It said that LB485 prohibits discrimination based on sexual orientation. Under LB485, it would be an unlawful employment practice for an employer, an employment agency, or labor organization to discriminate against an individual on the basis of sexual orientation. Now it also reads that current law prohibits discrimination based on race, color, religion, sex, disability, marital status, or national origin. Now I'm asking here...when we talk about what current law provides for, we are able to identify clearly in a place of work what those elements are and what they could mean and what they could mean to the workplace. The conversation here has gone with the words, and I'll quote Senator Gloor, he said, this is about an alternative lifestyle. We're not talking about a lifestyle in a place of work, the acceptance for that lifestyle, or a personal opinion or thoughts about a lifestyle. When you go to the workplace, it is a place of business and a place of work and there are criteria established by that place of business on what needs to be done. That's why you are there, for a specific task. Why does it need to cover sexual orientation? I believe that sexual orientation should be private, it should be personal, it should be according to your faith belief system. It's not a workplace behavior nor should it be. Like your political beliefs or your religious beliefs, we have the freedom for those beliefs, but there is workplace conduct that everyone is acceptable of and comfortable with, whether you're in a trade, in an office, regardless of the field that you are in. Now when it comes to your character, your characteristics, that's not what the job is about. Are you doing the job? And there is a difference when we try to personally judge someone or not allow them to work, but we have laws that cover that, we have criteria. My understanding is that during the last two years in Omaha, I believe, there have been only four court cases brought forward. There is an ordinance, a law, that covers this there. And when I visited with individuals just yesterday in Bancroft, I spoke to a few friends and other people I knew, and they aren't judging a person for their sexual orientation or conduct. Most of us do know someone or know of someone and we do not judge them for what they are doing, but that is not our role is to judge. But the protections in the workplace should apply just to that workplace policy. [LB485]

PRESIDENT HEIDEMANN: One minute. [LB485]

SENATOR BRASCH: Some workplace policies don't...they don't allow husband and wife or family to work, you know, in one place of business. There's different policies that may be and may not be accepted. And I believe that we also need to understand that this law is not about hatred, it is not about judging, about a lifestyle, alternate or what others have said. It's not about who you love, but it's about where you work and protection for employment that does exist. And, colleagues, I do encourage you to consider what we're doing here. I cannot support LB485 and AM2111. And there are laws that do protect everyone. Workplace is a workplace. [LB485]

PRESIDENT HEIDEMANN: Time. [LB485]

Floor Debate
April 07, 2014

SENATOR BRASCH: Thank you, Lieutenant Governor. Thank you, colleagues. [LB485]

PRESIDENT HEIDEMANN: Thank you, Senator Brasch. Senator Ken Haar, you're up next and recognized. [LB485]

SENATOR HAAR: Mr. President, members of the body, I can't remember when I decided to be heterosexual. I just can't remember. I will ask Senator Christensen a little later whether he can remember since that seems to be a choice, whether we're heterosexual or homosexual. And I just have to relate a very personal experience on this topic because I feel very strongly about it. When I was in graduate school at UNL, it was in education and there was a group of probably several dozen people that we were in a program called the TTT program. And one of the things we studied was alternative schools in North Dakota called open-classroom schools. It was a model that was real popular at the time. So we actually went to North Dakota to study those schools and one of the participants in that trip and in that whole study group was a man who was a teacher and he was...in public he was outspokenly against gay people, very outspokenly, and he had a family of five people, of five children--I'm sorry--five children. He was married, had five children and he and I were in that...in a car going between schools alone. And he propositioned me and he was gay and I turned him down and he was very embarrassed and we never talked about it again. And I came away from that experience just sort of feeling that some of the most antigay people are really fighting that in themselves. I have an e-mail here that I received and this is about just discrimination generally, this from a high school: I'm 18 years old and I'm a high school senior. I support LB485 because I do not understand why you would want to fire someone for doing nothing but for being who they are and who they love. That does not sound right at all. As someone who has been discriminated against for being African and Muslim, I know how it feels. Imagine being picked on and being called names and getting avoided by people because you're an African and you followed the Islamic faith. Nobody wants to be around me. There were days I would go to class and I would feel alone in a room filled with 30 students because none of the students wanted to be associated with me for being who I am. Discrimination of all kind is wrong and that is why I support LB485. I believe that it's the Nebraska way. I've lived here 45 years old and I'm getting a little tired about being lectured on what the Nebraska way is. I've been here for 45 years old. Nebraskans generally are tolerant people. We are a diverse people and we don't tolerate discrimination. Why should we tolerate it at the workplace? And so to start, and I won't ask Senator Christensen... [LB485]

PRESIDENT HEIDEMANN: One minute. [LB485]

SENATOR HAAR: Thank you. I won't ask him when he first decided that he was heterosexual. That's very personal whenever he made that choice, I guess. But I don't think...I can't remember when I made that choice. I don't think it is a choice and I frankly...I know quite a few people who are gay. I don't...I can't think of one person who

Floor Debate
April 07, 2014

described themselves as gay and then decided to become straight. I just can't think of anybody on that. So I rise in strong support of AM2111, LB485, and against AM301. Thank very much. [LB485]

PRESIDENT HEIDEMANN: Thank you, Senator Haar. Those wishing to speak on LB485: We have Senator Smith, Conrad, Mello, Nordquist, Dubas, Nelson, McCoy, Christensen, Lathrop, and others. Senator Smith, you're up next and recognized. [LB485]

SENATOR SMITH: Thank you, Mr. President, and good morning, colleagues. I had a chance to speak on this last week before we adjourned for the weekend and I wanted to speak again and I want to be on record as to my opposition to LB485 and my reasoning for opposing this bill. Again, I wanted to recognize Senator Conrad and those that have stood and supported this bill. I understand their intent, I understand...and I appreciate their compassion. I listen to their words and I agree with their words. I don't agree with the bill. I do not stand because of a moral issue, as it is a moral issue to me, or as a religious issue to me. That's not the reason I'm standing. I think I was very clear last week the reason I stood. I'm not reading talking points this morning. I wasn't reading talking points last week from any group that is opposed to this bill. I'm not hiding behind my arguments that it relates to business as a reason to filibuster this bill. That's not my purpose. Colleagues, I think I've been very clear that I see this as an issue related to business. Small businesses in our state and our country employ the majority of workers. They create the majority of jobs, yet they are the ones that are the most vulnerable to legislation such as this and we need to find a way to enhance tolerance, promote tolerance and respect of differences without burdening our businesses, our employers, and our employees. I mean, if everyone wants to stand up here and give credentials for...why they understand the importance of tolerance and respect, I can give my own. I know in speaking with my in-laws, my mother-in-law was remarried in 1963. They had to leave the state of Nebraska and they had to go to the state of Iowa to be married because interracial marriages were not permitted in Nebraska. So do we have evidence of intolerance in our state? Absolutely. But we need to be constructive in the way we seek to minimize that and, again, this bill is not the answer. I had an e-mail. I received e-mails on this. I have not received one single e-mail in support of my position. I've received two e-mails over the weekend from constituents that oppose my position on this. But I cannot change my position because I believe the basis of my position is in line with what I said I was coming to the Legislature to do, and that was to provide a better business climate so there could...we could create more jobs in this state. The e-mail that I...one of the e-mails I got, an excerpt is: Senator, you know as a business owner that the threat of a lawsuit is always looming. This law will not increase that threat. That's not true. It creates a new class and it opens up another front of litigation with our small businesses. I wanted to read again some of the statistics that I take from some legal commentary off of WordPress and commentary on employment practices liability insurance. The average claim against legal practice liability averages \$100,000.

Floor Debate
April 07, 2014

That is not a cost that small businesses can absorb. If they do not have employer...employment practice liability insurance, they might as well shut their doors when faced with a lawsuit like that. How do those costs break down? Defensive and Equal Employment Opportunity Commission or administrative charge against your business can cost between \$4,000 and \$7,000; a lawsuit filed against your business can cost between \$12,000 and \$18,000; pretrial filings and preparation, between \$20,000 and \$30,000; mediation, between \$10,000 and \$15,000; motion for summary judgment filed, between \$8,000 and \$12,000; trial, the cost is between \$15,000 and \$25,000. The total cost is between \$69,000 and \$107,000 and the majority of cases are found to be baseless. But those costs are still incurred by our employers. And where do employers find the money to pay for those types of costs? If they do not have to close their doors, then usually the majority of a cost in a business is payroll, so that means that they're going to cut their payroll, that means people lose their jobs, and that's not what this is intended to do. We need to find a way, colleagues. We need to find a way to fix, to repair discrimination in our society without affecting the outcomes that are negative to employees and employers. [LB485]

PRESIDENT HEIDEMANN: One minute. [LB485]

SENATOR SMITH: Thank you, Mr. President. We live in an imperfect society. I recognize that. We all recognize that. And I appreciate the exchange of information on the floor and the positions on this. I agree, we need to continue to work to improve our society, but, please, let's take it...let's do it constructively and let's not do it in such a way that it's harmful to businesses and to employees and their families. Thank you, Mr. President. [LB485]

PRESIDENT HEIDEMANN: Thank you, Senator Smith. Senator Conrad, you're up next and recognized. [LB485]

SENATOR CONRAD: Thank you, Mr. President. Again, good morning, colleagues. Initially I want to provide a word of gratitude and sincere thanks to the many senators who have risen in support of this critical equal rights legislation. And we know a majority of this body supports this effort, but I do think it is striking and interesting to note that those who are fighting for equal rights today span rural Nebraska, urban Nebraska, different political philosophies, different ages, different professional backgrounds, and I think that that is a testament to the strength of this concept and the importance of moving forward on LB485 and updating our state's nondiscrimination policies. I also want to note that, you know, there has been some rhetoric from opponents that, oh, this will cause such great uncertainty and there's no way to ensure compliance and a flood of litigation and etcetera, etcetera, and, friends, we don't have to guess. It's not conjecture. Over 20 states have similar laws on the books, 180 communities have similar laws on the books, including one of our great communities in Nebraska up the road in Omaha which has had this on the books for over two years, and study after

Floor Debate
April 07, 2014

study after study demonstrates in each of those instances that this doesn't cause a flood of litigation but it helps to remedy and prevent discrimination when it is real and apparent. And in looking at the Omaha World-Herald report on March 23, 2014, about business compliance with this very ordinance in Omaha, city officials, quote, have not received many calls from business owners looking for help or clarification about the law and they're not aware of any lawsuits tied to the ordinance. There has been a handful of investigations initiated, which is consistent with the national effort, and in fact, claims under sexual orientation and gender identity typically come in below those filed on the basis of gender or age or race so...and nobody in this body is making a claim that we need to repeal those, and those actually have a higher instance of litigation and investigation. So I think, you know, let's just be clear about the facts in that regard. I also think not only is this policy consistent with the 20-plus states that have adopted this policy in 180 communities, but the definitions and the aspects and the applications have been vetted and tested. There is nothing new or different about what we're proposing with LB485 or the critical committee amendment. This language has been vetted by well-established experts in the field of public health and law and policy. I also think it's very important to note, and Senator Chambers started to go down this path, that this is consistent with Nebraska state policy. In 1997 this body passed a hate crimes bill that ensured that protection on the basis of sexual orientation. Go and look at Nebraska Revised Statute 28-111. And, you know, I think it's really interesting that all of sudden opponents have a lot of questions about what sexual orientation means or doesn't mean. But I don't think any of them have tried to repeal that legislation during our time in the Legislature or to clarify or in any way disturb that existing public policy of the state of Nebraska. Additionally, in 2005 the Nebraska Legislature specifically provided that recipients of medical research funds from the Nebraska Health Care Cash Fund cannot discriminate on the basis of sexual orientation. Go look at Nebraska Revised Statute 71-7611. Again, where were those opponents in bringing forward legislation to either amend or repeal... [LB485]

PRESIDENT HEIDEMANN: One minute. [LB485]

SENATOR CONRAD: ...those critical equal rights statutes? So again it falls...I think it is a very suspect point in terms of opposition arguments that all of a sudden there's something uncertain or unclear about what we're trying to do in LB485. It's consistent with what's happened in other states and communities; it's consistent with Nebraska's public policy on this topic. And, friends, business does support this legislation. I read to you last week a wonderful letter from ConAgra about the business case for diversity and tolerance and how it makes good business sense. We have a list of over 100 businesses in Omaha that came forward to support their ordinance on a similar measure in 2012. And we've been working with local businesses here in Lincoln when we were at editorial board meetings and otherwise to make the case for this. So just because the committee statement, which is a bit jumbled with how the hearing was held that day with three different bills on three different topics, may not indicate that, it

Floor Debate
April 07, 2014

definitely doesn't... [LB485]

PRESIDENT HEIDEMANN: Time. [LB485]

SENATOR CONRAD: ...indicate that any of those organizations...thank you. [LB485]

PRESIDENT HEIDEMANN: Thank you, Senator Conrad. Senator Mello, you're up next and recognized. [LB485]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. I'll yield my time to Senator Nordquist. [LB485]

PRESIDENT HEIDEMANN: Senator Nordquist, 4:55. [LB485]

SENATOR NORDQUIST: Thank you, Mr. President and members. Last week there was a lot of discussion about what are young people looking for, and certainly I shared my experiences talking with my fellow classmates, my neighbors, my peers. We've heard a number of anecdotes and then we heard Senator McCoy run off a list of different business incentives, tax policies that attract young people, and I looked. I found an article from The Wall Street Journal that looked at the top cities for young professionals 25 to 34 from the census. The Wall Street Journal wrote about it, where they went after the Great Recession, and this list of cities is very diverse in their tax policies. Some come from high-tax states; some come from low-tax states; some have varying tax incentives; some are on the list for being great for business; some are not. But every one of these, of the top...every one of the top 11 has a...some sort of protection for LGBT and 9 of them have it for everybody. Washington, D.C., has a citywide; Denver is covered by a statewide; Portland covered by a statewide; Houston is one that is just for city employees; Austin is citywide; San Francisco is statewide; Seattle, statewide; Riverside, California, statewide; Dallas, citywide; Charlotte, for city employees only; and Minneapolis is covered by statewide. But what these all have in common, while their tax policies and different aspects, climate, are very diverse, they're all very welcoming, diverse, inclusive cities, and that is where our young people are moving to. I've again heard the faith argument brought up on the floor today and I still am struggling to get my head around this argument that you have to have the right to discriminate to practice your faith. Would Senator McCoy yield to a question? [LB485]

PRESIDENT HEIDEMANN: Senator McCoy, will you yield? [LB485]

SENATOR MCCOY: Yes. [LB485]

SENATOR NORDQUIST: Thank you, Senator McCoy. You said you need...you deserve the right to practice your faith at your workplace. Some may agree with that; some may disagree. But my question is, why do you personally need to have the current language

Floor Debate
April 07, 2014

in place and not be...why do you need, essentially, the right to discriminate to practice your faith? That's what we're talking about with LB485 and that would be the question. [LB485]

SENATOR McCOY: I'm not following your question, Senator Nordquist. [LB485]

SENATOR NORDQUIST: Senator McCoy, you said you want to practice your faith at your workplace and this bill will prevent you from doing that. All this bill says is you cannot hire, fire, discriminate based on sexual orientation. Why do you need that to practice your faith? [LB485]

SENATOR McCOY: What I said, Senator Nordquist, in response to something that Senator Harr, Burke Harr, had said earlier this morning is his interpretation was that this legislation is needed so we aren't regulating what goes on in the bedrooms across the state. What I said was I don't believe this legislation is necessary because government shouldn't have any business dictating to me or any other person involved in small business about whether or not we can have faith involved with our own lives and in our own businesses and choose who we grow organizations with. I can clearly say, Senator Nordquist, as I said last week, I don't believe that discrimination is right. No one is here saying that. What I'm saying is, I don't think there's evidence that it's occurring out there in Nebraska. [LB485]

SENATOR NORDQUIST: Okay. Senator McCoy,... [LB485]

SENATOR McCOY: And you're not providing that evidence to us either, by the way. [LB485]

SENATOR NORDQUIST: Senator McCoy, then why do you...why are you opposed to this if you say you're not going to discriminate but then you're saying at the same breath, I need this, I need that... [LB485]

PRESIDENT HEIDEMANN: One minute. [LB485]

SENATOR NORDQUIST: ...right to practice my faith? [LB485]

SENATOR McCOY: I don't believe that the state government has any right to tell small business owners... [LB485]

SENATOR NORDQUIST: ...to tell you not to discriminate? You don't think the state has any right to tell you not to discriminate? [LB485]

SENATOR McCOY: Senator, are you...do you want me to respond to a question? [LB485]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
April 07, 2014

SENATOR NORDQUIST: That's a question. [LB485]

SENATOR McCOY: Or are you going to jump in and... [LB485]

SENATOR NORDQUIST: Yes. Please respond. [LB485]

SENATOR McCOY: ...and end my sentences for me? I don't think you can read my mind the last time I checked. [LB485]

SENATOR NORDQUIST: So the question is, do you think the state has a right to prevent you from discriminating? [LB485]

SENATOR McCOY: Well, I don't think we have time on your time to finish me answering that question since you interrupted me. [LB485]

SENATOR NORDQUIST: Well, if you'd quit filibustering my question and would answer it, I would appreciate that. So the question is still hanging out there, or we can talk about this after lunch too. [LB485]

SENATOR McCOY: Why don't you ask me that question again after lunch when you give me time to answer before you jump in and cut me off? [LB485]

PRESIDENT HEIDEMANN: Mr. Clerk.

CLERK: Mr. President, amendments to be printed: Senator Schilz to LB390. Senator Sullivan offers LR618. That's an interim study by the Education Committee. I have a Reference report referring LR618. Name adds: Senator Bolz would like to add her name to LR427. (Legislative Journal pages 1422-1426.) [LB390 LR427]

And, Mr. President, Senator Mello would move to recess the body until 1:30 p.m.

PRESIDENT HEIDEMANN: Members, you've heard the motion to recess until 1:30 this afternoon. All those in favor say aye. All those opposed say nay. We are recessed.

RECESS

SENATOR KRIST PRESIDING

SENATOR KRIST: Good afternoon, ladies and gentlemen, and welcome to the George W. Norris Legislative Chamber. The afternoon session is about to reconvene. Senators, please record your presence. Roll call. Mr. Clerk, please record.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
April 07, 2014

CLERK: I have a quorum present.

SENATOR KRIST: Thank you, Mr. Clerk. Do you have any items for the record?

CLERK: Mr. President, Natural Resources reports LR482 back to the floor for further consideration. I also have two confirmation reports by the Natural Resources Committee, all of those signed by Senator Carlson as Chair. That's all that I have, Mr. President. (Legislative Journal page 1427.) [LR482]

SENATOR KRIST: Thank you. Let's proceed to the first item on the afternoon agenda.

CLERK: Mr. President, Senator Lautenbaugh would move to reconsider the Final Reading vote and final passage of LR41CA. [LR41CA]

SENATOR KRIST: Senator Lautenbaugh, you're recognized. [LR41CA]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. Once more into the breach on horse racing here, we had a vote last week where we fell one short, and so I did what naturally you would do on something that you've stuck with for so long, and that is continue to work at it, because I won't quit. And why not? Because, as I said last week, to be very honest about it, I'm not one of the horsemen. I don't know much of anything about horses. I don't know anything about wagering. I don't...but I...on the rare occasion where I do go to one of the remaining tracks I don't wager. It's not my deal. But this is something I've come to understand from an economic standpoint. And I've never been an expanded gambling person. My record is very clear on that, historically, at least. But this is different to me because this is wagering on horse races at tracks where we already allow wagering on horse races at tracks, and that's what these are. And I went to an event Saturday night. It was HETRA, the Heartland--I always screw up the name--the Heartland Equestrian (sic--Equine) Therapeutic Riding Association (sic--Academy). And what they do is they have horses available for kids that have sort of musculoskeletal issues and by letting these children ride these horses, it helps them develop core strength, it helps them develop balance, it helps them recover, it helps them gain mobility, it helps them walk. And one of my good friends has a daughter who's been a beneficiary of this particular group's efforts and when she was born I believe they were told she would probably never walk and she walks. And this group is supported by the horsemen and the horses, some of them, end up as the therapeutic horses for this group. And this is but one example of how horse racing is different from...I don't want to always pick on keno, but it is. This is different for our state. The jobs it provides are different; the benefits it provides are different; the economic development it provides is different. I get this is different. That's why it's become something of a cause for me when it has nothing at all to do with me and it's not been a passion of mine otherwise. But it's something I've been unwilling to let go because I saw those little kids on Saturday night at the fund-raiser and I can look at it

Floor Debate
April 07, 2014

and say, I get it. There is a direct connection between having this industry in Nebraska and having this therapeutic horse riding. I remember a year or two ago I saw the people up in the stands, up in the balconies here, and they were here for their jobs. They weren't just random people who came here; they were people who work at the tracks. And I got it. They were here to support their jobs. They were here to support their livelihoods. They were here to save their jobs. And I can't stress how important it is to keep something like that going. And we've heard the argument, well, but it's fading, you need to just let go of it. How many of you from greater Nebraska find that to be an appealing argument? How many of you from west of here find that to be an appealing argument? It's trending against you, let it go. Do you really want to hang your hat on that? I don't think so. Or do you want to fight and never give an inch when you don't have to? That's what this is for me. This is doing what we can to help this industry compete and survive after years of having it be hemmed in by sort of archaic technology, archaic constitutional provisions, and unable to compete in the face of other forms of entertainment. This gives them some breathing room. This gives them a chance to compete and go forward. And it's working where tried in Kentucky. It's working elsewhere. It's making a difference and that's why it's different for me from other things that you've...we've heard about and other things that I frankly have never supported. And that's why I just won't quit on this. I just can't quit on this. And all those people aren't up in the balconies today. Some are. I don't think they're all from the racetracks or they don't have the matching T-shirts like we've had in years gone by, but they're surely watching what we do. They know this is an important vote to their livelihoods. And while Nebraska is an economic bright spot, we can't afford to just blithely turn away from an industry that we have had for decades. I used to represent, when my district stretched up to Blair, a lot more agricultural land than I do now. Right now I have almost none. I don't think there is almost any open space left in my legislative district. But I got to know people when I had all of that open area that did raise horses and they wanted this because, they said, look, Scott, I don't know how much longer we can keep trying to hang on in Nebraska and try to keep coming to the tracks when the purses are smaller and the racing days are fewer. And that's what this is designed to do, is to increase the purses and bring back more participation and bring back more racing days. The tracks aren't a vehicle for these machines. The machines are a vehicle to boost revenue at the track. I think some have thought of this exactly reverse from the reality. Please don't turn your backs on these people. Please don't turn your backs on these jobs. This is a vote of the people. Let Nebraskans weigh in on where they are for horse racing, which has been a great tradition in our state. I went to the Lincoln track before we tore it...well, we didn't tear it down but we facilitated the removal of it, and that was a bittersweet thing. It was one of the last nights there. And again, it wasn't my...I don't think I'd ever been there before I was there for its demise basically. And there were people there that were sharing memories and talking about what a great place it had been and how much they loved the sport, how much they loved racing. Those people still exist. We're trying to get a track built here in Lincoln to take the place of the one that is gone now at the university so that there is a place to

Floor Debate
April 07, 2014

continue this proud tradition. And that's what this is about, too, and that's why I refuse to just let go of this. Year after year, month after month, floor fight after floor fight, that's why I refuse to just let go of it. And I'm hoping you'll stand with me one last time and in sufficient numbers--that was two separate words, "in sufficient numbers," not "insufficient numbers"--I hope enough of you stand with me that we can put this on the ballot and let people vote and let them have their say and that will be that. Obviously, this is the last time you're going to hear it from me,... [LR41CA]

SENATOR KRIST: One minute. [LR41CA]

SENATOR LAUTENBAUGH: ...because my time here is almost done and there's only a minute of it left at that it appears. But I just can't quit until it's done, until we've done everything we can do to save this part of our history, part of our tradition, save these jobs. Thank you, Mr. President. [LR41CA]

SENATOR KRIST: Thank you, Senator Lautenbaugh. You've heard the opening. And, Senator Lautenbaugh, you're next in the queue. [LR41CA]

SENATOR LAUTENBAUGH: Thank you, Mr. President. Now I'm speaking in the time-honored tradition of Senator Karpisek as we do a quick attendance check here. Wow. I ended with sort of a dramatic plea and now here I stand again at the mike. That was bad timing on my part. So I guess the smart thing to do would be to yield my time to Senator Karpisek. [LR41CA]

SENATOR KRIST: Senator Karpisek, 4:30. [LR41CA]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. Thank you, Senator Lautenbaugh. I don't know that that was a smart thing to do, but I appreciate it. I went to Grand Island Saturday to the races. There were a lot of people there, probably the most people that I've seen there in a long time. The races were good. There was a lot of people working, a lot of people, almost everyone stopping me and asking me what was going to happen. I said, I don't know but I hope that we can get this one small thing done to try to help the industry. When I did sit and look around at who all was working, just inside there were people, of course, selling the tickets, people selling concessions, people showing people where to go to get things, race forms, people selling beer. Then I look out on the...waitresses for all that. I look out on the track and there are people running around with jockey helmets on that obviously weren't jockeys. One borrowed my pen to scratch a jockey and put a different jockey in. All sorts of people there working and all the people there spending money, paying taxes on what they bought, the people that were working paying taxes on their wages. There were a lot of people working. Now we can argue about how many people there are or aren't. But I have actually been there and I can say what I saw, not like a lot of people who tell us what a terrible place it is but have never stepped foot near it and wouldn't know the front end

Floor Debate
April 07, 2014

from the back end of a horse. And I can usually tell the back end. These are jobs that we need to keep. I feel that racing is doing better. But in the Legislature's brilliant move to move the State Fair we lost our track here. We've put these people at a disadvantage by a lot of things we've done, which moving that...the State Fair track was one big one. But they're working on a new one southwest of Lincoln. But they do need some help. These are not slot machines. I think people think that if they say it long enough it'll be true. I just don't see that. Do ask for your green vote. These people deserve it. Thank you, Mr. President. [LR41CA]

SENATOR KRIST: Thank you, Senator Karpisek. Senator Brasch, you are recognized. [LR41CA]

SENATOR BRASCH: Very good. Thank you, Mr. President, and good afternoon, colleagues. I stand in opposition to LR41CA and in opposition to reconsider the motion. And the reason I do stand is I am familiar with live horse races. I am. For over three years, as I was marketing director at the Nebraska State Fair Park, we had the horse track. Part of my responsibilities was to work in marketing, trying to bring people to the horse races. We tried many things--advertising, events, promotions, you name it. Horse racing is fun; live horse racing is exciting. It's a sport. It's the sport of kings. It has been for generations throughout history. But we're not talking about live horse racing today. We are talking about a hardware and software program that is in basically a slot machine. We had one here in the building. That day, I happened to have a constituent with me and in our office visiting and I asked them to come look at this machine so I would have an outside opinion and you tell me what it is. That constituent looked at it and said, that is a slot machine. Okay, live horse racing, there are horses, there are jockeys, there are doctors, veterinarians, there is law enforcement. There's all kinds of added live people and animals and it's a wonderful event. And then you have what's called simulcast racing. Simulcast racing is held in the off season where the live park isn't running and there is an actual telecast of a live race going on. You can be watching one of the other tracks in the state or a track in other states live as it's happening. We are not talking about live racing. We're talking about a machine, hardware and software, that looks like a slot machine, that acts like a slot machine. The reason this is being introduced and brought forward is not for the sport of horse racing but the industry of horse racing where gate admissions are not meeting the expenses required to run a live race. I have thoroughbred horse race individuals in our district and they would love to see this bill go through because it would increase purses. This bill is about the money, the money they need to bring more horses into Nebraska and keep those horses running, not through gate admissions, not through promotions, not through marketing, but by bringing in hardware and software similar to what is used in casinos. Casinos are designed to have the house win. People go there to take a gamble, take a chance, but most people end up losing money when it comes to hardware and software. And it would be sad for me to see that this beautiful sport, the sport that has blankets for winners, a winner's circle, such lively activity, being consumed by hardware and

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
April 07, 2014

software. That is not horse racing. It's about the money, and money that someone else is losing. [LR41CA]

SENATOR KRIST: One minute. [LR41CA]

SENATOR BRASCH: Colleagues, I believe you should think long and hard when you think that it's going to be much, much cheaper for someone to plug in a machine than to bring a live, beautiful creature to their park. This is not going to help horse racing. I believe it will hurt horse racing, so I do not want to reconsider. I ask you to help horse racing by not bringing in casino-type slot machine, not pari-mutuel racing. Thank you, Mr. President, and thank you, colleagues. [LR41CA]

SENATOR KRIST: Thank you, Senator Brasch. Senator Harms, you're recognized. [LR41CA]

SENATOR HARMS: Thank you, Mr. President. I rise in opposition of the reconsideration. I find it interesting that we're talking about live horse racing. This particular piece of legislation has nothing to do with live horse racing. It's basically using a slot machine. I have reviewed a lot of the research and literature on horse racing, dog racing, and no matter how you want to view this, it's simply a dead industry. No matter how you view it, no matter how you want to look at it, it is a dead industry, it's dying all across America. What we see is that the young people coming up who like to do the gambling sort of thing and want something that's fast, quick paced, and they're not there with horse racing. So that's why you see this type of introduction to the issue with horse racing. They want to use it as a slot machine. They want it quicker and you can spend more money and the beginning of that will bring in casinos and that's where we're at. And my views are very strongly that I oppose it, will continue to oppose it. I have the same passion that other people have who are supporting it. It's the wrong thing to do. It's the last thing we need in Nebraska. Gambling is something that I think destroys families. We've seen what it does with abuse. We see what it has done with a whole series of things that are not positive for this great state. If we're so concerned about the revenue side, then why don't we start looking at how we can bring better jobs in here and into Nebraska? Why don't we look at the high-tech sorts of involvement? Why don't we look at other sorts of research that will bring in other companies here? So I don't believe at all for one minute that this is going to have...losing this is going to have any negative impact. It is simply a dead industry. And if you look all across America, you'll find the places where we've had horse racing, they're going to the casino approach because they...it's the only way they can support the industry. It's simply not there. So don't kid yourself in regard to this aspect of it. And I believe if it goes to the public anyway, I believe the public will probably vote it down. But I do not support the reconsideration and I urge you to do the same. Thank you, Mr. President. [LR41CA]

SENATOR KRIST: Thank you, Senator Harms. Senator McCoy, you're recognized.

Floor Debate
April 07, 2014

[LR41CA]

SENATOR McCOY: Thank you, Mr. President and members. I, too, rise in opposition to this reconsider motion. I voted no on Final Reading last week. And if this reconsider motion is successful, I will vote no on Final Reading again. I'm going to reiterate a few of the points that I made in earlier rounds of debate. I do view this as expanded gambling. And I don't think you have to take my word for it. I don't think anyone probably is. That's just my opinion but I think it's backed up with, as I've talked about in earlier rounds of debate, the number of state attorneys general, state Supreme Courts that have said they didn't believe that this is pari-mutuel wagering. Colleagues, I really believe that if this LR41CA, if this constitutional amendment moves forward and is sent to the good people of the great state of Nebraska on the ballot this general election in November, I'm not really sure what the people of Nebraska are going to think when they go vote for this or go vote on this--some will vote for it and some will vote against it, undoubtedly--because I really think it's very vague what we're asking them to think about because there is so much uncertainty as to whether or not this is pari-mutuel wagering. This behaves every bit as different from pari-mutuel wagering that goes on at Fonner Park, like Senator Karpisek talked about a few minutes ago, it behaves every bit as differently as a live equine...a horse behaves differently from a machine. Let me repeat that. The wagering using these instant-racing terminals, the wagering system, the seed pools, the fact that you're betting on a past race with no one else that's betting at that same time on that same race is as different as a live horse compared to a machine you plug in the wall, in my view. That's really what this boils down to, to me and to an awful lot of Nebraskans, some of...a lot of them that they're here today for this vote. Senator Brasch talked about that; others have. This is not pari-mutuel wagering. Now the Legislature didn't see fit to attach my amendment that very clearly outlined the differences between traditional live and simulcast wagering and this new form of wagering that I believe isn't pari-mutuel for these instant racing terminals, and that is the will of the Legislature. But I think this constitutional amendment is very, very vague. And all of us know that we're here...whether you are for it or against it, and most of us were for it, it took two years to get the constitutional amendment to protect hunting and fishing ready to go on the ballot, two sessions to make sure it was worded in a way that would honor the tradition of adding language to our constitution. I don't believe this constitutional amendment honors that time-honored tradition. Even if you agree...whatever, whether you agree or disagree with the actual principle or policy behind this, the people of Nebraska, in my opinion, deserve to vote on something that is very clear. Senator Chambers, in his long career,... [LR41CA]

SENATOR KRIST: One minute. [LR41CA]

SENATOR McCOY: ...in his long career in this body has always said that. Whether he agreed or disagreed about an issue, he has always long maintained, and I think appropriately so, that we have a duty and a responsibility to send to the people of

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
April 07, 2014

Nebraska constitutional amendments that are very clear and as concise and precise as possible. I don't believe LR41CA is in that form. Thank you, Mr. President. [LR41CA]

SENATOR KRIST: Thank you, Senator McCoy. Senator Karpisek, you are recognized. [LR41CA]

SENATOR KARPISEK: Question. [LR41CA]

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, aye; opposed, nay. Please record, Mr. Clerk. [LR41CA]

CLERK: 30 ayes, 5 nays, Mr. President, to cease debate. [LR41CA]

SENATOR KRIST: Debate does cease. Senator Lautenbaugh, you're recognized to close on your motion. [LR41CA]

SENATOR LAUTENBAUGH: Thank you, Mr. President, and I would ask that everyone check in. [LR41CA]

SENATOR KRIST: Technically, we're not on Final Reading yet, so that may be an issue. Would you like a call of the house instead? [LR41CA]

SENATOR LAUTENBAUGH: Yes, I would. [LR41CA]

SENATOR KRIST: Okay. There has been a request for a call of the house. The question is, shall the house go under call? Those in favor vote aye; opposed, nay. Please record, Mr. Clerk. [LR41CA]

CLERK: 45 ayes, 0 nays, Mr. President, to place the house under call. [LR41CA]

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 Lautenbaugh, would you like to start your close? [LR41CA]

SENATOR LAUTENBAUGH: Yes, I would. [LR41CA]

SENATOR KRIST: Please proceed. [LR41CA]

SENATOR LAUTENBAUGH: I'll be brief and it's good because we're not missing a huge number of people. This is going to take 30 votes, it's my understanding, to reconsider, and then 30 votes to advance as it's a constitutional amendment. I'll be asking for a vote

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
April 07, 2014

in reverse order, a roll call, because that seems to help me remember to vote for my own bills. Sometimes I watch the board so intently to see what all of you are doing that I forget to worry about myself, which I suppose there's a lesson in that for all of us. And at some point we do have to worry about ourselves and to bring a little personal responsibility to bear and that does dovetail with my ability to support this, I think, because I think at some point you do have to trust people and give them a certain amount of freedom to, all other things being equal, enjoy the entertainment they choose. And horse racing has struggled largely because of the strictures that we've maintained upon it, I believe, and we do need to take some of those strictures off and take some of the blinders off, if you will, and let it go forward and give it a shot. You've heard enough of me on this issue, heaven knows, and I won't belabor it any further. I would again ask for a roll call vote in reverse order and please vote green on this. Thank you, Mr. President. [LR41CA]

SENATOR KRIST: Thank you, Senator Lautenbaugh. Senator Pirsch, Senator Pirsch, please return to the Chamber. The house is under call. (Visitors introduced.) Okay, all members are accounted for. Mr. Clerk, there has been a request for a roll call vote in reverse order. [LR41CA]

CLERK: (Roll call vote taken, Legislative Journal page 1428.) 32 ayes, 15 nays, Mr. President, on the motion to reconsider. [LR41CA]

SENATOR KRIST: The motion to reconsider passes. Just as a reminder, we are on Final Reading. The next vote is LR41CA. Senator Lautenbaugh. [LR41CA]

SENATOR LAUTENBAUGH: I would again request a roll call vote in reverse order. [LR41CA]

SENATOR KRIST: Mr. Clerk, there has been a request for a roll call vote in reverse order. [LR41CA]

CLERK: (Roll call vote taken, Legislative Journal page 1429.) 30 ayes, 17 nays, Mr. President, on the final passage of LR41CA. [LR41CA]

SENATOR KRIST: LR41CA passes. Raise the call, please. Raise the call. Thank you. Next item. [LR41CA]

CLERK: Mr. President, back to consideration of LR...LB, excuse me, LB485, a bill by Senator Conrad, it was discussed this morning. Committee amendments are pending, as is an amendment to the committee amendments by Senator Christensen. (FA301, Legislative Journal page 1293.) [LB485]

SENATOR KRIST: I don't believe we need any refreshment on the debate. It just

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
April 07, 2014

happened this morning. (Visitors introduced.) Returning to debate on LB485. Senator Ashford, you're recognized. [LB485]

SENATOR ASHFORD: Thank you, Mr. President. I wanted to just follow up on what was mentioned earlier by Senator Smith, and he makes an argument about business costs and restrictions, and I get that argument. I think he makes a solid argument about the challenges of small business, no question about it. But he said something else that I think was...caught my ear, and that's why I decided to speak and I wasn't going to speak on this issue anymore but...any further, but what he said was, and I think it was an invitation, or I took it as an invitation, to the state really, to how do we find a way to be welcoming and not to discriminate against anyone. And I think it was heartfelt and I think it was an appropriate question, because I think, in essence, that is the issue of this bill, because we can't do much to throw out the welcoming mat for individuals who may have a different sexual orientation than we do, possibly, because of the constitutional amendment that we passed some years ago that pretty much tied the hands...certainly ties the hands of this Legislature in many respects when it comes to things like...at least, arguably does, when it comes to issues such as foster care, adoption, and certainly gay marriage. And to me the issue of gay marriage is quite simple, that every religious organization in this state has a perfect right to determine whom it will marry, whom it will give the rights of marriage to. That's their right. Can I get a gavel, Mr. Speaker? But when it comes to...but when it comes to the issue of what does the law do, that's where I draw the line. The law is intended to be blind. It's intended to not look at a particular person's color, their gender, I don't believe their sexual orientation, in deciding how the law is to be applied. And that's been the sort of the guiding force for me as I look at all these issues. And the Supreme Court of the United States has made it very...at least to me, in my mind, very clear, that the train has left the station on this issue; that even though the cases, the last two or three cases that have come down on this issue, still leave open the question of whether or not the states can, in fact, enact a constitutional amendment similar to what we have. I think it's just a matter of time, a very short time, before all of those discriminatory types of provisions will be tossed out. So Senator Smith is right. How under the circumstances that we're in today with a very restrictive constitutional amendment that applies to gifting of property, wills and trusts, contracts of all...we don't really know exactly how the breadth of that constitutional amendment, because it hasn't been tested in every case in all instances. It seems to me that this provision, this bill, does throw out the welcoming mat. It throws out the welcoming mat to young people. And I understand Senator McCoy's argument, it's a good one, that people like to work here in Nebraska, that unemployment is low. I get that. I agree with that. And I think we do a great job of energizing businesses to do better, but when it comes to this issue... [LB485]

SPEAKER ADAMS PRESIDING

SPEAKER ADAMS: One minute. [LB485]

Floor Debate
April 07, 2014

SENATOR ASHFORD: When it comes to this issue, the one provision, the one issue that we have to say to the United States, everybody in the world, that we are a welcoming state, is a bill that says you will not be discriminated against for your sexual orientation; you simply won't. I don't think the kinds of lawsuits that have been talked about are even remotely...they're possible, but I think the breadth of them I don't think is actually going to occur and it will not be realistic. I think this is the one way that we can throw out the welcoming mat in Nebraska to those individuals who want to come here but are concerned about our laws concerning sexual orientation. Thank you, Mr. Speaker. [LB485]

SPEAKER ADAMS: Thank you, Senator Ashford. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR41CA. Senator Crawford, you're recognized. [LB485 LR41CA]

SENATOR CRAWFORD: Thank you, Mr. President. Colleagues, I rise in support of LB485 and would like to use my speaking turn to establish arguments on the public record that this bill does not violate First Amendment free exercise of religion rights. As Senator Conrad has already established on the record, according to current legal precedent companies do not have religious rights. However, even if Hobby Lobby v. Sebelius establishes that companies have religious rights which they do not have now, I would like to establish on public record that this bill does not violate First Amendment free exercise rights. Senator Harr has already reviewed the current precedent that does not allow discrimination in business practices for First Amendment religious reasons, so I will not repeat the details on that case now. I will just add a few more arguments for the record on this front. First, The City of Boerne v. Flores, in 1997, was a Supreme Court case that ruled that the Restoration of Religious Freedom Act does not apply to the Fourteenth Amendment enforcement rights of Congress; so a state law does not need to meet the strict scrutiny test. It does not need to be a compelling state interest and the least restrictive means of achieving it. However, even if this strict test held, preventing employment discrimination is a compelling state interest. Bob Jones University v. United States establishes that the government has a compelling state interest in preventing racial discrimination despite a religious argument against it. So we have clearly established that if a person argued religious reasons why he or she must discriminate based on race, the state interest in preventing discrimination outweighs the religious free exercise here. We have a longstanding legal history of protecting the religious rights of people who would be discriminated against. In this case we're talking about the religious rights of the employee who would be discriminated against. I reached out to a First Amendment scholar colleague of mine at Creighton to see if there are any cases that support a free exercise right to discriminate in hiring. We could not come up with any First Amendment precedent in which an individual actor has succeeded...has successfully claimed a free exercise right to discriminate in hiring. Again, the protections tend to be on the side of the employee who would be

Floor Debate
April 07, 2014

discriminated against because of their religious belief. First Amendment rights are not absolute. Current legal precedent established that LB485 does not violate free exercise rights. Even beyond the compelling arguments of these precedents, the issue at hand is the balance between the state interests in preventing discrimination versus the religious free exercise argument for allowing discrimination in employment for the purposes of practicing one's religious convictions. Again, the state's interest in preventing discrimination in employment and business practices has been established over the years in court cases. The argument for a free exercise claim on the part of an employer gets even weaker when you consider the religious basis for an argument for discrimination in hiring as an expression of one's religion. Just using the Christian faith, as an example, I used a scriptural search tool to identify any Scripture about hiring, any teachings about hiring in the Scriptures. Colleagues, the only verses in the Scriptures about hiring are about paying workers a just wage in a timely manner. Christian hiring teachings are more relevant to Senator Nordquist's minimum wage bill than to LB485. I was very surprised to see the Catholic Conference come out in opposition to this bill... [LB485]

SENATOR KRIST PRESIDING

SENATOR KRIST: One minute. [LB485]

SENATOR CRAWFORD: ...thank you, because the last time I taught a course on faith and political action in which we read Catholic social teaching, I recall reading that the Catholic teaching recognizes that sexual orientation is not a choice and that while the church doesn't condone marriage for homosexuals, it nonetheless urges dignity and justice for homosexuals. I thought perhaps the catechism had changed, so I checked it myself; and, colleagues, it has not. I will quote excerpts from Catechism 2358 speaking about the church's teaching for people who do not have a heterosexual orientation. Quote: They must be accepted with respect, compassion, and sensitivity, unquote. Another quote: Every sign of unjust discrimination in their regard should be avoided, end quote. So discriminating against someone because of their sexual orientation is counter to Catholic teaching. So it's not possible to argue that a free exercise of the Catholic faith requires discriminating against someone based on their sexual orientation. This would actually be going counter to the very specific teachings of Catholicism at this time. [LB485]

SENATOR KRIST: Time, Senator. [LB485]

SENATOR CRAWFORD: Thank you. [LB485]

SENATOR KRIST: Thank you, Senator Crawford. Senator Burke Harr, you're recognized. [LB485]

Floor Debate
April 07, 2014

SENATOR HARR: Thank you, Mr. President and members of the body. Thank you, Senator Crawford, for the enlightenment on that about where the standing is. I just wanted to say, and I'll keep this brief, I want to thank those who are bringing the filibuster on this bill. I was listening to the radio over the weekend and they were recalling the Civil Rights Act. And as many of you will recall, that was very controversial at the time, and Senator Strom Thurmond from South Carolina led that filibuster. Later he apologized for that filibuster. And one of the things he said was he knew he was going to lose. He knew he was on the wrong side of history. But the importance of that filibuster was so that when that bill passed, and it did--and this one will, I don't know about today or tomorrow or this session but it will pass--when it passed it had a level of relevancy because those who lost knew they had fought as hard as they could for it, and they knew that time and society was not on their side. So I want to commend those who are leading the filibuster because we will one day win this, and when we do you will understand that, again, just like the Civil Rights Movement, you put up a good fight but you must honor the law. Thank you very much. [LB485]

SENATOR KRIST: Thank you, Senator Harr. Senator Smith, you're recognized. [LB485]

SENATOR SMITH: Thank you, Mr. President, and good afternoon, colleagues. Since I was on the mike speaking this morning, and I'm going to quickly reply to Senator Harr about who may or may not be leading a filibuster. I think we probably, from the floor discussion on this bill so far, we probably have heard more proponents speak on this on the floor than opponents. So I'm not certain who he's referring to as leading a filibuster. I'm speaking here and I think I've been consistent with what I've been saying, that I have a concern from a business perspective on this. I'm not trying to filibuster. I'm responding to some things that have been said. And I did receive a latest e-mail, and I think it was transparent earlier in saying that I had received some e-mails that have opposed my position on this bill, and I'm not ashamed to share that. This latest e-mail that came from a person in Hastings that was watching this morning wrote: Senator Smith, your primary arguments seemed to be the hypothetical cost to business if the bill passes; but the simple solution to that seems to be, pause, the businesses just shouldn't discriminate; if they can't stand the cost of lawsuits, all they would have to do is obey the law. And colleagues, what I was trying to...the point I was trying to make this morning is the unintended consequences that based on the EEOC and some of their statistics, more than half of the lawsuits that...discrimination lawsuits that are filed are determined to have no basis. However, the small businesses still are subject to the cost of fighting those lawsuits. More than 50 percent have no basis. And these small businesses have no voice. They are job creators. They are our friends, our families, and our communities. Most of these businesses have no HR department between...you know, if they're less than 50 employees, they can't afford an HR department to help them maneuver through all the legal wordings and such. They're focused on their core business. They're focused on surviving. And I would say those that are found to be in violation of the law in a discrimination lawsuit, I would daresay probably the majority of

Floor Debate
April 07, 2014

those are not intentional. It could be reckless. It could be poor judgment on their part, but perhaps not intentional; but yet they get caught up in this legal framework of costs, and they simply can't afford that. So I would say we're dealing with a minority of employers that have employees that are intentionally discriminating. And I'm not quite certain how to do that. I appreciate the words from Senator Ashford and that's something I've always appreciated with Senator Ashford in serving with him here. He's always eager and wanting to try to work out a solution to a problem, and he understands the problems on business as well. Another point this person said to me as they wrote: If nondiscrimination is so expensive to business, do you think the other projected categories should be removed; should businesses be allowed to discriminate on the basis of religion, race, national original, etcetera, because those parts of the policies are expensive too? And I couldn't agree more. But again, this is a problem we're dealing with long term, and I certainly would love to see us address this going forward to where we can help direct businesses and help them to be more aware of the laws, the antidiscrimination laws, without being so punitive in our effect on their businesses to where they actually go out of business or lay people off or... [LB485]

SENATOR KRIST: One minute. [LB485]

SENATOR SMITH: ...or the such. Thank you, Mr. President. And I...again, this is a very tough issue and we need to find some way of maneuvering through this long term. But my concern with this is we create one more class and we have another burden on business--a layering effect, if you would; and we need to find a long-term solution to this problem. I don't doubt that we have a problem but we have to work on this together, colleagues. Thank you very much. Thank you, Mr. President. [LB485]

SENATOR KRIST: Thank you, Senator Smith. Senator Kintner, you're recognized. Senator Kintner, you're recognized. [LB485]

SENATOR KINTNER: Well, thank you, Mr. President. You know, we've heard a lot about being a welcoming state, about being a state that is happy to have all people here. And I've got to tell you, you know, I moved to this state years back, and I found it to be very welcoming. And you know what? When I got here, nobody asked me what my sexual preference was. I never told anybody. I was welcomed. Nobody said a word about who I have relationships with. And I don't think that's...anyone ever asked you that. I think people pretty much accept you for who you are in this state, and I think that's part of what makes Nebraska great. We've also heard some talk about tolerance. And this may have been said before but I think it needs to be said one more time, that the people like myself who are opposing this, we're not the intolerant ones. We want tolerance for Christian beliefs and religious beliefs and Jewish beliefs and any religious beliefs. We want tolerance. You know what's intolerant? Taking the heavy hand of government and forcing those beliefs on somebody that doesn't hold them, and doing it with a force of law at the point of a gun. That's the height of intolerance, and that's

Floor Debate
April 07, 2014

where the intolerance lies in this debate. Now I've got to tell you something. The opponents of LB485, we're simply responding to public policy questions brought before us. You know, we're not proposing legislation to hinder the employment rights of anybody in this state. You know, those who have opposed legislation like LB485 are often uncharitably portrayed as meanspirited; I think we've been called hateful right on this very floor during this debate; obsessed with gender identity and sexual orientation issues. While there's no doubt there are some meanspirited people out there, I'm sure. But the vast majority of people who oppose LB485 are concerned about these issues simply because we think it's important to respond to a growing political movement. Those of us who are opposed to laws like LB485 aren't playing offense; we're playing defense regarding attempts to change public opinion and public policy about sexual orientation and gender identity. You know, opposition to LB485 is not about intolerance, because public discussion is not about private behavior, but public affirmation and accommodation of sexual orientation and gender identity in the workplace. Whether, you know, someone views...has views that hold about public policy, that say that this should be legislative affirmation and accommodation, or if you oppose it, these are legitimate...legitimate debates that we should be having. You know, every aspect of life is somehow affected by public policy decisions, because public policy and political activism is so pervasive in our lives, and that's good and bad sometimes. [LB485]

SENATOR KRIST: One minute. [LB485]

SENATOR KINTNER: And LB485 is not merely about tolerance. What the state of Nebraska decides to do with regard to this issue is not a private matter but it is a rather public one that has some very broad ramifications, and that's why I stand up here and I speak every hour or so in opposition to this. Thank you, Mr. President. [LB485]

SENATOR KRIST: Thank you, Senator Kintner. Senator Conrad, you are recognized. [LB485]

SENATOR CONRAD: Thank you, Mr. President. Again, good afternoon, colleagues. I know everybody is very busy over the noonhour, particularly this time of year as we near the end of session working with constituents and interest groups and colleagues on the important work before us. But I want to just briefly tell you a little bit about how I spent my time over the noonhour today, and I know Senator Sara Howard spent some time with us as well. And after quickly eating a peanut butter sandwich in my office, I came up to our beautiful Rotunda in this beautiful State Capitol and it was filled. It was filled with citizens from all across our great state, young and old, Republican and Democrat, of every political walk of life, socioeconomic distinction, and it was filled with people supporting LB485. And we heard passionate statements of support from some of our communities' top leaders. Mayor Chris Beutler made the economic case for inclusiveness and tolerance and diversity, and talked about when he's engaged in recruitment and retention discussions with business, these types of issues about what

Floor Debate
April 07, 2014

kind of an environment we have, can make a difference and do make a difference. And so in order to ensure that we can put our best foot forward and to be as competitive as our neighboring communities and states, we need to adopt legislation like LB485. We also heard from Councilman Carl Eskridge who was leading the effort at the local level and who is also a Presbyterian minister and who talked about not only the public policy reasons for supporting this legislation but the importance of treating everybody fairly from a faith perspective. We heard from Pastor Stephen Griffith from the Methodist church, St. Paul's United Methodist Church here in Lincoln, a sizeable congregation that has an incredible commitment to diversity and tolerance. And Senator...Pastor--I gave him a promotion, or demotion there maybe--Pastor Griffith gave a passionate and eloquent explanation of how supporting fairness legislation, like LB485, comports with and is part of their faith tradition and beliefs. We also heard from a young man named Taylor Brooks who hails right here from Lincoln, from my community, who is a student at the University of Nebraska College of Law--yea, UNL Law; that's my alma mater--and he is absolutely one of our best and brightest, folks. He is talented, he is innovative, and he's going to be a great attorney. And as he begins his job hunt next year, issues like this weigh heavily on his mind about whether or not he can stay in Nebraska and forge his career path and start his family, because unless we move forward by updating our state's nondiscrimination laws, as over 20 states, 180 communities, 91 percent of Fortune 500 companies have done so, we're going to continue to lose talented people like Taylor. It is a brain drain issue. It is a youth retention issue, and not just for gay citizens; for all citizens. When I talk to the students in my district in north Lincoln, and I represent a fair amount of student voters with the proximity to Wesleyan and UNL, and make no mistake about it, when they're looking for where to start their career and their families, regardless of their own sexual orientation, they want to live and work in a community in a world that is open and accepting to all citizens. And if you don't think that's the case, look no further than your e-mail inbox where young voices have come out overwhelmingly in support of this effort. And also, you know, I don't want to just point to the youth, because even though there is strong support there... [LB485]

SENATOR KRIST: One minute. [LB485]

SENATOR CONRAD: ...thank you, Mr. President, I received a heartwarming communication from a volunteer at a senior center last week as we began our debate on this topic. And she told me that they were watching this debate and there were a variety of women there in their nineties who started sharing experiences about how they were discriminated against in the work force because of their gender, or when they got pregnant how they lost their jobs or promotions or otherwise. And they wanted the volunteer to tell me to keep fighting because those 90-year-old women knew what discrimination looked like and felt like, and they didn't think any Nebraskan should have to face that. So it spans the spectrum,... [LB485]

SENATOR KRIST: Time, Senator. [LB485]

Floor Debate
April 07, 2014

SENATOR CONRAD: ...our message of love, our message of tolerance, our message in support of LB485. [LB485]

SENATOR KRIST: Thank you, Senator Conrad. Senator McGill, you're recognized. [LB485]

SENATOR MCGILL: Thank you, Mr. President and members of the body. I once again stand in support of LB485. I've also been reading through my e-mails, as Senator Conrad has been looking at all of the examples and e-mails we've been getting from young people. And I guess one of the really good things about this debate is how engaged high school students and college students across this state have become due to this bill. They've been reaching out to us telling us their personal stories. Some of them have already left the state and are in college elsewhere and are making those decisions about where they're going to plant themselves as they graduate. One such young man is studying to become a psychiatrist and is interested in coming back to Nebraska. And for those who listen to anything I say on the mike is that we have a very serious shortage in mental health practitioners and psychiatrists in our state. There are only, like, two or three that service every...the whole state outside of Omaha and Lincoln. We need young people like that to come back to our state. But right now, with this bill, if it gets stalled and doesn't get passed, he very likely will stay put or stay somewhere on the East Coast. We need to attract these young people back here, even if they're going to college elsewhere. Many of you saw...I was up visiting with students from Lincoln Northeast up in the balcony earlier today. It was a group of ninth-graders. And Senator Christensen visited with them before debate started today as well. But they were dumbfounded as I stood up there with them. They were so engaged in this debate and so supportive of the bill, and just could not understand why we wouldn't be passing this; I mean, the whole lot of them. It was remarkable when you go and you talk to a young group of folks, people of my generation, as well. My best friend, believe it or not, is very conservative. She lives in Spokane, Washington. But this is an issue we agree completely on. We talk about how if any of our kids end up being homosexual, that we'll be 100 percent supportive and want them to be happy. These young people in the balcony, they're the ones who are going to be making decisions very soon about where they want to go to college and where they want to spend the rest of their lives. We should be listening to them and considering their concerns. There were many young people out in the lobby from around the state that I was very proud and happy to see. And the one thing I've shared with all these students and folks who come to visit, saying even, you know, if we don't get the votes here, if we can't end this filibuster, I tell them about how back in 2007, I was a brand-new legislator, and had to go in for emergency surgery to get my appendix taken out. Well, two days later it was important enough for me to come here to the Capitol and vote on this very bill, when it was Senator Chambers', to get it out of the committee and onto this floor. How many votes did we end up having? 15. I just looked it up in the record and that's how many people voted no

Floor Debate
April 07, 2014

against a motion to indefinitely postpone it. Only 15. Here we are seven years later and we are so close. We have the votes to pass this but we may not have the votes to end the filibuster; but we are almost there. So I tell these young people who come and visit in the balcony and out in the lobby that we're just a couple years away from this. It's going to happen. And so senators here today can make a choice about whether to join in this now and make history now or continue to see the change happen anyway over the next couple of years and be on the wrong side of history. Thank you, Mr. President. [LB485]

SENATOR KRIST: Thank you, Senator McGill. Senator Dubas, you are recognized. And still in the queue, following Senator Dubas: Senator Nelson, McCoy, Christensen, Schumacher, Conrad, and Kintner. Senator Dubas. [LB485]

SENATOR DUBAS: Thank you, Mr. President. It's good that I follow up where Senator McGill left off, because many of my comments dovetail into what she said. You know, the Civil Rights Movement, you know, was born in the 1950s, and it was due to very blatant discrimination, segregation, and outright violence against our black Americans. They held nonviolent protests and acts of civil disobedience. And finally, in 1964, the Civil Rights Act that banned that discrimination on race, religion, color, or national origin was passed. We had laws at the time that still supported segregation and disenfranchisement, and to a degree still have some of those laws in existence. And as much as we are proud of our melting pot heritage, it has not come without pain and violence. By our very human nature we fear and reject what we don't know and what we don't understand. But this conversation, this debate today is so important to facilitate that understanding. This conversation today shines a light on a topic that has just not been elevated to the degree needed. Civil rights have not changed over the years without such public debate. Homosexuality is not a choice. It's not a lifestyle. It's simply who people are, who deserve basic civil rights. It's been referenced that the proponents seem to be contributing more to this filibuster than the opponents, and under normal circumstances that wouldn't happen. But this bill is not normal circumstances. This bill affords us this opportunity to talk about what LB485 means to Nebraska and to citizens across this state, and in particular, members of the LGBT community who do have to deal with discrimination, who do have to hide who they are if they don't want to lose a job or if they want to get a job. We have communities across our state who are working to end such discriminatory practices. The city of Grand Island has employment protections for sexual orientation. It's often been said at the federal level that the states are really the great laboratory of legislation, and the federal government would do well to follow the direction of state government. Well, I think something similar could be said about local government, because it's local governments who are showing us the way at the state level to what can and should be done when it comes to protecting the rights of our citizens across this state. I'm very appreciative of this conversation. I'm very appreciative of having the opportunity to raise the level of importance of LB485 and to be able to let citizens all across this state know that members of the LGBT community

Floor Debate
April 07, 2014

really are valued members of our community. They really can and do contribute to the well-being of our state. And we want those who live here now to feel welcome, and we want those who have made the decision to move away because they haven't felt included, to know that we want them back because we know what they have to offer us. And, you know, we talk about growing our state and growing our population. And this is a great opportunity for us to open that door and to bring people back that want to be here, that want to live with their family and friends and be a part of the economic vitality that we know... [LB485]

SENATOR KRIST: One minute. [LB485]

SENATOR DUBAS: ...and appreciate in Nebraska. So I think this is a great conversation. I've appreciated the opportunity to keep the discussion going and hope that people all across the state are listening to LB485 and will join in the conversation with us. Thank you. [LB485]

SENATOR KRIST: Thank you, Senator Dubas. Senator Nelson, you're recognized. [LB485]

SENATOR NELSON: Thank you, Mr. President and members of the body. I'm going to continue my discussion and my opposition to AM2111 and to LB485. I just simply have to disagree with my good colleague, Senator Dubas. We have a different viewpoint on many of these issues here. There are a great many of us, perhaps in this body, that feel that sexual orientation is a choice; it is a lifestyle. And I do agree that we value our LGBT citizens. We value them because they go into the workplace, they find good jobs, they maintain those jobs, they support their families, they have families. I still have not seen any evidence-based data or heard anything on this floor that says that these persons are being fired or losing their jobs or not being hired because of their sexual orientation or their gender identity. I think it's interesting in light of the discussion that we've had on where the church stands, that we have a number of Catholic colleagues here, but there are also Protestants. I think that Senator Crawford is a Protestant and so am I, and I think it's ironic then that we are the ones that are perhaps stating for the record what the Catholic church at this time believes. Let me read from Pope Francis' "Apostolic Exhortation: Evangelii Gaudium." "New patterns of behavior are emerging as a result of overexposure to the mass media. As a result, the negative aspects of the media and entertainment industries are threatening traditional values, and in particular the sacredness of marriage and the stability of the family." "The process of secularization tends to reduce the faith and the Church to the sphere of the private and the personal. Furthermore, by completely rejecting the transcendent, it has produced a growing deterioration of ethics, a weakening of the sense of personal and collective sin, and a steady increase in relativism. These have led to a general sense of disorientation, especially in the periods of adolescence and young adulthood"--the persons that are under 45; I inserted that--"which are so vulnerable to change. As the bishops of the

Floor Debate
April 07, 2014

United States of America have rightly pointed out, while the Church insists on the existence of objective moral norms which are valid for everyone, there are those in our culture who portray this teaching as unjust, that is, as opposed to basic human rights. Such claims usually follow from a form of moral relativism that is joined, not without inconsistency, to a belief in the absolute rights of individuals. In this view, the Church is perceived as promoting a particular prejudice and as interfering with individual freedom. (59) We are living in an information-driven society which bombards us indiscriminately with data--all treated as being of equal importance--and which leads to remarkable superficiality in the area of moral discernment. In response, we need to provide an education which teaches critical thinking and encourages the development of mature moral values." There was a footnote in what I just read. It was footnote 59. [LB485]

SENATOR KRIST: One minute. [LB485]

SENATOR NELSON: It's a reference to the United States Conference of Catholic Bishops in 2006. "In fact, the church actively asserts and promotes the intrinsic dignity of every person. As human persons, persons with a homosexual inclination have the same basic rights as all people, including the right to be treated with dignity. Nevertheless, sexual orientation does not constitute a quality comparable to race, ethnic background, etcetera, in respect to nondiscrimination. Therefore, it is not unjust, for example, to limit the bond of marriage to the union of a woman and a man. It is not unjust to oppose granting to a homosexual couples benefits that in justice should belong to marriage alone." "When marriage is redefined so as to make other relationships equivalent to it, the institution of marriage is devalued and further weakened. The weakening of this basic institution of all levels and by various forces has already... [LB485]

SENATOR KRIST: Time, Senator. [LB485]

SENATOR NELSON: ...has already exacted too high a social cost." [LB485]

SENATOR KRIST: Thank you, Senator Nelson. Senator McCoy, you are recognized. [LB485]

SENATOR McCOY: Thank you, Mr. President and members. Before I read excerpts from an editorial from The Wall Street Journal that's from yesterday...or pardon me, I should say this morning's Wall Street Journal, I'm going to point out where we are. I think we, roughly speaking, have about a couple hours left, two and half hours, whatever it is, on this discussion, if the discussion goes that long. I have yet to receive an answer that I made on Thursday, a request to Senator Conrad about the full information and the questions that were asked on the poll that the Human Rights Campaign paid for here in Nebraska. I'd be happy to get all those from Senator Conrad at any point that she wishes to give those to me again. She told me those were not

Floor Debate
April 07, 2014

going to be released to the public but that they had been released to media. And I've talked to a number of members of the media and I'm not aware that they received them either. I think that's important to give a full perspective if we're going to talk about a poll that's been done to have the opportunity for members here on the floor to understand how the questions were asked, what questions were asked, before we talk about statistics and data from such a poll. Now I want to read from a very interesting Wall Street Journal editorial, and I'll read excerpts from it because I think it's actually pretty timely considering the discussion that we're a part of this afternoon. And it's entitled "Blacklisted at Mozilla." "The resignation under pressure late last week by Mozilla CEO Brendan Eich for opposing gay marriage is a disturbing episode for corporate governance as well as for the traditional tolerance of other points of view in American life. Some of our liberal friends have been dismissing our warnings about the politics of personal vilification emerging on the left, but here is a case study. Mr. Eich is a well known technologist who invented JavaScript and in 1998 helped to start Mozilla, which makes the popular Firefox Web browser. The 52-year-old became CEO two weeks ago, whereupon it emerged thanks to California's campaign-finance disclosure laws that he had donated \$1,000 to support Proposition 8. That was the 2008 ballot initiative that defined marriage as between a man and a woman. Voters approved it but the judiciary struck it down. Nothing we've read suggests that Mr. Eich has exhibited any personal bias in the workplace. And he affirmed that he would not change Mozilla's policy of providing the same health benefits to same-sex couples as married heterosexuals. He apologized to anyone who was hurt by his personal beliefs, but he declined to renounce them. The Mozilla board denies that it pressured him to leave, but Mitchell Baker, executive chairwoman of the Mozilla Foundation, said in a statement that, quote, Mozilla believes both in equality and freedom of speech. Equality is necessary for meaningful speech. And you need free speech to fight for equality. Figuring out how to stand for both at the same time can be hard. Mr. Eich's views on marriage are no different than those held by President Obama as recently as 2012, or by Hillary Clinton until last year. The new political censors presumably gave those Democrats a pass because they assumed they were hiding their real convictions until it became politically advantageous to express them. But Mr. Eich is being drummed out of Silicon Valley for having the courage to stick to his." I find this a very interesting episode in business, and... [LB485]

SENATOR KRIST: One minute. [LB485]

SENATOR McCOY: ...thank you, Mr. President, and I think it really illustrates what I have said here on the floor between Thursday and today, what we've heard Senator Smith and others talk about it, that this issue holds a lot...let me rephrase that. This issue is very, very troubling for those of us in the business community, particularly in the small business community. And Mr. Eich was part of a large business organization. But this is a troubling episode to me because Mr. Eich's personal views as a leader of an organization caused him to be drummed out of that organization. I think that's unfortunate. And I think it's unfortunate that we find ourselves having this discussion

Floor Debate
April 07, 2014

today... [LB485]

SENATOR KRIST: Time, Senator. Thank you, Senator McCoy. Senator Christensen, you are recognized. [LB485]

SENATOR CHRISTENSEN: Thank you, Mr. President. You know, a lot of this discussion has come down to this on the hiring and firing. I want to take you to page 16 in the bill, Section 8, and we also have sexual orientation and gender identity added to this section, which deals..."It shall be an unlawful employment practice for an employer: (1) To fail or refuse to hire or discharge, or to harass any individual, or otherwise to discriminate against any individual with respect to compensation, terms, conditions, and privileges of employment." So what is privilege of employment? Immediately going to go to insurance. And if you follow other states and then the challenge is immediately the same-sex marriage. This is a very well orchestrated plan. This is not just on hiring and firing; it's on every aspects of it, like every other state. All we've got to do is read this bill and it's very clear where this is going. And it's very clear what has happened, as I was reading earlier, in some of these cases that the censored traditional family photos to the religious motivated employer down to the disease control and prevention place on...I mean, the bulletin boards being off limits to traditional family issues. This is always turned around and discrimination comes the other way. I wish there was a perfect plan. If you pass this, we're going to have all the other problems they do in other states. If you look at the photography, you look at the cakes, you look at the flowers that's been in other states, your individual businesses are going to be forced to...how can a businessperson be told they have to do business with someone? That's happened in other states. And I don't see the safeguards here that's going to prevent that. And so everything in here needs to be combed through very carefully. I'm going to go to: Catholic Charities forced out of the adoption business in Massachusetts. "Massachusetts law prohibits discrimination based on sexual orientation." "Pursuant to this law, the Massachusetts Department of Social Services regulations forbid discrimination based on sexual orientation as a condition of licensing. Catholic Charities faced a Hobson's choice: either comply with the law or place children with gay couples or lose their license and end their ministry to needy children. Stated another way, either violate their clear Church doctrine and ignore their religious vocation. Either way they must sacrifice a religious commitment." Patricia Wen: "They Cared for the Children: Amid Shifting Social Winds, Catholic Charities Prepares to End Its 103 Years of Finding Homes for Foster Children and Evolving Families,"..."explaining how Massachusetts threatened to revoke the adoption license of Catholic Charities for refusing on religious grounds... [LB485]

SENATOR KRIST: One minute. [LB485]

SENATOR CHRISTENSEN: ...to place foster children with same-sex couples." "Church pulls out of Catholic agencies over gay equality adoption law." "Recounting how the

Floor Debate
April 07, 2014

Catholic church severed its connection--and thus its funding--from three of the top adoption agencies, and noting the Church's statement, its agencies cannot remain both Catholic and conform with the sexual orientation regulations." You can't put in safeties good enough from what the courts will rule and how this will be pushed. This is not just the end of this. It will be expanded. I know they'll say it won't be, but history will show otherwise. [LB485]

SENATOR KRIST: Time, Senator. [LB485]

SENATOR CHRISTENSEN: Thank you, Mr. President. [LB485]

SENATOR KRIST: Thank you, Senator Christensen. Senator Schumacher, you are recognized. [LB485]

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. I've listened intently to the debate that we've had so far, and one particular argument strikes me as being worthy of some comment, and that is that this bill is on the right side of history. And perhaps that's true with respect to the ideas that as far as twenty-first century companies investing in Nebraska or bright young people evacuating the state for more comfortable and accepting areas of the country, but it is not true with regard to one major consideration to which our constitution somewhat speaks. "It shall be the duty of the Legislature to pass suitable laws to protect every religious denomination in the peaceable enjoyment of its own mode of public worship, and to encourage schools and means of instruction." I think it is without doubt that an interpretation of the ancient text of the three great desert religions would lead some people to conclude that the type of legislation we are considering here should not be passed. It would also lead them to conclude that it conflicts with their interpretation of those ancient texts. And so in reading through the bill, on page 15, I think there is the wrong side of history. It says that this particular act "shall not apply to (1) a religious...organization...with respect to the employment of individuals of a particular religion to perform work connected with carrying on...their religious activities." Note, that doesn't say of a particular gender or preference. So this is going to apply to our religions who may adamantly be opposed to it by virtue of their interpretation. Their interpretation may be right, it may be wrong, but it shall apply to them. Then it goes on to say, "Any school...or other educational institution...owned or...managed by a particular religious institution," if that condition is met, if they're a religious institution..."if the curriculum...is directed toward the propagation of...their religion and"--and that's an "and," not an "or"--"the choice of employees is necessary to promote the religious principles." I'm not sure how necessary or unnecessary that "necessary" means. Does it mean a night janitor, a cafeteria cook, or a professor? Not very clear. But clearly, even though a religion may emphatically disagree with gender equality, they are under the ambit of this law. And our constitution as a state and as a nation and the history of man has been to bend over in every way possible to accommodate religious freedom and ideas. Even though they may be far

Floor Debate
April 07, 2014

out, even though they may be becoming outdated or not in vogue, we have an obligation under our constitution to promote their peaceable enjoyment and to promote schools that they have to engender that peaceable enjoyment. And while it may have been appropriate to enter a floor amendment to work on... [LB485]

SENATOR KRIST: One minute. [LB485]

SENATOR SCHUMACHER: ...those particular provisions, they are there. There's no way we're going to get to a floor amendment to fix that bill under these circumstances. But the restriction of religious practice, not by a corporation but by a religion, is clearly interfered with in the present language. And that is on the wrong side of history. Thank you. [LB485]

SENATOR KRIST: Thank you, Senator Schumacher. Senator Conrad, you are recognized. [LB485]

SENATOR CONRAD: Thank you, Mr. President. Good afternoon, colleagues. I am glad I had an opportunity to follow Senator Schumacher's points in relation to some of the business issues surrounding this legislation. And I think Senator Crawford did a tremendous job of working through the legal landscape in relation to those issues, and I want to spend a little bit more time there. But quickly, to counteract Senator Christensen's remarks: Friends, I can't make anybody read the bill and it's not my fault if they don't do their homework. But to be clear, and if you don't believe me read it for yourself, this bill is limited to employment. This is not a public accommodations bill. Nebraska businesses, large and small, will retain a license to discriminate against their clientele and consumers, regardless of LB485. So when you hear stories about cake bakers and photographers and things like this, it's simply not the subject of this legislation. It's conflating and confusing, obstructing and delaying, which is exactly I guess what they choose to do as they move forward on a filibuster. But again we can have a sincere disagreement about these issues, but we should be accurate about the legislation that is before us, and I think that's very important. When it comes to the business support for this legislation, again I think the case is clear: Nebraska businesses, Fortune 500 companies, have recognized it makes good business sense to support diversity and all employees in the workplace. That's why 91 percent of Fortune 500 companies have adopted similar policies on a voluntary level. They recognized not only is it good for recruitment and retention purposes of their employees, but it also sends a strong signal to consumers who want to vote with their dollars about where they want to do business as well. I know that's something that's important to me as a consumer, absolutely. I also want to reiterate and remind you that we had received a letter from ConAgra Foods detailing, from their business perspective, why it was important to support LGBT individuals and employees not only in the workplace but beyond through efforts like this. I want to reiterate for the record yet again that this legislation does not apply to small businesses. That's consistent with other areas of the

Floor Debate
April 07, 2014

Nebraska equal opportunity code and federal law. So according to census data, there's about 41,000 businesses in Nebraska. This exempts out those with 15 employees or less. So about 30,000 small businesses are exempted under this legislation and our other equal opportunity employment statutes. So again, let's be very, very clear about what we're talking about in that regard. Finally, I'll reiterate again the report from the Omaha World-Herald, in March 23 of this year, just a few weeks ago, which evaluating the impact of the ordinance in Omaha, which has been on the books for over two years. Quote: City officials have not received many calls from business owners looking for help or clarification about the new law, and they weren't aware of any lawsuits tied to the ordinance, and have seen just a handful of investigations initiated in line with the national average on this topic and below what's been filed in other areas such as race, gender, and age. So again, you can continue to make claims and include that type of rhetoric, but the facts just don't back it up. And it's not just my experience or opinion. It's the experience and opinion of over 20 states and 180 communities that have moved forward with commonsense legislation like this to update their states' nondiscrimination laws. And let me be very clear: As there was a report from the Center for American Progress, November 2010, that employers--employers--would benefit most directly from this type of legislation, as it creates... [LB485]

SENATOR KRIST: One minute. [LB485]

SENATOR CONRAD: ...thank you, unambiguous employment guidelines that greatly reduce the risk of a discrimination lawsuit. Studies show that employers that institute formal mechanisms for avoiding and dealing with workplace discrimination are significantly less likely to see any initial filings of a lawsuit or investigation by an employee. Employer-initiated efforts to deal with discrimination can work to preempt legal action and reduce a business's legal expenses. So if an employee does decide to sue an employer for discrimination and wins good-faith efforts on behalf of that employer are a wonderful defense to any sort of frivolous litigation in that regard. Friends, my next time at the mike I want to talk a little bit more about some of the comments that Senator Schumacher injected into this debate and whether or not a business can have a religion. Because I have contended throughout the context of this debate that they cannot. They are a legal fiction created for liability and tax purposes... [LB485]

SENATOR KRIST: Time, Senator. [LB485]

SENATOR CONRAD: ...that helps to further the course of conducting business in our state, and nothing more. Thank you, Mr.... [LB485]

SENATOR KRIST: Thank you, Senator Conrad. Senator Kintner, you're recognized. [LB485]

Floor Debate
April 07, 2014

SENATOR KINTNER: Well, thank you, Mr. President. You know, we've had a lot of...I guess the rhetoric I think I've heard today, is well, we've gotten quite a bit of it on the mike here. And, you know, we've talked about being on the right side of history. Well, let's talk about history. During I think the late '70s when I was in high school and during the '80s when I was in college, and on into the '90s, I remember abortion. That was a sacrament of liberalism. If you weren't pro-choice you were on the wrong side of history. You...that was the issue of all issues, and Hollywood was tooting the horn for that. And you know what? Where is abortion? The liberals have moved on to something else now. It's...now, it's gay rights. And I don't begrudge anyone their views. It's a free country. You can have any views you want. But I'm not going to let Hollywood and San Francisco and Seattle and New York define right and wrong for me or define what the right side of history is, since history is always...you know, what looks like the right side now changes. We don't know what Hollywood is going to be trumpeting as the great issue of the day in 20 years. They may move on from this and leave it alone, and, you know, I think conservatives have done a good job of winning the abortion debate. We may, in the end, win this debate too. So to say just because this is a big hot thing that all the celebrities in Hollywood and all the TV shows and movie producers, this is their passion, I just don't think that that's necessarily the passion of the people in Nebraska and certainly not the people in Legislative District 2. So the right side of history? Well, I know what side of history I'm going to be on and I know where I'm going to be for eternity, and I'm not too worried. We've been talking about the bill here a little bit, and, you know, I think the text of LB485 would result in some real ramifications for Nebraska employers. You know, for any organization to be successful in its purpose and mission it must be allowed to employ individuals committed to its purpose. Indeed, employers of all kinds routinely look for employees that possess certain skills, attributes, or beliefs which further the mission of the employer and/or the business. Members of the Nebraska Legislature, for, you know, routinely employ these principles. For example, you know, we hire people quite often who share and embody our political beliefs and aspirations to work in our very offices. Yet the proposed legislation that we're talking about right here fails to protect the constitutionally guaranteed right to the free exercise of religion of these individuals and businesses who desire to hire individuals consistent with their religious beliefs or their business practices. You know, LB485 would force those individuals and businesses to choose between violating their conscience and facing punishment by the state. Remember, the heavy hand of government, at the end of a gun we will force you to do something. That's what the state does. Coercing religious organizations or people of faith to hire employees who do not share their beliefs or mission would be grossly disruptive and destabilizing... [LB485]

SENATOR KRIST: One minute. [LB485]

SENATOR KINTNER: ...to those organizations. And, you know, I listened to this entire debate and people have talked about these gays and LGBT community are valued members of our community; we need to pass this law. Well, I don't disagree that they're

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
April 07, 2014

valued members of the community. But the law doesn't mean that they are any more valued or any less valued. It's simply means we add another special class of people to our discrimination laws. Thank you, Mr. President. [LB485]

SENATOR KRIST: Thank you, Senator Kintner. Senator Carlson, you're recognized. [LB485]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. And this is the first time that I've spoken on LB485, and in listening and reflecting back over eight years in the Legislature, we've had a lot of difficult discussions over this period of time, things that are discussed that it's very, very difficult to come to what you believe is the right conclusion. I remember a bill in 2007 that was similar to this, and three of us stood up and spoke against it. And the next day in one of the papers there was a cartoon that had the three of us dressed as Ku Klux Klan members, because of our attitudes concerning that bill. I remember vividly, my first year, the long discussion we had on whether or not to eliminate the death penalty. A very emotional, serious discussion. I remember well, about three years ago the bill that prevented abortions after 20 weeks. And that one was a very civil discussion through the entire debate. I appreciated Senator Conrad's attitude during that discussion because I knew where she was on it, and yet the entire discussion was very, very civil. I was very interested in Senator Campbell relating the experience with her father-in-law and what he had to say about Dick when he asked questions about whether or not to hire somebody. And that was a wise decision because the decision was this person would be a good employee. This person had the skills necessary to do the job, and that what else mattered. And if I'm hiring somebody, I don't even want to talk about this. I want to determine whether or not that individual would be a good employee. I remember in my first year that there was a page here that I got a little bit acquainted with, and he ended up telling me that he was gay and that he was really upset with me because of my discussion on the bill that we debated at that time. And I had told his mother what a good page he was and how he had done his job very, very well; and that didn't change because of his attitude toward me. I was disappointed in his attitude toward me because I simply didn't agree with him and therefore I was wrong. You know, sarcastic remarks toward one another, toward another person, is wrong. Behavior to minimize another person's character is wrong. Intentional belittling of a human being is wrong. Remarks to intentionality embarrass another person is wrong. People have to change behavior. A law won't do it. People have to change their attitudes. A law won't make that change. Individuals have to change how they treat those of a gay or a lesbian lifestyle. A law won't make it happen. [LB485]

SENATOR KRIST: One minute. [LB485]

SENATOR CARLSON: New laws don't change attitudes about those with an alternative lifestyle. People have to decide to change their attitudes. New laws won't change

Floor Debate
April 07, 2014

attitudes or behaviors. People must change. Sexual behavior should be a private matter. I heard that comment made earlier today, and I believe it. New laws won't assure that. And I think that I'm about out of time and I'll hit my light and talk again to finish my thoughts on this. Thank you, Mr. President. [LB485]

SENATOR KRIST: Thank you, Senator Carlson. Senator Lathrop, you are recognized. [LB485]

SENATOR LATHROP: Thank you, Mr. President and colleagues. Good afternoon. I have yet to speak on this and I feel like I should. I should be clear about where I am coming from and what my view is. I'm going to support LB485, and I've listened to these discussions for eight years. People, when we get to something we want to characterize or frame as a moral issue, we stand up and slice off a little bit of some Christianity principle, and then we try to stand there and talk like we are right; Jesus is on our side. I am a practicing Catholic and I grew up in a neighborhood, Holy Name Parish. It's a working-class neighborhood, and perhaps because it's a working-class neighborhood most of the sermons I heard were not about judgments. I don't understand the version of Christianity that allows people to think they speak God's word and the word of Jesus Christ as they judge people. I don't know where, because I started out with the Redemptorists priests at Holy Name, I went to an all boys Catholic high school run by the Christian Brothers, and then ended up a Creighton, where I spent six years in undergrad and law school, and I don't know where I got my convictions. But I'll tell you what, I'll tell you what I think my faith teaches me, and that is to appreciate the dignity of every person. And you know what? That isn't easy. That isn't easy. For me it means working against the death penalty because I have to recognize according to my faith the dignity of those people in prison, even people that have done horrendous things. That's really recognizing the dignity of another person. And it means that I'll recognize the dignity of someone with a developmental disability when it would be easy to put them someplace and ignore them and not provide for their needs, or the elderly or someone I disagree with. You know, there are a lot of Catholics who view the new pope with some who are from the old school that think the only moral issue in politics is abortion, and they're troubled by the words of our new pope. But I can tell you, my take on the teachings that come from this new pope is it goes back to recognizing the dignity of every single human being. Folks that are gay or lesbian, whatever their...whatever...they come hard-wired that way. You know, when we talk about abortion, we say each one of those people is an individual from the day of conception and they carry out God's plan. And maybe we should qualify that with an asterisk that says "unless they're gay." These people don't learn to be gay. No one would choose a lifestyle that comes with a judgment that we've heard here over the last two days. This is who they're put on the earth to be. And will we recognize their dignity and allow them to work? Senator Carlson, that page could be fired... [LB485]

SENATOR KRIST: One minute. [LB485]

Floor Debate
April 07, 2014

SENATOR CARLSON: ...for no more reason that he's gay. That page could have been fired for no more reason than he's gay, notwithstanding doing a good job, notwithstanding the fact that he's doing a good job. If you want to talk about faith, you can talk about your faith. But I've heard it all in eight years. I've heard it on the death penalty. I've heard it on the developmental disabilities. I hear it on the abortion. And my faith recognizes the dignity of every single person and I don't know how we could more recognize and appreciate their dignity than to allow them to work at a job they choose and not be fired for the way God put them on this earth. Thank you. [LB485]

SENATOR KRIST: Thank you, Senator Lathrop. Senator Nelson, you're recognized. [LB485]

SENATOR NELSON: Thank you, Mr. President, members of the body. Always hard to follow Senator Lathrop when he has time to think for a long time and then speaks so well. I, too, believe in the dignity of every individual. I've been that way all my life ever since I've been a young person. But Senator Lathrop concluded with saying, I don't know why anybody should be fired or dismissed because they're gay or have gender identity. I still come back to that. I haven't seen any proof that that is happening. We hear a lot about fear. It's all perception. And I think because of the fact whether you recognize that you're different or not, accept that, whether you were born that way or whether it's a choice on your part, there is a difference and there is perception. And it seems to me that it's up to that individual person to hold a job, to do the very best job he or she can, and then there's no reason for being fired or being dismissed unless there's a work layoff or something like that. So dignity is important. But I don't think that's particularly related with what we're dealing with here. Let me pursue, we talked about behavior in connection with sexual orientation. Let's take a look at gender identity which is even more amorphous than sexual orientation and, thus, an even worse candidate for inclusion in LB485 and the amendment. Gender identity includes one's internal subjective self-perceptions, regardless of his or her biological sex. This definition invites conflicts with the privacy rights of other employees, including, for example, individual expectations regarding appropriate rest room use. It has already been litigation...there has already been litigation on this very issue in other jurisdictions. I've been back and forth, but I think I heard Senator Conrad say that this doesn't involve the use of rest rooms and public accommodations. But let me tell you, if we pass this bill, it won't be long before that's what's going to happen. That will become a requirement. I'm going to base that on a Minnesota case that goes back a few years, decided by the Supreme Court of Minnesota, called Goins v. West Group, and that's West Publishing up there which are out in Eagan. And this was on review and the Supreme Court there in Minnesota reversed the appeals court. Goins claims that West discriminated against her based upon her sexual orientation by designating rest rooms and rest room use on the basis of biological gender in violation of the Minnesota Human Rights Act, and they referred to it later as the MHRA. Respondent Julianne Goins was designated male at

Floor Debate
April 07, 2014

birth and given the name Justin Travis Goins. But Goins was confused about that sexual identity throughout much of childhood and adolescence. Since 1994, Goins has taken female hormones, and with the exception has presented...well, I don't know what the exception was. I don't have...on the exception of one occasion has presented publicly as female since 1995. In October '95, a Texas court granted Goins, who we shall refer to her after this point, petition for a name change as well as a request for a gender change... [LB485]

SENATOR KRIST: One minute. [LB485]

SENATOR NELSON: ...from genetic male to reassigned female. Goins identifies as transgender or transidentified. I don't have time to read what the court says, but it boils down to this: This was a large corporation. They had a human resources department and they decided that they were going to enforce the policy of rest room use according to biological gender. Goins was opposed to that. She continued to use the women's rest room even though she was a man genetically...or a man. This caused disruption in the workplace and it caused a real problem. The result was that because she continued to use that, then she was dismissed, for good reason, for violation of the written policy and what was decided by HR. And she filed suit. I think that will happen in Nebraska if we adopt something like this, because you can go from where we are as far as invidious, what might be called invidious discrimination, which I'm not sure exists... [LB485]

SENATOR KRIST: Time, Senator. [LB485]

SENATOR NELSON: Thank you. [LB485]

SENATOR KRIST: Thank you, Senator Nelson. Senator Wallman, you're recognized. [LB485]

SENATOR WALLMAN: Thank you, Mr. President and members of the body. I, too, have been listening to this, and when you joined in the service, in the Army, nothing to fear but fear itself, and you're going to be put in some tough situations. So did we discriminate in the military way back when? No, Mr. Speaker, we didn't. Did we have some of the opposite gender in our outfit? Sure. They were good. So why should we vote for this? It sends a message that we are fair and just for our citizens. And the church may take a little bit of view. I, too, confess every Sunday. And the laws were made in the church as also the Bible tells different things, different areas. I mean, it's always changing when you read and read and read again, you're going to get a different perspective. Unless somebody else tells you what to say or hear or believe, it has to come down to yourself, what you believe. And I'm not going to hammer anybody how they vote here. It's how you believe. And my belief has changed tremendously over the last seven and a half years, thanks to somebody standing behind me. He gave me a social conscience which before was kind of iffy. So thank you, Mr. President. [LB485]

Floor Debate
April 07, 2014

SENATOR KRIST: Thank you, Senator Wallman. Senator Hansen, you're recognized. [LB485]

SENATOR HANSEN: Thank you, Mr. President, members of the Legislature. I was the new guy on the Business and Labor Committee the last two years and really enjoyed serving on there. And I do attend a Bible study weekly that tells us that there should be a difference or a split or a division of government and religion, but it's not a split between a freedom from religion. So I have no problem speaking my faith, but at this time I would like to go back to just what we talk about in Business and Labor a lot of times. And this came from the introducer's statement of intent on LB485 in that the current law prohibits discrimination based on race, color, religion, sex, disability, marital status, or national origin, and that's where it stops. But it does include sex, and this is the part that I can't understand why we would go above and beyond this description of what a discrimination is. We get a prospective applicant to come to a business. I've hired a lot of people over my years. We've only employed five at a time but...besides my son and I and my father before he passed away. But we only had five hired people or people on wages at any one time. So we have a prospective candidate come and we talk and we interview several, so we hire the best candidate on the list. Sometimes it's a short list; sometimes it's several. But we hire them on the qualifications that they have. Next comes the work, and they start working and training, and we train the people to what...the way we do things. It's not our way or the highway but usually pretty close if we're paying the bills and we're taking care of the cattle in a certain way and we want it...we don't want it done too much off of that, off of that tradition. When a person doesn't live up to his expectations, his or her expectations, we are in an at-will state and can be fired for not doing their job. With the advent of LB845...LB485, sorry--I've got the right numbers, just the wrong order--now we're talking about someone that can come back and sue us for a discrimination suit that we had no idea was even there. I mean, we were blindsided, feel like we could be taken advantage of, does not earn any respect from me or my son for blindsiding either one of us. And I've been contacted by several small employers in my district about that very same thing. A co-op in Lincoln County called me about it. A floral shop with...I'm not sure, I've never seen a floral shop with 16 employees or more, but maybe in a big floral shop. I'm not sure. But there's a lot of small businesses with 16 or more employees that I think this would be a problem for. Senator Gloor, would you yield? [LB485]

SENATOR KRIST: Senator Gloor, will you yield? [LB485]

SENATOR GLOOR: Yes, I would. [LB485]

SENATOR HANSEN: Thank you, Senator Gloor. We talked a little bit about this off the mike and I still have some questions about county hospitals. There are several hospitals...and I'm not familiar with county hospitals at all. I've never been to one. I don't

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
April 07, 2014

know how they're formed at all. But do you know, could you tell me who owns a hospital if it's a county hospital? [LB485]

SENATOR KRIST: One minute. [LB485]

SENATOR GLOOR: Well, my hospital wasn't a county hospital either, but my assumption, that a county hospital is probably owned by the county, which means it's owned by the public. [LB485]

SENATOR HANSEN: And so the person who runs the hospital would be a county employee too? [LB485]

SENATOR GLOOR: That's usually the case unless there's a contract, yes. [LB485]

SENATOR HANSEN: And the board is a board of not county employees necessarily but volunteers more than likely. [LB485]

SENATOR GLOOR: Well, it could get a little... [LB485]

SENATOR HANSEN: Is that right? [LB485]

SENATOR GLOOR: ...it can get a little more complicated than that, Senator Hansen. But in general, certainly those boards usually, that I'm familiar with, not all but the ones that I'm familiar with, are appointed by the county or at least they put their stamp of approval on those boards. [LB485]

SENATOR HANSEN: Right. And one other...I guess a similarity would be an NRD, and I do know that an NRD, they are an elected board. No one can come by and sue the NRD. They have to sue the individual board members and I just... [LB485]

SENATOR KRIST: Time, Senators. [LB485]

SENATOR HANSEN: Thank you, Mr. President. [LB485]

SENATOR KRIST: Thank you, Senator Hansen and Senator Gloor. Senator McCoy, you're recognized. [LB485]

SENATOR McCOY: Thank you, Mr. President, members. I want to open up AM2111 and talk about a few things this afternoon in this time on the microphone, because I don't recall that in the last six hours or so of discussion on this that we've talked about this and I believe that we need to. If you look on page 15 of AM2111, the underlying amendment, is where you will find the religious exemption, and if you go back to what's in Title VII, federal statute on a religious exemption, you'll find that the language on

Floor Debate
April 07, 2014

page 15 of AM2111, starting in line 16, doesn't match up and that, perhaps, is why Senator Conrad, in her opening at the committee hearing on LB485, was very careful to highlight that this is a limited religious exemption. I've said many times we have a lot of very, very capable legal minds in this body, both as members of our Legislature and we have many very talented legal minds on staff and in other positions in this building. I'm not one of them. I have a lot of respect for those that do. So I look at this as a layman would look at this and as how a business owner would look at this, and I find this very troubling. Starting on line 16 of page 15 of AM2111, and if you were to pull up Title VII, and I'm looking at both. I understand some of you...most of you probably are not but you could look this up same as I did. You'll find that the word, where it talks about a "religious corporation, organization, association, or society," "organization" is not mentioned in federal statute as in a religious organization, nor, unless I've missed it, is there a definition of what a "religious organization" is either in this bill, AM...which is represented in AM2111, or otherwise in statute, unless I've missed it. In addition to that, on...starting in line 19 with the word "of," "of its religious activities," that also is not in Title VII of federal statute. Down on page...or, pardon me, on line 24, still on page 15 of AM2111, where it says "Any school, college, university, or other...", "this would be starting on line 21, "Any school, college, university, or other educational institution if such educational institution is, in whole or in part, owned, supported, controlled, or managed by a particular religion or by a religious institution," in AM2111 the word "and" is there. In federal statute it says "or," "or if the curriculum." In AM2111 it says, "and if the curriculum of the educational institution is directed toward the propagation of a particular religion." Again, federal statute says, "or the choice of employees is necessary to promote the religious principles for which the educational...", "it goes on. [LB485]

SENATOR KRIST: One minute. [LB485]

SENATOR McCOY: Again, that's been changed to "and." Members, I think it's important to recognize that the religious exemption in AM2111 is a higher hurdle than what is in federal statute. That has, to my knowledge, has not been touched on in six hours of debate on this issue. I think that is disconcerting at the least and gravely troubling, and in my view more like it. Why is that? Why would, if you're going to put a religious exemption for this in this legislation, would it not mirror federal statute under Title VII? Those that support this bill... [LB485]

SENATOR KRIST: Time, Senator. Thank you, Senator McCoy. Senator Christensen, you're recognized. [LB485]

SENATOR CHRISTENSEN: Thank you, Mr. President. I thought I'd address a comment made ahead of lunch a little bit that was made: When did you decide to be a heterosexual? You know, I think before you can even get there you got to answer another question: Whom did I decide to date or whom did I decide fits my criteria of

Floor Debate
April 07, 2014

whom I wanted to spend the rest of my life with? I chose Kathy, my wife, to be my partner for a lifetime, the same way each one of you choose whom you date or whom you choose to marry or to live with or to partner with. It isn't just we're hard-wired. It is decisions that we make. There is no way you can tell me the day I was born it was Kathy I was going to marry. Them aren't hard-wired things. Them are decisions that we make as we go through our process of life, the same way it's decisions that homosexuals make to whom they want to be with. You know, it is a process they go through, the same as heterosexuals. This is not something you're hard-wired. I still haven't seen any evidence presented of a genetic gene for homosexuality or genetic gene for heterosexuality, because that's not the way we're hard-wired. And that's why I read that identical twins prove homosexuality is not genetic. Again, I'm going to go through it because I think it was that important. Eight major studies of identical twins in Australia, the United States, and Scandinavia during the last two decades all arrived at the same conclusions: Gays are not born that way. At best, genetics is a mere minor factor, says Dr. Neil Whitehead. Whitehead worked for New Zealand government as a scientist/researcher for 24 years and then spent 4 years, United Nations, and on and on. But what he found: Identical twins have the same genes or DNA. They are nurtured in an equal, prenatal condition. If homosexuality is caused by genetics or prenatal conditions and one twin is gay, the co-twin should also be gay. Because they have identical DNA, it ought to be 100 percent, Dr. Whitehead notes, but the studies revealed something else. If an identical twin has the same-sex attraction, the chances the co-twin has it are only about 11 percent for men and 14 percent for women. Because identical twins are always genetically identical, homosexuality cannot be genetically dictated. No one is born gay, he notes. The predominant thing that creates homosexuality in one identical twin and not in the other have to be postpartum...post, sorry, postbirth factors. Dr. Whitehead believes same-sex attraction is caused by nonshared factors, things happening to one twin but not the other, or personal response to events... [LB485]

SENATOR KRIST: One minute. [LB485]

SENATOR CHRISTENSEN: ...by the one twin and not the other. Thank you, Mr. President. For an example, one twin might have been exposed to pornography or sexual abuse but not the other. One twin might be interpreted and respond to their family or classroom environments differently than the other. These individuals' response to random events are common environmental factors predominantly, he said. The first very large, reliable study of identical twins was conducted in Australia in 1991, followed by a large study in the United States in 1997. Australia and the United States conducted even more studies in 2000, followed by several studies in Scandinavia, according to Dr. Whitehead. Twins registers are foundations of modern twin studies. They are very large and exist in many countries. A gigantic European twin registry... [LB485]

SENATOR KRIST: Time, Senator. [LB485]

Floor Debate
April 07, 2014

SENATOR CHRISTENSEN: Thank you, Mr. President. [LB485]

SENATOR KRIST: Hold on a second. This is your third time, Senator Conrad. You're recognized. [LB485]

SENATOR CONRAD: Yes, very good. Thank you, Mr. President. Good evening...good afternoon, colleagues, not quite evening yet. I do want to visit briefly about some of the concerns that opponents have brought forward in regards to the technical language, because, believe me, I'm always open to improvements on this or any other piece of legislation. But let's do be clear with what we're talking about here and opponents need to be intellectually honest in those debate points as well. They've never once said that this was about technical concerns. They are substantively opposed to LB485 no matter what it looks like. So that being said, we can have a disagreement of opinion in that regard, but they're not rising in opposition and bringing forward studies about how or why people are gay or asking for a license to discriminate because of technical concerns with the legislation, so let's be very, very clear about that. Additionally, if you do look to page 15 of the committee amendment, which Senator McCoy is concerned about, the language in particular that he is concerned about is not new language. As you know, in our process the underlined language indicates what the legislation is attempting to do, the language without a strike-through or an underline is what already exists in state law. So he's got some concerns with what already exists in state law, not really the substance of the committee amendment in AM2111. Additionally, we've worked very hard with committee staff and with advocates to ensure exactly what the committee amendment attempts to do, it does. And what it does is it's consistent with federal law and it's also consistent with the Omaha ordinance which was adopted on this very topic and that provides a clear religious exemption to not only churches but also schools and also other organizations. So again, we have that in place, which I think strikes an appropriate balance between respecting religious differences on this topic and providing an exemption, which has worked well in the Omaha case and in other communities that have utilized the same language. So to be clear, the language he's concerned about is not new language. The language does, to the best of its ability, mirror what's already been adopted in federal law or in Omaha to ensure a consistent and uniform level playing field for ease of application. And in some ways our religious exemption is actually broader than what's offered in Title VII, so I think that people might want to check their sources in that regard. Additionally, I do want to talk a little bit about some of the stories behind the heartbreaking statistics on this. We know from national studies that 15 to 43 percent of lesbian, gay, bisexual, and transgendered citizens have experienced workplace discrimination. We know from studies in Nebraska that that number demonstrates an unemployment rate of 9 percent, which is much higher than what we've seen in the general population. We also know from the UNMC report just in 2012 that employment discrimination was sizeable for this community and it's possible, as they conclude, that a lack of legal protection does have negative outcomes for LGBT persons in an economic and public health perspective. So knowing that the research is

Floor Debate
April 07, 2014

clear, not only locally but nationally on this topic, I want to talk about some of the brave citizens who came forward and shared their stories at the committee level and beyond. I want to talk about Guillermo Pena, who testified that: In every single job experience I've had, I've had to lie, I've had to hide. I want to talk about my friend,... [LB485]

SENATOR KRIST: One minute. [LB485]

SENATOR CONRAD: ...Lucas Peterson, thank you, from Lincoln, Nebraska, who talked about being subjected to discrimination when he was at college, when he was in college in Crete and working at a fast-food restaurant and the employer told Lucas that he did not condone his unmoral behavior and he questioned his character when he found out he was gay, and he was fired. I want to talk about the stories that Tyler Richard of Lincoln, the president of Outlinc, brought forward from our community. David, a gay man who let us know that: Laws do more than prescribe behavior, they also send messages; I get the message I don't belong in Nebraska. I want to talk about Ian Will, who came forward to talk about his experience where he recently had the opportunity to change jobs, and as a gay man he found this hard. He just wants to work. I want to be a private citizen. I want to contribute to society. I want to be productive. Under the current law, I have to lie. I didn't choose to be gay. I don't want to be gay, but I am and I can't change that. [LB485]

SENATOR KRIST: Time, Senator. [LB485]

SENATOR CONRAD: Thank you, Mr. President. [LB485]

SENATOR KRIST: Thank you, Senator Conrad. Senator Burke Harr, you are recognized. Senator Nordquist, you're recognized. [LB485]

SENATOR NORDQUIST: Thank you, Mr. President, members. A few points I want to make: First of all, I'm certainly not a geneticist and will not be playing one on the floor of the Legislature, but I will try to correct the record when there is some misinformation spread. And, Senator Christensen, there's been research in recent years that show identical twins are not always genetically identical. There certainly are mutations that take place and research shows that there could be as many as millions or billions of genetic differences between identical twins. So the research that Senator Christensen keeps citing, I don't know what the date is on that research. But clearly in recent years there's been a lot of evidence to dispute the fact that identical twins are truly identical. And also there's a lot of research that show that different chemicals react differently and suppress different genes. So just even if they were truly identical, different people's inputs into their body, environment can have huge, huge effects on their genetic makeup in which genes act and which don't. Shoot, Senator Nelson is not on the floor. Senator Nelson was reading a part of a...and I think it was an encyclical by Pope Francis and I just wanted to point out how we are kind of picking and choosing which

Floor Debate
April 07, 2014

writings of Pope Francis we're going to choose. I certainly did not hear Senator Nelson talk about the one from last November in which Pope Francis decries trickle-down economics and says that: Some people continue to defend trickle-down economics, which assumes economic growth encouraged by a free market will inevitably succeed in bringing about greater justice and inclusiveness in the world. This opinion, which has never been confirmed by the facts, expresses a crude and naive trust in the goodness of those wielding economic power. He also goes on to say, I beg the Lord to grant us more politicians...he doesn't end there. He goes on. No, he's doesn't...he's not begging the Lord for more politicians. I beg the Lord to grant us more politicians who are genuinely disturbed by the state of society, the people, the lives of the poor. It is vital that government leaders and financial leaders take heed and broaden their horizons, working to ensure all citizens have dignified work, education, and healthcare. I thought it was important that if we were going to be reading the words of Pope Francis that we would read a little more complete...a little more complete amount of his writings. Senator Conrad was just hitting on a great point of who's affected by this. You know the opponents have said time and time again we're not hearing these stories, we're not hearing them. It's like they're putting their fingers in their ears and screaming as loud as they can because they don't want to hear it. We've seen it. Every time this bill has been before the Judiciary Committee there's been stories come forward. They've told it. We've seen research on it. I've said in my opening last week, I've sat down with a handful of constituents and even a close friend who was fired for being gay. It's happening. But, folks, do you really think that without this protection in place these people are going to come forward? They would lose their jobs, they certainly could lose their jobs, certainly could be passed over for promotions, could be demoted. I don't know how we get around what Senator Lathrop said, the dignity of the human being. There's not much more that shows the dignity of the human being than letting them participate in the economy and provide for themselves and their loved ones. Mr. President, how much time do I have? [LB485]

SENATOR KRIST: Forty-four seconds. [LB485]

SENATOR NORDQUIST: I'll end there. Thank you. [LB485]

SENATOR KRIST: Thank you, Senator Nordquist. Senator Brasch, you're recognized. [LB485]

SENATOR BRASCH: Thank you, Mr. President, and thank you, colleagues. I've been listening very closely to everyone here on the floor this afternoon, this morning, on Friday, and looking at many of the e-mails I've received and thinking what the problem is here, what is the problem. Do we need to make more laws, more intensive laws, more punishment, more ways to try to zoom in and look closely, microscopically at how we treat others? And will this, by adding sexual orientation, will this piece here create that culture, that welcoming place that everyone said they want Nebraska to be? Will

Floor Debate
April 07, 2014

this...adding this in here make this state a state that is by far the best place to live in the United States and in the world? And I started to look at my computer here and I discovered there's a Web site that there is a project called The Virtues Project, and it's simple ways to create a culture of character and by trying to create better people, perhaps we treat each other better. Instead of having legislation that would create more litigation for businesses that maybe we should have litigation that would mandate virtues. That they say that in the world's...in all of the world's religion there are 360 virtues and they have found 52 that are common that would make everyone feel comfortable--perhaps we're leaving a group of people out--and then that way we don't have to come back here a year from now or someone ten years from now. And just to highlight what people are looking for that law cannot provide or maybe we should make it provide, but we need to provide compassion, consideration, cooperation, courtesy, we're losing courtesy, diligence, enthusiasm, flexibility, forgiveness, friendliness, generosity, gentleness, helpfulness, honesty, honor, humility, integrity, joyfulness, kindness, love, moderation, patience, purposefulness, reliability, thankfulness, tact, trustworthiness, understanding, and unity. Perhaps laws need to start promoting that. Let's start with common courtesy. Maybe that would make a better workplace. Let's mandate everything into a workplace possible that not one group, one person, one soul would feel unwelcome or unwanted. Would that be a better law? There's other cultures, many other cultures, many faiths, and today we are saying that the individuals who are gay or transgender are not feeling welcome. Well, if we would enact all of these 52 virtues, maybe the 360 virtues as an amendment here so everyone in the workplace feels comfortable, and outlaw... [LB485]

SENATOR KRIST: One minute. [LB485]

SENATOR BRASCH: ...you know, potential harm, maybe that's what we need to do. It is overwhelming to hear individuals concerned on what effects this would have and on the e-mails we're also receiving saying that they are being hurt in one way or another but they are not gay or lesbian. What about outlawing adult bullying? You know, that maybe should be a law as well. Before we start going into changing laws and not knowing what the consequences will be and how it will affect moving forward, perhaps unspoken laws involving some of these 52 virtues or the 360 virtues would take care of the issues at hand. Thank you, Mr. President, and thank you, colleagues. [LB485]

SENATOR KRIST: Thank you, Senator Brasch. Senator Ken Haar, you're recognized. [LB485]

SENATOR HAAR: Mr. President, members of the body, I'd like to give my time to Senator Conrad. [LB485]

SENATOR KRIST: Senator Conrad, 4:54. [LB485]

Floor Debate
April 07, 2014

SENATOR CONRAD: Thank you, Mr. President. And thank you to my good friend, Senator Ken Haar, and thank you for your support in the time that you've provided during the course of this debate. I will definitely miss you next year, Senator Haar. I wanted to continue telling another story that was presented at the Judiciary Committee level from another Nebraskan who I've had the privilege to become acquainted with during the process of working on this legislation, and his name is Todd Ruhter and he's from Grand Island, Nebraska, and I want to share some of the testimony that he shared with the Judiciary Committee. Todd is a lifelong Nebraskan, has resided in many other states and has had a diverse spectrum of employment, including working on a small family farm, as a server and a bartender while studying at UNL, and then moving to DC to work for a lobbying firm, later worked in the hospitality industry in Seattle and Denver but returned back to Grand Island to be closer to his family. And as he stated, quote: I became acutely aware of the fact that no matter how good I became at my job, no matter how much money I invested in my education, no matter how productive and loyal I was to my employer, no matter how much I contributed to my community, as a gay man I always risk of losing my job should my employer determine their dislike for my being gay their incorrect assumption that my gayness somehow overrides my qualification and dedication to both my job and my community. Every day gay and lesbian Nebraskans live a life of insecurity. And quoting Todd, "I have personally experienced the cost and consequence of being excluded from employment because of my sexual orientation, not my ability to perform my duties." Friends, I think that those citizen statements are powerful and brave, particularly as these citizens come forward to talk about themselves in a very personal way and their experience in the work force and their experience in a state which has not been very welcoming to them overall with the adoption of our Defense of Marriage Act and the inaction by this body over the course of 14 years to pass basic employment nondiscrimination laws. You know, but the good news is the path to progress, while rarely linear, is generally forward moving. And I talked about this a lot in my closing statements last week. And we're making progress in Nebraska and we're going to continue to make progress in the Nebraska Legislature and on equality issues as a whole moving forward. And when we fail to act, thank goodness our friends in the judiciary will take up the cause and will ensure that all citizens have equal rights, and we're seeing that happen right now with marriage equality, which I'm very, very thankful for. But let's do talk about the progress we've made in Nebraska wherein the city of Omaha has adopted a similar ordinance in 2012 impacting 427,000 citizens; University of Nebraska employees, over 13,500 of them enjoy a similar protection in the workplace, and that has been a boon to recruitment and retention of talented faculty, students, and staff. Let's not forget the effort that Grand Island City Council made in providing workplace protections for all public employees, expanding to another 500 Nebraskans. And let's not forget the rules that we in the judiciary, as lawyers, litigants, employees, judges, court employees all live within and that prohibits discrimination on the basis of sexual orientation... [LB485]

SENATOR KRIST: One minute. [LB485]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
April 07, 2014

SENATOR CONRAD: ...when we're conducting court business. With the repeal of "Don't Ask, Don't Tell," military personnel in Nebraska can proudly serve openly, affecting over 6,000 Nebraska military members. And federal employees have this protection due to executive order and federal decisions resulting in protection for another 16,300 Nebraskans. Twenty-nine members of this body last year voted in support of an equality measure that Senator Chambers had worked on. A majority of the judiciary moved forward on equality measures for our foster care system last year that are sitting on General File. A majority of state senators support this legislation. It is time to move forward together. Thank you, Mr. President. [LB485]

SENATOR KRIST: Thank you, Senator Conrad. (Visitors introduced.) Those still wishing to speak: Senator Wallman, McCoy, Johnson, and Christensen. Senator Wallman, you're recognized. [LB485]

SENATOR WALLMAN: Thank you, Mr. President. I can see this is very emotional. They say you can't legislate morals, but we do and I think that's a job of government. "And the government shall be upon his shoulder," it says in the Bible. And so this is our job, to legislate fairness. And the hardest commandment probably in the Bible is love your neighbor as yourself, and that is extremely hard for a lot of us to do, me included. And I'd yield the rest of my time to Senator Conrad. [LB485]

SENATOR KRIST: Senator Conrad, you're being yielded 4:20. [LB485]

SENATOR CONRAD: Very good. Thank you, Mr. President. Thanks to my good friend, Senator Wallman. I'll miss you as well, Senator Wallman. It's been great serving together for eight years. And, friends, I want to talk a little bit about a strain of opposition arguments surrounding essentially kind of the Hobby Lobby case or this new consideration as to a religious-owned business. And I know there's a lot of business owners in this body, as many of us are citizen legislators and have to balance all of those roles, and you know I would just ask, when you were forming your corporations, LLCs, LLPs, S corps, C corps, what have you, where was the box where you checked off the religion of your company and stated that? How does your company take sacraments? How does your company live out its faith? If you sell your company, does your faith stay with that company in perpetuity or is that up to the new owner to decide? These are very serious, practical questions in relation to that strain of thought which I think are deserving of answers. And again, those questions are really beyond the scope of LB485. We provide a very expansive exemption to religious organizations, churches, and schools with the critical committee amendment which strikes an appropriate balance between respecting religious freedom and ensuring fairness for all. And you know, let's be clear. What you're asking for, no matter how sincerely held in your beliefs, is a license to discriminate against certain citizens, who want nothing more than to work hard, pay their taxes, take care of their families, and contribute to their state and their

Floor Debate
April 07, 2014

community, based upon a very strange classification, and that's who they are and who they love. And I think that that's why we've seen so many other states, so many other communities and so many businesses move forward in this regard because it is good for business. It doesn't infringe upon anybody else's rights. And it's important that we have policies in place that support all citizens without infringing on other sincerely held beliefs or constitutional rights. And in fact, the subject of that topic has not been a part of the litigation, to the best of my understanding, surrounding antidiscrimination in employment laws. So I think that we've just started to see that strain come out in relation to some of the aspects of the Affordable Care Act and there has been a little bit of litigation in surrounding certain public accommodations questions in other states and communities. But again, that's not the scope of our bill. Our bill is about hiring and firing, and it's very narrow in that regard so I want you to keep that in mind. And the case law in Nebraska is also very clear on this. When people indicate, well, what if we don't hire them and that's just a flood of litigation, well, failure not to hire, in and of its own right, has not found to be a violation of the equal opportunity employment statutes. [LB485]

SENATOR KRIST: One minute. [LB485]

SENATOR CONRAD: That's pretty clear when you go and look at our statutes book and you go down and you look at the annotations of related litigation surrounding any of those topics. So I think that it's easy to comply with. It's very straightforward. And what it is, is a huge step towards progress, a path towards progress that we've made and continue to make in Nebraska and that we will see in our lifetime. I am hopeful for the day when we can come together to celebrate full equality in the terms of the context of marriage, adoption, foster care, and employment, and it is absolutely coming. Opposition arguments and votes in opposition to this measure will be nothing more than a footnote along our journey towards progress and justice and fairness for all. Thank you, Mr. President. [LB485]

SENATOR KRIST: Thank you, Senator Conrad. Senator McCoy, you're recognized and this is your third time. [LB485]

SENATOR McCOY: Thank you, Mr. President. I want to respond immediately to something Senator Conrad just talked about and use the facts, my opinion. This is from the Supreme Court of the United States, brief for respondents in the Hobby Lobby case, Kathleen Sebelius v. Hobby Lobby Stores. This is on page 8, talks about specifically that Hobby Lobby is a subchapter-S corporation. And I will read directly from this. "The Greens," the owners of Hobby Lobby, "have organized their businesses with express religious principles in mind. Hobby Lobby's official statement of purpose commits the company to honoring the Lord in all we do by operating the company in a manner consistent with biblical principles." That's straight out of the brief for respondents, Supreme Court case. And I want to talk about further what Senator Conrad just said. And oh, by the way, she spent about, Senator Conrad did, about 45 seconds her last

Floor Debate
April 07, 2014

time on the microphone, not the last time, just a moment ago, the time before, answering the concerns that I raised on the actual amendment, AM2111, and then said, well, it's a broad exemption, perhaps broader even than Title VII. No, it's not. But I want to talk about, she said, well, where in your subchapter...sub-S documents or LLC documents does it talk about your religious views? Well, I'm going to talk to you from the heart as someone who has been in small business all my life. Your business, when you are a business owner, you pour your life into. You pour more hours into it than you probably spend with your family. You pour your heart and soul into it, sometimes multiple generations. It's who you are. Yes, sometimes business owners sell a business and start another one. Sometimes, unfortunately, they lose a business and maybe start another one and maybe lose another business. That is the free market, free enterprise system of capitalism that is what is everything great about America and about Nebraska. And I stand here as a business owner opposed to LB485 because the people involved in our organization, probably like most small businesses across Nebraska, are our family. We care for them. We care for their families. We care for what goes on in their lives, because what's good for them is good for us, and what's good for us is good for them. And Senator Conrad talks about of the 41,000 small businesses in Nebraska, 500 or less employees, that LB485 and AM2111 exempts 30,000 of them because they fall under that federal threshold of Fair Employment Act of 15 employees. Well, ladies and gentlemen, what about the 11,000 other businesses, 11,000 between 15 employees and 500 across Nebraska, 11,000 small businesses that are not exempt from AM2111... [LB485]

SENATOR KRIST: One minute. [LB485]

SENATOR McCOY: ...or LB485? Thousands upon thousands of jobs, and thousands upon thousands of small businesses that care very much about the employees, the people of their organizations. And I would daresay the vast majority of them believe as I do that discrimination is not right, but we pour our heart and soul into our businesses, into our organizations, and we don't think it's right to check our beliefs, our faith, our religion at the door when we leave in the morning to go to our place of business. That's why I'm opposed to LB485. Thank you, Mr. President. [LB485]

SENATOR KRIST: Thank you, Senator McCoy. Senator Johnson, you are recognized. [LB485]

SENATOR JOHNSON: Thank you, Mr. President. This is the first time I've spoke on this bill. We've talked a lot about our faith communities and our faith affiliations. My faith denomination is Lutheran. Probably about six years ago our national church voters assembly approved a social statement dealing with this particular subject, sexual orientation. That caused deep ripples in congregations, even within families. Some congregations voted on this very issue: Do we adopt the social statement and can we live with it, or what do we do? Or do we vote to leave that Lutheran denomination or

Floor Debate
April 07, 2014

affiliation? Many of those congregations that voted, in some cases it split the congregation. It splits families and even puts some marriages in distress. The local congregation that my wife and I belong to did not vote on the issue. We offered to provide study. In this body we would probably call that an interim study. There it was Bible study. We lost some members and we gained some members, and we are a different congregation today than we were six years ago. We've all learned to appreciate everyone's views on various subjects. We will likely pass this legislation in time. I'm not sure the time is right today. As my congregation has changed over the years, it's changed not only in some people; it's changed in some attitudes and definitely some understanding of being tolerant and being a more open congregation. In the body, we will grow in new understanding, new tolerances, and by changing law. We'll change that possibly after this session is over but not during this session. And there we will have different people and that's because of the law. New people will come with passions, but I don't feel we are ready to vote today. Eight hours over two days and a weekend, for me that isn't doing it. With that being said, I am not ready to support LB485 and AM2111 today. Thank you, Mr. President. [LB485]

SENATOR GLOOR PRESIDING

SENATOR GLOOR: Thank you, Senator Johnson. Senator Christensen, you're recognized. This is your third time, Senator. [LB485]

SENATOR CHRISTENSEN: Thank you, Mr. President. You know, Senator Nordquist done a favor, come over here and spoke to me after he shared his comments, and I had mine previously, and I appreciate that. You know, we still had a little bit of fundamental disagreement that, you know, he mentioned identical twins, we're finding out, have genetic differences as they get older. I feel it's more, as he mentioned, on the chemical factor of being difference of the choices we've made, as him and I agreed one might drink, one might not; one might be a meat eater, one will be a vegetarian. There's lots of social things that impact us. And I believe that the genetics don't change. It's the genetics are constant. It's the social factors or our environment that affects where we're at there. And that's why I think it's not something we're born with but more the choices, like I gave earlier when I spoke of you decide who you want to date or spend time with or whatever, and it's a process that moves into relationships, whether it's heterosexual or homosexual. Just to hit a few more of the different studies, because I like to get into different ones, this one is out of The Ambassador's Guide to Understanding Homosexuality by Alan Schlemmon. And Harvard geneticist Dean Hamer published research in science claiming to have discovered a genetic origin to homosexuality. After his research came under fire, Hamer backtracked, saying the best recent study suggests that female sexual identification is more of a matter of environment than heredity. When Scientific American asked him if homosexuality was rooted in biology, Hamer answered, absolutely not, no genetic cause for homosexuality. Harvard-trained neurobiologist Simon LeVay published a study in 1991 in the Journal of Science

Floor Debate
April 07, 2014

identifying a structure in the brain, the hypothalamus, which was a smaller...which was smaller in homosexuals than in heterosexuals, leading people to believe homosexuality was based in biology. After many scientists criticized LeVay's conclusions, he clarified in Discover Magazine article saying: It's important to stress what I didn't find. I did not prove that homosexuality is genetic or find a genetic cause for being gay. I didn't show that gay men are born that way, the most common mistake people make in interpreting my work, nor did I locate a gay center in the brain, from The Ambassador's Guide to Understanding Homosexuality. Another identical twin study showed no genetic cause. Twin studies are a problem for the "born that way" fallacies. Identical studies have identical genes. Given that, it follows that if one twin was homosexual the other twin would also, but the research shows otherwise. Northwestern University Professor Michael Bailey is famous for his genetic research on sexual orientation and performed one of the largest twin studies using 25,000 twins as his subjects. He determined the twin rate for male homosexuality... [LB485]

SENATOR GLOOR: One minute. [LB485]

SENATOR CHRISTENSEN: ...to be 11 percent--thank you, Mr. President--meaning that when one twin was homosexual, the other was also homosexual only one in nine times, from The Ambassador's Guide to Understanding Homosexuality. I also wanted to touch base on what you've heard Senator Smith and Senator McCoy say on the business side of things. You know I poured my life into making a commodity brokerage business and hired people underneath me, and when you pour your life into something, you wouldn't want somebody trying to tear that apart by claiming that they were fired for that reason. You can give the reason you want; they can challenge you on the reason they want. And so I think we got to be careful the direction that we're going here because it does affect small business. I realize it's supposed to be 15 and under, but I look in my town how many businesses have more than 15 employees. There's quite a few. [LB485]

SENATOR COASH PRESIDING

SENATOR COASH: Time, Senator. [LB485]

SENATOR CHRISTENSEN: Thank you, Mr. President. [LB485]

SENATOR COASH: Senator Brasch, you're recognized. [LB485]

SENATOR BRASCH: Thank you, Mr. President, and thank you, colleagues. I have heard from many business owners concerned about what this would mean to them. They are saying that they currently employ individuals that are gay and/or transgender and believe that they are treated the same as their other employees, that there is no problem there. They're wondering why are we making a problem and why is the Legislature going into something that is not affecting most of the state in that sense.

Floor Debate
April 07, 2014

When we have a problem, I believe there are lawsuits. I've learned there are four lawsuits currently in Nebraska. I have not heard of more. I also want to be clear that this law standing against LB485 is not hate-based at all from anyone on this floor. It's a matter of looking at do we need this legislation. How will it impact faith-based organizations? How will it impact others? And I want also to put on record that the colleagues here have been respectful with each other, you know, in this ongoing dialogue. We've talked about the Catholic faith and other faiths and their positions, and it is a part of the question. Undeniably, it is a part of the question. However, when it comes to employment, we do need to be perfectly clear in black and white of what this law can do and what it cannot do. I'd like to yield the rest of my time to Senator Christensen. [LB485]

SENATOR COASH: Senator Christensen, 3 minutes. [LB485]

SENATOR CHRISTENSEN: Thank you, Mr. President. And thank you, Senator Brasch. I wanted to hit a little bit on the definition of gender identity, which means the actual or perceived appearance. I think you got to be real careful on anytime you're going to use "perceived." That's very objective. That is what you think it is. And when it is that broad, it's open to anything. And so when you throw that in there, and I looked up--don't know where I laid them now--a couple definitions out of the dictionary, definition of perceived: to become aware of through the senses. Do we want a bill tied to our senses, how we feel about things? I guarantee you there's 49 senators here and we probably all could have a different perception of what something means or perceive something in 49 different ways. That's why that particular language bothers me that's written there, because to become aware of through the senses or, another one, to attain awareness or other understanding of or to regard as being such; or to become aware of through the senses, another one of their definitions, again, I think that's very difficult language to go down through when you leave it that open for interpretation, that we have to be real careful on... [LB485]

SENATOR COASH: One minute. [LB485]

SENATOR CHRISTENSEN: ...thank you, Mr. President, opening this up just for the ability for anyone to interpret it one way and then want to file a lawsuit on it. And that's one of the impacts that I alluded to shortly at the end of the last time I was speaking, that businesses are going to be affected by when it's left that open to objectivity. And I think we got to be real careful about that. And so if we were working on the bill, as Senator Conrad says we're not, and that's right. I don't really want to go this direction at all. I do not support LB485 or the amendments because I don't think that is what's best for the businesses of the state of Nebraska, even though you're defining it's not for small business. But even the town of Imperial, as I started to say,... [LB485]

SENATOR COASH: Time, Senator. [LB485]

Floor Debate
April 07, 2014

SENATOR CHRISTENSEN: Thank you. [LB485]

SENATOR COASH: Thank you, Senator Christensen. Senator Howard, you're recognized. [LB485]

SENATOR HOWARD: Thank you, Mr. President. I just wanted to note that Senator Carlson is right. There is no law that's going to change us. We have to change us, and I feel like LB485 is a really good place to start. And with that, I would yield the balance of my time to Senator Chambers. [LB485]

SENATOR COASH: Senator Chambers, 4 minutes 40 seconds. [LB485]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I have something I want to read from an article that was written 14 years ago. Headline: Testifying before Congress is another day at the office for Chambers. There he was, resplendent in a purple sweatshirt, testifying before Congress last week, none other than Senator Ernie Chambers, part of a panel of five legislators from various states testifying on a bill dealing with the same-sex marriage issue. I had a bill to allow same-sex marriages in Nebraska. I had stated that I wanted Nebraska, for once, to be on the cutting edge of the sickle instead of the blunt butt end of the sickle, as Nebraska is on every significant social issue. Continuing: Anyone who expected Chambers to change his attire or his style for the occasion would have been disappointed. Instead, a subcommittee of the House Judiciary Committee and the C-SPAN audience were treated/subjected to the same Ernie with whom Nebraskans have become so familiar. Chambers started off musing whether the capital HON, period, that preceded his and other panelists' names on their name plates meant that they were being called honey. After satisfying himself that the letters stood for "the Honorable," he recalled a story about a village character known derisively as "Colonel." Being asked by a judge what that meant, well, Judge, it's just like the "honorable" in front of your name--it don't mean nothing, Chambers recounted. Having thus endeared himself to the panel of Congressional honorables, Chambers went on to denounce what he considered the dishonorable business under consideration. H.R. 3336 would allow states not to have to recognize same-sex marriages if they were legalized in some other state, such as Hawaii where a case is working its way through the courts. While there was some discussion about whether the measure gives states any power they do not already have, most of the hearing concentrated on panelists' views of the desirability of granting legal recognition to gay or lesbian marriages and discussion of the current political battles on the subject. I won't have a chance to finish it. I'll turn on my light again or the first time. But the reason I'm going through this is because I want people to know that there is silliness and hypocrisy in Congress too. There was one old racist Congressman named Barr, B-a-r-r, "Repelican" who was against same-sex marriage because he said it would give the wrong idea to children. And in a written statement that I was allowed to

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
April 07, 2014

give, because my time ran out, I pointed out that he and others come from cities, from states where they allow shacking up, as it's called. And if you shack up openly and notoriously for long enough, that takes on the status of marriage and it's called common law marriage. So I said here these hypocrites are... [LB485]

SENATOR COASH: One minute. [LB485]

SENATOR CHAMBERS: ...allowing people to live in sin and the children see it, but that's not against the law. But here we come on something like this. Fortunately, the U.S. Supreme Court took a position and threw out that Defense of Marriage Act against which I testified very strenuously, did not bite my tongue, used the same types of examples I'll use here, because to me a man ain't nothing but a man. I don't care where he is, what his title is or anything else. Badges and titles don't mean anything to me and sometimes they're infuriating when those who wear the badges and titles use them to assert an authority that will demean, debase, and degrade our brothers, our sisters, our neighbors. Then if you follow them, you'd see them engaging in every manner of imaginable sexual impropriety. [LB485]

SENATOR COASH: Time, Senator. [LB485]

SENATOR CHAMBERS: Thank you, Mr. President. [LB485]

SENATOR COASH: Thank you, Senator Chambers. Items, Mr. Clerk? [LB485]

ASSISTANT CLERK: Thank you, Mr. President. LR41CA was presented to the Secretary of State at 2:25 p.m. Motions to be printed to LB671 from Senator Chambers. Confirmation reports: General Affairs reports on appointees to the State Electrical Board, the State Racing Commission, the Commission on Problem Gambling, And a series of amendments to LB916 from Senator Scheer. That's all that I have, Mr. President. (Legislative Journal pages 1430-1431.) [LR41CA LB671 LB916]

SENATOR COASH: Thank you, Mr. Clerk. Senator Karpisek, you're recognized. [LB485]

SENATOR KARPISEK: Thank you, Mr. President. I'd like to yield my time to Senator Conrad. I almost said Nantkes. Sorry. [LB485]

SENATOR COASH: Senator Conrad, 4 minutes 50 seconds. [LB485]

SENATOR CONRAD: Yeah, he's going old school. You could tell we've served together for a long time. I definitely appreciate the time, Senator Karpisek. Thank you very much. Friends, I do want to address a specific question that Senator Christensen brought up in regards to some of the definitional components in AM2111 which improve the bill. And

Floor Debate
April 07, 2014

I'll be very clear. If you go back and you review the committee transcript, opponents were very clear in one of the reasons for their opposition at the committee level on the original legislation was the fact that we didn't have clear definitions for sexual orientation. And so taking that feedback to heart and again working to mirror the Omaha ordinance so that we have a clear and consistent policy statewide, that's why we worked with the committee to put forward those clear definitions into the committee amendment. Those definitions are supported by all major medical associations that have taken a position on this topic and that's really not debatable. Specifically as to the word "perceived," that's based on case law surrounding civil rights laws, and its effect has been tested in other statutes and borne out by case law to ensure that even if the discriminator, the employer in this example, is wrong about the employee belonging to the class the employer is trying to discriminate against, the employee still has a cause of action. Here is an example of how that would work out practically. So if an employer attempted to discriminate against an employee he believed to be Muslim but the employee was in fact Jewish, the employee would be able to bring a claim, even though he was not discriminated against for his actual religion. In the context of this legislation, this would allow for a person who was fired because her employer incorrectly perceived her to be a lesbian to still be able to bring a claim, even if she was heterosexual. So case law makes it abundantly clear that the perception of the person doing the discriminating that is being referred to and not the self-perception of the person experiencing the discrimination. So I do want to just clear up that point. It's not a dictionary definition. It's based on case law. It's based on well-tested strategies and definitions supported by the major medical associations, and that's in place in the Omaha ordinance and the other...many of the other states and communities that have adopted this legislation. So we've done our homework and been careful about our words choice in our drafting. And again, there's absolutely never a time that we're not open to improving legislation and moving forward, but, to be clear, those who have brought forward technical oppositional arguments are not supporting the bill no matter what I do or say or whatever the technical language of the legislation is or is not. And so let's be intellectually honest in that regard. I have heard many people say today, which I'm still trying to figure out as we move through the course of this debate, that they do not support the discrimination and they think all citizens should be treated fairly, but this isn't the right solution. Well, what is the right solution, because maybe there is a lot of common ground there and we need to work together to figure that out. But I'm not aware of other pieces of legislation that any of those opponents have brought forward to address discrimination against the LGBT community in Nebraska. And if that does exist let me know, because I'd like to be a cosponsor and I'd like to help in that regard. So again, I'm not sure if those are serious commitments or not, considering the record may not back up some of those claims. I've also heard opposition testimony in regards to this debate wherein... [LB485]

SENATOR COASH: One minute. [LB485]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
April 07, 2014

SENATOR CONRAD: ...folks have said--thank you, Mr. President--you know, that they have no personal animus towards gay people but they just don't think they should have equal rights in the workplace. Again, I'm just not sure how that squares up logically and am looking for a little bit of more understanding in that regard. And just as a quick side note, just based upon Senator McCoy's assertion of the Hobby Lobby issue, you know, after they took a case all the way to the Supreme Court to deny their female employees access to full reproductive health choices, it was published that the company has no problem investing its resources in contraception manufacturers. So I think that is a really interesting side note I just wanted to put on the record. Thank you, Mr. President. [LB485]

SENATOR COASH: Thank you, Senator Conrad. Senator Bloomfield, you're recognized. [LB485]

SENATOR BLOOMFIELD: Thank you, Mr. President. I'd yield my time to Senator McCoy. [LB485]

SENATOR COASH: Senator McCoy, 5 minutes. [LB485]

SENATOR McCOY: Thank you, Mr. President. I'd like to talk about a couple of developments just actually while we've been on the floor today, if not on this issue then on a previous issue. After the noonhour Mayor Chris...Lincoln Mayor Chris Beutler talked about to the media today that I believe the question was posed to him what the Lincoln ordinance on this issue if LB485 were to pass and be signed into law, would the Lincoln ordinance on this issue still be put on the ballot? And according to the news outlets that I've looked at, his question was, perhaps...or his answer, I should say, was perhaps, because in his mind evidently it doesn't go far enough, LB485, because it doesn't deal with housing and public accommodation. I find that very troubling because the proponents, the supporters of this legislation have talked about specifically this doesn't have anything to do with public accommodation and housing. But yet, others that support this issue outside the body are clearly trying to tie that in as the next step on this issue. I'd like to read an e-mail that I received this morning. I don't know if everyone received it. I couldn't tell. But I have received, as many of us have, I'm sure, maybe all of us, hundreds upon hundreds of e-mails on this issue in the last week. I said earlier on the microphone we've kept track. My e-mails run over 95 percent opposed to this legislation. Now that's not just from our district, District 39. That's all of the e-mails that we've gotten on this issue, wherever in the state it might be from. Says: Dear Senators, it is my understanding that debate on LB485 will continue this morning, Monday, April 7. I am writing to respectfully ask that you vote no on this legislation. While I believe that all people should be treated fairly and equally, I see this legislation as being in conflict with our First Amendment rights. It has been claimed that a survey shows that a majority of Nebraskans support this bill. I'm not convinced of that. But even if it true, I wonder if all who responded thought through the ramifications a bill like this

Floor Debate
April 07, 2014

could have. Religious liberty is one of the founding principles of this great nation. This bill would legislate in a way that could too easily be used to make Nebraskans compromise their faith in order to earn a living or run a business. In addition, it would place an additional regulatory burden on small businesses which are already suffering in our current economy. Thank you for considering my thoughts. I'd like to read another e-mail that I just received about 15 minutes ago from a businessman in Omaha that owns a number of banks and manages them for their family business: I've managed various departments of our banks in the Omaha market for 8 years now and I've been in business, in general, for over 30, and in all that time a so-called discrimination of someone... [LB485]

SENATOR COASH: One minute. [LB485]

SENATOR McCOY: ...based on their sexual orientation or gender identity has never once come up. If it did, my personal views and practices, while not necessarily the views of my company, is that we would not and do not factor in someone's sexual proclivities into our hiring and promotion practices unless that practice is advanced in an undesirable manner on another employee or customer, whether those advances are homosexual or heterosexual. Passage of this bill would take that management decision away from us and allow an employee to engage in practices that could harm our business. Our hands would be tied whether or not discrimination existed or not. And this businessman goes on to outline more of his concerns on this issue. That's a businessman that owns a business that is larger than 15 employees that would be affected under this legislation that provides... [LB485]

SENATOR COASH: Time, Senator. Senator Carlson, you're recognized. [LB485]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. I ran out of time on my previous 5 minutes, but Senator Lathrop brought up something that made me think. I talked and shared back on my first year when one of the pages let me know that he was gay, and I said that I had told his mother that he was a good page, he did a job well, and he was a good addition to our crew here in the Legislature. And I don't know why that should be any different. What's wrong with that? Now he didn't agree with me on my thoughts about it, but I certainly didn't do anything to try and waylay him or get him in a position. And Senator Lathrop said that he could have been fired had he made it known that he was gay. Now I don't know whether he did or not. I don't believe that's going to happen here. We've got people that are in positions of authority that are smarter than that. They wouldn't let that happen. And also the statement was made earlier, which I agree with, that sexual behavior should be a private matter, and I think it must be a private matter. I think that public displays of affection, which would include sexual behavior to show people what we can do because we have freedoms, are wrong. Public displays of sexual behavior to prove that...prove something in the workplace would be wrong. If heterosexuals did this in the workplace, I

Floor Debate
April 07, 2014

think they should be fired. If gay people did that in the workplace, I think they should be fired. And I don't understand why, through discussion and education, we can't move forward and treat one another in a positive, respectful way and move on without putting in statute that if that doesn't happen, look out. We protect people by race, by color, by religion, by sex, by disability, by marital status, by national origin. And I just am having real trouble in understanding what LB485 is really going to contribute to our life in Nebraska because made laws don't change attitudes and behavior. And I'm opposed to LB485, but I believe people should be treated with respect. They have a right to their views. They have a right to the way they live. They have a right to the way they work as long as it fits in the workplace, as the employer would demand. [LB485]

SENATOR COASH: One minute. [LB485]

SENATOR CARLSON: And I just believe that this bill is down the wrong path. Thank you, Mr. President. [LB485]

SENATOR COASH: Senator Krist, you're recognized. [LB485]

SENATOR KRIST: Thank you, Mr. President. And good afternoon, colleagues. Good afternoon, Nebraska. You get a unique perspective when you sit in the presiding officer's Chair and take a look in terms of who's talking to who and what the issues are. You also have to listen. You have to pay attention to what's going on, and I have. I have. I'll tell you something I'm disappointed in. I'm disappointed that this debate has gotten us to a point, and Senator Christensen, my good friend, Senator Christensen, was right up-front, he doesn't like it, it's going to be a filibuster. Well, that's where we're at. It's a filibuster. We've gotten to one amendment. We haven't talked about anything substantive past that point. And yet there sits Senator Schumacher with a couple of changes that I think, if we even talked about passing LB485, should be discussed on this floor. There should be a dialogue going on about those differences and those substantive changes. But we won't go there because we have a filibuster going on. I'll talk about that after my one-minute notice. I also heard loud and clear most of the arguments. Proponents of the bill are focusing on the injustice and the discrimination against persons because of their sexual orientation, and I agree that no one should be hired or fired, otherwise discriminated against because of their sexual attraction or inclinations. And my Catholic colleagues, which I am a practicing Catholic, I want to make it clear my understanding of the Catholic Church and the Catholic Bishops of Nebraska agree with that view but are also cautious as well. The bishops are opposed to this bill because LB485 goes beyond prohibiting discrimination based on sexual inclination, attraction, discrimination that we all believe is wrong. I think we all have agreed on that no matter whether you're filibustering or not, that discrimination is wrong, and would force employees to accept and affirm sexual conduct or free...a lifestyle that is contrary to their religious beliefs. To Senator Conrad I would say, no, no business can profess to be a religion or have a religion, but the owners do and the board of directors

Floor Debate
April 07, 2014

do, and they reflect upon that business. Their business is reflected by those beliefs of the ownership and the board members. The business is not the business. The business doesn't make the money. The business doesn't make the decision. It's the human beings that stand for what they stand for. They are the ones who are making decisions. They are the ones who are making the money or losing the money in many cases. So right, wrong, or indifferent, my friends, the teaching of the church, as it's interpreted by the Pope, and let me be very clear as many people have said, including Senator Chambers, I could actually have lunch with that guy. I agree, he is a breath of fresh air for the Catholic Church. But he is a human, and his interpretation of what the Bible says will become more and more prevalent as a good man continues to be in that office and make changes. My father was about the same age or would be about the same age as Senator Chambers. My belief is that we are all the culmination of our life experiences. Senator Chambers went through the '60s on one side of the fence, my father on the other. They would not have agreed on many things. But what resulted from the Civil Rights Movement was Senator Chambers and Bob Krist Sr., both working through issues and going forward, and changes were made,... [LB485]

SENATOR COASH: One minute. [LB485]

SENATOR KRIST: ...not in law, not so much in law but in attitude, in culture, in morals, in conviction. We knew it was wrong to discriminate against, and we hear that lesson occasionally from Senator Chambers. And I appreciate that lesson to be professed again, because history, when we forget it, is a terrible thing. We are then doomed to repeat what we have not learned. There's another part of this bill that concerns me and that's gender identity. Gender identity is also covered by the Fair Employment Practices Act by virtue of the committee amendment as a separate classification, introduced as a component that will impose practical difficulties in the day-to-day workplace, and I honestly believe that. That is my opinion, but I do believe that. It invites litigation. I heard Senator Seiler stand up here the other day and said, boy, would I love to be a young, practicing lawyer on a different issue, because he was saying... [LB485]

SENATOR COASH: Time, Senator. [LB485]

SENATOR KRIST: ...this is a litigator...time? [LB485]

SENATOR COASH: Time. [LB485]

SENATOR KRIST: Did you give me a one minute? [LB485]

SENATOR COASH: I did, Senator. [LB485]

SENATOR KRIST: Wow, how fast it goes. [LB485]

Floor Debate
April 07, 2014

SENATOR COASH: Thank you, Senator Krist. Senator Kintner, you're recognized.
[LB485]

SENATOR KINTNER: Well, thank you, Mr. President. You know, I got a letter, I've gotten a lot of these letters, a lot of e-mails, and this guy's last name is Olson (phonetic). He said: What are you doing down there in Lincoln? Have you lost your moral sense and dignity for those that do not agree with sexual orientation as a right in the workplace and for small businesses? Get some sense and get this bill out of the Legislature. I've got more and more of those than you would imagine. You know it's...you just can't force this stuff on people in our state. We haven't demonstrated a problem. The only time you can, you know, you know, with this bill, it's attempting to prevent discrimination of, let's think about it from a business standpoint. You have an employee that's doing a good job. It's tough to find a good employee. It's tough to find an employee that shows up and does the job, is dependable and will stick around. And you find that person, you're desperate to find these people, but you find him and you like the guy. Why would you fire him because of something he does on his own, in private, by himself with someone else but away from the business? You don't care. Why would you fire him? I mean you're asking for a newspaper article. You're asking for a lawsuit, even though he doesn't have legal standing in the last instances. You're just asking for problems. It just doesn't make sense. The people who would fire someone want somebody aligned with their own belief system because it's central to their business, it's central to who they are, that's a very, very narrow group here that does that. I just can't find a business that thinks we're just going to fire people who have a sexual practice, once we find out about it, that we disagree with. I just don't find that. It's only when it's central to who they are and what they represent or central to their mission that you run into these situations, and I think that we're making a statement here. We're not fixing a problem. And that's the statement I reject and will leave the statement to California and New York and Washington and Maryland and all the liberal states around the country. I did want to talk about a couple of more areas of this bill that are troubling. Let me talk a little bit about Omaha. And, you know, there's claims that only four lawsuits or claims have been filed in Omaha since they passed their version of this. It's almost obligatory now. If you're a big city, you pretty much just do this. It's automatic pilot and people in big cities don't question it, but people in my district do. In order to create a protected class, one must show a documented history of longstanding and widespread discrimination, in this case in the area of employment that the bill is dealing with, and economic...and to be politically powerless and to be deprived economically of a livelihood. Proponents of LB485 have never met their burden with regard to these two factors. Four claims in two years does not represent widespread discrimination. Moreover,... [LB485]

SENATOR COASH: One minute. [LB485]

SENATOR KINTNER: ...in previous years few people who testified on similar nondiscrimination bills testified that they actually lost the job because of their sexual

Floor Debate
April 07, 2014

orientation. Also, according to supporters of the Lincoln and Omaha ordinances, the ultimate goal was to have a statewide nondiscrimination law. You know for those seeking such a goal, it would be unwise to utilize the Omaha ordinance as a sword, something which would have hurt the chances of getting a statewide law. I just don't think that that was a very...that's not a sound way to go about this process. I just think that we just don't have a lot of documented cases here of people being fired because it doesn't make economic sense to a business. And I just can't find business owners that just say, I don't want to hire people that... [LB485]

SENATOR COASH: Time, Senator. [LB485]

SENATOR KINTNER: ...are different than me sexually. Thank you, Mr. President. [LB485]

SENATOR COASH: Thank you, Senator Kintner. Senator Hansen, you're recognized. [LB485]

SENATOR HANSEN: Thank you, Mr. President, members of the Legislature. When I was up here a little while ago we talked about counties and county hospitals, and the hospitals are still problematic to me. Because when you file a suit against a county, you have to name people and people's names too. So it would file...the suit I would think would be filed against either the three county commissioners or the seven supervisors or five or however many there are. That seems to be problematic for volunteers or anyone who wants to run. I know the NRDs are like that. They...someone has a suit they file against each and every one of the members and maybe the general manager in charge too. But I think that might be a problem down the road. I think this discussion is good. We need to find out some of these unintended consequences before we pass something as major as this. I asked Senator Christensen if desired any more time and, Senator Christensen, I'll yield you the rest of my time. [LB485]

SENATOR COASH: Senator Christensen, you've been yielded 3 minutes 45 seconds. [LB485]

SENATOR CHRISTENSEN: Thank you, Mr. President, and thank you, Senator Hansen. You know, I think it's difficult to say that somebody in a business wants to fire somebody just because they're homosexual. Reason I say that, I've been going through a number of interviews in the past month and been offered a job, and when you start looking at what they're offering me from a moving allowance to a start, then they got to go through the training of it, it's not cheap to start an employee. You know, I know they looked at, in the particular case I interviewed for, I haven't done everything they're asking me to do. There will be training involved in it. When you look at that training, there's a cost to doing that, because at that point in time I'm not making that business money because I'm training. I'm learning how to do that particular job. So I turn this around and I ask

Floor Debate
April 07, 2014

you, I don't know why an employer would want to fire someone if they found out they were homosexual--I can believe they'd want to fire someone if they're not doing the job--because of the costs involved in doing things. I don't think, if you've never run a business, you understand that. I've owned and operated two, three different businesses and had the pleasure of selling a very nice business for the ability to serve in here. I've lived off of that business and currently it's time to go back to work and earn a living again. Keep joking with my wife, it's time to earn some money and keep her in the way she's accustomed, and that's the way we go about our lives as we do a good job. But at the same time, I've had employers...or employees that never did get it. I remember hiring a guy to work in my commodity office that just wanted to dink around all the time. He said he was studying for his tests. I'd give him a little more time and finally he just bombed the test. It was evident he must not have been trying very hard. And so I had to let him go. I told him... [LB485]

SENATOR COASH: One minute. [LB485]

SENATOR CHRISTENSEN: ...if he passed it, he could come back and get it. Thank you, Mr. President. You know, but I look at the three months that I give him plus a month extension that I paid him a base salary and he never made me a dime. That's what's hard on small business, folks--training someone that doesn't make a return for you. And that's why we're all looking for the good employees. And if you got a good employee, it doesn't matter what their sexual preference is. You just care that they get their job done and that's what's important. And that's why I question that this is a huge problem in this state. Employers I've talked to generally don't know if they're... [LB485]

SENATOR COASH: Time, Senator. [LB485]

SENATOR CHRISTENSEN: ...homosexual or not. Thank you. [LB485]

SENATOR COASH: Senator Ken Haar, you're recognized. [LB485]

SENATOR HAAR: Mr. President, I'd like to give my time to Senator Chambers, if he's interested. [LB485]

SENATOR COASH: Senator Chambers, you've been yielded 4 minutes and 50 seconds. [LB485]

SENATOR CHAMBERS: Thank you, Senator. And thank you, Mr. President. I've followed this discussion, if you can call it that, down in my office. Never have I heard so much ignorance, misinformation, and contempt for other people as I've heard during this discussion. I'd like to ask Senator Brasch a question or two, if she would yield. [LB485]

SENATOR COASH: Senator Brasch, will you yield? [LB485]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
April 07, 2014

SENATOR BRASCH: I will yield. [LB485]

SENATOR CHAMBERS: Senator Brasch, you've done, each time you spoke, a lot of talking about how people take care of each other and such things as that. Before I ask you a question, I want to read something from this article about when I was in Washington to show that this question I'm going to ask you didn't just pop up today: And then there was Chambers, noting that proponents of restricting marriage to one man and one woman often cite religious grounds, he declared that biblical figures, including David and Solomon, had multiple wives and mistresses. Senator Brasch, are you aware of the fact that many of the so-called founders of religion, including Moses, Abraham, Isaac, Jacob, right on down the line really liked females and had more than one? Are you aware of that? Senator Brasch, are you aware of that? [LB485]

SENATOR BRASCH: Yes. [LB485]

SENATOR CHAMBERS: That's in the Bible? [LB485]

SENATOR BRASCH: In the Old Testament. [LB485]

SENATOR CHAMBERS: Is the Old Testament part of the Bible? [LB485]

SENATOR BRASCH: Yes. [LB485]

SENATOR CHAMBERS: Is the Bible God's word? [LB485]

SENATOR BRASCH: Yes. [LB485]

SENATOR CHAMBERS: Was God as sensible and sane when he spoke the Old Testament as he was when he spoke the New Testament? [LB485]

SENATOR BRASCH: Yes. [LB485]

SENATOR CHAMBERS: So if a person today said, based on my religion and my belief in the Bible, I should be able to have more than one wife, should that person be allowed under the law to practice his religion which is based on the Bible? [LB485]

SENATOR BRASCH: Our laws call it polygamy. [LB485]

SENATOR CHAMBERS: I don't care what man...that's man's law, isn't it? God's law allowed it. Isn't that true? [LB485]

SENATOR BRASCH: At one point, yes. [LB485]

Floor Debate
April 07, 2014

SENATOR CHAMBERS: So then God changes? We can't count on God being consistent? [LB485]

SENATOR BRASCH: No, we can. The scripture is complete. [LB485]

SENATOR CHAMBERS: So then God did approve of multiple...not only multiple wives but multiple concubines and mistresses too. Solomon had several hundred and yet the Bible referred to Solomon as a wise man. The Bible is God's word. God said Solomon was wise, knowing that he had more than one wife and more than one mistress. So are you saying that man's law should trump God's law? [LB485]

SENATOR BRASCH: No. [LB485]

SENATOR CHAMBERS: You're hesitating. That's all I'll ask you. Members of the Legislature, do you see what I mean about these people who talk this religion? When they can use it to hit somebody on the head, that's what they do. When you give them something directly from the Bible, then they want to go to man's law. Well, if you're going to base all this on religion, what right does the state have to interfere with somebody's religion which is based on the Bible? Your church doesn't believe that. And there's a place in the scriptures that said they teach for doctrines the commandments of men. You are making the commandments... [LB485]

SENATOR COASH: One minute. [LB485]

SENATOR CHAMBERS: ...of men more significant than the commandments of God. Come to the New Testament. Paul said that a bishop should be the husband of one wife. Why would he designate one wife? Because bishops were having more than one wife even during the early days of the church. You all talk things but you don't even know the history of what you're talking about. You stand on this floor. You have ignorant preachers, you have misleading preachers. Then you come here and you spew that. But then when you're given something directly from the Bible, you hesitate. Thank you, Mr. President. [LB485]

SENATOR COASH: Thank you, Senator Chambers, and you are next in the queue. [LB485]

SENATOR CHAMBERS: Why does religion have anything to do with what we're talking about? Because people bow down to churches and doctrines of men. Senator Brasch did not hesitate one time when she was talking about all these things of how we love and she talks about the Bible and religion, so does Senator McCoy and...let me ask Senator Christensen a question or two if he's in the house. [LB485]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
April 07, 2014

SENATOR COASH: Senator Christensen, will you yield? [LB485]

SENATOR CHRISTENSEN: Yes. [LB485]

SENATOR CHAMBERS: Senator Christensen, are you aware of the fact that biblical, I will call them, personages had more than one wife and mistresses at the same time? Are you aware of that? [LB485]

SENATOR CHRISTENSEN: Yes. [LB485]

SENATOR CHAMBERS: Was that God's word? [LB485]

SENATOR CHRISTENSEN: No. [LB485]

SENATOR CHAMBERS: It wasn't? [LB485]

SENATOR CHRISTENSEN: No. [LB485]

SENATOR CHAMBERS: Did God ever condemn it? [LB485]

SENATOR CHRISTENSEN: He says you're supposed to be a husband of one wife or wife of... [LB485]

SENATOR CHAMBERS: No, that's not what the Bible says. You can't show me that. Did you...are you aware that David was called or referred to as the apple of God's eye? [LB485]

SENATOR CHRISTENSEN: Yes. [LB485]

SENATOR CHAMBERS: Yet David had more than one wife, didn't he? [LB485]

SENATOR CHRISTENSEN: I do not know, Senator. [LB485]

SENATOR CHAMBERS: Do you know if Solomon had more than one wife? [LB485]

SENATOR CHRISTENSEN: I know Solomon had a bunch of... [LB485]

SENATOR CHAMBERS: Wives and concubines. [LB485]

SENATOR CHRISTENSEN: ...concubines, yes. [LB485]

SENATOR CHAMBERS: Yes. Now did God condemn Solomon for having those wives and concubines? [LB485]

Floor Debate
April 07, 2014

SENATOR CHRISTENSEN: I don't know if he come right out and said it that way, no. [LB485]

SENATOR CHAMBERS: Well, why are you condemning it today? Who are you to question what God said was all right? Are you greater than God? [LB485]

SENATOR CHRISTENSEN: No. [LB485]

SENATOR CHAMBERS: If God said it was all right, do you think the law ought to allow a person, in the practice of his religion, based on Bible examples that God didn't disapprove of, do you think the state should allow a man to have more than one wife because of his religious beliefs? [LB485]

SENATOR CHRISTENSEN: I do not believe God approved of it. It was... [LB485]

SENATOR CHAMBERS: You don't believe, but you don't know. There's nothing in the Bible... [LB485]

SENATOR CHRISTENSEN: ...if there's examples of it... [LB485]

SENATOR CHAMBERS: ...where He condemned those people. [LB485]

SENATOR CHRISTENSEN: But it's not something he approved of. [LB485]

SENATOR CHAMBERS: Now you're reading God's mind, huh? Do you think the Bible was God's word? [LB485]

SENATOR CHRISTENSEN: Yes. [LB485]

SENATOR CHAMBERS: Did God have a wife named Sarah? [LB485]

SENATOR CHRISTENSEN: God? No. [LB485]

SENATOR CHAMBERS: Did...who had a wife named Sarah? I was wanting to see if you're paying attention. Did Abraham have a wife named Sarah? [LB485]

SENATOR CHRISTENSEN: Yes. [LB485]

SENATOR CHAMBERS: Did he have another woman named Hagar with whom he had sex? [LB485]

SENATOR CHRISTENSEN: Yes. [LB485]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
April 07, 2014

SENATOR CHAMBERS: And he produced children on both of them, didn't he? [LB485]

SENATOR CHRISTENSEN: Yes. [LB485]

SENATOR CHAMBERS: And the Arabs supposedly descended from Hagar. Isn't that true? [LB485]

SENATOR CHRISTENSEN: Yes. [LB485]

SENATOR CHAMBERS: And the Jews from his other wife. Is that true? [LB485]

SENATOR CHRISTENSEN: That's true. [LB485]

SENATOR CHAMBERS: Did God condemn Abraham for having babies on these two women? [LB485]

SENATOR CHRISTENSEN: He said there would be curses on the land for it. [LB485]

SENATOR CHAMBERS: Did God condemn Abraham for having babies on these two women, yes or no? [LB485]

SENATOR CHRISTENSEN: Not specifically, no. [LB485]

SENATOR CHAMBERS: He didn't do it. Well, why would you? If a man says his religion, based on what God allowed, allows him to have two wives and that's his religion, should the state allow that man the free exercise of his religion? [LB485]

SENATOR CHRISTENSEN: I don't agree with that, no. [LB485]

SENATOR CHAMBERS: Thank you. You see how hypocritical they are? If your religion says don't let somebody have a job, you can practice that. You can't show where God said for you to do that. But God blessed these people with children who had multiple wives and mistresses. Some of them didn't even rise to the dignity of a wife. They were sexual fire extinguishers and God allowed it, if you say that the Bible is God's word. Now if you question... [LB485]

SENATOR COASH: One minute. [LB485]

SENATOR CHAMBERS: ...whether or not the Bible is God's word, that's different. Do you think the Bible is God's word, Senator Christensen? Senator Christensen. Senator Christensen,... [LB485]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
April 07, 2014

SENATOR CHRISTENSEN: Yes. [LB485]

SENATOR CHAMBERS: ...do you think the Bible is God's word? [LB485]

SENATOR CHRISTENSEN: Yes. [LB485]

SENATOR CHAMBERS: Is every word in it true? [LB485]

SENATOR CHRISTENSEN: Yes. [LB485]

SENATOR CHAMBERS: Is it true just the way it's written? [LB485]

SENATOR CHRISTENSEN: In context, yes. [LB485]

SENATOR CHAMBERS: In context. What do you mean in context? [LB485]

SENATOR CHRISTENSEN: You can pull anything out of section to make it seem different than it is. You've got to read it... [LB485]

SENATOR CHAMBERS: Am I pulling something out of context when I said Abraham and these people had more than one wife? [LB485]

SENATOR CHRISTENSEN: No. [LB485]

SENATOR CHAMBERS: So that's in context. [LB485]

SENATOR CHRISTENSEN: Yes. [LB485]

SENATOR CHAMBERS: Here's the question, yes or no: Should the state stop a man from practicing his religious belief based on the Bible? Should the state prevent him from having more than one wife if his religion says he can? [LB485]

SENATOR CHRISTENSEN: I don't believe he should. [LB485]

SENATOR CHAMBERS: You don't believe the Bible,... [LB485]

SENATOR COASH: Time, Senators. [LB485]

SENATOR CHAMBERS: ...do you? Thank you, Mr. President. [LB485]

SENATOR COASH: Thank you, Senator Chambers and Senator Christensen. Senator Howard, you're recognized. [LB485]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
April 07, 2014

SENATOR HOWARD: I would yield my time to Senator Chambers. [LB485]

SENATOR COASH: Senator Chambers, 5 minutes. [LB485]

SENATOR CHAMBERS: Thank you, Mr. President. Is Senator Christensen in the house? [LB485]

SENATOR CHRISTENSEN: Yes. [LB485]

SENATOR CHAMBERS: Senator Christensen, have you heard it said in the Bible, thy word is truth, speaking of the word of God? [LB485]

SENATOR CHRISTENSEN: Yeah. [LB485]

SENATOR CHAMBERS: And the Bible is God's word. We have to start like in Sunday school. I used to teach Sunday school, believe it or not. Is everything in the Bible God's word, or are there things in the Bible that were put there by wicked men? [LB485]

SENATOR CHRISTENSEN: I believe it's the inspired word of God. [LB485]

SENATOR CHAMBERS: So when you said the inspired word of God, he was directing these people, who were writing those words, as to what they should write. Is that true or false? [LB485]

SENATOR CHRISTENSEN: True. [LB485]

SENATOR CHAMBERS: Did He direct these people to write about these men who had multiple wives and mistresses? [LB485]

SENATOR CHRISTENSEN: Yes. [LB485]

SENATOR CHAMBERS: Did He direct any of them to say that that was wrong? [LB485]

SENATOR CHRISTENSEN: I think there's examples of that, yes. [LB485]

SENATOR CHAMBERS: You say what? [LB485]

SENATOR CHRISTENSEN: There's examples of where He showed it's wrong because of the curses and things He talked about. I can look it up if you want. [LB485]

SENATOR CHAMBERS: Not for having more than one wife. God went for that. Do you know that angels came in unto the daughters of men and produced men of renown in those days? [LB485]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
April 07, 2014

SENATOR CHRISTENSEN: Yes. [LB485]

SENATOR CHAMBERS: So these are angels. So angels have sexual urges too. Is that right or wrong? [LB485]

SENATOR CHRISTENSEN: That would be correct. [LB485]

SENATOR CHAMBERS: They have sexual urges, right? [LB485]

SENATOR CHRISTENSEN: Yes. [LB485]

SENATOR CHAMBERS: Can you show me any place in the Bible where there was a female angel? [LB485]

SENATOR CHRISTENSEN: I guess I do not know. [LB485]

SENATOR CHAMBERS: There are none. So with whom were these angels carrying out their sexual urges before they decided to turn them on the daughters of men? Were they having sex with each other? [LB485]

SENATOR CHRISTENSEN: I would say not. [LB485]

SENATOR CHAMBERS: But you don't know, do you? [LB485]

SENATOR CHRISTENSEN: I do not. [LB485]

SENATOR CHAMBERS: Nobody knows, correct? [LB485]

SENATOR CHRISTENSEN: Correct. [LB485]

SENATOR CHAMBERS: So I would be just as correct to say that they were as you would be to say that they were not, correct? [LB485]

SENATOR CHRISTENSEN: That's your interpretation, yes. [LB485]

SENATOR CHAMBERS: So when we're talking about angels, we have no way of knowing what they did. Would you agree? [LB485]

SENATOR CHRISTENSEN: Correct. [LB485]

SENATOR CHAMBERS: But when it comes to men, we know what they did, based on what the Bible tells us. Is that true? [LB485]

Floor Debate
April 07, 2014

SENATOR CHRISTENSEN: Yes. [LB485]

SENATOR CHAMBERS: All right. Now you're in my Sunday school class. Senator, were there men whom God used to lead his people Israel who had more than one wife? [LB485]

SENATOR CHRISTENSEN: Yes. [LB485]

SENATOR CHAMBERS: Did God ever condemn those men for having more than one wife? [LB485]

SENATOR CHRISTENSEN: I believe He did. [LB485]

SENATOR CHAMBERS: You get an F. You need to go read your Bible. Members of the Legislature, you know why I'm doing this? What they've talked about is preposterous, it is foolish, it is silly, it is totally irrelevant. They want to be able to discriminate against people and say that business requires it. But when you look at all of the actions of the Fortune 500 and those who really know something about business, they speak strongly against discriminating against people on the basis of sexual orientation and are pointing out that that deprives these businesses of a well-educated, capable labor pool. Then you got some of these "yayhoos" from the backwoods of Nebraska saying, well, they don't know nothing about how to run a business. They don't have a Fortune 500 business. Those people who really have made a success of business are the ones you ought to take for your example. [LB485]

SENATOR COASH: One minute. [LB485]

SENATOR CHAMBERS: These people who are hidebound, who are narrow-minded, who are fearful, who are led by ignorant people and reflect that ignorance are not the ones that children ought to use for an example. And they ought to hope that their children get out from under their tutelage as soon as possible if they're going to go live somewhere else in the world besides the backwaters of Nebraska so they won't look like some Bible-thumping hicks who don't know anything about the real world. Thank you, Mr. President. [LB485]

SENATOR COASH: Thank you, Senator Chambers. Senator Karpisek, you're recognized. [LB485]

SENATOR KARPISEK: Thank you, Mr. President. I would yield my time to Senator Chambers. [LB485]

SENATOR COASH: Senator Chambers, 4 minutes 50 seconds. [LB485]

Floor Debate
April 07, 2014

SENATOR CHAMBERS: Thank you, Senator Karpisek. Mr. President, members of the Legislature, what I'm doing is engaging in this talk in the only way that a sensible, intelligent, educated person can. When they talk about these studies, if this idiot that Senator Christensen is quoting all the time on identical twins, then if they're identical twins they should have the same acuity when it comes to vision, shouldn't they? They should hear exactly the same. They should have exactly the same intelligence, shouldn't they? They should always have the same eye color. They should never have different hair color. But he's going to take somebody who knows nothing whatsoever about psychology, certainly not psychiatry because he'd have to be a medical doctor and this guy that Senator Christensen quoted, I don't...he tinkered with...well, he was an electrician, then he was a plumber. And Senator Christensen thinks that we ought to formulate state policy on the basis of that. If he and others like to read studies, they ought to go into the stacks of any library, because they don't throw books away, and look at all the studies written by top flight scholars, white scholars who told how genetically inferior I am, genetically inferior. I cannot learn. I cannot learn English. I cannot learn math. I cannot outreason white people. I cannot read their Bible written in their language and understand it better than they because I am genetically inferior. He can find numerous studies and all of you who feel that way can console yourself. Why, I don't care what Chambers does on the floor; I got a study right here. Look what this here guy said right here. Chambers is inferior. It doesn't matter what he say. He doesn't know anything. He can't read, can't spell, can't understand nothing. That's what the studies had said. And we're being given that kind of tripe on this floor and being expected to take it seriously. Do you think anybody watching the discussion that took place on this bill today and the rest of the time would say that is indeed a discussion carried on by intelligent, knowledgeable, informed people? Or would they say, where in the world do those people come from? Where have they been? How can somebody who is sane have stayed there 40 years, just about, and still be sane listening to that, having to contend with it, having to work in that environment? See, I don't have the freedom of just ignoring it, because this is where I have to work. And I use the tactics that I have to use based on what I find myself contending with. And while I'm about it, how much time do I have, Mr. President? [LB485]

SENATOR COASH: One minute fifteen seconds. [LB485]

SENATOR CHAMBERS: Do I have another time to speak on my own time? [LB485]

SENATOR COASH: You do. [LB485]

SENATOR CHAMBERS: Then I'm going to stop at this point. Thank you. [LB485]

SENATOR COASH: Thank you, Senator Chambers. Senator Lathrop, you're recognized. [LB485]

Floor Debate
April 07, 2014

SENATOR LATHROP: Thank you, Mr. President and colleagues. I am just going to make an observation at this point, since we're winding down and about ready to take a vote. This discussion may illustrate the difficulty with bringing your right to your...to participate in your own religion into the workplace. Let me tell you what I mean, because we seem to be saying, I own a business and no one should tell me who I hire or not or whether I keep somebody on or not if it violates my faith, because I want to practice my faith. Here's where you can kind of run into a problem with that. What if that very same guy says, I don't like the fact that we're in two wars over in the Middle East? Now we're not but we were. What if...can the person stop paying their taxes? Should we let them stop paying their taxes if it violates their religious principles? What about the nuclear arsenal that some priests go down in front of Offutt to protest? If they take some business owners down there, can those people not pay their taxes because what we're doing with the taxes violates their religious beliefs? You know, Senator Nelson put a bill in last year, a conscience bill, and the year...two years before that Senator Pirsch did. And I think it's interesting that we're having this conversation because the point of the conscience bill, which, by the way, never got out of Judiciary Committee, but the point of the conscience bill was an employee can tell the employer that they're not going to do something because of their religious principles. Let me say that again. The point of the conscience bill was a healthcare provider didn't have to do something that they had a moral objection to. So what if you have a pharmacy and I always, when we were having these discussions, used the hypothetical pharmacy in Broken Bow. And I have no idea if they have one or how many they have. But assume that they have a pharmacy, one in Broken Bow, and the employee says, I don't want to dispense the pill. I want to be a pharmacist. I want the job. By the way, you can't tell me I can't because that would be...violate my right to express my religion, but I don't want to dispense the pill. And what about the employer's right to exercise his opinion, which might be, I have a moral duty to or I don't care about religion, I'm running a business? I bring that up to illustrate this. That we all have, under the constitution, the right to worship as we please, and we can worship whatever variety of God that you choose to worship. But when you believe that you can take that into your workplace and use it as a shield against regulation by the state, then it presents all kinds of problems we haven't thought through nor have we talked through today. With that, I'll yield the balance of my time to Senator Conrad.
[LB485]

SENATOR COASH: Senator Conrad, 1 minute 45 seconds. [LB485]

SENATOR CONRAD: Thank you, Mr. President. And thank you to my good friend, Senator Lathrop, for those thoughtful remarks and for the time. Friends, this may be my last time at the mike before we take a vote on whether or not to continue or cease debate on this critical equal rights legislation. So let me just be clear and recap what we're talking about here. LB485 simply updates our state's nondiscrimination statutes to ensure that everyone in the workplace has a fair shake. And it's simply because we

Floor Debate
April 07, 2014

believe no one should be fired or denied a job because of who they are and because of who they love. That's a matter of fairness and a matter of justice, and it sends a positive message that Nebraska is welcoming and open to business... [LB485]

SENATOR COASH: One minute. [LB485]

SENATOR CONRAD: ...for all of those who are willing to work hard. The majority of Nebraska citizens support this measure. We know a majority of Nebraska senators support this measure. And it's an important step forward. It would apply to all public employees and government contractors, and it would exempt out small businesses, those with less than 15 employees. The committee amendment deserves and needs a strong green vote as well because there is a critical expansion of the religious exemption covering schools and other organizations, and it would be consistent with federal law and the Omaha ordinance adopted in 2012. Friends, this won't result in increased litigation for the private sector. The experience of over 20 states and 180 communities that have similar laws on the books have not demonstrated that. In fact, our own model up the road in Omaha shows that activity in this regard has been modest at best. This bill has nothing to do with same-sex marriage or public accommodations or insurance benefits but simply is about it's... [LB485]

SENATOR COASH: Time, Senator. [LB485]

SENATOR CONRAD: Thank you, Mr. President. [LB485]

SENATOR COASH: Senator Nelson, you're recognized and this is your third time. [LB485]

SENATOR NELSON: Thank you, Mr. President, members of the body. It's interesting that Senator Lathrop should mention the freedom of conscience bill, and my only reply, because I have other things to talk about, is that it was a difficult bill. He had some reservations about it; others on the committee did not. But it still boils down to the fact that if we have freedom of religious and express our religion here, then it does have to get into the workplace. It gets into the workplace of the church because that's what they're all about. And I can read here, and I would have some questions of Senator Conrad but I'm not going to take the time, about the fact that what is in this bill or AM2111 is very narrow as far as the church is concerned, whether it's Lutheran or Catholic or Episcopal or anything else. The ordinance in Omaha is much broader. It goes into definitions that protect the churches and religious organizations and those that want to promulgate their particular view, their religious beliefs. This might be my last time also, but I think we need to talk about DOMA, the Defense of Marriage Act that was passed here in 2000. We've talked about sexual orientation as including behavior, conduct, and ultimately it involves marriage, and we've talked about that on the floor. LB485 would condemn as discriminatory organizations that seek to further a particular

Floor Debate
April 07, 2014

definition of marriage, that marriage is between one man and one woman. I would, therefore, argue that LB485 would undermine the constitutional rationality of Nebraska's constitutional amendment defining marriage as being between one man and one woman. If private organizations cannot further the view that marriage is between one man and one woman, certainly the state should not be able to do so either. An organization like a Christian book store could not consider whether a prospective employee agreed with its viewpoint on marriage, because in the world of LB485 marriage relates to sexual orientation. I'm going to give the remainder of my time to Senator Krist so that he can finish up the points that he wanted to make. [LB485]

SENATOR COASH: Senator Krist, 2 minute 30 seconds. [LB485]

SENATOR KRIST: And actually I think this is enough time to finish up. I think I was third in the queue, just for Senator Conrad to understand. I made the comments I did about Senator Chambers and my father because I know that Senator Chambers and my father were active in civil rights and, believe it or not, my father was one of those people that was very much into treating people like people and making sure that the Civil Rights Movement happened. He tells a great story, not being a politician but being a union guy, about a group of gentlemen who came to him and said, it's very important to us that we celebrate Martin Luther King Day. And he looked at them and he said, I understand that that is your hero, and my hero is Jesus Christ, so if I can take Good Friday off, then I'll let you take Martin Luther King Day off. They actually did that in the union, believe it or not, within a few years after that. And they were ahead of their time in the fact that you could choose either day. That's the art of compromise. I don't know if this, being a civil rights issue, if we're ready to move on this, this year. I don't know if this piece of legislation, in my opinion, is the kind of piece of legislation that we want to take forward in the state of Nebraska. I think Senator McCoy said that whether we do this or not, we know that Omaha has already moved forward in a more aggressive way. Lincoln says they're going to move forward in a more aggressive way. But I have to go back to my original point and that is this. I don't think we had a debate about the substance of this bill. I don't think we sat down and talked about the things that Senator Schumacher would have brought to the floor. I think we wasted our... [LB485]

SENATOR COASH: One minute. [LB485]

SENATOR KRIST: ...time on a filibuster. And to that end, I will say it now, as I've said it earlier in the session. This business of making law is about three votes, three numbers: 33, 30, and 25. We've done an injustice in terms of not talking about this issue and, therefore, I will vote for cloture, although I have no intention of voting for this bill or this amendment in its present form. So in between General and Select, my hope is that we'll do more than just talk about filibustering and whether there are sexual issues or whether twins don't have the same eyesight or whatever the issues might be. I think I've run out of things to say. Thank you, Mr. President. [LB485]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
April 07, 2014

SENATOR COASH: Thank you, Senator Krist. Mr. Clerk, you have a motion on your desk. [LB485]

CLERK: Mr. President, Senator Conrad would move to invoke cloture, pursuant to Rule 7, Section 10. [LB485]

SENATOR COASH: It is the ruling of the Chair that there has been full and fair debate afforded to LB485. Senator Conrad, for what purpose do you rise? [LB485]

SENATOR CONRAD: Mr. President, I'd like to request a call of the house and a roll call vote in regular order, please. [LB485]

SENATOR COASH: Thank you, Senator Conrad. 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; all those opposed vote nay. Mr. Clerk, please record. [LB485]

CLERK: 25 ayes, 0 nays, Mr. President, to place the house under call. [LB485]

SENATOR COASH: The house is under call. Senators, please record your presence. Unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel, please leave the floor. The house is under call. Mr. Clerk, there has been a request for a roll call vote in regular order. Members, the first vote is the motion to invoke cloture. Mr. Clerk, please read the roll. [LB485]

CLERK: (Roll call vote taken, Legislative Journal page 1432.) 26 ayes, 22 nays, Mr. President, on the motion to invoke cloture. [LB485]

SENATOR COASH: The motion fails. Raise the call. Items for the record, Mr. Clerk? [LB485]

CLERK: Mr. President, thank you. I do have amendments to be printed: Senator Chambers to LB1042, LB1042A, LB961, LB1092, LB916, LB276, LB276A, LB559, and LB559A; Senator Carlson to LB1098; Senator Karpisek to LB976; Senator Ashford to LB907A; Senator Janssen, LB383A; Senator Campbell to LB526; Senator Watermeier, LB1098A. And I have a new resolution, Mr. President, LR619 by Senator Mello; that will be laid over. That's all that I have. (Legislative Journal pages 1432-1435.) [LB1042 LB1042A LB961 LB1092 LB916 LB276 LB276A LB559 LB559A LB1098 LB976 LB907A LB383A LB526 LB1098A LR619]

SENATOR KRIST PRESIDING

SENATOR KRIST: Thank you, Mr. Clerk. Moving on to the next item.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
April 07, 2014

CLERK: Mr. President, LB799, a bill by Senator Carlson. (Read title.) Introduced on January 10 of this year. The bill has been discussed on the floor, Mr. President, on March 21. Banking, Commerce and Insurance Committee's were offered that day. I do have other amendments to the bill, Mr. President. (AM1730, Legislative Journal page 523.) [LB799]

SENATOR KRIST: Thank you, Mr. Clerk. Senator Carlson, you're recognized. [LB799]

SENATOR CARLSON: Thank you, Mr. President. As a review of LB799, the committee advanced the bill to General File on a vote of 7-0-1, and this bill would amend the section of law that requires every insurance company licensed to do business in Nebraska to annually file the executive salaries and board of director's compensation with the Director of Insurance. This section of Nebraska statutes has been in effect for nearly 100 years. The goal of the law was to allow the commissioner to see how companies were being run and where the profits were going, in essence to protect the purchasers of insurance. Nebraska also has what are referred to as sunshine laws and these laws make all state records public unless there's a specific exemption. Nebraska's public record law, Section 84-712.01 made public the officer's and executive salaries of the aforementioned insurance companies. This information should be collected for regulatory purposes only. There's no public policy to make public the salaries of private company executives. This is the only place in Nebraska law where the state requires private companies to disclose salaries. Other regulated businesses in our state, banks, telephone companies, and numerous businesses under the Nebraska Advantage Act are not required to make public their executive salaries. Let me point out this bill only impacts private companies. Public companies are subject to the Securities and Exchange Commission and, under SCC, public companies are required to file certain information of value to investors to determine the risk involved in those companies. The salaries and benefits of the six top executives will still be made public in nonprivate businesses. There's a committee amendment to follow which defines the limits of such public disclosure as to private insurance companies, and so I would ask for your support on LB799 and ask that you listen carefully as the amendment is reviewed. Thank you. [LB799]

SENATOR KRIST: Thank you, Senator Carlson. Senator Gloor, as the Chair of the Banking, Commerce and Insurance, you...would you like to remind us about your committee amendment? [LB799]

SENATOR GLOOR: Thank you, Mr. President. The committee amendments will leave undisturbed the current requirement that salaries and compensation of insurance company officers be filed with the Director of Insurance. In brief, committee amendments add new provisions to provide that the salary and compensation information required be filed must be maintained as confidential by the director, may not

Floor Debate
April 07, 2014

be subject to disclosure to persons outside the Department of Insurance as, one, agreed to by the insurance company or, two, ordered by the courts. Thus, the information would continue to be filed with the director but its release would happen only with the agreement of the insurance company pursuant to a court order. Thank you, Mr. President. [LB799]

SENATOR KRIST: Thank you, Senator Gloor. Mr. Clerk, for an amendment. [LB799]

CLERK: Mr. President, the first amendment to the committee amendment, Senator Coash, AM2538. (Legislative Journal page 1333.) [LB799]

SENATOR KRIST: Senator Coash, you're recognized. [LB799]

SENATOR COASH: Thank you, Mr. President. Good afternoon, colleagues. This amendment has been a long time coming and I'm pleased to introduce AM2538 for your consideration. This amendment inserts language from LB505, which is a bill that I had prioritized last year, and as of today has 20 cosponsors. LB505 is a bill that requires insurance plans to cover autism. This bill is very important. This bill means a lot to the 900-and-some families who cannot get coverage for their children who have autism. This bill keeps them from moving out of state. This bill keeps them from going bankrupt. Last year this bill needed some work and it got stuck, but I am thankful that this year the committee voted this out of their committee. This bill is long overdue, and the committee did the right thing by advancing it. Since the introduction of this bill last year, we have worked hard to address every concern brought to me, and the amended version of LB505 reflected in this amendment is language that was agreed to by the supporters of this bill and the insurance companies who will provide this coverage. Colleagues, last Thursday was World Autism Awareness Day. What we learned then was 1 in 88 children in our country are diagnosed with autism spectrum disorders. That translates approximately to 5,926 individuals with autism in Nebraska who are under the age of 21. There's been a one thousandfold increase in this in the last 40 years. You no doubt know or even love someone who is on the spectrum. Now state legislatures can only impact state regulated health plans which currently cover approximately 20 percent of people under 21. The language excludes coverage in some markets yet the amendment is estimated to effect almost 900 children with autism. And at this time because of the lack of insurance coverage for autism treatment in Nebraska, families faced with an ASD diagnosis are left with three options. They go without treatment and they hope their school system will somehow find an accommodation and meet their needs. They seek treatment and then they go bankrupt. Or many times they leave our state and they seek treatment elsewhere such as our neighboring states of Iowa, Kansas, Missouri, and Colorado, all of which have required this coverage. AM2538 requires many insurance plans in our state to cover all medically necessary care for the screening, the diagnosis, and the treatment of autism spectrum disorder or ASD. Such treatment includes pharmacy care, psychiatric care, psychological care, therapeutic care, and behavioral

Floor Debate
April 07, 2014

health treatment, all of which must be provided by someone who is licensed in the field. This amendment which is, again, colleagues, been approved by the insurance providers provides applied behavioral analysis or ABA coverage that is capped at 25 hours per week until the insured reaches the age of 21. Coverage is not subject to dollar limits, deductibles, copayments, or coinsurance provisions less favorable than equivalent provisions in physical health coverage in the policy. The amendment also includes a few provisions that address various concerns expressed to me a few years ago when I introduced this bill as LB1129. The amendment limits coverage to policies that would not trigger any financial obligation to a state to defray costs or benefits under the ACA, and it does not violate guidance issued by the U.S. Department of Health and Human Services. Covered services include behavioral health treatment, including ABA when provided or supervised by a board-certified behavioral analyst or licensed psychologist. Although future changes in the implementation of the ACA may include autism, this does not eliminate the need for us to do something now, and to do something this year. It does not eliminate the need because large group plans, small group and small individual markets are not required to provide this benefit. Small employers with group plans may receive a waiver from the Nebraska Department of Insurance if the required coverage results in a two and a half increase...percent increase or more in policy costs in one year. Colleagues, the need is clear. Nebraska families deserve better. Thirty-four other states require this coverage. This is where we're headed. Enacting this amendment would provide access to life-changing treatment to almost 900 Nebraskans with autism. I am aware that this bill, this amendment does not cover every person, but it is something that we are working on and this amendment is a critical first step. It will help many Nebraska families that are struggling to find the necessary care for their children. This bill provides coverage for children who, without it, would have to move to other states in order to get it. Finally, for the fiscal impacts, some of you may recall an actuarial study done on LB1129 from 2012. Requiring this coverage here in Nebraska will raise premiums minimally and is very unlikely that any costs will have an appreciable impact on premiums, based on the Nebraska specific study. Costs will rise anywhere between an estimate of .28 percent to .65 percent. Compared to the financial and emotional costs expended by Nebraskans with this diagnosis, this is negligible. Finally, colleagues, I'd like to paint a picture for you of what has become my experience in working with children with autism and adults who were children with autism. And I want to paint a picture for you of an adult with autism, and maybe by virtue of his age, did not have access to this treatment, and that adult is now dependent entirely on services provided by the state because...let's say it's a he, has not been provided this treatment, he needs people around him 24 hours a day. He requires pervasive supports. He cannot function without a lot of help. Now I want you to compare that to that same child...let's say it was the same guy, but as a child had this treatment. He lives independently. He gets intermittent supports. He works. The treatment that is purported to be covered under this amendment changes lives. And whatever impact it has on a plan today far outweighs what could be done if we enact this legislation. I want to thank the 20 cosponsors of this bill and I want to thank all of the parents who have

Floor Debate
April 07, 2014

tirelessly, tirelessly advocated for this coverage. They said they wouldn't give up and here we are today. Colleagues, we can be the 35th state to have this coverage, and I encourage your support. Thank you, Mr. President. [LB799 LB505]

SENATOR KRIST: Thank you, Senator Coash. Colleagues, you've heard the opening on AM2538 to the committee amendment and to the bill. Those wishing to speak: Senator Carlson, Gloor, Chambers, Burke Harr, and Senator Karpisek. Senator Carlson, you are recognized. [LB799]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. I simply want to commend Senator Coash for all the work that he has done on putting this bill in a position that it could become a part of LB799. He didn't ignore anything. He talked to all parties that were involved and worked out agreements, and so I am in support of AM2538 to AM1730. Thank you. [LB799]

SENATOR KRIST: Thank you, Senator Carlson. Senator Gloor, you're recognized. [LB799]

SENATOR GLOOR: Thank you, Mr. President and even though I am the sole vote out of the committee in opposition, and I'll explain that a little bit for the record, I'd also like to commend Senator Coash. He and I have talked about this quite a bit over a couple of years and he has been a great advocate for the families and individuals who suffer from autism and its associated codiagnosis, I guess. There's no doubt that this is an important issue and one that I think is probably going to grow in importance, and yet I was a no vote on this committee. Understand that the Insurance Committee gets a lot of mandate...a lot of insurance mandate bills every year. We have had eight over the past two years and the history of mandate bills coming to the committee, as people here can attest to is, rarely does one come out of committee. Two have come out of committee this year. Actually two have come out of committee if you take a look at the past two years. Senator Nordquist's bill that will, I believe, be an amendment. We'll talk soon. And Senator Coash's bill. It's important to understand that there is also an effect, even though the comment has been made that this doesn't find its way to increase premiums, certainly that is one of the reasons that we rarely advance bills is the concern that by adding additional coverage, inevitably it finds its way to premium. And we know as a result of some of the feedback that we're now starting to get on the Affordable Care Act's implementation, that the ten essential benefits that are now required to be covered by insurance plans, certainly those sold in the exchanges, those ten essential benefits have resulted in increased premiums for some of the insurance plans with individuals having to drop out. There is that cause and effect that's out there. How much, we don't know. How much we don't know because we don't know the extent to which they will be utilized, those mandates will be utilized. Actuaries have a hard time figuring for each individual plan, and there may be many across this country, but nonetheless, there's a cause and effect. My concern fits into that category. Now Senator Coash, as he stated,

Floor Debate
April 07, 2014

has worked very hard, has advocates to at least come up with some degree of coverage, and it's important that the public and as you as senators understand that the coverage for this is limited to plans that fall under the category of state plans that are in place for cities, Lincoln and Omaha, state of Nebraska's employees, the University of Nebraska, and the Med Center. And so the coverage we're talking about here, and of course it's one of the reasons the insurers are willing to be cooperative is, it isn't going to cover most of the traditional plans. It will cover a small subset and I've named the small subset that will be covered under these plans. Clearly, a lot less than some people might have thought, clearly a lot less than I believe some of the advocates understand, that being some of the families, but it's a start. It will cover, I think as Senator Coash said, an estimate is somewhere around 900 families. So there will be a way to take a look at this and measure its success. Senators, there's also the issue of within a couple of years the federal government will go back in and assess the essential benefits and decide whether to expand them. And I believe the hope of autism advocates is that the more states that adopt some kind of coverage, and there may be 35 states that already have a degree of coverage, we don't know what level of coverage. [LB799]

SENATOR KRIST: One minute. [LB799]

SENATOR GLOOR: But the more states that provide coverage, the better the argument is to the federal government that autism, or at least components that have to do with rehabilitative services, the ABA, applied behavioral treatments, and the applied behavioral approach, I think, habilitated, rehabilitative services, those might be at least better defined so that essential benefits would provide a degree of coverage that would be helpful to all families as opposed to the small numbers...smaller numbers that we're talking about now. So, I've explained as best I can a complicated issue. What you have before you is at least a start towards autism coverage, not one that I felt I could support at this time. Thank you. [LB799]

SENATOR KRIST: Thank you, Senator Gloor. Senator Chambers, you are recognized. [LB799]

SENATOR CHAMBERS: Mr. President, sometimes a person has a hangover and I've got a hangover from that last bad vote. A lot was said about religion, so my hangover will comprise one more quote: Who can bring a clean thing out of an unclean thing. The original form of this bill is unacceptable. Senator Coash is offering something designed to tidy it up, but it cannot do the job completely. I spoke against the underlying bill when it was before us the first time and I remain against it. I'm going to see whether or not the body is of a mind to add additional worthwhile amendments that might somewhat dilute the polluted bill. But pollution must be gotten rid of. And I talked to some families today who are interested in Senator Coash's amendment. And I believe in being frank and forthright with people and I let them know what my view about that original bill is. I

Floor Debate
April 07, 2014

pointed out that Senator Coash had to try to find a bill and this was the only thing around, so he hitched a ride. But when you do that, you take a chance. So I'm going to vote to support Senator Coash adding this to that bad bill. But that will not end my concern about the bill or what I shall try to do with it. And one thing that puzzles me, this introducer of the original bill voted against the minimum wage, but now feels that the wage of these super rich people is so sacrosanct that nobody should even know what that wage is. Now that seems a little ironic to me. And for those who don't like what I'm saying, the old guys, the geriatric crew, the Rolling Stones, they're not rolling anywhere, they're just kind of slip, sliding away, but they're not going quietly into that good night. They're still make a lot of racket whenever you hear them. But they sang a song, Time--I'm not singing, I'm saying it--is on my side. Yes, it is. We are now at a point in the session where everything is compressed into a very small amount of time. I can take the rest of this session if I want to. I've been treated in a way that I think has been very shabby. Everybody got what they want. I helped Senator Karpisek get a liquor bill. Some people thought they on the floor working were the ones who worked out something to let that bill go and remove some parts from it. I and Senator Karpisek and Senator Murante worked behind the scenes and I let the bill go and other bills. And I supported overrides. I let Game and Parks get their money. Everybody got something except me. And I'm not going to take it lying down. Senator Bloomfield, I saw the "Colonel" in the hallway today and I said "General," you're in a combat situation. The sea is at your back. The enemy is coming at you. [LB799]

SENATOR KRIST: One minute. [LB799]

SENATOR CHAMBERS: Do you fight? He said to the last man, because a man must do what he must do. I am that man. Now I want to see you scoff at me. Now I want you to laugh at me. Now I want you to mock me because suddenly you have a stake in this game. Water. We can do that next year. The water is not going to all dry up. And under the rules of the Legislature, you cannot stop me, but you can get me off this. Give me my lions and you'll be rid of me. You'll be through with me. But take them and take your chances. This is a species that the Game and Parks people want to exterminate and I'll do all I can to stop them. But in the meantime, I'm going to help Senator Coash get his amendment adopted if I can. Thank you, Mr. President. [LB799]

SENATOR KRIST: Thank you, Senator Chambers. Senator Burke Harr, you're recognized. [LB799]

SENATOR HARR: Thank you, Mr. President. I'm not as simple as that. I don't know if I got anything this year that I wanted. I don't know how good Santa was to me, but that's not why I rise. This is a very good bill that he has that he's amended on to a bill...on to another bill. It's a good amendment. It does a lot of great things. And I guess my question though is, and this is my lawyer background coming through, is while this is a great bill and it helps a lot of people, autism runs...spectrum runs in my family. I

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
April 07, 2014

understand the importance of it. But the ends doesn't always justify the means, and so I guess, I would ask...Senator Coash would you yield to a question? [LB799]

SENATOR KRIST: Would you yield to a question? [LB799]

SENATOR COASH: Yes, I will. [LB799]

SENATOR HARR: Thank you, Senator Coash. You are presiding president quite often and know the rules. How do you find this to be germane? [LB799]

SENATOR COASH: Well, the underlying bill with the committee amendment is in the broad sense of the word, an insurance bill. My amendment is an insurance amendment. Germane. [LB799]

SENATOR HARR: Okay. I had a bill earlier this year, property tax, dealt with property tax exemption. One was property tax exemption as it relates to low-income housing, and the other one was property tax as relates to homestead exemptions. Property tax. You know what the Chair ruled? None germane. Senator Bloomfield brought it. Again, folks, we're near the end. You heard Senator Chambers talk. I don't know what I'm going to do at this point, but you have to respect the process. We have a process, we have a way of doing things. And this bill is good. You're amendment is good, Senator Coash, but we have a process. We have to honor that process, and if it's not germane, that's not the end of the amendment. You can suspend the rules for germaneness. And I think we've got to be careful towards the end of the session we're trying to get a lot of bills through in a short time, that we do it right, that we do it the proper way. That we can do something that we're proud of and that we don't have unintended consequences of a year or two from now someone else saying, yeah, but, but, but the other bill we did that. So I'm not going to make a motion of germaneness at this point. But one bill, LB799, has to do with compensation of employees and it's about reporting of insurance and what insurance companies do and do not have to report to the Department of Insurance. The other bill has to do with coverage. It's a completely different area and it's about what policies the companies must provide. Again at this point, I'm not going to challenge it on germaneness, but I will listen closely and hopefully there will be a better argument about how these two are germane. Thank you. [LB799]

SENATOR KRIST: Thank you, Senator Harr and Senator Coash. Senator Karpisek, you are recognized. [LB799]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. I do want to voice my support for Senator Coash's amendment. Senator Coash's bill and Senator Conrad's bill about the formula and my cochlear implant bill have been in committee for two years. I brought the cochlear impact bill for six years. I wish it would have gotten out, but it didn't and we've made great strides. I think, hopefully, there's only one

Floor Debate
April 07, 2014

insurance company now in the state that's not covering cochlear implants and I wish that they would. They're a big company. But I didn't push to get my bill out of committee because I didn't want to take down or harm in any way Senator Coash's autism bill. I feel it is very important, not that it's maybe more important than my cochlear implant bill, but it is very important. And again, mine has only one company not covering it in the state, I think. I do not like LB799 and I would not vote for it if this amendment, and Senator Conrad is coming next, wouldn't be attached. I want to thank Senator Carlson for working with them and putting it on there. I think this autism bill is very, very needed and it will very much help the people of our state. No one knows who might have an autistic child or grandchild or someone that they know. And if we can start early and make a difference in those lives, that is going to be a lot of difference for all of us. I hope that this bill, this amendment makes it because again, Senator Coash has done a great job on this. I'm proud of him. I'm probably a little jealous that I didn't bring the bill, but I will be supporting this amendment and if Senator Coash would like my remaining time, I would yield it to him. [LB799]

SENATOR KRIST: 2:20. Senator Coash waives. Thank you, Senator Karpisek, Senator Coash. Senator Janssen, you are recognized. Those still in the queue: Coash, Nelson, Garrett, and Chambers. [LB799]

SENATOR JANSSEN: Thank you, Mr. President and members, and I'd like to also thank Senator Coash for bringing this legislation forward as I looked at the bill. I actually went to the hearing. I left my committee and went to the hearing. It was kind of packed in the hearing room that particular day, so I got to hear the testimony that he referred to in his opening. And so just to keep my comments brief, I will...if you want to read the transcript, I will echo the words that Senator Coash used in his opening and save you my rendition of saying the same thing over and over, which happens so many times on this floor. Germaneness. I think we found out earlier this session...I believe it was Senator McGill's bill. Everything is germane unless it's challenged and so I think we're in okay territory here. I think actually we may not be in the same inning but we're in the same ballpark with this one. So it's at least a little bit closer and certainly I've seen rules suspended before. In fact, a Senator Coash bill that dealt with the cemetery of some sort where we suspended rules and it was totally not germane but we pushed it on board with that. I would like to...well, I guess I'm not going to do it because I would be echoing the words and I said I wouldn't do that. So again I'll applaud him for bringing this bill, and I support this particular aspect of it. I do the underlying bill as well. I don't know where else this bill is going to go. It looks like it's got quite a path ahead of it, but I appreciate the efforts of Senator Coash. And I'd like to point out I was the first cosponsor to this bill and was happy to do so. Thank you, Mr. President. [LB799]

SENATOR KRIST: Thank you, Senator Janssen. Senator Coash, you're recognized. [LB799]

Floor Debate
April 07, 2014

SENATOR COASH: Thank you, Mr. President. Colleagues, I want to address a couple of things Senator Gloor brought up in his comments and I do want to mention, Senator Gloor and I have not seen eye to eye on this bill, but he's kept his word. I asked him to hold an Exec Session, he did. I told him he didn't have to vote for it and he didn't. But here we are and I'm happy to be here even without his support. But there are a couple things that I think are part of this discussion that address some comments that he made that I want to get on the record as well. First of all, in the amendment there's a six-month review by the insurance company. So this isn't going to march down the track without somebody looking at it and making sure that the need for whatever is being covered is still there. It was a year, it was amended down to six months. Because we would be the 35th state here, we're not going into unchartered territory, colleagues. We're not the first state, we're not the canary in the coal mine that's going to figure out how this is going to work and how much it's going to cost. And I'm going to point out a couple of things that have been found in other states where the per member, per month cost on these plans on average is 15 cents. Okay. Fifteen cents per person per year...excuse me, per month. When you look at the financials of this particular bill, one of the things you have to keep in mind is...and there's no other way for the Fiscal Office to do this, they have to assume that everybody who is going to ask for coverage is going to get everything to the maximum amount of the law provides for. And that's just simply not always going to be the case. They call it the autism spectrum disorder because people with the disorder vary on a spectrum. And there are some children who will need a lot of treatment and there are some children who will need some treatment. And some children who need a little bit of treatment, but we don't know. We aren't able to figure that out because we don't know the nature of the conditions of the Nebraska children. But what we do know is that not every single child needs the maximum treatment as provided for under this amendment. So I would ask that you would keep that in mind. As to the future of this, I'm optimistic that we will get this amendment adopted, but I want to put this on the record because Senator Chambers and I have worked on a couple things this year and he's always been straight with me and I've always been straight with him. Here's the deal. There's nothing more important to me than this amendment and getting this bill to the finish line. And Senator Chambers, as a bear might protect her cub, I'm going to protect this amendment. As a lion might protect her cub, I will protect this amendment and nothing is more important to me than getting this to the finish line. And I will do whatever I have to do to make sure that occurs and I won't risk anything. There's too much to risk already with this bill. Thank you, Mr. President. [LB799]

SENATOR KRIST: Thank you, Senator Coash. Senator Nelson, you're recognized. [LB799]

SENATOR NELSON: Thank you, Mr. President and members of the body. Thank you, Senator Coash, for bringing this bill. I would just like for clarification in the record to ask you a few questions. [LB799]

Floor Debate
April 07, 2014

SENATOR KRIST: Senator Coash, will you yield? [LB799]

SENATOR COASH: Yes, I will. [LB799]

SENATOR NELSON: Thank you, Senator Coash. I followed you closely as you were going through the fact sheet of LB505. I'm also looking at the fiscal note which starts out by saying this requires health insurance plans sold in the state on or after January 1, 2014, to provide coverage for the screening, etcetera. And it's my...and then Senator Gloor went on to say that this is limited to the state health insurance plan, the University of Nebraska, perhaps the UNMC. And those add to about 38 children and my understanding would be then that the state plans cover those and...but you also talk here that we're going to reach an estimated or affect almost 900 children with autism. Those figures don't add up for me. Will you kind of go through that for me? [LB799 LB505]

SENATOR COASH: I will, Senator Nelson. Thank you for the question. Okay. There's a lot of different kind of plans out there. The plan that affects the university and state employee plans are the self-funded health benefit plans and those are the plans that would affect about 38 of those children because the university, for whatever reason, was able to figure out that's about how many people on their coverage would want that. But that's just one type of coverage that we are affecting. We are also affecting individual plans, fully insured large group plans and fully insured small group plans that are not subject to a grandfather clause. And so the fiscal note only addresses the state employees. We cover...which is just that small number. We're going to cover a lot more children under the other plans that are covered which do not have a fiscal impact. [LB799]

SENATOR NELSON: All right. Yes, I understand that. So we've got all these other plans. I have no doubt this is going to increase costs and it's going to increase premium costs. Now are those going to be paid by the employers? Are there individuals, are there families with an autistic child that don't have insurance, or they have their own private plans and so they're going to fund those, the increase in premiums? [LB799]

SENATOR COASH: Yes, Senator Nelson. For the plans that we are affecting we do anticipate an increase of cost, but as I said at my last time at the mike, we know from other states that that cost will be about 15 cents per person covered per month. And so we think that's a minimal cost. [LB799]

SENATOR NELSON: Fifteen cents per month. That's the additional cost with the insurance company. I see figures like \$70,000 here of medical benefits and things of that sort. Those figures are firm in your mind, those costs? [LB799]

Floor Debate
April 07, 2014

SENATOR COASH: Well, the...those figures, I believe that you're referring to, talk about the state health plans and those are different plans. And again, as I said on my last time at the mike, those do presume a full utilization of the benefit which we don't anticipate will happen. [LB799]

SENATOR NELSON: All right, thank you. That helps me on this. I'll continue to listen and understand a little better and I appreciate your response, Senator Coash. Thank you. Thank you, Mr. President. [LB799]

SENATOR KRIST: Thank you, Senator Nelson and Senator Coash. Senator Garrett, you're recognized. [LB799]

SENATOR GARRETT: Thank you, Mr. President, members of the body. I rise in support of this amendment and the underlying bill. I'm sure we'll have a lot of words and debate on the underlying bill later. But I want to compliment and commend Senator Coash for the great job he did. I'm on the Banking, Commerce and Insurance Committee. It didn't look like this was going to come out of committee. And he did a masterful job of pulling together the proponents and opponents and hammered out a deal and we met in the Executive committee and got this thing passed in a classic example, I think, of how things should be done and can be done. And, again, I commend him for his efforts. And as far as Senator Chambers, I know he's up next. He quoted one of my all-time favorite Rolling Stones songs. I'm a big time Rolling Stones fan. The song he was quoting and attempting to sing was "Time Is On My Side." And I'd just like to remind him of another great Rolling Stones song and that's "You Can't Always Get What You Want," but if you try sometimes, you get what you need. Thank you, Mr. President. [LB799]

SENATOR KRIST: Thank you, Senator Garrett. Senator Chambers, you're up. [LB799]

SENATOR CHAMBERS: Thank you. Mr. President, I see where some very important outfits are looking to make these mutual insurers disclose their salary and determine how they base what they take. The SEC is one of them. So there are entities outside of this Legislature who are interested in not allowing what the underlying bill does. I can understand Senator Coash putting everything he's got into this measure. We've only got three more days to be together or four, so it doesn't matter to me what you all think. We're not going to be cooperating with each other. My cooperation doesn't get me anything anyway. I give and that's all. And the mistake is that people think that means that I'm a sucker. But I'm going to show you that a sucker can turn out to be a jawbreaker, figuratively speaking. I've stated that I will support what Senator Coash is doing, and I'll tell you all what my interest will be on this bill. I have my mountain lion amendment. Now in the same way that germaneness was not challenged on Senator Coash, I don't expect germaneness to be a challenge on mine. Just vote it down if you don't like it. Or you can challenge it on germaneness, but I'm going to raise that issue and I'm going to discuss it for varying lengths of time on every bill, every bill. Maybe all

Floor Debate
April 07, 2014

I'll say is I'm fighting for the lions, and I'll withdraw the amendment. That's not what I'm saying on this one. This underlying proposal is bad, bad public policy, and Senator Coash knows he's rolling the dice, so to speak. These other people know that's what they're doing. But that is an amendment that I'm going to offer. Then I have another amendment which would strike from the bill, after everybody gets what they want on it, Sections 1 and 2 from the amendment. That would remove from the bill all of that secrecy for these big shots. When you can't vote to increase the \$2.13 amount for waitresses, I have no feeling of concern or interest in doing anything for these multimillionaires who are plundering the policyholders and who have caught the attention of the SEC. That's not the Southeastern Conference. This SEC is harder than they are. I think it's called the Securities and Exchange Commission, and there's some national insurance outfit also. But once again, Nebraska is going to roll over and let these big shots wipe their feet on Nebraskans without Nebraska getting anything in return. So if my amendment, the ultimate one, is not adopted to strike Sections 1 and 2 from the committee amendment, which would have the effect of removing all of the original language from the bill, then you all probably can get 33 votes on this bill. But in going to get the 33 votes, there's going to be time taken. And those who are in the queue, as they say, can reckon it up. See, you can't do any more to me than you've done already, nothing, and the threat of it would not make me back away from the things that I believe. So I'm going to say again, I will vote for Senator Coash's amendment. [LB799]

SENATOR KRIST: One minute. [LB799]

SENATOR CHAMBERS: And then these other miscellaneous amendments, as they come up, if I agree with them, I'll vote for them too. But I won't raise the germaneness issue. My view has always been that unless a bill contains two subjects which would make it unconstitutional for lack of germaneness then anything else is germane. If it would not make the bill unconstitutional, add it if you can get the votes. But you all are the ones who became the ones who want to be technical. So should I go along with what you've shown thus far or should I not? That's a decision for me to make and I make it in favor of a very loose and liberal interpretation of what constitutes being germane. Thank you, Mr. President. [LB799]

SENATOR KRIST: Thank you, Senator Chambers. Senator Hadley, you are recognized. [LB799]

SENATOR HADLEY: Mr. President, members of the body, I certainly stand in support of AM2538. Some of the statistics I was looking at were, to me, pretty astounding. The fact we're now down to 1 in 68 children have autism, to me that's a very, you know, amazing statistic, and the cost of treatment. Would Senator Coash yield to a question? [LB799]

SENATOR KRIST: Senator Coash, will you yield? [LB799]

Floor Debate
April 07, 2014

SENATOR COASH: Yes. [LB799]

SENATOR HADLEY: Senator Coash, you may not know this, but why has the...it seems like the instance of autism has been going up dramatically, in looking at some of the statistics from the CDC. Would you happen to know why that is happening? [LB799]

SENATOR COASH: Senator Hadley, I can give you a couple of theories as to why it's happening, but I think the scientific community is still out there as to why we're seeing the increase. I'll give you...I'll run down a couple of thoughts, and I'm not saying I agree with these. I just happen to know that these are some reasons that people are giving about the increased autism. What I would say is I see more of a...and I do agree with this, I think autism is diagnosed more today than it was maybe 20 years ago. Twenty years ago I think there were still the same, percentagewise, amount of people with autism, but I think we are seeing an increase in diagnosis because we're learning more about and we're honing in on what constitutes autism. That's one reason. Some people will point to food and the changes in food and whether or not that has an impact over the increased diagnoses. Others will point to immunizations and their effect or their noneffect on the human body as reason for an increased...an increasing diagnoses of autism. But I would tell you that the jury is still out. Unfortunately, we just don't know, and so we have to continue to provide this treatment so that no matter the reason for your diagnosis, that we can provide you the support that you need. [LB799]

SENATOR HADLEY: Thank you, Senator Coash. It would seem to me that that would lend itself toward insurance coverage. The more people that need to be covered, because there's more of an incidence, so the insurance runs the risk, so that's exactly, it would seem to me, this would be a case that you would want this covered under insurance. The last thing I'll say, I remember the commercials and they were always so neat, the ones with Ernie Els and Tommy Hilfiger and a race car driver, and it was kind of the idea, the odds of being a PGA golfer and winning five major championships were 1 in, you know, 2 billion and they kept going down, but the chances of having an autistic child were quite low. And each of these celebrities have an autistic child in their family. Thank you, Mr. President. [LB799]

SENATOR KRIST: Thank you, Senator Hadley and Senator Coash. Senator Harms, you're recognized. [LB799]

SENATOR HARMS: Thank you, Mr. President, colleagues. I rise in support of this amendment as well as the committee's amendment and the underlying bill. I think when I was a freshman senator here, it was either my first year or the second year, I don't remember, we had people come to us to talk to us in Appropriations Committee about autistic children and they were wanting to create a fund. They were wanting us to put some money up-front, then they were going to match those dollars by the private sector.

Floor Debate
April 07, 2014

So when this came up, we had the opportunity then, I had a high interest in this, so we had an opportunity to go over and spend some time at the University of Nebraska Medical Center with some of the experts in the field of autistic children. But also while we were there, we had an opportunity to talk to parents who had children that were autistic. And I'd have to tell you, colleagues, that I was basically shocked about what the parents go through in regard to having an autistic child. And what the doctors told us then, that the important thing about dealing with an autistic child is early intervention. You have to get to that child early and start the process with the child, because you can make a difference with an autistic child. You're not going to correct it, but it helps the parents and the child how to...it helps the parents know how to deal with the child. The other thing that was a shocking factor to me in talking to the doctors and also the parents, that there's a high divorce rate in couples who are married who have an autistic child. The stress in the family is staggering. It splits that family up. Added to the fact is that why a lot of parents do not address the autistic portion of it early is because financially they cannot afford it. It's simply unaffordable for the parents. So you add the issue of knowing how to deal with the child, you haven't had the child in early intervention, you add the issue of the cost and the financial stress on the family, it's understandable why so many families will end up in a divorce. This is really an important piece of legislation. It's an important amendment. I'm thankful that Senator Coash has introduced it. In our discussion with the doctors, one of the questions I asked, and I remember this very clearly, was, do we know that there are more autistic children today than there were in the past? And I remember the answer was that, you know what, John, we probably had autistic children and we probably had as many autistic children that maybe we have today; we just didn't know they were autistic; we did not pay attention to that aspect; we didn't understand what an autistic child was about. The scientists and the research that's now being done on autistic children is phenomenal. We still have a ways to go, but by providing services and insurance companies helping pay the parents for the services, I believe we'll have much better success than we are having today with an autistic child. So I would urge you to support this amendment. And, Senator Coash, thank you for bringing it forward. Thank you, Mr. President,...or thank you, Madam President, excuse me. [LB799]

SENATOR HOWARD PRESIDING

SENATOR HOWARD: Thank you, Senator Harms. Senator Bloomfield, you are recognized. [LB799]

SENATOR BLOOMFIELD: Thank you, Madam President. Colleagues, I wasn't all that excited about LB799 or AM1730. I do kind of like AM2538. I think we're headed in a good direction with that. I'd like to talk to Senator Gloor a little more about it and I probably will. Senator Conrad also has an amendment coming on here that I think will be good. With that said, it's time for me to do a little air cleaning here. Every time we mention Game and Parks or mountain lions, the first line of the conversation is, I know

Floor Debate
April 07, 2014

you hate Game and Parks. Well, I don't hate Game and Parks. I'm not wild about some of the things they've done, I'm not wild about the way they have done things, but I don't hate Game and Parks. Senator Chambers misspoke a little bit ago a little bit when he said everybody got what they wanted this year. Well, the weather is getting nice out. I see a lot more motorcycles on the road and they're all wearing a doggone helmet yet, not because they want to but because the members of this body decided that we should take that personal freedom away from them or keep it away from them. I didn't agree with that, but I also didn't decide that I should tie up the rest of the session. I wouldn't be near as good at it as Senator Chambers could be, but I could have done it. Now back to Game and Parks a little bit. I have been opposed to the mountain lion hunting all year. I don't believe we should have a season until Game and Parks can get their ducks in a row and tell us how many lions there are, whether they pose a hazard. But with that being said, I cannot support Senator Chambers in his attempt to tie up every bill that comes along here now. So in his attempts to save the mountain lions by tying up other bills, I will not be supportive. Thank you, Madam President. [LB799]

SENATOR HOWARD: Thank you, Senator Bloomfield. Senator Chambers, you are recognized and this is your third time. [LB799]

SENATOR CHAMBERS: Thank you, Madam President. Senator Bloomfield, I heard you. Not every bill will I deal with the same way, but I want everybody to have a stake in the game. I didn't have time to review every bill that's coming up. Things are moving rapidly so I had to cover every avenue of escape. But here's what I will say. Nothing can be done to me worse than has been done already. If you turn against me, all it means is that I haven't got my mountain lion bill. I'd like to ask Senator Bloomfield a question or two. [LB799]

SENATOR HOWARD: Senator Bloomfield, will you yield? [LB799]

SENATOR BLOOMFIELD: Yes, I will. [LB799]

SENATOR CHAMBERS: Senator Bloomfield, I don't have my mountain lion bill now. Would you agree with that? [LB799]

SENATOR BLOOMFIELD: Yes, I would. [LB799]

SENATOR CHAMBERS: So if you say you're not going to support me on it, how am I worse off with that than I am now? [LB799]

SENATOR BLOOMFIELD: You are not unless you're hoping to count my vote somewhere down the line because... [LB799]

SENATOR CHAMBERS: Now how... [LB799]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
April 07, 2014

SENATOR BLOOMFIELD: ...I hope I won't be there. Senator, I'm going to grab just a minute of your time if you'll let me, or less. [LB799]

SENATOR CHAMBERS: Say it again. [LB799]

SENATOR BLOOMFIELD: I'd like to grab 30 seconds of your time and say something I should have said when I was up. [LB799]

SENATOR CHAMBERS: Oh, sure, go ahead. [LB799]

SENATOR BLOOMFIELD: If you bring this bill again next year, I will probably be supportive. I can no longer be supportive of it this year. [LB799]

SENATOR CHAMBERS: Suppose I find a way to get a reconsideration of that override issue? You going to support it then? [LB799]

SENATOR BLOOMFIELD: We've already reconsidered it. If you get another reconsideration, I would have to look at the process. [LB799]

SENATOR CHAMBERS: Well, 30 votes can suspend all those rules that would hinder it. Will you support that? [LB799]

SENATOR BLOOMFIELD: I will look at it. [LB799]

SENATOR CHAMBERS: You'll look at it, okay. [LB799]

SENATOR BLOOMFIELD: Yeah. [LB799]

SENATOR CHAMBERS: And I'll look at what I'm doing. [LB799]

SENATOR BLOOMFIELD: Okay. [LB799]

SENATOR CHAMBERS: Thank you, Senator Bloomfield. Members of the Legislature, what do I have to lose? That's why some of these military efforts in other countries are not successful, because the people that they are trying to intimidate are not afraid to die. When you can make a man afraid to lose something and you can threaten that, then you can put pressure on him. But when he has nothing to lose, there's no pressure. And if I don't get it next year, I'll be here six years. Game and Parks will have me to contend with. And you know what I have to show? That I'm not blowing smoke, that I won't forget. And I've been over this path many, many times in the 38 years I've been here. I've been challenged by people. I've been told I'm going to pay, but they're going to pay, too, and they will pay more. And if that's the level we're working on, I will play by

Floor Debate
April 07, 2014

whatever rules are invoked for the game. You see me helping Senator Coash. I told you all that I have an amendment to get rid of that bad stuff about the insurance out of this bill that he's putting his on. Then maybe some people will support it who couldn't support it because of that insurance stuff. Pay attention and watch the whole game. But if you turn against me, I'm no worse off than I am now. But you shouldn't have played your cards so early in the game because now I don't have anything to lose from you from this point on. We, neither of us has anything to lose, but only one of us is in a position to do something about it. You can't do here what I will do and you won't do here what I will do, so that's where the difference between myself and Senator Bloomfield or myself and anybody else on this floor will come in. I will do what nobody else on this floor will do, and I have decades of it. And I'm still going when the Energizer Bunny is lying beside the road, out of gas, out of energy. There are people...Senator Davis, sitting right in front of me, got something attached to a bill that I could have stopped if I wanted to. Everybody has to have a stake in the game. [LB799]

SENATOR HOWARD: One minute. [LB799]

SENATOR CHAMBERS: Thank you, Madam President. Then we play it differently. If you can sit on the sidelines and throw stones at the participants, or be up in the balcony and watch the gladiators down there in the blood-drenched sand fighting each other and fighting wild beasts who have been baited, then it's easy for you to get enjoyment out of it. But when you come down into the arena with me, then we will see what we shall see. But remember this, brothers and sisters. At this point, I have nothing to lose. I have nothing to lose. So maybe you all ought to think about how you can be nice to me. Or just tell me, you don't care what I'm doing. Do like Senator Bloomfield and say, I don't care. Tell me that. Tell me now... [LB799]

SENATOR HOWARD: Time, Senator. [LB799]

SENATOR CHAMBERS: ...and I won't ask again. Thank you, Madam President. [LB799]

SENATOR HOWARD: Thank you, Senator Chambers and Senator Bloomfield. Senator Sullivan, you are recognized. [LB799]

SENATOR SULLIVAN: Thank you, Madam President. I want to speak specifically to my support of AM2538. I don't have a lot of experience with autism. No one in my family has suffered from that. But a number of years ago our daughter, Mollie, who's a teacher now, but when she was in college here in Lincoln had the opportunity to work as a student assistant with a behavioral therapist who was working with a family whose toddler at that time had autism. And it was a very intensive therapy, 24/7. The behavioral therapist was there during the day, but then these young students were able to continue and work with the family on an ongoing basis. Oftentimes when I would

Floor Debate
April 07, 2014

listen to Mollie talk about this and how much progress Annie was making, but I thought to myself and asked Mollie, my gosh, how did this family be able to afford this? And fortunately, this family had the wherewithal to do this. But over the few years that Mollie worked with this family, she saw Annie go from being very withdrawn and suffering severe symptoms of autism to entering kindergarten as a vibrant, active, little child. And I thought, wow, what a difference that therapy made. What a difference it made for that kindergarten class that Annie was going to be participating in. What a difference it made for the lack of special education services that were going to be needed because of that successful therapy that that family was able to access. This amendment gives families hope. Statistics have bore out that this is a growing, increasing incidence of this condition. We also have evidence of successful treatment. Let's give families hope and support this amendment. Thank you very much. [LB799]

SENATOR HOWARD: Thank you, Senator Sullivan. Senator Krist, you are recognized. [LB799]

SENATOR KRIST: Thank you, Madam President, for taking the Chair long enough so I could participate in this discussion. I appreciate it. Good evening, colleagues. And good evening, Nebraska. I'm going to talk about two different things on my time at the mike. I'm glad that Senator Coash and Senator Chambers are both on the floor because I'll be speaking to both of these issues in the next few minutes. First of all, you're looking at someone who has dealt with the people with special needs for many, many, many years, and I think Senator Coash is right on the money when he says that the reason that we're seeing more instances of autism is that we know what autism...what those different effects that autism can demonstrate, what the anomalies might be, what the conditions are, and we're able to diagnose autism more readily these days. And understanding that, as Senator Harms said I think earlier, the quicker we can start any kind of therapy in moving forward, and I think Senator Sullivan alluded to it just a minute ago, the better treatment that young folks get with the initial diagnosis of autism the better result we have at the end of the road. If you don't teach a child to hear and speak from the ages of zero to three or four, they will have lifelong problems. And this is where this comes to. Speaking is part of it. Socializing is part of it. It's an amazing thing. And I will tell you this. I'm embarrassed that in the state of Nebraska our insurance programs and our processes here are actually worse than the insurance programs that deal with our active duty. Our active duty folks, in terms of autism, and the kind of insurance and the kind of treatment that they get is much better. And I would have said years ago don't...there's no way that CHAMPUS or TRICARE would have been any better than a state service or an individual insurance service. AM2538 should stand on its own. It is I guess unfortunate that it is not standing on its own because it's going to get into the muck and mire of the things it would follow. Now I'll shift gears. So I completely support AM2538. I'll have to look at the other amendments as they come up. But let's talk about USAA, United Services Automobile Association. I've been insured with USAA since 1974. I have been a member. I have been cared for. The continuity of leadership at the

Floor Debate
April 07, 2014

top of the company is very, very important. When we came through our recession period in the last few years, I didn't feel a pinch and neither did many of the members in USAA. Well, how does that affect the state of Nebraska? Well, let me tell you how it affects. It is a quality company with quality leadership at the top. And if we are going to enforce these kinds of standards for this kind of corporation, then let's ask Peter Kiewit what they pay their folks. Let's ask all those companies' CEOs, who make millions and millions of dollars and have a golden umbrella, let's ask them what they make. I think in this particular case you're barking up the wrong tree and it doesn't have a cougar in it. Let me say that again: You're barking up the wrong tree and it doesn't have a cougar in it. There are 18,720 members in Sarpy County; 14,336 members in Douglas County; 7,077 members in Lancaster County; 1,210 members in Cass County. There are 42,811 members of USAA in and around the Offutt area. [LB799]

SENATOR HOWARD: One minute. [LB799]

SENATOR KRIST: Quality leadership sits at the helm. And it's not just an insurance company, folks. That CEO has many tiers underneath him: credit card division, banking division, investment division, insurance division. What are we trying to do? It's a market fairness issue at this point. Forty-two thousand people in the state of Nebraska served by a company that is one of the best insurance companies in the United States, 100 best companies to work for, Fortune magazine; number one best for vets employers, 2012; top 100 military friendly employers, 2013; number one GI jobs, 2013; number one family friendly employer, 2013. I could go on; I won't. I'm running out of time. I'm just telling you, this is a good company and we need to make sure that fairness in the marketplace is there. If you're going to target in on somebody, let's make sure the tree has got a cougar in it before we start cutting down the tree. [LB799]

SENATOR HOWARD: Thank you, Senator Krist. Senator Brasch, you are recognized. [LB799]

SENATOR BRASCH: Thank you, Madam President, and thank you, colleagues. I will be brief. I wanted to stand in support of AM2538 to AM1730, LB799. I know Senator Coash has worked hard on this legislation for several years, as I have supported him in his efforts in the past. I do have constituents that we've spoken with over the years and this will make a tremendous difference to their family and to their children moving forward. I want to commend the committee and those who have helped bring this forward. Thank you, Mr. President, and thank you, colleagues. [LB799]

SENATOR KRIST PRESIDING

SENATOR KRIST: Thank you, Senator Brasch. Seeing no one else in the queue, Senator Coash, you're recognized to close on your amendment. [LB799]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
April 07, 2014

SENATOR COASH: Thank you, Mr. President. Good evening, colleagues. I don't want to oversell this, but this is a big deal. The lack of this coverage is breaking apart families. The lack of this coverage is driving people from our state. The lack of this coverage is putting something on a child that we know can be prevented. Support of this amendment is...it keeps families together and it will change lives. Senator Harms was right on when he said this works when you have early intervention. That's why the bill is targeted to children. It works. When done by a trained, qualified, ABA therapist, a child with autism can learn to interact with the world in a way that he or she could not do otherwise. And, colleagues, that's like...it's like taking someone who can't see and letting them see, taking someone who can't walk and giving them legs so that they can walk. It is that impactful. And it does work. And we can do something for the families who we can affect with this legislation, and I appreciate your support on it. Thank you, Mr. President. [LB799]

SENATOR KRIST: Thank you, Senator Coash. You've heard the closing. The question is AM2538 to AM1730. All those in favor, aye; opposed, nay. Have all those voted that wish to? Please record, Mr. Clerk. [LB799]

CLERK: 36 ayes, 1 nay, Mr. President, on adoption of the amendment. [LB799]

SENATOR KRIST: AM2538 is adopted. Another amendment? Items for the record? [LB799]

CLERK: Just very quickly, Mr. President, thank you. An amendment to be printed, Senator Ashford to LB907. (Legislative Journal pages 1436-1437.) [LB907]

Mr. President, the next amendment I have to the bill, Senator Nordquist, I have AM2691. Senator, I have a note you wish to withdraw and offer, as a substitute, Senator Conrad's AM2872. Is that right? [LB799]

SENATOR NORDQUIST: No. [LB799]

CLERK: No, not right. [LB799]

SENATOR NORDQUIST: We're moving forward with AM2691 as it is, and I think hers substitutes to something else. [LB799]

CLERK: All right. So, Senator, you want to offer your AM2691, right? [LB799]

SENATOR NORDQUIST: Yeah. [LB799]

CLERK: Okay. Thank you. (AM2691, Legislative Journal page 1385.) [LB799]

Floor Debate
April 07, 2014

SENATOR KRIST: Senator Nordquist, you're recognized. [LB799]

SENATOR NORDQUIST: Thank you, Mr. President and members. AM2691 is a simple amendment. It strikes the sunset on the parity law that we have in our state for coverage of oral chemotherapies. It's line 16. It was supposed to sunset at the end of 2015. For those of you that were here will remember in 2012 I passed LB882 that established a parity between the IV oral chemotherapy and oral chemotherapy...I'm sorry, IV chemotherapy and oral chemotherapy. This session I introduced LB883, which would repeal the termination date to ensure that patients and doctors can continue to make decisions about the best course of treatment available to them and will not have to simply look at...choose treatments because of what's most cost effective. This bill came out of the Banking Committee unanimously, had no opposition at the hearing. If you'll remember back, for those of you, again, that were here, sometimes there are equivalents between oral and IV chemotherapy. In those cases, this would allow the individual to choose what's the best course for them. While the oral chemotherapy can be slightly more expensive, by the time you include administration costs to receive IV chemotherapy, the costs become very equivalent. And that's why we saw no real substantial increase effect on premiums because of this. And just to clarify, it isn't a mandate that chemotherapy is covered. It simply states that if there is coverage for IV chemotherapy then there must be coverage for oral chemotherapy at a no less favorable amount. This is...we've heard many stories already, the impact that this is having on cancer patients to make sure they can get their treatment in a timely manner. And I'd appreciate your support of AM2691. [LB799 LB883]

SENATOR KRIST: Thank you, Senator Nordquist. You've heard the opening. Those wishing to speak: Senator Mello, Chambers, and Hadley. Senator Mello, you're recognized. [LB799]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. I just want to draw the body's attention. The fiscal note on the original LB883, which incorporates Senator Nordquist's bill, it doesn't have a fiscal impact to the state. But I wanted to also...and I apologize for doing my due diligence a little late in respects to the amendment we just passed of Senator Coash's amendment regarding the autism mandate. The reality is right now the Fiscal Office is still trying to evaluate, one, how we can attach a fiscal note to a bill that doesn't have an accompanying A bill. That's a conversation that we're having right now as it relates to the autism mandate. But more importantly, if you look at some of...if you look at the original fiscal note on LB505, which Senator Coash brought in the amendment form, right now the interpretation that the Fiscal Office has is that the fiscal impact for fiscal years '15-16 to the state and to the university health insurance plans is roughly \$590,000 to the state insurance plan in fiscal year '15-16 and \$725,000 to the university insurance plan in '15-16. That's based off, right now, their analysis of what the amendment was and trying to see how that amendment is tying in with LB799 with the date changes that Senator Coash provided. I

Floor Debate
April 07, 2014

just wanted to make sure for our purposes, as we look at bills that may have an impact on the green sheet, they're evaluating whether or not there will be a fiscal impact next year of the budget, '14-15, and evaluating how the...if there is a fiscal impact, what's the best way to approach that of incorporating that appropriation within the bill itself. That's something that they're evaluating right now. There is a guaranteed fiscal impact, they think, that needs to be stated on the record for fiscal year '15-16, the first year of the next biennium, at roughly \$1.3 million in General Funds as it's split between the state insurance health plan and the university health insurance plan. That's more for our records. Obviously, it doesn't have a direct impact on the green sheet for this biennium. It will have an impact next biennium. I apologize for not getting that information out sooner. I didn't want to interrupt Senator Coash as he was doing closing. The amendment passed very widely, so I don't think it was going to have a big impact on it. But I wanted to let members know that is the case as it relates to the autism amendment we just adopted. And the amendment we have now on the oral chemotherapy has no fiscal impact to the state or the university plan. Thank you, Mr. President. [LB799 LB883 LB505]

SENATOR KRIST: Thank you, Senator Mello. Senator Chambers, you're recognized. [LB799]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I have no objection to this amendment. They're still trying to undertake some purification. I handed out a picture of a mountain lion, it was in color, this morning. There was a poem attached to it that a lady wrote. That poem was not found in the magazine along with this picture. I thought the two went together, because when it was given to me there was a large picture and then the poem. But I thought that it said a good deal, and it's dealing with a female mountain lion. And I won't read the whole thing, but it talks about how she's solitary, she can sense where you are long before you see her. And the final verse, we need light in here. That's not a part of it: Instead, she crosses your path when you're almost upon her, like a dancing sunbeam teasing a child; leaving her track in the trail just to inform you, you've been that close to something that wild. And when you look at this majestic animal, unoffending, shy, reclusive, elusive, and you all want these...I call them barbaric, savage people to kill this beautiful animal for a trophy, to hang her head on a wall, to put her hide on a door or her hide as a rug on the floor. This is a cruel state. I wonder about the people who live out there, no compassion. And I'm not just talking about the mountain lions. I'm talking about what we would not do in extending medical care to human beings, so don't come to me and ask me why are you so concerned about these four-footed animals and not the two-footed kind. I fought hard, not just this year, to try to get us to expand that medical coverage, and now we're talking about insurance plans to reach people, but you wouldn't do the other because you hate that black man in the White House. That's what it's about. And you will damage your own kind because of that. So if you'll damage your own kind, then why should I expect you to be concerned about these few mountain lions, this very few?

Floor Debate
April 07, 2014

They are caught in traps, they are killed by vehicles, and you have so few of them and you want the Game and Parks Commission to set up a hunting season. And then you want to try to tell me you think I'm a fool like some of the rest of you are thought to be fools in here that you need to hunt them? You are talking about extermination. That's what you're talking about. Three days and there's somebody I won't engage in here anymore with these biblical conversations, but you heard that Jesus was three days in the heart of the earth, three days and three nights. That's what you hear. They're not even good in math. I see why Senator Brasch doesn't believe the Bible or that Senator Christensen has doubts about it. Based on the biblical story, Jesus was crucified, tumbled on Friday. He spent Friday night in the tomb. That's one night. He spent all day Saturday in the tomb. That's one day. He spent Saturday night in the ground. That's two nights. He got up Sunday morning. I don't care what kind of math you use,... [LB799]

SENATOR KRIST: One minute. [LB799]

SENATOR CHAMBERS: ...that is not three days and three nights in the heart of the earth. Their math is even wrong. But let's assume it's correct. If Jesus can stay in the heart of the earth three days and three nights and then get up and is none the worse for wear and tear, cannot I survive three more days and nights in this Legislature and survive not much the worse for wear and tear? But how about the rest of you? How about the rest of you? You've got something at stake now and it doesn't seem to be quite so funny anymore. But it's becoming a lot more fun for me because I have nothing to lose. Ask me what would give me something to lose and I will tell you. Then we'll all put our stakes on the table, s-t-a-k-e-s, and see where we go from there. Thank you, Mr. President. [LB799]

SENATOR KRIST: Thank you, Senator Chambers. Senator Hadley, you're recognized. [LB799]

SENATOR HADLEY: Mr. President, members of the body, would Senator Nordquist yield? [LB799]

SENATOR KRIST: Senator Nordquist, do you yield? [LB799]

SENATOR HADLEY: Senator Nordquist, I'm certainly in favor of your amendment. It's just a quick question. Why did we put a sunset on it in the first place? I just don't remember... [LB799]

SENATOR NORDQUIST: Yeah. [LB799]

SENATOR HADLEY: ...the reasoning behind that. [LB799]

SENATOR NORDQUIST: It was in the art of compromise with the insurance industry.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
April 07, 2014

We, on General File, we had 44 votes on it. There were some who were opposed at that time. But we decided on Select File to take away as many concerns as possible and it ended up passing unanimously from the body. And the industry did not come in, in opposition this year and are okay with it going forward. [LB799]

SENATOR HADLEY: Was it basically then to take a look at it? [LB799]

SENATOR NORDQUIST: Yeah, to see if it had significant adverse effects on premiums, and that has not been shown to happen, so. [LB799]

SENATOR HADLEY: Okay. Thank you, Senator Nordquist. [LB799]

SENATOR NORDQUIST: Yep. [LB799]

SENATOR HADLEY: Thank you, Mr. President. [LB799]

SENATOR KRIST: Thank you, Senator Hadley, Senator Nordquist. Senator Burke Harr, you're recognized. [LB799]

SENATOR HARR: Thank you, Mr. President, members of the body. Those at home, go ahead and take a potty break. This isn't aimed at you and this isn't aimed at people in the Chamber. I hope people behind the glass are listening, because that's who this is aimed at. I'm a little upset, and I've been upset for a couple days about something that happened. Our honor and our integrity and my bond is everything to me or at least to me it is. There was a statement made in the Chamber about me that I was quoted as saying something that I did not say. That quote was then passed to another lobbyist. That lobbyist, to his credit, said, I don't think that's right, and went to the source of a quote that I allegedly said. That person is my father. Do not bring my family into this. Makes me angry. My dad said, no, I never said that, and he was right. So then the question became, did I say it? And the answer is, no, I never said it. I never made a quote. Folks, if you got a question, if you got an issue, come to me, ask me if I said it. We had triple hearsay rule there. There's a reason we have hearsay and it's not allowed in courts, because it's wrong. It was a bad game of telephone, at best, at best. I don't necessarily agree with the policy of LB799. I'm a guy for transparency, but that's not what I'm here to talk about right now. What I'm here to talk about is integrity. Senator Nordquist's bill, what we're doing here with his amendment, with Senator Conrad's or, excuse me, well, Conrad's is coming up, although I think it's going to be pulled, Senator Coash, it's simple. You're selling your vote. That's what it is. Now I think Senator Coash's amendment is good. I think Senator Nordquist's amendment is good. I think Senator Chambers' amendment on mountain lions is good. I'm not necessarily against LB799. What I'm against is the way that it was brought. So with that, hopefully you guys can all come back. Apologize for losing my temper a little bit there, but it just...it's one of those things that burns in my craw. I'm not paid enough for my name to be slandered,

Floor Debate
April 07, 2014

so thank you. [LB799]

SENATOR KRIST: Thank you, Senator Harr. Senator Smith, you're recognized. [LB799]

SENATOR SMITH: Thank you, Mr. President. Good evening, colleagues. I just wanted to rise in support of AM2691. I recall a couple years ago when Senator Nordquist brought the original bill and there was some discussion on this, and I recall Senator Nordquist acting in good faith and added the sunset clause. And now a couple years later we've had a chance to see that there's no opposition to this bill. I believe it's a good bill and I support the amendment. Thank you, Mr. President. [LB799]

SENATOR KRIST: Thank you, Senator Smith. Senator Lautenbaugh, you're recognized. [LB799]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. And maybe the timing of this is off but, you know, time is a luxury I don't have. And this might seem, you know, less than grateful, I don't know, but I am grateful that we laid the horse racing issue to bed earlier today in a satisfactory way, finally. I've been working on that since Senator Giese introduced the bill, and I prioritized it many, many, many moons ago, and it remained important to me. But to get that where it got today, I fairly well had to bite a hole through my tongue all session long on so many days it's not even funny. And those days seem to have passed now and here we are talking about how everyone got what they wanted this session except for the mountain lion's ban. Well, let me tell you something, folks. You may have heard me talk about something at the mike a time or two that had nothing to do with horses, and I talked about it repeatedly and it had to do with education reform and charter schools and how we are not doing well by the kids that live in east Omaha and we could do better and we could at least try reform. And we refuse to year after year after year, and I could not get my priority bill out of committee despite the number of you who stood up on this floor and said, hey, I voted this bill out of committee because it was so-and-so's priority. And I sat here and I fumed and I endured it. And now we're told, well, everyone got what you want. Well, you know who didn't. The parents whose kids are stuck in substandard schools in east Omaha, they didn't get what they wanted. The people who came down to that committee hearing and said, hey, give us a chance, give us a choice that we don't have to pay for, they didn't get what they wanted. And now we're here talking about these damn mountain lions again? I don't care about the mountain lions as long as these kids are getting a substandard education, and it's an outrage that we've spent another five minutes on these things. No, we did not all get what we wanted this year. And for someone to stand up and say, you didn't want to do it because of the black man in the White House, well, the black man in the White House is with me on this. He sure likes charter schools. And where are we? Where are we? And what in God's name are we talking about here? Shame on us, Mr. President. Shame on us. [LB799]

Floor Debate
April 07, 2014

SENATOR KRIST: Thank you, Senator Lautenbaugh. Senator Chambers, you're recognized. [LB799]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I'm here every day, every day, and I didn't just become aware of the problem with education in OPS when the Koch brothers and others came up with this notion of charter schools. And if somebody had listened, they would be aware of the kind of issues that I mentioned where people got what they wanted. I mentioned Game and Parks. I mentioned those types of entities. And I'll continue to do that and Senator Lautenbaugh and nobody else is going to tell me what and how I ought to conduct my affairs here. If he doesn't want to talk about it, he can leave and go wherever he goes when he's absent so much. But I'm going to talk about what I think I should. And maybe what he doesn't understand is that there's more than one issue that I can deal with at a time. And he's not aware of the issues that any of us deal with. And what I was talking about, in terms of the black man in the White House, for his information, is the expansion of Medicaid. That's what I mentioned specifically and he knows...well, maybe he doesn't but there are other people who know why that expansion has been objected to not only in Nebraska but in other states, all of which have "Repelican" Governors and all of whom are opposed to what they call so-called Obamacare. And when I listen to the campaign statements of these people running for Governor, I'm wondering if they're wondering for Governor of Nebraska or the Presidency of the United States. Ricketts even got a little bitty boy saying, I want to get rid of Obamacare, putting the little children in it. That's what they do. But I'm going to keep talking about the mountain lions because it's an issue with me and it makes no difference how upset he gets. And I won't use bad words for emphasis because I'm upset and lost my temper. Now there are things he does that I don't like, but that's him. I'm going to talk about what I choose. And I'd like him to stand up and tell you all how you can stop me from doing any of these things in these three days, since he's going to be your leader. He's not around here enough to see how things go day after day. He's got people here who follow him and they text him with things. That's what some of them have told me, that they keep this going on. And you know the only reason I'm dealing with it? I don't want him to think that he's going to talk loud, because he's big, and intimidate me so I'm not going to talk about the mountain lions. I got an amendment dealing with the mountain lions on every bill and I've made it clear, though, that I won't deal with it the same amount of time on every bill. I have a plan in my mind of what I intend to do, and that's what I intend to do. Now as far as doing something about education, when I wanted to create a plan for local control in Omaha, he didn't have anything to say about it. He didn't talk about education in Omaha Public Schools. I came down here when I was not in the Legislature to speak on those issues because I live in the part of the town that suddenly he's the missionary and he's going to save. Mr. Livingston, I presume? Well, he can tell you all that because you all are not aware of what goes on. And he can continue this discussion if he wants to. It doesn't matter to me however the time is passed, because there are only so many hours in the day, and we can talk about whatever anybody

Floor Debate
April 07, 2014

wants to. But I'm, in the meantime, going to talk about what I want to. [LB799]

SENATOR KRIST: One minute. [LB799]

SENATOR CHAMBERS: And I think it's shameful for people to have so little awareness of the ecology of this state that they are unaware of how bad it is to exterminate a native species. That's bad, based on my standard of values, and I will do what I can to stop it. And people can rant, they can holler, they can pontificate or whatever they want to. Now you all didn't see me playing the game of not saying what's on my mind because there was something I wanted to get from you, did you? Self-confession might be good for the soul, but I'm going to do what I think I ought to do. And I've said that I'll support this amendment on this bill, and I will not bring up the germaneness issue on any of these offerings that people make. If I don't like one, I'll just speak against it and I'll vote against it. [LB799]

SENATOR KRIST: Time, Senator. [LB799]

SENATOR CHAMBERS: Thank you, Mr. President. [LB799]

SENATOR KRIST: Thank you, Senator Chambers. Senator Lautenbaugh, you're recognized. [LB799]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. And to be clear, Senator Chambers, yes, even when I'm not here I'm watching. And I do have another job and it has taken me away a few times. And there have been some recent other issues that have taken me away. But don't misunderstand, I do hear the things you say and I remember the questions you ask and the statements you make, like one time on the horse racing bill when you said, obviously, I don't really care about children because it's all been about trying to advance the horse racing bill because part of the revenue would go to education. So all of my talk about education has been...and all the bills I've introduced about that topic this year was somehow a front to somehow prop up the horse racing bill, which was a novel argument. But I heard that argument and I just thought, okay, fine, people are entitled to think what they want. But here's what I do know. Floor speeches are not a substitute for action. Coming down and speaking on something is not a substitute for actually doing something. And to say that I'm some sort of a missionary and I just discovered this and bring in the Koch brothers, which is the conspiracy theory du jour about who's behind education reform, and ignore the fact that it actually seems to be bearing results in the poor and minority communities where it's allowed to go forward. And to dismiss it again as, oh, it's the Koch brothers now, because apparently the Trilateral's Commission is out of vogue and Halliburton has gone out of vogue as well so now it's the Koch brothers we're going to talk about, is just to do a great disservice. And we've had other conversations on the mike where you questioned what I've done about gun violence, and I stopped to think about, well, what

Floor Debate
April 07, 2014

bills have I introduced about guns. And your response was, no, I don't mean what bills have you introduced; I want to know what speeches you've given at the mike. Well, speeches at the mike don't really do too much, even if you follow them up with a strong letter. We're senators. We're supposed to introduce and pass legislation to address things if we need to, and that's what my charter bill was designed to do. And the jury is no longer out. The jury is no longer out. The studies that even hinted that charters didn't do better than traditional public schools now show that, especially in poor and minority areas, they are doing vastly better than traditional public schools. And the reason for that is that if charters don't do better, they close. They go away. So we've found what works. There is a formula, there is a plan, there is a model. And yet what have we done this year? We have not pursued that. And this year is done so another year will go by without our action on this, and I will be gone. And you can deride me as a missionary and you can say I just discovered these issues. Well, you know what, I discovered them and I at least introduced a bill. It wasn't a floor speech, although that's what it was reduced to because I couldn't get my bill out of committee. But I tried. And I think a lot of people's constituents would find it refreshing if they did in fact try on education reform, because a lot of people I know look around and say, well, gee, we've got a lot of bad schools. We don't have a lot of mountain lions but we have a lot of bad schools and we have a lot of kids who would want to go to good schools. And wouldn't it be nice to have more of those? And we know the way, if we would just be open to it, because we are not again trailblazers, by any reasonable measure. [LB799]

SENATOR KRIST: One minute. [LB799]

SENATOR LAUTENBAUGH: We are playing catch-up, but we aren't allowed to catch up. And so we are lagging, is what we are doing. We are lagging farther and farther behind. And so, yeah, in the waning days we might as well talk about mountain lions. We might as well adjourn sine die. This bill just deals with, you know, kids with medical problems now. Who cares about that when there are mountain lions to deal with? We might as well talk about mountain lions for the next three days or just go home now, because why should we care about the children? And if we didn't care about Medicaid expansion, well, then why on earth would we try to fix schools? If we don't want to do what you want to do, why should we do something that's been shown to work in New York, in New Orleans, in Chicago, and that the President supports, etcetera, etcetera, etcetera? Why try? Because, hey, I'm just a new guy to the issue and I'll be gone soon, so I must be wrong. Thank you, Mr. President. [LB799]

SENATOR KRIST: Thank you, Senator Lautenbaugh. Senator Wallman, you are recognized. [LB799]

SENATOR WALLMAN: Thank you, Mr. President. I have always voted for the mountain lion bill and I'll continue to do so, and also on these amendments on this bill. And as somebody else, I'm not enamored with the bill, not at all. So we tack things on to

Floor Debate
April 07, 2014

compromise to myself and so I can live with it. It's not easy for me. But, you know, the mountain lion issue, one of the sponsors of this bill was my good friend, Senator Loudon, and when he testified, I read his thing, he was testifying neutral. So ranchers and farmers, most of us have guns. I do. And if there's a mountain lion--I don't have a dog--but I will set up a blind or something where the tracks are if I think it's killing my livestock. But it isn't. So thank you, Mr. President. [LB799]

SENATOR KRIST: Thank you, Senator Wallman. Senator Chambers, you're recognized. This is your third time, sir. [LB799]

SENATOR CHAMBERS: Thank you, Mr. President, but I assure you all I'll be speaking more tonight and the rest of the days. What Senator Lautenbaugh fails to understand is that there is power in words. Words have power. So he can ridicule what he calls a floor speech. Maybe he perceives that his have no value. But it would make a difference if Senator Lautenbaugh would get on this floor and say openly and publicly, as I have said, they'll put together task forces to deal with methamphetamine, to deal with finding out who these adults are who provide kegs for the young people to have these drinking parties, but they won't put together a task force to find the source of guns coming into my community and dry it up. I pointed out...and I've done it for years, but he's not aware of it. He doesn't pay attention to what happens in our community. I've talked about this gun problem before he ever got in the Legislature and it falls on deaf ears. But I still will continue to do it and look at other issues at the same time. I'm what you call a multitasker, a multifaceted man, and I can deal with things that seem very trivial on the one hand and things that are very profound on the other. I am my own master. And now that he got his horse racing bill, his career, I guess, is a success. But that's the way he views life and he can continue to do so, but he's young and doesn't have much understanding. But words are powerful and that's how he makes his living in his other job, with words. And the thing I tell young people, learn as much as you can about as many things as you can, read everything you can get your hands on, and whatever you do, learn words and how to use words, because that ultimately is how you're going to resolve issues. Even the gun issue, if somebody pulls a gun on me, then maybe if I have the right selection of words I can live another day. But if I don't know words then I'm lost. I have to survive in many environments. Now obviously at my age I don't fistfight like I did at one time, and maybe I never did, but in my mind I never got whipped because other people quit first. If they knock you down they think it's over, because if they got knocked down it's over. And in my community, a small piece of leather but well put together, so if they want to imply any of that, don't talk about that, do that. And then we'll get past the foolishness and then come back to trying to use our brains to deal with an issue. And I was dealing with problems in OPS before he was born and he did not know anything about what was happening in the schools or didn't have that much care until relatively recently. And you know why I address this? Because I don't want anybody to listen to somebody who disrespects the very way he makes his living and imply that words don't have power. I always emphasize that. And I get invited places.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
April 07, 2014

I've been to Congress, I've been to the White House, not to go on a tour but to talk.
[LB799]

SENATOR KRIST: One minute. [LB799]

SENATOR CHAMBERS: I was at the Kerner Commission, it's called the "riot commission." Mine was the talk to that commission that made all the newspapers, because I know the power of words and my words meant something and carried a message around the country. And it was printed in newspapers and magazines all over the country. Nobody in my presence, and I have the opportunity to counteract it, will suggest that words don't have power. And if he'd give the right kind of speech, his words would have some power and they'd carry some weight and he knows that. But his little feelings are hurt now. He's miffed. Grow up, man! (Laugh) Thank you, Mr. President. [LB799]

SENATOR KRIST: Thank you, Senator Chambers. Senator McCoy, you're recognized.
[LB799]

SENATOR McCOY: Thank you, Mr. President, members. This will be available to any of us as members. Just happened to take a look. There are currently nine Senator priority bills, including mine, it's one the nine, that are held, stuck, whatever word you want to use, in committee. Senator Chambers got his out, LB671, and he's doing what he's done in the past, different year, different issue, to try and get his way. And that's his prerogative as a member of the Legislature. It's using our rules, which he is well within his bounds to do. But I'd like to read off, and we've gone at a pretty fast pace but here we are, Day 56, just to give you an idea of some of the bills, priority bills that are held in the Legislature in committees for various reasons, and this isn't to disparage why those bills still sit in committee. It's for, I'm sure, a myriad of reasons. Maybe some of them are yours. You know full well, I'm sure, what those issues are: Senator Brasch, LB145, which changes valuation of ag land and horticultural land; Senator Harms, change provisions related to provisional operator's permits, the texting while driving bill; Senator Kintner, LB1032, require posting of signs regarding abortion; Senator Lathrop, LB1074, change provisions relating to the regulation of ground water; Senator Lautenbaugh's, just talked about, LB972, adopt the Independent Public Schools Act; my priority bill, LB670, change property tax valuation of ag and horticultural land; Senator Schilz, change provisions related to packers under the Competitive Livestock Markets Act; Senator Nordquist, constitutional amendment on residential real estate; Senator Harr, the income tax bill--pretty big issues, real big issues actually. We all have agendas, things we want to accomplish within a legislative session, whether we've been here one year, six years in my case, or as many years as Senator Chambers has been here. They all have value because we all place value on them. We may not agree on the actual issues but they all have merit. That's the beauty of the Unicameral. I felt it necessary to stand up and read through what's still in committee--big issues. We do

Floor Debate
April 07, 2014

have limited time available to us. Some people in Nebraska might say we don't have limited enough time available to us. Times we're here long enough sometimes people think we maybe get into a little more mischief than what's good for us, and maybe we do. But I think what we do here is pretty darn important. I don't agree, didn't vote for it all the way along the way, didn't vote to override it, LB671, the ban on mountain lion season, but it's Senator Chambers' right, as a member of the Legislature, to do what he's doing. Doesn't mean I have to agree with it. There are a lot of issues that we... [LB799 LB671 LB145 LB1032 LB1074 LB972 LB670]

SENATOR KRIST: One minute. [LB799]

SENATOR McCOY: ...could all try to tear everything apart and amend on every bill, and I daresay the Speaker would have a challenge the next few days. I don't think anybody is going to do that, but it could be done for a lot of very important issues that a lot of Nebraskans would like to see us talk about that aren't going to get talked about on the floor this year. Thank you, Mr. President. [LB799]

SENATOR KRIST: Thank you, Senator McCoy. Senator Lautenbaugh, you're recognized and this is your third time, sir. [LB799]

SENATOR LAUTENBAUGH: Thank you, Mr. President. And thank you, members. And as usually the case, Senator McCoy said it best. Just wanted to see if anyone was paying attention still. I'll at least agree with Senator Chambers that words do have power and sometimes they are all you have. But when you're a senator, they aren't all you have. Words backed up with a good bill sometimes do a lot more. I could have stood here last year and said, gee, the OPS Board is kind of dysfunctional; I wish it would shrink and they'd have all new members. I could have spoken about that daily. It wouldn't have happened. But when you couple those floor speeches with a good bill, well, voila! They've now got a fighting chance. They've got a board that seems to know what it wants to do, is actually taking the district apart, looking where the dysfunction is and trying to address it, ferreting out years and years of problems and trying to find a way forward. That wouldn't have happened without what we did last year. And that didn't happen because of words. That happened because of action. And in the world of education, action is what is needed. And in Omaha, action is what is needed in the world of education. And my time is done, but there's a point I want to make and that's why I've taken this little digression, because sometimes the young cub can point out that there was a lesson learned here this session, perhaps even by the old lion and maybe even by the rest of you as well. And that is that the old lion is susceptible to the same pressures that all of you are, and that is when the filibuster came down on Final Reading the old lion changed his spots and all of a sudden he was no longer a part of the filibuster on horse racing. And that was a moment where you saw that we all react the same when we have something that we want. But the problem is you can't take from that episode that the course of action is to just not want anything or to want something

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
April 07, 2014

that no one is going to care about. And that sounds harsh, but I mean we're flirting with that with the mountain lion issue. It's okay to want things that are actually important for the greater good of your constituents. And if you have hostages to fortune, well, sometimes...or not hostages to fortune, hostages to the rest of you, sometimes you have to suffer to get it done, but it's worth it. You can stand up and fight back. You can stand up and give what you get. You can assert yourselves in the coming years, and I hope you will as needed. But the course to take, regardless of who you are, is not to do nothing so you don't have anything at risk. Lead for your districts, try to do important things, and most of you do that, and it sounds condescending of me to even make the observation like I'm qualified to make it. But the charter school, a little bit of sea change. The charter school bill would have been a sea change for OPS because it would have provided models that, if they worked, would have shown that those kids that are written off too often, the problem isn't the kids; the problem is the method of teaching them and the fact that people don't want to teach them. And that opportunity is lost for this year,... [LB799]

SENATOR KRIST: One minute. [LB799]

SENATOR LAUTENBAUGH: ...lost again. And who's going to take it up next year? Or are you going to choose the safe course and prioritize something that isn't really going to upset anyone and you're not going to have to defend it on the floor, you're not going to have to worry about giving and taking to get it done. Please stand up for important things. Thank you, Mr. President. [LB799]

SENATOR KRIST: Thank you, Senator Lautenbaugh. Seeing no one else in the queue, Senator Nordquist, you're recognized to close on your amendment. [LB799]

SENATOR NORDQUIST: Thank you, Mr. President and members. Again, this amendment simply strikes the December 13, 2015, sunset on parity legislation for oral chemotherapy. Thank you. [LB799]

SENATOR KRIST: Thank you, Senator Nordquist. You've heard the closing. The question is the adoption of AM2691 to AM1730. All those in favor vote aye; opposed, nay. Have all those voted that wish to? Please record, Mr. Clerk. [LB799]

CLERK: 37 ayes, 0 nays, Mr. President, on the adoption of Senator Nordquist's amendment. [LB799]

SENATOR KRIST: Amendment is adopted. [LB799]

CLERK: Mr. President, the next amendment, Senator Conrad, I have AM2773. I have a note, Senator, you would like to withdraw AM2773 and offer, as a substitute, AM2871. (Legislative Journal pages 1438-1439.) [LB799]

Floor Debate
April 07, 2014

SENATOR CONRAD: Yes, that's right, Mr. Clerk. [LB799]

SENATOR KRIST: Senator Conrad, you are recognized. Your first amendment is withdrawn and without exception, and you're recognized to enter on your other amendment. [LB799]

SENATOR CONRAD: Thank you very much, Mr. President. Friends, I rise in support of this amendment and ask for your favorable consideration of the same. This is an important compromise related to a piece of legislation that I introduced last year, LB397, that was before the Banking Committee. This proposal will help to provide some assistance to families in need that were the citizens who initiated the effort behind LB397 in a similar piece of legislation that Senator Avery brought last year as well. And, friends, what this proposal, what this compromise proposal does is, rather than providing an insurance mandate for treatment of a special kind of medically necessary formula for children with severe allergies, this is a short term. This is a compromise that was brought forward, thanks in part to good thinking from Senator Mello, Senator Carlson, Senator Gloor, and others to try and secure some forward movement on this topic while the state seeks additional information. And as what this legislation, what this compromise proposal will do is reinvigorate a former program that was available in a similar manner to provide state assistance to families in need. To be clear, the incident rate for children with these types of severe allergies that require this medically necessary formula and treatment to live and to thrive is a approximately 1 in 10,000 children. About 15 states have moved forward with either an insurers' agreement or an insurance mandate to address this very serious and very real problem that affects a small number of our citizens. The good news is, is that many of these children who are diagnosed with these rare allergies and have intolerance to almost all foods except for these special types of elemental formulas is that many of them, with appropriate treatment, can grow out of this. But, however, not all can, and so it's important that we try to provide parity in coverage for all families who are working and living with this medical situation in their home. To be clear, we already provide coverage in this regard in our Medicaid and our WIC programs, but there is an existing coverage gap in the private insurance market that impacts those families that are doing everything right, that are working hard, that have private insurance and who work through the heartbreaking diagnosis with their children and medical professionals when they realize that they have this type of severe allergy and need medically necessary formula and treatment in order to thrive and to live. So what this legislation seeks to do is to provide recognition for that coverage gap and to provide recognition for the inequities involved in the parity in terms of how this treatment is covered. Many private plans will cover this type of lifesaving treatment if it is administered through a feeding tube, but clearly, as a parent and when you're looking at quality of life issues for your children, the decision to have them have a feeding tube versus have the ability to orally ingest the elemental formula is really a no-brainer. By providing some direct state assistance to help cover the costs of this

Floor Debate
April 07, 2014

formula, which can be up to \$50 a can, this will provide recognition of the coverage gap. It will provide recognition of the disparity in the treatment that is currently provided, and it will provide, I think, a short-term solution to help move forward to ensure that Nebraska can one day achieve full parity in regards to this critical treatment. So with that, again, I would like to thank Senator Mello, Carlson, and Gloor for initiating this idea. I'd like to thank the Aurit family, the Muehling family, the Adkins family, and the many others who have initiated this effort and who have been tireless in their research, who have been tireless in their advocacy, and who really represent the best of our citizenry who are down here, engaging with their Legislature and trying to make a difference on behalf of their families and the small number of families similarly situated in our state. So I again thank them for their countless education and advocacy that they provide us to get this far and to the many senators who have assisted along the way: Senator Bolz, Senator Avery, strong votes of support from Senator Pirsch, Campbell, Howard, and Schumacher at the committee level. And hopefully we'll have many more senators to add to our thank-you list after this amendment is adopted. I'm happy to answer any questions and would also refer you to a significant packet of information that we handed out this afternoon that the families have compiled. Thank you, Mr. President. [LB799 LB397]

SENATOR KRIST: Thank you, Senator Conrad. Those wishing to speak: Senator Mello, Bolz, Burke Harr, Carlson, Chambers, Harms, and Avery. Senator Mello, you're recognized. [LB799]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. I'll try to be brief here in explaining a unique process that we haven't really engaged in as much in my six years here in the Legislature which when it comes to fiscal notes or bills that have a fiscal impact that are within a certain window of time. First off, Senator...I want to thank Senator Carlson, Senator Gloor, and Senator Conrad for willing to work and talk about this policy issue. There obviously was a different amendment that was on the bill that Senator Conrad withdrew I think in striking a compromise with Senator Carlson and Senator Gloor with an idea that Senator Carlson came up with which essentially is Senator Conrad's underlying amendment. Our rules necessitate that a bill that has a fiscal impact has to have an accompanying A bill. And what you have in front of you is we are in the window of time when if we want as a Legislature to appropriate funding to a bill like LB799, there is no A bill attached to LB799 and because of our rules we're unable to introduce an A bill at this moment in time to be the accompanying A bill to LB799 because of the seven-day window that we have to operate under for the bill to even be considered. So what we have in front of us with Senator Conrad's amendment is something that we have done before but we do it very rarely and we do it very sparingly because rarely do we see an appropriation to a bill that doesn't have an A bill this late in the session. I appreciate more importantly Senator Gloor, Senator Carlson, and Conrad working this out and talking through this. The policy itself, colleagues, you can look, just to give a reference of what Senator Conrad's amendment does, it's

Floor Debate
April 07, 2014

roughly a \$260,000 appropriation for a two-year pilot project to help fund this amino acid formula. And if you look at...Senator Avery had a bill very similar to this concept and Senator Conrad's concept as the insurance mandate component where the fiscal note for LB218 shows the fiscal impact if this was an insurance mandate and not a pilot appropriations project that the university appropriation alone was \$240,000 a year. That was for the university's insurance plan. The state health insurance plan fiscal impact was unknown at this moment in time. There also were some added components they said that was going to have changes to private insurance premium and costs that's also listed in the fiscal note for LB218 that you can look on your computer and see it ranges between \$200,000 to \$438,000 a year as it relates to private insurance. So fiscally, Senator Conrad's compromise is a less costly fiscal impact to the both the state and to obviously the private insurance component. It is a pilot project, a two-year pilot project that would require an annual report to the Legislature. I appreciate, I think, everyone's hard work on trying to find a solution to this challenge that was presented with this specific insurance mandate but, more importantly, outside of the policy area, I just want to make sure that everyone is clear in the sense of this is not the typical process that the Legislature tries to operate in when it comes to fiscal notes or A bills in the final week of session. This has not happened under my six years here in the Legislature where this is the appropriate or, I should say, the most appropriate path forward for a senator to bring an amendment to a bill that has a fiscal impact where the bill doesn't have an A bill. And I guess it's more for a cautionary tale for senators who will be coming back that this is something that we try to avoid. There is always another option of trying to run an amendment to an existing A bill, but I think the reality is that that was an option presented. It didn't look like it was going to be the most fruitful option if the body adopts Senator Conrad's amendment. It could still be done, but I think what we have in front of us with AM2871... [LB799 LB218]

SENATOR KRIST: One minute. [LB799]

SENATOR MELLO: ...is probably the cleanest, most direct way of dealing with the underlying policy that Senator Carlson, Senator Gloor, and Senator Conrad have come up with, which is a two-year appropriations program to help provide funding for these children who need this critical amino acid formula who fall into the insurance coverage gap. So I think this is the most appropriate way to do that. I know Senator Gloor and Senator Carlson I believe will be speaking on this as well. They are in support of this compromise that they helped craft. I appreciate their hard work on it and would urge the body to strongly consider adopting AM2871. Thank you, Mr. President. [LB799]

SENATOR KRIST: Thank you, Senator Mello. Senator Bolz, you are recognized. [LB799]

SENATOR BOLZ: Thank you, Mr. President. I rise in support of this important piece of legislation in part because a family who is directly impacted by these circumstances is a

Floor Debate
April 07, 2014

constituent of mine and this family is just like a lot of other Nebraska families. They're hardworking, they're homeowners, they're people who had insurance for life's unexpected circumstances. Unfortunately, their unexpected circumstances were so rare that they found themselves at a loss for coverage and in fairly dire circumstances. Their child has a rare gastrointestinal disorder. I can't tell you about the details of his condition, but I can tell you about the lived experience of this family: sleepless nights because their child was crying for lack of adequate nutrition; sleepless nights because of worry about how to pay for the formula that was ultimately discovered and was effective for their son; daily fastidious planning to make sure that their child, their baby, had enough nutrition to make it through the day and through the night and through the next morning; and, frankly, terror at the idea that they wouldn't be able to afford the medication that their child needed to survive day after day. This family never gave up. They kept working, they kept struggling, and they kept struggling to find the funding and to lean on their social supports. But what I think is a particularly important note to make about this family is that they were good, strong, hardworking Nebraskans who were middle class. And if they had been participants in the WIC program, if they had been income eligible for that program, their child would receive this. This is identified as something that is medically necessary and appropriate for the growth and well-being of children. So I think that while it's a compromise, this compromise is good and appropriate. One of the things that's included in the amendment is a requirement that families who have some ability to pay do contribute, and so I think it's an appropriate compromise while we, like this family, continue to strive for longer-term solutions. I also want to point out, importantly, that the cost of inpatient care for this kind of gastrointestinal disorder is over \$200,000 a year. So if we keep just one or two kids in their homes with their families, we'll have more than covered the cost of this particular solution, as well as cared for the health and well-being of this family and others. In the waning days of this session, I think that this piece of legislation can really be a bright spot. And so while Senator Mello articulates that this is an exception to the rule in terms of process, I can't think of a more meaningful exception to the rule. So with that, I urge your strong support of this amendment. Thank you, Mr. President. [LB799]

SENATOR KRIST: Thank you, Senator Bolz. Senator Burke Harr, you are recognized. [LB799]

SENATOR HARR: Thank you, Mr. President, members of the body. Well, here we are again bending the rules, twisting, turning, because we all want something right at the end, and we're going against normal procedure. Would Senator Gloor yield to a question? [LB799]

SENATOR KRIST: Senator Gloor, will you yield? [LB799]

SENATOR GLOOR: Certainly. [LB799]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
April 07, 2014

SENATOR HARR: This underlying amendment is from a bill introduced by Senator Conrad. [LB799]

SENATOR GLOOR: Correct. [LB799]

SENATOR HARR: Was it voted out of committee? [LB799]

SENATOR GLOOR: It was not. [LB799]

SENATOR HARR: Okay. Thank you. Folks, here we are bypassing the committee process--dangerous, dangerous precedence. Yes, it's past its 20 days from its hearing; no, it wasn't killed by the committee. We had an issue with germaneness earlier. Chairman Mello said in his six years we've never done a bill like this before, but Senator Bolz says it's okay. Folks, what are we doing here? I know the hour is late. I know we're tired. But what are we doing? Is this how we want to be? Mickey Mouse? I have nothing...now I don't have a problem with Senator Conrad's bill, her amendment, and I commend those who made a compromise because that's what makes this body work. But the question is, does it make the body work? We're twisting, bending, turning. Why? Why are we doing this? Why? We debated Wellness in Nebraska earlier this session. Senator Carlson, will you yield to a question, please? [LB799]

SENATOR KRIST: Senator Carlson, will you yield? [LB799]

SENATOR CARLSON: Yes, I will. [LB799]

SENATOR HARR: Did you vote for Wellness in Nebraska? [LB799]

SENATOR CARLSON: No, I didn't. [LB799]

SENATOR HARR: And you're running for Governor, correct? [LB799]

SENATOR CARLSON: Yes. [LB799]

SENATOR HARR: And you're against Obamacare, correct? [LB799]

SENATOR CARLSON: I don't favor Obamacare. [LB799]

SENATOR HARR: Okay. Probably one of your problems with it is it's a mandate, correct, you're required to buy insurance? [LB799]

SENATOR CARLSON: Right, yes. [LB799]

SENATOR HARR: Okay. Folks, guess what we did with these amendments? Senator

Floor Debate
April 07, 2014

Carlson is for these amendments because he wants LB799. What do you think these amendments we've done tonight do? They drive up the cost of health insurance. Now they're good bills, don't get me wrong. Again, I think they're good. But what do they do? We're going to have next year health insurance may go up and it may...will go up, if it does, because of these amendments we've done. Do you think we're going to be able...the argument is going to be, well, it's okay because we put some amendments on? No. This is about sweetening the pot to get LB799. Know what you're doing. We're bending the rules. We're increasing the cost of insurance, and that's not a bad thing. My question is, why are we only picking on the health insurance? If we want LB799 so bad--and this was brought by a company, let's be honest, we all know who they are, USAA out of Texas, a foreign company--why aren't we doing something...I had a bill; maybe I need to do an amendment. I had one that affected car insurance. Maybe I should bring that out. It's been 20 days. Why are we picking on just health insurance so that executives don't have to report their pay? Let's pick on PNC a little too. Let's go across the board. The reason I didn't fight my bill too much is because it will cost an increase in insurance sure as we're standing here. So when you get your next health insurance bill and you have to pay your premiums, remember what you did tonight. [LB799]

SENATOR KRIST: One minute. [LB799]

SENATOR HARR: So if certain individuals wouldn't have to report their pay, which may become moot anyway because the NAIC, National Association of Insurance Commissioners, is recommending that outside of the state of Nebraska, besides the state of Nebraska, mutual companies and others report the income of their CEOs in the top ten, five or ten earning people. Already have to do it for publicly traded companies. I don't know. I don't see a problem. I haven't seen a problem. I haven't seen those insurance companies better or worse than the others because they are reported. There are companies outside of Nebraska. I'll get into that later. But you can't vote for this and at the same time say, Obamacare raised my rates, because this is what's raising your rates, folks. Thank you. [LB799]

SENATOR KRIST: Thank you, Senator Harr. Senator Carlson, you're recognized. [LB799]

SENATOR CARLSON: Thank you, Mr. President, members of the Legislature. Senator Harr, AM2872 doesn't have a thing to do with raising premium and, furthermore, none of these that were allowed to be put on LB799 have anything to do with sweetening the bill. You didn't even talk to me about it; you just made accusations and I don't appreciate it. I object to it. If you come and talk to me, I'll be glad to talk to you. I can tell the body this, that as we debated about these amino acid-based elemental formulas and listened to families that are faced with this, there wasn't anybody on the committee that didn't really feel badly for those people. And this is kind of like a pilot study, setting

Floor Debate
April 07, 2014

aside money for two years to allow these parents to access it as they make these expenditures with this formula. And you wonder why does formula have to cost this much money. I don't know. It may be because it's not called for very often and they can't manufacture enough to make it profitable. I don't know what the answer is to that but I know that the families that are caught in it and they have to spend this money, it becomes a real hardship to them. And the purpose of this idea was to put some money in that cash account, allow these families to access that, and let's see what happens in the next two years. It's like a sunset provision. It's only funded for two years. Let's see what the results are. I hope the results are such that there is still money left in that account because it's so rare, but those that it occurs with it's a real problem. We'll find out. And I can guarantee you that the members of the Insurance Committee...and I commend Senator Gloor because of my dealing with this has kind of put him through some emotional stress that he didn't have to have. But AM2872 is the right step to not make it insurance, to give us a good idea over a two-year period what kind of costs are we probably dealing with and can we help the very few families that are caught in this situation, and overall it's not a big expenditure. And the evidence that we had seen would indicate that those states that did call it insurance...and I don't think it's insurance. That's...that was my hesitation that it in fact doesn't happen very often. It's a very, very small proportion of children that end up with this condition and need this formula. I hope we find the same thing in Nebraska and that should enable us, after a couple of years, to move forward in a way that will still provide help for these people that need it. And I would call this a commonsense solution to a problem we didn't know the end from the beginning, but we're going to find out. Thank you. [LB799]

SENATOR KRIST: Thank you, Senator Carlson. Those still wishing to speak: Senator Chambers, Harms, Avery, Gloor, and Burke Harr. Senator Chambers, you're recognized. [LB799]

SENATOR CHAMBERS: Mr. President, members of the Legislature, there's no two ways about it. These amendments were designed to sweeten this bill. This bill was going to have serious trouble. These amendments are the heartstring-tugging amendments. I've supported them. But that doesn't change the nature of what they are. People have to learn how to be able to call something what it is in a political setting, and I'm kind of surprised that Senator McCoy is going to be the one to stand up here and lecture about people whose priority bill is stuck in a committee. He should have watched what I did last year on that tax bill. It was stuck in committee. It didn't get out. I talked about Senator Hadley. I talked about the committee members. But you know what I did, I was thinking all the time and I added it as an amendment to another bill and it passed. And you know what it also showed, that this hypocritical Governor, who is Senator McCoy's mentor, is criticizing the Legislature for changing its mind on the mountain lion bill. Well, he didn't condemn the Legislature when I persuaded them to change their mind on that sales tax increase that Omaha was allowed to make. The Legislature had the year before, I think, voted to allow Omaha to add that half percent to the sales tax. I

Floor Debate
April 07, 2014

came down and got the Legislature to change its mind. The Governor thought that was wonderful. But then when it comes to this bill...and I read an article that some hunters group from outside Nebraska wrote about the campaign to flood his office with e-mails, letters, and phone calls, and the senators too. So that's what happened and that's why he had frivolous, nonsensical reasons, as he called them, for vetoing the mountain lion bill. He said it's bad policy because he signed that other bill and the Legislature changed its mind. Well, in the course of these days, depending on which bill it is, I'm going to read the transcript of that hearing because it may have been Senator Schilz suggesting that that deer donation part was not what helped the bill that led to the mountain lion hunting. Yeah, I'm going to keep talking about it because it does bear on other issues and especially on how the Governor conducts his business. And when I talked about everybody getting what they wanted, I was talking about the ones with whom I had dealt, and they knew who they were. They knew who they were and they got what they wanted. And now I want what I was promised. And if I don't get it? I wrote a rhyme that told you all. I'll just read just two lines if I can find it. Anyway, if you deprive me of mine, you're not going to get yours. But I also made it clear that those senators with whom I had reached an agreement before all of the fallout on the mountain lion bill, none of that fallout was going to impact the agreement I made with them because my word means something and I will stick to it. Pressure will not make me change; ridicule will not make me change. I don't know...well, I know running for another office would not make me change. [LB799]

SENATOR KRIST: One minute. [LB799]

SENATOR CHAMBERS: I gave my word. And if I don't have my word, if it doesn't mean nothing, what do I have? "General" Garrett talked about the amounts that he...without specifying, he and his wife give to charity. I would venture to say that compared to the means that I have, I probably give more to charity than anybody in this Legislature. My needs are simple and my wants are even less. So what I don't need, I give, and somehow it gets replenished, and I haven't replenished it by robbing a bank, although Willie "The Actor" Sutton said, that's where the money is. But in these last few days, people need to do some thinking. We have not gotten to my amendment that's offered to strip everything out of this bill and put the mountain lion bill in it. I'm not going to do that. [LB799]

SENATOR KRIST: Time, Senator. [LB799]

SENATOR CHAMBERS: I put that on...how...you said time or...? [LB799]

SENATOR KRIST: Yes, sir. [LB799]

SENATOR CHAMBERS: Okay. [LB799]

Floor Debate
April 07, 2014

SENATOR KRIST: Senator Harms, you are recognized. [LB799]

SENATOR HARMS: Thank you, Mr. President and colleagues. I rise in support of this amendment. And, colleagues, I think it's important to note that children who do not receive this particular formula, they'll end up with brain damage, they'll end up with growth failure, they'll end up in a coma, and they also die. I think it's important for us to realize how critical this is to the small number of families whose children have this kind of deficiency and I would urge you to support this. Senator Mello, would you yield? [LB799]

SENATOR KRIST: Senator Mello, will you yield? [LB799]

SENATOR MELLO: Absolutely. [LB799]

SENATOR HARMS: Senator Mello, I know you have a question you'd like to clarify. If you want to go ahead and do that, we have a little time. I have one question I'd like to ask you. [LB799]

SENATOR MELLO: Thank you, Senator Harms. A couple points of clarification in regards to...prior to what Senator Harr mentioned. It takes...constitution requires seven days for a bill to be introduced, passed, laid over, and essentially passed by the Legislature. So I wanted to clarify that in the sense that the reason we don't have an A bill, because we don't have the seven constitutional days available for us to introduce an A bill and get it through the seven-day process to get it passed. That's the first component. The second point, I just want to clarify Senator Conrad's amendment has the appropriation as part of the amendment, so that's another component. Because there's not an A bill, the appropriation is tucked within her amendment of making a change to the cash fund in HHS and then has the appropriation tied to that. That's the second component. The third component, and it's kind of addressing Senator Burke Harr's comments, and I know Senator McCoy asked comments about it off the mike, which is this amendment is not the same amendment and/or bill that Senator Avery or Senator Conrad introduced that has not come out of committee. Both of those bills were insurance mandates. This, colleagues, is an Appropriations pilot project to appropriate money to HHS for a two-year pilot project which I would argue is different in regards to the concept of an insurance mandate. Yes, the insurance mandate has a fiscal impact the same way this amendment does, but this is arguably a newly created pilot program that's being created with this amendment. Yes, it addresses a similar issue that was raised in the insurance mandate bills, but it's not the same concept. It's dealing with a similar issue, but it's not the same way to address the issue, and hopefully that addresses Senator Harr's comments, as well as Senator McCoy asked some questions off the mike. [LB799]

SENATOR HARMS: Thank you, Senator Mello. Senator Mello, the question I wanted to

Floor Debate
April 07, 2014

ask you is, the amount of money that we're setting aside, how is that going to be distributed and what criteria is going to be established and what regulations are going to be established? So that it's very clear to the people who want to participate in this or need to participate in this, how is that going to be handled? [LB799]

SENATOR MELLO: In reading the amendment, Senator Harms, it lays out that the \$250,000 appropriation is an aid to the Department of Health and Human Services and HHS will then contract. We appropriated...and there's \$10,000 in the amendment to provide the administration of that aid to individual families where there is a 50 percent maximum that they essentially can get. There's a...essentially, the way it was created is the family has to pay 50 percent and the state will match that 50 percent up to \$12,000 per child. It's not an entitlement program, so when the money is gone, the money is gone, and that's fairly clear in the bill itself that we know it's...because it's a pilot project in nature, it's not going to serve all children who obviously have... [LB799]

SENATOR KRIST: One minute. [LB799]

SENATOR MELLO: ...this unfortunate medical need, but it's a start, I think, in regards to the underlying challenge that Senator Conrad, as well as Senator Avery, brought in bills that the state needs to consider finding a way to help these families who have this significant need when it comes to this amino acid formula requirement. [LB799]

SENATOR HARMS: Senator Mello, the other question I have is, will there be any opportunity for our own Fiscal staff or our fiscal analysts to monitor what's happening? Because any new program that's gone into the Health and Human Services doesn't seem to function very well, will be able to monitor this? I won't be here, but will you be able to monitor this through our Fiscal staff? [LB799]

SENATOR MELLO: There is a requirement attached to Senator Conrad's amendment that requires an annual report to the Legislature in regards to the program itself, the spending associated with the program, the number of children and families helped, and how that money was utilized. [LB799]

SENATOR HARMS: Will we be able to...will you be able to get that report midyear? Sometimes doing it at the end doesn't really give us the answer. The problem has already exploded and we are not able to get the right monitoring. My concern is that can we monitor that more than one year annually or at the end of each year? I just think that's too long with Health and Human Services. [LB799]

SENATOR MELLO: Senator Harms, I can see what we can do in regards to addressing that issue. If there is a way to get maybe midyear reports as part of this amendment, that's something I probably would need to talk with Senator Conrad, since it's her amendment, to see what... [LB799]

Floor Debate
April 07, 2014

SENATOR KRIST: Time, Senators. [LB799]

SENATOR MELLO: ...if she would be open-minded to doing that reporting change. [LB799]

SENATOR HARMS: Thank you, Mr. President. Thank you, Mr. Mello...Senator Mello. [LB799]

SENATOR KRIST: Thank you, Senator Harms and Senator Mello. Senator Avery, you are recognized. [LB799]

SENATOR AVERY: Thank you, Mr. President. As indicated by other senators who have spoken on this amendment, I, too, have an interest in this legislation and submitted a bill last year, LB218, that would have addressed this. This is a terrible, terrible situation for families that suffer from this condition. The child is in a situation of violent, I mean really violent, allergies to certain food proteins. These are collectively known as eosinophils. These eosinophils cause a disease in which there are too many infection-fighting white cells in a particular organ--often it's in the gastrointestinal tract--which constrict and seize up that particular affected part of the body. In essence, the child's immune system is mistaking food proteins as unwelcome intruders and attacks them in the form of food allergies. Symptoms are horrible. The children suffer from severe acid reflux, vomiting, irritable bowel syndrome, congestion, skin rashes, weight loss. The children fail to thrive and that's...those are the physical reactions. There is also associated with this severe distress, endless crying, colicky behavior in the infants, and you know, if you're a parent, you know what that can be like in the middle of the night when you're trying to get rest for the next day. Parents who have children suffering from this disease are in a no-win situation. They have to turn to amino-based, acid-based formulas. They are expensive, to say the least. They can cost up to \$2,500 per month. There are not a lot of families that can absorb that kind of cost. That's like a rather modestly expensive home...house payment. So I am pleased to stand here and endorse this amendment; \$250,000 seems to me is not a great deal of money to be devoted to such a terrible problem that these families face. I talked to some of the families from my district who brought this problem to me last year and I can tell you that they work hard, they're employed, most of them are middle class or are upper-middle class, and this is a terrible strain. It's psychologically draining on the parents and it's financially bankrupting some of them. So I urge you to support this and I do thank Senator Mello and the Fiscal Office for their creative accounting here with the way they are making these funds available. This is the right thing to do and we should do it. Thank you, Mr. President. [LB799 LB218]

SENATOR KRIST: Thank you, Senator Avery. Still wishing to speak: Senator Gloor, Senator Burke Harr, Senator McCoy, Chambers, and Kolowski. Senator Gloor, you're recognized. [LB799]

Floor Debate
April 07, 2014

SENATOR GLOOR: Thank you, Mr. President. Let me cover a couple of important points. I'm going to reiterate what's already been said by other senators, but I'll do so in my capacity as Chair of the committee. This isn't a mandate. I'd say again, it's not a mandate. Senator Harr is correct. The bill, neither Senator Avery's, Senator Conrad's, neither of those bills came out of committee. However, this is a look back to at least in some of my dialogues on this issue with our current State Medical Director, Dr. Acierno, and previous State Medical Director, Dr. Schaefer. Back in '97 this body passed a statute that put in place a number of provisions that had to do with newborns, newborn screening, PKU tests, and whatnot, as well as provided dollars for metabolic formula. That was the term used back then. You've heard several reiterations of that terminology used tonight. And there were other components to be used for it. Well, as is the case with state budgets and as several senators have pointed out, things get lost in the shuffle, enthusiasm about a bill dies, federal grants begin to dry up, and slowly but surely there was and continues to be enough money to do some of the screenings but not enough money to provide things like the metabolic formula. So as best I know, and I've not had time to read the entire amendment, although I trust what I've been told about it to be very accurate, and I certainly am supportive of its intent, we are, as far as I'm concerned, as a body breathing life into a decision made by the Legislature back in '97. Again, not a mandate, but a program to try and address the needs of these families and the children, in some cases young adults, who have these problems. It may not be the same solution that the mandates were looking for, but I do think it's going to be a help and what we find from it may be such that we feel more comfortable with a mandate in the future or feel more comfortable allocating additional General Funds to address the issue. I hope that provides some additional clarification. But this is a good amendment. I'm urging support of the amendment and we'll go from there. Thank you. [LB799]

SENATOR KRIST: Thank you, Senator Gloor. Senator Burke Harr, you're recognized. [LB799]

SENATOR HARR: Thank you, Mr. President, members of the body. I want to clarify that the first two amendments, earlier I said...and they're good amendments. Let's be honest about it. They're good amendments but they do have a cost, no ifs, ands, or buts about it. This one may not. I heard Senator Mello say that this doesn't because it's different than the bill that was introduced. It's...he even used the term, I think, "substantially different." Senator Mello, would you yield to a question? [LB799]

SENATOR KRIST: Senator Mello, will you yield? [LB799]

SENATOR MELLO: Absolutely. [LB799]

SENATOR HARR: Thank you, Senator Mello. Has this amendment had a public

Floor Debate
April 07, 2014

hearing? [LB799]

SENATOR MELLO: Not that I'm aware of, no. [LB799]

SENATOR HARR: Okay, so...thank you, Senator Mello. Folks, here we are again bending the rules. I understand we're running out of time and there are a lot of senators who won't be back next year and they want to get their bill across the finish line. And this is, again, it's a good amendment. But we have rules and we have them for a reason and that is so we have good legislation that people are able to read that can be passed. The Chairman of the Insurance Committee said he hadn't had a chance to read it yet. What are we doing here, folks? Are we turning into a banana republic? The ideas are good. The question is, are they well-written? The question is, was there a public hearing? The question is, why do we even bother to have committees if all we're going to do is throw up ideas on the fifty-sixth day and see if they stick. I do not envy, I would not want to be in the position of some of these families. Because of health issues, my wife has to use formula. We're fortunate, we can use a little higher than the average but not much higher. But it's expensive. I just went for the first time last Thursday to buy it and I was shocked how expensive it was. And I would be willing to bet that this formula is probably more expensive than \$50 a can, although I don't know how large the can is, because I just purchased some for \$35. I know the hardship. I get it. But that's not the issue here. We have rules, we have procedures, and we have them for a reason. And I may sound like a broken record because I'm going to keep harping on this. We had an amendment that was questionably germane. We have an amendment that didn't have a public hearing. What are we doing, folks? We...I just...I don't know what is so important with this underlying bill. And I will say that these sweeten the deal. I will go ahead and say...I'm not saying Senator Carlson made the deals. I wouldn't...if I inferred that, I apologize. But what I'm saying is, there are certain senators who want to get their bill across and they're going to try and find any way. And I bless...and God bless them for that, that dogged determinism. But we still have rules, we still have procedures, and next year, when they're gone, those of us who are coming back--hopefully that's me, I'm in election, I don't know--but if I do come back, I and you who are coming back have to live with the ramifications. We're setting precedence. Well, last year we did that. But just because you don't agree with it... [LB799]

SENATOR KRIST: One minute. [LB799]

SENATOR HARR: Thank you. Just because we agree with the underlying idea of a bill does not mean that we can do whatever we want. We have to be careful. So I just ask that you think about that. When was the public hearing? You heard Senator Mello saying we didn't have one. That's a big no-no, folks. Thanks. [LB799]

SENATOR KRIST: Thank you, Senator Harr. Senator McCoy, you're recognized.
[LB799]

Floor Debate
April 07, 2014

SENATOR McCOY: Thank you, Mr. President and members. You know, the bill that Senator Chambers is talking about is LB266. I serve on the Revenue Committee. I heard the bill last year. I even brought the motion--I think Senator Hansen seconded it, as I recall--the motion to take a vote on it and get it out of committee and deadlocked four votes. I think that surprised Senator Chambers somewhat that I tried to get his bill out of committee. Not currying favor by commenting on that tonight, I'm merely saying that even those of us that disagree on a lot of issues, and I do with Senator Chambers often, can agree on a bill that makes sense. When that was unsuccessful, Senator Chambers introduced the motion to pull it from committee. If you look on your computer you can see all this. And then it was amended into LB104, Senator Lathrop's wind bill, as I recall, portions of it, just to say Omaha couldn't use the half-cent sales tax. The rest of the bill was stripped out. Now the reason that I bring all that up is that, again, Senator Chambers was well within his rights as one of us, as the 49 members of the Legislature, as he well knows. He didn't vote for the rules but, nonetheless, he's very familiar with them, as am I. But here's where we are in this session. If we want to hijack the session and talk about mountain lions for the next four days, well, there's a whole host of things we can talk about. There's a number of other bills that we haven't discussed yet--winner take all, voter ID. If we want to go down this road, Senator Chambers, there's plenty of us that will go down it with you. Thank you, Mr. President. [LB799 LB266 LB104]

SENATOR KRIST: Thank you, Senator McCoy. Senator Chambers, you're recognized. [LB799]

SENATOR CHAMBERS: Thank you, Mr. President and members of the Legislature. I'd like to ask Senator McCoy a question for clarification. [LB799]

SENATOR KRIST: Senator McCoy, will you yield? [LB799]

SENATOR McCOY: Yes. [LB799]

SENATOR CHAMBERS: Senator McCoy, were you indicating that there are bills you would like to not see pass also? Or when you said you'll go down the path with me, what did you mean by that, because I'm really not sure. [LB799]

SENATOR McCOY: I meant, Senator Chambers, that the actions that you are proposing to take with the amendments that you have filed could be done by any member of the Legislature and might be done by other members of the Legislature on other issues. [LB799]

SENATOR CHAMBERS: Okay. That's clear and it can be and it probably will be and it could be invoked against me. But the end of the world could come before all of that. We can only live in the instant. And to go back to the discussion that Senator Lautenbaugh

Floor Debate
April 07, 2014

and I were having about the power or not power in words, I have said I don't know how many times that the Legislature is a super debating society with this difference: We have the means to do something about those matters we debate. So I know action is important, but words have a power which cannot be underestimated. It bothers me that the only time this Legislature can be galvanized into action to help somebody is if it's a specific child, a specific family, or a specific, discreet group, and you can say, look how much they're suffering. What about 54,000 people? Now who has brought up the failure to provide that medical expansion more than I have? I haven't just talked about mountain lions. Some of you probably wish that I would. But I'm going to continue to mention that this Legislature refused to make that medical care available to 54,000 people. We were told that some cannot afford what it takes to help their children with reference to these items that are being added to bills now, a bill, piecemeal. There are people who are working, they make too much to get Medicaid but not enough to get a federal subsidy, can't get help, so they're hanging in limbo and that doesn't mean they don't need medical care and that they don't need help, but this body does not care. But you can get a lot of publicity and credit for helping a family. The family ought to be helped, but the other should not be left undone, and that's what bothers me about these religious hypocrites. They do the little things but the big things they leave undone. And this bill is being sweetened by these amendments because that bill wouldn't have gone anywhere without them, and the introducer should know that if he doesn't. That's how these amendments are being added and that's why. I talked to Senator Coash when he first talked about doing it, and I told him he's attaching it to a bad bill and the bill is still bad. But I have an amendment, as I explained, which the record will bear out but which maybe nobody paid attention to, which will strike Sections 1 and 2 from the committee amendment, and that will eliminate that attempt to hide the salaries of these superrich, overpaid executives. And the one bringing it is one who did not want to raise minimum wage. [LB799]

SENATOR KRIST: One minute. [LB799]

SENATOR CHAMBERS: But the wages these big shots make are so obscene he wants to hide them from the public. Why now? Why? What's to be gained by the public? If these men are somewhat ashamed of what they're getting paid, don't accept it. Change decades of law for one outfit in Texas that paid thousands and thousands of dollars to change Nebraska's law and now the Legislature is going to roll over but to try to make itself feel better coat the bitter pill with the coating of that which is sweet and will make it go down easier. Why don't we do something about expanding Medicaid? Because of a black man sitting in the White House. I don't care what Senator Lautenbaugh or anybody else says. I read and I see what these people are saying against President Obama. [LB799]

SENATOR KRIST: Time, Senator. [LB799]

Floor Debate
April 07, 2014

SENATOR CHAMBERS: And when they use the term "Obamacare," it's designed to be insulting. You said time? [LB799]

SENATOR KRIST: Yes, sir, time. [LB799]

SENATOR CHAMBERS: Thank you, Mr. President. [LB799]

SENATOR KRIST: Thank you, Senator Chambers. Senator Kolowski, you're recognized. [LB799]

SENATOR KOLOWSKI: Thank you, Mr. President. Fellow Senators, I simply want to stand and talk just briefly about a family in my district that...with three children suffering from the difficulties that we've been describing in this amendment. And this amendment and this bill, these amendments and this bill would be very important for this particular family. The amount of money that they spend working with the medical practitioners, with their children, is a very huge detriment to their family. They're a hardworking, middle-class family putting their lives together and have the extra burden of these medical costs that would be assisted by the direction we're trying to go with this particular amendment. And with that, I'd like to yield the rest of my time to Senator Chambers, please. [LB799]

SENATOR KRIST: Senator Chambers, 4:10. [LB799]

SENATOR CHAMBERS: Thank you, Senator Kolowski. Thank you, Mr. President. I hope nothing I've said has given the impression I don't care about these sick children. I do. But they are not the only ones. Do you think there are other parents who cannot provide medical care who don't feel for their children? Do you think there are not parents whose children are in pain and they say, if they believe in prayer, let me hurt and let my child be made well? But you require excruciating agony, a child lingering, languishing between living and dying, then you'll say, let's throw a few nickels that way. But the ordinary people, they work hard. They just don't make much money. And this tightfisted Legislature says, these businesspeople, who are gouging the public anyway, well, it would be inconvenient for them if we raise the minimum wage for these people who are working, and this stuff that people like Senator Kintner say, it's hard to find a good employee who works. Is he working here? I don't even know whether he's got insurance or if he's got it...if he's on a family member's insurance policy. I don't know that. But it's not unheard of. Yeah, I'm upset. We should help every child that we can. But there is a way better than doing it one child at a time, one family at a time, one group at a time. But will we do that? No. No, again, no. The economy is improving. Suppose Mitt Romney was President now. They'd be saying, see what the Republicans do, see how the economy, see how unemployment is going down, it's ticking down now, it's lower than it's been in the last five years, not because of Mitt Romney and not because of President Obama. These things go up and down, up and down. But when

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
April 07, 2014

the politicians get hold of it, especially when there's racism and they want to attack a black man, they suddenly forget everything they know about how an economic system operates and how it is operated in this country. And the vicious things said not only about the President but about his wife and about his children...Senator Harr let you know what it feels like when your family is brought in the middle of something, and that's what these cowards, these white, racist, supremacist cowards will do: attack the man's family. But as black people we're accustomed to that. That's what we deal with and that's why we feel the way we feel and that's why we have the attitudes we have about areas like western Nebraska... [LB799]

SENATOR KRIST: One minute. [LB799]

SENATOR CHAMBERS: ...where they want a prison to make money but they don't want us out there living as people in the community. The Speaker reminded me of an incident that happened some years ago in York, the details of which I won't mention. But I went out there to try to help face down some Ku Klux Klan racists who in a mob were terrifying an interracial family. In a mob, that's what they did, and I didn't take a mob out there with me. I went out there. You all don't face any of that and that's why you can feel good when you help a child here, help a child there, help a few children here, and you forget the greater number of children whom we could have helped very easily but chose not to. [LB799]

SENATOR KRIST: Time, Senator. [LB799]

SENATOR CHAMBERS: Thank you, Mr. President. [LB799]

SENATOR KRIST: Thank you, Senator Chambers. Senator Wallman, you're recognized. [LB799]

SENATOR WALLMAN: Question. [LB799]

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. Please record, Mr. Clerk. [LB799]

CLERK: 25 ayes, 1 nay to cease debate, Mr. President. [LB799]

SENATOR KRIST: Debate does cease. Senator Conrad, you're recognized to close on your amendment. [LB799]

SENATOR CONRAD: Thank you, Mr. President, and thank you, colleagues who spoke in favor of this proposal and moving forward. I think that we've done a good job of laying out the need for this type of legislation to assist those hardworking families that

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
April 07, 2014

presently find themselves with very, very sick children and in the middle of a coverage gap. This is an important first step to providing recognition to that serious public policy issue, again, after this solution dissipated for a variety of reasons some time ago. And I again want to thank Senator Mello, Senator Carlson, and Senator Gloor and all of those who came forward and came to the table and attempted to provide a compromise and a workable solution to move forward on behalf of these families that I and Senator Avery have been working with for over two years. I know many of them have contacted your offices with phone calls, e-mails, and in-person visits. They've taken extraordinary efforts, taking time off of work to come down and be advocates for their families and the small number of family that are similarly situated. I appreciate the conversations we've had with the Speaker's Office, the Clerk's Office, the Fiscal Office, and others about how to move forward in a procedurally appropriate way and this seems to be the consensus that this approach was the best opportunity to do that. So I thank people for their willingness to assess those procedural issues with us, as well, in line with past practice and our rules. With that I would urge your favorable consideration of the measure and thank you for your time and consideration. [LB799]

SENATOR KRIST: Thank you, Senator Conrad. The question is the adoption of AM2871 to the committee amendment. All those in favor vote aye; opposed, nay. Have all those voted that wish to? Please record, Mr. Clerk. [LB799]

CLERK: 34 ayes, 0 nays, Mr. President, on the adoption of Senator Conrad's amendment. [LB799]

SENATOR KRIST: The amendment is adopted. Next item. [LB799]

CLERK: Mr. President, Senator Chambers would move to amend, AM2814. (Legislative Journal page 1439.) [LB799]

SENATOR KRIST: Senator Chambers, you're recognized to open on your amendment. [LB799]

SENATOR CHAMBERS: Mr. Clerk, which one is this? [LB799]

CLERK: It's the amendment that strikes Section 1 and 2, Senator. [LB799]

SENATOR CHAMBERS: Yes. Thank you. Members of the Legislature, now we get down to the bone. This would remove that language that is designed to give secrecy to these big shots as far as covering up what they receive. I'd like to ask Senator Carlson a question or two because it's his bill. [LB799]

SENATOR KRIST: Senator Carlson, will you yield? [LB799]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
April 07, 2014

SENATOR CARLSON: Yes, I would. [LB799]

SENATOR CHAMBERS: Senator Carlson, why did you bring this bill? What was it that made you feel a bill like this should be brought at this time? [LB799]

SENATOR CARLSON: Senator Chambers, I've spent 30 years in the insurance business. During none of those 30 years did I worry about what the executives in the company that I was working for made. And we have a strong Insurance Department in the State of Nebraska. It's well-respected by other states. We have a lot of insurance activity in Nebraska and so I think this was a reasonable request because no other private companies have to divulge those figures. [LB799]

SENATOR CHAMBERS: How long have you been in the Legislature? [LB799]

SENATOR CARLSON: You know, I've been in eight years now. [LB799]

SENATOR CHAMBERS: Okay. And you had been in insurance 30 years but in none of those 8 years did you see the need to bring a bill like this. Is that true? [LB799]

SENATOR CARLSON: I didn't bring one myself, no. [LB799]

SENATOR CHAMBERS: Were you requested to bring it? [LB799]

SENATOR CARLSON: Yes, I was asked to bring this. [LB799]

SENATOR CHAMBERS: Senator Carlson, you said there's a very good Insurance... [LB799]

SENATOR CARLSON: Department. [LB799]

SENATOR CHAMBERS: ...yeah, in Nebraska, and that there's a lot of insurance activity. Is that correct? [LB799]

SENATOR CARLSON: Yes, it is. [LB799]

SENATOR CHAMBERS: Then apparently the existing law has not impeded the formulation of a good insurance department and robust insurance activity, has it? The existing law has not impeded that, has it? [LB799]

SENATOR CARLSON: Well, I don't know to what extent it has. It probably could have prospered more without this, but you have an argument there that the insurance industry has done well in Nebraska to this point. [LB799]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
April 07, 2014

SENATOR CHAMBERS: Are you aware of any insurance company that said, we're not coming to Nebraska because these salaries have to be revealed? [LB799]

SENATOR CARLSON: I haven't spoken directly with any company that would indicate that. [LB799]

SENATOR CHAMBERS: And has this company said if this law is not passed they'll get out of Nebraska? [LB799]

SENATOR CARLSON: I'm not aware that they've made that statement. [LB799]

SENATOR CHAMBERS: So it's being done to them as a favor, more or less, not for any business reason, not for any public reason, no reason that benefits the public. [LB799]

SENATOR CARLSON: Well, I don't agree with that. I think that there's a benefit to the public in that it may attract other companies to come to Nebraska. I think it's a fairness issue. [LB799]

SENATOR CHAMBERS: Do you think the fact that you're running for Governor led whoever asked you to bring this bill ask you to bring it rather than somebody else? [LB799]

SENATOR CARLSON: No, I really don't. I don't think that had a thing to do with it. [LB799]

SENATOR CHAMBERS: Now if this part is stricken from the bill, would you still support the bill? [LB799]

SENATOR CARLSON: I will try and convince the body not to vote for this amendment. [LB799]

SENATOR CHAMBERS: But that's not what I asked you. [LB799]

SENATOR CARLSON: Well, I know you didn't ask me that, and I'll have to wait and see what the circumstances are. [LB799]

SENATOR CHAMBERS: Well, the circumstances would be that these guys cannot hide from the public or those who are...who own that company, what they get, or whoever is involved with them. That would be the circumstance, but anyway, that's all I'll ask you. Thank you. Members of the Legislature, I don't like this part of the bill. Contrary to what Senator Carlson suggested earlier, these amendments are sweeteners for this bill. In fact, let me not speculate. I'd like to ask Senator Carlson a question. [LB799]

Floor Debate
April 07, 2014

SENATOR KRIST: Senator Carlson, will you yield? [LB799]

SENATOR CARLSON: Yes. [LB799]

SENATOR CHAMBERS: Senator Carlson, on the chance I may have misheard you, did you say these amendments are not sweeteners for this bill? [LB799]

SENATOR CARLSON: I didn't look at them as sweeteners, no; I looked at them as legitimate requests. And I had the authority to either allow those amendments on or not allow them. [LB799]

SENATOR CHAMBERS: Well, let's look beyond what you thought. Are these amendments that would help this bill in the eyes of some people who otherwise would have been opposed to it? [LB799]

SENATOR CARLSON: It may be. [LB799]

SENATOR CHAMBERS: You know that they do, don't you? [LB799]

SENATOR CARLSON: No, I don't, because that's not...in my mind, that's not the reason I allowed those to be on and I won't give in to that. No, I didn't do it for that reason. [LB799]

SENATOR CHAMBERS: I didn't say you did it for that reason. You're too sensitive. [LB799]

SENATOR CARLSON: Well, I'll continue to be that way. [LB799]

SENATOR CHAMBERS: I asked you, did these amendments sweeten the bill by taking...by causing some people to be more favorably disposed toward the bill than without these amendments? That's what I'm asking you and that's what makes it a sweetener. You say that...okay, thank you. You don't want to answer. That's what I'm talking about. He's been here long enough he knows these amendments will help that bill. But I'll tell you what, I'm not going to support the bill right this minute. Ultimately I might, but I'm going to spend some time on it because it's a bad, bad bill. We're not going to increase the minimum wage but we are all of a sudden so sensitive about telling how much these big shots are making. I'd like to ask Senator Schumacher a question if he would respond. [LB799]

SENATOR KRIST: Senator Schumacher, will you yield? [LB799]

SENATOR SCHUMACHER: Yes. [LB799]

Floor Debate
April 07, 2014

SENATOR CHAMBERS: Senator Schumacher, can you give a range or an idea of how much the salary is that some of these big shots are making who don't want it disclosed? [LB799]

SENATOR SCHUMACHER: In the neighborhood of \$5 million. The executive, I think, makes more than that. Other insurance companies are upwards of \$10 million in some respects. We're talking lots and lots of money. [LB799]

SENATOR CHAMBERS: Thank you. Members of the Legislature, you all feel sorry them, don't you, those poor, poor, superrich guys? Do you think anybody earns that kind of money? You're going to change the law of Nebraska that has been the law for longer than, believe it or not, I've been in the world and it has not hurt any insurance activity in this state. And it might be coincidental, but it's a peculiar coincidence that the one bringing it is running for Governor and had known about this all eight years of being in the Legislature and never saw fit to make an issue of it. And now that there are questions being asked about these obscene salaries that people in all aspects of the finance industry are making, we wind up in Nebraska, the conservative state, the open and aboveboard state, the Unicameral, which is the most open system in the country--self-congratulation--going to hide the salaries for these people. And if you don't hide them these people are not going to be hurt. Somebody told me it's for competitive reasons. What did you mean, somebody might hire them away and say, you're getting \$15 million, we'll give you \$17 million? It doesn't make sense. It makes many, many dollars. I'd like to ask Senator Conrad a question... [LB799]

SENATOR KRIST: Senator Conrad, will you yield to a question? [LB799]

SENATOR CHAMBERS: ...if she is in the house. I can't see back there. [LB799]

SENATOR KRIST: I don't think she's here, Senator. [LB799]

SENATOR CHAMBERS: And I don't see Senator Coash. Somebody else had an amendment. Oh, I see Senator Nordquist. [LB799]

SENATOR KRIST: Senator,... [LB799]

SENATOR CHAMBERS: I'd like to ask Senator Nordquist a question. [LB799]

SENATOR KRIST: Senator Nordquist, will you yield? [LB799]

SENATOR NORDQUIST: Yes. [LB799]

SENATOR CHAMBERS: Senator Nordquist, do you think your amendment helped this bill? [LB799]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
April 07, 2014

SENATOR NORDQUIST: Yes. [LB799]

SENATOR CHAMBERS: I do too. Thank you. That didn't...one other question: Did that hurt, Senator Nordquist? Was it hard to answer that question? [LB799]

SENATOR NORDQUIST: Physically? Mentally? In any way? [LB799]

SENATOR CHAMBERS: In any way. [LB799]

SENATOR NORDQUIST: No. [LB799]

SENATOR CHAMBERS: Okay. Thank you. I didn't think so. You're a strong man. Members of the Legislature, we don't need this. Keep those amendments. This vehicle has served its purpose. And this might be the night we can stay here until 11:59 because there's a lot of time left on this bill. And we don't even have to talk about mountain lions. [LB799]

SENATOR KRIST: One minute. [LB799]

SENATOR CHAMBERS: We're talking, in my mind, about exploiters. And somebody can say, but look how much money is left after they take theirs out of the till? It's not going to hurt for the public to have access to this. It hasn't hurt in all these years and it's not going to hurt now. This might be one of the biggest operations in the country. And maybe I'm the only one who will speak against this, but I'm going to do it. And as Senator Lautenbaugh said, a time comes when you need some kind of action, although I frequently offer amendments, but this is one of those times. The bill will be cleansed. If you get rid of this that I'm trying to get rid of, we will have brought a clean thing out of an unclean thing. [LB799]

SENATOR KRIST: Time, Senator. [LB799]

SENATOR CHAMBERS: Thank you, Mr. President. [LB799]

SENATOR KRIST: Thank you, Senator Chambers. Senator Karpisek, you are recognized. [LB799]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. I had my light on for the last amendment, but...I was trying to raise my hand for Senator Chambers to call on me on the last bill, but he can't see back here either, I guess--not the last bill, the last time he was on the mike. I said it when I talked on Senator Coash's amendment that I do not care for LB799 but I'd hold my nose. Now Senator Chambers brings this and it makes it a whole different ball game. When Senator Schumacher said

Floor Debate
April 07, 2014

that they're making around \$5 million, that's sure a lot more than I thought they were making. I thought they were making a lot of money, didn't realize it was anything like that. And right here and right now, if anybody wants to give me that job, I will gladly put it anywhere they want me to put it, what I make. It's ridiculous to make that kind of money. And how many arguments do we have in here about raising insurance premiums? Oh, well, we can't do that; we can't mandate cochlear ear implants; my god, what will that do to our rates? The autism bill, the formula bill, all those things, that's the number one argument: What will that do to our rates? Well, what does someone making millions of dollars a year do to your rates? I guess it won't change anything because that's the way it is now, but I think that that just seems crazy to me. And I know there's a line between private and public, but I guess I'd like to know...through my insurance companies, I'd like to know what some of those people are making. Maybe that might be a reason why I'd shop my insurance around. One person only makes a million a year, I might move over there. This kind of reminds me, too, a little bit of redistricting. Well, we've done it for 100 years this way, except...and in redistricting, well, so why would we change it? But now this we want to change. I don't think that Senator Carlson, that they probably brought it to him because he's running for Governor. I think, because he's been in the insurance business, he's been here for a long time, and he's been a very good senator, I think that's why they brought him the bill. I will listen some more. I really like these amendments. I don't know that we throw the baby out with the bath water, but I'll keep listening. I'd yield the remainder of my time to Senator Chambers. [LB799]

SENATOR KRIST: 1:30. [LB799]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Karpisek. Members of the Legislature, sometimes there are people who know that something ought to be done, but I will carry the ball. Well, as little light as we have in here now, it's difficult for me to see the pages and it's not just because my cheaters aren't strong enough. We need more light in here. Now I ought to tell one of these Christians to stand up, wave his hand, and say, let there be light, and we'll see what happens. None of them will take the challenge. There were some supposedly false prophets in the Old Testament. [LB799]

SENATOR KRIST: One minute. [LB799]

SENATOR CHAMBERS: And there was a Christian prophet or a holy prophet and he was going to challenge them. They said, okay, we're going to see who's got answers by fire, so build your altars, cut yourselves, put the sacrifice there, and let us see who's got answers by fire. So these supposed false prophets, as they were called, went through their gyrations. Then they were ridiculed. This prophet of God said, where is your god? Is he asleep? Is he on vacation? Where is he? Then after a while he said, now let us see how the real god operates, I'm going to ask the real god to drop the hammer, and that god dropped the hammer, consumed the sacrifice, consumed the altar, consumed

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
April 07, 2014

the water that was in the trench built around the altar. [LB799]

SENATOR KRIST: Time, Senator. [LB799]

SENATOR CHAMBERS: Thank you, Mr. President. [LB799]

SENATOR KRIST: Thank you, Senator Chambers. Senator McCoy, you are recognized. [LB799]

SENATOR McCOY: Thank you, Mr. President. Will Senator Chambers yield? [LB799]

SENATOR KRIST: Senator Chambers, will you yield? [LB799]

SENATOR CHAMBERS: Yes, I will. [LB799]

SENATOR McCOY: Thank you, Senator. I think in an earlier time on the microphone just a few...little bit ago you talked about religious hypocrites. "You religious hypocrites," I believe you said, and here in the body. Who were you referring to? [LB799]

SENATOR CHAMBERS: Say it again? [LB799]

SENATOR McCOY: The time before when you spoke on the microphone, you referred to "you religious hypocrites" in the body. [LB799]

SENATOR CHAMBERS: Well, whoever the shoe fit. [LB799]

SENATOR McCOY: Who were you referring to? [LB799]

SENATOR CHAMBERS: I give the description and it can be self-applied by the one to whom it fits. [LB799]

SENATOR McCOY: I asked who you were referring to. [LB799]

SENATOR CHAMBERS: Just what I said, whoever it fits. When I say "you," that's the collective "you." If it fits you, then apply it. If the hat fits, wear it; if the shoe fits, wear it. Is that all you want to ask me? [LB799]

SENATOR McCOY: Well, I was letting you answer my question, but apparently you must be done answering my question. Thank you, Senator Chambers. [LB799]

SENATOR CHAMBERS: Quite welcome. [LB799]

SENATOR McCOY: That answers that question, which is not what I rose to talk about. I

Floor Debate
April 07, 2014

just thought that ought to be clarified when someone is using that kind of language as to who it's actually being referred to. But I think Senator Chambers often uses language that most of us would find regrettable, but that's his prerogative until it borders on the line of being called out of order, which, you know, could happen at some point. I find this an interesting discussion that we're on, on LB799, with the amendment that we have before us and then with the amendment that's coming up behind this. Again, talking about a bill that the amendment here has some germaneness to this issue. The one coming behind has no germaneness--again, within Senator Chambers' right as a member. This issue I think is interesting. You heard Senator Krist earlier tonight. I think he even gave us some information, I think I have it here somewhere, on just how many members USAA has in the Omaha metropolitan area. I don't recall whether his numbers talked about throughout the state or not. Interesting discussion. Outside this building I deal with insurance companies on a daily basis, by and large appear to handle their business in a pretty proper way, I would say. That's probably because of the environment that we have here in Nebraska and it's one that I think we take care of the concerns, have a good Insurance Department, I believe. I think this is an interesting discussion because we do have a process in place that this bill is seeking to change that has been in place for a very long time. I served on the Banking, Commerce and Insurance Committee for four years, enjoyed it very much, broadened my understanding of the banking and the insurance industries, which are very important to our state's economy. This is a very interesting discussion and it is a policy decision that there are probably some of us are going to fall on both sides of for various reasons. It's unfortunate that we're going to hear a lot of discussion about things that don't really have anything to do with the core policy decision that's found in LB799. Thank you, Mr. President. [LB799]

SENATOR KRIST: Thank you, Senator McCoy. Senator Chambers, you're recognized. [LB799]

SENATOR CHAMBERS: Thank you, Mr. President and members of the Legislature. We just heard from a man who spent a lot of time speaking against the expansion of Medicaid, against doing away with discrimination against gays and lesbians, the other year, against abolishing the death penalty, and now all of a sudden he's very sensitive. But that's what happens, I guess, when you're running for Governor and they kind of tan your hide a little bit, then you get sensitive everywhere that you are. But people put themselves in those situations. And as for calling me out of order, I don't know what he's talking about. Let him put me in order. What's he talking about? Somebody is going to tell me I can't say what I want to say the way I say? I don't use profanity as has been used on this floor. The "s" word was used on this floor by the man who sits right next to Senator McCoy and he didn't even say anything about it and that guy made...and I got the transcript. He said, using the "s" word, runs downhill. I couldn't believe it was said. And then I was told, and I got the transcript, and Senator McCoy didn't say anything about that. And I use the word "hypocrite" and he's all aflutter. Well, I'm going to say

Floor Debate
April 07, 2014

what I feel like I ought to say and want to say, but you won't hear any profanity from me because that language is not a part of my vocabulary. And apparently it doesn't bother him when it's genuine vulgarity but it's from one of his friends. And that's what I observe around here and I do say that is hypocritical. I use the word "hypocritical" and something is wrong with that and the one right next to him used the "s" word and nothing is wrong with that, no issue is taken with it. Why, some people have eyes that are like microscopes on some things. And the "Bible" said, those are the people who strain at a gnat and swallow a camel, strain at a gnat and swallow a camel. You see the mote or the tiny thing but you don't see the beam in your own eye. So all those things, we know that it comes from the book, but nobody pays attention to it. They're things to be quoted but not followed. They're like these books that people buy for the coffee table. They're never read. They're there for show. I'd like to ask Senator Coash a question since he's back. [LB799]

SENATOR KRIST: Senator Coash, will you yield? [LB799]

SENATOR COASH: Yes. [LB799]

SENATOR CHAMBERS: Senator Coash, do you think that the amendment that you offered and was added to this bill was a sweetener to the bill, in other words, would have made the bill less objectionable to some people who would have had objection to the bill? [LB799]

SENATOR COASH: Yes. [LB799]

SENATOR CHAMBERS: Thank you. And I told Senator Coash that I didn't like the bill at all. But his amendment, as these amendments were offered, I said, they're cleansing the bill, they're improving the bill, they are diluting the pollution that the bill constitutes. I said that as we were going along, but some people don't pay attention when they're here. But then they hear something that they think applies to them so they pop up like a jack-in-the-box. Who are you talking about? (Laugh) Whoever it fits. There is an old preacher when I used to go to church as a child, and he had a way of saying whenever somebody took offense at what he said, first hen that cackled laid the egg. And another guy would say that if there are...I'd like to ask "Professor" Schumacher a question. [LB799]

SENATOR KRIST: Senator Schumacher, will you yield? [LB799]

SENATOR SCHUMACHER: Yes, I will. [LB799]

SENATOR CHAMBERS: Senator Schumacher, would a collection of donkeys be called a herd? Or just what are they...what is a collection of donkeys called? Don't say "the Legislature" because that's not what I mean. [LB799]

Floor Debate
April 07, 2014

SENATOR KRIST: One minute. [LB799]

SENATOR SCHUMACHER: A bunch of donkeys. [LB799]

SENATOR CHAMBERS: Oh, okay. Thank you. But I think there's probably a term for them. But what I used to say is, if you throw a rock, and I did say "among a bunch of donkeys," the only one to go heehaw is the one that is hit. There are so many ways of saying that. A guilty conscience needs no accuser. And I'm a grown man and I've been working for my pay for a long, long time and I'm not going to take low for anybody and nobody is going to tell me what to say and how to say it. They can try, but they're going to get something back. You all may not be used to this because you think a black man is supposed to be shy and retiring and what you all call "humble." Anytime there's a black fighter or a football player and he doesn't speak for himself, then they say, he's nice because he's humble. That means he knows the place that they want him to occupy. But I'm not humble and... [LB799]

SENATOR KRIST: Time, Senator. [LB799]

SENATOR CHAMBERS: Thank you, Mr. President. [LB799]

SENATOR KRIST: Thank you, Senator Chambers. Senator Carlson, you're recognized. [LB799]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. And I can guarantee you, Senator Chambers, anybody that says that you're not bold and you don't step forward, they've got absolutely nothing between their ears. You know, we're talking about personal financial information that's closely guarded and protected every place but in Nebraska. And the Director of Insurance in Nebraska has indicated he really never looks at compensation disclosures but he has the authority to. In case there's a need for an examination to obtain that information, he can get it. And I think making only insurance company employee compensation public is unfair to this industry. So I made a list and you think about this. I'd ask you to think about this as you go to see one of these people. And most of them make a lot of money. Do you ask your doctor what he makes before he examines you? Why don't you ask for his compensation? Ask your dentist. Ask the banker. Ask the savings-and-loan executive. Ask your attorney what he or she makes. Ask your accountant. Ask the psychologist. Ask the CEOs of manufacturing businesses what they make. And how about the CEOs of nonprofits, what they make? It so happens--I think it's a point of interest--the company that we're talking about tonight, the CEO is Hispanic and the chairman is African-American, and good for them. This is supposed to be a country where we don't have to be ashamed of a profit, we don't have to be ashamed of a good salary. And chances are pretty good in an insurance company that's rather large that gives good

Floor Debate
April 07, 2014

products to its customers has executive people that make a lot of money because they know how to run the ship. And those insurance companies that have executives that don't make much money, I would venture their customers are much worse off because the company is not run the way it's supposed to be run. I really become offended when people take the attitude that somehow it's a sin to be profitable, it's a sin to have a good income, and normally it's a sin if the income that somebody else has is more than mine. We don't give people the freedom to be creative, to work hard, to earn as much as they can, and then too often we say, well, they make a lot of money but they don't give away any. [LB799]

SENATOR KRIST: One minute. [LB799]

SENATOR CARLSON: I don't know that. I know a lot of people that are wealthy, that make good money, and they give a lot of it away. That's to their credit. So what are we, a body that really wants to put harnesses on people, and you come to Nebraska, but we don't want you to do too well or we're going to sock you? Or are we going to be a state that welcomes businesses to come here, run your business in a good way, and we'll support you well? Thank you, Mr. President. [LB799]

SENATOR KRIST: Thank you, Senator Carlson. Senator Burke Harr, you're recognized. [LB799]

SENATOR HARR: Thank you, Mr. President, members of the body. Thank you, Senator Carlson, for that nice speech. I agree with him. You shouldn't be ashamed about the money you make. If you make it, don't be ashamed. He's right. So why are we trying to hide it? That's what we're doing here (laugh). Look, folks, this is pretty simple. He talked about you don't ask how much your doctor makes, you don't ask how much your lawyer makes, you don't ask how much accountants, on down the line. Insurance is different. It's different, guys. Let me tell you something. I grew up...since we brought it up earlier, I grew up in the insurance. It was all around me. Last Fourth of July, you know what we did? We talked about who the insurance directors were from today back to Cochran, Governor Cochran back in 1939. We have a great Department of Insurance, no doubt about it. It's just that I have a difference of opinion with the...some of the insurance departments. Nothing bad. They're good people I like them. I hang out with them. There's nothing wrong with it. But we have a difference of opinion here. Let me tell you what the difference is. We don't regulate doctors the same way we do insurance companies because, folks, when you pay your doctor, when you pay your lawyer, and when you pay your accountant, guess what? You get the service right then and there. You know what you're getting. With insurance, some types of insurance by definition you do not get the benefit until you're dead. It's too late by then, by definition. That's why we regulate it. It's not as though you're expected to take back everything you get. When I pay my health insurance, well, let's talk about Obamacare again. Why do we want the young involved in it? Because they don't get their money back right away. It's over time.

Floor Debate
April 07, 2014

We spread the risk. So if we're spreading the risk, we got to make sure that it's properly regulated. That's why we have Department of Insurance and it's a great department. History. Why does this bill exist? This is...is this just something left over from the progressive era? Well, probably. But let me tell you why it's so important. In the early 1900s, back then and even into today, the state of New York largely controlled insurance, and there's a large deal of corruption. Your policy may be rich compared to...low compared to someone else, but you may not be able to get it because that company will go insolvent if too many people want it at once. There was an insurance company that had this problem. They were providing jobs to...through a trust, to a son, to family members, and they all got a little on the side and it was a nice deal for everyone but the policyholders. So there was something called the Armstrong committee. Armstrong committee had a council by the name of Charles Evans Hughes. For those of you who aren't familiar with him, he ended up being a Supreme Court justice. Prior to that, he ran for president of the United States, lost to Wilson, Woodrow Wilson. Prior to that, Secretary of State for Taft. Prior to that, Governor of New York. And prior to that, counsel to this committee. And the committee made a lot of recommendations, and one of them was not to control. We're not controlling how much CEO's make. No such thing. What we're doing is saying make it public. Let's know how much these people are making. There's something in the industry called benchmarking. Benchmarking is when you look at how your business is doing compared to another. It's part of the American business plan. That's what this is. You need to know. If you're a CEO, you want to make sure you know how much the other CEOs making so you make sure you're getting paid the same amount for the same amount of performance. [LB799]

SENATOR KRIST: One minute. [LB799]

SENATOR HARR: Thank you. And I'll come back to this. Policy owners...holders in a mutual company own the company. They own the company. If you own shares in an insurance company, you find out how much they're making because it's publicly traded and it's by the SEC. One agency. Well, we're one agency for the mutual companies, for the fraternal orders, all of the others that sell in Nebraska and only those who sell in Nebraska. We're not like New York. We're different in that regard. But what we do do is we say policy owners own the company. You own the company. You have a right to know how much your CEO is making. I'll go into greater detail on it next time. Thank you. [LB799]

SENATOR KRIST: Thank you, Senator Harr. Senator Garrett, you're recognized. [LB799]

SENATOR GARRETT: Thank you, Mr. President, members of the body. Where do I begin? You know, it's amazing. There's this thing called free-market capitalism. It's what built this country. Shouldn't have to remind you about that. This is a privately-held company. I am one of those USAA members. USAA started almost a hundred years

Floor Debate
April 07, 2014

ago by 25 Army officers who couldn't obtain automobile insurance because they were constantly moving, and it grew from there. It grew to a very impressive company. It's the only property and casualty insurer to maintain the highest possible credit ratings throughout the recent financial crisis and one of only ten companies in the world to maintain that status today regardless of industry. You probably heard Senator Krist talk earlier about some of the numbers for USAA, but let me throw these out. There are 42,811 USAA members in Nebraska alone. USAA is one of the 100 best companies to work for, Fortune magazine's list for 2010 to 2013; the number one best for vets employer in 2012; the top 100 military-friendly employers from 2001 to 2013; the number one military-friendly employer; 50 best employers of the Latinos in the US; number one military spouse-friendly employer 2001, 2009, 2011 through '13; customer experience index awards of excellence. It goes on and on. Ladies and gentlemen, we're not asking for some great secrecy here. Revealing executive compensation can be a real competitive advantage for your competitors. As a policyholder for USAA, and when we debated this in committee, I was the first to say we vote with our pocketbooks. If USAA was not providing us the kinds of service and the kinds of returns that we wanted, we'll vote with our pocketbooks. We'll walk. But they are an outstanding company. Dare I say probably the best insurance company around, and quite frankly I don't care what my president and CEO makes. Do you think folks care what Warren Buffett makes or Bill Gates or Elon Musk? Outstanding...you know, I heard there's this astonishment that, oh my god, the guy might be making \$5 million. Free-market capitalism, ladies and gentlemen. You know, there's incentive for guys that are truly great leaders and managers to excel and there's competition for that talent. Senator Schumacher, would you yield for a question? [LB799]

SENATOR WATERMEIER PRESIDING

SENATOR WATERMEIER: Senator Schumacher, would you yield? [LB799]

SENATOR SCHUMACHER: Yes, I will. [LB799]

SENATOR GARRETT: You're an attorney. You have a private practice. Are you an LLC or an S corp or... [LB799]

SENATOR SCHUMACHER: No, I'm just a me. [LB799]

SENATOR GARRETT: Just a you. Okay. Would you mind sharing with the body what your total compensation is? [LB799]

SENATOR SCHUMACHER: Unlike the publicly traded companies which are private companies, I'm not going to do that. [LB799]

SENATOR GARRETT: Yeah, and I don't blame you. I don't think anyone in here would

Floor Debate
April 07, 2014

want to divulge what their compensation is, especially if they're an entrepreneur. I'm a small business owner. I don't think it's anyone's business what I make. And USAA is a privately-held company. I'm a USAA member. I don't...I know what my president and CEO makes. Quite frankly I don't care. But that doesn't need to be made public. This is a 100-year...almost a 100-year-old law. Does it strike this body as a little curious as we're the only state that still requires this divulgence of executive compensation, the only state that... [LB799]

SENATOR WATERMEIER: One minute. [LB799]

SENATOR GARRETT: ...still requires it? You know, we talked about wanting to lead and get out in front of all these other states, but yet here we are. This law is almost a hundred years old and we're the only state that still requires this information to be divulged. If we're going to do it for privately-held insurance companies, then let's do it for privately-held banks, let's do it for all manner of organizations that are private. Let's just put that information out there. This is not a big deal. This is a filing requirement. USAA is not objecting to providing this information to the state, but they just would prefer that it not be made public. It is a competitive advantage for other companies to find out what your executives are being paid because believe it or not they lure them away. They lure them away all the time. So I stand 100 percent with a company that I'm a part owner of. It's nobody's business. As I told Senator Schumacher when we were debating this in committee, I put it pretty bluntly. I said butt out. You know, it's nobody else's business. [LB799]

SENATOR WATERMEIER: Time, Senator. [LB799]

SENATOR GARRETT: Thank you, Mr. President. [LB799]

SENATOR WATERMEIER: Thank you, Senator Garrett and Senator Schumacher. Senator Schumacher, you are next in the queue. [LB799]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. For all the ruckus I raised on this issue when it was first brought up, some of you may be wondering why I've been conspicuously silent up to this point but now rise to clarify some things that have been put into the record. The bill was in pretty deep trouble. And many of you got called to the...back behind the glass to be talked about it. The facts of it are this: There are three bills that are very important to the people of Nebraska and some families that were hurting. Senator Nordquist's bill on cancer medication which we passed last year I think it was with the restriction that it expire because that was all that could be done to get it passed. That bill that Senator Nordquist had would extend that so that people wouldn't have to drive hundreds of miles to get...sit in a cancer treatment chair when oral medication would work. The absolutely heartrending testimony of families who were unfortunate enough to have an autistic child, that particular bill was

Floor Debate
April 07, 2014

dead in the water, not going anywhere, wasn't advanced to the committee till after the ruckus. The...Senator Conrad's bill, again, heartrending testimony of people who had children who have a genetic-based disorder that they can't digest milk. When I said on the first time I rose against this bill that no public good could come of it I was wrong. Because public good could come of it if these three bills were incorporated into it. And, yes, there was an agreement, an agreement that I'd stand down if these three bills were part of it and this Legislature showed humanity on this level. And so that these bills are not sweeteners is absolutely not the case. They are sweeteners. To use this vehicle of a rather unfortunate bill to bring some good to the state. And maybe, maybe if these vehicles weren't there or these amendments weren't there, they'd have, quote, rolled over me. I don't know. But they are there now and they are good amendments. And consistent with my agreement, I will stand down. Thank you. [LB799]

SENATOR WATERMEIER: Thank you, Senator Schumacher. Those in the queue wishing to speak: Senator Wallman, Senator Bloomfield, Senator Chambers, and others. Senator Wallman, you are recognized. [LB799]

SENATOR WALLMAN: Thank you, Mr. President. Good evening, members. Would Senator Schumacher yield to a question? [LB799]

SENATOR WATERMEIER: Senator Schumacher? [LB799]

SENATOR SCHUMACHER: Yes, I will. [LB799]

SENATOR WALLMAN: During the great Wall Street bailout, were there any insurance companies involved? [LB799]

SENATOR SCHUMACHER: The insurance companies and large banks were the reason there was a need for a bailout. They had conducted themselves in a highly reckless manner. For the most part, they ran up great leverage and great debt. They brought this country to its...nearly its knees. Now after we ran up a bunch of federal debt and a bunch of transfers and there's a bunch of cash in the system due to the Federal Reserve printing money, they're all sitting on top of some piles of money right now. [LB799]

SENATOR WALLMAN: Thank you, Senator. And that's what puts my ears up as well. Nebraska had a good policy in place and it didn't happen to Nebraska companies. I, too, have insurance with a company that's not out of Nebraska, and is long-term health insurance for nursing home. And they informed us, I signed it, it was pretty high priced. But they said they'd never raise the premiums. But guess what? They did. And also they shortened the life span of the insurance policy how long I can be taken care of. So they lied to me, plain and simple. Because you know why? The company is probably going broke. I probably won't have anything. So should I have bought from a Nebraska

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
April 07, 2014

company? Yes. So we have good regulations in place. And this is a sweetener deal on this bill. But why is it needed? Why? Thank you, Mr. President. [LB799]

SENATOR WATERMEIER: Thank you, Senator Wallman and Senator Schumacher. Senator Bloomfield, you're next. [LB799]

SENATOR BLOOMFIELD: Thank you, Mr. President. I would like to ask Senator Burke Harr a question if he'd yield? [LB799]

SENATOR WATERMEIER: Senator Burke Harr? [LB799]

SENATOR HARR: Yes. [LB799]

SENATOR BLOOMFIELD: Thank you, Senator Harr. Before this discussion started, were you aware how much the executive of this insurance company was making? [LB799]

SENATOR SCHUMACHER: Was I aware? [LB799]

SENATOR BLOOMFIELD: Yes. [LB799]

SENATOR SCHUMACHER: Of which insurance company? [LB799]

SENATOR BLOOMFIELD: The insurance company that we're talking about here, USS... [LB799]

SENATOR SCHUMACHER: USAA, before tonight? [LB799]

SENATOR BLOOMFIELD: Yes. [LB799]

SENATOR SCHUMACHER: Yes, I was aware of how much they make. [LB799]

SENATOR BLOOMFIELD: Were you aware of it last week? [LB799]

SENATOR SCHUMACHER: Yes, I was aware last week. [LB799]

SENATOR BLOOMFIELD: Were you aware of it a month ago? [LB799]

SENATOR SCHUMACHER: Probably around a month ago. [LB799]

SENATOR BLOOMFIELD: Okay. But it's not something you've been aware of for the last ten years. [LB799]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
April 07, 2014

SENATOR SCHUMACHER: Well, I don't have a policy with USAA. [LB799]

SENATOR BLOOMFIELD: But were...my question is if this knowledge, and I intend to go around the room and ask other people the same question, if this knowledge is so vital to us, when did you become aware of how much these people were making? [LB799]

SENATOR SCHUMACHER: It's been valuable because those who do own policies know how much it...their company makes. I think it's valuable for the policyholders. I also think this...I think it's good for the industry to know how much each other are making so they can benchmark to make sure that they aren't making too much money. In addition, we can make sure that similar policies and similar companies aren't corrupted so that you don't have to... [LB799]

SENATOR BLOOMFIELD: We're not discussing policy here. We're talking the salary... [LB799]

SENATOR SCHUMACHER: Oh, okay. [LB799]

SENATOR BLOOMFIELD: ...that these executives make. That's what I was wondering if you were aware of six months ago or six weeks ago. [LB799]

SENATOR SCHUMACHER: Was I...I was aware...I don't about six months. I'm aware of some insurance companies, how much they make. I think it's important. It's out there so that people can know. [LB799]

SENATOR BLOOMFIELD: And how much their executives make personally. [LB799]

SENATOR SCHUMACHER: Well, I don't know how much the president of GE makes but yet the SEC does a filing and they require them to do a filing. We do it for publicly traded companies because that information being available is what keeps people honest. Similar to what we did earlier this year when we passed the superintendent bill for transparency so we know how much superintendents make. Because we want...we want to make sure... [LB799]

SENATOR BLOOMFIELD: Senator, that's a public outfit again. This is a private company. And the question I really wanted answered was were you aware of what this individual, president or chairman, was making and you said you were. [LB799]

SENATOR SCHUMACHER: No, I was not. [LB799]

SENATOR BLOOMFIELD: You were not. Okay. Senator Kolowski...I'd like to ask Senator Kolowski a question if he'd yield. [LB799]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
April 07, 2014

SENATOR WATERMEIER: Senator Kolowski, would you yield to a question? [LB799]

SENATOR KOLOWSKI: Certainly. [LB799]

SENATOR BLOOMFIELD: Senator, were you aware of what this individual was making six months ago? [LB799]

SENATOR KOLOWSKI: No, not at all. [LB799]

SENATOR BLOOMFIELD: Thank you. Would Senator Crawford yield to a question? [LB799]

SENATOR WATERMEIER: Senator Crawford, would you yield? [LB799]

SENATOR CRAWFORD: Yes. [LB799]

SENATOR BLOOMFIELD: Senator Crawford, were you aware six months ago what this individual was making? [LB799]

SENATOR CRAWFORD: No. [LB799]

SENATOR BLOOMFIELD: Thank you. Senator Chambers, would you yield? [LB799]

SENATOR WATERMEIER: Senator Chambers? [LB799]

SENATOR CHAMBERS: No. [LB799]

SENATOR BLOOMFIELD: Thank you. [LB799]

SENATOR CHAMBERS: Oh, I'll yield. I thought you asked me did I know what he was making? [LB799]

SENATOR BLOOMFIELD: I hadn't got to that part. [LB799]

SENATOR CHAMBERS: Oh, okay. Yes, I will yield. [LB799]

SENATOR BLOOMFIELD: (Laugh) Okay. [LB799]

SENATOR CHAMBERS: Hey, simmer down. [LB799]

SENATOR BLOOMFIELD: I'm simmered down. [LB799]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
April 07, 2014

SENATOR CHAMBERS: I said I'll answer (laugh). [LB799]

SENATOR BLOOMFIELD: Senator Chambers, were you aware six months ago... [LB799]

SENATOR CHAMBERS: No. [LB799]

SENATOR BLOOMFIELD: ...what this individual was making? [LB799]

SENATOR CHAMBERS: No. [LB799]

SENATOR BLOOMFIELD: Thank you. [LB799]

SENATOR CHAMBERS: Okay. [LB799]

SENATOR BLOOMFIELD: Colleagues, we've been pretty well around the room. Nobody was aware of what this individual was making. If it's so vitally important to us that we have this published and that everybody must know what this individual is making, how come nobody in the room knew six months ago? Because it isn't that important. We don't care. We care what our superintendents make. We're paying them with tax money. It's none of our business what private people are making. [LB799]

SENATOR WATERMEIER: One minute. [LB799]

SENATOR BLOOMFIELD: Thank you, Mr. President. [LB799]

SENATOR WATERMEIER: Thank you, Senator Bloomfield and others. Next in the queue, Senator Chambers, you are recognized. [LB799]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, if you were going to make any conclusion, draw any conclusion of any merit by how much people in this Legislature know about anything, you're not going anywhere. I'd like to ask Senator Bloomfield a question. [LB799]

SENATOR WATERMEIER: Senator Bloomfield, will you yield? [LB799]

SENATOR BLOOMFIELD: I should say no but I will. [LB799]

SENATOR CHAMBERS: Senator Bloomfield, how much does the Governor make? [LB799]

SENATOR BLOOMFIELD: I believe it's around \$130,000. [LB799]

Floor Debate
April 07, 2014

SENATOR CHAMBERS: Are you...do you know that for sure or are you guessing? [LB799]

SENATOR BLOOMFIELD: I'm kind of guessing. [LB799]

SENATOR CHAMBERS: Okay. [LB799]

SENATOR BLOOMFIELD: We discussed it in General Affairs earlier. [LB799]

SENATOR CHAMBERS: How much does the Attorney General make? [LB799]

SENATOR BLOOMFIELD: I have seen the numbers, I don't have them committed in my memory. [LB799]

SENATOR CHAMBERS: Because you don't care. Nobody cares because you don't know. But that's all I would ask. Thank you. Thank you, Senator Bloomfield. [LB799]

SENATOR BLOOMFIELD: You're welcome. [LB799]

SENATOR CHAMBERS: Members of the Legislature, I could go around this room and ask how many buses does the city of Lincoln have. See, there is a tremendous amount of information in an encyclopedia and you could go to any page and ask me do I know what's on that page and I would say no. But I know that the information is there should I have a need for it. I don't know every word in the dictionary, and I mean I don't know every word in the dictionary. And I don't know the exact dictionary definition of every word that I know. But if I need it, I know where to get it. The information that you can obtain through research whether it's a great amount or a small amount you don't have to carry around in your head. These people are making this money and the SEC is interested in it. They want to know what goes into the decision making that results in this kind of money being paid. So for those people who talk about the free market and they're not aware of the impact or the interrelationship between these obscene salaries and the way these companies are mismanaged and the things done by way of mismanagement so they can get the salaries show they don't know anything about the free market. They're free of information about that market. Senator Carlson talking about is it a sin to make money. No. But what did Jesus say about the rich man? It's easier for a camel to go through the eye of a needle than for a rich man to go into heaven. If Senator Carlson had shown the angst for the poor that he showed for these super rich, obscenely rich people, we could have gotten an increase for those waitresses who make \$2.13 an hour. And you know what I felt like doing? Despite the fact I know I can't sing, when I heard him I felt like singing, "my heart cries for you, sighs for you, dies for you," for these rich people. Oh, I never felt so much angst and sorrow. And all that they have to worry about, the thing that keeps him awake at night is that they have to reveal that they make \$15 million a year. And we won't raise the minimum

Floor Debate
April 07, 2014

wage. And we're worried about these rich people. We won't expand Medicaid. We're worried about these rich people. And the ones that aren't doing all this worrying are the ones who are not in favor of raising the minimum wage or helping the sick who are poor. Don't get sick. Senator Garrett is right in league with them. He makes plenty of money. He's got government contracts. That's not secret being revealed. But people ought to be able to find out what government contracts he's got and how much they're for because they're paid with taxpayers' money. [LB799]

SENATOR WATERMEIER: One minute. [LB799]

SENATOR CHAMBERS: And there are private corporations affected with what's called a public interest, and they're regulated by the law as though they are a public entity. That's in corporation law. The law deals with the reality. There are all kind of ways you can create facades to make it seem like something is not what it is. At least Senator Garrett mentioned that he's part owner, and he didn't just mean because he holds an insurance policy I'm sure. Maybe that's what he means. But birds of a feather flock together and they're going to look out for each other. One hand washes the other. But good god almighty, I want to hear Senator Carlson give another one of those lectures on how unfortunate these poor rich people are and how these waitresses don't need any increase in that \$2.13 an hour. Why, they're making \$2.13 an hour, cut them by 50 cents. [LB799]

SENATOR WATERMEIER: Time, Senator. [LB799]

SENATOR CHAMBERS: It is. I thank you, Mr. President. [LB799]

SENATOR WATERMEIER: Thank you, Senator Chambers. Senator Cook, you're recognized. [LB799]

SENATOR COOK: Thank you, Mr. President, and good evening, colleagues. I rise in support of AM2814 to AM1730. And I think it's just been a very interesting evening in so many ways because it's brought to mind many of the conversations that we've had on the floor since I joined the Legislature five-and-a-half calendar years and six regular legislative sessions ago. I find it very interesting that once again we gather in the interests of those who have and we engaged with great passion in the interests of those who have. And last week when we were having our minimum wage conversation you could have heard crickets from the opposing viewpoint when it was time for the floor debate. I find that interesting, although at this stage in the game it probably should not be that surprising to me. I am reminded also of my history here in the Legislature of a bill that I was able to get across the finish line related to SNAP benefits, which as you all know is food. It amounts to about \$1 per meal per day per person in a household. The original proposal would have called for the disregard of the assets which people might have put away for college or for retirement in eligibility for this temporary assistance. By

Floor Debate
April 07, 2014

the time people got so excited about this dollar per meal per day or the TANF benefits or the other benefits for temporary social welfare recipients, it got whittled down to the food benefits only. I also kind am remembering my undergraduate education in business. I studied international business. I'm very familiar with the profit motive and executive compensation and decision making skills and talents and relationships that are rewarded through executive compensation. And so I do not begrudge anyone their salary. I'm also aware that being wooed away to the next insurance company or to the next investment bank is all in the game. That's part of it. So keeping it super, double secret in all 50 states so that your executives don't potentially get wooed away, you're choosing the part of the free market system that you want to engage in and you're dismissing the other part which is just as real for you as an executive. It would behoove you to have all of the salaries around the nation publicized for the kind of work that you do. I'm also puzzled, not certain why the comment was made. My guess is that it's information that's been supplied to the bill's sponsor and he felt for some reason that it needed to be shared, that the executives, and I'm remembering whether it's the president or the chair, one happens to be black, one happens to be Hispanic. So goodie for them that they're making \$5 million or \$15 million. I think that's great. Here is the news which everybody knows, whether it's public money that is earned through a school system or through working for the city or in a private business, the disproportionate number of blacks and Hispanics in the United States of America are not going to be impacted by this bill because they're not going to be the executive in all likelihood of this particular company. And what difference does it make indeed. [LB799]

SENATOR WATERMEIER: One minute. [LB799]

SENATOR COOK: I have some more information on the back of this piece of paper. Thank you, Mr. President. As I mentioned, we get all excited when we consider offering a gradual increase in the minimum wage from \$7.25 per hour which nobody can work at and keep a roof over their head--and I'm talking about rent, not a mortgage, insurance, maintenance, taxes, property taxes, not even part of that conversation--gradually taking it to \$9. But we are going to dig our heels in and get all red in the face and run our blood pressure up over executives earning millions of dollars per year who are just fine I'm sure right now, not worried about us on this evening. Thank you very much, Mr. President. [LB799]

SENATOR WATERMEIER: Thank you, Senator Cook. Senator Burke Harr, you are next in the queue. [LB799]

SENATOR HARR: Thank you, Mr. President, members of the body. So Senator Garrett is an owner of a company and he doesn't care how much the CEO makes, and that's fine. I'm okay with that. But that's not good corporate governance. It's important that those people who own a company keep a watchful eye on that company. And part of keeping a watchful eye on that company is making sure that their top executives aren't

Floor Debate
April 07, 2014

paid excessively. So and how they're compensated is important so that you can look out...they're looking out for the long-term interest of the business and not their own short-term interest. That's not my words. That's what the SEC thinks. They regulate publicly traded companies and they want to...they just recently increased what executives have to tell. And the reason is, is because they hope that that creates more stockholder and shareholder activity and oversight. People who own a policy in a mutual company are the owners of the company, period. That's who owns them. And if these people don't know what's going on in their company, how are they going to know? The policy rate may be really low, but the CEO is taking home a whole bunch. There's some regulation. I'll concede that. But how much regulation? USAA may be a great corporate citizen. You know who else was a great corporate citizen? Enron. Enron was awesome, man. It was a great place to work. Rock and roll. We've all seen the videos of Ken Lay doing fund-raisers. Just because you are a good corporate citizen doesn't mean you are a good corporate company financially. This is about openness, transparency. Why do we want transparency in our government? Because it's our dollars. I don't know how much the superintendent of, I don't know, name a town, Greeley, Norfolk, North Platte, Gering, Grand Island, I have no idea how much those superintendents make. What I do know after this is I can find out. Same way here. A free market, which is what we all want, cannot work if there is not transparency. If there are people doing funny business, hiding the cards, taking home more than their fair share. That company is not going to last very long. That's what we're doing here. Now here's the funny thing. We may, just may pass LB799, and there's a little industry called or company, I don't know, I guess they're a nonprofit, called the NAIC. Senator Carlson, would you yield to a question? [LB799]

SENATOR WATERMEIER: Senator Carlson? [LB799]

SENATOR CARLSON: Yes. [LB799]

SENATOR HARR: Senator, are you aware of the NAIC? [LB799]

SENATOR CARLSON: Yes, I am. [LB799]

SENATOR HARR: And what is that? [LB799]

SENATOR CARLSON: Well, it's the governing body of the insurance industry. [LB799]

SENATOR HARR: And what does that stand for, do you know? [LB799]

SENATOR CARLSON: Oh, I used to. National Association of Insurance Commissioners I think. [LB799]

SENATOR HARR: That's right. That's right. That's right. And do you know what they

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
April 07, 2014

do? They govern, right? [LB799]

SENATOR CARLSON: Yes, they do. [LB799]

SENATOR HARR: And they come up with the forms, correct, that insurance companies generally file? [LB799]

SENATOR CARLSON: Yes. [LB799]

SENATOR HARR: Okay. Would it surprise you if I told you in April of last year the NAIC... [LB799]

SENATOR WATERMEIER: One minute. [LB799]

SENATOR HARR: ...thank you, the NAIC made a proposal from their corporate governance working group to require mutual companies to tell the top pay of their five to ten highest paid employees? [LB799]

SENATOR CARLSON: You're asking if that would surprise me? [LB799]

SENATOR HARR: Yep. [LB799]

SENATOR CARLSON: No, I wouldn't say it surprises me. [LB799]

SENATOR HARR: Yeah, it shouldn't. Because, folks, it's important. This is important stuff. The NAIC is catching on to what we're doing and they realize we're just one bill away from changing this. It's important that the people who own the company know what's going on inside their own company. That's all this is. That's all we're trying to do, is to make sure the policy owners, the people who own the company whether it's the SEC, mutual company, or members if you're USAA, again, a very good business. I have not problem with it. But those members need to know. They need to watch over their dollars or they may wake up one day and find out that they don't have any insurance. Thank you. [LB799]

SENATOR WATERMEIER: Time, Senator. Thank you, Senator Harr and Senator Carlson. Mr. Clerk for... [LB799]

CLERK: Mr. President, I have a priority motion. Senator Krist would move to bracket LB799 until April 17, 2014. [LB799]

SENATOR WATERMEIER: Senator Krist, you are recognized to open on your bracket motion. [LB799]

Floor Debate
April 07, 2014

SENATOR KRIST: Thank you, Mr. President. Good evening, colleagues. Good evening, Nebraska. And if you think I'm not serious, you need to look in my eyes. We have just attached three essential bills, three essential pieces of legislation. Why? Because we heard the bleeding heart stories as it was described by Senator Schumacher, things that needed to be done. You know what? I make a living in this Legislature of listening to those stories every year, every day. Come to the Health and Human Services Committee and hear those stories every committee hearing. But we've singled out these three and we think it's important. Now Senator Schumacher says, he's supposed to be quiet. I don't think he needs to be quiet. I think he started this and I think he needs to be engaged in the conversation. I'm serious about this because you are attacking my insurance company. I am a member. Senator Harr, I seek statements every year that show me where USAA is. Every year, I get a savings dollar back. I get \$800 to \$900 a year in dividends back from my company. Is it important that I find out what the CEO or any of the insurance people make in terms of getting that financial statement? You say it is. I say it's not. And don't quibble with me. The point is, I'm a member and I'm served well. At least once a quarter I get something in the mail from Allstate, American Family, you name it, and they say we want your business. And I say beat it, beat what I get from USAA, and the answer is I can't. That's why I've been with them since 1977. You want to pick on an insurance company, in Senator Schumacher's own words he said they only make \$500,000 million a year or \$5 million or whatever the money was. There are other insurance companies out there that make far more than that and you know that. You know where people come to find out how much insurance companies CEO's make? Nebraska. We set the standard. We tell everybody what they are. With all fair disclosure here, I sat up there and listened to a breach of germaneness happen three separate times and nobody said a word, and yet there were members that came up there and said as soon as Senator Chambers put something on there that has anything to do with mountain lions, poof, germaneness. He used the word hypocrite earlier. I'm sorry, I didn't mean he, Senator Chambers used the word hypocrite earlier. I'm using it now. We're having an argument, a discussion, over whether or not we're going to have people stop reporting. Well, is Senator Gloor available for a question? [LB799]

SENATOR WATERMEIER: Senator Gloor, would you yield? [LB799]

SENATOR GLOOR: Certainly. [LB799]

SENATOR KRIST: Let's drill down here for just a minute. Are these insurance companies reporting now in the state of Nebraska? [LB799]

SENATOR GLOOR: Yes. [LB799]

SENATOR KRIST: Will these insurance companies continue to report now in Nebraska after the bill and the committee amendment are passed? [LB799]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
April 07, 2014

SENATOR GLOOR: Yes. That's the basis of the committee amendment. [LB799]

SENATOR KRIST: Members, what are you arguing about? They're still going to report. They're going to report in the state of Nebraska. You want to find out what it is, you can go find out, Senator Harr. But I don't think you're eligible for USAA, so I'm sorry you can't share in the membership. Get serious. We've got three really important things that are attached to this and we all agreed we would just look the other way with germaneness and make it happen. One or two of the members have come up and asked again, and I'll remind you as soon as Senator Chambers does something questionable like mountain lions, there's going to be germaneness. It may just be the late hour and it may just be that I got locked up in that chair too long and wasn't able to say anything. But let's weigh this out. LB799 does not change the fact that they still have to report to the state of Nebraska, along...I'm sorry, along with AM1730. They're still going to have to report. We keep winding ourselves around the axel about we've got to have fair disclosure. The sky is falling. Chicken Little is here. It doesn't change. It doesn't change. To me, this is a matter of 49 people coming together and looking the other way on three different cases of germaneness. We did it deliberately. Deliberately. We knew what we were doing. Senator Harr brought it up at the very beginning. I will not support AM2813 because...2814 to AM1730 because primarily it is attacking my personal insurance company for a reason...and that's all I've heard tonight on this floor and in other debates, for reasons I don't understand because the reporting requirements do not change with the committee amendment attached. I've said everything I need to say. I'd like to withdraw the bracket motion. [LB799]

SENATOR WATERMEIER: The motion is withdrawn. Debate will continue on LB799 and the amendment to the committee amendment. Those in the queue wishing to speak: Senator Karpisek, Senator Carlson, and Senator Davis. Senator Karpisek, you are recognized. [LB799]

SENATOR KARPISEK: Question. [LB799]

SENATOR WATERMEIER: The Chair rules out of order. There are members that have yet to speak for the first time on this amendment. Senator Karpisek, Carlson, and Davis. Senator Carlson, you're recognized. [LB799]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. Thank you, Senator Krist. I'd like to address Senator Garrett if he would yield. [LB799]

SENATOR WATERMEIER: Senator Garrett for a question. [LB799]

SENATOR GARRETT: Yes. [LB799]

SENATOR CARLSON: Senator Garrett, approximately how old is USAA? [LB799]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
April 07, 2014

SENATOR GARRETT: It's almost 100 years old, 92 years old I think. [LB799]

SENATOR CARLSON: Now back when insurance companies were in trouble and they needed bailing out, was USAA on the end of some of that bailout? [LB799]

SENATOR GARRETT: Negative. Never. [LB799]

SENATOR CARLSON: Why do you think that was? [LB799]

SENATOR GARRETT: Because they were extremely well managed. [LB799]

SENATOR CARLSON: So they had no need for a bailout. [LB799]

SENATOR GARRETT: That's correct. [LB799]

SENATOR CARLSON: Did that serve their policyholders well? [LB799]

SENATOR GARRETT: Absolutely. [LB799]

SENATOR CARLSON: Did that keep dividends being paid and people in good stead on their policies? [LB799]

SENATOR GARRETT: Absolutely. Every year we get a dividend, we get cash back. [LB799]

SENATOR CARLSON: Was that a good thing? [LB799]

SENATOR GARRETT: Absolutely. [LB799]

SENATOR CARLSON: Okay. Thank you, Senator Garrett. Senator Burke Harr, would you yield? [LB799]

SENATOR WATERMEIER: Senator Burke Harr in the building? [LB799]

SENATOR HARR: Yeah. I'll yield. [LB799]

SENATOR CARLSON: Senator Harr, I think that you made the statement or you thought or whether it was an estimate or whether it was exact because I don't know, but I heard a \$5 million figure that the CEO of USAA may have as an income. [LB799]

SENATOR HARR: Okay. [LB799]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
April 07, 2014

SENATOR CARLSON: Do you kind of agree with that? [LB799]

SENATOR HARR: Yeah. I'm not sure why we're focusing on USAA so much, but yeah. This is about all insurance companies. [LB799]

SENATOR CARLSON: Well, you had also made a statement about, you said something and I don't these exact words, but the message was these companies have to run things properly or they won't be in business. Now you didn't say it exactly like that but you made something to that effect, did you not? [LB799]

SENATOR HARR: Well, I think that's all businesses. [LB799]

SENATOR CARLSON: So a business has to be well run or it won't stay in business. [LB799]

SENATOR HARR: Yeah. [LB799]

SENATOR CARLSON: Is \$5 million too much for a president of USAA? [LB799]

SENATOR HARR: I don't know. That's a judgment call for the...apparently that's a judgment call I believe for the shareholders to make in this case or the members. But I don't know how this got...maybe it's late is the hour but we got to calm down, folks. This isn't an attack on USAA at all. USAA is the one bringing this bill, but this isn't an attack in on USAA. This will apply across the board. [LB799]

SENATOR CARLSON: All right. This is my time, Senator Harr. This is my time. The point is there must be a consensus that someplace along the line that compensation is fair, reasonable, within bounds, but if it gets higher than that it's unfair, it's not good, it's not a good way to do business. Now maybe you didn't infer that, but this is what I'm kind of hearing because people don't like that executives of insurance companies make a lot of money. Has nothing to do with the quality of the business. It has to do with the way businesses are organized and run in the United States. This is not a communist nation. We don't set salaries. And that's something that the Legislature would have no business doing, even attempting to do. USAA did not get in trouble because they didn't make silly investments in derivatives and options and other things that some companies did because they wanted to get filthy rich in a hurry and it didn't work out. So they needed a bailout. That obviously wasn't the case with this company. Now I'm opposed to AM2814 and... [LB799]

SENATOR WATERMEIER: One minute. [LB799]

SENATOR CARLSON: ...hopefully everybody understands what would happen. Striking Sections 1 and 2 just takes the body out of the bill and only leaves the amendments that

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
April 07, 2014

we had voted positively on the three amendments. I'm opposed to AM2814. Thank you.
[LB799]

SENATOR WATERMEIER: Thank you, Senator Carlson, Senator Garrett, and Senator Harr. Senator Davis, you are recognized. [LB799]

SENATOR DAVIS: Thank you, Mr. President. I haven't spoken on this. I've been doing a little research and looking. Let's remember, everybody, this is not just about USAA. There are other entities who are affected. USAA has come to the forefront in this discussion primarily because it was mentioned that they had paid a rather large fee to a lobbying firm to try to get this bill repealed. Well, why would they want to do that you can ask, and you can say it's all well and good that this is a private company and I understand that. But let's think about what that private company does. They collect money from policyholders, and it's not just USAA but any other insurance company, and they invest that money somewhere else and they develop a return on that investment, part of which goes into paying the claims and part of which goes into building their assets. And they've done a good job of it and I have no problem with what they've done. But if you do a little Googling on that company, you'll find that in 2008 the executive made \$1.5 million. In 2009, it was up to \$2.15 million; 2010, he made \$6.79 million; and now \$5.29 million in 2012. And I'm not passing judgment on the salary. I think that's fine. I think that probably he deserves what he makes. They've done a very good job with managing their revenue and their assets. They've returned revenue to their policyholders and everybody likes it. In fact, I've got relatives who have this insurance and they're very happy with it. But this is about transparency and why transparency is valuable in government and in entities like this. Because since we're dealing with a company that has a large customer base who are investors in many ways in that company, they need a little higher standard of security. And that's what this bill does. It protects. By the very virtue of its publicness, it protects the policyholders from the extremes of the market. And if you look at what has happened in executive pay, it's become a runaway over the past several years. Senator Garrett made reference to I believe Berkshire Hathaway. Of course, that's a publicly traded company. And we can find out what those salaries are as you can with any publicly traded company. But this bill is good for the United States. It's a good Nebraska bill but it's good for the United States because it puts a little lever of control and accountability on. If this was secret information, do you suppose that maybe Company A which might have had a great return might end up giving their executive a \$5 million bonus? I can see that happening. But this prevents that from happening by giving the information to the policyholder to say, well, kind of watch what you're doing. You can do that through the Nebraska bill. So this is a good bill and I support Senator Chambers' amendments. Thank you.
[LB799]

SENATOR WATERMEIER: Thank you, Senator Davis. Senator Krist, you are recognized. [LB799]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
April 07, 2014

SENATOR KRIST: Thank you, Mr. President. Hello, colleagues again. And good evening, Nebraska. Would Senator Chambers yield to a question? [LB799]

SENATOR WATERMEIER: Senator Chambers? [LB799]

SENATOR CHAMBERS: Yes. [LB799]

SENATOR KRIST: Precisely, Senator Chambers, what does your amendment do? [LB799]

SENATOR CHAMBERS: It strikes from the bill the language that would have been in the original bill related to the disclosure of these salaries. In other words, the only thing that would be left would be these amendments that have been adopted tonight. And I made that clear in the beginning even before we got to it when people were so worried about the mountain lion aspect. I mentioned the steps that I was going through, the amendments that I would go ahead and support, that I would not raise the germaneness issue. But when we got all of those amendments adopted which were designed to sweeten this bitter pill, I would offer this amendment which had been filled some time ago to strip out the part that protected the salaries of these big shots. [LB799]

SENATOR KRIST: Okay. Senator Chambers, I understand what you think it does and I have to politely...meaning no disrespect I have to disagree with you. Because there is a group of us that are looking at this, and the amendment would be affecting the committee amendment which would take away the three amendments as we have passed them. And I would ask you to look at that again, which caused me some of my angst on the mike just a few minutes ago. I believe that when you...when we are amending...we have amended the committee amendment with three, and I believe that your amendment will do more than just strike the language in LB799. And if I'm wrong I'll stand aside. But I'd ask you to take a look at that if you would please, sir. The point I'd like to make in addition to what I made earlier is I...Senator Harr came back and said it's not about USAA. Well, you know, it...darn right, it's about USAA. That was the example that was held up for transparency. The transparency issue I understand, Senator Harr. I had some affiliation with an insurance brokerage in my family as well, and I do understand transparency. Here's what I don't understand. When we look myopically through Senator Davis' time on the mike, we would say, wow, the guy has gone from a million dollars to \$12 million. What's happened in the growth of the company in that same time frame? A board does not increase salary for just no reason. There's a lot that goes into running a business and I'm not...I'm the last person that could really seriously quibble with those kinds of salaries because certainly I'll never see those, or the kind of responsibilities that one would be given. But I don't have a problem with as a member, and, Senator Garrett, I know that you took a hit because somebody said that you should care. I'm with you. I get a statement every year. I get my savings

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
April 07, 2014

statement every year. I look at the financial history and the financial growth at USAA. I'm happy as a member where I'm at. So if it is about USAA or any insurance company that is properly run such as USAA, I don't see the transparency issue in that one. I do understand that this is a tough issue and I do understand the concept of sweetening the pot in order to move this thing forward. [LB799]

SENATOR WATERMEIER: One minute. [LB799]

SENATOR KRIST: But I think there's...in terms of the language we need to be very careful because I'm not sure that this is doing exactly what it needs to do. And, again, if I'm wrong I'll stand corrected. Thank you, Mr. President. [LB799]

SENATOR WATERMEIER: Thank you, Senator Krist and Senator Chambers. Senator Bloomfield, you are next in the queue. [LB799]

SENATOR BLOOMFIELD: Thank you, Mr. President. We talk about obscene wages. I believe the obscenity here is going to be in the eye of the beholder. Is this insurance executive making \$2 million or \$3 million or \$5 million or \$30 million a year any more obscene than a baseball player, football player making that same kind of money? Somebody thinks he's worth the money or they wouldn't be paying him. It...beauty is in the eye of the beholder, so is what becomes an obscene wage. And for us to be sitting in here and judging what's obscene and what isn't obscene when it comes to what an individual is worth at his job as we discuss a bill as to whether or not we should be able to snoop in there and see how much he's making I believe is in itself obscene. Colleagues, we passed the 10:00 hour. If we continue to yammer about these bills until 11:59, they all magically go away because we don't have time to handle them again. It's down to where it's time to fish or cut bait. We've been cutting bait long enough. Let's get a hook in the water. Let's get a vote on this. We've gone too far. Thank you, Mr. President. [LB799]

SENATOR WATERMEIER: Thank you, Senator Bloomfield. Those in the queue wishing to speak, Senator Burke Harr, Senator Lathrop, Senator Lautenbaugh, Senator Murante, and Senator Karpisek. Senator Burke Harr, you are recognized, and this is your third time on this amendment. [LB799]

SENATOR HARR: Thank you, Mr. President, members of the body. Folks, this isn't about USAA. I'm sorry if someone took it that way. And I'm not a communist. I'm not trying to say how much someone can or cannot make. What I'm saying, Senator Garrett talked about he was a member of USAA. Senator Garrett said he didn't care how much USAA made. I didn't say that. I didn't make it about USAA. As a matter of fact, I talked a lot about mutual companies. But there are fraternal orders out there. There are membership companies. There are mutual companies. There are publicly traded companies. Publicly traded companies have to report their salaries. I don't see their

Floor Debate
April 07, 2014

CEO's going to the SEC and complaining. They understand it. That's a cost of doing business. Same way here. No one is forcing you to turn that information over if you don't want to. You don't want to, fine. Don't sell insurance in Nebraska. That simple. I'll tell you what. Maybe that's the better way to do it. Maybe if enough companies quit selling in Nebraska the rates will go up. I doubt it, but it could happen. But it'd be more than just USAA that would have to quit selling here. Again, not about USAA. They brought the bill. We all know that. This is about transparency. We do not live in a laissez-faire free market economy, folks. We have rules and regulations and laws. You have to work within certain confines, and we do that for a reason. We do that not to stifle competition, although that sometimes is the result. We do it so that there's a lay of the land and rules so people don't cheat, so people don't take advantage of a situation like what happened in 1900's in New York. Again, that's why the committee existed, the Stanford Committee. I'm not quite sure, and I'd be interested to talk to some CEOs, CFOs, top ten people of insurance companies to find out what they think, if they would be embarrassed about this. Not one has contacted me, said this is stifling my ability to do my job, my company ability to sell insurance, my company's ability to provide protection to you, to provide protection to anybody. Why? Because it doesn't exist. USAA has existed for 100 years and we think that's a great thing, and we hold that out there and say isn't that great. Folks, this bill has existed for a hundred years. Isn't that wonderful? Isn't that great? It's the same thing. What's good for the goose is good for the gander. We are unique in Nebraska. We believe in transparency. We did it earlier this year on superintendent's pay. And, again, I have no idea what they make. [LB799]

SENATOR WATERMEIER: One minute. [LB799]

SENATOR HARR: Thank you. We have a Unicameral. Perhaps we need to come up with a bill next year to eliminate the Unicameral because we're the only state that does that. Just because no one has picked up the baton and ran with it doesn't mean it's not used. There may only be a hundred people who look this up in the Department of Insurance, but one of those hundred people will issue a report and that will be disseminated to thousands upon hundreds of thousands of people. So just because you only see a couple of people going to the Department of Insurance doesn't mean only a hundred people know what that salary is because once it leaves that Department of Insurance, there's no control over it. Transparency is good. Information. Knowledge. That's the power. That's what makes a free market economy move, not hiding the ball. Thank you, Mr. President. [LB799]

SENATOR WATERMEIER: Thank you, Senator Harr. Senator Lathrop, you are recognized. [LB799]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I'm thinking it's getting late. I am sensing that some tempers are getting short and that's I guess understandable. I do want to make a clarification though on a comment Senator Krist

Floor Debate
April 07, 2014

made when he asked Senator Gloor whether these people still have to report, and then suggested, well, if they still have to report, what are we fighting over. If you read the amendment, they do have to report but the amendment makes it confidential. So there's a big difference. Yeah, they have to report now and they'll have to report when this is over, that it is a public record now and it will be confidential after this. And, you know, I've thought a lot about this and I think back to the words of Senator Schumacher when this was on General File earlier when he suggested the rationale...there's a rationale behind this policy and no one has really laid out why it's no longer good policy. We've stood up and defended the fact that it's our own insurance company, if that's the case, this might apply to mine. It's beside the point that USAA happened to have paid to have this bill introduced or have the lobby work on it. But Senator Schumacher made a point earlier when this was up and suggested this, that the reason these guys have to report is the whole idea behind this company is a bunch of people get together and they pool their money and they share the risk. It is not...they are not buying it from a corporation they don't have any interest in and they can move and be there and be gone. It's their money. It goes into the pot. They manage it, and if there's some left over they get it. Well, if the monies that would otherwise be left over goes to salaries, people ought to know that. And no one is arguing with anybody about whether or not the salary is fair. That is completely beside the point, just as the fact that USAA happens to be one of the companies that does this is completely beside the point. They're not a branch of the federal government and they're not a branch of the military. It's an insurance company. Okay. And if you're going to put your money into this type of a transaction where you pool your money together and you share the savings, then what they spend the money on is of consequence, and having them report what they're spending on salaries makes sense. And no one stood up and told us a good reason not to do this other than, by gosh, USAA is my company and I've been a member a long time and every once in a while I get a check back from them. That's not it. This isn't just about them. I'm glad they're doing a good job. Maybe they're doing a good job because they have to report their salaries. If you're opposed to this, tell me why the transparency the current law affords is a bad idea. Is USAA or any of these companies having trouble finding a competent CEO? It doesn't sound like it. I don't care if a guy wants to make \$5 million and if the company wants to pay him that much or more, go for it. That's what he's worth according to somebody who thinks he can manage it well, and some of these companies are well managed. The fact that they didn't go under during the crisis is not a reason to change a law that's been on the books a hundred years. [LB799]

SENATOR WATERMEIER: One minute. [LB799]

SENATOR LATHROP: Did you say time? [LB799]

SENATOR WATERMEIER: One minute. [LB799]

SENATOR LATHROP: Okay. Those are my thoughts and I think I'll support the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
April 07, 2014

amendment. Thank you. [LB799]

SENATOR WATERMEIER: Thank you, Senator Lathrop. Senator Lautenbaugh, you're recognized. [LB799]

SENATOR LAUTENBAUGH: Question. [LB799]

SENATOR WATERMEIER: The question has been called. I do see five hands. The question is, shall debate cease? All those in favor vote aye; all those opposed vote nay. Mr. Clerk. [LB799]

CLERK: 28 ayes, 3 nays, Mr. President, to cease debate. [LB799]

SENATOR WATERMEIER: The debate does cease. Senator Chambers, you are recognized to close on your amendment to the committee amendment. [LB799]

SENATOR CHAMBERS: Mr. President, members of the Legislature, I've been here a long time today as all of us have. I'm not going to let bill go. And if you vote against this amendment, which you have a right to do, I'm going to file a reconsideration motion. Then I have some additional amendments I'm going to offer. And this bill is going to keep us here past midnight, I promise you that. And that is not going to be my closing because I'm going to take as much time as I can to say what I've got to say. Senator Lathrop made very cogent arguments about this whole thing. And I hear these people who say it's their company and how good it is for them. And you can say you're looking out for your self-interest. People do that. But I'm looking out for the interests of people who can't look out for themselves in this Legislature. It's easy for a man with government contracts, a good pension, good insurance, to feel a kinship to the ones that we're talking about here. To do something that they don't like is something he can really relate to because he's kind of in that category. Now he may not be in seventh heaven but one-and-a-half heaven. He's somewhere in that category. But for other ordinary people, it's not quite like that. And for those who will always suggest communism and things like that, hang the label on the pope because he upset some of these left-wing so-called economists in criticizing the so-called free market and the obscene profits that are realized. And some people might want to look in the dictionary and see what that word really means. It doesn't mean the same thing as profanity or vulgarity. There are different words that have nuances. But this is going to be the opportunity for you all to see whether I at my advanced age can stay here until midnight. And I'm going to demonstrate that I can. And some people who have been away for a while have come back like the cavalry to rescue the Legislature. And I have other amendments that I'm preparing and I will discuss the amendment on my own. I don't need anybody to help me like these other people do when they call themselves engaging in extended debate. And I'll reconsider. And those are things that I have a right to do and which I will do. And I don't have to really write amendments. There was

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
April 07, 2014

an attempt to bracket this bill to a day certain, and that motion was withdrawn so there was no vote taken on bracketing to a day certain. I don't have to contemplate and think deeply about how to write a motion to say bracket the bill. I don't have to think deeply or write a complicated amendment to put an indefinite postponement motion. [LB799]

SENATOR WATERMEIER: One minute. [LB799]

SENATOR CHAMBERS: And if you think with those few items that I cannot take up an hour and a half by myself, then I'm going to be the professor this evening, and stop me if you can. If you can. And you've got the Chairperson of the Rules Committee here. Put him to work. Let him find a way to stop me. Isn't that why you made him Chairman of the Rules Committee? But, see, when it comes to the rules he and I may have more in common than some people may realize. So whatever you do on this vote is of no moment to me. And if this bill doesn't move from General File tonight no matter how, then it's over and you lose those three amendments that you offered and that were adopted. So if those who voted for those three amendments... [LB799]

SENATOR WATERMEIER: Time, Senator. [LB799]

SENATOR CHAMBERS: Thank you, Mr. President. I will ask for a call of the house and a roll call vote. [LB799]

SENATOR WATERMEIER: 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; all those opposed, nay. Record, Mr. Clerk. [LB799]

CLERK: 41 ayes, 0 nays, Mr. President, to place the house under call. [LB799]

SENATOR WATERMEIER: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber, record your presence. All unauthorized personnel, please leave the floor. The house is under call. Senator Kintner. Mr. Clerk, please call the roll. [LB799]

CLERK: (Roll call vote taken, Legislative Journal pages 1439-1440.) 17 ayes, 23 nays, Mr. President. [LB799]

SENATOR WATERMEIER: The amendment to the committee amendment fails. Senator Clerk...Mr. Clerk for a motion. Please raise the call. [LB799]

CLERK: Mr. President, the next amendment I have is by Senator Chambers, AM2824. (Legislative Journal page 1440.) [LB799]

SENATOR WATERMEIER: Senator Chambers for your motion. [LB799]

Floor Debate
April 07, 2014

SENATOR CHAMBERS: Mr. President, members of the Legislature, this is the notorious amendment that caused so much heartburn. And to be certain that it is the amendment because somebody may want to challenge it, Mr. Clerk, is this what I would refer to as the mountain lion amendment? [LB799]

CLERK: I believe it is, Senator. Yes, sir. [LB799]

SENATOR CHAMBERS: Thank you. Members of the Legislature, I know that there have been no questions raised as to germaneness before this, and I want everything I do to be open and above board. So I have notified you. I told you that I didn't get mine so I'm going to stop you from getting yours. But I also talked to some of you and mentioned that I will not deal with every single bill the same way. Being realistic, there was no way in the short amount of time available and not knowing for sure precisely what the agenda would carry, I just had to make what I call a generic amendment that could be attached to every bill in sight. And on some of the bills I will discuss that amendment; on others I will not, some I may use that amendment for the purpose of discussing the bill and other items. But I am not going to be swayed from what I said I intend to do on this bill. And because the light is not good, I cannot approach it in the way that I wanted to. And by that I mean I had some items I intended to read into the record. And I will have a chance to do that tomorrow when we have more daylight. One thing I'm going to read is the text of the bill that was passed in the first instance giving Game and Parks the authority to set a hunting season on mountain lions. And I'm going to read in the record and call attention to how small an amount of that bill dealt with the mountain lions. And I think it may have been Senator Schilz, and if I'm mistaken he can correct me, who indicated that the discussion and the offering of the amendment by former-Senator Fulton allowing the distribution of that deer meat was not really what carried that bill through. But there were senators who were here who told me that they didn't even pay attention to the mountain lion proposal. They looked at the deer meat and the fact that some of these agencies would be allowed to distribute it or make it available to the hungry. And that's what carried the bill, and the senators who were here know it and maybe they forgot it. And the Governor ought to have known, so he was being disingenuous when he pointed out that he signed that bill and it was passed unanimously. Not everybody who was here when that bill was passed is here now. And not everybody who supported it then would support it now in terms of the mountain lion hunting. I've even had conversations with Senator Garrett who doesn't think there ought to be any. You have from the Game and Parks Commission which many of you want to say is so competent and capable in managing the wildlife in this state telling you how many of these animals there likely are. And then you can estimate some more if you want to, but the number is very, very miniscule. But now the Game and Parks Commission doesn't know what it's talking about. The few animals here have had their numbers substantially reduced since December, seven of those animals. There were between 15 and 22 estimated in that area, and they don't know how many or if there are

Floor Debate
April 07, 2014

others in other parts of the state. There are people who say that way over by Omaha there have been sightings. You know what the Game and Parks Commission used to do and maybe they do but it's not news now? Point out so-called mountain lion sightings, and when they went there the animal was not there. They look at the tracks. And in some cases the person who went there said it was a dog's track and not a big dog at that. Bobcats have been mistaken. Coyotes have been mistaken for mountain lions. And this small number was reduced by seven between December and now. You are looking at potential extermination, not management. And if this Game and Parks Commission, which some of you all want to say is so competent in managing, and they allowed the first two hunts which were mainly promotional to use dogs, but then specifically say nobody else could use the dogs. Then it seems clear that the use of dogs is not a management tool. And if it is a management tool, let them be used all the time. Game and Parks has dealt fast and loose with the so-called facts. There was a member of the committee who was here when that original bill was passed and pointed out that the numbers given by Game and Parks of mountain lions was much larger than it is now. And had these numbers been given, there's a chance that bill may not have gone anywhere. And as it was it needed help. And Senator Fulton came to the rescue with his amendment. And I could probably stumble and fumble my way through some of it. But rather than give the impression that I cannot read, I'm not going to do that. But there is a section of statute, 37-314, which lays out what Game and Parks is supposed to do when they're going to talk about setting up a hunting season. There should be due investigation, and I'm reading from chapter 37-314. And I gave a copy of this to Senator Garrett to show him that Game and Parks had not complied with this statute that's on the books before doing what they did. That is, if you all say that Game and Parks gave figures that were not correct. They can set up whatever they want to in terms of a season in a designated area of this state after, quote, due investigation and having due regard to the distribution, abundance, economic value, breeding habits, migratory habits, and causes of depletion or extermination of the same in such designated waters or areas and having due regard to the volume of the hunting, fur harvesting, and fishing practice therein and the climatic, seasonal, and other conditions affecting the protection, preservation, and propagation of the same in such waters or areas. [LB799]

SENATOR WATERMEIER: One minute. [LB799]

SENATOR CHAMBERS: And it goes on to point out that all of these findings should make this investigation should be based on available but reliable data relative to such limitations and standards. Those things were not done with reference to this particular situation. And I'm going to put on my light. And that's all I'll say right now as my opening, Mr. President. [LB799]

SENATOR WATERMEIER: Thank you, Senator Chambers. Members, you have heard the opening on the motion to reconsider the vote to the amendment. Members, we are open for debate now on the amendment to the committee amendment, AM2824. Those

Floor Debate
April 07, 2014

in the queue are Senator Karpisek, Senator Gloor, and Senator Lautenbaugh. Senator Karpisek waives. Senator Gloor. [LB799]

SENATOR GLOOR: Thank you, Mr. President. Good evening, members. I want to try and respond. Since this bill came out of committee with seven members in support, one abstaining, you may wonder and have reason to wonder and perhaps I can provide an answer that Senator Lathrop put out there of what is the benefit to the public of this legislation. Here's what I believe, and I'm going to obviously state as committee Chair what I believe we heard USAA say, and that is why us. The state doesn't require any other private corporation to provide salary information on its executives. No bank, even though banks take public money, state money when it comes to the capital investment act. I'm probably not saying that right. We don't require it of a number of medical facilities that are proprietary in nature and take large amounts of Medicaid and Medicare money, yet they don't have to provide that information. But we are requiring from an insurer that is a mutual company. That means the people who invest in that mutual company aren't investing in terms of capital; they're investing, buying a product that is insurance for themselves. And they seem to be happy with the job that this particular company is doing. There's been a lot of discussion about how old this legislation is and the fact it goes back and back and back to 19...early 1900s, 1924, I think that might be the year. And other states have fallen by the wayside because they've seen it also as something that doesn't serve the purpose that history kind of masks from us as a reason that we felt it should be out there. The information is made available. It's made available to the Department of Insurance. And, members, it's not the public that oversees the operations of insurance companies in this state; it is the Department of Insurance. And so the information is going to, if we're candid with ourselves, the only entity that's left that really on a day-to-day basis, year after year after year, cares about the executive salaries as relates to the financial stability of this entity. We care about it because we've gotten hung up, I believe, on making judgments on how much is enough to pay insurance executives. And in reality we don't know what that number is. We've decided \$5 million is right or wrong, one way or another. But the Department of Insurance on behalf of the public is the one that's looking at that information and will with the committee amendment to make sure that this is a functioning, solvent committee. I'd say again, this is the only private corporation that is required to provide this information. [LB799]

SENATOR WATERMEIER: One minute. [LB799]

SENATOR GLOOR: The only one. And, therefore, we're here with a bill that I think still makes sense as we boil it down. Thank you. [LB799]

SENATOR WATERMEIER: Thank you, Senator Gloor. Senator Lautenbaugh, you're recognized. [LB799]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
April 07, 2014

SENATOR LAUTENBAUGH: Thank you, Mr. Speaker. I do rise to challenge the germaneness of this amendment? [LB799]

SENATOR WATERMEIER: Mr. Speaker. Senator Lautenbaugh, would you explain your recommendation for germaneness issue to this amendment? [LB799]

SENATOR LAUTENBAUGH: Yes, thank you, Mr. President. I just believe by any reasonable measure of germaneness this amendment is not related to anything else in the bill, underlying or attached thereto. And I would argue that it just does not meet the standard for germaneness that we traditionally apply. [LB799]

SENATOR KRIST PRESIDING

SENATOR KRIST: Thank you, Senator Lautenbaugh. Senator Lautenbaugh and Senator Chambers, could you approach the Chair, please. It is the ruling of the Chair that this amendment is not germane. Mr. Clerk, to the next amendment, please. [LB799]

CLERK: Mr. President, Senator Burke Harr would move to amend with AM2875. (Legislative Journal page 1441.) [LB799]

SENATOR KRIST: Senator Harr, you're recognized. [LB799]

SENATOR HARR: Thank you, Mr. President, members of the body. I know the hour is late, but we have a beautiful Christmas tree and I want my Christmas present. It's very simple. This is a bill that was in front of Banking, Commerce and Insurance. If, similar to Senator Schumacher and others, if this amendment is passed, I will remain silent. What this was originally was LB849, which prevents an automobile liability policy from excluding, limiting, reducing, or otherwise altering liability coverage under the policy solely because the driver of the insured vehicle is a permissive user of the vehicle. A permissive driver is simply someone you allow to drive your car. The problem with the current law is insurers are including provisions that limit coverage for permissive users. A person might have a policy providing a \$100,000 in coverage, but the insurer includes a provision that denies the coverage because the driver is a permissive user. The coverage would then only be for \$25,000. For example, if I drove to pick up lunch and I'm involved in an accident, I would be entitled to \$100,000 in coverage. But let's say that I give my key to a staffer and he or she is involved in an accident, his or her...he or she may only be entitled to \$25,000 because he or she is a permissive driver. In general, a permissive driver is defined by automobile companies as a person that is not listed on the policy, but who operates an insured vehicle with the permission of the owner. The permissive user may or may not be covered in the event of loss depending on the terms of the insurance contract and the state laws on permissive driver use. The majority of car insurance companies that all household members and regular operators of the vehicle require that all household members and regular operators of the vehicle

Floor Debate
April 07, 2014

be listed on the insurance application. And then the policy as drivers to be covered. A permissive user is typically not a household member. Whether permissive use extends to others besides the individual who requested the permission is hard to say. It depends on whom the policy permits to grant the permission and how that permission may be granted. In general though, if friends or family come to visit and you grant them permission to use your vehicle, then most auto insurance policies will extend them coverage. If the person lives with you or frequently drives your vehicle, instead of being just a permissive user, the individual will normally need to be added as a driver on your policy. A permissive driver normally will be covered with the same coverages as the named insured because in many states the coverage follows the vehicle, not the driver. However, if there is a failure to comply with the policy terms, with state laws there may be a reduction in coverage provided or coverage may be denied. Since the owner of a vehicle can be vicariously liable for injury or damage that occurs with their property, it's important for you to review your policy declaration page as it should list who is covered in the event of a loss and how your policy provides them coverages. Your insurance agent or insurance carrier would also be able to provide you with the specific information regarding an insurance policy and answer any questions a driver may have. That's it, folks, that's the amendment. Every other amendment we've done to appease certain people have been in health insurance. I introduce this bill in front of Business, Insurance (sic), I think I had three people in favor, one against, you can look it up on your gadget, it's LB849; didn't make it out of committee, it's been more than 20 days. But I kind of think it would be neat if we included the P&C companies, property and casualty along with the health insurance so that they don't take the whole brunt. How much will this raise your policy? Hard to say; not very much though, probably less than some of these other bills. I don't know. There is no fiscal note attached to this. So, we don't have to kind of juxtapose ourselves like we did on some of the other amendments. It's an easy bill. It's an easy amendment. It's good public policy. So we have a choice. There's an hour and 10 minutes left. It's pretty simple. We can sweeten the pot a little or we can decide to gamble and see what cards certain members are holding. Thank you, Mr. President. [LB849 LB799]

SENATOR KRIST: Thank you, Senator Harr. Those wishing to speak: Senator Chambers, Lautenbaugh, Gloor, Coash, and Lathrop. Senator Chambers, you're recognized. [LB799]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, when I first offered my amendment, I alerted everybody to the issue of germaneness. I said I want everything to be aboveboard. So I'm not offended by what Senator Lautenbaugh did. I just say like the person asked when Jimmy Johns comes: What took you so long? But here we are. And Senator Harr wondered what cards people have in their hand. This is not all of them: return to the committee, bracket until April 17, indefinitely postpone, and then some reconsideration motions. Now I'd like to ask Senator Harr a question. [LB799]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
April 07, 2014

SENATOR KRIST: Senator Harr, will you yield? [LB799]

SENATOR HARR: Yes. [LB799]

SENATOR CHAMBERS: Senator Harr, you said: if your amendment is adopted, you'll be quiet. [LB799]

SENATOR HARR: Yes, sir. [LB799]

SENATOR CHAMBERS: Suppose it's not adopted. [LB799]

SENATOR HARR: Well, that's for me to know and you to find out. [LB799]

SENATOR CHAMBERS: And I think I will. I'm going to oppose this amendment. I'm not going to raise the germaneness question. It's getting into the posterior portions of the day and this is when I really come alive. I come alive. And some people think I might be part vampire because I don't like to be around large bodies of moving water. I can deal with a bathtub. But vampires don't like moving water. They're creatures of the night. They love it. And now that we're getting on near midnight, we're getting to the point where I told you all at the very beginning that at my advanced age I will stay till midnight with whoever wants to stay with me and I'll do it again tomorrow. You decided to push me. You decided to challenge me. Well, you did it, which was your right. And challenge invites a response. I had made a comparison to that shy, reclusive, elusive mountain lion wanting to evade and avoid human beings. But if it is cornered, then it's going to respond accordingly. Now they say that when you're confronted with a serious threat, there are two possible responses: flight or fight. There's no place for me to run to. So since I've been challenged, I have to fight. And I told you, time is on my side. I wrote it for you this morning: time is on my side. I wrote in the right-hand column: this is all about mountain lions. Senator Lautenbaugh said he's tired of hearing about these so-and-so mountain lions. Well, there's a lot of things we're tired about. I'm tired of paying taxes, but I pay them. I don't like to pay sales tax, but I pay them, without question or pause. So, I'm going to do everything I can to persuade you to defeat this pernicious amendment that Senator Burke Harr is offering. The insurance companies collectively have been in business a long, long time. They have created a situation or system that Senator Harr is trying to derail. Now, obviously, they had a reason for that; I don't know what it was, but I'm not an expert or an authority on insurance. And not wanting to be accused of being a Communist, although I've been called worse, maybe that wouldn't be so bad in these days. I'd like to ask Senator Harr a question. [LB799]

SENATOR KRIST: One minute. Senator Harr, will you yield? [LB799]

SENATOR HARR: Of course. [LB799]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
April 07, 2014

SENATOR CHAMBERS: Senator Harr, is Vladimir Putin a Communist? [LB799]

SENATOR HARR: I believe he's only a free-market socialist, an oligarch. [LB799]

SENATOR CHAMBERS: So Communist is now passe', that's old school, right? [LB799]

SENATOR HARR: I believe so, yes. [LB799]

SENATOR CHAMBERS: I could even say, I am, always have been, and forever will be a Communist and it wouldn't even make any difference, would it? [LB799]

SENATOR HARR: No. [LB799]

SENATOR CHAMBERS: And most people would say, well, I see you stepped up a bit on the social ladder now. But at any rate, I think we're at that point in the session on this night when everybody, if they're of a mood...of a mind, can have a lot of fun. I know that I'm going to, speaking for myself. Thank you, Mr. President. [LB799]

SENATOR KRIST: Thank you, Senator Chambers. Senator Lautenbaugh, you're recognized. [LB799]

SENATOR LAUTENBAUGH: Thank you, Mr. President. I move to challenge the germaneness of this amendment. [LB799]

SENATOR KRIST: Okay, Senator Harr and Senator Lautenbaugh, would you approach the Chair. It is the ruling of the Chair that this proposed amendment is not germane. Senator Harr, you're recognized. [LB799]

SENATOR HARR: Yes, I'd like to make a motion to overrule the Chair. [LB799]

SENATOR KRIST: Senator Harr, you're recognized to open and to close. Members, you all have one opportunity to speak. Senator Harr. [LB799]

SENATOR HARR: Thank you, Mr. President, members of the body. It's now 10:59. Well, I was going to wait until 11:00, but it's going to take too long. (Laughter) But we got, basically, an hour. You guys can decide. Certain members got what they wanted, period. And now they're angry because I think other people should be able to get the sweetener too. This is about requiring insurance companies to provide specific coverage in their policies. Senator Coash's amendment would allow...do you remember about 20 years ago, there used to be those...you could get sports bets by the minute and they spoke really slowly. Oh, we're at 11:00. Well, I'm going to probably be a little bit like that myself. So Senator Coash's amendment allowed for autism coverage, a

Floor Debate
April 07, 2014

noble cause, a great cause, something I stand for. I think it's good. Senator Nordquist, similar, oral chemotherapy. I think it's good; I think it's right, probably should do it. Senator Conrad had another amendment; didn't come out of committee, neither did mine, but what it did do is good. I have a...well, I'm going to talk a little quicker because...Annie Erwin, (phonetic) Annie was born, I don't know, February 27; she lives in Pennsylvania. This would help her. So it is personal and I get it and it's a good thing. Folks, I'm for all these bills; it's simple. I just want something too. I'm not going to hide it. I'm not going to say that's not what it is. It is what it is. I think permissive passengers...Senator Lathrop is here. He does this type of work. I'm sure he knows of permissive drivers whose liability was limited to just the \$25,000. Is it good public policy? I don't think so. Why does it matter who is driving the car? So what this is, it's just like the other bills. It's requiring...excuse me, other amendments, two of the three other amendments, which I got up, I said I could have challenged on germaneness, but I didn't. Those came on. Now that they got theirs, they don't want me to get mine. I get it, that's cool. But what these do, Senator Coash, Senator Nordquist, require insurance companies to provide certain coverage to people who buy policies. What does mine do? Requires insurance companies to provide coverage on certain policies. One is in the realm of health insurance, the other is in the realm of property and casualty. LB799 passes, it's not limited to reporting to health insurance companies. It would require...it would go to health insurance companies, property and casualty companies, life insurance companies, you name it. That's what we're doing here. What's good for the goose is good for the gander. I don't know where Senator Lautenbaugh was earlier when these other bills came up, other amendments. I gave him my vote earlier today. Wasn't easy but I did it. He got his. Folks, we're opening the books...as long as we're opening the books, let's make sure we get all the good public policy in that we can. That's all I'm asking for. It's an open book; it's the end of the session. It's what I talked about earlier. It's a Christmas tree; everyone getting their amendments on. That's what I'm doing. I'm advocating for those who I think are important, those who have been in automobile accidents, those who are injured. I wish I could point up to the balcony and say, little Janie up there was driving a car...I don't have that, but we know they're out there. Senator Lautenbaugh works for an insurance company that does mainly automobile insurance. I'm sure he knows of some instances where this happened. I don't know. Maybe he'll get up and talk about it. That would be nice. I'm not asking for anything crazy here, folks. Not asking for something someone else didn't get, not being greedy. All I'm saying is, let's open the book, and if we're opening the book, let's open it, let's make sure that everyone gets what they want. You have a choice here. You can vote, takes 30 votes, it's 11:05 now, takes 30 votes to override the Chair. You can decide to go for it. If you don't, well, it's what I told Senator Chambers earlier, let's see what happens. I'm not anti-insurance. I think insurance is great. I'm not anti-insurance industry. Like I said, growing up these were my family friends. But just like family, you don't agree with them all the time, nor should you. There are times when I disagree with members of my family and with this I disagree with the insurance industry. I don't know. I think only one insurance company came and testified in favor of it; Department of

Floor Debate
April 07, 2014

Insurance was neutral. So I'm not sure how many I'm really am disagreeing with. I don't think any came out against it. But what we're doing here is simple. We're making sausage. We're making law. Sometimes it's pretty; sometimes it's clean. Other times it can be a little messy. Mr. President, how much time do I have left? [LB799]

SENATOR KRIST: Two minutes. [LB799]

SENATOR HARR: Okay. So when I'm done we'll be at close to 11:09. I get to close. How long is my close, Mr. President? [LB799]

SENATOR KRIST: 5. [LB799]

SENATOR HARR: 5. Okay. There you go, folks. We're at 11:15. I got my light here, that's 11:20. If someone wants to come up to me and say, hey, we're okay with this, that's fine. You know, it used to be baseball; in baseball you don't have a time clock. It's kind of neat, but we evolve, we love sports that have a clock, right? Because the intensity; you got to make it. We just all missed tonight the basketball tournament. And that's too bad because U-Conn won. Hopefully we don't go late tomorrow night because my lady "Fighting Irish" are playing U-Conn again, so very excited for that. [LB799]

SENATOR KRIST: One minute. [LB799]

SENATOR HARR: Thank you, Mr. President. But we do have a clock. It's 11:08, ticktock, ticktock. We can decide what we're going to do here. I'm sure probably later, tomorrow, the next day, someone is going to go after my bills. I don't know if I have anything left. If you do, that's fine. I had one I was going to put on Senator Christensen's, but I pulled that. And, folks, this is a personal problem for...I mean, my priority bill is up next. So I know what's going on. The one I thought was so important we may not be able to get to hear. So it's not as though there's not something where this is hurting me. But I also believe that there's a right for those who have car insurance and allow a friend of theirs to drive their car to be insured to the same level that they are. That's what this bill does. It's not complicated. [LB799]

SENATOR KRIST: Time, Senator. [LB799]

SENATOR HARR: Thank you. [LB799]

SENATOR KRIST: Members, just to clear something up, Rule 1, Section 12, shall the Chair be overruled, it takes a majority of those present to overrule the Chair and not 30 votes, just for your information. Those wishing to speak: Senator Gloor, Coash, Lathrop, Chambers, Lautenbaugh, Karpisek, Carlson, and McCoy. Senator Gloor, you're recognized. [LB799]

Floor Debate
April 07, 2014

SENATOR GLOOR: Thank you, Mr. President. I think your decision was a wise one and I will back you in your decision. The bill, as has been pointed out, still is in committee. The hearing on it had a...proponents with the...representing the trial attorneys and the independent insurance agents. The opponents were property and casualty insurers. No surprise there. I would say there was not a lot of enthusiasm for the bill. I would say there was also not a lot of enthusiasm against the bill. Frankly, there's been more enthusiasm expressed tonight on this bill than there was two months ago when we had the hearing on this bill. It's bad precedent for us to hang this particular bill still sitting on committee. I think the body knows that and would understand why I would say that we should be supporting the ruling of the Chair on this particular bill. And if it has merit, it can come back next year with a little more enthusiasm and support behind it. Thank you. [LB799]

SENATOR KRIST: Thank you, Senator Gloor. Senator Coash, you're recognized. [LB799]

SENATOR COASH: Thank you, Mr. President. Good evening, colleagues. You know, a few nights ago I had my 4-year-old little boy, my 10-year-old niece and my 8-year-old niece, I had a big cookie that we had got. I didn't want any, but I was dividing it up for them. And they began to argue, as children do, over who got more of their cookie. And they started to say things like I've heard on this floor: I want mine; I didn't get mine; he got more chocolate chips than I did. So you know what I did? I ate the whole cookie. (Laughter) I got mine. When this bill started today, I said there's nothing I won't do to protect the amendment that I attached to it. That's why I voted the way I did on the last amendment. I view this amendment as a threat to it and I'll vote against it. And I'll get mine, because I guess that's where we're at tonight. The only difference is, after I ate the whole cookie my 4-year-old understood the message. You don't always get what you want. And I'll eat somebody else's cookie if I have to to make this point again. Thank you, Mr. President. [LB799]

SENATOR KRIST: Thank you, Senator Coash. Senator Lathrop, you're recognized. [LB799]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I will be the third person to speak on the decision on the motion to overrule the Chair. My friend, Senator Gloor, stood up and said, well, this thing didn't enjoy a lot of support in committee, so I'm going to support the Chair. That's not the question. The only question is whether it's germane. We can get to whether it ought to pass after we get past the germane issue. Similarly, Senator Coash's remarks would suggest opposition to overruling the Chair because he compared this to childishness. That's also not the question. There's a plenty of childishness going on tonight. The question is whether we overrule the Chair. That should not be influenced by where you're at on the substance of the bill. We have loaded LB799 with mandates. We have regulated in the area of what will be covered in

Floor Debate
April 07, 2014

a policy. Senator Harr has offered an amendment that addresses, like Senator Coash's amendment, what shall be found in a policy. I think it's germane. Now, I would encourage you to over...to vote to overrule the Chair. And understand something, this is where you kind of put how I feel about the bill aside. We try to do the right thing when it comes to the rules, which I think tonight involves overruling the Chair. And then once the Chair is overruled, the amendment gets introduced again, or we take up the amendment, and then you can hate on the bill. And you can call its introduction childish and you can talk about how it was not well received in committee, but how do you distinguish between Senator Coash's bill that is now part of LB799 that said you will cover this in a health plan and (Senator) Harr's bill that says you will cover this on an auto policy. (Senator) Harr's bill happens to cover some real fine print stuff that is really unfair to people that don't see the fine print and they think they're sending a friend out in their car and they find out they've gone from a million in coverage down to \$25,000. There's a great deal of merit in what he's offering, but again, that too is beside the point. It is whether or not we should overrule the Chair because this is germane and let's put the silliness aside and overrule the Chair. Thank you. [LB799]

SENATOR KRIST: Thank you, Senator Lathrop. Senator Chambers, you're recognized. [LB799]

SENATOR CHAMBERS: Mr. President, members of the Legislature, even though I said I want to keep Senator Harr in my camp by him losing his amendment, Senator Lathrop is right. See, the reason I like this time of the evening, it shows how weak minded people are in here and why I will always, ultimately, rise to the top and win ultimately. I didn't get the one thing I wanted, but a lot of you are not going to get anything. I control you because your emotions run away with you and you applaud somebody who is going to sink the ship for sure. Now I told you all, when I started the other day that I'm not speaking at the height of emotion that's going to simmer down and my mind will change, I thought it through. Mine is based on...my thought processes...and they're going to be the same. You all are the ones who are getting wrought up tonight and upset. You had your way when you're talking against big government, mocking the bill that would protect our brothers and sisters who are of a different sexual persuasion and you had it your way. Well now you've delivered yourselves into my hands. You're going to ask me for mercy? Certainly not. But I'll tell you where you outfoxed yourself tonight. You should have voted for my amendment to strike those two sections. You know what would have happened then? I would have pulled my mountain lion amendment; as I said early on, I was going to pull it, but you didn't pay attention. Why should you have struck it? Because it would have moved to Select File. Then he could have tried to put it back on. And if you wanted to keep all those amendments, you had the bill on Select File, now you get nothing because you're so smart. I can blind you to rationality by reminding you how much you dislike me. And I can generate that dislike in you whenever I want you to show I control you and that upsets Senator Lautenbaugh because he was mocking early in the session. I own this Legislature. I own it. Then he's going to play like he does.

Floor Debate
April 07, 2014

Do you see now who owns you? Who owns you? If you use your intellect, you all created this situation. You all built the Christmas tree. You put the baubles, bangles, and beads on that you wanted. Now you don't like this man. So now all of that stuff you did earlier goes out the window. You all killed those three amendments and you could have had them by leaving me alone. I told you. One thing I might have in common with this animal that you all hate so much, that also makes me feel a kinship, we leave you alone, we're shy, we're reclusive, also elusive. But if you make us, then we'll show you what we can do and you can't stop me. Senator Lautenbaugh can't save you. He can be gone and come up here just in time to stir the pot and make sure that this bill doesn't leave General File. That's what he did for you tonight. Now he's going to deny it. But how were things going before he came? Who put you where you are now? I don't care what you think about me. Because when you're angry at me, angry rests in the bosom of a fool saith the Bible. Anger rests in the bosom of a fool. That's why I compare myself to the mountain lion. Those animals don't...they don't get angry. They become defensive; they become aggressive. But anger is not something known to animals. Those are human traits. And they take you down. [LB799]

SENATOR KRIST: One minute. [LB799]

SENATOR CHAMBERS: Because the part of your brain, the part of your mind which thinks more or less or moves more or less in a logical fashion will be disrupted. And then you're easy to control, you're distracted and you do things that are irrational. I think in this instance based on the pattern that has been set this evening, the Chair should be overruled and I stated that I take a very liberal view of what constitutes being germane. And if there are not more than one subject in that bill already, this will not cause that to happen. If it's not the brother of an amendment, it's certainly the first cousin. Thank you, Mr. President. And mine is to overrule the Chair which I will vote to do. [LB799]

SENATOR KRIST: Thank you, Senator Chambers. Senator Lautenbaugh, you're recognized. [LB799]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. Don't be misled here, folks, and don't misunderstand what's going on. It's all well and good to say, oh, I support these underlying amendments, but if you opposed the other amendments, well then you killed this bill. Senator Harr, what you're doing is something that I'm sure the trial attorneys like, but it's not germane and it has nothing to do with anything else that was added. So if you support autism coverage, if you support Senator Nordquist's amendment and you support Senator Conrad's amendment, and now you're standing up on this, this is the kind of poison that will guarantee a veto. This is the kind of poison that will kill this bill. So don't be fooled. And when Senator Chambers stands here and says this nonsense about how well, see, I would have let it go now because he's known for simply just letting things go, that's his trademark is just letting things go. But if we had only just listened to him earlier we wouldn't be in this spot right now, don't

Floor Debate
April 07, 2014

believe it. There were some good amendments that we attached to this bill. And this bill deserves to go forward. The underlying bill makes sense too. I didn't respond earlier to all the bizarre anti-capitalists rhetoric about what do you have to hide and whatnot and how can you oppose the minimum wage and not make these people disclose their personal financial information which is, frankly, just a bizarre argument, but not the most bizarre of the evening, but we're not done yet. But come on, don't be fooled by this, folks. We've attached some important things to this bill. Don't be misled as to where the fits of pique are coming from and don't be misled about what this amendment is. It's poison. And it wasn't germane. And the attempt to overrule the Chair should fail. Because if this amendment succeeded, the bill would never become law anyway more than likely. And to say, well I'm adding it on because this is something I wanted because everyone else got what they wanted. Well, I don't know who the everyone else is; there's been three amendments attached to this bill and they enjoyed broad support. I don't think this amendment is going to qualify as an amendment that enjoys broad support. And it certainly isn't related to anything we did before so the Chair was correct in its ruling on germaneness and it covers automobile insurance which is something we hadn't talked about all evening long. And does it really rise to the level of concern of the other issues we talked about this evening, honestly? So, yes, I objected the germaneness and the Chair ruled correctly. But make no mistake, the people who say, oh, I support this bill, I just want to get mine too, those people are trying to kill this bill. And if you have something you've attached to the bill, if you have something you care about that's on this bill, may have to get a little creative here as time winds down with the rules because people are trying to kill this bill and time is short. And those people aren't me that are trying to kill it. Thank you, Mr. President. [LB799]

SENATOR KRIST: Thank you, Senator Lautenbaugh. Senator Karpisek, you are recognized. [LB799]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. Senator Lautenbaugh said a lot what I was going to say. I did not get mine either. I have the cochlear implant bill, LB71. When we started on this, I said I didn't even try to pull it out of committee; I didn't plan to bring it here because I felt that the autism amendment was very, very important. I don't want to jeopardize that. I understand what Senator Harr is saying when you don't get yours and you get upset. I think what his bill is is probably a good bill. I don't think it's germane. I don't think it's worth risking everything the people involved in the autism, the people involved with baby formula, the people with the oral chemo, so when Senator Harr says you don't have anything to hurt me with, that may be true, but if we don't move ahead, we're hurting a lot of people that are affected by these pretty good bills. Senator Harr, I hope that you withdraw your motion so we can move on, move this bill again. I'm not crazy about the underlying bill, but that's where, again, I think the other ones are more important...too important to hold it all up. Thank you, Mr. President. [LB799 LB71]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
April 07, 2014

SENATOR KRIST: Thank you, Senator Karpisek. Speaker Adams for an announcement. [LB799]

SPEAKER ADAMS: Thank you, Mr. President. Members, at 11:45 I'm going to put in an adjournment motion. My concern is that we need to be gone by 11:59. If we cross over into the next day I'm fearful we may jeopardize, potentially, some of the things that we've already done today. That's my concern. And I realize everybody in here has their motivations for doing what they're doing. But at 11:45 I'm going to put in that motion to adjourn. Thank you, Mr. President. [LB799]

SENATOR KRIST: Thank you, Speaker Adams. Senator Carlson, you are recognized. [LB799]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. And I simply rise a very short time to indicate that I'm not in favor of overruling the Chair and I would ask the body to follow that as well. Thank you. [LB799]

SENATOR KRIST: Thank you, Senator Carlson. Senator McCoy, you're recognized. Senator McCoy, I'm sorry; Senator McCoy waives. Seeing no one else in the queue, the question is...I'm sorry, Senator Harr for closing. [LB799]

SENATOR HARR: Well, thank you, Mr. President, members of the body. Here we are, 11:27, 15 minutes. You could have voted for my amendment, could have been simple, we could have moved on. My amendment is no more or less germane than any of the other amendments that came in. The only difference is, I looked at Senator Coash earlier and I said, why is this germane? He said, insurance, insurance. Folks, insurance, insurance; what's good for the goose is good for the gander. I didn't challenge it. I could have. We passed it. It's a good bill. Mine's a good amendment. Difference is, he doesn't like mine. Well, here we are, a half hour left. No, 15 minutes left. We waste a half hour. We had 15 minutes of people telling me how bad this was. You could have just turned off your light and voted for my amendment, and guess what I said I'd do--I'd be quiet. Funny, you get yours, to heck with everyone else. Well, that's not how this works. You know, this isn't a game we're playing here, folks. We aren't dividing a cookie. I think I might have been compared to a four-year-old which sometimes I do get on the level with my five- and three-year-old, so maybe it's just. But one of the things I try and tell them is, life is not zero sum game. That's the D.C. way of doing things. That's not the Nebraska way. You know what we do? We work together. Hey, I'll give a little over here. You give a little over here and guess what, we're going to come out ahead. Both of us get what we want. It's beautiful. It's called negotiation; it's called collaboration. This game we call the Legislature is not zero sum game. What we can do together is infinite. When we fight and we pick on each other guess what happens, and we yell, we call each other names, I'll tell you what happens, somebody eats the whole cookie, nothing happens. The two sides that were trying to work out a deal are now both unhappy. And

Floor Debate
April 07, 2014

that cookie, right now guys, is the clock, and ladies. We're down to 15 minutes. I tried to play. I gave my deal. Senator Chambers asked if this doesn't pass what you do? I said, well, wait and see. Well, now you've seen it. This is as germane to the bill, LB799, as any of the other amendments passed earlier today. And I know there are some who are going to say--but I really wanted mine. Well guess what, there was a bill I really wanted. I didn't prioritize it, probably should have; I prioritized another bill, which is up next again (laugh) by the way. I don't think we're going to get to it. Senator Bloomfield killed it on germaneness. I don't hold that against him. Man, he's working within the rules. God bless him, man; good for you, good job, Senator. I don't mind, I'm not going to hold that against him, not going to go around and threaten--any bill of yours from now on is dead. No, look, it's part of what we do here. This is what I've been talking about all night. We have rules for a reason. And when we go outside the rules... [LB799]

SENATOR KRIST: One minute. [LB799]

SENATOR HARR: ...what happened? Sorry. [LB799]

SENATOR KRIST: One minute. [LB799]

SENATOR HARR: Thank you. When we go outside the rules, what happens? Where's the end? It's okay for Senator Coash to go outside on germaneness, it's okay, Senator Nordquist, Senator Conrad, that's cool. Senator Harr, sit down and take your medicine. Doesn't work that way, folks. I know, maybe the hour is late, I hope I don't sound tired because I've had a good time tonight. You got to prioritize a bill if it's that important to you, you're giving it priority. Use it, don't not use it and then later complain. I didn't. Autism, it's very important, very, very important. And I gave you a chance. I talked to you and I said, hey guys... [LB799]

SENATOR KRIST: Time, Senator. [LB799]

SENATOR HARR: Thank you. [LB799]

SENATOR KRIST: Thank you, Senator Harr. The question is: Shall the Chair be overruled? All those in favor vote aye; opposed, nay. Have all those voted that wish to? Regular order? There's been a request for a roll call vote, regular order, Mr. Clerk. [LB799]

CLERK: (Roll call vote taken.) 10 ayes, 31 nays, Mr. President, on the motion to overrule the Chair. [LB799]

SENATOR KRIST: The motion to overrule the Chair fails. Next item, Mr. Clerk. [LB799]

CLERK: Mr. President, I have a priority motion. Senator Chambers would move to

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
April 07, 2014

recommit the bill to the Banking, Commerce and Insurance Committee. [LB799]

SENATOR KRIST: Senator Chambers, you're recognized. [LB799]

SENATOR CHAMBERS: Thank you. Members of the Legislature and Mr. Chairman, this is the quietus. Now Senator Lautenbaugh, after not being here, told you all that I wouldn't let that bill go. What he doesn't know is that when I found out what Senator Coash was going to do, I left a message on his machine because I couldn't catch him and that's before we left last week. I believe it was. And I said, you will be on a bad bill, so I'm going to find a way to let you get yours adopted, then I will offer an amendment that will strike everything from the bill, but my amendment would contain your amendment. And that's what the bill would be and that's what would move. It didn't work that way. They built a Christmas tree. And I told Senator Coash that I've got an amendment and I'm going to let everybody else get their amendment adopted, because I knew what the three would be, then my amendment would be the one to strike Section 1 and 2 from the committee amendment which would have left just the three amendments. And I said, when you do that I'll let it alone. Senator Lautenbaugh, not knowing anything and seeing me as he sees himself said, when have you ever heard me to let something alone? If I said I'll let it alone, my word means something, I would leave it alone. And that's the way that went. And I said it when I offered my amendment to strike that...those two sections. If you adopt this amendment, the only thing left are the three amendments that you adopted tonight. Now if he can't understand English, that's on him. We call that "fat mouthing" in the community. The people who were involved know what I said. Now if you thought I was like him, maybe you'd think I'd make the promise and break it. That's how that bill could have moved. And you all chose...you all chose, after what I said, to vote down my amendment that would have left the three there that you claimed to have wanted. But you wanted to "get me" more than you wanted to get the three. So you got nothing. And you can be as upset as you want to and it means nothing to me at all. If anybody behaved like children, it's those of you who didn't pay attention and I told you from this morning on what I intended to do and I'm going to do what I said. If other people would do that, we wouldn't be where we are now. So be angry. And remember, anger rests in the bosom of a fool. Who owned this Legislature today? If you give me title to something, then I own it. And you gave me title to the Legislature and you outsmarted yourself because you listened to people who led you out of the wilderness into the swamp and now you're in the quicksand up to your nose and you can't get out. So keep listening, keep following. You better learn how to deal with somebody you may not like, but whose word is better than gold who will not say things and make representations and give commitments and then violate them. Now we're going to see what happens tomorrow, aren't we? Well, I'll be here. And for you all's information to encourage you, I'm closer to 100 years old than I am to 50. I am closer to being 100 years old than I am to being 50 and you all thought that because I didn't run out of here and mooch off the lobbyists like some of these do who are gone and drink whatever they've gotten whatever anybody else can bring here and don't go to

Floor Debate
April 07, 2014

the bathroom but stay here. You said, he's got to collapse. He's old, the oldest thing in here. And now everybody sitting here younger than me, heads drooping, upset, and this is my element. I told you all--the later it gets, the stronger I get, the better I feel. But you outsmarted yourselves. No, I'm going to make it easy for you so you can sleep tonight. You all whipped me tonight, you beat me. I didn't get my mountain lion bill. I think this is what Jimmy Durante used to always do (downward arm action) you beat me and I'm in mourning and I don't know what I'll do. Maybe I'll do like a mountain lion and go and lick my wounds because I took such a tremendous horrible whipping. And I'm going to listen to them tomorrow as they pontificate, as they talk about big government and how hard it is to find somebody who will be a good employee and work. I listen to these insults put on people and they register with me. And I told you, stop me if you can. Now one other thing I'm going to make clear, in the midst of all that happened the other day, I told people that if I had reached an agreement with them, that agreement remains undisturbed. I'm not like you all, just lash out at random. So those people with whom I made an agreement, it still stands. My word means something to me. Who steals my purse steals trash, but who steals my good name makes me poor indeed. And you know what my good name will be based on? Whether I keep my word or not. And you don't have to like me; you don't have to like anything, but you know what you know and you'd be better off dealing with me whom you don't like than some of these people you trot behind like a little puppy dog leading you down a false trail, knocking on the wrong door, barking up the wrong tree, running down a blind alley, because he got his horse racing, didn't he. And some of you all went for the okey-doke didn't you? And he was able to mock and say how I had said that I would not fight his bill, and I didn't. So that shows how weak I am, doesn't it? He got what he wanted because I kept my word and he mocks me for it. But do you think it makes me any difference? I know what I'm dealing with down here. And I quote Jesus as I wind up. He had no need that anybody speak to him of man for he knew what was in man. Now you can think about it tonight and stop me tomorrow if you can. But there may not be anything to stop me from doing in some cases. Thank you, Mr. President. [LB799]

SENATOR KRIST: Thank you, Senator Chambers. Senator Lautenbaugh, you're recognized. [LB799]

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the body. I'll take the time while they're sorting out what, apparently, is going on throughout the place here. I'll agree, at least, that this is not a game. And it's all well and good to stand here and go on and on about how I told you I would do this and you didn't believe me and then I did this and I had to prove to you that I can go till midnight. But I don't know who really cares whether you can stand here till midnight and Senator Chambers is gesturing that he does and that I didn't, well that's just spectacular. I hope the people who want the autism insurance coverage can comfort themselves with the fact that we could stand here till midnight because we really accomplished something. And I've had my fill this session of listening to people accuse others of pontificating and talk about

Floor Debate
April 07, 2014

how much they care about the kids and then talk about Medicaid expansion as if that had to do with the kids, which suggested to me they didn't really understand Medicaid expansion last year or this, but that's neither here nor there. And then go and impair something like this to prove a point. This isn't childish. This is diagnosable. And this is something that I'll be leaving behind, but it's something you're all going to have to deal with in the coming years. And we can stand here and say, well, I'm going to prove a point, and I'm going to take the time, and I'm going to show you I can go till midnight. But our constituents don't care. And you can say, well, you should have given me my mountain lion bill or I'll show you this or I'll show you that. But the constituents don't care. I mean a bunch of people from elsewhere are very put out about the whole mountain lion thing. I get the e-mails from everywhere but Nebraska, it seems like. But this is just an absurdity that we would engage in this. And Senator Chambers wasn't alone. These were important things to actual people. And to stand here and say, well, see, you made me do this. No, I'm sorry, that's not correct. We all choose to do the things we do. And this bill enjoyed broad support, and it still does. And it shouldn't die because someone wants to prove a point. And you can stand up here and you can posture and you can say I care about kids and you don't care about kids and you can pontificate and you still don't care about kids, and on and on and on and on, but in the end this is just probably one of the more reprehensible things, I hope, anyone has ever seen out of us this year. Although I guess the year isn't over. But this would be breathtaking and I bet you're thinking, god, I hope it is breathtaking so you'll stop because it's almost midnight. But my god, this is not the kind of thing that adults actually do. But the kind of thing that we're doing and, well, that's where we're at, I guess. So to all of you who supported these amendments on this bill, I'm sorry. I guess we're stuck. And to all of you out there who are still watching us on TV, both of you, if you wanted these amendments and this bill to pass, I apologize. I supported it. [LB799]

SENATOR KRIST: One minute. [LB799]

SENATOR LAUTENBAUGH: Thank you, Mr. President. [LB799]

SENATOR KRIST: Thank you, Senator Lautenbaugh. Items, Mr. Clerk. [LB799]

CLERK: Mr. President, I do, thank you. Amendments: Senator Chambers to LB752; Senator Lathrop to LB811; Senator Coash to LB750; Senator Lautenbaugh to LB799; Senator Chambers to LB799; Senator Nordquist, LB700. I have name adds: Senator Brasch would like to add her name to LB505; Senator Schumacher would like to add his name to LR427. (Legislative Journal pages 1442-1447.) [LB752 LB811 LB750 LB799 LB700 LB505 LR427]

Mr. President, I do have a priority motion. Speaker Adams would move to adjourn the body until Tuesday, April 8, at 9:00 a.m.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
April 07, 2014

SENATOR KRIST: You've heard the motion. All those in favor aye. Opposed, nay.
We're adjourned until tomorrow morning at 9:00.