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Floor Debate
February 06, 2018

[LB158 LB256 LB299 LB496 LB604 LB695 LB710 LB724 LB744 LB752 LB838 LB936
LB1001 LR302 LR303 LR304 LR305 LR312 LR313 LR314]

PRESIDENT FOLEY PRESIDING

PRESIDENT FOLEY: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the twenty-second day of the One Hundred Fifth Legislature, Second Session. Our chaplain for today is Pastor Franklin Krause of the Ebenezer Congregational Church in Lincoln, Nebraska, Senator Wishart's district. Please rise.

PASTOR KRAUSE: (Prayer offered.)

PRESIDENT FOLEY: Thank you, Pastor Krause. I call to order the twenty-second day of the One Hundred Fifth Legislature, Second Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

CLERK: I have a quorum, Mr. President.

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

CLERK: I have no corrections.

PRESIDENT FOLEY: Thank you, sir. Any any messages, reports, or announcements?

CLERK: Mr. President, a series of appointment letters from the Governor. All will be referred to Reference for referral to standing committee for confirmation hearing. Confirmation report from the Banking, Commerce and Insurance Committee. I have an amendment to be printed to LB744. And notice of hearing from the Government Committee. (Legislative Journal pages 531-535.) [LB744]

PRESIDENT FOLEY: Any additional items, Mr. Clerk.

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CLERK: Nothing further, Mr. President.

PRESIDENT FOLEY: Thank you, Mr. Clerk. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign the following four legislative resolutions: LR302, LR303, LR304 and LR305. (Visitors and doctor of the day introduced.) Moving to the first item on the agenda--General File, 2018 committee priority bill. Mr. Clerk. [LR302 LR303 LR304 LR305]

CLERK: Mr. President, LB936, introduced by the Performance Audit Committee and signed by its membership. (Read LB936 by title.) Introduced on January 9 of this year; referred to the Executive Board for public hearing; advanced to General File. I have no amendments to the bill, Mr. President. [LB936]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Watermeier, as Chair of the Performance Audit Committee, you're...is someone else handling...Senator Kuehn, I apologize; Senator Kuehn, you're recognized to open on the bill. [LB936]

SENATOR KUEHN: Thank you, Mr. President, and members of the Legislature, good morning. It is my pleasure as Chair of the Legislative Performance Audit Committee to introduce on behalf of the committee one of our priority bills, LB936. LB936 comes out of the recommendations from the Legislative Audit Office's first three tax incentive reports. And as members of the body may recall, also from a very robust discussion we had during our Legislative Council session that in 2015 the Legislative Audit Office was required by statute to perform performance audits of the five tax...excuse me, the tax incentive programs. The bill does a number of things. First, it increases the number of years the audit office has in which to audit all of the tax incentive programs. It sets a benchmark, it clarifies a metric, and it defines terms for use in evaluations. First, LB936 would change the existing requirement that tax incentive performance audits take place at least once every three years instead requiring that it take place at least once every five years. The committee considers this section to be the most important part of this bill. This year is the third year since the schedule was adopted and the audit office has completed three audits: the Nebraska Advantage Act was audited in 2016; the rural development and research and development acts were audited in 2017. There are five remaining programs to

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be audited and the audit office will not be able to complete audits of all five in this year. There is a rather steep learning curve associated with the first performance audit of each program and it's possible that once the audit office has audited all of the programs at least once in the rotation, they may be able to meet the three-year schedule. However, in the meantime, the committee believes it is appropriate to change the schedule rather than not meet the statutory requirement or the alternative would be to ask this body for additional staff to complete the audits on the three-year schedule. Even with these changes, Nebraska would still be in line with a valuation schedule found in other states, like Indiana and Iowa, who also have five-year tax incentive evaluation cycles. Provisions 2, 3, and 4 of LB936 are designed to encourage the Legislature to weigh in on certain aspects of the evaluations and provide input into what it wants out of the evaluations. And I want to be clear on the record--these impact the evaluation process of the tax incentive programs. They do not impact the eligibility, the payment process, or the operation of the tax incentive programs as currently administered. The second part of the bill would place a benchmark goal of 10 percent of increased employment for participating companies and programs that have an employment benefit. This would only affect evaluations and have no impact on the program itself. The benchmark would simply show what the Legislature would like for these programs to accomplish. We selected 10 percent because in the Advantage Act audit, we found that in several industries, the companies participating in the Advantage Act had increased employment by at least 10 percent compared to nonparticipating companies. However, this is essentially a policy question. How much more employment does the Legislature believe in participating companies should have compared to nonparticipating companies? The third part of the bill addresses an issue that came up when the office tried to analyze the cost-per-job metric for the Advantage Act. The central issue being the philosophical distinction as to whether investment made by companies is separate from employment or whether it supports employment. In the Advantage Act report, the audit office used different methods to calculate the cost per job in order to show how varied the cost per job results can be depending upon which of the methods is used. This section allows the Legislature to confirm that it would like to continue seeing both analyses and/or to decide if it prefers one method over the other. The last part of the bill seeks legislative input on several definitions that are used in the evaluations. For example, the audit office is required to examine whether or not tax incentives are having an impact in distressed areas. The issue is that a distressed area is not defined, and the audit office could not find a usable definition in existing statute. For the previous tax incentive reports, the audit office has

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used what are called areas of substantial unemployment as a stand-in for distressed areas. The Department of Labor is required to define areas of substantial unemployment to comply with Federal Workforce Innovation and Opportunity Act which is defined as contiguous geographic area with an unemployment rate of at least 6.5 percent and a population of at least 10,000. So, similar to the cost-per-job methodology mentioned previously, this section allows the Legislature to either confirm that this is an appropriate method for identifying distressed areas, or to amend the bill to provide the office with a definition it believes should be used for future evaluations. The other terms that the bill defines are full-time worker, high-quality job, high-tech firm, new business, renewable energy firm, and rural area. The audit office has made the effort to come to a reasonable and usable definitions for these terms, but they realize that the Legislature may have a different view of what these terms should mean. Again, this section allows the Legislature to either confirm that the definitions currently used are appropriate or that there are definitions that would be of more use for the Legislature. Essentially, this bill is designed to help the Legislature get better information about tax incentive evaluations and encourage members to provide their input and opinions on the matter. Other members of the committee are here today and I encourage you to visit with them--Senator Geist, Senator Briese, Senator Linehan, as well as Senator Watermeier as Chair of the Exec Board, and Speaker Scheer as Speaker of the Legislature. We also have...and Senator Stinner as Chair of Appropriations...we also have members of the Performance Audit staff here available to answer specific questions if you should have them as well. With that, I encourage your input on these important policy issues and support for LB936. [LB936]

PRESIDENT FOLEY: Thank you, Senator Kuehn. Debate is now open on LB936. Senator Bolz. [LB936]

SENATOR BOLZ: Thank you, Mr. President. First, I'd like to thank the Performance Audit Committee. I think they did excellent work not only in executing the performance audits on our tax incentive programs, but also bringing forward this piece of legislation to provide necessary clarifications so that the Performance Audit can do their job. So I appreciate your work, thank you. But I was the sole opposing vote to this bill, mostly because I think that the wage level that is indicated in the legislation is too low. If we are setting an evaluation benchmark too low, we are setting our sights too low for wages and jobs in our state and in our communities. Not only

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are we setting our benchmarks too low, in my point of view, in our evaluation as proposed in LB936, more importantly, we are setting those wages too low in our actual tax incentive policy. So in 2016, the total estimated tax reductions under LB775 and Nebraska Advantage grew from \$153 million to \$270 million. We are investing \$270 million in these programs. By 2021, the cumulative tax credit balance under the Nebraska Advantage is projected to reach \$1.46 billion. This is a significant investment of our state taxpayer resources, and yet we are still incentivizing jobs that don't support a family. The Voices for Children Family bottom line report identifies the family supporting wage in my county, in Lancaster County, for a family of four, two adults and two children, at \$52,157. And yet we provide not only eligibility for tax incentive programs, but actual wage subsidies at a level as low as 60 percent of the average weekly wage, or \$26,146. Individual supporting a family of four would qualify for the supplemental nutrition assistance program earning \$31,536. Colleagues, we must set the bar higher when it comes to our tax incentive programs. We can no longer continue to incentivize jobs and wages that are not of high quality. In fact, the Nebraska Department of Economic Development commissioned a study from SRI International and that report identified four strategic objectives for our state to transition. The first was to transition towards a high-quality, high-value economy by focusing on high-skilled, high-wage jobs and by improving our tax incentive programs. In fact, they made a recommendation that cash incentives be made available for new jobs offering not less than 200 percent of county median wages. Colleagues, not only is it important that we set these wage levels higher so that people can earn a good living, but also so that we're incentivizing high-wage jobs. With a low unemployment rate, we don't need more jobs, we need better jobs. And the fact is that high-paying jobs have multiplier effects that mean more money is spent in our economy and overall the state as a whole does better. So colleagues, this morning I'm not going to hold up LB936. I think that the Performance Audit has done...committee has done laudable work. I would be interested if other individuals on the floor have commentary about the wage levels that we are setting in our tax incentive programs, but I will be working with stakeholders between General and Select File and I will continue this conversation and I will bring an amendment on Select File to address some of these issues and needs, because we are investing too much of our state's resources in too low of wages and it's time for change. Thank you, Mr. President. [LB936]

PRESIDENT FOLEY: Thank you, Senator Bolz. Continuing discussion, Senator Schumacher.
[LB936]

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SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. I rise in support of LB936, but with these reservations. What happens when you get one of these reports? We took on the biggest one, the Advantage Act, and they did a report on it; a lot of study, they had to extend the time limit to get some information out of the Department of Revenue. Meantime, the Legislature extended out the sunset date that had been imposed and we got this thing hanging out there. The report that we got back from Performance Audit was far less than stellar on the Advantage Act. In fact, it pointed out it is a very expensive program that less than 100 companies get the benefits from, at least at top tiers. And it has not been productive. Highly questionable report on a program that's in the hundreds of millions of dollars a year. One would have thought after we committed to a study, after we got a study back that said this thing is just not quite what it should be, they guesstimated between...depending on which matrix and which formula, each job cost between three hundred...or \$30,000 and like \$300,000 each that we'd say, whoa, we got to throw the brakes on this thing. We've got to do something with this thing because we can't afford this. And yet today, months...or has it been more than a year now...after such a report, the credit printing machine just rolls on and on and on. And the disadvantage of it rolling on and on and on is that these things are payable as credits into the distant future, a decade in one case, more than a decade into the future. So even if we came up with a better plan, our budget has already been spent. There is a better one out there, we can't afford it because we've already committed so much to one that we know isn't good at all. It's been stated it's one of the most lucrative in the country. The same time another news article says Nebraska is the poorest performing economy in the country. So the problem that we have with this process is that once the report comes in, and it's in on the biggest one, we are like deer in a headlight and we just stare. Or maybe it's more like a squirrel in the middle of the road fluffing its tail watching the car come at it. What do we do? There is no real active effort before us in a bill or in committee to come up with a new one. Senator Harr had a bill, but it kind of just languished. There is no effort to cut off the bleeding. There is some bills there, but you and I both know how far they're going. It seems like the only way you can get something better or get rid of the bad is to get something more expensive. These are critical problems that I probably am not going to get a chance to deal with. But you're going to have to deal with because you're bleeding and you're bleeding very, very, very much blood at a time when you have people who are complaining about taxes for income taxes, property taxes, sales taxes, and all kinds of special deals that are on the

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books and bleeding to the tune of \$84 million a year, \$25 million a year for another one. Folks, this is bad news. So I rise today to say, fine, the rest of the programs are (inaudible)... [LB936]

PRESIDENT FOLEY: One minute. [LB936]

SENATOR SCHUMACHER: ...audit are baby programs compared to the Advantage Act. They probably should be gotten rid of, too. I think maybe on that list is like historic credits and \$15 million a year...new markets credits, \$15 million a year. And I actually introduced one of those and the circumstances have changed; the federal government backed off and now we're stuck with the thing, should be gotten rid of, but won't be. We have a problem and we're going to see that problem amplified to the nth degree this year and the nth-squared degree in your future years. But the Advantage Act is...its report is in and the report is not so hot. Thank you. [LB936]

PRESIDENT FOLEY: Thank you, Senator Schumacher. Senator Friesen. [LB936]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. I rise too in support of LB936 and also will echo comments of Senator Bolz and Senator Schumacher. Only I have a bill that's sitting in committee that would eliminate some of these. Again, we have created a whole path of tax credits and programs out there and our ability to monitor whether they're doing what they are meant to accomplish, we have no idea. We leave a lot of revenue laying out there because of that, and I think in times we have attracted the absolute opposite jobs that we want. We don't need low-income jobs, we don't need minimum wage jobs. We want better paying jobs. So I look at what we've done and I'll pick on one of them, the Nebraska beginning farmer tax credit. I don't support that. We have changed it from its original intent to where you have a retiring farmer want to start a beginning farmer out there. And it was supposed to be an unrelated party so that you would give some young man an opportunity to farm that wouldn't ordinarily have it. But not too long ago, we changed the requirements of that and now if I wanted to, I could use this tax credit to start my own son farming. I don't need incentives to do that. That's my job. If I can't make it work for him, then I shouldn't ask him to come back and take over. That's my responsibility. The state should not have to subsidize that. That started out as a program that spent very little money and I think now it's probably on track to spend around \$8 million. The Nebraska Advantage Act--numerous programs in there are shown not to work. They're not doing what we intended

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them to do, and yet, at times we also can't even monitor what some of them are doing. That's top secret knowledge. To me, Nebraska Advantage Act needs to be eliminated. And we need to refocus our resources and find a different way to apply our dollars to economic development, not through the Nebraska Advantage Act. And I think most of the chamber groups in the state would agree with that statement, if we can come up with a replacement. But I think we got to do things smarter than we are. The Nebraska Advantage Act, everyone is taking part in it complains about the paperwork and all the requirements to meet the requirements of it. But yet in the end, we have no performance measurement. Everybody meets the terms of the agreement. So let's at least put the standards up there. But let's not forget that we need to look at the whole list of programs and see if they're still doing what we intended them to do when they were created and if they're still relevant today. Thank you, Mr. Lieutenant Governor. [LB936]

PRESIDENT FOLEY: Thank you, Senator Friesen. Senator Chambers. [LB936]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I certainly hope Senator Friesen's bill comes out here so I will have the opportunity to show that I can support a bill very strenuously. But on this one, I do support it, I will vote for it, but it is an act of futility. I was just looking over a report that a sheriff wrote some years ago. It was something like this audit report that has to be written. But before I read this, I want to point out that I was here when all this started, it was LB775, Conagra and Mike Harper, I fought it tooth and nail. I think Kay Orr was the Governor and Mike Harper convinced her that Conagra would leave Nebraska if they didn't get everything they wanted. And I said let them go. But it's going to be difficult for them to pick up everything they've got and leave Nebraska. They're not staying here because they can squeeze a few nickels out of Nebraska. I think Conagra might be gone now, I think, I'm not sure. Now, there was one called Cabela's who is trying to get some money, and Senator Landis, former Senator Landis was carrying the bill. I fought against it, and they went on and built their store in Bellevue, wherever they said they were going to build it, somewhere in Sarpy County. Those big companies are going to survive no matter what. But in the same way that Warren Buffet, with all of his billions, would not walk through the mall and see a penny on the ground and not stoop and pick it up. But it's not because he needs the penny, that penny symbolizes money, wealth, and something of value, and he's not going to walk past it. So I don't think all of these audit reports are going to do any good. But if I offered an amendment, it would be that the

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report come with a crying towel, because you're not going to be able to do anything about these companies. They own the Legislature and they bought it so cheaply. But now let me read you this report because it reminds me of what's happening here: Jesse James is still in banking; Frank James is still working on the railroad. The Dalton brothers are committing depredations of various kinds here and there. Buck Tooth Billy...I mean Billy the Kid...was that William Bonney? Oh, I thought it said Bonnie Lass, but he was a boy. Billy the Kid is doing what Billy the Kid has always done. John Wesley Hardin, who is named after some guy who started a religion, is still killing people. He has, to his record, documented killings of a higher number than anybody in history. But he also made a very philosophical statement. I never killed a man who didn't deserve killing. Then Bat Masterson, Wyatt Earp, and Ike Clanton are on the radar screen, but not anything to definite will be said about them, but Ike has been showing quite a bit of interest in the O. K. Corral, so we figured something might happen there, but we don't know exactly what it is. That's about what these reports are going to result in. Few people will read them. Nobody can do anything about correcting the wrongful program that was put in place. It started rolling from the top of the hill; and as it rolls, it gains momentum and it increases in size as it picks up debris along the way. Anybody who would stand in front of it... [LB936]

PRESIDENT FOLEY: One minute. [LB936]

SENATOR CHAMBERS: ...will be rolled over and the stone will just keep on rolling. And it's going to be like "Old Man River," just keep rolling along, and the Legislature will make its reports. For only two more years after this one will I stand up and make a comment, which is not going to result in anything other than expressing what I think ought to be done. But I'm not even going to do that this morning. I mainly wanted to let Senator Friesen know that I'm prepared to do battle if his bill gets out here to see how far we can go with it. It will not cross the finish line because the Governor, who was very interested in other things, will stop it. I'm going to put my light on because there might be a couple of things that I want to say, but I'm not going to take all the time that I have. Thank you, Mr. President. [LB936]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Crawford. [LB936]

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SENATOR CRAWFORD: Thank you, Mr. President; and good morning, colleagues. I rise in support of LB936 with...and I want to also echo the thanks to the Performance Audit Committee for their work and our Performance Audit staff who have done an excellent job of really pulling together information trying to help us begin to understand what's happening with these incentives and to work with us to push us to set benchmarks. I have serious reservations about our high-quality jobs definition in LB936, as it is now, and will be very happy to work with folks who would be interested in an amendment to replace that, if you're able to get that done in this short session. I'd be happy to have us push that higher and work on doing that. We did not in committee have a replacement definition and so felt...I'll just speak for myself...felt it was important to get the bill out for this conversation and recognize that the high-quality job definition in LB936 is one that can be amended and replaced. And I do think this is going to be an important part of our conversation. As we seek to replace the Advantage Act, the economic development task force has identified as one of its priorities for the interim is having a serious conversations about how to strengthen these incentives and how to increase the bar. And so I expect and hope that that conversation will very much be about what the bar should be, both for qualification and evaluation. And I do want to emphasize that this LB936 is, as Senator Kuehn said, about current evaluation standards, and it puts this set of standards in place and we can come back and change or modify those standards as we modify standards for the program itself. And the program itself currently has even lower standards and in terms of quality of jobs and that is essential that as we are looking to replace the Advantage Act, we make sure that any new replacement does have higher-quality standards and making sure that the jobs pay enough for a family to take care of itself, a living wage, as one important standard for us to consider in terms of those jobs. The definition in LB936 does at least require that they pay higher than industry average. So it does put a bar that's higher than our qualification standards in some of the parts of the Advantage Act, so at least it moves the bar up a bit. But, colleagues, we can move that bar up much further and need to move that bar up much further as we move forward. So I'm supportive of LB936 right now and would be very supportive of an amendment if it were to be developed to raise the bar and in...seriously committed to making sure that bills that we pass continue to push that bar up as we move forward; whether that's changes in current act or replacement of the act insuring that that bar is higher so that those who are receiving incentives are really receiving them to create high-quality jobs that allow a family to meet their needs and actually emphasize

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and strive for those high-quality, high-paying jobs that we need to make sure that we're providing in our state if we're providing economic incentives. Thank you, Mr. President. [LB936]

PRESIDENT FOLEY: Thank you, Senator Crawford. (Visitors introduced.) Continuing discussion on the bill, Senator Krist. [LB936]

SENATOR KRIST: Thank you, Mr. President; good morning, colleagues; good morning, Nebraska; and welcome to all our therapists. I wanted to put a couple things on the record. I've spent about half of my time in the Legislature on the Performance Audit Committee and I think the last performance audit that...on the Advantage Act, was probably for me, personally, one of the most frustrating of the audits that we did. Frustrating because we couldn't get answers from the Department of Revenue for a number of reasons; frustrating because Senator Watermeier had to do yeoman's work just to get them to talk to us and talk to our auditors in a lot of ways. And if those of you who think that that is a stretch, Martha is sitting under the balcony, ask her how difficult it was to put together. Eventually the Department of Revenue and our audit staff came to some compromise and those words...the exchange in ideas was necessary and came about. But I still think it was limited information, some limited information that came about in terms of making good analysis. So was it a waste of time? No. It proved to us, I think, those members of the audit committee at the time, that much more needed to be done to make sure that those audits were proper and that they were efficiently, effectively run and that we receive the information that we need at the end. I think LB936 takes great strides in the direction of reminding you who will remain next year and years after and all of our successors that just because times are good or times are bad, the analysis on whether or not a law should be put into place or tax exemption should be made should be made with the same evidence-based metrics. Let me say that a different way. You're going to be tempted when things turn around, and they will in the next few years, when you get on the upward side of the revenue flow, you're going to be tempted to have the lobbyist, the chamber, everyone come in and say--oh yeah, but we need...we need...we need. Whether you have the fortitude to say no, we need to put some of that money in the rainy day fund. We need to at least make sure that if we go forward with your plan, that those jobs are going to be at such a stature that it will increase the economic well-being of this state. It's easy to say no when you don't have any money. It's really tough to say no when people see that there are things that can be given away. Remain solid. Remain, I think, judicious in how you would

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approach anything in the future. As far as things in the past, Senator Schumacher and I and Senator Harr and others have recommended that we take a close look at those things that are out there. In fact, one of my bills, one of my amendments on last year's bill was to take a look at the historical credits. I sponsored that bill. And it was great at the time. And I think there was pay back at the time. Whether that is the case today, I would argue, there is still some credibility there. But take a look back at these things. Make sure that when a sunset comes up on something that you actually look at the metrics, the evidence-based information, and make a judgment from there. With that, I would just hope that you will all support LB936 because I think it is a move, a solid move in the right direction. Thank you, Mr. President. [LB936]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator McCollister. [LB936]

SENATOR MCCOLLISTER: Thank you, Mr. Lieutenant Governor; good morning colleagues. I think we need to heed the wise words of Senator Schumacher. He is the voice in the wilderness. And I know for a fact I'm going to miss him next year when he's gone. I want to also compliment Senator Friesen on his comment. Yeah, future farmers are important in Nebraska, but we do need to look at the programs that may no longer serve their usefulness. We need to either suspend, modify, or end some of the programs that we have. I would hope that we could put together a multi-committee effort and look at some of these bills we have and come up with a plan to alleviate the problem that we're about ready to have. We're a freight train going down to the end of the bridge and we're going to fly off that bridge and into the creek bed. So it's time for us to do that, otherwise we're going to be in bad trouble next year. Thank you, Mr. Lieutenant Governor. [LB936]

PRESIDENT FOLEY: Thank you, Senator McCollister. Senator Chambers. [LB936]

SENATOR CHAMBERS: Mr. President, members of the Legislature, I've been in this Legislature more than four decades and I see how governors are masters of deception, illusion, sleight of hand, and misdirection. This is one of the most important issues that I think confronts this Legislature. There is no substantive discussion of it. I know this bill will not lend itself to altering programs. But policy statements can be made, and what debate that has gone forth has been on point, in my opinion. But I've seen bills of far less significance, not just those that I will

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take much time to discuss, but there would be very...I don't want to use the term "robust," that has become a cliché now...very involved debate. And it's the pee-wee bill compared to other things. This bill is talking about a program that will forever be hurtful to this state. It's a drag on the total economy. It's a drain on the revenue flow. And while the Governor is talking about cutting taxes for rich people and corporations, this area is not going to be touched at all. They're not going to have to ante up anything. They're not going to provide better jobs. They don't have to, because there is not the will in the Legislature to do anything about it. So I applaud the man who sits in that office, the man I generally criticize because I have to give credit to anybody who does well what he or she is doing. Even if I disagree with it, if that person has mastered an art, I can recognize the art even if I don't agree with the outcome. How will he distract us this session? Try to get rid of the disbursement of Title X funds, all federal money to clinics that provide services to women where they can get the services no place else. The Governor is showing total disregard and disrespect for women so that #metoo does not reach to Nebraska. It's a distraction, it's a diversion, but the real issues will go by the boards and there will be women in here supporting the Governor and hurting other women. He will issue a proclamation saying stand up for the National Anthem when it's played at the Super Bowl, which has nothing to do with Nebraska. If somebody was in Nebraska at the time notification came about regarding his proclamation, they wouldn't even know anything about it. So it can only apply to people in Nebraska. When the Super Bowl came on and the National Anthem came to be rendered, stop everything you're doing in your house, stand up for the National Anthem. That takes some doing. He is also determined that two of those "admiralships," as they called them to the Nebraska Navy, which is nonexistent, two of them were given to people who subsequently or prior to his granting them, had been embroiled in a matter that... [LB936]

PRESIDENT FOLEY: One minute. [LB936]

SENATOR CHAMBERS: ...gave Senator Halloran and a couple of his home boys a chance to get some media play. I'm going to have to turn on my light, unfortunately for you all. And it is a trivial matter. But it will get headlines, as it did, and there will be debate, as always occurs, on trivial things. But I bet you won't get a single...what do you call it...a tweet on what we're talking about today, because it's not on anybody's radar. And we as policy makers don't handle it in such

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a way that the public feels that they need to be engaged. That's all I'll say right now until I'm recognized again. Thank you, Mr. President. [LB936]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Erdman. [LB936]

SENATOR ERDMAN: Thank you, Mr. Lieutenant Governor; good morning. I listened to Senator Schumacher and his comments about the report. It is amazing what we do here. We get reports. We read those reports and then we do absolutely squat with them. That's exactly what happens. So, Senator Chambers, when you were here and they passed LB775, I couldn't agree with you more. The problem with our state is our taxes are too high. So when taxes are too high, what do we do? We have gimmicks and we have the Advantage Act and we have all these things that we offer to people to come here because they know if we don't offer them something, they're not coming. So we never have that discussion, Senator Chambers. We never talk about when we get the report, what should we do with it. Well, we read it, and we see what it says and nothing happens. So as we go down the road and we're required to make payments to this Nebraska Advantage Act, as you said, it eats up our revenue, this is an expansion of government like no other program that we have in this body or this state. And we let it roll on and roll on. And that snowball is going down the hill, it's getting bigger and it may be too late to even stop it. So if Senator Bolz is right, down the road this is going to be \$1.46 billion. At some point in time, some Legislature somewhere has to have the intestinal fortitude to say enough is enough. And perhaps enough is enough now rather than later because when I'm traveling and I go the wrong way, the first thing that happens is Siri says, make a u-turn...recalculating. Okay. So here we are, we're going the wrong way, we know that. No one is arguing that this is out of control, but yet no one is willing to do anything about it. So it's like the story I once heard when the little girl is watching her mom make a ham for Easter. She cut the end of the ham off and put it in the pan, and the little girl said, mom, why did you do that? She said, I don't know, I learned it from grandma, go ask her. So she went to grandma's house and she said, grandma, why do you cut the end of the ham off before you cook it? She said, you know, I learned it from great-grandma; go to the rest home and talk to her. So she went to the rest home and she said, great-grandma, I got a question mom and grandma can't answer. Why do you cut the end of the ham off before you cook it? And the great-grandma says, the pan wasn't big enough. That's what we do here. We've always done the Nebraska Advantage Act. We've always offered tax incentives because our tax

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system is broken. So instead of fixing the problem, we treat the problem by throwing more money at it. So it's time for us to stand up and make a decision as to how we're going to go forward with what we do. Senator Wayne told me that he has a business in his district that receives \$60,000 from the Nebraska Advantage Act. That business had two state auditors in their business for eight months to determine whether they filed the paperwork correctly or whether they were actually eligible for the Nebraska Advantage Act. So they probably spent more money on the two people auditing whether they were eligible than giving them the \$60,000. But that's what we do here. The revenue people couldn't even tell the audit committee and give them the information they needed. So have we run amuck here? Have we gone off the rail? We have. So this bill is an extension from three years to five years because they can't do the job they were supposed to do. Do you see any problem with this information? Do you see any problem with the Nebraska Advantage Act and some of the things we do? The ball is in our court and we must deal with it. [LB936]

PRESIDENT FOLEY: One minute. [LB936]

SENATOR ERDMAN: Thank you. [LB936]

PRESIDENT FOLEY: Thank you, Senator Erdman. Items for the record, Mr. Clerk. [LB936]

CLERK: Thank you, Mr. President. Very quickly, General Affairs Committee reports LB724 to General File with amendments. Senator Lowe--new resolution, LR313; that will be laid over. Education Committee and Retirement Systems offer notice of hearing. Mr. President, Revenue Committee will have an Executive Session at 10:00 in room 2022...Revenue, 10:00, 2022. (Legislative Journal pages 536-538.) [LB724 LR313]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Continuing discussion on LB936. Senator Schumacher. [LB936]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. A couple of things I didn't get a chance to talk about before. First of all, sometime in the next few years, maybe the sun is shining right and the moon is in the right...what do they call it...quadrant or

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zone, you will have a chance to do something with these advantage acts, economic incentives. For gosh sake, when that happens make sure you don't have in the bill that this is super secret, the information will not be released; only somebody with top military clearance can see it...whatever...because we fly blind. Ordinary staff people in the Department of Revenue can see it, can get to the gritty stuff. And former higher officials in the Revenue Department can know the information, and when you talk to them wink and say yeah, you know what, there's a lot you don't know, and boy, I wish I could tell you. So don't box yourself in with that language that says don't tell us. My gosh, the Revenue Committee can't find out; the Chairman of the Revenue Committee can't find out; the Speaker, the Chairman Executive Board, we don't trust anybody here, but we'll trust somebody, a staffer over in the Revenue Department. Make sure the Legislature has access to that information or you fly blind at the mercy of whoever is pilfering the system at that moment. That's number one. Number two, I wish I shared Senator Krist's optimism that you're going to see good times in which you have money to play Santa Claus. I don't think you are. And if it is, it will be only for one or two Christmases. We have a situation where now it looks like we're going to look at inflation to chew up any new revenue. We are going to have increasing expenses that we've talked about before. We got mental health, the penitentiary, and the broke baby boomers looking for a place to stay in a nursing home. Tremendous things that we should be increasing and you will need to increase the cash reserve in a state that can't borrow money rather than do what somebody is contemplating and that's even chewing up more, chew up the rainy day fund while the sun is shining because there is always a tomorrow and then the ship will come in. I think it's safe to say that we will not see year-over-year revenue increases as had been over the last 30 years when the baby boomers were coming online a 4.5, 5 percent a year. GDP here has been lousy, one of the worst performing economies anywhere. If we do the national average of what's projected rationally at about 3 percent, we can't expect more than that in revenue without a tax increase. You plug 3 percent into these numbers that are run through the...that we get reports on instead of 4.5, 5 percent and they look pretty soury very fast. This is serious business. And these incentive programs, just remember, the incentive programs apply to tiny number of employees, a tiny number of investment. Most of the employment, most of the investment in this state doesn't get a smell of these things. What they get a smell of is an extra jab on the tax side of things to pay for these things. By and large, these are special things for special people. And fortunately, we're a little bit over a barrel because other

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states are doing it, and if other states are jumping off a bridge, then we have to, too. But they have not been productive. [LB936]

PRESIDENT FOLEY: One minute. [LB936]

SENATOR SCHUMACHER: And what's just sickening is we've committed year after year of revenue that if we shut them off tomorrow, we would still be bleeding for the next ten years. So these are important things. I agree with Senator Erdman when he says--we make reports, we make reports, we make reports, and then we do nothing. And there are more than one bill laying in Revenue Committee right now that says let's cut it off. But I wouldn't place a bet on any of them, because the power structure, the wizards behind the curtain like Oz just the way it is. Thank you. [LB936]

PRESIDENT FOLEY: Thank you, Senator Schumacher. Senator Bolz. [LB936]

SENATOR BOLZ: Thank you, Mr. President. I'm glad that Senator Erdman is still on the floor because, Senator Erdman, I hope you hear me when I say I couldn't agree with you more, Senator. It is time for our state to recalculate. The SRI Report that I referenced earlier, that was developed in partnership with the Nebraska Department of Economic Development, reports average annual pay in Nebraska is 21 percent below the national level, and that gap has been consistent over the last ten years. Agreed, Senator Erdman. It is time for us to recalculate. And in response to the information from the SRI Report and from the Performance Audit Committee, I did bring a bill. I brought LB918. It was heard in the Revenue Committee last week. And out of a courtesy, out of a genuine interest in partnering with the business stakeholders in this state, I didn't bring that amendment today, but I have asked for a meeting with those folks who came in to discuss the bill, and I will bring an amendment on Select File. So I look forward to those conversations. I hope we can do that in a way where we can bring the stakeholders together and bring forward policy that's in the best interest of not only our state budget and our workers, but also our business stakeholders. But make no mistake, we'll have this conversation on a substantive amendment that addresses the underlying statute that works to change the underlying way that the program is working and will do this in a way that respects our process, respects stakeholder investment and engagement, respects public voice and public hearing, but does not

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back away from the idea that average annual pay in Nebraska at 21 percent below the national level is unacceptable and must be changed. Thank you, Mr. President. [LB936]

PRESIDENT FOLEY: Thank you, Senator Bolz. Senator Chambers, you're recognized; this is your third opportunity, Senator. [LB936]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, I cannot tell you how much I appreciate the discussion that has gone forth this morning. This is a very important issue. I don't know how many people listened to what Senator Bolz said when she spoke. So I'm not going to repeat it, because if I repeat it then it becomes something I said and then it's discarded. But what she is doing is not crying wolf, as was done in the fairytale by the little boy who said a wolf is coming when a wolf was not coming. Not only is the wolf coming, I can hear the padding of his footfalls. I can smell his breath. And if I'm still and the wind is not blowing, I can feel the warmth of his breath. But if I were to say something, people will say, well, no wolf has ever come here before, so no wolf will ever come, and they'll go back to sleep. Then if you were going to make an analogy, you would say that those people who would not pay attention to the warning had a lot of sheep. Then one night the silent shadows came through that area where the sheep were living. And in the morning, they were not living anymore. There was wool scattered everywhere. There were sheep body parts scattered everywhere. The land was drenched in blood. And then the one who owned the sheep said I should have listened, but it's always like that. I'm not going to go through the story of Noah...and all it is a fairytale. But when the warning was given, people didn't listen. When the flood came, it was too late. There's a verse in the "Bible" that says--the summer is past, the harvest has ended, and we are not saved. People never have taken warning, so you know they're not going to take advice. One of the worst things done to this state was the enactment of that constitutional amendment to impose term limits to get rid of one black man. I'm 80 years old now. I probably won't live to be more than 120. But even if I do...well, let me say this, when I do. I'm going to be gone. The Legislature is the only branch of government that directly represents the people. And it is the only one which the people chose to gut and weaken beyond repair. If term limits were done away with today, it would take, in my mind, as I look at things, and based on my experience of more than four decades here, about a decade for people to really get a grip on what is happening, to learn the players in the sense of lobbyists, those who hold other offices, and even though those office

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holders will circulate and change, the offices are going to function roughly the same way, and you begin to detect the patterns if you are here long enough. If you were standing on a riverbank and somebody built a wall on your left-hand side, a wall on your right-hand side, and the only part of the river you could see is what is between those two walls... [LB936]

PRESIDENT FOLEY: One minute. [LB936]

SENATOR CHAMBERS: ...you would think that is the entire river. You wouldn't know whether there were any curves. You wouldn't know whether there were shallow places. You wouldn't know anything because your view is restricted. People come here and they get a snapshot and nobody is going to pay attention to every single thing that happens, so even if they paid attention to 100 percent of what is in that snapshot, they still have an incomplete picture because a snapshot doesn't give it. If they're not going to get even 100 percent of that, unless you know how bad off things are, the people as Alexander Hamilton said, are a great beast bridled, saddled, and waiting to be ridden and they don't see what is happening. Thank you, Mr. President. [LB936]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Kuehn, you are recognized to close on LB936. [LB936]

SENATOR KUEHN: Thank you, Mr. President; and thank you, colleagues. I appreciate the robust discussion about the policy issues this morning, and I think it is absolutely imperative, as a body, that we do just that. So these reports in which there is a significant amount of time and energy and intellect put in, have a bearing on our policy decisions. I do want to make clear, just for the record, a couple of items. One, with regard to access to information, two years ago this body passed legislation which granted the Legislative Performance Audit Office full access to the revenue information. And I also want to underscore that the process of doing the performance audits has been a growth process. And along the way, the information sharing, the cooperation with the Department of Revenue has really proven to be a valuable partnership in getting and obtaining this information. So I want to reinforce that we continue to improve in the amount of data and information that we have available for conducting a performance audits, and that's been very helpful. As we have seen through the course of the discussion, and as some of

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you will see with bills that might come to the floor, the importance of establishing clear goals and metrics for evaluation at the time in which programs are conceived and developed and passed is absolutely essential. So with that, I am thankful and grateful for all of the robust discussion today. Look forward to any further discussion from the floor as it moves through the process, and I encourage my colleagues to give a green vote to LB936. [LB936]

PRESIDENT FOLEY: Thank you, Senator Kuehn. Members, you have heard the debate on LB936. Question for the body is the advancement of the bill to E&R Initial. 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; those opposed vote nay. Record, please. [LB936]

CLERK: 22 ayes, 1 nay, to place the house under call. [LB936]

PRESIDENT FOLEY: The house is under call. Senators, please return to the Chamber and record your presence. The house is under call. Senator Krist, for what purpose do you rise? [LB936]

SENATOR KRIST: Record vote. [LB936]

PRESIDENT FOLEY: Yes, sir, a record vote has been requested. Senators Stinner, McCollister, Smith, Brasch, Harr, Murante, Linehan, please check in. All unexcused members are now present. The question before the body is the advancement of LB936. This is a record vote. Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record please, Mr. Clerk. [LB936]

CLERK: (Record vote read, Legislative Journal page 538.) 43 ayes, 2 nays, Mr. President, on the advancement of the bill. [LB936]

PRESIDENT FOLEY: LB936 advances. I raise the call. Proceeding on the agenda, General File, 2018, senator priority bill. Mr. Clerk. [LB936]

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CLERK: Mr. President, LB710 was a bill by Senator Baker. (Read title.) Senator Baker presented his bill yesterday. Committee amendments offered by Judiciary were presented. When the Legislature left the issue, there was a motion by Senator Chambers to reconsider a vote with respect to the indefinite postponement that failed. That motion to reconsider is pending, Mr. President. [LB710]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Before proceeding to debate, I will ask Senator Baker and Senator Chambers each take a minute if they'd like to refresh us on where we left off on the bill. Senator Baker. [LB710]

SENATOR BAKER: Thank you, Mr. President. LB710 would clarify Nebraska statute 25-1801, a statute allowing parties to collect relatively small amounts in court to allow interest in reasonable attorney fees up to 10 percent. LB710 would clarify that 25-1801 is applicable law in such matters regardless of whether or not the claim has been assigned to a collector. LB710 also changes the word "presentment" to "accrued." Presentment has been a nebulous term and has never been defined in this context. Accrued refers to the date that an amount comes into existence as a legally enforceable claim. AM1683 specifies that section one, part five does not apply to a cause of action alleging personal injury regardless of the legal theory asserted. Thank you. [LB710]

PRESIDENT FOLEY: Thank you, Senator Baker. Senator Chambers, would you like a minute or two? [LB710]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, I do not like this bill. I have offered various motions and amendments and I will continue to do so today. Thank you. [LB710]

PRESIDENT FOLEY: Thank you, Senator Chambers. Seeing no members with their lights on, Senator Chambers, you are recognized to close on your reconsideration motion. [LB710]

SENATOR CHAMBERS: Had I known that, I would have put my light on to speak, but I will go by what has been said. Members of the Legislature, it doesn't really matter what proposition is

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on the desk, because I'm going to take us to cloture. And I was informed of when that vote will be allowed. Whether or not I can convince my colleagues that this is a bad bill means not a great deal to me. If I'm unable to persuade my colleagues that it is an overreach by the government to authorize people you don't know to come on to your land and spread poison without you even being given notice of it, if I cannot persuade you to do something about that, there's no way I can persuade you that a bill that helps some of the most predatory operators in this society...nothing I can do to persuade you to do anything to mitigate a bill such as that. I was shown an amendment, a possible amendment that would relate to interest that can be charged. But that is not going to be offered on General File; because quoting my friend Abraham Lincoln, the promise being made must be kept. Abraham Lincoln is my friend. He and I went to school together. When he was in the kindergarten, I was in the 12th grade. And Abe and I both had agreed that we would stay here forever. He wasn't able to make it because an unkind fate intervened, ambushed him, and took him far too soon. I don't know what the status of this country would be had Abraham Lincoln not been assassinated. Abraham Lincoln had a profound impact on this country. If you read, not just what he said, but the things he actually did, he was a rare individual of a type that is 100 percent unique. That means there will be not another one like him. That is my opinion. If you compare what Abraham Lincoln was to that creature sitting in the White House now, you would see what his death, what a loss it was. Abraham Lincoln has more impact on this country having been dead as long as he has been dead than the "pumpkin man" sitting in the White House now. When he was in one of those little hick towns, oh, they have hick towns all over this country, he was talking about how great everything he has done is. But he didn't talk about the historic plunge that the stock market is experiencing. But he could have. Everything that involves him, he uses hyperbole. He uses the superlative. So he is the bombastic master of hyperbolic superlatives. Everything he does is great. Everything he does is the best. You can believe that. Such and such and such, I kid you not. Ignorant! But white people go along with him. He could have said--everything I do is historic. He lied when he said that... [LB710]

PRESIDENT FOLEY: One minute. [LB710]

SENATOR CHAMBERS: ...that the economy has reached historic heights. Wages have gone up less than one half of one percent. He could have said--but if you look at what has been happening in the stock market, that has never been done, it has never been seen in history; and those

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dumbbell who comprise his base would have gone up in a shout, would have been clapping and whistling. Our man has done it again. And he knows they're so dumb that they wouldn't be aware of the fact that the stock market has reached an historic low. The stock market is volatile. It has its ups and its downs. Nobody is totally responsible if it goes up; nobody is totally responsible if it goes down. That's what makes it possible to manipulate the information about the stock market in any way you choose. [LB710]

PRESIDENT FOLEY: It's time, Senator. [LB710]

SENATOR CHAMBERS: You said time? [LB710]

PRESIDENT FOLEY: Yes, sir. [LB710]

SENATOR CHAMBERS: I would ask for a call of the house and a roll call vote. [LB710]

PRESIDENT FOLEY: Thank you, Senator Chambers. There is a request to place the house under call. The question is, shall the house go under call? Those in favor vote aye; those opposed vote nay. Record, please. [LB710]

CLERK: 10 ayes, 2 nays to place the house under call. [LB710]

PRESIDENT FOLEY: The house is under call. Senators, please return to the Chamber and record your presence. The house is under call. Senators Hughes, Stinner, Watermeier, Smith, Brasch, Harr, Riepe, Clements, Schumacher, Larson, Linehan, Briese, please return to the Chamber and record your presence. All unexcused members are now present. The question for the body is the reconsideration motion. There is a request for a roll call vote. Mr. Clerk. [LB710]

CLERK: (Roll call vote taken, Legislative Journal page 538-539.) 1 aye, 46 nays, Mr. President. [LB710]

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PRESIDENT FOLEY: The reconsideration motion is not adopted. I raise the call. Mr. Clerk.
[LB710]

CLERK: Senator Chambers would move to amend the committee amendments with FA97.
(Legislative Journal page 539.) [LB710]

SENATOR CHAMBERS: Thank you. Mr. President, out of respect for my colleagues, I'm going to observe a moment of silence as they exit the Chamber. (Laughter) But in order that people not think their television went off, I'm going to serenade them as they leave. (singing) So long, it's been good to know you. So long, it's been good to know you. So long, it's been good to know you, what a long time since I've been home. And I'm not about to be drifting along. I'm going to be here when everybody else is gone. This bill came to us I think, because I provoked Senator Baker quite a bit during the committee hearing. I said, it's so bad that he would not prioritize this bill. I had even offered him a little wager which he turned down, and I think the people who are the lobbyist, canny, wily people stuck that bee under his bonnet and said, now, you've got to stand up to Chambers, put that puppy out there, and you know your colleagues will vote for it. And if they don't vote for it, they'll vote against Chambers. You can't lose, but he can. He lost something yesterday. I received a call about the exchange between Senator Baker and myself and the difficulty he had finding a passage that he had read from a statement that was given to him by a lobbyist...that was given to him by a lobbyist. Senator Baker, I want to put this on the record, is not an unintelligent man, but even if a man or a woman is great, a person who is great is not great in every respect. Anybody can slip, anybody can stumble, anybody can fumble, and yesterday, Senator Baker happened to have done all of them. I hope that serves as a lesson to the rest of you, but it won't. You'll get up here and read something that the lobbyist gave you. I had made a promise yesterday that I was going to talk about judges and I am. I handed out two...I'll call them documents, one yesterday, one today, and they both have a bearing on that fellow named Max Kelch who was appointed by Governor Ricketts to a position on the State Supreme Court. This man stayed there a little more than two years, then abruptly he was gone. As the magicians say, now you see him, now you don't. Then there was silence on the western front. All was and remains quiet. Judges who have immense power, they can take people's freedom by putting them in jail. They can terminate the parental rights of people and remove those people's children from their care and custody. They can sentence people to die. But when it comes to

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misbehaving by one of their own, they are the parallel of the blue wall of silence for which police are notorious. They could watch...police could watch one of their colleagues push an old woman in a wheelchair out into the street and then shoot her, and he could say, well, I was in fear for my life. And all the cops would say, that's right, she really was a threat, and I was kind of shaken myself, and I wasn't even directly implicated. Cops watch other cops commit crimes and don't do anything to apprehend the culprit. They do not protect and serve communities. Judges are not volunteers. They are paid to do a very, very difficult, but important, essential job for society. They are to be objective, disinterested in the sense, not of failing to pay attention, but not having a stake in any of the controversies that come before them. They are supposed to be paragons or examples of people of high integrity, great learning, and knowledge of the law, and they should comport themselves in such a way that nothing they do brings the judiciary into disrepute, nothing that diminishes the people's confidence that we would hope they have in the judicial system. But when one of their own is a renegade, is a wrongdoer, they close ranks and get quiet. If you could take the chilly silence that exists among the Nebraska judiciary around this Max Kelch from the Chief Justice on down, transfer that chilly silence to the polar area which is experiencing unseasonably warm temperatures. The ice is melting. The polar bears are diminishing. That chill is so deep that the ice would begin to thicken, the water which before was frozen would refreeze. The polar bears would begin to come back because their habitat is increasing. But that's not going to happen. So, I'm going to continue talking about this issue, and I'm going to smoke somebody out. I had said that Kelch should have gotten a more rhymable name so that I could write a rhyme. And belch does rhyme and I was given information by my very competent assistant, Cindy Grandberry, who did research and beer will make somebody belch. So as sure as beer will make somebody belch, I'm going to get the goods on Max Kelch. Joe Louis, called the Brown Bomber because he could hit so hard, knocked out a German who was carrying the burden that a white hope always carries. His first name was Max, and Joe Louis knocked him so cold in a relatively short period of time that the temperature in the stadium, in the arena, dropped 30 degrees. Well, this Max may be KO'd by me. One of my colleagues was listening, though, and gave me two words that I can use. Raquel Welch. Welch rhymes with Kelch, and in view of the rumors that are circulating, Raquel Welch, not Raquel Welch literally, but somebody of her gender, may have been involved in what is going on now. The Chief Justice could say all that...that all of the judges I have ever pursued will say, no comment. I'm handing you material to show you that I'm not like you all who do a lot of blowing smoke, fat mouthing,

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eating off the lobbyists, and do nothing. I've gotten judges disciplined. Have gotten some to resign while all the white men sat back and did nothing. The white men on the Judicial Qualifications Commission wanted to give one of them six months. [LB710]

PRESIDENT FOLEY: One minute. [LB710]

SENATOR CHAMBERS: I'm not going to tell you what is in the document I handed you this morning, but what that judge did is so disgusting I don't see how anybody could have become aware of it and not have done anything. But I know how spineless people are in this state. And I know that they can watch anybody being mistreated, treated unjustly, and they will be quiet as a mouse. But then let a lobbyist dictate something to them, as was dictated to Senator Baker on this bill, and here they come. Nobody is in here, to speak of, listening but they're all going to vote for cloture and you think I don't know that? I know what's going to be the outcome. But like Dracula on Select File, I will rise again. [LB710]

PRESIDENT FOLEY: Time, Senator. [LB710]

SENATOR CHAMBERS: Thank you, Mr. President. [LB710]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Kolterman. [LB710]

SENATOR KOLTERMAN: Thank you very much, Mr. President. Good morning, colleagues. And good morning, Senator Chambers. I wonder if you would yield...if Senator Chambers would yield to a couple of questions. [LB710]

PRESIDENT FOLEY: Senator Chambers, would you yield, please? [LB710]

SENATOR CHAMBERS: Yes. [LB710]

SENATOR KOLTERMAN: You know, Senator, I think this may be is only the second time or third time I've been on the mike all year, and I have had a lot of time to listen. And I do listen to what you say. And even though I'm not here all the time, I do pick up bits and pieces of what you

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say. And I promise I'm not going to sing to you today, but I have a question for you. Over the last couple of days you've characterized this as a lot of different things. Would you explain to me what a "chumblehead" is? [LB710]

SENATOR CHAMBERS: What a what is? [LB710]

SENATOR KOLTERMAN: "Chumblehead", you called us "chumbleheads" yesterday. [LB710]

SENATOR CHAMBERS: I didn't say chucklehead? [LB710]

SENATOR KOLTERMAN: No, chumble, you used. [LB710]

SENATOR CHAMBERS: Oh, then I created a new word. "Chumblehead" is a variation of chucklehead. And chucklehead means somebody who is not very swift. Nevertheless, they have the capacity to be swifter if they would apply what is inside of that chucklehead. [LB710]

SENATOR KOLTERMAN: So we do have that capacity. You've cleared that up. You also called us hardheads. Explain that one, would you? [LB710]

SENATOR CHAMBERS: Yes. That was a compliment. A better compliment than anybody would give you. [LB710]

SENATOR KOLTERMAN: And then finally... [LB710]

SENATOR CHAMBERS: Here's...let me explain why. [LB710]

SENATOR KOLTERMAN: Oh, okay, all right. [LB710]

SENATOR CHAMBERS: Nature is not wasteful. If you didn't have a precious treasure inside your head, you would have an eggshell-thin skull because nature would not build a thick, hard wall to guard a poor treasure. So even though you the possessor of that treasure do not recognize its value, nature knows what she put there. So she put a case around it to protect it even from the

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one who owns it and misuses it. So when I say hardhead, that's what it can mean realistically, but when I apply it to my colleagues, it means their skull is impervious to the entry of information. [LB710]

SENATOR KOLTERMAN: Well, the last one is a little...I don't know, you call us crickets all the time. I haven't quite figured that out. Do we make a certain noise that you don't appreciate or why would you call us crickets? [LB710]

SENATOR CHAMBERS: Because it rhymes with Ricketts. And a man like Ricketts who is not strong himself can only dominate creatures that are very small, that are harmless, that have nothing but a song. So I thought of crickets and the whole imagery follows. Ricketts, crickets, are small. They are harmless, all they can do is sing. But they sing the tune that their master gives them. So when I say Ricketts crickets, I think what I've said will let you know that it's not a term of endearment or complimentary. [LB710]

SENATOR KOLTERMAN: So of the three that I have picked up on just the last couple of days, which would be the dominant name that you would label us? [LB710]

SENATOR CHAMBERS: Well, here's what I do. I'm like a hat maker. I make stetsons, I make fedoras, I make port pies, I make tams. I make all kinds of hats. And when somebody walks into the shop, they take the hat that will fit their head. So that's what I do. I make hats when your number comes up, grab it and put it on. [LB710]

SENATOR KOLTERMAN: Thank you very much. I hope you continue to educate us and label us. [LB710]

SENATOR CHAMBERS: And, I will...oh, I'm on his time. [LB710]

PRESIDENT FOLEY: Thank you, Senator Kolterman and Senator Chambers. Senator Chambers, you're next in the queue. [LB710]

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SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, I like to be engaged by my colleagues. And I know that there are some people who will listen even when they're not here, but as I've said, there are people outside this Chamber who learn by listening. These papers that I have been passing around to you all, somebody else is doing it too, because other people get them and ask me, can they distribute them? I say, when I put something out there, you can do anything you want to with it. Make any use of it that you please. And if you don't like me, you can tear it up, you can burn it up, and if you're superstitious like some people believe in a misrepresentation of voodoo, if you destroy that which pertains to a person, you hurt the person to whom it pertains. That doesn't work. But if destroying something that reminds you of me helps you, so much the better. I help everybody. But I've got to get back to talking about these judges, and I'm going to read some of what I handed out to pass the time, but to let people know that I am not full of hot air. And that when I speak, the judges will sit up and take notice. Judges that are not on the bench are listening right now. You know why they listen to me? Because they may want another judge appointed somewhere. They may want a salary increase. And they know that they're on my territory, they're in my domain. And there are not a lot of senators who would risk their bills and my ire to give the judges something that I think the judges ought not have. And the only reason I would do something like that is because they are not earning their money. They are not behaving the way they should and they're not doing the work that they ought to do. And when they cover up for a scoundrel, that demeans and degrades the judiciary. It degrades the office of a judge. And you look at all of them and wonder, are they all being quiet because A, B, and C were caught with their trousers down, so to speak, or their robes hiked up, so to speak? And maybe they'll be next? Are they trying to set a precedent so that they will be treated with great leniency which they never show to people who come before them. Poor people are held in contempt in this society. Poor people are hated. Maybe it's because they're like a conscience. Their very presence, their very circumstances are a condemnation of this country that is described as very rich, highly advanced. But their conduct doesn't show it. So they don't want anybody hanging around who is going to contradict that image they're trying to protect. And Jesus said, the poor you will have with you always because he knows that these hardhearted religious people will fair sumptuously every day, but a poor man might be under their table fighting the dogs for the scraps. And in fact, Jesus told a story about a rich man who fared sumptuously every day. They use quaint, poetic language in the "Bible." It is a poetic work. It is fictionalized. [LB710]

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PRESIDENT FOLEY: One minute. [LB710]

SENATOR CHAMBERS: There might be some facts. But when it said he fared sumptuously, it meant he ate a whole lot of rich food. But for some reason he didn't get gout, he didn't get high blood pressure, but he did die. There was a poor man named Lazarus, and Lazarus was allowed to crawl around on the floor and fight the dogs for scraps that fell off this rich man's table. That was their amusement. The rich man died and went to hell. That's strange, and he said, Lord, let Lazarus dip his finger in water and place it on my parched tongue. Or let me go back and tell my brothers, don't do as I have done and come to a place such as this. But the summer was passed... [LB710]

PRESIDENT FOLEY: Time, Senator. [LB710]

SENATOR CHAMBERS: Thank you, Mr. President. [LB710]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Baker, you are recognized. [LB710]

SENATOR BAKER: Thank you, Mr. President. Senator Chambers, I don't think you meant that, when you said that I took up this bill just to stand up to Chambers. You have never seen me do that in my four years here, take a position just to stand up to Ernie Chambers, would that be true? [LB710]

SENATOR CHAMBERS: There's a first time for everything and I intend to provoke that, so I did believe that. That was my honest belief. [LB710]

SENATOR BAKER: Well, that's not the case. And by the way, I know that you're just taking up the time, but I would be opposed to your proposed amendment. When the LB710 was drafted, it inadvertently put personal injury issues in the game and that wasn't the intent, so that's why the amendment was passed to take that out of there so it would be inappropriate to pass your amendment. Thank you, Mr. President. [LB710]

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PRESIDENT FOLEY: Thank you, Senators Baker and Chambers. Senator Chambers, this is your third time. [LB710]

SENATOR CHAMBERS: Thank you. Mr. President, I would like to ask Senator Baker a question or two. [LB710]

PRESIDENT FOLEY: Senator Baker, would you yield, please? [LB710]

SENATOR BAKER: Yes. [LB710]

SENATOR CHAMBERS: Senator Baker, I'm going to say something that I know is true. You didn't draft that green copy of the bill, did you? [LB710]

SENATOR BAKER: No, I didn't. That's what we have Bill Drafting for. [LB710]

SENATOR CHAMBERS: No, here's what I'm getting at. The contents or the substance of that bill was provided by the industry that you're representing. Isn't that true? [LB710]

SENATOR BAKER: Well, here's the situation. I became aware of this issue one year ago, became sympathetic to the situation, the plight that they are in, and agreed to take up a bill on their behalf to correct the situation. So that's my involvement. [LB710]

SENATOR CHAMBERS: Now, back to the question that I asked you. The substance of the bill was provided by the industry that you are representing with this bill, isn't that true? [LB710]

SENATOR BAKER: Refer to my previous statement how I got involved in this. [LB710]

SENATOR CHAMBERS: I'm not talking about how you got involved. You are being evasive like Senator Riepe was the other day. It's a question that you can answer if you choose to. If you would rather not answer it, just tell me. This bill, the substance of this bill was provided by the industry, isn't that true? Or are they so...do they have such a bad reputation you don't want to have that close a tie in with them? [LB710]

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SENATOR BAKER: Well, not with me, they don't have that bad of a reputation. They brought the ideas. We took it to Bill Drafters and that's where the bill came from. [LB710]

SENATOR CHAMBERS: But the Bill Drafter is not the one who mistakenly put that information in because the Bill Drafter chose to put that in there. That is what was presented to the Bill Drafter, isn't that true? [LB710]

SENATOR BAKER: That I don't know. [LB710]

SENATOR CHAMBERS: You don't know? [LB710]

SENATOR BAKER: No. [LB710]

SENATOR CHAMBERS: Okay. Thank you. See who's leading you? He doesn't even know where the bill came from, but as a result of a hearing, he found out something very wrong had been put in it which he did not know or else he didn't read his bill, or if he read it, he didn't understand it, and he's leading you. How smart are you? That's why I talk about you the way that I do. That's why I mock, that's why I scoff, not because I said it, but because of what you demonstrate on this floor. The language that I am trying to strike with my amendment from the committee amendment is language that was put there because of a blunder by the industry that gave this bill to Senator Baker. And I drafted this amendment...I don't care whether you adopt it or not, but to give me the opportunity to speak like this. I learn things even from Jesus whether he was true or not, real or not, I have no way of knowing. But you know what he would say sometimes. There was a guy and he was born deaf. In other instances, a guy was born blind, and the hypocrites, the religious people like you all who pray up here every morning, Jesus said the hypocrites stand on the street corners and in public that they may be seen of men when they say their prayers. That's you all. You're fulfilling the wrong part of the scripture, but at any rate, they ask Jesus, who did sin? This man or his parents that he be born this way? And the first thing Jesus said, obviously he wouldn't be the one who did it if he was born this way. What sin did his parents commit? Jesus said, well, partner, nobody committed a sin that led to this man's condition. This man has this condition in order that the power of God may be revealed. [LB710]

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PRESIDENT FOLEY: One minute. [LB710]

SENATOR CHAMBERS: And then he healed the person. I offered an amendment in order that I could have this discussion. Not on the basis of what I want to do, but on the basis of what was done erroneously by those who presented this bill to you. And you're going to swallow it? You don't know why it's erroneous because you haven't paid attention, but the record is being made. I'm vindicating myself by what I'm saying. And I'm also saying words that condemn you all. You're following a blind man. And when the blind lead the blind, they both fall into the ditch. Senator Baker didn't know that that language was undesirable. He didn't know what the language did when he took the bill. And he can stand up and say that's not true if he wants to, and I'll show that it is very true. [LB710]

PRESIDENT FOLEY: Time, Senator. Senator Chambers, you are recognized to close on FA97. [LB710]

SENATOR CHAMBERS: Thank you, Mr. President. There was a man, his name was Teddy Pendergrass. I shouldn't say was, he's still alive. He used to sing with a group called Harold Melvin and the Blue Notes. Harold Melvin was the one whose band it was, but people thought that Teddy Pendergrass, the singer, was Harold Melvin. So Teddy Pendergrass left Harold Melvin and the Blue Notes and went out and got a career of his own. He sang a song, If you don't know me by now, you will never, ever know me. Ooh. How many of you all want to hear me sing it, raise your hands? Why do you do this to me? (singing) If you don't know me by now, you will never, ever, ever know me. Ooh. I won't take the applause. But I'm going to tell you why I sang that. You all should know me by now. When I offer a motion or an amendment and it's voted down, you know what's coming next, don't you? As I take the cap off my pen, place my eyeglasses on, put this yellow motion pad in a position to be written on, you know what I'm going to write on it. The first thing I'm going to write at the top is LB710, then I'm going to write to reconsider the vote just taken. How much time do I have, Mr. President? [LB710]

PRESIDENT FOLEY: Just under three minutes. [LB710]

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SENATOR CHAMBERS: Thank you. I'll tell you why I do that. Sometimes a bill is of such a nature that I will discuss the bill itself. Somebody might be off the floor and hear something that will mean something. I thought that's what would happen when I was talking about the prairie dog bill. And you got all these conservatives who talk about making government smaller, doing away with regulations, opposing government overreach and they can sit and listen as I read from the law that you can be held accountable for everything in a bill in terms of bad things happening to you and your property, even if you're not given notice that you are outside of what the law allows and these things are going to happen. Every other law requires notice. This law itself says even if the notice is not given, you're still held accountable. No conservative could support that. No intelligent person could support it. But because you have such hostility to me, you vote against your own interest. You're voting against the rights of white people. Black people don't have prairie dogs, your people have them. You're not concerned enough to protect your people. I am. And that's what I'm trying to do. Maybe I ought to let these bad things happen and they're going to call me and say, Senator Chambers, help me. Can you do such and such? And I'll say, why don't you call your representative. I don't know who that is. I will say, well, call the clerk, mention where you live and maybe they can tell you who your representative is. Call that representative... [LB710]

PRESIDENT FOLEY: One minute. [LB710]

SENATOR CHAMBERS: ...then call me. I will ask for a call of the house and a roll call vote. [LB710]

PRESIDENT FOLEY: Thank you, Senator Chambers. There's been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; those opposed vote nay. Record, please. [LB710]

ASSISTANT CLERK: 13 ayes, 2 nays to go under call, Mr. President. [LB710]

PRESIDENT FOLEY: The house is under call. Senators, please return to the Chamber and record your presence. The house is under call. Senator Kolowski, could you check in, please.

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Senator Kolowski, please return to the floor and check in. Senator Chambers, we're lacking Senator Kolowski at this point. [LB710]

SENATOR CHAMBERS: Proceed. [LB710]

PRESIDENT FOLEY: We'll proceed. Thank you very much, Senator Chambers. The question for the body is the adoption of FA97. Senator Chambers has requested a roll call vote. Mr. Clerk. [LB710]

ASSISTANT CLERK: (Roll call vote taken, Legislative Journal pages 539-540.) The vote is 0 ayes, 40 nays, Mr. President. [LB710]

PRESIDENT FOLEY: The amendment is not adopted. I raise the call. Mr. Clerk. [LB710]

ASSISTANT CLERK: Mr. President, Senator Chambers would move to reconsider the vote just taken. [LB710]

PRESIDENT FOLEY: Senator Chambers, you're recognized to open on your reconsideration motion. [LB710]

SENATOR CHAMBERS: Thank you. Mr. President, were I voting, I would have voted for that amendment. Senator Baker correctly described what the amendment would do. That amendment was added by the Judiciary Committee under the very capable, competent leadership of Chairperson, Laura Ebke. The committee rescued this bad bill. But that makes me no difference. I still described it as a bad bill, it is. They sprinkled some cologne on manure and some people, for them that will be enough, but not for me. I will never vote in favor of something that will help these predatory bill collectors. And we will never see a bill pass this body which will reign them in in terms of the kinds of tactics that they utilize. So, that vote was a good one that you took. I still don't like the bill and I'm going to take the time, and so you all will be apprized of what's going on, about 11:45, the quietus will be administered. Senator Baker has trotted around and got enough of you to vote for cloture and you'll do it, and that is no surprise to me. But I said I would take this time and it's helping my overall strategy. There's a difference between tactics

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and strategy. To make it very simple, if something is tactical, it is relatively small and limited in scope. If it's strategic, it encompasses much more and has far greater wide-reaching impact. Senator Baker will score a tactical victory. But it plays into my strategic plan. Some of you all have heard the term Pyrrhic victory and you know what it relates to. It was a battle between two opposing forces way back there in the days of early Greek, Greece and Rome. And a person who was a king, his forces won. But they had to expend so much in terms of their resources that they subsequently were defeated. So a Pyrrhic victory is one that let's you come out on top but you're not going to stay there very long, ultimately you're going to lose the big prize. What is the prize in this legislative session? Time. Anything that takes time plays into my hands. There will be some issues, as there was one this morning, talking about those give-aways called business incentives. That helped me take time off the clock, but it was time well-spent. Those who participated were behaving in the way that legislators ought to. They were discussing broad public policy. They were recommending changes that would be in the public's interest, so that was time well-spent, in the general sense of good legislating. It was time well-spent for my purposes. I had less time to burn off the clock, but I'm going to take all of the time that I need to force a cloture vote. One of the documents I handed out was put on your desk yesterday and it dealt with a judge named Bryce Bartu who had committed numerous acts of what amounts to sexual assault, criminal sexual assault but he was not prosecuted or even charged by any county attorney. Although the Judicial Qualifications Commission filed charges against him, a deal was cut so that he could retire on a disability and keep all of his benefits. He was rewarded for the wrong that he did. And I'm going to read from an article, the date, February 7, 1996, from the Lincoln Journal Star. Headline: Sex harassment charges dropped. Subhead: Judge given disability retirement. It was written by Butch Mabin. Some of you all don't know who he is, but he still works in this building. "The Nebraska Judicial Qualifications Commission has dismissed its sexual harassment complaint against District Judge Bryce Bartu of Seward and has granted him a disability retirement." Nobody wanted to state what all was involved in that. The court administrator at that time was Joe Steele. His last name was spelled Steele. And here's a comment. Steele would say only that the commission determined that Bartu was eligible for disability retirement based on evidence and proof about his medical condition. That's what the public was fed. I have to do research and I will do it. Since I was going to talk about this Max Kelch who recently jumped off the Nebraska Supreme Court, there was a federal lawsuit in the U.S. District Court for the district of Nebraska and the then Chief Justice, he had been the Chief

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Justice of the Nebraska Supreme Court when Bartu situation came up. His name was C. Thomas White. His deposition was taken November 14, 1997, and I believe it was taken in this building. The questions. Is it...to the Judge, C. Thomas White. Is it your understanding that Bryce Bartu and his attorney inquired as to whether or not the charges against Bryce Bartu would be dismissed if he chose to retire? Answer from the judge: I'm sure that's so. Question: If continued what she said, decided to take disability retirement. Answer: I'm sure that was so. Correct. Then he was presented a piece of paper and this question was asked. Do you recognize that document? Judge White: That's me, yes, I signed this paper. Question: What is it? Answer: It's a dismissal. Question: And did you discuss the complaint against Judge Bartu solely...did you dismiss it solely because he retired? Answer: I dismissed it to see that a judge that I had severe doubts about his propriety of him serving to get on the bench.--That's a little gargled but that's what he said.-- That's why I signed it. Question: It was not...you had not made any determination that Ms. Keslar's...and the judge cut her off. Answer: No, of course. The question: Her charges were? Answer: Of course not. Question: Were unfounded or anything? Answer: The purpose of the Qualifications Commission... [LB710]

PRESIDENT FOLEY: One minute. [LB710]

SENATOR CHAMBERS: ...is to remove judges that may or may not, that might not, shouldn't appropriately serve on the bench. I did not pass any judgment on Ms. Keslar's complaint nor on Judge Bartu's defense. I know that for the purpose of the betterment of the judiciary, it was better that Judge Bartu be allowed to quit rather than keep this in the public eye. That's why he was allowed to let go, not because of his disability and when Joe Steele spoke, he didn't tell the truth to the public. It wasn't his disability, it was that he was so rotten and he brought a shame on the Judiciary. What did this Max Kelch do? Why is the Chief Justice quiet? Why is everybody quiet? Why was he allowed to retire? Was it so he could keep all of his benefits? Did they not want this matter... [LB710]

PRESIDENT FOLEY: Time, Senator. [LB710]

SENATOR CHAMBERS: Thank you, Mr. President. [LB710]

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PRESIDENT FOLEY: Thank you, Senator Chambers. You may continue on your next round.
[LB710]

SENATOR CHAMBERS: Did they not want this matter to be in the public eye? That's why I put on the front of this document, is the Bartu case to be considered a precedent for handling Kelch. They let Bartu retire so he could get all those benefits, but also he was such a shame. That is from Judge C. Thomas White's deposition. And it goes on. Question: Are you saying it was better for the judiciary that Judge Bartu retire because of Ms. Keslar's charges at all? She's the one who charged him with sexual assault. Answer: It was better that he retire, period. Question: Is that solely because of the alleged disability that he had because of his stroke or also because of Ms. Keslar's charges? Answer: I think there were a variety of reasons. Pick your. Question: Are you including Ms. Keslar's charges? Answer: Yes. The charges pending against him, the fact that he was bringing a shame on the judiciary, is why the Qualifications Commission dismissed those sexual assault charges on that rotten judge. When I became aware of this, I took action to have his lawyer license taken from him. And I'm going to read some of that, but not right now. I filed a complaint with the Bar Association. In those days, complaints of lawyers were processed by the Bar Association. Now there is an arm of the Supreme Court called the Council for Discipline of the Nebraska Supreme Court and that was done because I condemned the practice of allowing the Bar Association to process complaints against its own members. They cover for lawyers. But when I came, I was like the FBI. I had so much evidence that they had to take action. In this particular incident, Judge Bartu, who had been enjoying his retirement after having sexually assaulted all of those women, and no white man said anything about it or tried to go after the judge the way he should have gone after, and there were white men who knew, the black man said, I'm going to purify the ranks of the Bar Association and I filed a complaint. Bartu did not respond. The Bar wrote him a letter and said they wanted a response. To put it in a nutshell and as it was reported in the paper, Bartu voluntarily surrendered his lawyer license rather than fight Senator Chambers. He wasn't worried about the Judiciary Qualifications Commission, they had already given him protective cover. He didn't have to worry about the Bar Association, they knew about it but they were not going to take action. So the black man took action. It wasn't the cavalry. You all have heard of the Red Ball Express. When the movie was made, you didn't see a black face anywhere. If you read the record, you see the vast majority of the drivers of those trucks were black men, and they were put in that position because it was considered somewhat

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demeaning and also it was very dangerous. Red Ball Express, all the heroes were white. That's the way your history is written. [LB710]

PRESIDENT FOLEY: One minute. [LB710]

SENATOR CHAMBERS: Cleopatra was played by a white woman. Cleopatra was not white. I would not object to a white woman playing the role of Cleopatra if a black woman played the role of Dolly Madison. You'd say, why, that's preposterous. A black woman playing the role of a white woman, but you'll let a white woman play the role of a black woman. You all probably don't realize Egypt is in Africa, do you? Africa is the continent where it all started. Your ancestors came from there. Africa is where it all started and now Africa is demeaned by that pumpkin face in the White House as an s-hole country...continent. That's how things change. Thank you, Mr. President. [LB710]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Chambers, you're recognized for your third opportunity. [LB710]

SENATOR CHAMBERS: Members of the Legislature, I sent this document to the Chief Justice and let him know that I'm drafting a letter. But I want him to have this information. I want him to know that my view is that in the same way that the Judicial Qualifications Commission covered up for Judge Bartu, there's a coverup going on now. When I talked about this judge, I did it in committee hearings. I look around and say anybody from the media here? They put their hands up. No whisper. Nothing. I talked about it on the floor. Nothing. But there are people out there asking, why isn't the judge saying anything? Why did he, all of a sudden, up and leave? This man was only 60 years old. I'm 80. Anybody 60 is a kid to me. I could call him Sunny or Junior and he couldn't get angry. Also I'm smarter than him because I would not sexually assault a woman. I would not force myself on anybody. Period. He's a Christian, I'm sure. I'm not. So no woman would ever have to be worried about being in danger of mistreatment from me. But these preachers...I just heard that the Pope...an investigation is going on now of the Pope's handling of the sexual assaults committed by priests against children in Chile because he was conducting a coverup of the one who was in charge. And as you know, Pope Francis is from Latin America. And the Latin American bishops always were very, very lackadaisical about clergy abuse of

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children. And I thought Francis was going to do a better job but dress a monkey as you will, a monkey is a monkey still. So he's just like Benedict XIV, John Paul II, and they put John Paul II on the fast track to become a saint. That's why sainthood is tainthood as far as I'm concerned. But in the same way that cops protect other cops who do wrong, judges cover for other judges who do wrong. The Catholic hierarchy covers for rotten pedophile, perverted priests. That's what you find in all these organizations and they're all dominated by men. And men set the standards to be applied to other people, but they don't adhere to them, those standards, themselves. So I'm drafting my letter to the Chief Justice and he can say like they always say, I'm not going to comment. The Nebraska Supreme Court had issued a death warrant for Gary Dean Moore and he was to be electrocuted. I'm not going to go through that whole story because it would take too long and that's not my main point. A few days before they issued that death warrant, I fell two votes short, something like that, of getting the Legislature to accept the bill to abolish the death penalty. Gary Dean Moore had made it clear to the court by writing, he wanted to withdraw any appeals he had pending, he didn't want any lawyer or anybody else to be allowed to file any paper in his behalf. I'm not his lawyer, I don't practice law, but I wrote a letter to the Chief Justice of the Nebraska Supreme Court, shared it with the judges, and explained why Gary Dean Moore could not, should not be executed. And when the Supreme Court issued its opinion, they followed my arguments, followed them, and determined that their death warrant had been issued prematurely if they had looked at all of the facts of the case that I laid out in my letter, it would not be issued. So they withdrew their death warrant. That's why I don't quit and that's why I will take action, not moan and groan. You'll hear me doing that, that's the way you'll define it, that's the way you'll describe it, but in the meantime I'm a man of action also. Gary Dean Moore is alive today because of action that I took when nobody thought it would make any difference. The World-Herald did a story on it. The lawyers said, it probably wouldn't even be read by the judges because Gary Dean Moore said he didn't want anything filed in his behalf, and one of the judges told me. Senator, if you had not written that letter we could not have done what we did. [LB710]

PRESIDENT FOLEY: That's time, Senator, but you're recognized to close on your reconsideration motion. [LB710]

SENATOR CHAMBERS: Thank you, Mr. President. So the judge's hands were tied and I had pointed out that the duty of the court is to apply the law. And even the condemned person does

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not have the authority or the standing to cause the court not to carry out its duty and under all of the facts of that case, the sentence should not be carried out. Since I have a few minutes, I'll tell you what I argued. First of all, it wasn't necessary for anybody to file anything on Gary Dean Moore's behalf. The court on its own motion could review the case and that was one of the points they made in their opinion. The court sua sponte on its own motion decided to look at this case. I pointed out that the court has what are called inherent powers. That means powers not granted by a constitution, not granted by a law, but they adhere in the very nature of a court. The court has the power to do all of the things that are required of a court and they have the power without getting it from the Legislature or anybody else to enforce their decrees, their orders, their judgments. That was mentioned also. And then the part about the condemned man not being allowed to dictate to the court. And they stated, despite the wishes of the condemned prisoner, and probably the wishes of a lot of people in the public, this execution cannot be carried out. I also pointed out that there had never been a record established at the trial court level of what electrocution actually did to the human body. But there was a case for the first time pending before the Nebraska Supreme Court and all of that evidence was there, the tortuousness of it, and what the U.S. Supreme Court would do. It's deciding a case right now, but there's one farther behind it in the pipeline, and that Supreme Court will put that case they're dealing with on hold, and say they'll take that case that's farther back in the pipeline because it will resolve, not only the issues in that case but the ones in this pending case and all similarly situated cases so they put it off. And I said the Nebraska Supreme Court can follow the practice of the U.S. Supreme Court and put Gary Dean's case on hold until they review that case that has the fully developed record about execution. And that point was made in the Supreme Court's decision to withdraw the death penalty, the death warrant, and that's the way I operate. That's what I did on these rotten judges, whom other judges and other white men were trying to protect. And there's one of those pending now in the form of Max Kelch. If he's not dirty, then let him come clean. Why won't the court tell why a person getting that big salary, who is appointed by the Governor, why won't they tell why he quit. I had told you all about some historical questions. Romeo, Romeo, wherefore art thou Romeo? Mona Lisa, are you warm, are you real Mona Lisa, or just a cold and lonely, lovely work of art? Pilate asked Jesus, what is true? But the question that most people are aware of because of the context in which it was asked, what did they know, and when did they know it about Watergate? [LB710]

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PRESIDENT FOLEY: One minute. [LB710]

SENATOR CHAMBERS: What did the Governor know and when did he know it? Oh, you said time? [LB710]

PRESIDENT FOLEY: One minute, Senator. [LB710]

SENATOR CHAMBERS: Okay. What did the Governor know about this man and when did he know it? What did the Chief Justice know about this man and when did he know it? If there is knowledge of it, that is mens rea. That is guilty knowledge and I'm going to make them talk or their silence will achieve the same effect of their having spoken. Nobody could make suggestions like I'm making about Kelch if they were untrue. Let him speak for himself. Let the Governor speak. Let the Chief Justice speak, but if they don't, I'll speak enough for all of them. I would like a call of the house and a roll call vote. [LB710]

PRESIDENT FOLEY: Thank you, Senator Chambers. There's been a request to place the house under call. The question is, shall the house go under call? Those in favor vote aye; those opposed vote nay. Record, please. [LB710]

ASSISTANT CLERK: 13 ayes, 1 nay to go under call, Mr. President. [LB710]

PRESIDENT FOLEY: The house is under call. Senators, please return to the Chamber and record your presence. The house is under call. Senator Riepe, could you check in, please. Senator Chambers, we're lacking Senator Morfeld at this point. Thank you, Senator Chambers, we will proceed. The question for the body is the adoption of reconsideration motion. There's been a request for a roll call vote. Mr. Clerk. [LB710]

ASSISTANT CLERK: (Roll call vote taken, Legislative Journal page 540.) The vote is 2 ayes, 38 nays, Mr. President. [LB710]

PRESIDENT FOLEY: The reconsideration motion is not adopted. I raise the call. Mr. Clerk. [LB710]

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ASSISTANT CLERK: Mr. President, Senator Chambers would move to recommit LB710 to the Judiciary Committee. [LB710]

PRESIDENT FOLEY: Senator Chambers, you're recognized to open on your recommit motion. [LB710]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, the Titanic has in sight the landing area. This should carry us to the iceberg. I am going to give some credit to the World-Herald because they did write an article, late, but they wrote one. It's not complete in terms of giving all of the information because they couldn't get it either. But anyway, this article appeared Sunday, February 4th. High court judge's quick exit linked to ethics probe. From the World-Herald. This was written by Todd Cooper and Joe Duggan. I notice both of them have double letters in their name. Todd has double letters in both his first name and his last name. Joe Duggan has double letters in his last name. Nebraska Supreme Court Judge Max Kelch's abrupt resignation last month came in the face of an ethics investigation two officials told the World-Herald. The officials wouldn't discuss details but one said the allegations against Kelch are in line with the national #MeToo movement that has resulted in resignations of actors, politicians, business executives and judges over questions of sexual misconduct. Attorneys and former colleagues--including two women--told the World-Herald that Kelch's judicial career has been pocked with sexual comments to women. Hm-hm-hm-hm-hm. Continuing. That was a little background for effect that I offered. The transcribers don't even have to render it. Kelch, 60, resigned January 23rd--less than two years after his appointment to the bench--rather than undergo an inquiry according to the officials. Just like Bryce Bartu. Just like Bryce Bartu. That's why I quoted Yogi Berra saying it was deja-vu all over again. Have they no shame? Continuing. Nebraska Governor Pete Ricketts was unaware of any complaints or allegations against Kelch before his appointment to the Supreme Court in March 2015, said Taylor Gage, the governor's spokesman. Quote, of course the governor would not appoint someone with a known history of sexual harassment, unquote, Gage said. Departing. That Governor is the one who said when I said that the head of the state patrol should be fired, he said ridiculous. And then he fired him. I think the Governor knew. I think there's evidence somewhere that the Governor knew and this Governor is not above hedging the truth. Continuing. Kelch's resignation has caused a stir in the hallways of the Capitol and in courthouses across the state. From the floor of the Legislature on

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Friday...that's before this article appeared, and Friday wasn't the first time I talked. But anyway, from the floor of the Legislature on Friday, State Senator Ernie Chambers called on Chief Justice Mike Heavican and Kelch to explain Kelch's departure, saying it had the potential to be a, quote, an impending, overhanging scandal. Unquote. Former colleagues were staggered by the turn of events. Just last fall a colleague said, Kelch had told people that he expected to become the state's next chief justice, once Heavican retires. Yet a few months later he walked away--a move that, because of his limited longevity, will significantly cost him on his pension. It must have been something pretty serious for him to take a cut in his pension. Sarpy County Attorney Lee Polikov, who knew Kelch from the judge's decade-long tenure in Sarpy, said he had never witnessed any untoward behavior by Kelch. Now what is this county attorney talking about? I'm departing, so that the transcribers won't think this is an article. There was a man, he probably had been a judge and got kicked off the bench. He was charged with shoplifting and the judge asked him, why do you steal this stuff in these stores? Why don't you get a job? He said, judge, your honor, I have a job. He said, and yet you steal? And the guy said, well, your honor, I have that disease that they call kleptomania. Yeah, I'm a kleptomaniac. I can't help myself. The judge looked at him and said, oh, really? And the fellow said, that's right, judge. He said, well, do you steal all the time? He said, well, only when the kleptomania descends on me and I can't help myself. And the judge said, well, did your kleptomania ever descend on you when you were in the presence of a police officer? And you know what the answer to that question was and you know what the judge was saying. He didn't believe him. Is this man going to let the county attorney see him or listen to him involved in this kind of inappropriate activity? Does a rapist rape a woman in front of witnesses, if he knows they're there? It's not surprising that the county attorney would not have observed anything. Continuing. And this is a quote in the article from Lee Polikov. He was a great county judge, a great district judge and was destined to be a great supreme court judge. Unquote, Polikov said. Quote, it's a shock, unquote. It's less of a shock to those who knew another side of Kelch. Mr. Polikov knew Dr. Jekyll, other people knew Mr. Edward Hyde. Continuing the article. Two women who spoke to the World-Herald said Kelch had a strange, at-times suggestive manner. Neither woman said she would consider herself a #MeToo victim, but said Kelch's comments could be a bit mind-boggling. One said he was sometimes too close for comfort in his chambers, leading the woman to joke about wanting a witness with her when she went to his office. The other said she once heard Kelch ask a petite female staffer in a public hallway about her bodybuilder boyfriend. Quote, how do you have sex

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with him? Unquote. Kelch asked in front of a number of people, according to the woman. Quote, I would think he would break you in half. Unquote. You listening to this nasty-minded judge? How do you and your weightlifter boyfriend have sex? I would think he'd break you in half. The judge that the Governor appointed. I believe the Governor knew, but the Governor is an ideologue and Kelch fit the mode. Or the Governor did not properly vet this individual because he liked his ideology so much. Continuing. The staffer at the center of that comment did not return messages... [LB710]

PRESIDENT FOLEY: One minute. [LB710]

SENATOR CHAMBERS: ...from the World-Herald. Kelch also didn't respond to requests for comment. When he resigned last month, Kelch sent a two-sentence letter to Ricketts that said, quote, it is best for my family to submit my resignation. Unquote. Kelch and his wife, Lorri have a son, Conner, who is in his early 20s. Nebraska state...I'll wait until I'm recognized before I continue. Thank you, Mr. President. [LB710]

PRESIDENT FOLEY: Thank you, Senator Chambers, you may continue. [LB710]

SENATOR CHAMBERS: Continuing the article. Nebraska State Court Administrator Corey Steel--no "e" on the end of it. This is not the Steele who misled the public about why Bartu quit so that he could have those sexual harassment charges dismissed against him. Continuing. Nebraska State Court Administrator Corey Steel declined to comment and said Heavican would have no comment. That's funny to me. I'm departing from the article. The judge has a spokesperson and what is the spokesperson's job? The spokesperson's job is to tell the media, the judge has no comment. The judge can't even say for himself, no comment. He has a spokesperson say, the judge has no comment. Continuing with the article. I'll read that again. Nebraska State Court Administrator Corey Steel declined to comment and said Heavican would have no comment. Steel, who also serves on the Judicial Qualifications Commission, said the law prevents him from saying whether a complaint has been filed. In general, a complaint becomes public only after the commission decides to take disciplinary action against a judge. Then how were my complaints known? Because when I filed them, I released them to the media. Continuing. The commission's authority over the conduct of a judge ends upon their retirements

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or resignations, Steel added. Here's what the commission, any commissioner or the judge could do and it's recommended that judges and lawyers do this. If you are aware of misconduct by a lawyer, you should file an ethics complaint. The judges know what this rat did. They are the ones who should seek disbarment. And if they don't, I'm going to have to do in this case what I did in Bartu's case and I pointed out in that case. I shouldn't even have to do these kind of things. It's the duty of these people who have taken an oath to uphold the law and discharge the duties reposed on them by that law, that oath. But I did it then and I'll do it again. Nebraska Code of Judicial Conduct says judges shall uphold and promote the independence, integrity and impartiality of the judiciary, and shall avoid even the appearance of impropriety. Departing. Caesar's wife must be above suspicion. Continuing. Additional language in the code says it applies to both the professional and personal conduct of judges. In addition, judges must accept they will be "subject to public scrutiny that might be viewed as burdensome if applied to other citizens." But because of the nature of a judge's work, that is to be expected. Sunshine, sunlight is the best antiseptic when it comes to judicial misconduct and that was stated by a well-known judge, not in Nebraska. These judges have a duty and they should seek the disbarment of this judge, former judge. Continuing the article. In response to a public records request by the World-Herald, the Governor's Office released a file of 50 emails and letters submitted after Kelch was named a finalist for the high court. Most talked about Kelch's impressive capacity for work, his impeccable judicial temperament and his fidelity to the law. A few made mentions of high personal character, and none offered any warnings. "The first the governor became aware of any concerns... [LB710]

PRESIDENT FOLEY: One minute. [LB710]

SENATOR CHAMBERS: ...was when Judge Kelch contacted the governor to say there was a complaint filed against him", Gage said. "Judge Kelch subsequently stepped down." Now we know a complaint was filed and I said it before I read it. I was talking about in Judiciary Committee, some of the media people heard me. I talked about it on this floor when I didn't know that a complaint had been filed. I didn't know it from having gotten the information but I knew from the circumstantial evidence that that had happened. Why do you think I'll put this stuff out and talk about it as strongly and as authoritatively as I will? Because I know what I

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know. Other people know even more directly than the knowledge that I had, but they won't do anything, but I will. Is this my third time, Mr. President? [LB710]

PRESIDENT FOLEY: You have one more opportunity and then a close. [LB710]

SENATOR CHAMBERS: Then I'm going to turn on my light so I can continue. [LB710]

PRESIDENT FOLEY: You may continue now, Senator Chambers. [LB710]

SENATOR CHAMBERS: Several colleagues praised Kelch's work ethic, listening ability and pleasant demeanor, even as they described him as "socially awkward." Um-hum. Them quiet ones are the ones you've got to watch. Tied tongue, but he knew to tell a young pretty thing, I thought your big ol' boyfriend would break you in half when he has sex with you. He wasn't awkward then but he put her in an awkward situation. He's got high moral character, remember. Fine temperament. Knows the law where much is known, much is required. But he knew how to hide and that's what these hypocrites know how to do. Most people...men who commit domestic violence at home outside the home are viewed as paragons by everybody else because they put on that act when they're outside the house and that's why people always profess shock that this man was committing these acts of violence against his wife. He's such a nice man. He's such a good man. Yeah, when you're not watching him. Just like the kleptomaniac never experiences kleptomania in the presence of a police officer. Continuing. Early in his law career, Kelch has told others he once questioned the sexual orientation of his boss in front of the boss and other colleagues--an exchange that affected their relationship. Later, after he became a judge, Kelch encouraged a female attorney to apply for a judgeship. The woman said she thought she would enjoy the job and possessed the skills it required--and remarked that it was probably time to have a woman on the bench. Now if Kelch...I'm departing. If Kelch said it's time to have a woman on the bench, it wouldn't be for the purposes that she had in mind, I'll tell you that. Continuing. "Oh believe me," he said, "everyone knows you're a woman." How did everybody know she's a woman? Why would that be necessary, for him to say that? This man of high moral character. Jesus never said things like that. Let me continue. Those comments stand in contrast to the serious, measured jurist in court. One longtime public defender called Kelch's preparation for cases and legal research skills "legendary." And that legendary is in quotes. Departing.

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Legendary, maybe they should have said mythical or fictitious if you're going to apply it to his personal conduct, but this person narrowed it to one specific area that the judge would allow people to see him operating in where he knew he was on display. There was a song Billy Joel sang called Big Shot. You had to be a big shot didn't you, had to open up your mouth. Had to be a big shot, didn't you, all your friends were so knocked out. Then he talks about how you had to have the spotlight. Continuing. In a pointed monologue on the floor of the Legislature on Friday...oh, listen to this. In a pointed monologue on the floor of the Legislature on Friday, Chambers said he would demand answers as to why Kelch stepped down. "I'm going to write the Chief Justice a letter and I'm going to say, 'Chief, you can hide the fire, but what are you going to do with the smoke?' [LB710]

PRESIDENT FOLEY: One minute. [LB710]

SENATOR CHAMBERS: And when there's so much smoke attending the departure of this judge, it doesn't just affect him, it infects the integrity of the Nebraska Supreme Court," Chambers said. Now that's a profound statement even if I made it. Sometimes I surprise myself. Senator Lowe, it's like there was a pool of water in front of me, ten feet deep and I'm so distracted that I walk across that water just like Jesus did and I don't sink and when I get to the other side they tell me what I did, and I say, wow, did I do that? I ought to have a V8. You know how that commercial goes. I'm going to continue. I'm having so much fun this morning. If there is such a thing as sin, I am sinning. Because religious people always have that long, ugly face like a mule. But the sinners, Billy Joel said, I would rather laugh with the sinners than cry with the saints. [LB710]

PRESIDENT FOLEY: Time, Senator. [LB710]

SENATOR CHAMBERS: Thank you. [LB710]

PRESIDENT FOLEY: Thank you, Senator Chambers. Mr. Clerk, you have a motion on the desk. [LB710]

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ASSISTANT CLERK: Mr. President, Senator Baker would move to invoke cloture on LB710 pursuant to Rule 7, Section 10. [LB710]

PRESIDENT FOLEY: It's the ruling of the Chair that there has been a full and fair debate afforded to LB710. Senator Baker, for what purpose do you rise? [LB710]

SENATOR BAKER: Call of the house. [LB710]

PRESIDENT FOLEY: There's been a request to place the house under call. The question is, shall the house go under call? Those in favor vote aye; those opposed vote nay. Record, please. [LB710]

ASSISTANT CLERK: 16 ayes, 1 nay to go under call, Mr. President. [LB710]

PRESIDENT FOLEY: The house is under call. Senators, please return to the Chamber and record your presence. The house is under call. Senator Hilkemann, could you check in. Senator Hilkemann, could you check in, please. Waiting for Senators Geist, Bostelman, Thibodeau, Friesen. All unexcused members are now present. The question for the body is whether or not to invoke cloture. Senator Baker, for what purpose do you rise? [LB710]

SENATOR BAKER: A roll call vote, reverse order. [LB710]

PRESIDENT FOLEY: There's been a request for a roll call vote on the cloture motion in reverse order. Mr. Clerk, please call the roll. [LB710]

ASSISTANT CLERK: (Roll call vote taken, Legislative Journal page 541.) The vote is 47 ayes, 1 nay on the motion to invoke cloture. [LB710]

PRESIDENT FOLEY: Cloture has been invoked. The next vote is whether or not to recommit the bill to committee. Those in favor of recommitting the bill, vote yes. Those opposed...a roll call vote has been requested. Mr. Clerk. [LB710]

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ASSISTANT CLERK: (Roll call vote taken, Legislature Journal pages 541-542.) The vote is 1 aye, 47 nays, Mr. President. [LB710]

PRESIDENT FOLEY: The motion to recommit to committee is not successful. The next vote is the adoption of the Judiciary Committee amendments. All those in favor vote aye; those opposed vote nay. A roll call vote has been requested. Mr. Clerk. [LB710]

ASSISTANT CLERK: (Roll call vote taken, Legislative Journal page 542.) The vote is 48 ayes, 0 nays, Mr. President, on the adoption of Judiciary Committee amendments. [LB710]

PRESIDENT FOLEY: The Judiciary Committee amendments are adopted, and finally the question for the body is the advance of the bill to E&R Initial. Those in favor vote aye; those opposed vote nay. A roll call vote has been requested in reverse order. Mr. Clerk, when you're ready. [LB710]

ASSISTANT CLERK: (Roll call vote taken, Legislative Journal pages 542-543.) The vote is 46 ayes, 1 nay, Mr. President, on the advancement of the bill. [LB710]

PRESIDENT FOLEY: LB710 advances. We're still under call. Mr. Clerk, items for the record. [LB710]

ASSISTANT CLERK: Mr. President, a series of items. Senator Brewer, an amendment to be printed to LB752; Senator Briese to LB256. Have a Reference report regarding certain gubernatorial appointments. Notice of committee hearing from Natural Resources Committee. New resolution, LR314 by Senator Ebke. Selection of priority bills: Senator Williams, LB496; Senator Kolowski, LB838; and a report on gubernatorial appointments from the Transportation and Telecommunications Committee. Also an amendment from Senator Pansing Brooks to LB158 to be printed. Series of name adds: Senator Lindstrom, LB299; Senator McCollister, LB604; Senator Howard, LB695; Senator Lindstrom, LB1001; Senator Howard to LR312; Senator Halloran, LR312; Senator Wishart to LR312. (Legislative Journal pages 543-549.) [LB752 LB256 LR314 LB496 LB838 LB158 LB299 LB604 LB695 LB1001 LR312]

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Finally, Mr. President, a priority motion. Senator Krist would move to adjourn until Wednesday, February 7, 2018, at 9:00 a.m.

PRESIDENT FOLEY: Members, you've heard the motion to adjourn. All those in favor say aye. Those opposed say nay. We are adjourned.