

**FEBRUARY 7, 2001**

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Transcriber's Office  
FLOOR DEBATE

February 7, 2001 LB 1-9, 36, 49, 51, 54, 55, 122, 129, 130  
134, 135, 136, 146, 155, 163, 165, 194, 210  
222, 245, 247, 376, 387, 418, 472, 532

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: (Recorder malfunction) Legislative Chamber, twenty-fourth day. Our chaplain this morning is Father Witt from Saint Mary's Catholic Church, Lincoln, Nebraska, and is a guest of Senator Pedersen.

FATHER WITT: (Prayer offered.)

SENATOR CUDABACK: Thank you very much, Father Witt, for being with us. We appreciate it very much. I call the twenty-fourth day of the Ninety-Seventh Legislature, First Session, to order. Senators, please check in.

SPEAKER KRISTENSEN PRESIDING

SPEAKER KRISTENSEN: Please record.

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

SPEAKER KRISTENSEN: Any corrections to the Journal?

CLERK: I have no corrections, Mr. President.

SPEAKER KRISTENSEN: Any reports, announcements, or messages?

CLERK: Mr. President, a communication from the Governor to the Clerk. (Read re: LB 1-9, LB 222, LB 36, LB 49, LB 54, LB 122, LB 130, LB 134, LB 194, LB 210, LB 135, LB 136, and LB 247.) Senator Beutler has amendments to LB 51 and LB 245 to be printed. Senator Hudkins has selected LB 532 as her priority bill. And, Mr. President, your Committee on Enrollment and Review reports they've examined and reviewed LB 376 and recommend that same be placed on Select File. LB 387, LB 165, LB 155, LB 163, LB 129, LB 472, LB 55, LB 146, and LB 418, those all on Select File, some of which have Enrollment and Review amendments attached. That's all that I have, Mr. President. (Legislative Journal pages 561-563.)

SPEAKER KRISTENSEN: Thank you, Mr. Clerk. Before we proceed to the confirmation report this morning, I'd like you to make some

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changes on your printed agenda. We have A bills which will follow LB 25, LB 238, LB 270 and, at the bottom of the agenda, LB 346. So LB 25, LB 238, LB 270, and LB 346 all will have A bills this morning that will follow them. Mr. Clerk.

CLERK: Mr. President, the first order of business this morning, a confirmation report by the Natural Resources Committee, found on page 546 of the Journal.

SPEAKER KRISTENSEN: Chair of the Natural Resources Committee, Senator Schrock, you're recognized to open on the confirmation report.

SENATOR SCHROCK: Mr. Speaker, members of the Legislature, on February 2, the Natural Resources Committee held a hearing on the confirmation for two people to the Nebraska Ethanol Board. "Tod" Brodersen from Hastings...Brodersen from Hastings is a reappointment. "Tod" has served on the Ethanol Board. He's also served as a member of the Nebraska Petroleum Marketers Board for nine years, served two years as president and has been...two years he's been a state delegate to the Nebraska Petroleum Marketers of America. And the other hearing was on Mark McColley and he represents the labor interest. Mark is the...is from Omaha. He's a business manager from Steamfitters Local Union 464. He's vice president of Omaha Federation of Labor and vice president of Steamfitters Local Union 464 from 1993 to 2000. If you have any questions on either one of these appointments, I would be glad to try and answer them.

SPEAKER KRISTENSEN: Debate on the confirmation report? Seeing none, Senator Schrock, you're recognized to close on that report. He waives the opportunity for closing. The question before the body is the adoption of the Natural Resources confirmation report. All those in favor vote aye; all those opposed vote nay. Have you all voted who care to? Record.

CLERK: (Record vote, Legislative Journal pages 563-564.) 34 ayes, 0 nays, Mr. President, on the adoption of the confirmation report.

SPEAKER KRISTENSEN: The report is adopted. We next move to

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General File, LB 313A.

CLERK: Mr. President, LB 313A, a bill by Senator Coordsen.  
(Read title.)

SPEAKER KRISTENSEN: Senator Coordsen, you're recognized to open.

SENATOR COORDSEN: Thank you, Mr. Speaker, members of the body. There's a little bit of a lag in LB 313A following LB 313 because last week the state aid was certified and the Department of Education had shared with me that the fiscal note would go down from that what was originally presented accompanying LB 313, and it did in fact go down about \$3 million because it is figured as 2 percent of the TEEOSA aid in the old formula. So what LB 313 currently proposes is an expenditure of \$300,000 for 2001...\$3 million, pardon me, for 2001 and 2002, and up to \$10.3 million for 2003-2000...2002-2003. And the reason that is up to that amount, because the Department of Education knows what the anticipated amount is for those schools that have already completed and received their first year or will be receiving their first year. What they don't know is how many schools might qualify for mergers or affiliations in 2002 and 2003 and then be eligible for a first year appropriation. Bear in mind that this is a maximum and if there is a larger demand on the fund than what is appropriated, that is still to be prorated among the schools that qualify. With that, I would move for the advancement of LB 313A.

SPEAKER KRISTENSEN: Debate on advancement of the A bill? Seeing none, Senator Coordsen is recognized to close. He waives closing. The question before the body is the advancement of LB 313A. All those in favor vote aye; all those opposed vote nay. Record.

CLERK: 35 ayes, 0 nays, Mr. President, on the advancement of LB 313A.

SPEAKER KRISTENSEN: LB 313A advances. We next move to General File, LB 193.

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CLERK: Mr. President, LB 193, introduced by the Business and Labor Committee relates to labor. (Read title.) Introduced on January 4, referred to Business and Labor, the bill was considered yesterday. Senator Connealy had presented the committee amendments. I still have committee amendments pending, Mr. President. along with two other amendments. (AM0080, Legislative Journal page 424.)

SPEAKER KRISTENSEN: We're now debating the adoption of the committee amendments. Those wishing to debate? Senator Connealy, you're recognized to close on the adoption of the committee amendments.

SENATOR CONNEALY: Thank you, Mr. Speaker. The committee amendments, once again, would do nine different things. We had discussed these committee amendments. We looked at pulling out part of the larger majority for business at the statewide board level. We considered that, then reconsidered. I would just ask that you move the committee amendments.

SPEAKER KRISTENSEN: You've heard the closing. The question before the body is the adoption of the committee amendments. All those in favor vote aye; all those opposed vote nay. Have you all voted? Please record.

CLERK: 33 ayes, 0 nays, Mr. President, on the adoption of the committee amendments.

SPEAKER KRISTENSEN: The committee amendments are adopted.

CLERK: Mr. President, Senator Connealy would offer AM0081. (Legislative Journal page 456.)

SPEAKER KRISTENSEN: Senator Connealy, you're recognized to open on your amendment.

SENATOR CONNEALY: Thank you, Mr. Speaker and members. This is simply a clean-up language, on page 8, line 14, to clarify that a member of the local board should be from each of the local required one-stop center partners. In other words, just clarifying the membership on that local board is reserved for

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those who are required participants under the act. I ask for your adoption of this clean-up amendment.

SPEAKER KRISTENSEN: Debate on the Connealy amendment? Seeing none, Senator Connealy, you're recognized to close. He waives closing. The question is the adoption of AM0081 to LB 193. All those in favor vote aye; all those opposed vote nay. Record.

CLERK: 33 ayes, 0 nays, Mr. President, on the adoption of Senator Connealy's amendment.

SPEAKER KRISTENSEN: The amendment is adopted. Next item.

CLERK: Senator Chambers would move to amend with AM0172. (Legislative Journal page 471.)

SPEAKER KRISTENSEN: Senator Chambers, you're recognized to open on your amendment.

SENATOR CHAMBERS: Mr. President and members of the Legislature, this is another of those amendments that I'm offering because there are references to federal statutes and regulations in this bill. Senator Connealy is familiar with them and the language simply makes it clear that we are incorporating those bills as they...those federal provisions as they existed on the effective date of this act. That's all the amendment does. I ask that you adopt it.

SPEAKER KRISTENSEN: Senator Connealy.

SENATOR CONNEALY: Yes, I agree with these amendments and thank Senator Chambers for offering them.

SPEAKER KRISTENSEN: Further debate on the amendment? Seeing none, Senator Chambers, you're recog...he waives closing. The question before the body is the adoption of the Chambers amendment. All those in favor vote aye; all those opposed vote nay. Please record.

CLERK: 37 ayes, 0 nays, Mr. President, on the adoption of Senator Chambers' amendment.

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SPEAKER KRISTENSEN: The amendment is adopted.

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

SPEAKER KRISTENSEN: We're now debating advancement of LB 193.  
Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, Senator Connealy, if I could ask you a few questions, I'd like to get an idea of how it was intended that some of this should operate. As I understand it, in the end on this system, under this system, it's essentially going to be the Governor's decision, as kind of the executive officer over all of this, on just about everything. Is that essentially correct? I mean, as I'm reading the language, and, again, this is my first time through on all of this so I could well be wrong, but as I'm reading it...

SENATOR CONNEALY: I...

SENATOR BEUTLER: ...there's a state board. Let me...let me elaborate just a little on what I'm trying to ask and then I'll let you respond, but there is a state board, state work force board, and that board is working, making recommendations to the Governor, not only about the state plan but also about the local plans. And, if I'm reading it right, both the local plans and the state plan, bottom line, have to be approved by the Governor. It's the Governor that's going to make the decision. Is that essentially correct?

SENATOR CONNEALY: That's correct. We are...the boards are advisory to the Governor. They're not...they don't...they don't assume any sovereign powers. The administration administers the program.

SENATOR BEUTLER: Okay. And that's the reason why we can appoint a couple members of the Legislature, I assume, to those boards, because they're advisory?

SENATOR CONNEALY: Yes.

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SENATOR BEUTLER: Okay. Now, right now you described yesterday that there are three of these local boards, one in Lincoln and one in Omaha and one for all the rest of the state. Making all these things one stop for Lincoln and for the Omaha area makes perfect sense to me. I have some questions about what that means for the third local area, which includes all of the rest of the state outside the Omaha and Lincoln metropolitan areas. As I read about what one stop means, it is, first of all, a physical location and it seems to envision a number of different persons from different branches of government physically sitting in one location. Let me ask you with regard to, let's call it the greater Nebraska local plan, which I understand has already been drafted. Is that correct? I mean there is a...

SENATOR CONNEALY: That's correct.

SENATOR BEUTLER: And the Governor has approved it, and the state board has approved it?

SENATOR CONNEALY: That's correct.

SENATOR BEUTLER: Okay. Where is...where is that one-stop center located?

SENATOR CONNEALY: Well, there are comprehensive one-stop centers that are outside of Omaha and Lincoln. The comprehensive ones would have all the services. They would be at Grand Island, Beatrice, Norfolk, Scottsbluff. And then past that there would be ones that would have less level...affiliate processing to the comprehensive "one-stops"; would be at Hastings, Kearney, Fremont, Columbus, and North Platte. And then you work down to ones that have less yet again but still work into, feed to the one-stop centers; would be Dakota City, these would be affiliate "one-stops" at Dakota City, Alliance, McCook, Sidney, Falls City, Chadron, Lexington, Nebraska City, and West Point. And then there would be access spots, there could be even more later, but they would be...they are planned to be at Bassett, Long Pine, and Holdrege.

SENATOR BEUTLER: Well, it sounds like these different levels...

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SPEAKER KRISTENSEN: One minute.

SENATOR BEUTLER: ...involve, I assume, perhaps different levels of service at each...at each type of facility. Is that correct?

SENATOR CONNEALY: That...that's correct, as...as much as can be handled at that site and as much as we could afford to put in. You'd look at, like, an affiliate spot in, say, in my district in West Point wouldn't have the whole comprehensive product of HHS but would have at least some access to it, but also would have some community college work along with the job training and the like there in the smaller community of 2,500.

SENATOR BEUTLER: Okay. So, in effect, in greater Nebraska, one stop breaks down into a series of partial stops, I assume because of the geographic necessity of a different kind of structure. Is that...is that accurate?

SENATOR CONNEALY: That...that's correct, but it would also put more in one facility than we have had in the past, where you go to the state to get certain...

SPEAKER KRISTENSEN: Time. Senator Redfield.

SENATOR REDFIELD: Thank you, Senator Kristensen, members of the body. Senator Beutler, there are some crucial things that are in this bill and that's why I don't want to see the bill die. When we first started discussions with the Department of Labor and all of the players in this, they talked about having a site where people could access a computer, it might be at a library, and they could actually make connections with the different agencies and make appointments to make that long drive, with each individual agency. That didn't seem like much of an improvement to me. In fact, it seemed like a burden to the local library. It seemed expensive to buy that computer to place there and it certainly seemed less convenient to the user who might not be very well-versed in computer technology and might, in fact, be more comfortable with a telephone. But as the conversations progressed and we started talking about what these "one-stops" were going to be, we went to the next step and

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the next step was where we were going to...they were all moving into the same building and all the agencies were going to be there represented in the same building. But, again, the person who needed the services was going to have to go from office to office and stand in line, just like they do now, and apply separately at each one. Now, that's burdensome and that's not the best form of government that we can deliver. And the crucial thing that I think is in this bill, one of the crucial things, is on page 6 at the bottom where it talks about common intake and common application systems. Basically, the way those "one-stops" are going to operate is that someone who needs these services is going to be able to walk in the door, walk up to one desk. They're going to be able to sit down, fill out one application that will be user-friendly for all of those agencies to tell them whether they can access food stamps, whether they can access job training opportunities, child care. All of those different pieces can then be accessed at that one desk. It's going to mean some cross-training for the personnel so that that person that greets them as they come in the door is cross-trained to handle all of the different agencies. And this was really a turf war. You have no idea how hard the Department of Labor worked on this and the state board and the local boards in making this come together and make sure that all the agencies would become equal players in this; that they wouldn't feel threatened by it and say I only do my job, but we're going to make this user-friendly for the person who needs the services. And so this is one of the crucial things that is not in the governor's executive order that we can add as a Legislature to change it and improve it, is to make sure that that stays in place, this common intake; that the agencies would have to cross-train and take their turns being the person manning that desk and accessing it for people. That's one of the other...one of the crucial elements. Another improvement that happens in this bill over the executive order of the Governor is the fact that the Department of Education is now at the table. The Governor has no authority over the Department of Education. This bill would require them to be a player, and the reason I think that's important is if we're going to have a seamless delivery of training for our work force in Nebraska, we don't want to train them one way in the schools and then start over again after they get out of school. We want to make sure that

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what they're learning in school is applicable to the work force. So it brings the Department of Education to the table, the community colleges to the table, along with all of the traditional state agencies, and makes them work together. That's one of the pieces that the Legislature alone can do; the Governor can't do with the existing executive order. I don't know if that helps answer some of your questions but that's, to me, why we need to pass this bill. It really is an improvement over the existing. It would continue, yes, under the executive order, we'll have this. The one-stop centers are...

SPEAKER KRISTENSEN: One minute.

SENATOR REDFIELD: ...are, you know, working hard to get going and some of them are ready to go, some are very close, but I think that there's some crucial elements that we've worked in here in youth activities, the Department of Ed, the one...the common intake that are really important elements that we, as a Legislature can add, and make it permanent in statute so that this is good for our people and they can actually go out and get a good job. Thank you.

SPEAKER KRISTENSEN: Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, let me say again that I'm not out to kill the bill. I like a lot of what's in the bill. But I have to sadly admit that I was one of those that voted for a major reform in Health and Human Services a few years ago which I think, in retrospect, was ill-planned and which I think I didn't ask enough questions about, for one. A lot of us didn't ask enough questions. And some of these things require a lot of preplanning to make them work right, and so, at least for myself, I want to be satisfied that I know how all this is supposed to work. Senator Connealy, if I could ask you more questions, please.

SENATOR CONNEALY: Yes.

SENATOR BEUTLER: The...the...the area plans that now exist, is it possible in the future the Governor might decide, for example with regard to greater Nebraska, to divide that up into two or

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three or four different units? I'm...I'm curious as to why it's all thrown together in one plan, one local plan. I mean you call it a local plan but, my God, it stretches from the Missouri River to Scottsbluff.

SENATOR CONNEALY: I think that...that it could be divided up later but it probably would be under the advice of the statewide board to do that. I think that the Governor is following the statewide board's recommendation, so if the statewide board said to do that you could...you could redo it later. We are putting in, with this bill, reporting and some access to us, some definitions that aren't in the executive order, so he could change it later under his sovereign powers but most likely would do that under the guidance of the one-stop board.

SENATOR BEUTLER: Okay. There...there is nothing in the bill that provides, for example, for...for public hearings related to either the drawing up of...of the original local board designs, nor for or in anticipation of any change that might occur in the future. The...you know, usually, when you're talking about geographic divisions and the way things work, local people get fairly touchy about that and like to have their input. Does it make any sense to have some provisions for public hearings on...on future changes, or is this some kind of board that doesn't require any public input?

SENATOR CONNEALY: Under the...under the legislation, the one stop...I mean the work force investment boards work under open meeting laws and, under the executive order, they did that as they set this up, so there is access. These are public representatives as they're picked and the like, so I think that we do have public access to the information and public access to the members of these...of these boards.

SENATOR BEUTLER: Um-hum. But, usually, when you put into statute something related to a public hearing, it's related to some event that might have significant import for those involved and so you specifically notice that something will be discussed. Can you imagine at any point in time in the future that there might be some very significant regional differences with regard to how some of these things might be structured and that there

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ought to be maybe some provision for public notice and hearings?

SENATOR CONNEALY: I'm open to that, but I think that...that because it's an advisory board, because of the nature of this, it's not a legislative board that makes rules, like it advises what's going on. I think it's probably a different...a different...

SPEAKER KRISTENSEN: One minute.

SENATOR CONNEALY: ...level of public participation and...and response. But I think that they will be looking for the public's input either through their business or through the...whatever agency or educational level that they come from. They're bringing the public's input to this advisory board.

SENATOR BEUTLER: Okay. Let me...let me move on to a smaller area. On the top of page 13, it provides that two members of the Legislature selected by and serving at the pleasure of the presiding officer of the Legislature shall be appointed. I think in our rule book, if you look to see who is the presiding officer, they would say it was the Lieutenant Governor. I guess, who is the presiding officer of this body?

SPEAKER KRISTENSEN: Time. (Visitors introduced.) Senator Beutler.

SENATOR BEUTLER: Senator Connealy.

SENATOR CONNEALY: (Microphone malfunction) Yes. There was a determination that, because the federal act called for a presiding officer, but on a nationwide basis a presiding officer is the internal leader of the body, so, even though that we normally call the presiding officer the Lieutenant Governor, the one that fit the federal act the best within our structure was the Speaker, who is the leader of our...of our body, and so we read the federal statute and put it in. They call for us to keep the presiding officer language in the bill to keep it current with the federal act.

SENATOR BEUTLER: So, in other words, since they didn't have the

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intelligence to recognize that we had a Unicameral Legislature, we need to keep their words, even though it's wrong, and interpret them in the right way, even though the interpretation is actually not correct. Is that...is that kind of where we are?

SENATOR CONNEALY: I guess so.

SENATOR BEUTLER: Okay. It...this is a very small example, but it's another small example of...of the...it's almost like child support and what we went through with that. They get down...try to get down into the nitty-gritty of detail and I think, you know, most of these situations, when we've approached it on our own, it's been the Exec Board of the Legislature that has made these kinds of appointments. And now, apparently, we are going to the Speak...we...the federal government is empowering the Speaker of the Legislature to do certain things regardless of what we might think about it one way or another. More on...more on that later, perhaps. The...who is...who is the elected official who is in charge of the greater Nebraska local plan?

SENATOR CONNEALY: The chairman of that board is the chief elected officer in Omaha, Hal Daub, the mayor.

SENATOR BEUTLER: Of the Omaha one. What...what about the greater Nebraska one?

SENATOR CONNEALY: Mayor Everson from Wymore.

SENATOR BEUTLER: A mayor from Wymore. Now that...that particular person who was chosen could have been any county official, any city official, any sort of publicly-elected official from across the state. Is that...

SENATOR CONNEALY: That's the way I under...yes.

SENATOR BEUTLER: ...is that the way it is? Okay. Senator, I think that does it. Thank you very much for your patience and the information.

SPEAKER KRISTENSEN: Senator Beutler, are you completed with

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your time?

SENATOR BEUTLER: I am, thank you, Senator.

SPEAKER KRISTENSEN: Thank you. Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, as I said at the outset, this is not a bill that I supported; it is not a bill that I support now. Senator Beutler is pointing out problems and this is not one that I'm going to spend a lot of time trying to correct, but there are defects in the bill. And if the constitution says that the presiding officer of the Legislature is the Lieutenant Governor, then if we put the term "presiding officer" in a statute, that refers to the Lieutenant Governor. We cannot tell a court, disregard what the constitution says and, because we did not want to take the time to properly amend this bill, please make it say something other than what we had the opportunity to make it say. I'm going to let this one go to show that there is work that needs to be done on a lot of these bills, but this morning I have some fish of my own to fry. And there should be more than one person looking at these bills, combing through them and making sure that they are well drafted. Senator Beutler has taken up that job this morning, but there are problems other than those he has mentioned but, as he stated or implied anyway, he has shown that the bill, as drafted, is not done in the way that it should for a law that is to be in the statute books of Nebraska. When these kind of programs are brought by the federal government, they don't say you have to take word for word what is there. If the structure of your local government or your state government is different from those in other states, you need not impress in this law the structure of another state's government, because it will have no application in Nebraska as envisioned in these other states. So the Lieutenant Governor is the one who will do everything that is to be done by the presiding officer. If these people from the Legislature serve at the will, which is the same way of saying whim, of the Lieutenant Governor, the Lieutenant Governor says, well, I don't like the way these people do so they're off, and they're off. You're giving a legislative function to a member of the executive office. I'm not going to offer any amendments. I'm not going to try to

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clean up this bill, but there are others that I am going to work on. This is just to show that if I don't do this work, and if Senator Beutler were not doing it this morning, the kind of legislation that would be flying right through this body. Thank you. That's all that I have.

**SPEAKER KRISTENSEN:** Further debate? Senator Connealy, you're recognized to close on advancement.

**SENATOR CONNEALY:** Thank you, Mr. Speaker. I want to thank Senator Vrtiska, Senator Stuhr, Senator Redfield, for their work over the interim on this bill. I want to thank the committee for the improvements they made with the committee amendments, and I ask for your advancement of this bill.

**SPEAKER KRISTENSEN:** You've heard the closing. The question before the body is the advancement of LB 193. All those in favor vote aye; all those opposed vote nay. Have you all voted who care to? Record.

**CLERK:** 30 ayes, 1 nay, Mr. President, on the advancement of LB 193.

**SPEAKER KRISTENSEN:** LB 193 advances. LB 25.

**CLERK:** LB 25 was a bill introduced by Senator Suttle. (Read title.) Bill was introduced on January 4, referred to the Health Committee, advanced to General File, Mr. President.

**SPEAKER KRISTENSEN:** Senator Suttle, you're recognized to open.

**SENATOR SUTTLE:** Thank you, Mr. Speaker. Members of the Legislature, LB 25 expands the scope of practice for podiatry to include the diagnosis or medical, physical, or surgical treatment of the ailments of the human ankle and related governing structures, except that a podiatrist shall not perform surgery on an ankle other than in a licensed hospital or ambulatory surgical center. And a podiatrist who performs surgery on the ankle shall have successfully completed an advanced postdoctoral surgical residency program for one year which is recognized by the Board of Podiatry. That, in a

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nutshell, is what this does. I have handed out a...an anatomical drawing of the bottom part of the leg and the ankle. Everybody knows where your ankle is. When I posed for Senator Chambers, (laughter) he added a little bit more than my drawing, so that gives you a look of what a proper leg is supposed to look like. I do have a...an amendment that the orthopedists wanted to put on for new podiatry graduates and I will talk about that in a minute, but would be glad to answer any questions. Right now, 36 states do this and allow podiatrists to perform this act of surgery on the ankle. And this does not involve the bone. It just involves muscles and tendons and cartilage around the top of the foot. Be glad to answer any questions, Mr. Speaker.

SPEAKER KRISTENSEN: Mr. Clerk.

CLERK: Senator Suttle would move to amend the bill, Mr. President, with AM0301. (Legislative Journal page 557.)

SPEAKER KRISTENSEN: Senator Suttle, you're recognized to open on your amendment.

SENATOR SUTTLE: Thank you. AM0301 states that podiatrists who become licensed on or after September 1, 2001, must show two years of residency in a postdoctoral surgical residency program prior to performing surgery. Under the bill, podiatrists who are licensed prior to this date must show one year of residency.

SPEAKER KRISTENSEN: Debate on the Suttle amendment? Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, Senator Suttle, who is not very subtle this morning, called me into this discussion and, as happens with bills related to optometrists and others, there's kind of a creepy-crawling encroachment into other areas than where they started. So, as I read what Senator Suttle is offering us this morning, I think about what it...what the Bible said about the Valley of the Dry Bones--the toe bone connected to the foot bone, the foot bone connected to the ankle bone, the ankle bone connected to the shin bone. I'd like to ask Senator Suttle where will this all

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end? Are they eventually going to be performing brain surgery? That's my question to Senator Suttle.

SENATOR SUTTLE: I don't think that, at this point, that, even though all of these things are connected, that there is any plan at this time for them to make it all the way to the top of the head.

SENATOR CHAMBERS: Thank you. And I hope everybody will notice the weasel words that Senator Suttle put in, "at this time". Watch! Be afraid, be very afraid. (Laughter)

SPEAKER KRISTENSEN: Senator Redfield.

SENATOR REDFIELD: Thank you, Mr. Speaker, members of the body. My grandmother had diabetes. She had a foot injury and, as most diabetics, there is a difficult time with healing because of circulation problems. Generally, when you start performing any kind of surgery or amputation, it tends to keep coming up the body, as Senator Chambers was talking about, and in fact it can become very life-threatening. Now that personal experience would make me somewhat skeptical as to who I wanted to perform any kind of foot surgery on someone with a medical condition. But I also notice that the opponents of the bill were from the Medical Association, and I've had discussions with them and there is a concern that when someone is performing surgery, they have to know more than just the techniques of that procedure. They have to understand the whole body and how blood pressure works in it, how other medical conditions work into this, because in fact what started out to be a minor procedure may end up becoming a major life-threatening fact. So I'm very reluctant to support this. I feel that the doctors of our state certainly know far more than I do about medicine and they're opposed to this and, seeing what my grandmother went through, I'm not going to vote yes. I know, Senator Suttle, you're trying to make it practical and affordable for people, but I have concerns about the safety issues here involved and if our doctors don't feel it's safe, I think I'm going to vote red.

SPEAKER KRISTENSEN: Senator Jensen.

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SENATOR JENSEN: Yes, thank you, Mr. Speaker. I just rise to support the bill. This has been worked on for a couple years and...in our Health Committee and I think we've come to a good compromise that will work. I did, however, want to comment on Senator Chambers' comments. I spoke a year ago to the optometrists and you'll recall that after many years we did allow optometrists to treat glaucoma, and as they might move further down the body and as the podiatrists move further up the body, I predicted by 2025 they would meet at the belly button and we could take care of everything. And...and then I did want to inquire of Senator Chambers on his drawing, is this "Pandora" or is this "Pandon"? Seems to be a rather muscular person for some women. Anyway, I appreciate his drawing. Thank you, Mr. Speaker.

SPEAKER KRISTENSEN: Senator Byars.

SENATOR BYARS: Thank you, Mr. Speaker. I would stand in favor of the bill also. We do need the amendment and I think probably there's a committee amendment coming forth also. The Nebraska Medical Association has, with amendments, changed their position to be in favor of the bill. There are 30-some states that now are allowing this type of surgery. We don't want to forget that no surgery can be performed in Nebraska hospitals without these podiatrists being certified by the hospital, and typically that takes a review of another physician, another surgeon. And so I don't think there's a safety issue involved here anymore. I feel very comfortable with recommending the passage of this bill.

SPEAKER KRISTENSEN: Senator Suttle.

SENATOR SUTTLE: Thank you, Mr. Speaker. Members of the Legislature, to comment on Senator Redfield's statement, part of the problem that podiatrists are running into are dealing with diabetics. If they're treating a foot for an ulcer and that ulcer is just above the foot on the ankle, they can't treat that. That seems...when they're treating ulcers on the lower part of the foot, it would seem to me that they could have the ability to...to treat ulcers on the ankle as well, and it sometimes hamstring them, no pun intended, to keep from

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treating the entire problem that diabetics face when it comes to foot sores and trying to get them well. So I just wanted to comment on that and they are taught all of those things that you mentioned--the blood pressure, the blood flow, and the pathology of diabetes. So I would appreciate your support if you could possibly give it. Mr. Speaker, thank you.

SPEAKER KRISTENSEN: Senator Smith.

SENATOR SMITH: Thank you, Mr. President, members. I rise in support of this bill. As a representative of a district roughly 450 miles west of the University of Nebraska Medical Center, access to medical services is an issue, and we have some podiatrists who have set up a practice in town who have every bit of training that the orthopedic surgeons have in terms of treating the ankle, and that is why I...I signed on to the bill. I think that it's a good thing and that we can serve the citizens of Nebraska better with this added access to medical services. Thank you.

SPEAKER KRISTENSEN: Further debate on the Suttle amendment? Seeing none, Senator Suttle, you're recognized to close. She waives that closing. The question is the adoption of AM0301. All those in favor vote aye; all those opposed vote nay. Please record.

CLERK: 32 ayes, 0 nays, Mr. President, on the adoption of Senator Suttle's amendment.

SPEAKER KRISTENSEN: The amendment is adopted.

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

SPEAKER KRISTENSEN: We're debating advancement. Senator Suttle, I see no lights. You are recognized to close on advancement.

SENATOR SUTTLE: Just briefly. Again, all of the safety concerns I think have been answered and the podiatrists have bent over backwards to try to cooperate with the medical community, and would appreciate it if you would advance this

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bill. Thank you.

SPEAKER KRISTENSEN: You've heard the closing. The question is the advancement of LB 25. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record.

CLERK: 31 ayes, 0 nays, Mr. President, on the advancement of LB 25.

SPEAKER KRISTENSEN: LB 25 advances. LB 25A.

CLERK: LB 25A, a bill by Senator Suttle, relates to appropriations. (Read title.)

SPEAKER KRISTENSEN: Senator Suttle, you're recognized to open.

SENATOR SUTTLE: Thank you, Mr. Speaker. This is a one-time \$1,200 A bill to implement this. Most of that will...will be recouped through the licensing of the podiatrist. So I'd appreciate it if you could advance this with it.

SPEAKER KRISTENSEN: Debate on advancement? Seeing none, Senator Suttle is recognized to close. She waives that closing. The question before the body is the advancement of LB 25A. All those in favor vote aye; all those opposed vote nay. Record.

CLERK: 29 ayes, 0 nays, Mr. President, on the advancement of LB 25A.

SPEAKER KRISTENSEN: It advances. Next bill is LB 238.

CLERK: LB 238, Mr. President, by Senator Price. (Read title.) Introduced on January 5 of this year, referred to the Health and Human Services Committee, advanced to General File. I have no amendments to the bill, Mr. President.

SPEAKER KRISTENSEN: Senator Price, you're recognized to open on LB 238.

SENATOR PRICE: Good morning, Mr. Speaker and fellow members of the body. This bill would require state regulation and

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certification of emergency medical service instructors. This bill was requested by the instructors themselves. This bill is also supported by the Nebraska Volunteer Firefighters Association. As you refer to the Committee Statement you see that there were many supporters; there was no opposition at the hearing. Four years ago, state certification of EMS instructors was required, and this requirement was waived after a EMS Board Task Force removed this recommendation for the purpose of reducing paperwork. This idea was that the training agencies could monitor themselves. As Alice Dalton, a member of that task force and vice chair of the EMS Board, testified that...that the removal of this requirement was a mistake, and she used that word "mistake". The mistake has hurt the level of training given to EMS providers. There has been a decline of EMS providers who pass a national test, the national registry test of their skills. The percentage who pass the test is only 64 percent. Too many students have spent time in the classroom, 150 hours a year, which is nine months. They are able to pass the class, pass the hands-on skills test, and they fail the national registry test. Why? They seem to be unable to pass the written test. And so they could take a refresher course after this, after they've spent the nine months in the class, but, again, it's more time away from their families and more money out of their own pockets. Some of the witnesses said that it has also resulted, the failure rate, in getting persons to be recruited into the classes, and then we're short on EMS providers in rural areas, which is very important. We require certification of the providers in an effort to assure the quality of their performance. If any of us have had a medical emergency we want the best possible trained provider out there providing the service. So what we need to do is have excellent instructors in order to provide the best education to the EMS providers, and that is what this bill seeks to do. Any questions, I'd be happy to answer them.

SPEAKER KRISTENSEN: You've heard the opening. Debate on advancement of the bill? I see no debate. Senator Price, you're recognized to close.

SENATOR PRICE: Thank you. I would urge support of this because the better our instructors are the better students that they

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instruct and they will be able to pass the national registry test and get out and serve us statewide as they perform this very important service. Thank you.

SPEAKER KRISTENSEN: You've heard the closing. Question before the body is the advancement of LB 238. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record.

CLERK: 33 ayes, 0 nays, Mr. President, on the advancement of LB 238.

SPEAKER KRISTENSEN: LB 238 advances. LB 238A.

CLERK: LB 238A, by Senator Price. (Read title.)

SPEAKER KRISTENSEN: Senator Price, you're recognized to open on the A bill.

SENATOR PRICE: This bill follows LB 238. It's a...it's a one-time expense as they begin the process of keeping some good records, and I urge your support for this...this amount.

SPEAKER KRISTENSEN: Debate on the A bill? Senator Wehrbein.

SENATOR WEHRBEIN: Yes, Mr. Speaker, members of the body, I want to ask a couple questions. One is the exact amount on this, I don't have it on my machine, or the A bill, Senator Price, and then I did have a couple other questions. It is nominal. It's \$2,000, so that's fine. I...but what I really wanted to ask you about is the...the bill that...I'm not so much concerned about the \$2,000 one-time. I understand that. But what I am concerned about is to where they may lead and it's just so I understand what we're doing. Obviously, I have no problem with the bill, the recertification process, all of these. That's not the issue. The issue is are we...will we be expected or does this put additional burden on the governmental units to pay for this additional training? Is that going to be a factor. I just...I just wonder where it's leading us, or the governmental units. That's really all my concern is, for training costs. Is this an unfunded mandate, so to speak, that type of thing? If I may ask Senator Price, please.

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SPEAKER KRISTENSEN: Senator Price, would you respond?

SENATOR PRICE: I do not believe this is...this is going to be a mandate. I think this is a one-time expenditure with an expectation that would follow these dollars. I...I see it leading nowhere down the road, sir.

SENATOR WEHRBEIN: I'm not asking about the \$2,000 because I do understand that, the administrative costs,...

SENATOR PRICE: But you're asking about...

SENATOR WEHRBEIN: ...but the recertifica...certification, recertification and renewal requirements for EMS instructors, the practices, procedures and so forth. As I listened to the explanation of your bill, I assume that the units I understand, the governmental units I understand, and I...I just kind of wanted it maybe on the record. So it's not uncommon to have these bills now and in another year come in and say, well, last year you said we had to do this procedure, now we need the money; or the government...the local governmental units will come in and say, what you did was a very good thing but you increased our costs. And I just was sitting here reading the bill and I thought I'm going to ask that. I meant to ask it on the main bill and I...but that's...that's the only comments I wanted and I accept what you say. Thank you.

SENATOR PRICE: And I thank you and I will ask further questions on this, but I...this is, like I said, a one-time expenditure and it's an expectation of Health and Human Services and so forth just to do this one time only.

SENATOR WEHRBEIN: Thank you.

SENATOR PRICE: Thank you.

SPEAKER KRISTENSEN: Senator Baker.

SENATOR BAKER: Thank you, Mr. Speaker, members. I want to help Senator Price out here in answering some of these questions. I

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think I can help. These instructors, right now most of them are employees of community colleges, these EMS instructors, whether they're paramedic instructors or basic first responders, and the certification process really isn't there for these instructors. I think most of them, they'll go ahead and take these classes, become certified through the community colleges, is where we get our training in western Nebraska, and my only question being I hope this doesn't discourage some of these instructors from going back and being certified as instructors that maybe were grandfathered in, in some of this prior rules and regulations. But the bigger question to me, and we're working on it with the Health and Human Services EMS Division, is the national registry requirement that all EMTs take this national registry test. It's very... a very tough and rigorous test to pass, and we are working with them. I want to let Senator Price, Senator Wehrbein know that we... we're making progress on this, with these people, and it's not all just instructors. Part of it is the requirement on the national registry. And I think this is the first step in maybe getting down that path to clean this whole issue up and I support the bill and support the A bill too, of course, but it's an issue that's not going to go away and we continue to work on it. And I don't think there will be any fiscal impact on it. It's just simply rules and regulations dealing with the requirement that we pass the national registry. Thank you.

SPEAKER KRISTENSEN: Further debate? Seeing none, Senator Price, you're recognized to close. She waives that opportunity. Question before the body is the advancement of LB 238A. All those in favor vote aye; all those opposed vote nay. Record.

CLERK: 30 ayes, 0 nays, Mr. President, on the advancement of LB 238A.

SPEAKER KRISTENSEN: The A bill advances. We next move to LB 152.

CLERK: LB 152, Mr. President. It's a bill by Senator Jensen. (Read title.) Bill was introduced on January 4, referred to the Health Committee, advanced to General File. I do have committee amendments, Mr. President. (AM0101, Legislative Journal

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page 429.)

**SPEAKER KRISTENSEN:** Senator Jensen, you're recognized to open on the bill.

**SENATOR JENSEN:** Thank you, Mr. Speaker. Member of the Legislature, this is the second of three bills that I had agreed to carry for Senator Lynch, and this one reauthorizes a brain injury registry currently in statute. The registry originally adopted with the passage of LB 308 in 1992, the registry provisions are scheduled to terminate January 30 of 2001. LB 152 reauthorizes the registry provisions by repealing the termination date. The bill also changes provisions dealing with the disclosure of information contained on the registry. Currently, any information released from the registry is disclosed as Class I, Class II, and Class IV data. LB 152 provides that information all...may also be disclosed as Class III data which a committee amendment will address after the introduction of this bill. The bill also adds the place or site of the occurrence of a brain or head injury as another piece of information that has to be reported and included in the registry. Currently, only federal funds are used for the administration of the registry. The bill contains the emergency clause so there will be no interruption. There is also a committee amendment to the bill which I will address after this introduction. Thank you, Mr. Speaker.

**SPEAKER KRISTENSEN:** You've heard the opening. Debate on the bill? Senator Jensen, you're recognized, as the Chair of the Health Committee, to open on the committee amendments.

**SENATOR JENSEN:** Thank you, Mr. Speaker. The committee amendment simply deletes the provisions of the bill that relate to the disclosure of information from the registry as Class III data. The committee doesn't recommend adoption of that part of the bill because of the concerns that were raised with respect to confidentiality which is in conflict with the statute. I would simply move for the adoption of the amendment which removes the Class III data from the bill. That concludes the introduction. Thank you, Mr. Speaker.

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SPEAKER KRISTENSEN: You've heard the opening on the committee amendments. Debate on the adoption of the committee amendments? Seeing none, Senator Jensen, you're recognized to close on the committee amendments. He waives that opportunity. The question before the body is the adoption of the committee amendments. All those in favor vote aye; all those opposed vote nay. Record.

CLERK: 31 ayes, 0 nays, Mr. President, on adoption of committee amendments.

SPEAKER KRISTENSEN: Committee amendments are adopted. We're now debating advancement of the bill. Senator Beutler.

SENATOR BEUTLER: Senator Jensen, if I may, just a couple of questions quick. I notice in the fiscal note that this has been previously funded with \$95,000 of federal money. Will there be an A bill with this?

SENATOR JENSEN: Yes, there will be an A bill that will follow this that will address this. This has been funded with federal dollars. The A bill is for \$95,000 and I'll...I'll...that will be presented upon the adoption of this bill. It is still anticipated that this will be funded with federal dollars, but just in case it would not, why, there is an A bill that it would be done with General Funds.

SENATOR BEUTLER: Okay.

SENATOR JENSEN: There's nothing that would indicate that this will not be supplied, however, with federal dollars.

SENATOR BEUTLER: Just...just tell me briefly, and obviously this is a good thing, but just to give me some sense of how good a thing it is perhaps as I compare it to a lot of other things that are good things, and in light of the fact that I think earlier this year didn't we just repeal a registry for something or another, if I recall correctly?

SENATOR JENSEN: Senator, I can't recall...

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SENATOR BEUTLER: I'm...I'm...

SENATOR JENSEN: ...whether we had a registry set up prior to this time for...

SENATOR BEUTLER: Not...not on this subject, but on another disease of some sort or another.

SENATOR JENSEN: Well, we...

SENATOR BEUTLER: I'm pretty...

SENATOR JENSEN: ...eliminated or are in the process of eliminating a Parkinson (sic--Parkinson's) registry that hadn't been used, that seemed to be a little intrusive on Parkinson (sic) patients. And so that was eliminated and we just had an A bill that would save the state \$10,000 by eliminating that registry.

SENATOR BEUTLER: Okay. Well, just tell me briefly then, in light of the fact that everybody has their own medical records that describe their personal situation to the medical people, for \$100,000 what does this do for us?

SENATOR JENSEN: Okay. It was really determined, and it was determined nationally and then followed up with many states, that we should have a brain injury registry that would tell the state, tell the federal government also, how these injuries occur. Many of them occur via an accident, motorcycles, automobile accident, some occasionally on a job through a fall or a striking of the head. And then there are those that occur not because of an injury but because of some traumatic action that happened. Well, the more information that we have, the better that we can determine...and in some cases these are kids riding bicycles that, yes, if you had a helmet on, it might provide some protection there. It could be kids falling. It could be senior citizens also, as we get more and more of the aging of America and the aging of Nebraskans, of them also falling and receiving head injuries. It puts all those into a registry so that we can see how these accidents, how these occurrences, are happening and then if there is some way that we

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can provide better protection for our citizens. That's really what the registry does.

SENATOR BEUTLER: Let me just ask generally then one more question and I'll be done with it, but...

SENATOR JENSEN: Sure.

SENATOR BEUTLER: ...head injuries are obviously a more serious kind of injuries and so I can see that a register of this type, for example, would be more important than a lot of other types. But Parkinson's disease is also a serious matter. I don't understand why that registry is no longer important and this one is and, to follow up and finish the question, to what extent should we expect the federal government to lure us with registries of one type or another in all the...

SPEAKER KRISTENSEN: One minute.

SENATOR BEUTLER: ...multiplicity of diseases there are out there? I mean, should I expect, and maybe I should expect, that there will eventually be more data gathered through the system of registries that is considered valuable on all types of serious diseases? Do we have a cancer registry?

SENATOR JENSEN: There is...a registry per se, I don't know. Certainly...but I believe there is, and certainly we have right here in the state doctors like Senator Lynch...not Senator Lynch, Dr. Lynch at Creighton, who has done extensive studies, of course, on the genealogy, particularly of breast cancer and some of those cancers that seem to follow a genealogy in...in certain families. And so we've really come up with some great information along that. There has been some talk about perhaps that along the...

SPEAKER KRISTENSEN: Time.

SENATOR JENSEN: ...Platte River Valley there's a greater incidence of cancer, and so that is being studied also.

SPEAKER KRISTENSEN: Time. Senator Hilgert.

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SENATOR HILGERT: Thank you, Mr. Speaker, members. If Senator Jensen would yield to a few questions, I'd appreciate it.

SPEAKER KRISTENSEN: Senator Jensen.

SENATOR JENSEN: Yes, Senator Hilgert.

SENATOR HILGERT: Thank you. Senator Jensen, shaken baby syndrome is an interest of mine and getting a heightened awareness of it and the methodologies to and the practices to prevent it from happening. In fact, there's a bill that's still alive and being held by the Education Committee that instructs young people about it as well, since they're oftentimes caregivers of infants, especially with two working families and single-parent families in which the single parent has to work. That being said, Senator Jensen, would LB 152 also include those infants, recording of those instances of shaken baby syndrome that is found in Nebraska?

SENATOR JENSEN: Certainly it could. If that is a brain injury, it would follow this, absolutely.

SENATOR HILGERT: Okay. It made sense that it would. I wanted to get it on the record and take this opportunity again to mention and heighten awareness for shaken baby syndrome, and oftentimes they are brain injuries. I have another question. Would other hospitals, for example the VA, be under the guidelines of this bill?

SENATOR JENSEN: That I cannot answer.

SENATOR HILGERT: Okay. And...and the reason I ask is...

SENATOR JENSEN: Be glad to find that out for you, however.

SENATOR HILGERT: ...yeah, and I'm not going to fight the bill. I'm going to certainly support it, but it would be interesting to have that answer because there are some veterans of the Gulf War that have suffered brain injuries, not in the conventional sense of an accident, but due to the toxic environment over

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there. They're suffering what's commonly referred to as the Gulf War Syndrome. And some of the anti-nerve agent preventive measures that were taken by the United States Armed Forces over there have led to situations where there's some veterans, a number of them, that are suffering from a malady of illnesses, and recent studies have shown that due...some of the brain scans and so forth have sensed a change in the brain tissue, and so forth, because of some of the chemicals that the soldiers, sailors and airmen have...were forced to take to try to guard against a...the threat of the nerve gas. So it would be interesting to me, and maybe I should have brought it up earlier, it's not a life or death thing on regards to this bill, but it would be interesting, you know, as the debate continues, as it goes to Select and then at Final, to have that information to see if we can recognize two groups--those infants that are suffering from shaken baby syndrome and, the other group, those veterans who are suffering from neurological problems. Specifically, what comes to mind is the Gulf War Syndrome and whether the Veterans Administration has to report this as well to this registry. But thank you very much for your work, Senator Jensen.

SENATOR JENSEN: Thank you.

SPEAKER KRISTENSEN: Senator Beutler.

SENATOR BEUTLER: I'll waive, Senator. Thank you.

SPEAKER KRISTENSEN: Senator Stuhr.

SENATOR STUHR: Thank you, Mr. President and members of the body. I stand in support of this registry. I worked with Senator Lynch when...some years ago when we were first talking and the group came together to actually organize into an association of brain injuries. This type of injury is different than a broken bone or a cut, which is much more obvious, because a certain...as Senator Jensen said, a certain fall or such may do some damage and yet may not be noticeable at that time for several weeks, several months, and some of the caregivers of these people, it's a very depressing situation. And I think it's important probably for a number of reasons--looking at

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insurance, looking at workmen's comp, some of these other areas--that we do have a registry as has been suggested in this bill. So I...I certainly hope...I do have one question for Senator Jensen.

SPEAKER KRISTENSEN: Senator Jensen.

SENATOR JENSEN: Yes.

SENATOR STUHR: It talks on page 4 about the different classifications and I'm not...having not been in your committee, it said that their confidential use is Class I, Class II, and then this bill does add Class III. Could you explain to me something about those?

SENATOR JENSEN: Well, first of all, Class III is being eliminated with the amendment.

SENATOR STUHR: Okay.

SENATOR JENSEN: That's not in there anymore. And the class is just a...how that particular injury actually took place. I can...I can read what was presented to us. Class I data shall be confidential with release only in aggregate data reports created by the department on a periodic basis, usually specified in the statutes creating the registry. These reports shall become public documents. Class II data shall be confidential with release only in aggregate data reports created by the department at the request of an individual. And Class III, which was eliminated; but Class IV data shall be confidential with release of case-specific data to approved researchers for specific research projects. The approved researcher shall maintain the confidentiality (sic) of the data itself. So that's what each one of those would represent.

SENATOR STUHR: Senator Jensen, I'm thinking you're adding Class III.

SENATOR JENSEN: No.

SENATOR STUHR: No?

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SENATOR JENSEN: No, Class III...

SENATOR STUHR: Oh, it's underlined.

SENATOR JENSEN: ...Class III was in the bill and we're...

SENATOR STUHR: Oh.

SENATOR JENSEN: ...taking that out because of confidentiality that the department had concern about.

SENATOR STUHR: All right. Thank you for that clarification. Thank you.

SPEAKER KRISTENSEN: Senator Wehrbein.

SENATOR WEHRBEIN: Mr. President, members of the body, Senator Jensen, I'd just like to ask one question. I don't want to belabor the point. It is \$95,000 potentially of General Funds. Is there a high likelihood of federal funds in this, and will we know this by April? I will tell you, the way the budget is going, we're going to be looking for hundreds of thousands of dollars by spring and I just thought I'd get a feel of it.

SENATOR JENSEN: We probably will not know by April. It will probably happen later on in the year. So, yes, this will be a General Fund or could be a General Fund expenditure, but we will know later on in the year and we'll...

SENATOR WEHRBEIN: It's now being used federally-funded, and when will that...

SENATOR JENSEN: That is correct.

SENATOR WEHRBEIN: ...when will that run out? Do you know that?

SENATOR JENSEN: Jeff, do we know the exact date that their lists...? We should know by the beginning of the next fiscal year.

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SENATOR WEHRBEIN: Which is July.

SENATOR JENSEN: Yes.

SENATOR WEHRBEIN: Okay. I'm going to reserve the right to look at this when this comes up in May for as far as the costs. Thank you.

SENATOR JENSEN: All right. Thank you.

SPEAKER KRISTENSEN: Further debate on advancement of the bill? Senator Jensen, you're recognized to close. He waives closing. The question before the body is the advancement of LB 152. All those in favor vote aye; all those opposed vote nay. Record.

CLERK: 28 ayes, 0 nays, Mr. President, on the advancement of LB 152.

SPEAKER KRISTENSEN: LB 152 advances. Items for the record?

CLERK: Thank you, Mr. President. I have amendments to be printed: Senator Suttle, an amendment to LB 21; Senator Baker to LB 166; Senator Chambers to LB 55; Senator Chambers to LB 462; Senator Chambers to LB 376; and Senator Landis to LB 53. In addition to that, Mr. President, I have a new A bill. Senator Jensen offers LB 334A. (Read by title for the first time.) Senator Jensen also offers LB 152A. (Read by title for the first time.) And, Mr. President, I have an explanation of vote from Senator Bruning (re LB 36). That's all that I have. (Legislative Journal pages 565-571.)

SPEAKER KRISTENSEN: Thank you, Mr. Clerk. We next move to LB 270.

CLERK: LB 270, Mr. President. It's a bill by Senator Hudkins. (Read title.) Bill was introduced on January 5, referred to the Health Committee, advanced to General File. I do have committee amendments, Mr. President. (AM0119, Legislative Journal page 429.)

PRESIDENT MAURSTAD PRESIDING

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PRESIDENT MAURSTAD: Thank you, Mr. Clerk. Senator Hudkins, you're recognized to open on LB 270.

SENATOR HUDKINS: Thank you, Mr. President and members of the body. LB 270 provides a statutory licensing and regulatory mechanism for acupuncturists who wish to practice in our state. Why is this bill important? Well, right now there is a peculiarity in our state law that prevents a patient who might wish to use acupuncture from going to a skilled practitioner in Nebraska professionally trained in that science. Instead, that patient must see a medical doctor or a chiropractor, both of whom are certainly expert in their own respective fields but they are likely to have only a rudimentary or knowledge of or very little background in this very complex skill and, as a result, Nebraska patients who wish to receive this treatment from a licensed and experienced acupuncturist must go to another state. Quite simply, the bill would change the law which currently permits caregivers, medical doctors and chiropractors with relatively little specific training to offer acupuncture services, while it also prevents the most thoroughly prepared practitioners of that science from administering it. At the same time, though, the bill has absolutely no impact upon the way in which either doctors or chiropractors currently use acupuncture in their practices. Those already permitted by their professional licenses to perform acupuncture will be able to continue doing so. If physicians and chiropractors may administer acupuncture with approximately 200 hours of schooling, then it only makes sense that trained acupuncturists with an average of 2,000 hours of formal instruction should be allowed to practice it as well. What this really boils down to then is a matter of health care choice. It seeks to give patients desiring acupuncture treatment a choice. They may receive it from a medical doctor, a chiropractor, or someone whose professional expertise is in that specific field. What may seem strange to us is readily accepted by those of Asian descent. Acupuncture has thousands of years of history and many whose cultures practice it swear to its effectiveness. The fact that both medical doctors and chiropractors in this state already may practice acupuncture indicates that Nebraska's health care community also appreciates its therapeutic worth.

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So it doesn't seem right to prevent people from having ready access to acupuncture from the practitioner of their choice in Nebraska rather than forcing them to go to another state. Turning to the specifics of the bill, let me emphasize one more time that this bill applies to only those who are not already permitted to practice acupuncture. Before being permitted to administer acupuncture in Nebraska, an individual would be required to have a license to practice from the Department of Health and Human Services Regulation and Licensure. To receive that license an applicant would have to show proof of current active status as a diplomate in acupuncture with the National Certification Commission for Acupuncture and Oriental Medicine, and they would also have to show successful completion of a clean needle technique course approved by that same body. The concern of certain physicians that acupuncturists without a western medical background might attempt to treat conditions and ailments beyond their expertise has been addressed in the bill by two specific provisions. First, no licensed acupuncturist may practice acupuncture unless the patient has a letter of referral or a medical diagnosis and evaluation completed by a medical or osteopathic doctor, and I have an amendment to change this next part. The bill currently says within 12 months. I have an amendment that will change that 12 months to 90 days and that does remove the opposition from the medical doctors. And also, number two, the acupuncturist has obtained voluntary and informed consent of the patient, based upon information given to the patient. Thirty-nine states currently license trained acupuncturists, and five others, including Nebraska, are now considering legislation to do so. Maryland adopted the very first acupuncture law in 1973 and, since then, there have been very, very few cases of acupuncture-related incidents in any of the states. LB 270 adheres closely to the Acupuncture Act laws already adopted by those 39 other states. And one last important point about the bill, that it expressly prohibits acupuncturists from performing spinal manipulation or practicing medical nutrition therapy, and that pretty much took care of the opposition from the chiropractors. At the hearing, there was opposition from the Medical Association and from the chiropractors, who had a couple of questions actually, and with the amendments from the committee and with the amendment that I am proposing, all of the opposition has been withdrawn from this

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bill. So I would appreciate your advancing it to the next round of reading. Thank you.

PRESIDENT MAURSTAD: Senator Jensen, you're recognized to open on the committee amendments.

SENATOR JENSEN: Thank you, Mr. President, members of the body. In the definition of acupuncture in the bill, the committee amendment replaces the term "traditional and modern oriental medicine (sic--medical) principles", with the term "acupuncture theory". The definition of the acupuncture now reads, in part, "Acupuncture means the insertion, manipulation, and removal of acupuncture needles...at specific points or meridians on the human body for the promotion, maintenance, and restoration of health and the treatment of disease, based on acupuncture theory." An objection to the bill heard in the committee was the concern to limit the scope of the bill to just acupuncture and not the broader practice of oriental medicine, of which acupuncture is only a part. The amendment would help to clarify that the bill is not intended to license the broader practice of oriental medicine, but only to zero in on the practice of acupuncture itself. I would simply urge the adoption of the amendment. Thank you, Mr. President.

PRESIDENT MAURSTAD: Thank you, Senator Jensen. Debate on the committee amendments to LB 270? Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, I'd like to ask Senator Jensen a question.

PRESIDENT MAURSTAD: Senator Jensen, would you yield?

SENATOR JENSEN: Yes, I will.

SENATOR CHAMBERS: Senator Jensen, I was occupied and I looked at what the committee amendment is in the book, and is that where they change to the term "acupuncture principles" rather than that other language that included the word "medical"?

SENATOR JENSEN: Senator, that is correct; it takes out that...it...it had previously been defined as traditional and

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modern oriental medical principles. And this reduces that to acupuncture theory.

SENATOR CHAMBERS: Thank...Senator Jensen, I'm not going to object to the committee amendment; but, while I have you standing, and this was before your committee, I see the people who came to speak for this bill, and they are individuals who'd have a financial interest in this being done. Is that true?

SENATOR JENSEN: These were individuals, yes, who practice acupuncture.

SENATOR CHAMBERS: Now, I see listed several times "Nebraska Oriental Medicine Association", they do not say "Medical", I want to make that clear so I'm not confusing them with a medical practitioner or a doctor. But the term can be misleading to the layperson. Here's what I want to ask you, what is this Oriental Medicine Association?

SENATOR JENSEN: Senator, I can't really answer that. Oriental medicine, of course, would not only be acupuncture, but it would involve other things that they would do. I'm not an expert in oriental medicine, but it certainly expands it beyond just the acupuncture that this bill will now address with this amendment.

SENATOR CHAMBERS: And I will get into that later, but I was just trying to figure out who these people are because when an outfit that is going to make money wants to create a licensing provision in the statute, not only might it authorize them to do something, but it shuts other people out who may be just as qualified as they are. I would like to ask you a question while I have you. Do you have your green copy of the bill before you?

SENATOR JENSEN: I do now, yes, sir.

SENATOR CHAMBERS: Can you turn to page 10?

SENATOR JENSEN: Yes.

SENATOR CHAMBERS: In line 20 and 21, lines 20 and 21, what is the National Certification Commission for Acupuncture and

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Oriental Medicine? What is that?

SENATOR JENSEN: It is a national certification that has been set up to address acupuncture.

SENATOR CHAMBERS: How do I know that by reading this statute? Where is this referred to, so that I, as a reader of Nebraska law, would know what in the world this applies to? Is this a Nebraska outfit, do you know?

SENATOR JENSEN: No.

SENATOR CHAMBERS: Is it...

SENATOR JENSEN: It is a national...

SENATOR CHAMBERS: Is it incorporated under the laws of Nebraska?

SENATOR JENSEN: No.

SENATOR CHAMBERS: Then it could be composed of those creatures who look like a duck, who walk like a duck, who "quack, quack" like a duck, is that possible?

SENATOR JENSEN: In your analogy, that could be possible.

SENATOR CHAMBERS: I'm just alerting you to some of the...and those who support the bill, some of the things that I will be querying about. At this point I'm going to support the committee amendment, because all it does is...I like to mispronounce words and I heard Terry Bradshaw mispronounce this one, it takes some "suchi" and sings it a little bit and makes it just a tiny bit less unpalatable. So, on that basis, I'm going to vote for the committee amendment, but I don't know whether I'll...

PRESIDENT MAURSTAD: One minute.

SENATOR CHAMBERS: ...support the bill. Thank you, Mr. President, that's all I have.

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PRESIDENT MAURSTAD: Senator Chambers. Further debate on the committee amendments? Senator Jensen, you're recognized to close on the committee amendments. Senator Jensen waives closing. The question is the adoption of the committee amendments to LB 270. Those in favor vote aye; those opposed vote nay. Please record.

ASSISTANT CLERK: 29 ayes, 0 nays, on the adoption of committee amendments, Mr. President.

PRESIDENT MAURSTAD: Committee amendments are agreed to. Mr. Clerk.

ASSISTANT CLERK: Mr. President, Senator Hudkins would move to amend. (AM0170, Legislative Journal page 558.)

PRESIDENT MAURSTAD: Senator Hudkins, you're recognized on your motion to amend LB 270.

SENATOR HUDKINS: Thank you, Mr. President and members. The amendment that I referred to in my opening remarks is AM0170. And on page 11, line 13, it strikes "12 months" and inserts "90 days". This question came to us from the Nebraska Medical Association and they were concerned that someone could go to a doctor for a broken leg or whatever, and then eleven and a half months later they could go to an acupuncturist for treatment for some totally unrelated incident. And we said, yeah, we agree. So, with the cooperation of the licensed acupuncturists, they said, yes, we would have no problem with changing that 12 months to 90 days. And so, that's all that this amendment does is just reduces that time from which you can have a medical diagnosis. And I would think that within the 90 days the referral or the diagnosis would be the same complaint that you would go to an acupuncturist for. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Hudkins. For debate on the Hudkins amendment, Senator Chambers.

SENATOR CHAMBERS: Thank you, Mr. President. Senator Hudkins, I must ask you a question or two.

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SENATOR HUDKINS: Yes.

PRESIDENT MAURSTAD: Senator Hudkins.

SENATOR HUDKINS: Yes.

SENATOR CHAMBERS: Senator Hudkins, you used the term "licensed", I think, "acupuncturist". Are there people who are licensed to practice acupuncture now?

SENATOR HUDKINS: There are licensed acupuncturists, but they may not practice in Nebraska. There is one gentlemen living here in Lincoln, he is a licensed acupuncturist, but he has to go to Council Bluffs to practice.

SENATOR CHAMBERS: So, that's what I was wondering,...

SENATOR HUDKINS: He is not licensed...

SENATOR CHAMBERS: ...if there already are such people in Nebraska, then what would be the need for the bill? But there are no...there is no recognition of any acupuncturist, other than this doctors, chiropractors and others who perform it as a part or within the scope of their practice which they're licensed to conduct at this point?

SENATOR HUDKINS: That's correct. Medical doctors and chiropractors may now, within the scope of their license, practice acupuncture. The only problem is that they are not exposed to as many hours of that science as people who would like to have acupuncture performed on them would like to have. In other words, one doctor said, not at this hearing but at another hearing, that I...last year, I am licensed to practice acupuncture, but I have had absolutely no training in it. And the point of this bill is to give patients the choice. If they want to have acupuncture, they can go to a medical doctor, they can go to an acupuncturist, but they would prefer to have this treatment performed by someone who is specifically trained in this practice.

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SENATOR CHAMBERS: Senator Hudkins, on page 10 in Section V, that would be lines, that I'm looking at right now, lines 5 through 17, it mentions a multitude of activities, some which an acupuncturist will be able to engage in, others which he or she would not. Now when we talk about what the acupuncturist will be able to do, this is the language that would be pertinent, starting in line 5 on page 10, "for purposes of the uniform licensing law", I would like to ask you, is that uniform licensing law reference made to this bill or that's the existing uniform licensing law? Because there is already a uniform licensing law, so that's just a reference to that?

SENATOR HUDKINS: If I understand your question correctly, the uniform licensing law also regulates medical doctors, podiatrists,...

SENATOR CHAMBERS: Yes, so we're...

SENATOR HUDKINS: ...the whole gamut.

SENATOR CHAMBERS: ...and we're not changing that...

SENATOR HUDKINS: Right, yeah.

SENATOR CHAMBERS: So, the reference is to that law as it exists now.

SENATOR HUDKINS: Yes, and we're...

SENATOR CHAMBERS: Okay.

SENATOR HUDKINS: ...adding acupuncturists to be governed under that law also.

SENATOR CHAMBERS: Right. Now, here is what...here is what the acupuncturist is going to be involved in, starting in line 6, "acupuncture means the insertion, manipulation and removal of acupuncture needles". What is an acupuncture needle?

SENATOR HUDKINS: An acupuncture needle is a specialized needle, very, very fine in diameter. The needle that is used when you

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go to donate blood is not even close. An acupuncture....

SENATOR CHAMBERS: Okay, let me stop you. Is there a definition of acupuncture needle in the book, I mean in this bill?

SENATOR HUDKINS: No.

SENATOR CHAMBERS: So, if there should become an acupuncture needle definition in the book, in this bill, any other needle would not be covered. Is that true?

SENATOR HUDKINS: Yes.

SENATOR CHAMBERS: And a person would be able to insert any needle that did not meet that description...

PRESIDENT MAURSTAD: One minute.

SENATOR CHAMBERS: ...and be able to insert, manipulate and remove it?

SENATOR HUDKINS: Well, then I said the wrong thing. An acupuncture needle is the only kind of needle that could be used to perform acupuncture.

SENATOR CHAMBERS: So a person could use a different needle and call it something else and go through the same insertions, manipulations and removals?

SENATOR HUDKINS: That's not the intent.

SENATOR CHAMBERS: But that could be done?

SENATOR HUDKINS: I don't know.

SENATOR CHAMBERS: Since I only had a minute, I will not take the rest of that time. I'll put my light on again. Thank you, Mr. President.

PRESIDENT MAURSTAD: Thank you, Senator Chambers. (Visitors introduced.) Further debate on AM0170 to LB 270? Senator

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Hilgert.

SENATOR HILGERT: Thank you, Mr. President, members. I...I assume that acupuncture is a type of medicine. If Senator Hudkins could yield...

PRESIDENT MAURSTAD: Senator Hudkins.

SENATOR HUDKINS: Yes.

SENATOR HILGERT: This is a type of medicine, an alternative type of medicine, is that correct characterization?

SENATOR HUDKINS: Oriental medicine is an alternative type of medicine. Acupuncture is only one part, and that's the only thing that we're addressing is acupuncture.

SENATOR HILGERT: Okay. And on page 11, under the disclaimers, the informed consent, it shall include that "The disclosure...that an acupuncturist..."

SENATOR HUDKINS: What line, Senator?

SENATOR HILGERT: "...is not licensed to practice medicine". If they're licensing people to be an acupuncturist and an acupuncturist is a medical procedure, then in your bill you're telling people that in the informed consent that it is not medicine. And I'm just confused by your language here. Or...or do you have a line somewhere that I missed that says this in no way is medicine?

SENATOR HUDKINS: If you would go back to page 10,...

SENATOR HILGERT: Yes.

SENATOR HUDKINS: ...line 11,...

SENATOR HILGERT: Um-hum.

SENATOR HUDKINS: ...that might answer your question where it talks about acupuncture theory.

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SENATOR HILGERT: No, it assu...well, yeah, that's what confuses me because on this...the whole Section 5 would lead one to believe that this somehow is a practice of medicine, a type of medicine.

SENATOR HUDKINS: Oriental medicine is, yes, a type of medicine.

SENATOR HILGERT: But then on page...

SENATOR HUDKINS: This bill does not allow the whole realm of oriental medicine, only acupuncture.

SENATOR HILGERT: Well, on page 11, line 22 and 23, in Section VIII, subsection (2), it says, "The disclosure that an acupuncturist is not licensed to practice medicine", so you're saying that this is not the practice of medicine.

SENATOR HUDKINS: Acupuncture is not medicine, it is a type of treatment used in oriental medicine. Acupuncture includes...acupuncture theory includes massage, and you received a handout, it talks more about what it includes in that handout.

SENATOR HILGERT: Okay, so but you would admit that this is not the practice of medicine,...

SENATOR HUDKINS: Right.

SENATOR HILGERT: ...oriental medicine is...in this act.

SENATOR HUDKINS: Is not...

SENATOR HILGERT: What you're licensing is not practicing medicine?

SENATOR HUDKINS: ...is not western medicine, which we are used to.

SENATOR HILGERT: Well, that's not what page...on page 11, line 22 and 23, it says the disclosure that an acupuncturist is not licensed to practice medicine. It doesn't say is not

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licensed to practice western medicine.

SENATOR HUDKINS: You're correct.

SENATOR HILGERT: Okay. So, perhaps, maybe we should amend that at some point in time to say the disclosure that an acupuncturist is not licensed to practice western medicine.

SENATOR HUDKINS: If you want to make that amendment, I would support it.

SENATOR HILGERT: Well, don't you think that would clarify it, or...

SENATOR HUDKINS: Sure, yeah, absolutely.

SENATOR HILGERT: Okay. And what is oriental?

SENATOR HUDKINS: What is...

SENATOR HILGERT: What...what does oriental mean?

SENATOR HUDKINS: Oriental is that group of people and/or countries from...it's a circular definition, I know, before you say so,...

SENATOR HILGERT: Yeah.

SENATOR HUDKINS: ...from the Orient--Japan, China, Taiwan, all the rest of the countries.

SENATOR HILGERT: Would it be all the countries in East Asia?

SENATOR HUDKINS: If they are considered Asian countries, oriental countries, yes. And, and I...I...

SENATOR HILGERT: Well, see, that's what I don't understand,...

SENATOR HUDKINS: ...don't have my globe.

SENATOR HILGERT: ...because oriental is a western term imposed

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on an indigenous people; they didn't come up with...you know, all the people in eastern Asia didn't sit around saying, hey, we're all orientals. It was something that the Imperialists decided to call them. And I'm wondering what exactly that term includes.

PRESIDENT MAURSTAD: One minute.

SENATOR HILGERT: I mean, is it Burmese, is it Vietnamese, is it Australian? I mean they're kind of east of there, too. Is it Filipinos, and is that not a large definition and...well, it's not even a definition of what oriental is.

SENATOR HUDKINS: It probably is a large definition. The Asian people themselves call themselves orientals.

SENATOR HILGERT: So, Russians are orientals?

SENATOR HUDKINS: They don't call themselves orientals, no.

SENATOR HILGERT: But they're in Asia.

SENATOR HUDKINS: Not all Asia is oriental.

SENATOR HILGERT: Well see there, you've come to the problem, because frankly if you use Asia as a definition, then that would include Russia and some of the independent Commonwealth states. But...well, anyway, I think you get the point that I do think that there needs to be more definition to this law. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Hilgert. Further debate on the Hudkins amendment? Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, Senator Hilgert is touching on some of the things that I'm looking at in this bill. I know people from countries in Asia, and they consider the term oriental to be a pejorative, demeaning term. To put it in the statute, I think, is a mistake. There are some ignorant black people who will use the "N" word, but I would certainly hope that would not encourage the Legislature to say, well, because some black people use the

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word, it becomes legitimate. It's illegitimate, no matter who uses it. Terms like "oriental" should not be put in this statute. Nobody knows what it means. It has that exotic sound to it. I'm looking at the term "western". Does that refer to any state within America west of a certain geographic position in America? This looks like one of those model bills that some outfit wanted to get all of the states to adopt, because when we are talking in this bill, on page 3, about who is going to be doing this licensing and do other...carry out other activities, the language in the bill says...well, I'm not going to quarrel with that because the main thing is the new language that's being offered. The existing language will tie into this new language, but I don't want to go into that right now because I want to focus on the language itself. Those who are not of the Caucasian persuasion went through school and did not notice a lot of things that those of us who are not noticed. Now when I was in elementary school, when they had maps of geography they had a huge land area. And you know what that land area was identified in my geography book as being? Indochina, that's all...that's all...that whole land mass was Indochina. And to us that was the name of a country, because everywhere else in this map that we had we saw the names of countries. But certain peoples were not up to snuff and they were dealt with in that dismissive manner. I don't think the term "oriental" is appropriate. But I'd like to ask Senator Hudkins a question.

PRESIDENT MAURSTAD: Senator Hudkins.

SENATOR HUDKINS: Yes.

SENATOR CHAMBERS: Senator Hudkins, on page 11 in line 5, where it says "oriental medical college", does that mean the college is located in the part of the world what...wherever it is that would be called the Orient?

SENATOR HUDKINS: No, it does not, because oriental is not capitalized.

SENATOR CHAMBERS: Would it refer to a college run by people who are oriental?

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SENATOR HUDKINS: Not necessarily; it could.

SENATOR CHAMBERS: So, what does it mean, if it has a meaning? And I'm not requiring you to manufacture things on the spot because, as I said, it looks like a model bill. What would that refer to, "an oriental medical college", as opposed to other medical colleges?

SENATOR HUDKINS: My thought is that an oriental medical college would be a college which teaches oriental medicine. We have a list, in the United States and Canada, of quite a number of colleges that teach this type of medicine.

SENATOR CHAMBERS: Are they called "oriental medical colleges", or they're medical colleges that teach whatever this kind of medicine is?

PRESIDENT MAURSTAD: One minute.

SENATOR HUDKINS: The list...the list of schools that have are a variety of names: Pacific College of Oriental Medicine, Kansas College of Chinese Medicine, New England School of Acupuncture, Traditional Acupuncture Institute, and on and on and on.

SENATOR CHAMBERS: Would those be considered oriental medical colleges, all of them? I don't know.

SENATOR HUDKINS: They are connected with the American Association of Oriental Medicine.

SENATOR CHAMBERS: But this says medical college...do these colleges give medical degrees to those who complete them?

SENATOR HUDKINS: In...in oriental medicine.

SENATOR CHAMBERS: But they are not medical degrees where a person would be able to put M.D., legitimately, behind his or her name?

SENATOR HUDKINS: I am assuming you are correct.

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SENATOR CHAMBERS: I don't really know, so that's why I'm asking.

SENATOR HUDKINS: And I don't either, but I'm assuming, since they're talking about a comprehensive listing of schools with the American Association of Oriental Medicine...

PRESIDENT MAURSTAD: Time. Senator Chambers, you're recognized to continue.

SENATOR CHAMBERS: Thank you. Senator Hudkins, I'm not going to drag this out with you, because this isn't one of those where I'm trying to get a certain answer out of you. Members of the Legislature, this bill, I think, deals with quackery. No reference to Senator Hudkins. I'm dealing with the bill, Senator Hudkins; I hope you can see...(laugh), okay, she understands. Trying to make me lose my thought. On page 10, there are treatments under this bill which are applied, not to the person, but to the needles. There are treatments applied to the needles. What treatments are applied to the needles? Manual, mechanical, thermal, electrical and electromagnetic treatment to such needles, which means, I guess, you get a bigger buzz for the buck. They put this little needle in you, then they hook it up to a vibrator of some kind and turn it on. And I presume that it's a relatively small dosage of electromagnetic...let me ask a question before I go further. I'm making presumption. Senator Hudkins,...

PRESIDENT MAURSTAD: Senator Hudkins.

SENATOR HUDKINS: Yes.

SENATOR CHAMBERS: ...in line 8 on page 10, what is the electromagnetic treatment that is applied to these needles?

SENATOR HUDKINS: Just exactly what you said, it is a small amount of electric current. And if you...have you ever had acupuncture therapy?

SENATOR CHAMBERS: I don't believe in quackery.

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SENATOR HUDKINS: Well, you are looking at a practice of therapy that is thousands of years old. But go back to what your medical...your electronic therapy. This is the same thing that is used in...what's the word? My daughter had knee surgery, had to go in for physical therapy, they...they did not use acupuncture, but they did use an electromagnetic current on her knee, same thing.

SENATOR CHAMBERS: And that would be applied to the needle, when the needle is inside of a person?

SENATOR HUDKINS: Yes.

SENATOR CHAMBERS: What is a "meridian", or what are "meridians"?

SENATOR HUDKINS: It is a...an imaginary, horizontal or vertical line drawn through the body. The Chinese believe, the orientals, the Asians, believe that there are certain points in your body that are affecting other parts of your body. I don't pretend to understand it.

SENATOR CHAMBERS: Right, they have all kind of charts. They draw...they map you out; they map out the human body and they say if you stick one of these needles in a certain location on the body and you manipulate it, it will affect an organ or something located in another place in your body. It doesn't work for everybody. This is not a science, contrary to what my good friend, Senator Hudkins, said. If it's anything, it is an art. And to me it is not the art of medicine, it is the art of quackery. People are so desperate for something new and they'll accept anything that may offer them relief. If they have something going on in their mind that they cannot get relief from, they will accept the notion that if you stick the needle somewhere in their foot, then you might cure what's in the mind. And if you can make the person believe that and relax the tension that they are self-generating, then they get some relief and they relate it to the needle that was stuck in their foot. So there might be some benefits derived from this activity, just as there is some relief derived from going to a tarot card reader or a fortune teller, or a conjure woman or man, where you

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deal with peoples' mind and you try to put them in a state mentally where, if there is a healing process that is going to take place, their mental attitude will not interfere with it. If it's the kind of condition where...

PRESIDENT MAURSTAD: One minute.

SENATOR CHAMBERS: ...a positive mental attitude can facilitate healing, you try to put them in that positive mental state. But beyond that, I don't see this as anything other than patent medicine, not in a bottle, but the high tech version. Senator Hudkins mentioned that these practices are over 1,000 years old, which I do not quarrel with. But that which is done in America and other places are faddish, new age and quackery. The thing that proves its quackery is the fact that doctors will use it who have no training in it, which means all you do is stick needles in people and they look like a pincushion, so they feel like they're better. They ought to call it 'porkypineology', but at any rate...is that my third time, Mr. President, on this particular one? Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Chambers. Further debate? Senator Hudkins.

SENATOR HUDKINS: Thank you, Mr. President and members of the body. Senator Chambers talked about this method being quackery. Well, if it's quackery, why does the Nebraska Medical Association recognize it? Why does the Chiropractic Association practice it? These forms of medicine are exposed to acupuncture, but they are only given, on average, 200 hours of training, where a licensed acupuncturist receives approximately 2,000 hours of training. He said that this acupuncture doesn't work on everybody. No, it doesn't, but neither does medical therapy, neither does chiropractic. Not everyone has the same tolerance to pain or the same problems. What the purpose of this bill is is to allow those who do believe in acupuncture and have received relief from their pain from it to have a choice from whom they would like to receive this therapy--a medical doctor or a chiropractor with 200 hours, and they might be quite good, or a licensed acupuncturist who has approximately 2,000 hours of training. Are all of these licensed people good?

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No, just like all medical doctors are not good. This bill is about a choice. And if you remember, we're getting kind of far afield here, but this particular amendment simply reduces the time from 12 months to 90 days from when this referral, from a doctor, will be in effect. The doctor has seen this person. The doctor may refer this person to an acupuncturist. Sometimes doctors themselves will say, frank...well, they won't say it, but they'll be thinking it. Frankly, I don't know what's wrong with you. We have tried this medicine, we have tried that medicine, we have tried this treatment, we have tried that treatment and nothing is working. Why shouldn't you be allowed to try something else? Acupuncture works, not on everybody but it does work. If it's quackery, I don't believe the Nebraska Medical Association or the Chiropractic Association would be allowing it to be used. So, going back to the amendment, if there are no further lights, I would appreciate your support on this amendment and then we can talk more about the bill. Thank you.

**PRESIDENT MAURSTAD:** Thank you, Senator Hudkins. Senator Preister, debate on the Hudkins amendment to LB 270?

**SENATOR PREISTER:** Thank you, Honorable President. I rise in support of the amendment. I think the reduction in time is a good thing. I also want to relate some experience that I have had indirectly with an acupuncturist. Actually, the acupuncturist was a trained veterinarian and worked on animals, not people, and received some additional certification to do acupuncture. And I had been...not a duck, but a horse that I have, and my horse was having some difficulty in its gait and in walking and I could see that there was obviously some difficulty and was not able to get ahold of the veterinarian that I normally would use and was able to locate a veterinarian who came who also happened to do acupuncture. My horse is very reticent to even go near a veterinarian because the smell of the medicines, the knowledge that when a veterinarian comes around, that smell usually means getting stuck with a needle and that's painful, and so she was very tense. As animals that are tense would do, her head was high in the air and she was very reluctant to even let him get near. He started doing some manipulation, before he injected any of the needles, and

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checking where he thought that he could feel heat coming out of her body so he could identify where there was a problem. In doing that, she was still reticent, still hesitant to have him do anything. He began to stick some needles in her, and as he started doing that her head went down, she began to relax. He continued doing that and her head got lower and lower, and I'm sure Senator Jones can attest that when a horse's head is lowered, they are relaxed, they tend to be more comfortable. I can't say exactly what those needles were doing to make my horse feel more comfortable, but there was no placebo effect, there was no attitude of, this is something that may help me; she didn't trust it; she doesn't like needles; she avoids at all cost getting away from a veterinarian, but this veterinarian was able to insert, and these are needles that almost look like a hair, they are so thin. And with the injection of those by this trained veterinarian, her body language was such that she totally accepted him and whatever needle he wanted to place in her. It also demonstrated to me that something was causing her to no longer have the pain, to no longer have the stiffness or soreness that she had exhibited prior to this treatment. And through the course of what he did, she accepted it, she felt better about it with no preconceived idea that something was going to change. And fortunately later her gait and her walk and her carriage also improved and I no longer saw the problem that she exhibited before. So my only experience with chiropractic, and this was the first and only direct experience, was through my horse. It did have an effect; it did clear up the problem and it was after the experience that was totally unlike her experience with a veterinarian since or during or before.

PRESIDENT MAURSTAD: One minute.

SENATOR PREISTER: So, I would like to see some certification. I would like to see this as an option, not only to people who may choose to use it on their animals, but for those people who may choose this as a method in addition to traditional western medicine as a way to address health issues that may be able to be helped, and to have that certification in a way so that there is some certainty that there has been some training and some ability to have more experience, more knowledge in that

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practice. I support the amendment and at this point I also support the bill and will certainly look at and welcome amendments to help to improve it. I thank you very much.

PRESIDENT MAURSTAD: Thank you, Senator Preister. Mr. Clerk.

CLERK: Mr. President, Senator Chambers would move to amend Senator Hudkins' amendment. (FA23, Legislative Journal page 575.)

PRESIDENT MAURSTAD: Senator Chambers, you're recognized to open on your amendment.

SENATOR CHAMBERS: Mr. President, members of the Legislature, I need the opportunity to continue this discussion. My amendment would strike "90", in Senator Hudkins' amendment, and insert "60"; the number of days would be reduced. Senator Preister made some interesting comments. I am not an expert on animal husbandry, animal treatment or anything else, but I have read books. And there is a man who is able to break wild horses without cruelty, without the infliction of pain, and he has done it all over the country and in other parts of the world, even for members of the royal family in Britain. The traditional understanding was that you had to whip these horses down, you had to break their will and you had to dominate; his view was not that. Some people use the term "gentling", some people called these individuals "horse whisperers", but the idea is that you do not use pain, you do not use the infliction of fear or torture to try to get animals to do what you want them to do. There is an animal trainer who has been in circuses and he is one of the most famous, and I'm not going to give his name, but his initials are G.G., maybe that means Good Guy, or when people see how effective he is they say, Good God. But anyway, that will help you remember his initials. He uses no whip, no chair, no cap pistols, none of those traditional things and he is able to pick up a panther and drape it over his shoulders, he is able to enter a cage with these animals who were not subjected to pain or torment or the kind of conditioning that has been thought to be necessary. So, one thing that was learned which those who were in rodeos did not know, that if a person sits down on a horse in that little enclosed area, a bronco, before

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they release it and the horse is mashing against the leg, they didn't know how to get it away, so they'd try to push the horse to make it get away from the leg. Well, when they pushed the horse, the horse will push against whatever is pushing against it. So if somebody went to the other side of the horse and exerted just a modicum of pressure, the horse would move against the source of the pressure and move away. So those things which seem logical, based on how humans react to things, do not apply in the animal kingdom. When scientists use "meeses", you all call them mice, when scientists use "meeses" to conduct various experiments and will achieve certain things, like producing tumors, then eradicating them, the scientists will immediately say that does not mean that it will achieve the same effect in a human being. Some substances and methodologies which will produce a tumor in an animal will not necessarily produce one in a human being. Some things which will not affect a human being will create a fatal disease in an animal. So what Senator Preister observed probably happened exactly the way he said that it did, which would show that there is some art to what is being discussed. There are individuals who massage and rub animals as large as horses and bring about relief, apparent relief, because they cannot talk to the animal, but based on the change in behavior of the animal, as observed by Senator Preister, conclusions were drawn that this kind of activity and treatment of the animal is helpful. What we're talking about here are human beings who do have the power to reason, who do have self-awareness, who can be affected psychologically, not by the manipulation of a needle or even the administration of a substance which they're told is a medication, peoples' minds come into play, and that's why, when they want to have a controlled experiment, some people get the substance, others get the placebo or sugar pill to find out whether or not the medication really is having an impact or is it something happening in a person's mind when he or she thinks that a medication is being administered which is designed to cure whatever the condition is. So, Senator Hudkins wants to argue that because the medical doctors may recognize acupuncture and the chiropractors acknowledge it, I call chiropractic "chiroquack-quack", Senator Hudkins, and I know people swear by it, but I know others who swear at them because there was a fellow who had a fish, we called it a fish house, but it was a

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store, a place where he cooked fish and sold it. And his wife had a problem with her spine. This chiropractor did whatever he did, and one leg became shorter than the other; she experienced excruciating pain and she could not get corrected whatever it was. Maybe he pinched a nerve; I don't know what he did, but these are things that are as effective, maybe, as people want them to be. If you have a medical doctor and here is some practice that is not going to harm a person but will produce more income, yes, the doctor is going to do it. It's easy, just take a little hair-fine needle and stick it in somebody and spin it around, and say, there, how do you feel now? Well, because this comes from the Orient, wherever that is, this is a 3,000 year old activity; if it doesn't help me, something is wrong with me. Doc, I never felt so good in my life. And the doctor knows what kind of patient he's got now, because as soon as he gets through charging \$150 for that, he goes in his medicine cabinet and gets some of these bottles that they put labels and he runs some tap water, and then he gets a little cough syrup and pours it in there to color the water, and he says, now along with that ministrations of the needles, you take a teaspoonful of this every day until it runs out, and you'll be completely cured. And that person goes home and takes this water with a bit of cough syrup for coloring, a teaspoon a day, and it does make the pain go away, because the doctor knew what he had was a hypochondriac or some person who believed those advertisements for a patent medicine known as Hadacol. People are too young here to remember it. It had a high alcoholic content and didn't have to have a liquor license to be sold. And here's the kind of thing they'd say, and usually from people down south, my son wanted to play baseball but he always had a problem with his right shoulder; he took Hadacol, and now he's pitching for the New York Yankees; and people run out and buy Hadacol and it did make you feel good; that's what alcohol does. Somebody would say, I had an aunt who didn't go to school; she could neither read nor write; she took Hadacol and now she's teaching school (laugh). Of course, that doesn't mean necessarily she could read or write; Hadacol did everything. If Senator Preister had been able to persuade his horse to drink Hadacol, he'd say, I had a horse that could barely walk; I gave my horse Hadacol and she sprouted wings like Pegasus, and she's a flying all over the place in syncopated rhythm. And people with horses run out and

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buy Hadacol. And if they sip it along the way, by the time they got home they might not only see horses with wings, they might see pink elephants dancing and pirouetting. All of this stuff plays to the superstition, to the foolishness of people. There may really be an art of acupuncture, and there may be a way to get certain limited benefits from it, if it's applied by people who really understand what they're doing. But I'm not convinced others are. I'm not in favor of putting in statute...

PRESIDENT MAURSTAD: One minute.

SENATOR CHAMBERS: ...language that seems to give approval and endorsement to an activity which is not scientific at all. Senator Hudkins defined for us or described to us what the term "meridians" means. Well, some people would think of maps, charts, and maybe that's what is involved. But I think this bill needs a lot of discussion. And, if you pass it, it needs a lot of work. One amendment that I'm going to offer is to take this obnoxious language or "oriental medical college" out of the bill. And there will be other amendments I will offer to try to clean up some aspects of it. Then if you all want to help hoodwink the public, you can go ahead and do so, but I will not be a guilty party to that.

PRESIDENT MAURSTAD: Thank you, Senator Chambers. Senator Dierks, on the Chambers amendment.

SENATOR DIERKS: On the bill.

PRESIDENT MAURSTAD: Senator Hudkins, on the Chambers amendment.

SENATOR HUDKINS: Thank you, Mr. President and members. Just a couple of comments on some things that Senator Chambers said. He said that he referred to chiropractic as "chiroquack", whatever he said, "chiroquackic". I have had experience in chiropractic, as I'm sure many of you on the floor have also had. A number of years back I was thrown by a horse and I messed up my neck. I went to a chiropractor. Did he give me relief in one visit? Absolutely not; it took probably a half a dozen. But I did get relief. I got relief, in fact, the very first time, but I had to go back. My neck was thrown out of

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adjustment, out of alignment, and it takes perhaps more than one treatment to get things back where they belong. So just because a chiropractor does not get 100 percent relief the first time or a medical doctor does not get 100 percent relief the first time, does that mean that they also don't know what they're doing? Of course not. Very few times do you get 100 percent relief the first time, even if you go to an M.D. He might give you a prescription and then he will say, come back in a month, I want to see how you're doing. It's a follow-up visit; he wants to make sure that things are going the way they are supposed to. And as far as chiropractic, you need to have that follow-up visit, as well, the same for acupuncture. You're probably not going to get 100 percent relief the very first time. Senator Chambers referred to the acupuncture needles as being hair-fine needles. He knows and he knew what size needles the acupuncture needles were. The lady that spoke to us, her name is Barbara Mitchell, she's a licensed acupuncturist from Washington State, which means nothing, but she is a licensed acupuncturist. She came in and she passed around to the committee an acupuncture needle. She said it is finer than a pediatric needle, which is a pretty small, tiny needle. Senator Chambers admitted to me that he had never had acupuncture, neither have I; my father-in-law has. He was having some knee pain, he went to an acupuncturist. He did receive a great deal of relief with only one treatment. Now could it have been in his head? Part of it could have been. But the credo of a medical doctor or an acupuncturist or probably a chiropractic is, first, do no harm. But my father-in-law did receive relief from acupuncture treatments. I would like to call your attention to another sheet in your packet. Two things, actually. I'm going to quote this. One of the advantages of acupuncture is that the incidence of adverse effects is substantially lower than that of many drugs or accepted medical procedures used for the same conditions. And this comes from the National Institute of Health Consensus Conference, I don't have a date on it, however. Also there is substantial savings when you compare people with treatments of acupuncture versus those who did not. I don't know the number of patients in all of these cases. But the percentages might be interesting. Avoidance of arthroplasty surgery for the knee, in this case it was only 7 of 29 patients, the cost savings was \$9,000 per patient. If that were my child,

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or even me, I would certainly rather have an acupuncture treatment rather than full-blown knee surgery and at the same time save \$9,000 and probably a whole bunch of physical therapy. Decreased days in the hospital or a nursing home for stroke patients, slightly over half, 88 versus 161 days per patient versus not having acupuncture at the cost savings of \$26,000 a patient.

PRESIDENT MAURSTAD: Less than a minute.

SENATOR HUDKINS: Low back pain patients returning to physical labor, 62 percent versus 15. Avoidance of surgery and fewer hospital visits, \$13,000 per patient plus 79 percent fewer hospital days in the first year. Acupuncture works. This bill says give us a choice, we want acupuncture, I want to have it from someone who knows what they're doing. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Hudkins. Senator Kristensen, on the Chambers amendment.

SPEAKER KRISTENSEN: Thank you, Mr. President. Members of the Legislature, Senator Chambers, the discussion here is not unlike other discussions we have had in what I call turf wars where optometrists want to do the work of a medical doctor, the ophthalmologist and so on, and we try to accommodate those. And there are those of us that don't think that ought to happen. But what we have routinely done and I would suggest here is that if we're going to take acupuncture treatments or have people who give them, and that's going to...I think the discussion has been it's medical treatment; people go to this instead of getting some other treatment. Those people ought to be held to the standard of care that a medical doctor has in terms of diagnosis,...if they're going to be treating a disease in other words, or an injury and see that...well, you need three more treatments, they ought to be held to the standard that they should know or be held responsible that if they're not doing it correctly and that there's other treatment that they should have had and they should have sent them to them and ceased the acupuncture and sent them for surgery or some medical treatment, drugs or whatever they were supposed to do, wouldn't that...wouldn't that be a requirement that we ought to have for

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all these...all people doing acupuncture, that they should be held to a medical doctor's standard of care for their responsibility in doing these things to people? Because it's been outlined that this is an alternative treatment. So in other words, people are going to them, instead of going to a regular physician, you shouldn't escape your responsibility to those people. And, if bad things happen, that's where the responsibility and the liability falls back to those people that they're taking the place of a doctor, so they ought to stay in the doctor's shoes when examined in a liability case or some other. And my second suggestion would be, should there be some disclosure that this is not medical treatment? Or that we are not a medical doctor, and that there ought to be some affirmative obligation on behalf of the acupuncturist or whoever is doing this that unless they are a doctor they ought to have to affirmatively disclose that they're not a doctor. I would offer those as additional things, if you don't want to...I'll gladly run those as an amendment. I don't know if I can get them drafted today and put on to General File, but I would offer those as two additional things that we ought to require any acupuncturist to do. I'd yield my time to you...

PRESIDENT MAURSTAD: Senator Chambers.

SPEAKER KRISTENSEN: ...for some response to that.

SENATOR CHAMBERS: Thank you, Mr. Speaker. And, Mr. President, I think that those are good recommendations, if the bill is going to pass. But I also think there ought to be some liability on the doctor who makes the referral. Senator Hudkins pointed out that doctors will say, I don't know what's wrong with you; I'm not going to give you any treatments that I know of, so go over here to this needle sticker and see what he's going to do for you; and I hope it doesn't hurt, but I'll refer you. If the doctor who has the medical training in diseases and treatment is going to make a referral and the person is relying on the doctor and goes to the acupuncturist, then the doctor, I think, should have some liability also and the acupuncturist. So we can make them jointly and severally liable, or let there be some liability on the referring physician, because he or she should know to whom this person is being referred and whether

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the person is reputable and capable. So this is the first that I've thought of the idea, so I'm still messing with it in my mind.

PRESIDENT MAURSTAD: One minute.

SENATOR CHAMBERS: Can the Speaker answer...respond?

PRESIDENT MAURSTAD: Senator Kristensen.

SPEAKER KRISTENSEN: Senator Chambers, that's right. Would you...you would probably also, if you're going to do that, make that go to the chiropractors, as well, that their standard of care for referring those people would be that...I don't think you want to hold people...if you're going to be giving medical treatment, you ought to be held to the standard of care of a medical doctor.

SENATOR CHAMBERS: Yeah, and when I mentioned the doctor, that's the one we mentioned, but whomever is authorized to make these referrals would be the one who would share in the liability if the person referred were to suffer harm at the hands of this acupuncturist.

SPEAKER KRISTENSEN: And my statement of standard of care is that if I made that referral, my standard of care is what would an ordinary individual person with no medical training...what standard of responsibility, and that would be very, very low. You know, I wouldn't...I couldn't be sued for medical malpractice because I don't have a standard of care to live up to. If you're a chiropractor, shouldn't you have the...

PRESIDENT MAURSTAD: Your time has expired.

SPEAKER KRISTENSEN: Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Kristensen. Senator Chambers.

SENATOR CHAMBERS: Thank you. I'm going to continue this discussion with Senator Kristensen, if he wants to. But there

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are a couple of points I want to make. We have found a substitute for Hadacol, right here in Nebraska. I looked at this handout that Senator Hudkins gave us for the first time. Brothers and sisters, let me tell you what I am going to cure for you. I'm going to effectively treat these conditions: headache, is Senator Bruning here? If Senator Bruning got some acupuncture, he could get rid of me. I'm the biggest and worst headache he ever had in his life. So you all refer him to an acupuncturist. Dysmenorrhea, is that the way you pronounce this? D-y-s-m-e-n-o-r-r-h-e-a, it's funny that it has "men" in the middle of it, but it doesn't refer to men. But I'll let that alone. But you treat that with this acupuncture also. Fibromyalgia, now I've heard of neuralgia. Oh, this is serious I've been told, and you go to the acupuncturist and you don't have to go to Billy Graham or Oral Roberts for the laying on of hands, you don't have to go to the doctor anymore. You go let them stick some needles in you and give you a little shot of juice and your fibromyalgia is taken care of. It can be effectively treated, that's the claim. And I guess this comes from those oriental medical colleges which do not teach medicine. So their name is misleading. Stroke; wouldn't it be wonderful to take somebody who's had a stroke to an acupuncturist, and I know people now who are still suffering the effects of a stroke. That means that this person would regain the use of the right arm; it means the right side of the face, which below the cheek just hangs, is going to be revitalized and reanimated. That right eye that droops is going to be made whole like the other through acupuncture. Brothers and sisters, substance abuse. Here Senator Jensen and I have a bill that is going to try to lead to treatment instead of so much incarceration. I believe giving a person a few treatments of acupuncture would be the cheapest way to deal with substance abuse. I don't know what all substances they're talking about. And I don't know the dosage of electricity. Maybe this would be like where they teach you that aversion therapy where they give you a snort, if you're on cocaine, give you an injection, if you're mainlining, or give you a puff, and as soon as you take that puff, you have a needle in you, they give you enough voltage to knock you prostrate on the floor. And every time you take a puff they do that to you. Now I don't know if that would qualify as acupuncture and I don't know if that's one of the

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substance abuse treatments. Menopause, and again the term "men" is in it, although it usually applies to women. But menopause is treated, depression, don't feel good, don't want to get out of the bed in the morning, life seems unlivable, go to the acupuncturist. Female infertility, you want a baby, you want two babies, you want three babies, how many babies do you want? Don't go to the fertility clinic and waste all that money. Don't go to somebody for artificial insemination, go to the acupuncturist and correct female infertility. This is another one for Senator Bruning. Neck pain; Senator Bruning,...

PRESIDENT MAURSTAD: One minute.

SENATOR CHAMBERS: ...anyway, if I'm the pain in the neck for him, acupuncture will cure that for him, too. Low back pain, my good friend, the "Baron", was complaining about back pain just a few minutes ago. "Baron" Tyson, your back pain will be cured if you go to the acupuncturist. Osteoarthritis, that sounds ominous, but that will be taken care of, too. Morning sickness, respiratory disease, I don't know if that includes emphysema, urinary dysfunction; I don't know if that's what Bob Dole had, but you can take care of it a lot cheaper. Tennis elbow, and finally facial pain. This one guy told this friend of his he had a face, when he...well, I don't have time to say it, so I will stop at this point. Thank you, Mr. President.

PRESIDENT MAURSTAD: Thank you, Senator Chambers. Senator Hudkins, on the Chambers amendment.

SENATOR HUDKINS: Thank you, Mr. President, members of the body. Is Senator Kristensen on the floor? I don't have a question, but I wanted to respond to what he said about page 11 and page 12 of the bill, Section VIII. The...and I would just like to call this to your attention. Except I can't find it, I'm sorry. But somewhere in the bill it talks about what acupuncture does. Okay, here it is; it's not in the bill, it's in a white copy that I have. Acupuncturist means a person engaged in the practice of acupuncture, and then we're talking about the referral section and what is included and what is not included. The practice of acupuncture shall not be performed on any person, except with the voluntary and informed consent of

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such person. This is on...it's Section VIII, I'm sorry. Information provided in connection with obtaining such informed consent shall include but not be limited to the following: The distinctions and differences between the practice of acupuncture and traditional western medicine; the disclosure that an acupuncturist is not licensed to practice medicine or to make a medical diagnosis of the patient's disease or condition, and that a physician should be consulted for such medical diagnosis; the nature and the purpose of the acupuncture treatment and any medical or other risks associated with such treatment. Acupuncturists have to tell the patients all of what I just referred to. I think that standard should also, of informed consent, should also be extended to anyone else. If you are a chiropractor, you're supposed to tell your patients similar to this what the risks are, what you can expect. And doctors of chiropractic are just that, they are doctors of chiropractic; they are not medical doctors. And also all doctors, whether they're doctors of chiropractic, whether they're doctors of optometry, whether they're doctors of pod...pod...the foot people, Senator Suttle, podiatry, they all have a responsibility to refer to someone else if what they are doing is not working. Any licensed optometrist worth his salt, if he sees a medical condition for which he or she is not licensed to treat, they will refer to an ophthalmologist; the same goes for an acupuncturist, they will refer. Again, the purpose of the bill is to give people a choice. There are some who do absolutely believe in acupuncture, that is their preferred method of treatment for certain ailments; they want someone close to where they live to do this treatment rather than having to go to Iowa or to Kansas or to Colorado. And that is what we are asking you to do. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Hudkins. Senator Chambers, you're recognized on your amendment to the Hudkins amendment to LB 270.

SENATOR CHAMBERS: Thank you, Mr. President. Senator Hudkins, I'd like to ask you a question or two, and if you don't know the answer I'm not going to push you on it.

SENATOR HUDKINS: Sure.

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PRESIDENT MAURSTAD: Senator Hudkins.

SENATOR CHAMBERS: Have you looked at the curricula for any of these colleges, what...however they are defined?

SENATOR HUDKINS: No, I have not.

SENATOR CHAMBERS: So we don't really know what is taught in the process of preparing a person to be an acupuncturist.

SENATOR HUDKINS: We were given a set of slides and information at the public hearing. And I don't know...

SENATOR CHAMBERS: Are they taught anatomy?

SENATOR HUDKINS: Yes.

SENATOR CHAMBERS: Are they taught about the nervous system?

SENATOR HUDKINS: Yes.

SENATOR CHAMBERS: Do they know...are they taught enough about the nerves to be considered neurologists, except that they didn't get the training in a medical school?

SENATOR HUDKINS: I don't know.

SENATOR CHAMBERS: Okay. So what you saw was kind of like an overview of the types of courses, but not necessarily the go into depth in terms of the courses themselves?

SENATOR HUDKINS: Senator Chambers, if you would like to see a curriculum, we can certainly get you one.

SENATOR CHAMBERS: Oh, okay. I thought you meant the slide, I was going to say I wouldn't have time...okay.

SENATOR HUDKINS: And...and I don't have the particular slide laid out, everything, but it was presented to the committee.

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SENATOR CHAMBERS: Okay.

SENATOR HUDKINS: But I think we can get you a copy.

SENATOR CHAMBERS: If there can be a sample curriculum, I would like to see that. And that's all I was going to ask you at this point. Members of the Legislature, this bill has no standards whatsoever. We don't know what these colleges teach, we don't know whether you have to have any kind of certification by a state to run one of these outfits. I could probably start one in Nebraska. That I have to ask Senator Hudkins a question about. Senator Hudkins, does this provide for the creation and regulation of these teaching institutions, however they would be described in Nebraska?

SENATOR HUDKINS: Does this bill?

PRESIDENT MAURSTAD: Senator Hudkins.

SENATOR CHAMBERS: Yes.

SENATOR HUDKINS: No.

SENATOR CHAMBERS: So I would be able to set one up tomorrow, if I wanted to?

SENATOR HUDKINS: But you would also be subject to the rules and regs of Health and Human Services "License and Regulature", whatever the term is.

SENATOR CHAMBERS: Why would I be subject to them, if I'm not licensed or under their jurisdiction? I'd be under the...okay, that's what I will ask.

SENATOR HUDKINS: Acupuncturists, to be allowed to practice, have to be licensed by HHS.

SENATOR CHAMBERS: But would...would the practice of it mean the actual insertion, manipulation and removal of needles, or merely instructing in it is considered acupuncture?

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SENATOR HUDKINS: I'm sorry, did you ask me a question?

SENATOR CHAMBERS: Yes, I thought maybe you were being given the answer. Would giving instruction in acupuncture be deemed, under Nebraska law, to be the practice of acupuncture that requires a license?

SENATOR HUDKINS: Giving instruction...

SENATOR CHAMBERS: Yes.

SENATOR HUDKINS: ...in acupuncture would require a license? I don't believe so, but the ins...there is an exception in the bill, and that's what I'm referring to. There are certain times where someone practicing acupuncture within the state would not have to be licensed by the state of Nebraska. But they are specific exemptions, and they are in the bill, and I can't tell you what page that's on.

SENATOR CHAMBERS: But let me not even get to the actual insertion of the needles but just instructing in how to do it. Say that I would have all...I'd have anatomical charts and I would give...I'd lay out, through charts and graphs and whatnot, all the areas of the body that would be affected by acupuncture, the point on the body that you would insert and manipulate a needle in order to...

PRESIDENT MAURSTAD: One minute.

SENATOR CHAMBERS: ...affect a cure or treatment in some other area of the body. If that's all I'm doing, I'm not inserting needles, nobody at my facility does so. Am I practicing acupuncture?

SENATOR HUDKINS: Not if you're not inserting needles, no.

SENATOR CHAMBERS: So I could set up one of these outfits and have people come in and pay me to get that instruction, isn't that true, without being a practitioner of acupuncture?

SENATOR HUDKINS: Yeah, our bill doesn't deal at all with

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setting up a school. You can maybe do that now, I don't know.

SENATOR CHAMBERS: Exactly.

SENATOR HUDKINS: And that is not addressed in this bill, because we're not worried about...yes, we should be worried about it.

SENATOR CHAMBERS: And there's nothing that says that in order for a, under this bill, that in order for a person to be licensed he or she has to take any particular course of study, or is there?

SENATOR HUDKINS: Yes, they have to show current active status in the organization that I mentioned before, which is the National...

PRESIDENT MAURSTAD: Time.

SENATOR HUDKINS: ...National...

SENATOR CHAMBERS: Okay.

PRESIDENT MAURSTAD: Senator Kruse, for discussion on the Chambers amendment to the Hudkins amendment to LB 270.

SENATOR KRUSE: Mr. President, members, it's time for me to come clean. I have received acupuncture (laugh) at the direction of my physician, a medical physician, and it was not for fertility, or child birth, or morning sickness, or some problem with my head or my ankles. I'll not go past that, but it wasn't a fatal illness as is exhibited by my standing here. I believe we need to give some room to those who see this as a possibility. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Kruse. Senator Chambers, you're recognized to close.

SENATOR CHAMBERS: Mr. President, members of the Legislature, Pandora said, Ernie, you're on. I don't know if that meant I'm on target or that I've been called to speak and I'm on the mike.

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But I'm going to put the best interpretation on anything said to me by Pandora. Members of the Legislature, this bill needs a lot of work, and I think even those who support it recognize that. Senator Hudkins and I were talking about this certifying agency, and she is of the opinion that it's probably legitimate, and I'm of the opinion that it probably belongs in the barnyard where all the quack, quack, quack creatures are located. And we should not make the acceptability of a person for licensure depend on an organization whose legitimacy we don't even know. We put it in the statute. We don't know where the headquarters are, it's not organized under Nebraska law. We don't know who the people are who make up this organization. It could have been a bunch of guys sitting around who were shade tree mechanics, and they said, you know what, over across the alley there's a fellow over there with a garage full of all these certificates, and he probably pronounces it "sistificate". All these "sistificates" are on the wall, so why don't we make an organization and give some "sistificates" too? So they say, well what shall we call ourselves? The National Certification Commission for Acupuncture and Oriental Medicine. But you cannot practice medicine. Acupuncture is not the practice of medicine, and you must tell a person that this is not the practice of medicine but you have to be approved by the National Certification Commission for Acupuncture and Oriental Medicine. All of these names and terms that are designed to confuse the public, create the impression that you're getting treatment from a person who is just short of being a medical doctor. This bill is terribly misleading. I believe that the model on which this one was based was put together by these guys who make up the National Certification Commission for Acupuncture and Oriental Medicine. Nobody knows what oriental medicine is, nobody. Why is it called a commission? Because "commission" has that sound and ring to it of people who are highly qualified, they are disinterested in the sense of not gaining anything from it, they're just objective people sitting here in a vacuum, making a determination as to whether or not this college, whatever it is, should be certified. We don't know what the certification means? I'm a doctor of the law, but I can't operate on anybody, but I'd probably do as well as some of these people sticking needles in. You don't have to guarantee a result. The person who comes to you does not know what his or her problem is. I'm

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going to tell you something that's been called the practice of oriental medicine, and you all my have seen it exposed. They get these rich, white women and take them over to India and these other places, and they are told that tumors can be removed without the use of a surgical instrument. And what they will do is lay the person out and use Mercurochrome or Merthiolate and cleanse the area, and what they've already done is set it up. They have these little dishes that has the entrails of animals in it and it's...the water is colored and looks real nasty; and they will even let people watch, but you watch from over there. And what they do is start all these ministrations and they're working here and they're working there, then suddenly they make a move, because they found the tumor, and they...

PRESIDENT MAURSTAD: One minute.

SENATOR CHAMBERS: ...press and they start moving along; then as they move with the right hand then the left hand comes up to assist. And then when they get all the way to the end, the right hand is removed and with the left hand they raise this entrail and it looks like it's being removed from the body. And because you told them you don't use instruments and there's no surgical incision, anybody looks there and they don't see a cut, but they see the tumor removed. Slight of hand is used everywhere and it always will be. Mr. President, I'm going to withdraw that amendment because Senator Hudkins is not too favorable toward it and I'm not hooked on it. Thank you.

PRESIDENT MAURSTAD: The amendment is withdrawn. Further debate on the Hudkins amendment to LB 270? Senator Dierks.

SENATOR DIERKS: Thank you, Mr. President. Members of the Legislature, I really wanted to talk to the bill, but I think I better take my chance right now because we're about through. I just wanted to try to lend a little air of legitimacy to the whole process of acupuncture. Veterinary acupuncture is being used quite frequently now. I've not been able...I've not taken that training, but a number of veterinarians have. And I've seen horses that have had serious lamenesses that were not going to be treated any other way, were treated with acupuncture with great success. I've also seen chiropractic adjustment of these

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2,000-pound horses that you think it would be almost impossible to do, but it really works. But you have to have the knowledge to do it. I have had acupuncture, too, Reverend Kruse, a number of times. It doesn't hurt, Senator Chambers, it's...the needles, you don't even feel them go in. And there is electrical charge that's placed on there that you don't feel any of that at all. There's never any pain with the acupuncture that I've had. And these put these needles right in the ball of your feet, which seems pretty sensitive, but it works. I should also tell you that today, even in medical schools across the nation, they are combining in their training alternative practices of medicine, which includes chiropractic and I think even acupuncture. So I think that there is legitimacy to what Senator Hudkins is bringing us. The other point I wanted to make is, if it becomes too much of a problem, there is a process over in the Department of Health that they ask committees to go through, looking at scope of practice changes that might be worthy of consideration in this particular instance; I don't know, that would be up to Senator Jensen and maybe Senator Hudkins, but that is a possibility. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Dierks. Senator Vrtiska, on the Hudkins amendment.

SENATOR VRTISKA: Thank you. Members of the body, I wasn't going to speak on this originally because I don't know that much about it, except I did want to relate to you that in the hospital in our town, a neighboring town, we had a...some Vietnamese doctors who, in fact, over in Vietnam had practiced acupuncture. So having a severe case of flu, I went to see them one time and they decided to give me the usual, standard medicine that's used in fighting those kinds of things, which everybody knows takes you a week to get cured if you don't take medicine, about seven days if you do. And so as I was sitting there watching...waiting for the doctor to come in, I noticed on the wall he had a chart that showed acupuncture, and one of the places to insert needles was for the flu. And so when he came back I said, do you do acupuncture? He said, well I did in China...over in Vietnam. And I said, well let's dispense with the medicine and let's do acupuncture, because I'd like to see if it works. And he said, well I'd like to, except I'm not

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licensed. Now he was a medical doctor, when he came here he got his medical degree and went into...and practiced medicine, conventional medicine. But I finally told him, I said, well look, there's only you and me here and I won't tell anybody, if you want to go ahead and...because I'd like to find out if it will work. Well, he said, I'd like to, but I risk myself of being...losing my medical license if I try to practice something that's not permissible in the state of Nebraska; and although I've used acupuncture in Vietnam,...and he did have the needles, he showed them to me. But he refused to do it and I was always curious if in fact what the results had been. And, obviously, I didn't get to find out because he wouldn't do it. But I thought it was interesting because he had been studying or doing acupuncture over in Vietnam, and in this country he was now practicing medicine. He's now left there and I have not been able to follow-up. And I don't know if he practices acupuncture in California. I don't know whether it's allowed or not, but that's where he's practicing medicine. I just thought it was an insight that was interesting. And I've never in my own mind decided what the results of acupuncture would or wouldn't be because I never had the opportunity to be treated that way. But it is an interesting aspect. As I understand it from the short conversation I had with this doctor, he said that the important...importance, as all of us know, in using acupuncture is being sure that you find the right nerves that cause the problem that you're dealing with and it was his indication that, if you did, you could cure a lot of problems with headaches and backaches and other aches and other types of maladies that people have. It would have been interesting to find out and been able to give you a report as to what the results were, but unfortunately, because of the inability to practice that kind of medicine in Nebraska, I didn't have the experience to find out whether in fact acupuncture is a good thing or not. And, with that, thank you very much, Mr. Lieutenant Governor.

PRESIDENT MAURSTAD: Thank you, Senator Vrtiska. Senator Hudkins, you're recognized to close on AM0170 to LB 270.

SENATOR HUDKINS: Thank you, Mr. President. The amendment is very simple, it changes from 12 months referral time to 90 days. Thank you.

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PRESIDENT MAURSTAD: Thank you, Senator Hudkins. The question is the adoption of AM0170 to LB 270. Those in favor vote aye; those opposed vote nay. Please record, Mr. Clerk.

CLERK: 26 ayes, 0 nays, Mr. President, on the adoption of Senator Hudkins' amendment.

PRESIDENT MAURSTAD: The amendment is agreed to. Mr. Clerk, items for the record?

CLERK: Mr. President, your Committee on Education, Chaired by Senator Raikes, reports LB 326 to General File. Business and Labor, Chaired by Senator Connealy, reports LB 417, General File with amendments; LB 216, indefinitely postponed; LB 638, indefinitely postponed. Banking, Chaired by Senator Landis, reports LB 58 to General File; LB 211, indefinitely postponed; LB 416, indefinitely postponed. And Agriculture Committee, Chaired by Senator Dierks, reports LB 589 to General File; LB 474, General File with amendments. Mr. President, there will be an Executive Session of the Revenue Committee at 1:15 today, in Room 1524. I have an amendment to LB 270 by Senator Chambers to be printed. And a series of adds: Senator Wehrbein...I'm sorry, Senator Aguilar, to add his name to LB 258; Senator Erdman, LB 677; Senator Dwite Pedersen, LB 767. That's all that I have, Mr. President. (Legislative Journal pages 572-575.)

PRESIDENT MAURSTAD: Thank you, Mr. Clerk. Senator Cudaback, would you like to make a motion to adjourn?

SENATOR CUDABACK: I move we adjourn until Thursday morning at nine o'clock, a.m.

PRESIDENT MAURSTAD: Question is, shall the Legislature adjourn? Those in favor say aye. Those opposed nay. We are adjourned.

Proofed by: Kathleen Higley