

**FEBRUARY 8, 2001**

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February 8, 2001 LB 166A, 166, 313, 692

PRESIDENT MAURSTAD PRESIDING

PRESIDENT MAURSTAD: Good morning. Welcome to the George W. Norris Legislative Chamber for the twenty-fifth day of the Ninety-Seventh Legislature, First Session. Our prayer this morning will be by Senator Dierks. Senator Dierks.

SENATOR DIERKS: (Prayer offered.)

PRESIDENT MAURSTAD: Thank you, Senator Dierks. We'll call the Legislature to order. Members, would you please record your presence. Mr. Clerk, please record.

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

PRESIDENT MAURSTAD: Are there any corrections for the Journal?

CLERK: Mr. President, I have a correction. (Correction read, Legislative Journal page 577.) That's all that I had, Mr. President.

PRESIDENT MAURSTAD: Thank you, Mr. Clerk. Are there any messages, reports, or announcements?

CLERK: A priority bill designation: Senator Byars has selected LB 692. Senator Baker, an amendment to LB 313 to be printed. That's all that I have, Mr. President. (Legislative Journal pages 577-578.)

PRESIDENT MAURSTAD: Thank you, Mr. Clerk. Mr. Clerk, General File appropriation bill.

CLERK: Mr. President, LB 166A, a bill by Senator Hudkins. (Read title.)

PRESIDENT MAURSTAD: Thank you, Mr. Clerk. Senator Hudkins, you're recognized to open on LB 166A.

SENATOR HUDKINS: Thank you, Mr. President and members. As you remember, LB 166 is what we call the .08 bill. The fiscal note says that FY 2001-02 expenditures are \$22,000, slightly less

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than that the year following. This is because of an estimated increase in ALR hearings. The...the additional few dollars are for reprinting of forms. The existing staff can handle the increase. But if you look at the revenue, this is the million something that we're going to get in the incentive funds. Also, there will be an increase in revenue due to the reinstatement of licenses if people lose their license at the cost of I think it's \$95 apiece. If we don't do this, however, we're going to lose a lot more, so I would ask your support of this A bill. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Hudkins. Debate on the advancement of LB 166A? Senator Hudkins, you're recognized to close. Senator Hudkins waives closing. The question is the advancement of LB 166A. Those in favor vote aye; those opposed vote nay. Mr. Clerk, please record.

CLERK: 29 ayes, 0 nays, Mr. President, on the advancement of LB 166A.

PRESIDENT MAURSTAD: The bill is advanced. Mr. Clerk, General File.

CLERK: Mr. President, LB 270, a bill introduced by Senator Hudkins. (Read title.) The bill was discussed yesterday, Mr. President. At that time committee amendments were adopted. An amendment by Senator Hudkins to the bill was adopted. I do have an amendment from Senator Chambers, but I also have a motion from Senator Chambers to indefinitely postpone. Senator Hudkins, you would have the option to lay the bill over if you were so inclined.

PRESIDENT MAURSTAD: Senator Hudkins.

SENATOR HUDKINS: Thank you, Mr. President and members. No, I would like to take up the IPP motion.

PRESIDENT MAURSTAD: Thank you, Senator Hudkins. Senator Chambers, you're recognized to open on your motion to indefinitely postpone LB 270.

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SENATOR CHAMBERS: Mr. President and members of the Legislature, Senator Hudkins sent around a very nice little poem. It's on your desk and it's lighthearted. It kind of sets the tone for the discussion. And my motion, though, is deadly serious and the purpose is to kill the bill. Before I go through the process of trying to offer a lot of amendments, I want to see where the body is on this bill. As written, the bill has so many flaws and defects in it that it's going to take considerable time, and if the body is willing to work through that then I'm going to do it. Let me give you an example. In recognizing somebody who is an acupuncturist in another jurisdiction, the bill says, if that jurisdiction has standards as stringent as those in Nebraska. Nebraska has no standards. The bill doesn't set any standards. It's one of those model bills and it is not appropriate to the state of Nebraska. I gave my arguments yesterday and, since our numbers are somewhat few because people may be slipping and sliding on the roads, I'm going to join the mood that Senator Hudkins started or laid with her poem, but first I want to mention an Old Home bread commercial. This guy was looking for the waitress who always worked there and her name was Mavis (phonetic), and he had a dog named Sloan (phonetic), and he always wanted to get a bone for Sloan (phonetic), but at one point he said he'd gear on down and slide on in to the Old Home Fill Her Up and Keep on Trucking Cafe. Well, you don't want to gear down too hard on that highway out there today or you'll be sliding, not into the Old Home Fill Her Up, Keep on Trucking Cafe, but maybe to another kind of home where people wear dark clothes and they fold their hands and speak in sepulchral tones and talk about laying you to rest. I'm going to read for you all a rhyme which contains some of my arguments, and it's called Needling the Needlers (LB 270): "Acupuncture is a mystic practice from the East, miracles it 'worketh' on man, woman, child and beast. 'Energy lines' there be, connecting all the body's parts, lines set down meticulously on acupuncture charts. Every ailment known to humankind is put to flight, when a person trained in acupuncture does it right. (Beasts, as well, as cured by use of acupuncture needles; big beasts, middle ones, little ones, right down to the smallest beetles.) Headaches, menopause and morning sickness bite the dust; healing's right there for the taking if one places trust in the art of acupuncture--pimples, tics and aches, hemorrhoids

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and prostate trouble, diabetes, the 'shakes', all respond to acupuncture--back pain, stroke, arthritis, constipation, drug abuse, neuralgia and neuritis; palpitations, sweaty palms, embarrassing overbite, fallen arches, corns and bunions, puffy cellulite, carpal tunnel, ringing ears, box elder bugs, grey mares; neck pain, goiters, kidney stones and even falling hairs--hundreds upon hundreds more of ailments are erased, when the acupuncture needles have been rightly placed. There are twelve 'meridians' (sometimes that number grows), they are lines along which some mysterious energy flows. Acupuncture doth engender health-producing synergy--this mysterious, mystic force is known as 'yin/yang energy'. Energy from sunspots does, unquestionably, play a part, regulating and controlling rhythms of the heart." Some of this y'all going to have to realize is said by way of satire. Don't be praying to the sun and sunspots and think it's going to help you. I just thought I'd throw that in. That was an aside. Back to the rhyme. "Acupuncture needles draw upon those sunspots' powers, and are 'specially potent during times of meteor showers. Great sway over health is held by earth's magnetic field, acupuncture 'taps in' and, thus, cures the mentally ill. Nearly everyone doth know the moon affects the tide, and doth know that pathogens in water often hide; also known--the body's more than seventy-five percent water, and it holds the pathogens like ink is held by blotter. Such facts being past dispute and scientifically true, one may understand how acupuncture cures the flu. When the moon is full and makes the tide to come and go, also it doth make the body's fluids ebb and flow. Skillful acupuncturists do know precisely when to insert their needles so that every pathogen--when the lunar pull is strongest--joins to leucocytes, which snuff out the pathogens, extinguishing their lights. In the ancient days when acupuncture had just started, surreptitiously, 'twas practiced on the 'dear departed'. 'Pressure points', 'meridians' and 'zones' and similar things had to first be mapped and charted on dead human beings. No one would consent to be a cushion for the pins of the acupuncturists, until the outs and ins, had been 'simmered' (so to speak) like gravy or a roux, so that 'Needlers' knew exactly what their needles would do. Eventually, acupuncturists cured every known disease; filling idle time, they conquered hiccup, cough and sneeze. Having no more patients, acupuncturists,

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instead, had to turn again to practicing upon the dead. (Did the population of the mighty Chinese nation reach great staggering numbers through excessive procreation?) So proficient was the art of acupuncture, laws against the practice were put in place--it was the leading cause of the population mushroom, which has not abated; from the time of acupuncture's rise, it can be dated." I'm almost through. Bear with me. "So effective was the Needlers' art, it caused great strife, some practitioners brought long-dead cadavers back to life... Acupuncture cured all ills--from tumors to bad breath; most remarkable of all, its needles conquered death! Therefore, skeptics, critics, doubters all should chain their tongues, never letting negative breath of air escape their lungs. Says the skeptic: 'Needlers use the con-man's slick psychology to exploit the gullible through their snake-oil profitology'. Nothing will be guaranteed to those who pay a buck to the Needlers for their art, except THEY WILL BE STUCK!" That's the only thing. I'm going to take a moment to consult, but I know my time is continuing to run. Mr. President, members of the Legislature, Senator Hudkins and I are not really at each other's throat this morning just yet. This is the kind of bill that I will analyze and tussle with in the same way that I did a fingernail licensing bill that Senator Suttle had last session or a couple of years ago. This bill, as I stated in the beginning, is in such bad drafting shape that before I take all of the time that I'm going to need to craft amendments, all of the time that we will have to spend debating the amendments, I want to see if the body is willing to kill this bill; let it go aside. The people who brought it, who are interested in it for a financial reason, as many people are interested in bills and they're not doing anything venial or inappropriate by having that motivation, they can get together, craft a better piece of legislation, put some standards of treatment, make the bill state clearly what is intended. For example, and I will go into this in greater detail the next time I have a chance to speak, when the bill talks about the need for a recommendation from a physician or some diagnostic paper, it says that that is to be given...that is what the acupuncturist...

PRESIDENT MAURSTAD: One minute.

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SENATOR CHAMBERS: ...must receive. So I don't know if it's a recommendation of the acupuncturist to a patient of the doctor, or a recommendation by the doctor to the patient that the patient see an acupuncturist. The language is not clear. Pronouns do make a difference in legislation, especially when we're talking about licensing and bringing into being an activity which will seem to have the approval and imprimatur of the Legislature if we enact a bill such as this. So the motion that is up there right now is to indefinitely postpone the bill.

PRESIDENT MAURSTAD: Thank you, Senator Chambers. (Visitors introduced.) Senator Hudkins, on the Chambers motion to indefinitely postpone LB 270.

SENATOR HUDKINS: Thank you, Mr. President and members. Senator Chambers told you that he noticed a lack of compatriots here on the floor and I'm sure that he read his poem in order to give those who are absent a little more time to get here safely. But I do want to call your attention to a sheet that you received on your desk. It's the overview of acupuncture and accreditation and educational agencies. Senator Chambers asked me yesterday for information on accreditation, curriculum studies, and I have rather a thick book, a couple hundred pages perhaps. I did give Senator Chambers a copy of that and hopefully we will have an opportunity to go through that a little more carefully. I won't go through it right now, but in order to be collegial, as is the term of the day I think, I would like to...I know you have it on your desk, but in order to give our...our other senators more time to get here I would like to read my poem as well. And some of these phrases may seem a little recognizable to you, something that was maybe done last year. "Ernie, dear Ernie, perhaps it's your age that causes you to come after me with such a 'rage.' Year after year, I have been patient with you when you attack my bills and sometimes me, too. You oppose LB 270--be rational, be sane. It can help some of our constituents deal with their pain. Some docs were against it, some 'chiros' were, too. We'll soon see what their lobbyists can do." But now remember that they did withdraw their opposition. "Have they beaten you down, my Omaha friend? Has the straight-arrow senator perhaps started to bend? Top the pressures of those who fear competition, from those healing

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Nebraskans in a Chinese tradition. A few tiny needles put in just the right place, might even bring a smile to your sweet, bearded face. It might even relieve all your anger and tension and make you appreciate this Far Eastern invention. So ease up a bit, don't rant, rave and cavort. Be nice, won't you please, and give me your support. 'Twould be far less expensive to stop aches and pains, relieve stress, muscles spasms and even migraines. With acupuncture applied by one well trained to treat, using sharp needles, not drugs, prolonged therapy and heat, the cost to the patient would be far less than now, where pain provides doctors with a 'milkable' cash cow. So, Ernie, please Ernie, no opposition, be decent, understanding, show a bit of contrition. To make acupuncture more available to folks, I'll endure your bad poems, your sarcasm, your jokes. Take me on with your wit, show your wisdom and class. Be a pain in the neck, but not one in the (clears throat). Join me and the others in support of my bill. Nebraskans will thank you, and I certainly will. I'll try my best to be civil, particularly with you, and not deal in misery as you sometimes do. Will this poetic message change your mind? I hope so, and get your support of LB Two-Seven-O." Now, having said all that, I would hope that you do not vote to indefinitely postpone this bill. Senator Chambers had said it is a model of bad drafting. He's against the concept. I had a legal counsel from one of the committees here in the Capitol stop by my office this morning. She said: I really hope that you can get this bill passed; acupuncture does work. In 1981, my parents put me on a plane to go to Saint Paul, Minnesota. I had been, this is her language, I had been to three specialists,...

PRESIDENT MAURSTAD: One minute.

SENATOR HUDKINS: ...three medical doctors, who said I would never walk again without crutches. I went to Saint Paul, received acupuncture treatment and I came home carrying my crutches. My sister has cluster headaches. She went to the same licensed acupuncturist and she is now free of her headaches. Acupuncture works. The bill would allow you a choice of where to receive that acupuncture--from an MD, from a chiropractor who don't have the extensive training, or a licensed acupuncturist who does. Give us a chance to work on

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this bill and we'll see if we can't make it better so at least Ernie thinks that it's drafted correctly. Thank you.

PRESIDENT MAURSTAD: (Visitors introduced.) Senator Chambers, on the motion to indefinitely postpone LB 270.

SENATOR CHAMBERS: Mr. President and members of the Legislature, anecdotal instances can be given to support anything that a person floats before the Legislature. We've had bills in the past to legalize laetrile as a treatment that is called an alternative. Laetrile has been discredited by everybody, yet, those who supported it could always find people who said that they had cancer diagnosed in the last stages; they took laetrile and they're completely cured. These kind of stories can be found everywhere. No laetrile bills have been coming through the Legislature again. This bill on acupuncture, regardless of what the legal staff person told Senator Hudkins, despite the anecdotal statement of our parson, an official parson, not just dubbed one by me, Parson Kruse I'm talking about, because some may think that since Dr. Cap Dierks gave the prayer this morning he may have taken up that profession. I hope he hasn't. But the point I'm trying to make is this. We, as a Legislature, establish public policy. A lot of these kind of bills are not even read by the members of a committee who will hear the bill. How can there be a determination as to whether Nebraska standards are being met when they talk about licensing somebody who is allowed to practice in another jurisdiction when Nebraska has no standards? You are sanctifying an activity and you're putting no standards whatsoever in the bill. Yet, this reciprocity provision would require that the standards in the other state be at least as stringent as those in Nebraska. That would mean that no standards need be met because Nebraska has no standards. It may seem like a trifling matter to people on this floor because some of you, if you want to go to an acupuncturist, you'll go to a doctor or a chiropractor who has malpractice insurance. Are these individuals going to have malpractice insurance? If they blunder, if, instead of inserting the needle where it should go, they damage a nerve, what then? Where is the liability on the acupuncturist? Will the acupuncturist be able to respond in damages? There is no bonding requirement. There is no requirement of insurance.

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There is nothing. It's simply opening wide the gates of this state to allow people willy-nilly, helter-skelter to come into this state and take advantage of people who are gullible or desperate. Before anybody says I should not be concerned about shielding the gullible and the desperate from this kind of treatment, I would remind you all that we dealt with a bill the other day to shield the gullible and the desperate from these promotional activities of these companies that send out mailings that make it appear that a person has won a cash prize. I read about an exchange that took place on the floor where Senator Landis said there were eight or nine people on the floor who could avoid being suckered in, and Senator Foley...

PRESIDENT MAURSTAD: One minute.

SENATOR CHAMBERS: ...challenged Senator Landis to put up or shut up. Well, that's the way I said it. Senator Foley was much more genteel. Senator Foley said, "Name them." After Senator Landis pulled his tongue from out of his gullet, where he had swallowed it because he wasn't expecting that, he said, "Well, I keep that list in a jar on the back porch." He didn't want to name or try to name nine people. It would be like the same incident where Abraham was trying to save Sodom and Gomorrah, where one of his relatives was located, and got God to agree that if you six or seven people who are righteous I won't destroy the city. Well, God new that there weren't six or seven people so he could agree to that. Senator Foley was questioning whether there are nine people on the floor (laugh) who has a nickel's worth of sense. But this bill that is before us now ought to be indefinitely postponed.

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

SENATOR HUDKINS: Thank you, Mr. President and members. Senator Chambers is talking about laetrile. This bill has absolutely nothing to do with laetrile. He's trying to correlate it with quackery and witchcraft. Don't let him trick you. There are 39 states that already allow acupuncture to be licensed. Acupuncture has also been used by millions of Chinese for thousands of years. He talks about this bill having lack of

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standards, which again is not quite true. In fact, it's not true. There are standards. The bill calls...and if you'd look on the bill on page 12, to be considered an acupuncturist you must show current active status as a diplomate, and I won't read the rest of that, and also have passed a clean needle technique. In order to be considered a diplomate in acupuncture, these are the eligibility requirements. To become nationally board certified in acupuncture, you have to be 18, you have satisfied the examination's eligibility requirements through at least one of the following routes: formal education, apprenticeship, professional acupuncture practice route, combination of training and experience; you have successfully completed a clean needle technique approved by the national commission that we talked about earlier; you have signed a statement that indicates you understand and agree to be bound by the National Code of Ethics promulgated by the national commission; you have passed the national commission's acupuncture examination comprised of the following two portions: the comprehensive written exam in acupuncture, and the point location in...point location examination. The eligibility criteria for the acupuncture examination--formal schooling. You must graduate from a formal, full-time acupuncture program that can document at least 1,725 hours of entry level acupuncture education. Education must consist of a minimum of 1,000 classroom hours and 500 clinical hours. Pregraduation: you may...if you have not yet graduated you may apply for abili...you may, sorry, you may apply for eligibility after completion, a minimum of 1,350 hours. This gets you on the track of taking your exams. But the certification will only be require...will be granted after graduation. Apprenticeship: completion of an apprenticeship of at least 4,000 contact hours in a three- to six-year period. Professional practice: practice at a minimum level of 500 acupuncture patients...patient visits by no fewer than 100 different patients per year for a minimum of four years, and a combination of that training and practice route. So there are standards. We just didn't list them in the bill. If Senator Chambers wants those standards listed in the bill I'm sure we can do that. Thank you, Mr. President.

PRESIDENT MAURSTAD: Thank you, Senator Hudkins. Senator Chambers, on the motion to indefinitely postpone LB 270.

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SENATOR CHAMBERS: Thank you and, Mr. President, I believe this is my last time to speak, so I'm aware of that. Members of the Legislature, what Senator Hudkins read for you is an example of why I've been putting a certain amendment into various bills. That commission could go out of existence. The possibility of that is acknowledged in the bill because it says the commission or its successor organization. You don't know what that successor organization is going to consist of. This commission can change or abolish any or all of those standards, as they were called which Senator Hudkins read, if they choose to do so, and you have tied this bill to the work done by a commission over which the state has no authority, there are no standards put in this bill, and there is no way to determine whether or not somebody purchased approval. When Senator Suttle was bringing her fingernail bill, there were requirements listed in the bill that had to be met and it was not basing the whole question of qualification on what some entity outside of the state had determined. This bill uses the term, and I'm glad Senator Hudkins mentioned it, on page 12, "a diplomate in acupuncture," d-i-p-l-o-m-a-t-e, on page 12, in line 6. Do you know what a diplomate is? A diplomate is a doctor. A diplomate is a doctor who is certified as a specialist by a board in a particular branch of medicine, yet, this person has to say that he or she is not practicing medicine; is not a medical doctor. Yet, a term is used in the bill which is a part of the status that a person must achieve before being allowed to be an acupuncturist. And the term used is one that defines a medical practitioner, a medical doctor who has been certified by a board as a specialist in the practice of medicine in a special area. Why are you going to intermix medical terminology and even use a term whose definition means medical doctor and a specialist at that? If acupuncture is not the practice of medicine, do not use a term to designate a person which designates a medical doctor who is a specialist. In addition to that, there is another reference, and this is some of the work that I'm going to have to do and I'm going to keep your feet to the fire and I'm going to see if you can get a cloture vote because it's going to take some time. On page 10, in line 10, starting with the word "and", going through line 12, this is the language you will see: and the treatment of disease, based on traditional

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and modern...medical principles. Now that may have been changed by an amendment. I would like to ask Senator Hudkins a question...

PRESIDENT MAURSTAD: Senator Hudkins, would you respond?

SENATOR CHAMBERS: ...if...if I haven't distracted her. Senator Hudkins, the language that I'm reading is on page 10, page 10, beginning in line 10, starting with the word "and" near the end of the sentence of the line in line 10. This is the language: "and the treatment of disease, based on traditional and modern oriental medical principles". Has that been changed by amendment?

SENATOR HUDKINS: Yes, it has, Senator Chambers. The new language in line 11 is "based on acupuncture theory", which would remove "traditional and modern oriental medical principles".

SENATOR CHAMBERS: Okay.

PRESIDENT MAURSTAD: One minute.

SENATOR CHAMBERS: Thank you. But the word...but the term...the words "treatment of disease" will remain in the bill.

SENATOR HUDKINS: Yes, because acupuncture does that,...

SENATOR CHAMBERS: Thank you.

SENATOR HUDKINS: ...not on Western principles, on Eastern principles.

SENATOR CHAMBERS: Thank you. Members of the Legislature, there is much work that needs to be done on this bill. Since I think that it poses a hazard to the public and I am not in favor of quackery, I don't care if Billy Graham came here and supported it, I don't care if...well, whoever is supposed to be the person you ought to listen to just because they said it, I'm not going to support it. But if you insist on passing a bill like this, it's going to have to be tightened considerably and I'm going to

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undertake some of the work to do it. Yesterday there was another bill before us dealing with the work force something or other.

PRESIDENT MAURSTAD: Time. Thank you, Senator Chambers. Senator Hudkins.

SENATOR HUDKINS: Thank you, Mr. President. Senator Chambers called your attention to the word "diplomate". We just looked up "diplomate" in the Oxford English Dictionary and on page 696 the word "diplomate", the first, very first, definition is "one who holds a diploma", simple as that. He's also worried about the National Commission of Oriental Medicine going out of business and success...succeeding organization throwing out all of the standards. I don't think that's going to happen. We have in our country the American Medical Association. Could they be taken over by another organization? Sure. Probably not. Could they then abolish all of their standards? Sure. Probably not. This isn't going to happen. This treatment has been going on for thousands of years. Thousands of people have received benefit. That's what we're asking you to do, and you're going to get really sick of hearing me say this. It is a choice. Currently, medical doctors and chiropractors in Nebraska are allowed to practice acupuncture. They receive approximately, on the average, 200 hours of treatment. Acupuncturists go through...and if you'll give me the opportunity and don't IPP this, I have a list of the classes that students at Connecticut or Oregon or Minnesota take in their schools of acupuncture, what they actually have to know. Prerequisites: a three-year college program before they're even accepted into the acupuncture program. It's not a, gee whiz, I'm out of high school, what am I going to do the rest of my life, I think I'll take up acupuncture. It's not that easy. Since the Medical Association in Nebraska already recognizes acupuncture, why can't Senator Chambers? If he doesn't want to have acupuncture that is his choice, but, those that do, let them have the choice of going to someone who is specifically trained in that art. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Hudkins. Senator Chambers, you're recognized to close on your motion to

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indefinitely postpone LB 270.

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

PRESIDENT MAURSTAD: Senator Hudkins.

SENATOR CHAMBERS: ...and she can answer it when she gets to the word again. She read the first definition that the Oxford English Dictionary gives of "diplomate". She should look and see what that term means when you're dealing with it in a medical context. We're dealing in a medical context, in a treatment of disease context, not just a general term. If they meant it to designate a person who simply holds a diploma, say that, but don't use a term which in medical circles carries a definite meaning. "Diplomate" is a term of art. Senator Hudkins is ready to read. Now, I'm not going to let you take all my time.

SENATOR HUDKINS: It won't take much time. Thank you. The first definition, one who holds a diploma. The second definition is to invest with a degree, privilege, or title by diploma, period.

SENATOR CHAMBERS: That's all that the def...that's the only definitions that are in there?

SENATOR HUDKINS: Yes.

SENATOR CHAMBERS: Then that...that is not sufficient for the purposes in America, because if you use an American dictionary, and I'm not being jingoistic, the term does have a specific meaning because it is a term of art. But here's what I would ask Senator Hudkins. Why did not you simply say that the person must be shown to be a holder of a diploma? Then there's no question as to what it means.

SENATOR HUDKINS: As you said, Senator Chambers, this is a model bill. This...not specific language but this general language and perhaps specific, I don't know, has been used by 39 other states. It...

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SENATOR CHAMBERS: Oh, so you're not pinning...hanging your hat on this particular word. You don't...

SENATOR HUDKINS: No.

SENATOR CHAMBERS: Oh, okay. I thought you was arguing for retention of the word. Thank...

SENATOR HUDKINS: No.

SENATOR CHAMBERS: Okay.

SENATOR HUDKINS: If we can make the bill better, I'm all for that.

SENATOR CHAMBERS: Thank you. Oh, my goodness, if we can make it better. If we continue with this bill I'm going to give a little lecture...not a lecture, I'm going to give a little background on alchemy--the attempt to convert base metal into gold and what is meant by the philosopher's stone, which was being sought down through the ages. Because if you could pass this metal through this philosopher's stone it would emerge on the other side as gold. What we're trying to do with this bill, what you all who support it are going to try to do, is convert base metal into gold. I wanted to confer with Senator Suttle because I had worked with her on her bill and I was sure that there was the authorization to adopt, promulgate, and put in place rules and regulations. That is not in this bill, so you leave everything up to some entity outside of this state. And I'm sure Senator Hudkins was not equating this outfit named in the bill with the American Medical Association. Not that the American Medical Association should be venerated, but it is an organization of almost ancient vintage. It has a track record. When you say AMA or American Medical Association, people know what you're talking about. If I gave the name of this organ...this outfit, Commis...the National Certification Commission for Acupuncture and Oriental Medicine, the first thing people would do is think that you're trying to run a con game on them. This bill has terrible gaps in it. It should not be rewritten on the floor. But if that is the course we're

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going to take, I don't care. To me, this is not the kind of bill that merits that kind of time. But if the body is of a mind to pass it...

PRESIDENT MAURSTAD: One minute.

SENATOR CHAMBERS: ...into law then I'm going to hold us here and take the time and we're going to go through it line by line, word by word where necessary to show that other language should be substituted. Clarifications have to be made so we know that when a statement or an assertion is offered in the bill, we know to whom that assertion is directed; which person is going to be the one to whom it will apply. And maybe I am the only one who will see ambiguity in certain areas of this bill, but if the ambiguity is there the time to correct it is while we're dealing with it on the floor. This that I'm doing is not an attack on Senator Hudkins. She just happened to have brought a bad bill. A couple of years ago Senator Suttle brought a bad bill. The other day Senator Janssen brought a bad bill and that's why he had all those flowers on his desk.

PRESIDENT MAURSTAD: Time.

SENATOR CHAMBERS: I will (microphone malfunction) house, Mr. President.

PRESIDENT MAURSTAD: Thank you, Senator Chambers. The question is, shall the house go under call? Those in favor vote aye, those opposed nay. Mr. Clerk, please record.

CLERK: 18 ayes, 0 nays to place the house under call, Mr. President.

PRESIDENT MAURSTAD: The house is under call. Would unauthorized personnel please leave the floor. Would all members please return to the Chamber and report your presence. The house is under call. Senator Brashear, Senator Bruning. Senator Byars, could you check in, please. Senator Raikes. Senator Engel. Members, the house is under call. Senator Bromm, Senator Schimek, the house is under call. Senator Wehrbein, Senator Tyson, the house is under call. Senator

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Bromm, Senator Schimek, Senator Wehrbein, the house is under call. Members, the question is, shall LB 270 be indefinitely postponed? Those in favor vote aye; those opposed vote nay. Record vote has been requested. Mr. Clerk, please record.

CLERK: (Record vote read, Legislative Journal page 578.) 9 ayes, 28 nays, Mr. President, on the motion to indefinitely postpone.

PRESIDENT MAURSTAD: The motion is not agreed to. The call is raised. (Doctor of the day introduced.) Mr. Clerk.

CLERK: Mr. President, Senator Chambers would move to amend with FA24. (Legislative Journal page 575.)

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

SENATOR CHAMBERS: Mr. Clerk, would you assist me and read that, because...

CLERK: Page...

SENATOR CHAMBERS: ...or...

CLERK: I'm sorry, Senator.

SENATOR CHAMBERS: Yes.

CLERK: Page...page 11, line 5, strike "or oriental medical college". Page 11, line 5.

SENATOR CHAMBERS: Yes, thank you very much. Members of the Legislature, now begins the tedious drudge work, and I'm going to undertake to do it. There was discussion yesterday about the pejorative nature of the term "oriental". Senator Hudkins was of a contrary opinion, but if there can be discussion about it and there is a dispute as to the appropriateness of such a term being put in statute, it has no definition, no meaning. It

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should be removed. But there is a greater reason for the amendment that I'm offering. I don't want anything in this bill to suggest that these people are trained as doctors, and when you put the word "medical" in front of "college", to the ordinary citizen the term "medical college" carries a specific meaning. It is a term of art. I don't require that anybody be in the Chamber for this work that's being done. I was hopeful that others would be here on that kill motion so we could see what the body's intent is. Since a majority of the senators want to go through this process, I'm going to do it and I don't expect to hear any grumbling or complaining. But if I do hear grumbling and complaining, all it will do is incite me, because you asked for it and now you're going to get it. Just by way of overview of some of the other things I will be attempting to do in addition to changing specific language is to consider why there is no rule-making authority given to any agency of this state. Is Senator Jensen here? I would like to ask Senator Jensen a question or two, if he will yield.

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Senator Jensen, would you yield to a question, please?

SENATOR JENSEN: Yes.

SENATOR CHAMBERS: Senator Jensen, you are the Chairperson of the Health and Human Services Committee. Is that correct?

SENATOR JENSEN: Yes.

SENATOR CHAMBERS: This is for the record. You have chaired that committee when it was holding hearings on bills that were designed to license certain activities. Is that true?

SENATOR JENSEN: That is correct.

SENATOR CHAMBERS: When you had those licensing bills, did the bills themselves set out standards and criteria which had to be met in order to procure a license?

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SENATOR JENSEN: Yes.

SENATOR CHAMBERS: Can you remember any bill that did not set out standards and criteria within the bill but made a reference to some entity outside the state and declared simply that if you met their standards that would entitle you to be licensed in this state?

SENATOR JENSEN: As I could recall, most of them have standards...Nebraska standards.

SENATOR CHAMBERS: Is it usual...let me ask this a different way. Are you aware of any of these licensing bills which did not carry the authorization to establish rules and regulations to govern that activity which was to be licensed?

SENATOR JENSEN: I cannot recall at this point in time.

SENATOR CHAMBERS: And, Senator Jensen, I don't know of any either, but since you were the Chairman I thought it might have passed you. That's all that I need from you. Thank you. I'm just trying to establish some things for the record. If this was a serious bill, why could not it have been modeled after some kind of licensing bill or law that currently is on the books in Nebraska so that the types of technical aspects would be included in the bill? What I'm talking about is not unreasonable; what is being offered by this bill is. What I probably ought to do is let it go on through in the condition that it's in, but when people don't have an understanding of what happened they cannot be embarrassed. There is not a sense of professional pride. Before one can be embarrassed, one must have a sense of self, a feeling of worth, and a belief in the necessity of maintaining a certain standard of conduct, and when that standard is breached and it is made public the person feels a sense of not having done what he or she ought to have done, and if the feeling is intense enough it's called embarrassment. This amendment is a very simple one. It's easy to understand. On page 11, in line 4...line 5, it would strike four words. They are "or oriental medical college". If you look at that and analyze it, whatever "oriental" refers to, is it in this bill referring to a location on the globe? If so, does this mean

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that it is a medical college found in that part of the world that some people pejoratively refer to as the Orient? If it does not refer to a geographical location, to what does it refer? Does it refer to the makeup of the faculty, that the faculty members are members of that group that some people pejoratively designate "oriental"? That's not clear. Does it refer to the curriculum? Is the curriculum presented in the language of one of the countries which is embraced by that pejorative term "oriental"? If it does not refer to a location on the globe, if it does not refer to the ethnicity or race or nationality of those who are operating the facility, if it does not refer to the language, to what does it refer? These types of inquiries take time. Sometimes it's similar to wool gathering where you more or less think out loud, and that's what must be done in order for the record to pick it up. If it means none of those things that I've talked about, what does "oriental" refer to? What is the purpose of putting the word in this bill? This is a piece of model legislation only in the sense of its being offered as a paradigm or example to be followed, not model in the sense of having perfection, quality, expertise in drafting, precision in the use of language. It's simply offered by some outfit which wants to spread its activities across the country and have them be given legislative sanction. Senator Hudkins said 39 states have done this. If I had been, or somebody like me, in the Legislature of those 39 states, this that you have before you in the green copy certainly would not be presented as a model piece of legislation. You would have something else. You would have something that sets out specific standards. You would have something that locates liability and responsibility should a person be harmed. You would have an agency given the rule-making authority and oversight. None of those things do we find in this bill. Right now, though, I'm just taking a small nibble. I'm removing what I deem to be pejorative language. It may be necessary for me to take a second to go into consultation so I know my time is continuing to run.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: I will give my time back to the Chair because...

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SENATOR CUDABACK: Thank you, Senator Chambers. Your light is next.

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, Senator Hudkins said she would accept this amendment, but I need as much time as I can to build a record. She had made an offer and if I thought the body would pay attention it would not have been such a bothersome thing to me that her offer was that we could work these things out because she sees some problems that need to be addressed. But what I told Senator Hudkins is that the body is not paying attention. All that will do is postpone to another day when I'm going to have to do the very same thing that I'm doing now. Since this is one of those days when some people are not going to make it because of the weather, I may as well take this time and get as much wrangling done on this bill as possible. And to give people a taste of what is down the line looming, I saw a movie called "Something Wicked This Way Comes", and the star was a guy named Jonathan Price who is from England. There was an American guy named Jason Robards Jr., and some other miscellaneous characters, but they were the main two, and Jonathan Price was this mysterious stranger who came to town and was more or less the personification of evil and, in case you didn't get it from the way he did, they gave him a name that would convey it. His name was Mr. Dark and he told some youngsters at one point in the movie, you remember that and see that you respect it, because Mr. Dark had dark powers, as they're called. Based on my attitude toward darkness, that meant to me he was the equivalent of what you all would call an angel. But, nevertheless, a point was reached where he and Jason Robards, Robards being the personification of all which is good, holy, upright and so forth, had a confrontation and Mr. Dark had one of his minions give Robards what Mr. Dark referred to as a taste of death so that he could better recognize it the next time that it came. So this minion took Jason Robards by the hand and squeezed it till the flesh broke and the bone would have protruded if the movie had been made during the times when they would let you see that. But Jason Robards felt great agony. His breath became labored. His heart beat began to slow down and you knew it because there was a magnification of the sound

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of his heart, or an amplification, and you heard it go slower and slower. Perspiration appeared on his face. He laid down on his back, his eyes half-closed. He lapsed into semiconsciousness. Then Mr. Dark's minion released him. That was just a taste of death, so that he would understand it and recognize it when the real thing came later. This morning and for however many days will be necessary I will have to provide a taste of legislating on the floor, writing on the floor a bill that should have been better crafted before introduction, but that doesn't always happen. It's not unusual that bills have to be worked over. We do that on many bills. Sometimes they're only a half a page long, so that in itself is not necessarily a takedown. Committees have a responsibility and an obligation to comb these bills through and make changes where necessary, or do what the intent of the founders of the Unicameral was. That was to kill bills. That was the main purpose that they had in mind for the Legislature,...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...for the committee structure, for the system. That was to kill as many bills as possible. This one is a candidate for that, but the Legislature, by a majority vote of the elected members, chose to keep it around. So that means if it has scoliosis of the spine I'm going to have to manipulate that spine and straighten it up; if it has weak lungs from emphysema or any other condition, I'm going to have to strengthen those lungs; I'm going to have to bring clarity to the vision; take away short-term and long-term memory loss so that the brain of the bill is going to function properly. There is much work that needs to be done. I'm going to have to do more to make this bill presentable than Dr. Frankenstein had to do in sewing those bodies together to create Adam.

SENATOR CUDABACK: Time. Thank you, Senator Chambers. We are discussing FA24 to LB 270. Senator Hudkins, on that amendment.

SENATOR HUDKINS: Thank you, Mr. President and members. Yesterday Senator Chambers talked about voodoo...I don't know if it was voodoo but at least it was entrails of animals, and that was a very interesting story. We heard today about Jason

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Robards and a confrontation with the dark side. That was a very interesting story. We are all having our education levels increased by these wonderful stories, and that's fine, but what I offered to do, and Senator Chambers had it pretty correct, was that I offered to work with him between now and Select File. He has said he has trouble with the drafting, he has said he has troubles with some of the wording, and we offered to work with him between now and Select File to take care of the problems. Perhaps that would help take some of the body's time off the floor. We could do some of this beginning, if that's his preference of words, to do some of this work and not take up the body's time. I was prepared to do that. Senator Chambers is not. He has said that he will be prepared to go to a cloture vote. So be it. But we have offered to work together. If he absolutely hates the bill after the language is in his favor or to his liking then we can have this extended discussion on Select File. Whatever he chooses to do is just fine with me, but we're going to try to stay friends through all of this. We just happen to disagree on the concept of acupuncture. This is what we're talking about, is the concept, if you would agree that people should be given the choice of the kind of acupuncture they receive. Maybe they don't want it. Maybe they would rather go to medical doctor. That's fine. Maybe they would want to go to a chiropractor. Terrific. We are asking for the choice and if I have a choice I would much rather have someone who is experienced, trained and educated in the practice that they are doing. That is the whole point of the bill. If the standards are not listed to Senator Chambers' liking, we can put them in the bill. I told you where they were. I told you what they were. I have a few pamphlets on acupuncture and oriental medicine, unfortunately not enough for everyone, but if you are interested come over and take a look at them. If you want to keep them, fine. If you just want to look and leave them, that's fine too. We just want to make you aware of what acupuncture is, why it is done the way it is done, where it comes from, what it's supposed to do and, above all, it is a patient choice. It is not laetrile. It is not voodoo. It has thousands of years of experience. Millions of Chinese can't be wrong. The amendment that Senator Chambers is talking about would take out, on page 11, on line 5, "or oriental medical". That's fine. I have agreed to that. We have been in

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consultation with a licensed acupuncturist in the Rotunda. He said it's kind of silly to take it out, but it's fine to take it out. It won't hurt anything. So, Senator Chambers, we... I will be voting green to your amendment. Thank you.

SENATOR CUDABACK: Thank you, Senator Hudkins. Senator Chambers, and this is your third time.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, whoever the licensed acupuncturists are in the lobby, they're going to have an understanding of how legislating is done in Nebraska; that a group cannot simply come in here and plop something down which is as sloppily drafted as this and get it adopted by this Legislature. I do have a concern about the institutional image of the Legislature and that will be frozen in the language of the legislation we put into the law books. Some things take time and people don't want to give it, but when I come here for 90 days I'm prepared to spend all 90 of those days doing each day what comes before me, regardless of how others feel about it, to see that the Legislature meets the standard that I think it ought to meet. Who am I to say that? I am me. And to the extent that other people disagree with me, they have a standard which they are trying to see met, and their standard is not the same as mine. So that is what brings about the battle, the clash of wills, the debate. A debate is where you have opposing sides. It goes beyond a mere discussion. It's beyond mere conversation and, for me, it's the building of a record, and not just on this bill but for others down the line and those special interest groups who are supporting those bills and think that I will get tired or I will let them go by. I had said the other day that I was not going to offer amendments to LB 225. I thought others were going to, but if that work needs to be done then, when the bill comes before us again, then I'm going to subject it to the "Chambersian" method. Senator Hudkins has agreed to this amendment. There are others with which she will probably agree, and many in the body will be glad that I'm doing this arduous work because they're not even going to read the bill. Senator Hudkins probably doesn't know the name of the song that carries these words, and I'm improving her education as far as music: They call me a dreamer. Well, maybe I am. For her to think that members of the body who simply

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voted to keep this bill before us have enough interest to come over there and read the literature, Senator Hudkins is a dreamer. I will bet you there will be more of a path beaten to my desk before this discussion is over than will be beaten to hers to read the information that she says she has available. If people are supporting this bill, they should at least know what they're supporting. I am in opposition so I'm going to state with specificity what it is that I'm opposed to. The acupuncturist thinks it's silly to take this terminology, "oriental medical college", out of the bill; I think it's silly to put it in there. That's what makes me feel that the whole thing is a sham; it's quackery. They want to try to put as many things into the statute to confuse people so they'll think you're dealing with a medically trained person. That's why they want this terminology. That's why those who wrote the bill wanted "diplomate" in, that word, rather than saying "a holder of a diploma". "Diplomate" does have a specific meaning. It is a term of art in a medical context. But the contradiction comes because this bill requires the "quacker", the "needler" to say, I'm not a medical doctor; this is not medicine that I'm practicing, wink, wink, nod, nod.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: This is an easy amendment, but it gave me the opportunity to talk about some general principles that will lead me to engage in the kind of debate that I will. Each one of us has his or her own method of making a point and I intend to make many points on this bill, and it might be a tip off to others who have a bill similar to this, who will look it over and see if we're going to have to do this on the floor, and they cannot be given the impression that all they'll have to do is come to me and say, well, Ernie, now I'm willing to work it over; let's let it go on over to Select File and then we'll work it out there. No, it was put before us and we will take care of the patient which is on table before us. And this LB 270 is the patient who is on the table and I am one of the surgeons, not an acupuncturist,...

SENATOR CUDABACK: Time.

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SENATOR CHAMBERS: ...not a quack.

SENATOR CUDABACK: We are discussing the amendment FA24 to LB 270. Anyone else wishing to discuss this amendment? I see none. Senator Chambers, did you wish to close on your amendment?

SENATOR CHAMBERS: Yes, I do, Mr. President. Thank you. For the life of me, I cannot understand how people who want to call what they do a profession have no more pride in it than to send something like this to a Legislature, cross their fingers, knock on wood, and do all the other superstitious things that people do in hopes of affecting the outcome of events. This bill is not going to be given a free ride. They should have come yesterday when we were going through all these things and made an offer then. There would not have had to be a kill motion to sample the attitude of the Legislature. But once, as people say, the genie is out of the bottle, how do you get it back in? Once you light a cigarette and it burns halfway, can you "unburn" it? No. So we're just going to have to go through the process of rewriting a bill on the floor and, from the kinds of amendments that I offer and the language in the bill that is being affected, you can ask yourself, if you haven't been here before, is this the kind of legislation that should be advanced by committees; is this the kind of proposed legislation that should go into the law books? Your answer will be no. Then you can ask yourself another question--are you glad that there's somebody else who will do this hard dirty work and you don't have to do it but you can reap the benefits of it? And your answer to that question will be yes. All rivers and most people are crooked because they follow the path of least resistance. And on the floor of the Legislature the path of least resistance is to go along to get along. But I need to sharpen my tools on bills such as this one and when another one comes like this the precedent has been established. The reason I'm not spending a lot of time on the amendment that is before you is because Senator Hudkins has said she will accept it. She may have even told me yesterday that she would accept it. But I have other intentions for this bill. I think the word "puree" means something to a chef. I think "saute" means something to a "cheft"...a chef, and there other analogous terms that could be

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used to designate, describe, point out what I intend to do with this bill. Mr. President, I will ask for a call of the house and I will take a machine vote, but I want it to be a record vote.

SENATOR CUDABACK: There's been a request for a call of the house. All those in favor of the house going under call, please vote aye, opposed nay. Been a request for a call of the house. Have you all voted? Record, please, Mr. Clerk.

CLERK: 13 ayes, 1 nay to place the house under call.

SENATOR CUDABACK: The house is under call. All unauthorized personnel please leave the floor. Unexcused senators please report to the Chamber. The house is under call. Please record your presence. All unexcused senators please report to the Chamber. The house is under call. Senator Burling. Senator Aguilar, Senator Byars. Senator Connealy, Senator Cunningham, would you...Senator Suttle, Senator Jones, please report to the Chamber. The house is under call. Senator Jones, the house is under call. Senator Chambers has requested a record vote. The question before the body is, shall FA24 be adopted to LB 270? All in favor vote aye, opposed nay. Have you all voted who care to? Record, please, Mr. Clerk.

CLERK: (Record vote read, Legislative Journal page 579.)  
41 ayes, 2 nays, Mr. President, on adoption of the amendment.

SENATOR CUDABACK: FA24 is adopted. I do raise the call.  
Mr. Clerk.

CLERK: Mr. President, Senator Kristensen would move to amend with AM0382. (Legislative Journal page 579.)

SENATOR CUDABACK: Senator Kristensen, you're recognized to open on your amendment.

SPEAKER KRISTENSEN: Thank you, Mr. President, members of the Legislature. After the discussion yesterday that I listened to, it appears to me, and we've done this in some other cases here, but an amendment, since we have the acupuncturists who are going

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to be treating people and it seems rather clear by the debate that that is going to be another form of treatment or medicine that people can choose to do, the issue becomes under what standard of care are they held to; how should they be judged and what sort of standards should they have? This amendment merely says that an acupuncturist licensed under this act, under the Uniform Licensing Law, shall provide the same standard of care to patients that is provided by a person who is licensed under the practice of medicine, surgery, osteopath medicine or surgery. Also, we talked about the chiropractors were also doing acupuncture. What I also included in this amendment was that the chiropractors' license under that same uniform law have to provide that same standard of care. Why do we do that? If you're going to provide those treatments you ought to be held to the same standard because the patients are assuming that you're providing medical treatment. Medical treatment is medical treatment and this is the standard of care we have done with the optometrists and the ophthalmologists. That's how we solved that fight a couple of years ago. We put them both on the same standard of care. The optometrists found that to be good policy. They have lived easily within that and I think that you would find the chiropractors and the acupuncturists to be in the same vein. If we're going to have them doing some of the same things, responsibility wise, they should be held to the same standard of care. I don't think that that is an unreasonable request. I think that's actually what we're talking about, is that they are in fact medical providers. If people are going to rely on them for that, they should be held to the same standard of care. If they mess up, just as lawyers, doctors, accountants, everyone else who holds professional license, if you mess up you're subject to suit. And the key is at trial, when you're there, under what standard of care are you judged? Is it the average person off the street, or are you going to be judged by the type of treatment that you were giving? And in this case they're giving medical treatment. I would suggest to you that they should be held to the same standard of care as those who are practicing medicine, because that's who they're replacing. I would urge adoption of this amendment. Thank you, Senator Cudaback.

SENATOR CUDABACK: Thank you, Senator Kristensen. (Visitors

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introduced.) For discussion on the Kristensen amendment, AM0382, to LB 270, Senator Chambers, followed by Senator Kristensen.

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, this is beginning to move in the direction that legislation like this should go. We should just not have people willy-nilly, helter-skelter being put out there on the public with the sanction of the Legislature without, at the same time, putting some safeguards and creating accountability and responsibility. If these people have all of the training that Senator Hudkins assures us they're going to have but which I doubt, there is no mandate in statute that they do this, we should certainly, at a minimum, adopt what Senator Kristensen is presenting. These people who are in these activities, they call them professions perhaps, make certain representations to the public. They hold themselves out as healers. As those who can correct problems in the body with a chiropractor, they can make physical adjustments and manipulations that will correct a physical condition. These acupuncturists, they haven't reached the point yet, or maybe they just got away from the point, of sticking needles and pins in dolls, but they stick pins in people and some of them stick pins in animals and they say that they can cure. And I don't believe that they're able to produce all that they claim. I think there are many psychological approaches that can be taken to problems that people have, but because these people in these activities covered by Senator Kristensen's amendment are able, because of what they will be allowed to do under the law, to cause severe damage and harm to those people they will minister on, there should be something in the law that sets a standard. The purpose of a standard is to give you a means to measure the quality and appropriateness of whatever it is that's being done. Another reason for putting a standard in the statute is that it serves notice to these practitioners, whatever they call themselves, of what they're going to be required to do, the manner in which they have to do it, or they are going to be liable and responsible to a person who is harmed because they do not meet that standard. Since acupuncturists are in a position to insert needles in people and, although the term acupuncture needle is in the statute, we don't know from reading the statute what an acupuncture needle

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is. We don't know how long it is. We don't know what gauge it is. It might be the size of a ten-penny nail. Who knows? This language that Senator Kristensen is offering is eminently wise; it follows the creation of a state policy that is merited under these circumstances. I'm in support of Senator Kristensen's amendment.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Kristensen, on your amendment. Senator Kristensen, on your amendment. Did you wish to...there are no further lights, Senator Kristensen. Did you wish to...

SPEAKER KRISTENSEN: I was just going to buy some time for Senator Hudkins and I to visit a little bit. I...I'm just looking at her. She doesn't have her light on. If she wants to, I'll yield my time back to the Chair and...unless we're ready for closing.

SENATOR CUDABACK: Senator Chambers follows you.

SPEAKER KRISTENSEN: I'll yield my time back.

SENATOR CUDABACK: Are you yielding your time to him also?

SPEAKER KRISTENSEN: That really hurts me. He can have my time.

SENATOR CUDABACK: Senator Chambers.

SENATOR CHAMBERS: Mr. President, and for the Speaker, the only reason I'm taking his time is in case I need more than what I'd have so that they can do whatever they want to do.

SENATOR CUDABACK: With your time and his time, you have about nine minutes.

SENATOR CHAMBERS: Thank you, and I may not need all of that but, at any rate, I want to read the language that pertains, first, to the chiropractor, to show that nobody is being singled out and picked on, then the language that applies to our friends the needlers or, to be more formal, the acupuncturists. "A chiropractor licensed under the Uniform Licensing Law shall

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provide the same standard of care to patients as that provided by a person licensed under the Uniform Licensing Law to practice medicine and surgery, osteopathy, or osteopathic medicine and surgery." Now to the acupuncturists. An acupuncturist licensed under the Uniform Licensing Law shall provide the same standard of care for (sic--to) patients as that provided by a person licensed under the Uniform Licensing Law to practice medicine and surgery, osteopathy, or osteopathic medicine and surgery. These people are working in the same areas as the ones whose standard they must meet. As Senator Kristensen pointed out yesterday in our discussion, that if no standard is put into statute the only way you judge what these people have done in order to determine whether they did it correctly is what would an ordinary person who is not a medical doctor do? Well, just pick somebody up off the street and say, how would you do this, and they say, well, I don't know, and that's about the standard. This begins to tighten the bill down and if this amendment is adopted then it takes away a lot of the other concerns that I had with the bill. I still don't like acupuncture, but my not liking it doesn't mean others should not be able to choose their own brand of poison. What bothers me so much about this bill is that it's giving a sanction from the Legislature for that activity while, at the same time, not providing any standards, not providing any criteria as far as qualification, and not creating responsibility and accountability. All that Senator Kristensen's amendment will do is to provide that accountability, establish that standard, give notice to these practitioners of what is going to be required of them in order to avoid liability. This language does not require that if you go to that person you'd be healed or cured of whatever you're going to that person for. Doctors do not have to guarantee a cure. That's why they call medicine an art. Some people say science, but it's not a science. You would have a science if every time you made up a compound and subjected it to certain conditions you always got the same result. That's a scientific principle established there because it does not vary. But when you're dealing with medicine there are variables that are created even by the makeup of the patient. Some people will have a bad reaction to a medication or a procedure and others won't. I just heard this morning that bypass heart surgery causes...

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SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...brain damage in some people; that it diminishes mental ability and it is long term, but they still recommend it. That is something that had not been noted before. Not every person who gets bypass is affected the same way. So I'm saying all that to emphasize that this that Senator Kristensen is attempting to do is not requiring chiropractors or acupuncturists to guarantee healing. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Your light is next if you wish to continue.

SENATOR CHAMBERS: Oh, may I ask Senator Kristensen a question?

SENATOR CUDABACK: Senator Kristensen, would you yield to a question?

SPEAKER KRISTENSEN: Yes, Senator Chambers.

SENATOR CHAMBERS: Mr. Speaker, did you complete your discussion?

SPEAKER KRISTENSEN: I believe so. I think Senator Hudkins was having staff make one last check and look at it and I don't know what the result of that will be and I...

SENATOR CHAMBERS: Do you need to buy some more time?

SPEAKER KRISTENSEN: Not from my point of view.

SENATOR CHAMBERS: Okay. Thank you, Mr. President. Then I'm going to give some time back to the Chair.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Kristensen, did you wish to close on your amendment or did you wish to speak for five minutes or whatever?

SPEAKER KRISTENSEN: I will close and I assume that if there are some problems we'll come back and address those. But, members,

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so you understand, this is doing two things. It adds the standard of care to an acupuncturist who's licensed under this law; that they're going to have the same standard of care of those who are licensed for medicine, surgery, osteopath, and osteopathic medicine and surgery, and if they're going to be doing medical treatments they ought to be held to the standard of care. What it really does is, in the area of diagnosis, if they're going to go out and diagnosis things they're going to be held to that same standard of care the doctor would be if they miss a diagnosis. So that would discourage them from doing diagnostic things, I would think, and keep them primarily towards performing their activity. Whether it's effective or not is not part of this amendment, but it would hold them to that higher standard of care. Also, it would do the same thing, since chiropractors are doing this, chiropractors who are licensed also would be held to a standard of care to those practicing medicine or surgery. I would answer any questions. If the bill moves to Select File, I would urge its adoption. Thank you, Mr. President.

PRESIDENT MAURSTAD PRESIDING

PRESIDENT MAURSTAD: Thank you, Senator Kristensen. The question is, shall amendment AM0382 to LB 270 be adopted? Those in favor vote aye; those opposed vote nay. Please record.

CLERK: 26 ayes, 1 nay, Mr. President, on the adoption of Senator Kristensen's amendment.

PRESIDENT MAURSTAD: The amendment is agreed to. Mr. Clerk.

CLERK: Mr. President, Senator Chambers would move to amend. Senator, the amendment that begins on page 10, line 9. (FA25, Legislative Journal page 580.)

SENATOR CHAMBERS: Yes.

PRESIDENT MAURSTAD: Senator Chambers,...

SENATOR CHAMBERS: Thank you. Members of the...

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PRESIDENT MAURSTAD: ...recognized to open.

SENATOR CHAMBERS: ...Legislature, I gave Senator Hudkins a copy of this amendment, but I'm going to read it into the record and then explain what the difference is between my amendment and the language that is in the green copy, because my language seems not to do much and, in my opinion, it does not, but others may see it differently. Starting in line 9, with the word "for", I'm striking all language through the word "of" in line 10. This is the language that would be stricken: "for the promotion, maintenance, and restoration of". Then it's talking about health. What I would substitute is the following: "in an effort to promote, maintain and restore". What my language does by introducing these three words with the words "in an effort to" makes it clear that nothing is being promised here. Other than like all people who are offering something to the public in the way of, to use the language of the bill, treatment of disease and improving the health, this is being done in an effort to achieve those things. A person would not be found to have violated any principle if, all other things being equal, the health happens to not be promoted or enhanced, health is not maintained, health is not restored. My language would say that all of these things, whatever they are, are done in an effort to achieve these ends. I'd like to ask Senator Hudkins a question, if she will yield.

PRESIDENT MAURSTAD: Senator Hudkins, would you yield?

SENATOR CHAMBERS: Senator Hudkins, do you at least see the difference that I'm making between what's in the green copy and what I'm offering?

SENATOR HUDKINS: Yes, I do.

SENATOR CHAMBERS: Okay. What is your reaction to it?

SENATOR HUDKINS: If this is an amendment that you really feel strongly about and the rest of the body would accept, I would not vote against it.

SENATOR CHAMBERS: Okay, and I promise you this is not one of

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the trick amendments where there's something hidden in it.

SENATOR HUDKINS: You're going to have trick amendments?

SENATOR CHAMBERS: No, but some people think they are because they don't pay close attention.

SENATOR HUDKINS: No, actually, Senator Chambers, this amendment I think is fine.

SENATOR CHAMBERS: Thank you. And...I'm not through, Mr. President, because I've got much work to do, many roads, many miles to travel before I sleep. You all may go to sleep some place right now if you want to, because I'm speaking for the record and I won't be offended in the least. Let me tell you what we should be looking at. Whenever you're dealing with an art you're acknowledging, by use of the term "art", that variables are coming into play and the outcome may differ radically in case "A" than it did in case "B", even though the person who brings you case "A" seems to have a set of circumstances very similar to, if not exactly the same as, those of case "B". So you let the person know that I'm going to do the best that I can with what I have to offer, and I cannot guarantee the outcome but I can guarantee that I'm not going to kill you, and if I do kill you then it's going to be an accident. So my language simply puts these people on the same footing as lawyers, in a sense, who will create and commit an ethical violation if they guarantee an outcome to a client. A lawyer is prohibited by the ethical standards that govern that profession from trying to guarantee an outcome. This amendment is also one that is not a back buster, not a brain teaser. It is very straightforward, but I think it improves not only the drafting of the bill but it makes it clear that these are not miracle workers. They are not magicians. They might want to be considered wizards, but I think the only wizardry manifested by them is getting this bill as far as it has gotten so far. This amendment is not going to take much in the way of an explanation, but the next one might cause Senator Hudkins some heartburn, although I don't know why it should. But we will get to that bridge for crossing when I finish here. Leading up to that, I would like to ask Senator Hudkins about a matter before

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I even talk about trying to amend it. Senator Hudkins, would you turn to page 11?

PRESIDENT MAURSTAD: Senator Hudkins, would you yield?

SENATOR CHAMBERS: I'm doing it on this amendment because you've already said it's okay with you, so I don't have to do a lot of arguing. I'm going to read the language. It's in Section 7, starting on...on line 8: It is unlawful to practice acupuncture on a person in this state unless the acupuncturist is licensed to practice...under the Uniform Licensing Law and has a prior letter of referral from or a medical diagnosis and evaluation completed by a practitioner licensed to practice medicine and surgery and so forth. And forget the time frame. That's not what I'm looking at. To whom does this letter of referral apply? Is it to the person who is to receive the work of the acupuncturist, or is it to the acupuncturist as it says in this language? I'm really not clear.

SENATOR HUDKINS: Usually, when a person gets a referral letter, the doctor gives it to the patient and then the patient may make the appointment and see whoever the specialist is at that point.

SENATOR CHAMBERS: Do you think that the language could be made clearer by pointing out, instead of making it seem that the acupuncturist is licensed and has a prior letter of referral, which could suggest that it's almost in the way of a recommendation to a specific acupuncturist, unless that's your intent, would it be clearer to say that the person presents a letter of referral or a medical diagnosis and evaluation, and the rest of it, to the acupuncturist? To say it more simply, the person who is going to seek the ministrations of an acupuncturist must present to the acupuncturist this referral and the diagnosis and evaluation before the acupuncturist can operate, instead of making it appear that all of this relates to the qualifications, perhaps, of the acupuncturist. And you don't have to answer right now, but that's where I'm going to be going...

SENATOR HUDKINS: Well, I could answer now.

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SENATOR CHAMBERS: ...further down the line.

SENATOR HUDKINS: I could answer now if you would want me to, or we can wait.

SENATOR CHAMBERS: Oh, okay. Okay.

SENATOR HUDKINS: I guess the language that you propose is...well, let's back up. It's clear to me what happens in the current language, but if you think that changing that language would help we can address that.

SENATOR CHAMBERS: And I'm not going to do it right this minute, but I wanted you to have a chance to look at that because that would be a little more substantive than these other things that I'm talking about. But that's all that I will ask you at this point. Thank you. Members of the Legislature, if this were school I would do like teachers do and say all those who have read this bill raise their hand, and I don't know how many hands would go up. I've read every word of it. I don't know if anybody else on the floor has done so, but sometimes people get into a snit by doing things like that. Because there was this minister conducting a revival and he took it very personally whenever anybody went to sleep.

PRESIDENT MAURSTAD: One minute.

SENATOR CHAMBERS: So...and I will...I'll need more than one minute for what I'm going to tell you. So...

PRESIDENT MAURSTAD: Senator Chambers, you may continue.

SENATOR CHAMBERS: Oh, okay. Thank you. So this person was not only slumped in his seat and his head bent over, but he was snoring, and no preacher likes competition, so the preacher, with winks and nods to everybody in that big tent who were there for this revival, heard the preacher say, without saying it loudly enough to wake up the sleeping member, all those who are going to heaven, all those who are saved, stand up. And everybody in the place stood up except the sleeping member. Then he signaled and they all sat down quietly. Then he said,

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everybody in this tent who's going to hell stand up, and all the guy heard was "stand up" and he stood up, and he looked around. Everybody else was sitting down. He said, Reverend, I don't know what in the world you and I are voting on, but it seems like you and I are the only ones for it. So sometimes when people say raise your hand or one of those kinds of things that they will do it does not always produce the result that is desired. So I won't ask how many have read this bill to raise their hand, but it seems to me that if you're in favor of this you ought to at least have read it. Most people who have spoken for this bill have an impression or an opinion or an anecdotal story, but they cannot address anything that is in the language of the bill. What we are putting into the statute are not these anecdotes. We are putting language that is going to have legal meaning, legal significance. I would like to ask is Senator Kruse in the Chamber? Oh, Senator Kruse has departed...I mean he has left the Chamber. I'm trying to find somebody who said they had received acupuncture treatment. Who said that yesterday? Oh, did you? Have you had? Has anybody who's on the floor now received acupuncture treatment? Oh, Senator Cudaback.

PRESIDENT MAURSTAD: Is that a rhetorical question, Senator Chambers?

SENATOR CHAMBERS: Yes, I would like to ask Senator Cudaback a question, if he will yield.

PRESIDENT MAURSTAD: Senator Cudaback, would you yield?

SENATOR CHAMBERS: Senator Cudaback,...

SENATOR CUDABACK: Yes.

SENATOR CHAMBERS: ...how long ago did you receive your...and I'm not going to get real personal. How long ago did you receive this treatment?

SENATOR CUDABACK: Oh, about a year maybe, year and a half.

SENATOR CHAMBERS: And what led you to seek it?

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SENATOR CUDABACK: I was asked to seek it.

SENATOR CHAMBERS: Did a doctor suggest it?

SENATOR CUDABACK: No.

SENATOR CHAMBERS: It was an ordinary person who asked you to seek it.

SENATOR CUDABACK: Yes.

SENATOR CHAMBERS: And whatever you sought it for did it work?

SENATOR CUDABACK: That's hard to answer. I don't know how it would have been if I would have not have had the so-called treatment.

SENATOR CHAMBERS: Okay, thank you, Senator Cudaback. That's as honest and straightforward as a man can be. I think Senator Coordsen raised his hand. Would Senator Coordsen...

PRESIDENT MAURSTAD: Senator Coordsen,...

SENATOR CHAMBERS: ...yield to a question or two?

PRESIDENT MAURSTAD: ...would you yield?

SENATOR COORDSEN: Well, thank you, Senator Chambers, for allowing me this opportunity. Now I don't know whether my answer...

SENATOR CHAMBERS: May I ask you the question?

SENATOR COORDSEN: ...exactly fits your question,...

SENATOR CHAMBERS: May I ask you the question first? (Laugh)

SENATOR COORDSEN: ...but I remember being vaccinated for hog cholera one time and it was a needle and it did penetrate my thumbnail.

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SENATOR CHAMBERS: Okay.

SENATOR COORDSEN: Now is that something that we might be interested in hearing about or...

SENATOR CHAMBERS: No, no thank you. (Laughter) And it's just as well that he didn't wait till I asked the question before he gave his answer. It was as applicable with or without a question. But what Senator Cudaback told us is what somebody might tell us who had gone to a regular physician or a doctor. There has been too much on this floor given in the way of almost assurances that if you go to an acupuncturist you're going to be healed. That has been the approach. Doctors don't even argue like that. There has been an overstatement and overpromising of what can be done by acupuncture. That's why I say it's in the realm of quackery. If they would just be honest and say that we have latched onto a fad and we want to make money, that's one thing. I will bet these so-called acupuncturists cannot give you anything in the way of Chinese literature, I don't mean something written last week or when it became a new age fad in this country, that explains what acupuncture is about, how it came into being, whether there is any philosophical, any religious or quasi-religious underpinning to the activity. There is too much of an attempt to hook up what is happening in America...

PRESIDENT MAURSTAD: One minute.

SENATOR CHAMBERS: ...to what happened in China, and what is happening here is not the same. What people will do in this country is take a slogan and let all kind of things flow from it, because the public will not inform itself and they will accept whatever they see in writing, and now if they see it on this computer screen they believe it's got to be true. There is such an activity known as acupressure also, but it's not done with needles so you don't have to be licensed, but you can clean up. And they sell books saying you can teach yourself to do this, and they mark off places on the balls of your feet, on the heels of your feet, on the toes, and they tell you what each toe will affect, which part of that toe, and some things will run to

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more than one organ--your eye, the iris of the eye, the ear and the nose...

PRESIDENT MAURSTAD: Time.

SENATOR CHAMBERS: ...from one of those toes. Thank you, Mr. President.

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

SENATOR CHAMBERS: Thank you, Mr. President. Since Senator Hudkins is not opposed to this amendment, I'm not going to take my full complements of time on it because I do have some other items that I think need to be addressed, and if they can be put into the bill I think the bill will be improved. No, let me not say "improved". Some of the harm that would be done by it will be mitigated. This amendment that is before you is designed by me to take away the notion that anything in the way of a guarantee as to the outcome of acupuncture is being endorsed by the Legislature. The amendment is composed of language which is designed to convey the idea that when these people are applying manual, mechanical, thermal, electrical, and electromagnetic treatment to these needles at specific points or meridians on the body, that it's done in an effort to promote, maintain, and restore health, rather than saying for the promotion, maintenance, and restoration of health. Maybe no health will actually be restored; maybe none will be maintained. If a person comes to you and understands at the outset that this is an effort to achieve a certain result that person cannot later on say, you told me that you were going to do such and such and when you had done this my condition is going to be corrected. I want to encourage, to the extent that that can be done through what we put in the legislation, the people who engage in these activities to level with those who come to them. Don't make them think this is something magical, that it is a cure-all, that it might be recommended no matter what your condition is, but there is not even a likelihood that it is going to cure or correct it. I'm going to have to ask, Mr. President, for a call of the house, and then I'll take a machine vote.

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PRESIDENT MAURSTAD: Question is, shall the house go under call? Those in favor vote aye; those opposed vote nay. Please record.

CLERK: 15 ayes, 0 nays to place the house under call.

PRESIDENT MAURSTAD: Thank you, Mr. Clerk. The house is under call. Would unauthorized personnel please leave the floor. Would all members please return to the Chamber and record your presence. The house is under call. The house is under call. Would members please return to the Chamber and record your presence if you are not excused. The house is under call. The house is under call. Senator Aguilar, Senator Robak, the house is under call. Senator Wickersham, the house is under call. The question is, shall the Chambers amendment to LB 270 be agreed to? Those in favor vote aye; those opposed vote nay. Mr. Clerk, please record.

CLERK: 39 ayes, 2 nays, Mr. President, on the adoption of Senator Chambers' amendment.

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

CLERK: Thank you, Mr. President.

PRESIDENT MAURSTAD: Call is raised.

CLERK: New A bill, LB 244A, by Senator Bromm. (Read by title for the first time.) Natural Resources reports LB 586 as indefinitely postponed; and Judiciary reports LB 413 to General File, LB 500 to General File, those reports signed by the committee Chairs. (Legislative Journal pages 580-581.)

Mr. President, Senator Chambers would move to amend the bill. (FA26, Legislative Journal page 581.)

PRESIDENT MAURSTAD: Senator Chambers, you are recognized to open on your amendment to LB 270.

SENATOR CHAMBERS: Yes, Mr. President, members of the

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Legislature, this amendment would be found on page 11, in line 21. I'm going to explain it, even though I don't see Senator Hudkins here, but I want to be sure and make it clear for the record and then for anybody who has an interest what the amendment is, what it does, why I'm offering it. First of all, it is in line 21, I would strike the words "traditional western" and insert "the practice of". This is the way the language reads now. This, by the way, is information that the acupuncturist has to provide: "The distinctions and differences between the practice of acupuncture and traditional western medicine". I think that's too broad and it's more than what might be needed. My insertion of what I'm offering would say: "The distinctions and differences between the practice of acupuncture and the practice of medicine". It's not just some particular phase or brand of medicine. The purpose is to let the individual know, who's coming to the acupuncturist, that you're not coming to a person who practices medicine. Instead of having to give a history of western medicine which may not be taught to these people, may not even be taught to people going to a medical school when their intent is to become a medical doctor, the purpose I think, and that's why I wanted to ask Senator Hudkins, is to show that this person who is practicing acupuncture is not practicing medicine, and the difference could be stated in terms of the requirements, the technical requirements, of one who practices medicine and that this, whatever it is, based on an explanation that will be given by the acupuncturist, is not the practice of medicine. What ties into that is the following language found at line 22 on page 11. This is what the acupuncturist is required to give in the way of information: "The disclosure that an acupuncturist is not licensed to practice medicine or to make a medical diagnosis of the person's disease or condition and that a physician should be consulted for such medical diagnosis". Oh, Senator Hudkins, I see you're back, and I don't mean that like that...that real crazy looking guy, Jack Nicholson, when, in "The Shining", he told his wife, I'm back. Have you found it in the green copy where we'll be?

SENATOR HUDKINS: No, Senator Chambers, I'm sorry.

SENATOR CHAMBERS: Oh, okay, page 11, in line 21.

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SENATOR HUDKINS: And you want to take out the words "traditional western" and add "the practice of"?

SENATOR CHAMBERS: "The practice of", and the reason I'm doing it, this places...my language places a lesser responsibility because all the person should be required to do is to make it clear that you're not dealing with a medical doctor and they should not have to give a history of western medicine or even a summary of it or even set this in opposition to it, but simply explain the difference between the practice of acupuncture and the practice of medicine, and that's what the language is designed to do. If you've had a chance to think about it, what do you think?

SENATOR HUDKINS: I would accept that amendment.

SENATOR CHAMBERS: Thank you. But, members of the Legislature, I still have to talk awhile because with Senator Hudkins adopt...accepting these amendments, I don't have enough time to really go after the bill in the way that I need to. I don't know which...oh, let me tell you what I'm going to run after now--criteria which ought to be placed in the bill. I believe that there ought to be minimum criteria stated relative to qualification. Now, we may not agree on the number of hours of training, a curriculum or whatever, but we need to start working in that direction, I believe, so that in case this commission goes out of business...let me ask Senator Hudkins a question if she might be able to answer it.

PRESIDENT MAURSTAD: Senator Hudkins, would you yield?

SENATOR HUDKINS: Yes.

SENATOR CHAMBERS: Senator Hudkins, I'm not questioning the validity of the commission now. Do you know where the commission is located?

SENATOR HUDKINS: We're looking.

SENATOR CHAMBERS: Just the state. I don't even need a city.

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SENATOR HUDKINS: They're in Virginia.

SENATOR CHAMBERS: In Virginia?

SENATOR HUDKINS: In Alexandria, Virginia.

SENATOR CHAMBERS: Okay, thank you. Members of the Legislature, there could be a tidal wave and all Virginia is washed away, and I say, like H.L. Mencken, if that happened I don't think civilization would be diminished by much. But, anyway, if we put criteria into the bill, if a tidal wave came and washed away that commission then we still have something in the law of this state which gives notice to anybody who's interested in embarking on a career in acupuncture what the minimum requirements are. That person should not go into the statute and read a reference to a commission whose location is not even provided. So how is this person going to obtain a diploma from one of these outfits when you don't even know where to go? But if we put in this licensing statute what we put in others then we're moving down the proper path, headed in the proper direction. So there should be some minimum requirements that a person must meet which, if met, would take a person over the threshold so he or she could do whatever else is necessary at the next step to be given a license or what...this permit or whatever they're going to be given. After the minimum standards are there, we should say who is going to administer this examination. You don't know who's going to administer it. You don't know of what the examination will consist because you'd have to read all the language Senator Hudkins read to us this morning to know what this commission is requiring. Well, what the commission is going to do...I don't know if the certification commission certifies individuals or teaching facilities, but there has to be something, some system, some structure related specifically to the individuals who are going to do this, and that should not be based on something in Alexandria, Virginia, which could change. Let's say that what Senator Hudkins read us is what they allow, 4,000 hours of whatever it was you did for 4,000 hours, or an apprenticeship where you work with somebody. Well, an apprenticeship may not necessarily be what it seems to be on its face. Maybe a person

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who is going to be the journeyman or the...I don't know what you call the top acupuncturist but whoever is going to be the one under whom this apprentice studies, we don't know whether or not that person may falsify records in order to get this person as an employee in his or her operation. So if you declare that this person did not go to this school, did not pass an examination but successfully completed an apprenticeship, then you can stock your stable with these people. And since acupuncture is not going to work all these miracles, nobody will be able to tell from what the acupuncturist does or does not achieve whether or not he or she has any training. So Nebraska might not want there to be an apprenticeship that takes the place of these academic, or whatever you call them, requirements. I don't know if these schools or facilities that the commission will certify...

PRESIDENT MAURSTAD: One minute.

SENATOR CHAMBERS: ...are considered academic institutions, but if you put minimum criteria in the bill you define and describe and establish the testing procedure, who would administer the test, and what the passing grade is and some of these things, in addition to rule-making authority some place, then the bill would be moving toward where I think it should go.

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

SENATOR HUDKINS: Thank you, Mr. President and members. Senator, I was out of the room, but I did hear Senator Chambers comment upon apprenticeship and are they really licensed and what do they know, and so on and so forth. I would like to give you, and I made reference to it earlier, the Oregon College of Oriental Medicine and what their prerequisites are to be even accepted into the college. OCOM, and that's the Oregon College of Oriental Medicine, seeks students who show the potential to become caring, dedicated and skilled practitioners of traditional oriental medicine, and so on and so forth. Here are their prerequisites: three years of college at...these are the minimum require...requirements for admission to this college: three years of college at an accredited institution are

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required; a minimum of 135 quarter credits, or 90 semester credits, though OCOM recommends that incoming students have completed four years of college. As part of that college education, or in addition to it, applicants must also have completed the following college level courses: one college level course in general biology; one in chemistry; one in psychology. Each of these science courses must be completed at an accredited college with a grade of C or better. Courses in biology and chemistry must be a minimum of four quarters in length. Courses in psychology must be a minimum of three-quarters...three quarter credits or two semester credits. It is strongly recommended that students complete eight credits or three quarters, nine credits, of college level anatomy and physiology. If they have not completed the anatomy and physiology, they may register to take this course during their first year. Students may be required to retake or audit classes, or to take challenge exams...no, let's see, I'll read the whole thing...take challenge exams for coursework in western sciences taken more than ten years before matriculation. So if you've taken these classes ten years ago you're going to have to audit them again or retake the exam again. The anatomy and physiology requirement must be completed no more than three years prior to admission. And then we're going to go to the curriculum and this is all in that black booklet that I gave you, Senator Chambers, the curriculum summary for the...don't have the name of the college right here but it's in Oregon. Their first quarter, their fall quarter, they take Chinese...Traditional Chinese Medical Theory; Point and Channel Location; Medical History, East and West; Living Anatomy; Anatomy and Physiology; I'm not sure of the pronunciation, Tuina, and I don't know what that is; there's also a Shiatsu, which is a massage class; Qigong, which is a breathing class. Their winter quarter it's Traditional Chinese Medical Theory II; again, Point and Channel Location II; pretty much...oh, observation skills, Chinese Herbal Medicine, and then the continuation of the classes that they took in their fall quarter. And then, in the spring quarter, same thing, plus clinical observation. Their first...their second year program they take Traditional Chinese Medicine, Pathology and Therapeutics; Point Actions and Indications; Acupuncture Techniques; Community Health and Chemical Dependency; Chinese

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Herbal Medicine; Chinese Herbal Dispensary Practicum; Western Medical Pathology. Their next quarter they take those classes...

PRESIDENT MAURSTAD: One minute.

SENATOR HUDKINS: ...plus Clinical Observation, and Auricular Acupuncture. And the spring quarter they take those classes again, number three level, plus Chinese Nutrition, Chinese Herbal Medicine, Dynamics of Illness, and so forth. So you can see it's not basket weaving. They are learning the techniques of the practice of the art. And I'll continue later as time allows. Thank you.

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

SENATOR CHAMBERS: Thank you. Mr. President, I would like to ask Senator Hudkins a question. Senator Hudkins, I think when you started, and that's...you can correct me if I'm wrong, you were reading the curriculum at a specific school. Is that true?

SENATOR HUDKINS: Classes that I just...

PRESIDENT MAURSTAD: Senator Hudkins.

SENATOR HUDKINS: Thank you. The classes that I just read off were at a specific school in Oregon. We also have classes listed here for a school in Connecticut, one from Minnesota, and these are examples.

SENATOR CHAMBERS: But...and, right, I'm not challenging that. There could be schools where the requirements that you read for that Oregon school are not required at some other school. Is that true?

SENATOR HUDKINS: That's probably true, but all of those schools, in order for the student to...to gain the diplomate designation, have to graduate from an accredited school.

SENATOR CHAMBERS: Well, what the Nebraska Supreme Court has

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said, by way of analogy, that a person has to attend a law school accredited by a certain agency that credit...accredits law schools, and they know what the requirements are because they can't...the court cannot go out and check every one of these school's curriculum, libraries and so forth. Now what is there that this commission does in terms of actually going to these schools and conducting on-site investigations, evaluations and whatnot to determine whether or not one of these schools should be certified?

SENATOR HUDKINS: Oh...

SENATOR CHAMBERS: If you know.

SENATOR HUDKINS: Yeah, well, I...I can give you, I think, what your an...what you want me to answer. The Secretary of Education is required, by statute, to publish a list of nationally recognized accrediting agencies which the Secretary determines to be reliable authorities as to the quality of training offered by educational institutions and programs. The National Accreditation Commission for Schools of (sic--and) College (sic--Colleges) in (sic--of) Acupuncture and Oriental Medicine is one of those on the list of nationally recognized accrediting agencies. And then that accreditation agency that I just mentioned then has a list of...of the schools that are responsible...

SENATOR CHAMBERS: Okay.

SENATOR HUDKINS: ...or directly responsible to it.

SENATOR CHAMBERS: Okay, but the commission itself does not go out and evaluate these schools. Is that true, or is that false? And by "commission" I mean the National Certification Commission for Acupuncture and Oriental Medicine.

SENATOR HUDKINS: Right. That commission does not go out physically and...and investigate. It is a testing program. The schools have to pass the test.

SENATOR CHAMBERS: So who does do an on-site check of these

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schools to determine that they make a list which suggests that they are acceptable and quality institutions?

SENATOR HUDKINS: I'm sorry, I didn't hear the first part of your question.

SENATOR CHAMBERS: Who then goes out? I know the Secretary of Education for the United States doesn't do it. Who then goes and makes on-site visits to these schools to determine the quality of their offerings, if you know?

SENATOR HUDKINS: I don't know.

SENATOR CHAMBERS: Okay. And I'm not going to pursue that. But here's what I will pursue. In Alexandria, Virginia, you can get a list of all types of organizations that locate there because they're near the seat of power in this country and, by contributing to campaigns, statuses can be obtained with federal agencies with nothing more than having a senator or a congressman speak in your behalf. If we don't know that the agency which does the certifying has hands-on knowledge...

PRESIDENT MAURSTAD: One minute.

SENATOR CHAMBERS: ...of what it is certifying, we cannot rely on the certification. This is one of the reasons I don't want to leave this activity of determining qualification to the say-so of a commission. We don't even know who is on it. Maybe it's composed of congressmen; maybe not. So there should be criteria put in the bill and right now we're dealing with an amendment that does not touch on that aspect of it. It's an amendment which Senator Hudkins has said she doesn't object to, and when I close I will go into what that amendment is so that it's clear for the record what we'll be voting on. Thank you, Mr. President.

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

SENATOR HUDKINS: Thank you, Mr. President. Senator Chambers, I have an additional answer to one of your questions. Just

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because someone graduates from one of these acupuncture schools doesn't mean that they then can go out and immediately start to practice acupuncture. They have to pass the...I don't know if it's called an industry-wide test, but that's basically what it is. For example, in the United States you can go to Creighton Law School and the day you get your diploma from there you cannot practice. You have to take the bar exam. So that's what this is. You have to prove your competence. You have to prove your knowledge, your clinical performance and so forth before you can receive then your acupuncture credentials.

PRESIDENT MAURSTAD: Senator Hudkins, do you want the rest of your time? Senator Chambers, you're recognized to close.

SENATOR CHAMBERS: Okay. Thank you, Mr. President, members of the Legislature. It's difficult to speak about this bill without seeming like I'm launching an attack on acupuncture, so I will just say what I've got to say and however it sounds it will just have to sound that way. Acupuncture is an intrusive activity. Whenever you insert something into a person's body, especially by breaking the skin, it is intrusive. I don't want a licensing bill passed by the Legislature to be devoid of standards and criteria, minimum requirements that are put in the bill. We don't even know whether it might be advisable to require a person to take this comprehensive examination that Senator Hudkins mentioned, and maybe it is, but we don't have anything in the bill that gives a person notice of what he or she will have to do to be an acupuncturist in Nebraska. If you read you're going to have to go some place else to find out what you have to do. If you have to do something that is controlled by this outfit in Alexandria, Virginia, you're going to have to procure whatever it is they present that has a bearing on what you have to do. Is it fair for the Legislature to recognize an activity, create a licensing system, but in the law that does all of these things not tell a person what has to be done? Senator Suttle and I went round and around on some issues. We talked to people with the cosmetology board and others who would have something to do with drawing up rules and regulations, and whether I ultimately agreed with everything in the bill or not is beside the point. The idea is that if you go to the statute to find out what you have to do to become one of these

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finger nail technicians, or whatever the term is, you can read the statute and find out. It doesn't say that you have to meet the standards set by somebody else. So we're working our way gradually to some of the meatier issues. Along the way I want to clean up some of the language and maybe because Senator Hudkins is showing herself to be so amiable, and that doesn't mean agreeing with every thing, I might consider taking some time off the floor after today and seeing what can be done. Senator Aguilar, maybe it was last year, he had a bill dealing with old folks helping old folks that was so atrociously drafted that, instead of trying to amend it word by word, line by line, I told him I'd just rewrite the whole thing, which I did, and I had to do research, I had to do the drafting, I had to make sure that it complied with other parts of the law. I did it all, but I'm not going to do that all the time. This is even more consequential than his bill because this allows an intrusive procedure. Let us say that a person is going to use needles and has taken a course on how to clean needles. What we're finding out, and those in the Ag Committee know it because we've been discussing Mad Cow Disease and its implications,...

PRESIDENT MAURSTAD: One minute.

SENATOR CHAMBERS: ...there's a protein known as a prion which is suspected of being the agent that causes or transmits Mad Cow Disease, and this prion cannot be destroyed. You cannot get a temperature hot enough to destroy it. You cannot get a temperature low enough to freeze it. Age does not diminish its power. It is a super superagent. And some areas of surgery are becoming concerned because they cannot properly clean or sanitize their instruments. One of the most effective things of all, and it may not be totally effective, is to try to rinse these things off, because you're not going to kill them. Well, let's say that these prions can be found other places. We don't know what's in this clean needle course.

PRESIDENT MAURSTAD: Time. Thank you, Senator Chambers. The question is, shall the Chambers amendment to LB 270 be agreed to? Those in favor vote aye; those opposed vote nay. We're voting on the Chambers amendment. Voting on the Chambers amendment. Voting on the Chambers amendment. Mr. Clerk, please

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record.

ASSISTANT CLERK: 25 ayes, 1 nay on the adoption of Senator Chambers' amendment, Mr. President.

PRESIDENT MAURSTAD: The amendment is agreed to. Mr. Clerk.

ASSISTANT CLERK: Mr. President, Senator Hudkins would move to amend. (FA27, Legislative Journal page 581.)

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

SENATOR HUDKINS: Thank you, Mr. President and members of the body. I'm sorry, could I have that amendment read to me? I gave you my only copy.

ASSISTANT CLERK: Senator, the amendment would read, on page 11, line 10, insert "been presented by the patient with" after the word "has".

SENATOR HUDKINS: Thank you. This refers back to the...the comment that Senator Chambers made early about who should get the referral letter, who gives it to whom, where does it go, and so forth. This is an attempt to clarify that a little more so it would read: It's unlawful to practice acupuncture on a person in this state unless the license...the acupuncture (sic--acupuncturist) is licensed to practice acupuncture under the Uniform Licensing Law and, then the new language, "has been presented by the patient with". and then go back to the current language, "a prior letter of referral". I talked to Senator Chambers about this and he said this was his intent, but I'll let him speak for himself. Thank you.

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Senator Chambers.

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, what Senator Hudkins said is exactly right. She was able to craft an amendment which I did not want to attempt

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to do because I didn't want to make the situation more confusing than I think it might be now. So her language, with a minimum of words, makes it clear and I think this amendment definitely should be adopted and I think we will know what it is we're doing. And I will tell you why I'm doing some of these things that might seem to be "nitpickyish". When time comes for you to get a license to do something, you don't want there to be two different ways that something can be viewed: one way which will prevent you from doing something; the other which will allow you to do it. With Senator Hudkins' language it's clear that this person who is the acupuncturist is going to know what is required when time comes to treat a patient. What we're talking about is the patient presenting this document or documents, if more than one is required, to the acupuncturist rather than the acupuncturist having to get something himself or herself from a doctor and so forth. I agree with the amendment. I intend to support it. I'm not going to speak at length on her amendment. She doesn't want me to take time for my purposes on her time, so I'm not going to do it...I mean on her amendment. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Hudkins, there are no further lights on. Did you wish to close on your amendment? Senator Hudkins waives closing. The question before the body is adoption of the Hudkins amendments to LB 270. All in favor of the amendment vote aye, opposed nay. We are voting on the adoption of FA27 to LB 270. Have you all voted? We are voting...record, please, Mr. Clerk.

ASSISTANT CLERK: 26 ayes, 0 nays on the adoption of the amendment, Mr. President.

SENATOR CUDABACK: FA27 is adopted. Mr. Clerk, next item.

ASSISTANT CLERK: Mr. President, Senator Chambers would move to amend. (FA28, Legislative Journal page 581.)

SENATOR CUDABACK: Senator Chambers, to open on your amendment.

SENATOR CHAMBERS: Mr. President and members of the Legislature, this is moving a bit more rapidly than I had intended but,

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nevertheless, we'll press on. This amendment is on page 12, and I can say it so you'll understand it, Senator Hudkins, and if you don't I will talk about it long enough to give you a chance to complete what you're doing and then come over to your mike. I'm not going to ask you questions on it, by the way, so take your time. On page 12, in line 6, I would strike the word "diplomate" and insert "holder of a diploma". I just want the language to say what is meant and have nothing in the bill that will create a confusion or a blurring of the line between the practice of medicine and the practice of acupuncture. I'm not going to go through the entire discussion I had of this word earlier, but I will say that it is a term of art in the realm of providing treatment of diseases and care. The reason I'm reluctant to say medical care, because I don't want to create that confusion by anything that I say. But if the term "medical" slips out other than in the context of me being critical of a confusion that this bill creates between the practice of medicine and the practice of acupuncture, then the slipping out of that word is purely by accident. What this language would cause Section 9 to say in pertinent part is the following, starting in line 4 on page 12: "The application shall include, but not be limited to, documentation that: (1) The applicant has current active status as a holder of a diploma in acupuncture", rather than saying "active status as a diplomate in acupuncture". I almost said agriculture, but then, from some of the discussion we had the other day between...by Senator Preister and others, it could be a part of the practice of agriculture. I don't think that anything should be said in this bill to grant a higher status to this activity than is warranted; to suggest that the person engaged in this activity of acupuncture is qualified to do anything other than carry out these acupuncture activities. What surprises me is that there is so little concern about the possibility of diseases being spread, as was the case when we're dealing with Senator Suttle's bill. This bill is not being brought to us because everybody can do this kind of thing. Right now, the only ones who can do it are those who are covered by some kind of malpractice insurance who have organizations that set some kind of standards that are determinable. What we have here is the breaking down of the barrier that prevents people who are not medical doctors or chiropractors from doing this. So by authorizing an entirely

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new and different group to engage in the intrusive activity of acupuncture, we should be very careful at the very beginning to lay a proper foundation. If a house is built on a weak foundation it cannot stand. It is not really too difficult to do what needs to be done to at least get this bill in technically correct form. If it were drafted perfectly, I would still be opposed to it because I don't think this is something that the Legislature ought to endorse. We do not endorse every practice of a physician. We use what you might call catch-all terms, such as "within the scope of his or her practice". That means "Doctor A" may do something different from "Doctor B". "Doctor IQ" may do something different from Doctor Ben Casey, but if it's within the scope of what that person, under his or her license to practice, allows then it can be done without penalty or consequences, provided it is not done in a negligent way, and it's negligent if it fails to meet the standard of care that is required of a person doing these things and harm results to a person and the harm is caused by that negligent act. That's just the Theory of Torts, no matter what you're dealing with, in general. My amendment is designed to make sure that there's going to be no confusion about what kind of credentials these people will have. "Diplomate" could be mistaken by some people to mean a diplomat, a representative. Therefore, you would be saying the applicant has a current active status, by saying "active" it means it's ongoing and viable now, as a diplomat in acupuncture of the commission, which would mean...which would mean if you're a diplomat or representative of the commission you're an advocate for them, you're trying to help carry out whatever their programs are. Now, Senator Hudkins knows that's not the case. I know it's not the case. Those of us who have listened to the debate this morning will know that's not the case. But I don't know that an ordinary person reading this statute, to figure out what he or she has to do to get into the game, would be aware of what that is. But if you use the language "holder of a diploma", anybody understands that, even if they don't have one. So that's all that my amendment does. In line 6, on page 12, I would strike the word "diplomate" and insert in its place "holder of a diploma". Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. We are

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discussing the Chambers amendment, FA28, to LB 270. Senator Hudkins.

SENATOR HUDKINS: Okay. And then you have to have this status...Thank you, Mr. Speaker. I have a question on the Chambers amendment. I'm going to give my...my overview of it and then I would like the time to continue to run while I visit with Senator Chambers. He says that the...the definition of "diplomate" is a holder of a diploma and that's what he would like to have in the statute. There's a problem with that because, and I'll try to explain that, if you graduate from any acupuncture school you would then be given a diploma of graduation from that particular school. Holding that diploma then qualifies you to take the test from the National Commission of Oriental Medicine. That's like taking the bar exam. Then, if you pass that test, then you may call yourself the diplomate, so we're...we're leaving out too many steps here. And, if I might, I would again like to ask your indulgence to let the time run and I'll confer with Senator Chambers.

SENATOR CUDABACK: Senator Hudkins.

SENATOR HUDKINS: I would like to give the rest of my time to Senator Chambers.

SENATOR CUDABACK: Senator Chambers, you have about...about two and a half minutes.

SENATOR CHAMBERS: Thank you, Mr. President, and thank you, Senator Hudkins. Senator Hudkins was explaining that this...this word, she didn't use these exact words, but it is a term of art within the context of what we're doing and it...it might carry more of a meaning than simply holding a diploma. There's not enough time for us to get that thoroughly hashed out, so I'm going to continue to discuss my amendment, which will run us to adjournment, and then she and I will have the opportunity to see what we can do with this word and perhaps, I'm just saying perhaps, other things along the way. Now that...see, I do better when I have opposition, when I have somebody in a knock-down-drag-out, but on this one, because we're trying to work towards something, it's a little different.

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Maybe what I will wind up doing is letting this word stay if a definition is provided so that in the context of this bill the word has a specific meaning. Senator Hudkins didn't say that, by the way. I'm just mentioning a way that we might possibly get around it, and that may not be the best way, but I don't want to just leave this word standing alone as it does now. Periodically, I need to point out that this is a bill that's known as model legislation, but when it's offered it's supposed to be massaged and worked on until it blends with the law of the state which is going to adopt it. That's what we're in the process of trying to do now.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: Some people may not see the need to do any of what it is that I'm doing and I still hope this bill does not pass, but if it does then there's a standard of drafting that I would like to see it meet and Senator Hudkins has been very cooperative, not unreasonable at all in trying to help achieve that purpose, and she had offered a way to do it without taking so much of the body's time. But you know, when we're perverse, p-e-r-v-e-r-s-e, not p-e-r-v-e-r-t-e-d, perverse, not perverted, when we are perverse we get something into our head and we must do it our own way.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Chambers, your light is next, so you may continue if you wish.

SENATOR CHAMBERS: Mr. President, members of the Legislature, I'm going to work on this bill some more later on today and probably overnight so that maybe I can make a list of all of the flaws that I see in the bill. Then I'll make a determination of whether I'm going to try to do it amendment by amendment by amendment. I want Senator Tyson to know that the message he's been sending with his red light has been received, has been dully noted, and that there will be retribution exacted. (Laugh) And he laughs. And my seatmate says, all right! (Laughter) See, what Senator Tyson and I have is a kind of battle that probably ought to exist everywhere. I laugh, he laughs, but each one of us goes for the jugular. Now, he's not quite as old as I am, but he doesn't take care of his health in

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the way that I do so his...his incisors may be worn down a bit and certainly his canines don't have the sharpness of mine because I take care of mine for a purpose. When I go for the jugular, Senator Tyson, "Baron Tyson", you will know that you have been dealt with appropriately. But on this bill, at this point, all I am trying to do is get us to adjournment. I don't want to put another amendment up there just to have to take some time, so I will continue to discuss this amendment because it is a bone of contention with me. If there is a diploma that a person gets when he or she graduates and then, after you take this national exam, there is something else you get which signifies that you pass that exam. We can select language that will make those things clear, but I don't want this word to stand there. When you graduate from law school, it's been a long time, you get a degree. And then, when you pass the bar, you get a license to practice. So this is not exactly parallel, because once you've passed the bar exam and get the license, you pay the money, naturally, that's what they want more than anything else, then you can go on and practice. But in this case you've got to do all these things, then make an application to obtain a license. You can do all of the things laid out in this bill and still not be authorized to practice acupuncture in Nebraska, because you've got to get a license. All of these things are preludes to getting the license. They're prerequisites that have to be met first. So, in laying out those prerequisites, I still want to see us put minimum requirements. I bet if I...and I'm not going to do it, but I bet if I ask Senator Hudkins right now, because she's very familiar with the bill, what are the minimum requirements that a person who wants to go into acupuncture would need to meet and what can we tell that person? We could not take them to the statute and tell them that, and that's what I want to see in the statute if you go on with this bill. Then you can have these other references to the national exam if you think that's wise, but I don't think we ought to throw people to the whim of somebody who may establish such and such a school without our laying down some criteria, other than what it takes to maybe set up a school. That person is required by us to take all the courses laid out in that school, spend however many hours that that school says they must spend,...

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SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...pay whatever they say that person must pay, get a passing grade on the tests that that person in the school says. So if we set some standards in this bill and you say the person has to attend one of these certified institutions, but we set the number of hours, then they are not there to be gouged and can be told the only way you can get into acupuncture is to come to my school because I'm the only one who's got one, or you go out of the state and leave them at the mercy of those people. That's what I don't want to see. So when I'm talking about minimum requirements, I'm kind of touching on now why I want to see that in the law in addition to giving notice to every person who may think they want to go into acupuncture. Thank you.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Chambers, there are no further lights. Did you wish to close on your amendment?

SENATOR CHAMBERS: Yes, I do, and that will put us at 12:00...at 11:56, and I don't know what else we will understand to do in those four minutes, so this might achieve the goal that we have in mind. I'm going to try to simplify now all the things that I have said, forgetting my opposition to acupuncture, but just talking about any kind of a licensing bill or procedure. You can look at what you have to do to get a driver's license and you can find out what it is that you're going to have to do to get one. You're notified that there is a test that you're going to have to take. The Department of Motor Vehicles provides a manual containing all the information that is going to be on the test, so you don't have to go outside the statutes or outside the state to do anything necessary to qualify you to obtain a driver's license in Nebraska. If you're not qualified to have one, you know that you don't have the qualification by looking at the requirements of the law. In this case, where we're talking about acupuncturists, you don't know from reading the statute what you would be required to do, and it's not enough to say that this...this commission in Alexandria, Virginia, has set standards and that, if you write to them, they might give them to you and they might not. But, anyway, that's where you're

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going to have to go to find out the meaning of Nebraska law. I don't think that's the way our laws ought to be written. Every thing the person needs to do should be right here in the statute. The only interest the person attending one of these institutions should have is whether or not it's certified in the way the state will determine it has to be, and if that institution has that certificate or whatever evidence of certification will exist, the student can just go there without worrying about who certified it, where this commission is located, who's on it, or any of those other things. If it's certified by the state as this kind of a facility then you just go there, but they cannot gouge you. They cannot say, you've got to go here three years and pay all the money we want to charge or you can never be an acupuncturist in Nebraska, unless you go to another state and qualify there and go through a lot of other hoops. The things that Senator Hudkins and I are doing now are simple. When time comes for us to battle on the criteria that will be put into the bill, the work may become more difficult, and maybe it won't. But I would suggest, and not telling her staff what to do, but it might simplify things if they would look at some of these other licensing bills that were enacted into law and look at how you establish a rule-making authority, the types of minimum requirements that must be met and, most of all, be sure that everything the person needs to know, everything the person is going to be responsible for doing is right there in the law to be found. And if it's not in the statute itself then it would be in rules properly adopted and put in place. But you'll be able to do it all within the state. There will be some entity or agency you could write to and address a query--what is it that I would have to do to become an acupuncturist?

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: And then they would have something that they could send you and it would not have to be a thick manual that contains the curriculum of a school which you're not even going to attend. It doesn't have to be that complicated. So, in a nutshell, that's what I would like to see done with this bill and then kill it. That's what you ought to do. Then people can say, like they say after a mortician has done a good job, he or

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440, 449, 500, 639, 677, 712, 800, 815, 830  
831, 840  
LR 14

she is such a beautiful corpse. We had a chance to get rid of this bill this morning; chose not to. So we're going to work it and see what kind of form we can put it into, and I still think, at what might be considered its best, it's not a good policy decision to do what this bill would attempt to do. Is that my time, Mr. President? I was looking at the clock, so maybe I've run out.

SENATOR CUDABACK: Your time is up now, Senator Chambers.

SENATOR CHAMBERS: Oh. Thank you.

SENATOR CUDABACK: You've heard the closing on the Chambers amendment, FA28. The question before the body...Senator Chambers.

SENATOR CHAMBERS: (Microphone malfunction) that amendment and not put us through the vote.

SENATOR CUDABACK: It is withdrawn. Mr. Clerk, items for the record.

CLERK: Thank you, Mr. President, a series of committee reports. Your Committee on Health and Human Services reports LB 639 to General File; LB 22, General File with amendments; LB 241, General File with amendments; LB 440, General File with amendments; LB 677, General File with amendments. Revenue reports LB 712 to General File; LB 449, General File with amendments. Transportation reports LB 830 to General File, and LB 831 to General File, and LB 800 indefinitely postponed. Education Committee reports LB 240 and LB 389 to General File with committee amendments attached, those reports all signed by their respective Chairpersons. Mr. President, Senator Foley would like to withdraw LB 840. That will be laid over. I have an amendment from Senator Schrock to be printed to LB 133. And finally, Mr. President, a series of adds: Senator Aguilar to add his name to LB 10; Senator Dwite Pedersen to LB 815; Senator Dwite Pedersen to LB 500, LB 150; Senator Erdman to LR 14; and Senator Baker and Senator Kremer would like to withdraw their names from LB 424. That's all that I had, Mr. President. (Legislative Journal pages 582-591.)

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
Transcriber's Office  
FLOOR DEBATE

February 8, 2001

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Bruning, did you wish to make a motion? Senator Bruning? Senator Maxwell, do you want to...would you make a motion?

SENATOR MAXWELL: Mr. President, members of the body, I move that we adjourn until 9:00 a.m., February 9th.

SENATOR CUDABACK: The question before the body is adjournment until February 9th at 9:00 a.m. All in favor say aye. Opposed nay. We are adjourned.

Proofed by: Jody Hurlbut