

**FEBRUARY 26, 2001**

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February 26, 2001 LB 66, 81, 113, 182, 186, 221, 300, 334, 334A  
335, 351, 358, 611

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Good morning. Welcome to the George W. Norris Legislative Chamber, thirty-fifth day. Our chaplain of the day is Sister Dottie Moss from St. Ann's Catholic Church, Lexington, Nebraska. That is in my district, Senator Cudaback's district.

SISTER MOSS: (Prayer offered.)

SENATOR CUDABACK: Thank you very much, Sister Dottie Moss from Lexington, for being with us and sharing your prayers with us. We appreciate it very much. I do call the thirty-fifth day of the Ninety-Seventh Legislature, First Session, to order. Senators, please record your presence. Record, please, Mr. Clerk.

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

SENATOR CUDABACK: Corrections for the Journal?

CLERK: Mr. President, I have no corrections this morning.

SENATOR CUDABACK: Messages, reports, or announcements?

CLERK: Mr. President, your Committee on Enrollment and Review reports LB 182, LB 186, LB 300, LB 334, LB 334A, LB 358 as correctly engrossed. Judiciary Committee, chaired by Senator Brashear, reports LB 66, LB 81, LB 221 to General File; and LB 113, LB 335, LB 351 to General File with amendments attached. And, Mr. President, Senator Dwite Pedersen has selected LB 611 as his priority bill for this session. That's all that I have. (Legislative Journal pages 777-780.)

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Schimek, you're recognized for point of personal privilege.

SENATOR SCHIMEK: Thank you. Mr. President, members of the body, I'm sorry that Senator Beutler isn't here but perhaps he will be before I finish. There are doughnuts being passed out today and they are my way of apologizing to Senator Beutler, and

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I need to explain to you why this is. At a recent dinner, Senator Beutler alleged that Mettler's Bakery was in his district, and I got up and I said that Mettler's Bakery was in my district. So several days later up here on the floor in front of one of the newspaper reporters, Senator Beutler and I made an agreement that whoever was right, the other person had to furnish doughnuts for the whole body. So this is my way of saying Senator Beutler was right and I was wrong. But...but the upshot of it is he better be watching every minute during redistricting because Mettler's Bakery is going to be back in the bosom of the 27th Legislative District before this is all over. Thank you very much.

SENATOR CUDABACK: Thank you, Senator Schimek. We're glad for the mistake. On to Select File, Mr. Clerk, first agenda item?

CLERK: Mr. President, LB 400 on Select File. No E & R's. I do have other amendments, Senator. Senator Smith has the first amendment, Mr. President. Senator Smith, AM0503. (Legislative Journal page 688.)

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

SENATOR SMITH: Thank you, Mr. President. Members, I merely put up this amendment to put forward an alternative to the bill itself. It uses some of, I think, the positive points of the bill in terms of the tiered factors of the bill that I think the public can use in a positive manner, and then change the mandate into a mere disclosure for the public so that members of the public can know, and they have that right to know, the training that is contained in the staff of the respective child-care centers. And, with that, I will leave it open for discussion.

SENATOR CUDABACK: You've heard the opening on AM0503 to LB 400. Senator Brown, on that amendment.

SENATOR BROWN: Mr. President, members, the crux of this is that we would eliminate additional hours, what Senator Smith calls a mandate. And I wondered...I am...right now I am having Research get together a list of all of the statutory references to training for various professions, but I suppose that if we

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believe that this is a good idea for how we care for children we must believe that it's a good idea for all different kinds of professions and so we would be willing to eliminate all statutory references to training requirements or to ongoing training requirements and just allow disclosure for everything. It would probably make...make it much easier for us in a number of ways and there...and as I...as you may remember when we first talked about this bill, I passed out a list of all of the statutory references to professions and ongoing training requirements. And so this...this would, you know, probably simplify things enormously for us in a number of ways. Senator Smith, would you yield to a question?

SENATOR CUDABACK: Senator Smith, would you yield, please?

SENATOR SMITH: Yes.

SENATOR BROWN: You voted the other day for additional training requirements for occupational therapists. Can you tell me why you believe that occupational therapists are a more important profession than child-care providers?

SENATOR SMITH: Well, if you wish to spin the issue like that, that...that might be the case. However, I don't want to require master's degrees for every child-care provider either.

SENATOR BROWN: And...and neither do I, and that's exactly why this bill does not require that. The other day Senator LaVon Crosby was here and caught me in the hall and said, you know, I listened to the remarks on your bill...on your A bill this morning; I can't believe that it didn't pass. She said, 30 years ago, when we were first trying to get some standards for childcare, the arguments were exactly the same. She said, the problem is that people don't talk about what's good for children. I had my staff go back and go through all the letters that we have received for and against LB 400 to see if any of the people who were against LB 400 talked about what was in the best interest of children; if they argued that additional training was a bad thing for children. And no one did. Now, all the people who wrote letters in support of it argued that this was good for children, so basically I believe that what

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we've got to decide is, do we believe that children are worth it and that the profession is just as important as occupational therapists and all the other professions that we have chosen to have ongoing training requirements for? It is, to me, that simple. And so if we're willing to accept the Smith amendment then I will come forward with a number of categories of professions that we have made a policy decision that we think that it is in the public's interest that we have training requirements for these professions, and if we've decided that kids aren't worth it maybe then we've...we'll decide that other...other professions are not worth it either and we can deal with those on a one-by-one basis. And so hopefully I will have the list of those statutory references if we choose to adopt the Smith amendment, but I would argue...

SENATOR CUDABACK: One minute.

SENATOR BROWN: ...very strongly that...that a vote for the Smith amendment is a vote against kids. Thank you.

SENATOR CUDABACK: Thank you, Senator Brown. Senator Smith, on AM0503.

SENATOR SMITH: Thank you, Mr. President. Members, there's something about serving in politics that I think tends to get interesting and, as I referred to in my last remarks, that's called "spin". And we can characterize each and every one of the votes that we cast as being for this or against that, and I think what we need to do is...is refrain from doing that. And there's a difference between occupational therapists and child-care providers, and occupational therapists came together. They asked for a certain uniformity to the requirements and I don't just vote for extra requirements just for the sake of voting...voting for those just to say that I'm in favor of healthcare. But I think that this bill...or this amendment to the bill provides a workable solution to some of the child-care issues so that there can be more disclosure and...and still a right to know on the public's behalf so that they can obtain quality childcare for their own children so that they can make the choice, not a mandated choice by government on child-care providers, but so that they can make the choice. Thank you.

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SENATOR CUDABACK: Senator Smith, thank you. Senator Beutler, on AM0503 to LB 400.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, I...I think Senator Brown and Senator Smith are both equally interested in children. It's a bit of a different approach is all. What disturbs me from time to time in our process is that it seems like some amendments come before their time, and I guess I'm suggesting in this case that perhaps before we go striking all the education requirements we ought to hear...I know Senator Brown has some modifications to the bill that moderate the education requirements and do some other things to the bill that have been suggested by people on the floor, and I think some of the things that she has suggested will make sense to a lot of you and might cause you to stay with the approach that's been suggested by Senator Brown. So, for myself, I'm not going to vote for this amend...for this particular approach at this time, although if nothing else worked out and it was presented at the end...I understand what Senator Smith is trying to do and it is also a reasonable thing. But I just hate the striking of the entire section having to do with education requirements. I think most of us think that something should be done there and that we ought to listen to suggestions that Senator Brown would make. Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. Senator Smith, there are no further lights. Did you wish to close on your amendment? Senator Smith waives closing. The question before the body is, shall AM0503 be adopted to LB 400? All in favor vote aye, opposed nay. We are voting on the Smith amendment, AM0503, to LB 400. Have you all voted who care to? Have you all voted? Record, please, Mr. Clerk.

CLERK: 13 ayes, 13 nays, Mr. President, on the amendment.

SENATOR CUDABACK: The amendment is not adopted. Mr. Clerk, next item.

CLERK: Mr. President, the next amendment I have is by Senator Brown. Senator Brown, AM0682. (Legislative Journal page 780.)

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

SENATOR BROWN: Thank you, Mr. President, members. This amendment does a number of things. The first part of the amendment deals with the tiered system which the Department of Health and Human Services had some concerns about, and certainly that was reflected in the A bill that we've already discussed. This changes it from a three-tiered system to a two-tiered system and allows the programs that are accredited to automatically be in the Tier I, which is the highest tier, and it's...it, hopefully, will allow the department to be able to manage this. The language that...that is, in describing the tiers and the accreditation piece, is taken directly out of statutes about nursing homes in the way that they delineate between two kinds of licensing for...for nursing homes. One is the skilled-care facility and I'm...I'm...I'm blanking on what the other one is, but they have two different kinds of licenses, and this mirrors that language and goes to the two-tiered system. The second part of it is just some language to make it clear that...that we're talking about, rather than talking just about education services, we're talking about early childhood care and education. It makes it consistent with other language in statute. The third section makes it clear that training that is done via distance learning can count towards the group setting piece of the legislation for we had a number of issues on the floor when the bill first came up about the availability of training. I think that it's an important issue. I have a lot of information about some of the trainings that are available, that are currently available, but it is an issue that I am particularly sensitive to how we get it to everyone that needs it and wants it and make sure that everyone can accomplish what the bill calls for in...in a way that...that's doable. And so this makes sure that...that we are...we have allowed for distance learning so that...so that in those parts of the state where it's a little bit more difficult to get to training, that...that we can make sure that people can get there. Then...then the next part phases in the training requirements and, once again, this is...this is to deal with some of the issues that I have heard on the floor about the availability of

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training and about whether we can move realistically and...for people from 12 hours to 22 hours. So this phases in the training requirements from 12 hours to 16 hours, and then it would be 16 hours for 2 years, and then goes to 20 hours. The other day we adopted a bill...I mean we passed a bill on first round for training for occupational therapists at 20 hours. Many of the other professions, the ongoing training requirements are 20 hours, and so if that is a policy decision that we have made on other kinds of professions then I felt that we should be consistent with what we're...we're talking about for childcare. So, instead of going to 22 hours right away, we are going to 16 hours and then to 20 hours. And then the final section is an accommodation to Senator Bourne's issue about...about programs that are exclusively for older children, for school-age children, and are only for part day. And so it excludes them from the training requirements, the additional training requirements of the bill, because those programs are dealing with older children and are not a full day. When you are looking at the number of children that we have, young children, in full-day programs, that is...that's probably the main impetus for this legislation. You have very young children in a program for all day and...and I think it's very different from what Senator Bourne was talking about, and so that...that provision of the...of the amendment is to accommodate his concerns. Very often, the programs that he is talking about have...are, as I said, school-age kids and they very often are kinds of athletic activities and things that...to keep the kids occupied after their school when they've been sitting for a long time, and so the kinds of educational requirements for those providers I think are a little bit different and so I'm comfortable with accommodating this change in the legislation. And...and I really do...I have worked really hard to address concerns about...about the capacity that we have to provide this, but I will not go away from the bottom line which, for me, is that nobody that I've heard from has argued that this...that additional educational requirements for this profession is not better for children. And I think that...that we need to move forward with something that is workable and with this amendment I think that we make it much more workable, make the bill much more workable, much more defensible, and yet we're still doing the right thing for kids. And so, with that, I would urge the

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adoption of the amendment. It is...it is the piece that I have tried to work with everyone who came to me about ways to make it...to make it more workable for the field and still maintain the benefits to children. Thank you.

SENATOR CUDABACK: Thank you, Senator Brown. You've heard the opening on AM0682 to LB 400. Those wishing to speak to that amendment are Senators Smith, Bruning, Baker, and Foley. Senator Smith, on that amendment.

SENATOR SMITH: Thank you, Mr. President. Would Senator Brown yield for some questions?

SENATOR CUDABACK: Senator Brown, would you yield, please?

SENATOR BROWN: Yes.

SENATOR SMITH: Senator Brown, I've received some communication from child-care providers, early childhood professionals who work in the field on a daily basis who genuinely care about children, and they...they have a concern about enforcement provisions and they raise the issue that this training can be obtained by supposedly watching a videotape with no accountability to indeed watching the videotape. Can you tell me how that would be handled?

SENATOR BROWN: That...that is, unfortunately, the case. I think that most people do...do seriously try to accommodate their...their...the training requirements by doing something meaningful, but that's the reason that we have the provision about so many of the hours being in a group setting. It's actually for a twofold purpose. Not only do...are you sure that some...that the train...there has been participation in training, but also child-care professionals, who very often are somewhat isolated because of the responsibilities of their job, are in a group setting so that they can share...share things and learn in a different kind of way than you might learn just by listening to a videotape. And so there is the provision in this that a certain number of the hours must be in a group setting, partly...

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SENATOR SMITH: So for those individuals who are in the more remote parts of Nebraska and don't have the opportunity to travel down the street to obtain the training, they'll have to go to the greater expense of traveling to a gathering site.

SENATOR BROWN: Well, that...one of the provisions in this amendment has to do with clarifying that some of that group setting work can be done through distance learning. The other thing is that...that you have been passed out all kinds of information about the training...training opportunities that are available. There's a program on your desk called First Connections, which is available through computers; other kinds of programs that are available through different kinds of methodology. And so...and then there's also a list of the trainings that are available that are registered...now not all trainings are registered...with the Early Childhood Training Center. There are, I think, for this month three different programs that are available in Bayard, and so...it's on one of the lists or I can get it. I might not have passed it out. But there are trainings that are available in all kinds of different communities that are listed and then there are other trainings that are not listed.

SENATOR SMITH: Okay, when you...when you mentioned distance learning, what are...how would you define "distance learning" for this situation? Because it's not college course, is it? I mean, it could be but doesn't have to be, right?

SENATOR BROWN: Right. There are all kinds of different groups that provide trainings and some of them are available via satellite, some of them are available over educational television, some are available over the computer. There are all kinds of different opportunities. But what I was...what I was thinking in terms of distance learning is that if there is a provider group, even if it just is maybe a couple people in a small community, that those people could get together and then they could, either through satellite or some other means, participate in a training that was held at another site, and that would count towards their group hours. But...

SENATOR CUDABACK: One minute.

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SENATOR BROWN: ...there are many, many different ways to participate in training and more all the time because each part of the state is covered by a regional training grant that...where there is a coordinator that makes sure that if there are requests from communities, no matter how small, that they try to figure out a way to get those...that training to those communities.

SENATOR SMITH: So is the videotape...a brief yes or no would be helpful. Is the videotape provision still available through this amendment and, consequently, the bill?

SENATOR BROWN: Absolutely, yes.

SENATOR SMITH: Okay. Members, I would...I would still raise strong a concern over this in that there are problems with enforcement provisions. And, with that, I don't want to carry on, but I still cannot support this amendment because there are some enforcement issues that I...

SENATOR CUDABACK: Time, Senator Smith.

SENATOR SMITH: ...think are still a problem. Thank you.

SENATOR CUDABACK: Thank you. Senator Bruning, on AM0682.

SENATOR BRUNING: Mr. President, members of the Legislature, I rise in support of Senator Brown's amendment and in support of the bill in general, and I think what Senator Brown has done here is make the bill more palatable to some of the concerns that were raised on General File. Senator Erdman, Senator Cunningham, some of those who represent districts that include rural areas talked about how it may be difficult for providers to be able to take care of this training, and certainly this bill, with the distance learning, while it's not defined with incredible preciseness, I think that's okay because, in general, sometimes when we define these things too narrowly it's difficult for people to comply. And so I think what this does is it allows people in rural areas to be able to achieve that Tier I if they so desire. Nobody here, of course, has to try to

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achieve Tier I, but what it does for parents like Deonne and I is it allows us to know about those providers that are interested in taking themselves to a higher level, and that's certainly something, from a parent of young children's perspective, something I'm interested in and I think is part of the most critical import of this bill. So I do support the amendment. I think it makes it...I think it allies to a number of the concerns that have been talked about on General File and I think it makes this a better bill. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Bruning. We're on AM0682 to LB 400. Those wishing to speak, Senators Baker, Aguilar, Erdman. Senator Baker.

SENATOR BAKER: Thank you, Senator Cudaback, members. I want to preface my statements with this one, and that's that I do not believe that there's anyone in this body that's not for good childcare. You can certainly put me in that group anyway. I want to see the best childcare provided that we possibly can. I have a couple questions for Senator Brown dealing with the training and...if she would answer a question or two, please.

SENATOR CUDABACK: Senator Brown, would you respond, please?

SENATOR BROWN: Yes. I'm sorry, I was away from the microphone.

SENATOR BAKER: I didn't realize you were away or I probably wouldn't ask...

SENATOR BROWN: That's all right.

SENATOR BAKER: ...you right now but my question being on this additional training. I met with a group of child-care providers a week ago last Saturday out west and they were telling me that, as of now, the CPR and first aid requirements do not count toward their 12 hours of training. Is that correct or...

SENATOR BROWN: No, that's not correct. Three hours of it count towards their training.

SENATOR BAKER: So if they take a basic CPR course of eight

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hours then that three hours counts toward their twelve?

SENATOR BROWN: The...that is...that is dealt through...through rules and regulations and will continue to be dealt with in the same manner under my bill.

SENATOR BAKER: Okay. And then with the new requirement of 22 hours, that would all count...at least...I understand these are rules and regulations that aren't in place yet, but they're proposing then that the 22 hours could include the 8 hours of CPR and their first aid training as part of that 22-hour block? Is that correct or do you know?

SENATOR BROWN: Well, with this amendment, we're talking about going to 16 hours and then 20 hours, but the CPR hours would...that would...that would count would be dealt with in rules and regs, probably the same as it is right now, which is the 3 hours.

SENATOR BAKER: Okay.

SENATOR BROWN: I mean I can't know that for certain, but in the original bill, and so there are people who are...which was introduced last year, so there are people who are still talking about the way the bill was. In the original bill last year, it would not allow any of the hours of CPR and first aid to be counted towards the 22. That is now changed, so it would be maintained in the same way that Health and Human Services has done it in the past, and it would only be 16 and then 20 hours.

SENATOR BAKER: Okay. Thank you. I understand that. I guess my point being that part of these hours that we're piling on here, requiring the additional 10 hours, are hours that child-care providers are now having to take anyway. They have the 12 hours and, as Senator Brown said, apparently, according to rules and regulations, 3 of those hours...and you have to recertify this each year so this is continuing education, 3 of those hours are counting toward the 12 and the others aren't. I believe that's the way it is. But my point being part of these hours that we're requiring this additional training are already being done by current child-care providers. Whether it's the

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first aid recertification or the CPR recertification, they're doing that already, and under the bill I believe we'd be simply including some of that time that they're spending now recertifying in the 12...10-hour requirement. I guess my basic question is, is do increasing these requirements necessarily guarantee better childcare? And I don't think we can legislate good behavior and requiring people to take the training, be a Tier I, Tier II or whatever, and then park the kids in front of the TV set. We still...we still can't do that and that's where I think the ability of the parents to visit the site, know the people. In the case of the rural area anyway, these people know each other and what kind of a system they have and whether they're parking the kids in front of a TV set all day or whether they're actually working with them and they're progressing in their understanding of their preschool work. So I'm going to oppose the amendment. I think that it's still a parental judgment issue and requiring another X number of hours and tiers and so on is not the answer. I think the parental involvement is the key to the issue in holding these child-care providers accountable; that the parents should know best. So, with that, I'd return the rest of my time to the Chair. Thank you.

SENATOR CUDABACK: Thank you, Senator Baker. Senator Aguilar, on the amendment.

SENATOR AGUILAR: Thank you, Mr. President, members of the body. I rise in support of this amendment as well as the bill, and I'd like to thank Senator Brown for bringing it forward. I think she really shows how much she cares. My reason for supporting the bill has to do with a study that I took part in about a year ago which had to do with early childhood brain development. That impressed me quite a bit and it impressed upon me how important it was for child-care providers to get more education and to know more about what they're doing in that regard so that they can be part of that early childhood brain development. As far as where I'm from, the city of Grand Island and Hall County, they believe strongly in this issue. The Hall County Health Department sponsors an organization called Childcare Solution that pays for this continuing education. That's how strongly they feel about it. In that area, you can get this ongoing education without any cost at all to you, the provider. For

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that...for those reasons, I'm going to continue to support this as we go through the process, and I would return any of my time to Senator Brown, if she'd like it.

SENATOR CUDABACK: Thank you, Senator Aguilar. Senator Erdman. Senator Aguilar, did you yield your time to Senator Brown?

SENATOR AGUILAR: Yes.

SENATOR CUDABACK: Senator Brown, you have about three minutes.

SENATOR BROWN: Thank...thank you, Mr. President. I just thought I would read to you about...from the regulations to address the concern that Senator Baker raised. A child-care provider shall obtain a minimum of 12 hours of training. Two hours of CPR, one hour of first aid will be counted in the year that each is taken towards the requiring training. Training hours obtained in the calendar year...well, anyway, so that's...that's the 3 hours that count currently and we would assume that that would be maintained under this amendment, which goes from 12 to 16, and then from 16 to 20. And, with that, I will close. Thank you.

SENATOR CUDABACK: Thank you, Senator Brown and Senator Aguilar. Senator Erdman.

SENATOR ERDMAN: Thank you, Senator Cudaback. Members, I do have a couple questions as well for Senator Brown, if she would yield.

SENATOR CUDABACK: Senator Brown.

SENATOR BROWN: Yes.

SENATOR ERDMAN: First of all, let me say thank you for your work on this. I appreciate you're willing to work with us. I do have a couple questions though. On the issue of the training requirements, is it your opinion that we need to do more hours, or is it a fair statement to say that probably we need to look at the 12 hours that they're currently being asked to...to undertake at the time? In other words, the quality of those 12

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hours might be just as important as just adding more hours.

SENATOR BROWN: I actually would argue for both.

SENATOR ERDMAN: Okay. The other question I did have was on the distance education, just so that I'm clear. Does that include, you know, the videotapes and all that, so it doesn't necessarily mean that they would have to go to a facility that would have two-way videoconferencing because, if it does, it still creates a problem for me in my district of people having to get to a certain location to still be able to get the training requirements.

SENATOR BROWN: I understand what you're saying. The distance learning provision is specifically around the group hours, and...and so a videotape in your...done in your home would not count. But if there is a group of providers, even if it's just two or three, that...that get together and they do a videotape together, that can count towards the group hours requirement. So it's just...and, yes, the whole videotape, the number of different kinds of vehicles--books and tapes and all kinds of things that go out of the Early Childhood Training Center to all over the state of Nebraska--it's a fairly large number. But for the group hours piece of it, which I believe addresses what you said in terms of the quality of the 12 hours, you know, increasing the number of hours that are in a group I think really substantially increases the quality of the interaction and the kind of training that...that is potentially there. And so that is the part about the distance learning. And so it depends on...on...it still would require going some place where there were people together, but it does not require going some place where there is necessarily a downlink.

SENATOR ERDMAN: Okay. Thank you very much. As I listen to...to your rationale, and I think it makes sense, but there is no guarantee that of the additional 10 hours that we require of these individuals to undertake, if it's, you know, self-study or if it's at home, whatever, there's no, you know, guarantee that the quality that they'll be receiving as far as just the number of hours increasing will increase their ability to provide better service other than the fact that they've taken additional

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hours. And I think what would make more sense to me would be to address the 12 hours, if that's, you know, where we're at, and have that be your group hours or whatever, but to make sure that of the 12 hours that they're currently getting, that if that's where the problem is at, that we address that before we just throw additional hours on top of our providers because, in turn, that will cost more for our families who are seeking this child...this care for their children. So, with that, I will yield back my time to the Chair. Thank you.

SENATOR CUDABACK: Thank you, Senator Erdman. Senator Brown, your light is next, followed by Senator Cunningham. Senator Brown.

SENATOR BROWN: Thank you, Mr. President. Some of the issues that have been raised I think are very legitimate and I hope that I've tried to accommodate some of the concerns in...in this amendment, and so I would urge you to...to consider very positively this amendment even if you still have concerns about the bill because this amendment does go a long way to addressing some of the concerns that have been raised and I...and I...and it's not just...it's not just to get something passed. I really want the changes that we make to be workable, to help the field, to be good, and I believe that this amendment does that. The other night in a conversation I was talking about early literacy and...and someone said, but this isn't really...LB 400 really is not about early literacy. Well, I think it is because I think that the way that children learn to read is by being in environments where people read to them and where they have a language-rich environment. And I...and as Senator Aguilar said, there is so much more that we are knowing every day about the way that young children develop and I really do think that this is what is right for kids. I would urge the adoption of the amendment. I think it goes a long way to addressing some of the concerns, both from the Department of Health and Human Services but more importantly from you on the floor and from what you've heard from your constituents. And I would also say that...that there are people in the field who really...who want this, who want to make it work, and so like things...like the regional training grants, we will continue to make sure that high quality training is available everywhere in this state. Thank you.

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SENATOR CUDABACK: Thank you, Senator Brown. We're discussing AM0682 to LB 400. Senator Cunningham, followed by Senator Jensen and Stuhr. Senator Cunningham.

SENATOR CUNNINGHAM: Thank you, Senator Cudaback and members. I guess the underlying problem that I have, the day cares in my district tell me that in the current 12 hours right now that it's repetitious, the training they take from year to year; that they don't learn new things. It's the same thing over and over again. And I know repetition is good, but what's 22 hours going to do? Know, this...this is the book right now. This is Family Childcare Home Compliance Guide. It's a pretty thick book. There's a lot in here already. We could argue that any number of things would be better for our children, but it's just a matter of how far should government go? I mean what all can we do? What are we willing to pay for? We have to remember personal responsibility. Parents need to take responsibility for their kids. Parents need to read to their kids at night. Parents need to do these things. We've got to remember. In my case, I have a small town grocery store. A lot of the people that work for me might make \$6 an hour. If they have two kids and they take those kids to childcare, there's not much left, and this bill is going to increase the cost of childcare. There is no doubt about that. So we need to think about that. What is it going to do for the working people? How are they going to be able to afford this? And I know it's been a long time since I've had a kid in child in childcare, but back in those days you knew when you took your kid to a childcare that wasn't good just by the reaction you got when you took them in the front door. They didn't want to go. So I think it's a matter of personal responsibility. Parents need to take control of their own kids, their own lives, and that's where the responsibility falls, not with more government. And I'd yield my time back. Thank you.

SENATOR CUDABACK: Thank you, Senator Cunningham. Senator Jensen.

SENATOR JENSEN: Thank you, Mr. President. Members of the body, I realize that this is a very important issue and, to some communities, it might be very difficult to...for some people who

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are providing childcare to say that this is a requirement they just do not want to go to. Over the weekend I was visiting with my next-door neighbor who happened to retire as a teacher after 30 years, and she taught elementary school and taught in...actually in kindergarten and first grade. And she told me that she could tell even in kindergarten classes and in first grade those children and where they obtained their childcare previous to coming to the elementary school, and she said that you could tell the quality of childcare that was provided these children. It is a matter of personal responsibility, but when we did a Health and Human Services Committee tour out in Norfolk two years ago we were at a child-care center out there and it was remarkable to me that the operation of the center had to call parents, certain parents, to come and pick up their kids. It was six o'clock at night and they hadn't come to pick them up. And there were cases where they even had to call the police to find out where the parent was to come and pick up their child. Now these were child that were...or kids that were paid for by Medicaid. But there are some parents who are...take that responsibility very serious; there are some that really don't. And I happen to have a real estate license for some 30 years and had to take continuing education to keep my license up, and there were times I thought, gee, this is...this is...this is kind of a waste; I think I've been around long enough that I don't need any more. But every time I went to some of those classes, and occasionally they were classes that I would not have even chosen to go to, I never did go to a class that I didn't get in...that I did not get something out of, that I didn't get something for the time that I spent. These kids are our future leaders. They're our future, period, and I think we owe them the best that we can give them, and it starts very early. I'm amazed that my own "grandkids", they're learning ability, their willingness, they're anxious to learn, and I think we need to provide the best environment that we can. I think Senator Brown has gone a long way through the amendment in taking care of some of the concerns that are there of the child-care providers. I certainly do not want any child-care provider to go out of business, to feel that this is beyond what they can already do, but I think it is something that needs to be done. I think the education is available, and there are many, many classes that are available that I think will not be

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repetitious if the individuals and the providers will look to those classes. With that, I just want to stand up in strong support of LB 400 and would urge the body's adoption. Thank you.

SENATOR CUDABACK: Thank you, Senator Jensen. Those wishing to speak to the amendment are Senators Stuhr, Smith, Brown, Vrtiska, Dierks, and Janssen. Senator Stuhr.

SENATOR STUHR: Thank you, Mr. President and members of the body. First of all, I do want to thank Senator Brown for bringing the amendment, which I think addresses a couple of the concerns that I have had, particularly in the tier area. I think it makes much more sense to have it two-tiered. I was very concerned about having that three-tiered system and the difference between the tiers of what really was an accredited facility. I think this brings a clearer picture when we have only the two tiers. But I have a couple questions for Senator Brown, that I would like to address to her.

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

SENATOR BROWN: Yes.

SENATOR STUHR: I'm a little bit confused about the role of the Early Childhood Training Center. Could you explain to me, is there only one center that we are talking about? I see in your amendment that it is actually going to be under the auspices of the Department of Education.

SENATOR BROWN: The Early Childhood Training Center is an existing facility. It is located physically in the Omaha area, but it really is not a physical location other than to serve as a repository of information, because almost everything that they do is...is done through mailing out periodicals and stuff. It is statutory, has existed for a long time, was first put in place as a training center for...when we put in place the young children with disabilities, the provisions of services to children under school age with disabilities. And then as we began to get federal money that...for quality for childcare,

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then they expanded their role to provide services to all child-care providers. There is a hot line for child-care providers who want information. And so everything that they do is just to get materials out, but they do exist in statute currently.

SENATOR STUHR: Okay. Could you explain to me their role in relationship to the trainers? Now you mention trainers repeatedly in...and I imagine that those...I expect that those trainers are the ones that provide the additional classwork and hours.

SENATOR BROWN: Yes, they...

SENATOR STUHR: Is there a role?

SENATOR BROWN: Yeah, they do have individuals that actually provide training themselves and then they have individuals all around the state who have been trained in various kinds of, like, there's a program called High Scope, which is a particular kind of curriculum for young child...especially for the care of young children, and that curriculum has been developed over a number of years out of an original program called the Perry Preschool Project, and then the High Scope Foundation, what came from that. And so they have individuals all over the state who are trained in the High Scope method there. But they also work with all kinds of other groups, so it's not just trainers that are trainers that are affiliated with the Early Childhood Center that will be doing this training. All kinds of trainers will be doing this training. It will just be a way to...to make sure that we...we pull together all the trainings that are offered. The county extension does a lot of the training in the early childhood area and does it very well.

SENATOR STUHR: Could you tell me what qualifications these trainers actually need, because that is where I'm also having some concern? I strongly feel that our child-care centers should be the best that we can possibly have, but I do have a concern because in this area, as in many areas, one shoe does not fit all in this state, and it does seem to me that there are many more opportunities probably in the Omaha area than there

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are...or in our larger areas than...than...

SENATOR CUDABACK: One minute.

SENATOR STUHR: ...our rural areas to get this training. So, you know, as I said before, you talk about trainers, but what qualifications? Do these trainers actually have to have qualifications? Because I am concerned about the quality. Just taking hours, I don't...I don't always see as a benefit.

SENATOR BROWN: I...

SENATOR STUHR: So...

SENATOR BROWN: ...I agree with you. I think that the quali...that's one of the reasons that the amendment calls for distance learning because I think in many parts of the state the people are going to benefit more from being able to access someone who has a particular kind of expertise than...

SENATOR CUDABACK: Time.

SENATOR STUHR: Thank you.

SENATOR CUDABACK: Thank you, Senator Stuhr. Senator Smith, on AM0682.

SENATOR SMITH: Thank you, Mr. President, members. I rise again in opposition to the amendment because I...I'm not thinking that it will accomplish what...what it is intended to accomplish, other than get some votes for the bill. And it's a bill that still poses the same problems that existed before this amendment, and that is the rising costs according to the child-care providers. And another concern that I have is the additional cost to the state above and beyond the cost of administering these new regulations. So there are many state sanctioned or state supported child-care centers that will incur greater costs because of this additional training and that is not even reflected in the A bill that failed to advance last week. So I just urge caution in voting for this amendment because I don't believe that it will accomplish what it is

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intended to do other than garner votes for the bill. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Smith. Senator Brown, and this is your third time, Senator Brown.

SENATOR BROWN: Thank you, Mr. President. I would yield some time to Senator Stuhr to finish the questions that she was raising with me.

SENATOR CUDABACK: Senator Stuhr.

SENATOR STUHR: Thank you, Senator Brown. Again, if you could just tell me a little bit more. When we talk about trainers, I want to know who these trainers are and what kind of qualifications that they have to offer this training, if you could, Senator Brown.

SENATOR BROWN: It really depends on the venue in which the training is being offered, and this bill is not going...I mean one of the things we want to make sure is that we don't throw every, you know, throw the baby out with the bathwater, but it does put in place an approval process for the training and...and so individuals who have qualifications hopefully will be providing the training. I have heard from a number of providers that some of the trainings that they go to are not high quality, and I...and certainly it's something that concerns me. That's one of the reasons that, through the Early Childhood Training Center and through these regional training grants I think that there's really been an emphasis on making sure that in every part of the state there's decent quality training that's available. But I would also suggest that...that maybe we have to be a little bit careful about choosing the trainings too. But hopefully there are some things in the bill that will address issues about approval of training so that we can make sure that there is...that the people who are providing the training have qualifications. And the other part is that this whole phase-in thing, going to 16 and then to 20 hours, is because I absolutely am committed to making sure that we have a capacity to provide quality training and not just have more hours, and that was why I have been so sensitive to how many

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hours there are and making sure that we have the capacity to provide good hours.

SENATOR STUHR: Senator Brown, in the present 12 hours that are required, are there any specific requirements, or are they just you must have 12 hours in childcare?

SENATOR BROWN: There...there are some in regulation. Much...it's much less specific than what this...the bill calls for and there is not, as I remember, a specific requirement about child development. I...I can find out exactly what the regulations call for and let you know that.

SENATOR STUHR: Okay, I would appreciate that because, again, I also share that concern about just receiving additional hours doesn't always mean that it is going to increase the quality of care in that particular facility, and I guess I think that's probably what we're all striving for, is to increase that care so that it is quality for all of the children that do require it. So, with that, thank you. Yes, I will yield my time back to Senator Brown.

SENATOR CUDABACK: Senator Brown, you have about one minute.

SENATOR BROWN: Thank you, Mr. President, members. The...there are suggested topics within the regulations, but there's no requirement that there be courses in any particular topic area. I would like to go back once again to...to what this amendment does, because I...because that's what is before us. And I...and I want people to know that it was not just to garner votes that I have proposed this amendment. I really do think that this amendment goes a long way to addressing concerns that I've heard from the field but, more importantly, concerns that I think are very genuine that are out there, that what we do...that if we're going to require something we have to make it be meaningful. And so I think that by making the system more manageable, as we do with the changes to the tier system, by phasing it in, and...and making sure that we're clear about the...

SENATOR CUDABACK: Time, Senator Brown.

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SENATOR BROWN: ...distance learning, those are important provisions and I would urge the adoption of the amendment. Thank you.

SENATOR CUDABACK: We are on AM0682 to LB 400. Those wishing to speak are Senators Vrtiska, Dierks, Janssen, Beutler, Dwite Pedersen, Senator Schimek. Senator Vrtiska.

SENATOR VRTISKA: Thank you, Senator Cudaback. Members of the body, I'll start off by saying that I think that what Senator Brown is trying to do certainly has merit and I hate to stand in opposition, but one of the real problem...I guess one of the questions I'd like to ask Senator Brown, if I could.

SENATOR CUDABACK: Senator Brown, a question, please. Senator Brown, would you respond to a question, please? Thank you.

SENATOR VRTISKA: Senator Brown, I guess what I'm...I have...

SENATOR BROWN: Yes.

SENATOR VRTISKA: ...grandchildren in day-care centers and, you know, I think they're excellent facilities. I think what we're dealing with is the fact that, from where I come from and in the smaller communities, it seems like everybody knows the caregivers and they're satisfied. If they're not, they take the kids out. And I know it's a issue of the kind of care they get that's important. The question I have, do you think that all the education any person could ever get in the world would make a bad caregiver a better caregiver if they, in fact, are more concerned about the money they make that really taking care of kids?

SENATOR BROWN: There is no way that I could argue that you can take somebody who's not a loving person and make them loving and make them want to interact with children by training them...

SENATOR VRTISKA: Well...

SENATOR BROWN: ...or...and by giving them education. But I do believe that if you have somebody who is a good caregiver who

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loves the children that they take care of, that they can be better by virtue of knowing things about child development.

SENATOR VRTISKA: Well, of course, I recognize that was an unfair question because we all realize that if somebody didn't care about children they shouldn't be in the business of care giving to begin with so...but my real problem is around...surrounds around the fact that, as I indicated earlier, in the small communities that I come from, in the area, that we have many I think excellent care-giving facilities, the extra training these people might get outside of the basic protections that we need for people who keep kids in their care, how much further beyond that we need to go I don't really know. And so it gives me difficulty in trying to force people to spend more time in training for...in the relationship; that they're already concerned about children and care for them and want to have them and, you know, I think it's...it's meritorious that people who go into this...into this business and are really interested and take care of children and I think it's terrible when people do it because they think it's a way to make money and they don't really care about kids. And I don't know how you change that. I don't know how this legislation necessarily changes that, and that's the problem that I'm dealing with, because we're not going to put those people out of business if they don't really care about children no matter how much education or training they would get. And so I guess I'm trying to feel my way through this whole process. I...the original bill I could not support and I'm having a struggle trying to determine how much better this...this amendment is going to make it and where we're going to go from there. So I'll give you the rest of my time if you'd like to use it and give me some good reasons how you can change my mind to make me think that this maybe is the way to...that I should vote for your amendment.

SENATOR CUDABACK: Senator Brown, you have about one minute.

SENATOR BROWN: Thank you. Well, Senator Vrtiska, I would point to the program in Falls City that I know that you're familiar with and that I am familiar with, and how that program really I think has been very good for the community, and it's a very small community. And one of the things, that it's a program

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that's in the school, but they also do outreach to include the child-care providers in the area in all their trainings, and...and I think that everybody in the whole community in that field has benefited and I think that they're better child-care providers as a result of that working together and having those training opportunities, and so that's one thing. The other thing that I would say is that do you struggle the same way about requiring that teachers have certification in small communities? I don't believe that there's any...any difference. I mean, we're just talking about younger children. We have just...we've just got to face the fact that now so many of our children are in childcare for full days at a very young age and...and I...

SENATOR CUDABACK: Time.

SENATOR BROWN: ...and I do think that there is education that people need to have to do that. Thank you.

SENATOR CUDABACK: Time. Thank you, Senator Brown, Senator Vrtiska. Senator Dierks, on AM0632.

SENATOR DIERKS: Thank you, Mr. President, members of the Legislature. Senator Brown, I guess some place along the line I didn't hear all the reasons for introducing the bill in the first place. Out in our country we say if something ain't broke don't try to fix it, and we think the child-care situation is well done out there. I've got ten grandchildren, all of whom have been in childcare, and I...I wouldn't be able to find any fault with any of the childcare that they've had. I think that those people are very caring. They're friends of the family. They're people we grew up with. We know them very well in all three situations. And it's just...I'm going to have difficulty with this added burden for those people with the added hours they're going to have to take, and I wish there was some way you could amend that to just eliminate those extra hours for the child-care providers in those small communities out there that simply don't have a way to go to get that education. And I'm sorry, the...I read your handout and I know that you're trying to provide that information for everybody, but there's still a problem with it and I'm just not going to be able to support the

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bill. I wish that you could amend it to get it to where I could support it. Thank you.

SENATOR CUDABACK: Thank you, Senator Dierks. Senator Janssen, followed by Senators Beutler, Pedersen, and Schimek.

SENATOR JANSSEN: Thank you, Senator Cudaback. Members of the body, we're...we're dealing with a pretty touchy subject right here and we're dealing with young people who are going to be our future leaders. You know, I wish we could turn the clock back about 50 years when there was no such thing as day-care providers. The country has changed, the state has changed, and now that is a very important part of our society. I received a letter last week from a day-care provider. She stated to me that, what are you trying to do to us now? If this continues, she said, I'm a licensed day-care provider; if this continues, she said, I'll do like my competition does; I'll go underground. About four years ago, when I worked on day-care legislation, I received a visit from some day-care providers in Omaha that said, what are you talking about, we're not...a shortage of day-care providers. She said, in one block we have at least twelve day-care providers. She said, I'm the only one that's licensed. And I fear that this would...I'm cautious. I don't want to say I fear, but I'm cautious to think that what we're doing may...may broaden that, make more reputable day-care providers go underground with their...with their day cares. Then we have no control. We don't know what's going on in those...in those in-home day-care providers that aren't licensed. I would like to see more inspections. If we had more inspections, why, I think we'd be...we'd be going in the right direction, but the A bill on that would be so astronomical that you wouldn't...you wouldn't want to even see it. It costs a lot of money for HHS to...and the day-care division to pull these inspections. It costs a tremendous amount of money. I voted for this bill on General File. I voted to advance it because I felt as though we needed to discuss this at length. We're inflicting something on businesses right now that I think it's going to make it more difficult for them. They're going to have to take this training after hours and to what...and to who...you know, to whose benefit is it going to be? Is it going to be a sit down and chat session, which probably isn't all bad? It

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will be structured quite well. I...I don't like to bring this up, but about six years ago member of my family was left in a day care. They closed the doors and left this eight-month-old child in that day care. His mother went to pick him up. The door was locked. She went to another center across the town because the company had two centers. Well, no one was there either.

SENATOR CUDABACK: One minute.

SENATOR JANSSEN: You can imagine the fright that went through that parent when they found out that their child was gone. So happened, he was locked up inside and they could hear him crying. Now I don't know whether taking 10 hours, 20 hours, 40 hours would help this situation or not. That was a mistake and it was a terrible mistake. If we had more inspections I think we'd be better off. I still don't know how I'm going to vote on...on this bill on Final Reading, if we ever get there. It's going to take a lot of deep thought and consideration and I...and I think this is probably one of the most important bills we'll...we'll see here this year, because we're dealing with our future leaders of this state. We all want what is best for our children's children. I don't know...

SENATOR CUDABACK: Time.

SENATOR JANSSEN: ...if this is the right thing or not. We'll wait and see. I'm going to listen to arguments. Thank you.

SENATOR CUDABACK: Thank you, Senator Janssen. Senator Beutler, on the Brown amendment.

SENATOR BEUTLER: I would either yield my time to Senator Brown or pass, as needed.

SENATOR CUDABACK: Senator Brown, there are five minutes, if you wish.

SENATOR BROWN: Thank you, Mr. President. In response to some of the issues that Senator Janssen just raised, I too worry about unlicensed care and I actually believe that, by virtue of

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creating an expecta...by the tiered...I think the tiered system will help in that when you have more programs that have attained accreditation then...then I don't know that our time, our time from an enforcement standpoint, is so necessary with those programs because they have received site visits from other groups other than the resource specialists. And I would definitely hope that we can focus more on programs that want to get better but are...but don't have the...aren't as able to...to do that, and so spending some time with them, and then focusing on programs that are unlicensed. Because I do hear from a number of providers that they...that they know of programs that are unlicensed, but sometimes they...they don't feel comfortable in reporting those programs and so I...I also believe that we have to create a community expectation and I believe that part of creating a community expectation is this bill. There have been a number of providers who have said to me that they thought the bill already passed because it was introduced last year and that they already meet the hours or exceed the hours and so they just assume that that's the way it is. And so...but I do believe that having this discussion, even though it's been painful at times, has...has gotten people who have not been particularly active to get active, both for and against, and I think that that...that having a conversation about...about some of the things we've talked about, like about brain development and about what...what...what we expect and about what has changed in our society in the last 30 years in terms of the number of children that are in out-of-home care for sometimes more hours of the day than they are at home, and that all those things come together to...to say that we...this is something we absolutely have to be concerned about. We have to be concerned about making sure that all of our children, whether they have the opportunity to be at home or whether they are in out-of-home care, have the chance to rise to the level...to be the best that they can be. And so I believe that this discussion has been...has been worth it and...and so I appreciate being able to respond to Senator Janssen's concerns because I think that they are very legitimate concerns, but I...but I think that part of it is just our willingness to do something about it. Part of it is just...

SENATOR CUDABACK: One minute.

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SENATOR BROWN: ...making...making children that high of a priority. And so it may be that we need to do more enforcement, it may be that...that we need to divert our level of involvement from programs that have been able on their own to be successful, to programs that are struggling a little bit. But I think bottom line is that it's worth it. Thank you.

SENATOR CUDABACK: Thank you, Senator Brown and Senator Beutler. Senator Dwite Pedersen, on the Brown amendment.

SENATOR Dw. PEDERSEN: Thank you, Mr. President and members of the Legislature. Over the weekend I talked to three providers and one what I would call a consumer lady, who is a school teacher, who are very much against this bill. This amendment goes some ways to take care of some of their cares. Loving, caring, wonderful people they sounded over the telephone, and I'm sure they were and are. I remember when our children were in day care. The first day-care provider we had was a lady in the neighborhood, was absolutely tremendous. She was very precious with the children. Then we had the next provider, who was also a neighbor, that we didn't find out till later was very bad. I think she actually damaged our children in some ways for some time, and not in a physical way. So looking at changing this and giving some kind of a avenue for us to be more assured of the training that our people have had, I've been supportive of this bill. There's still a couple issues that I have concern with beyond the amendment and I'm going to state them and then give the rest of my time to Senator Brown and have her see if she can answer them. One is cost. The people are talking that it's going to put them out of business in cost, and that does concern me. Because if it's going to put them out of business then we don't have anybody taking care of our children, but I also know that we have four grandchildren in day care now, two of our children, they have two children apiece in day care, and they can't afford to pay any more. The other concern is, I'm still hearing from some of the providers that this is an effort to get this business under the Department of Education and more under the thumb of government. With that, I give the rest of my time to Senator Brown and maybe she can state something in them areas that would help us. Thank you.

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SENATOR CUDABACK: Senator Brown, you have about two and a half minutes, if you wish.

SENATOR BROWN: Thank you, Mr. President. As I stated before, in states that have raised their requirements, the cost has been...has been...impact has been minimal. That is not to say that it is not something that we need to be concerned about. One of the things that I am absolutely committed to, and that is a part of the reason that...for this amendment, in the phrasing in, is that we have the training available at...at the most reasonable cost possible. Now, I don't think that it should all be free because what we found is that sometimes when people think that they're getting something for nothing that's exactly what they expect of it, and...and so, I, you know, I think that there should be a smorgasbord of free and, you know, low-cost trainings to make sure that...that everyone can...can access it. The cost issue is something we have to be concerned about, but the other part of it is that we have children who are in care, sometimes for more hours a day than they are at home, and that...

SENATOR CUDABACK: One minute.

SENATOR BROWN: ...means that it's going to be fairly expensive to do it and it also means that we have to have people who are trained to provide it, provide that care. The other question had to do with the Department of...of Education and their involvement, and I...I cannot stress strongly enough what has been going on in this field. I pointed out to Senator Stuhr a list that is in the piece about the Early Childhood Training Center that lists all the related training initiatives. The field is really increasingly working together and so the Department of Education and the Department of Health and Human Services work together. They both provide funding to the Early Childhood Training Center. The training center is, you know,...

SENATOR CUDABACK: Time.

SENATOR BROWN: ...coordinates some of the training aspects. Thank you.

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SENATOR CUDABACK: Thank you, Senator Brown. Mr. Clerk, items for the record?

CLERK: Mr. President, I do, thank you. Senator Kristensen designates LB 620 as his priority bill; Senator Chambers, LB 659. Senator Vrtiska offers LR 38. It's a resolution congratulating the two...the Nemaha Valley girls (sic--Schools) Academic Decathlon team. That will be laid over. Mr. President, Judiciary reports LB 12 and LB 281 to General File with amendments. And, finally, Senator Engel offers a new A bill. (Read LB 585A by title for the first time.) That's all that I had, Mr. President. (Legislative Journal pages 782-784.)

SENATOR CUDABACK: Thank you, Mr. Clerk. A little lighter subject here, the bananas are to bring a tropical influence into our winter scene, and this comes from Senator Kruse, who had a birthday yesterday. Well, let's celebrate his birthday now with a little clap. Thank you, Senator Kruse. On with discussion of AM0682 to LB 400. Senator Schimek, followed by Hudkins and Senator Beutler. Senator Schimek. Senator Schimek, did...Senator Schimek waves off. Senator Hudkins.

SENATOR HUDKINS: Thank you, Mr. President and members of the body. I have been following this discussion quite closely, as I think most of us have been because of how it affects people in our particular areas of the state. I visited with one of the day-care providers in my area over the weekend and she is licensed to care for 40 children, so she does qualify as a day-care center. She talked to me about what it costs to do this training and if her employees had to do this training she's going to have to hire more people to take their spots unless they can get it at night, get the training at night. But she said what the bottom line is going to be is if her people working in her day-care center have to have this increased training this is going to cost her clients, her parents. But, you know, it's also going to cost the state as a whole. I was looking at the fiscal note and the expenditures in 2001-2002 are a little under a million dollars. The expenditures in FY 2002 and '03 are a little over a million dollars. This is because of the fact that there's going to have to be 25 more people hired

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to check on all of these day-care centers: do they have the increased hours; what particular training did they have; where did they have it? It's going to take a lot more people to do that. But it doesn't tell you about what's going to happen after that. The additional training requirements I...as I said, would increase the cost of doing business for child-care facilities and these costs, most likely, are going to be passed on to parents, and then on to the Department of Health and Human Services for the children whose care we subsidized. The department establishes rates based on a biennial market rate survey, which is scheduled to be completed in early 2001, and, given the implementation date of this bill, it's unlikely that the child-care rates would increase until later in 2001. So the following fiscal impact to the state would not occur until 2001. But the lady I talked to said that 25 percent of her business is subsidized by the state. She also went on to tell me that any foster care children, their care is subsidized by the state, by you and me, 100 percent. If you are an unwed mother or a single mother, it is also subsidized whatever the going rate is, and I can't tell you but it could be as high as 100 percent. So if you're a low-income family and you're being subsidized by the state, this is going to cost you and me more money just as well. So I just thought you might want to be aware of the additional million dollars in at least the next two years, averaged, and then it's going to be at an additional expense because of the increased rates of subsidization. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Hudkins. Mr. Clerk, an announcement.

ASSISTANT CLERK: Mr. President, Natural Resources Committee is going to hold an Executive Session now under the north balcony; that's Natural Resources, north balcony, at the present time.

SENATOR CUDABACK: Thank you, Mr. Clerk. On with discussion of AM0682 to LB 400. Senator Beutler.

SENATOR BEUTLER: Question.

SENATOR CUDABACK: The question has been called. Do I see five hands? I do see five hands. All in favor of ceasing debate on

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AM0682 to LB 400 vote aye, opposed nay. We're voting on ceasing debate on AM0682. Have you all voted who care to? Record, please, Mr. Clerk. Record.

ASSISTANT CLERK: 26 ayes, 2 nays to cease debate, Mr. President.

SENATOR CUDABACK: Debate does cease. Senator Brown, you're recognized to close on your amendment to LB 400.

SENATOR BROWN: Mr. President and members, quickly I will respond a little bit to some of the issues that Senator Hudkins raised and I will, if this amendment is adopted, respond in greater detail when we get to the underlying bill. But the fiscal note that Senator Hudkins was referencing is not the most recent fiscal note that we discussed the other day. As to this amendment, I would urge you, even if you still are borderline on the bill, to adopt this amendment. It makes the bill more workable and I think it addresses a number of the concerns that have been voiced. There are still going to be some concerns out there and I will be glad to talk about them when we talk about the bill, but I do believe that this amendment which makes a two-tiered system, makes...makes sure that the accredited programs are automatically a part of the highest tier, includes the provisions that Senator Bourne wanted for older...programs that deal exclusively with older children in a part-day setting, and phases in the training requirements from 12 to 16, and then from 16 and cuts it off at 20 rather than 22, because we...we seem to have made a policy decision about...about this on...about this for other professions, I think are all important things that need to be accomplished and I would urge you to adopt the amendment and then we can go on to talking about the bill. Thank you.

SENATOR CUDABACK: Thank you, Senator Brown. You've heard the closing on AM0682 to LB 400. The question is, shall that amendment be adopted to LB 400? All in favor vote aye, opposed nay. We're voting on AM0682 to LB 400. Have you all voted who care to?

SENATOR BROWN: Mr. President, I'd ask for a call of the house

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and accept call-in votes.

SENATOR CUDABACK: There is a request for the house to go under call. All in favor of house going under call vote aye, opposed nay. Record, please, Mr. Clerk.

ASSISTANT CLERK: 28 ayes, 0 nays to go under call, Mr. President.

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. The house is under call. Members, please check in. Call-in votes have been authorized.

ASSISTANT CLERK: Senator Hartnett voting yes.

SENATOR CUDABACK: Record, please, Mr. Clerk.

ASSISTANT CLERK: 25 ayes, 7 nays on the adoption of Senator Brown's amendment, Mr. President.

SENATOR CUDABACK: The amendment is adopted. I do raise the call. Mr. Clerk, next agenda item.

ASSISTANT CLERK: Mr. President, Senator Beutler would move to amend with AM0704. (Legislative Journal page 784.)

SENATOR CUDABACK: Senator Beutler, to open your amendment.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, this amendment broadens an exemption just slightly. As Senator Brown indicated to you, one of the exemptions that she conceded in this bill was to not have it apply to before-and-after-school programs for school-age children. All this amendment does is expand that to include the summertime programs as well so that they would not be included under the bill. And I think this follows the path that Senator Brown has taken and I don't think that she has an objection to it, but it does...but it does expand the exemption somewhat. Thank you.

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SENATOR CUDABACK: Thank you, Senator Beutler. Open for discussion on AM0704 to LB 400. Senator Brown. Senator Baker, did you wish to speak, Senator Baker? Senator Baker passes. Senator Brown.

SENATOR BROWN: Mr. President, members, Senator Beutler, would you yield?

SENATOR CUDABACK: Senator Beutler, will you yield, please?

SENATOR BEUTLER: Yes, of course.

SENATOR BROWN: Explain why...what you think is the consistency between the two things.

SENATOR BEUTLER: Well, as I understand your exemption, you're exempting before-school and after-school programs as they apply to school-age children. Is that correct?

SENATOR BROWN: Right. Yes.

SENATOR BEUTLER: Okay. What this amendment does is says, with regard to school-age children, the summertime programs would also be exempted if only...if that...if they're exclusively offering them to school-age children, so that...so that any time school-age children are being addressed exclusively by a program, they would not be under the bill. It follows the logic of your amendment.

SENATOR BROWN: Okay. Thank you.

SENATOR CUDABACK: Thank you, Senator Brown. Senator Beutler, there are no further lights. Did you wish to close on your amendment? He waives closing. The question before the body is, shall AM0704 to LB 400 be adopted? All in favor vote aye, opposed nay. We are voting on AM0704, the Beutler amendment, to LB 400. Have you all voted who care to? Have you all voted? Have you all voted who care to? Record, please, Mr. Clerk.

ASSISTANT CLERK: 26 ayes, 3 nays on the adoption of Senator Beutler's amendment.

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SENATOR CUDABACK: The Beutler amendment is adopted. Mr. Clerk, next amendment.

ASSISTANT CLERK: Senator Beutler has the next amendment. This is FA42. (Legislative Journal page 784.)

SENATOR CUDABACK: Senator Beutler, to open on FA42.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, this is also not a huge amendment but it provides another exemption with regard to the training requirements and it says that with regard to a person who may have a bachelor's degree in a related field that we ought to give them, at least their first four years of graduation, allow them to work in the area without going through continuing education or education requirements. In other words, I know there are not all that many people right now who work in the field who have bachelor's degrees. This is just a minor amendment. It's not a lights out amendment. (Laughter) Just for people who do have that level of education though, maybe we ought to encourage bringing these people in a little bit by not requiring that for a period years that they not be required to have the education requirements. So it's stated in terms of four years, that gives them one year for each year of their degree...decree. If somebody has a decree (sic) in early...early education, for example, it seems to me they ought to get some benefit for that. So that's all the amendment does--creates one more small exemption. Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. You've heard the opening on FA42. Open for discussion on that amendment. Senator Brown.

SENATOR BROWN: Mr. President, members, I'm not so certain I believe that this is that small of an amendment and I would like to ask some questions of Senator Beutler.

SENATOR CUDABACK: Senator Beutler, would you yield, please?

SENATOR BROWN: Is your requirement in a related field, in a child development field or something like that?

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SENATOR BEUTLER: The...the way the amendment is structured, it says, "in a field of study approved by the department" and...so it would have to be in a field approved by the department and it would have to be from an accredited postsecondary education institution.

SENATOR BROWN: Does it matter when that...that degree...when they had gotten that degrees?

SENATOR BEUTLER: It does matter, because I put the requirement in there at the last minute that it has to be within four years after graduation so that they cannot simply not be in the field for a large number of years and then come back in, but it would seem to me that they ought to have a fairly updated education.

SENATOR BROWN: I guess you have two competing issues here. The one is that I do believe that one of the drivers for this kind of legislation is that we don't have any precertification requirements for child-care providers. On the other hand, I don't want to make...to establish that this profession is different than some of the other professions that we have ongoing training requirements for, and...and...because I...I believe that one of the things that I want out of this bill is...is the acknowledgement that this is a profession of the same kind of value and expectation that we have for teachers who have ongoing training requirements, for real estate agents, for any kind of profession that we have that expectation for. And so...and some of those professions have fairly extensive precertification requirements and so I'm...I'm very torn, because I think it goes in two different ways and so I guess I'd like to hear a little bit more about it before I determine exactly what...how I'm going to fall down on this. I, you know, as I say, I...I do believe that as we begin to think about this as a profession that may have some requirements, although that's been one of the things I've heard on the floor, that we don't want to get into the position of requiring an MB, a master's, to provide childcare. And so I...but I do think that we should be most worried about those individuals who are starting out in the business who have no previous experience in child development. So, anyway, I'd like to hear a little bit more about it. Thank

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you.

SENATOR CUDABACK: Senator Brown, are you asking Senator Beutler a question?

SENATOR BROWN: No, not necessarily. I'll just listen to the discussion.

SENATOR CUDABACK: Okay. Thank you, Senator Brown. There are no fur...Senator Brown, your light is on. Senator Brown.

SENATOR BROWN: Okay, thank you, Mr. President. Senator Beutler, what...what is your...what is it that you're trying to accomplish with this?

SENATOR CUDABACK: Senator, would you yield, Senator Beutler?

SENATOR BEUTLER: Yes, of course. Basically, basically, it's this; that I think everybody would acknowledge that if you had a degree in early childhood education that a great many of the things that a person who didn't have that education would have to get through some kind of educa...licensing educational requirement, and that you want to attract, if you can, people who do have an educational background in the area. So, in order to encourage that and in order to be fair to them, actually, you ought to give them some credit for what they learn in school. I mean I assume you would acknowledge that they learn a large number of things in that particular field, for example, that would be extremely valuable in a job working with a provider. And so if there are some providers out there who can attract those kinds of people to any part of their program, maybe it's not all that bad to give them a little break in terms of the continuing education requirements for a short period of time because they have attracted a high quality person who should already know a great deal more than anybody else that they would hire.

SENATOR BROWN: What about those individuals with an associate degree, because in this field that is...

SENATOR BEUTLER: Well, it's...it's framed in terms of a

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bachelor's degree.

SENATOR BROWN: Right, I know, but the people who are...who are most likely...

SENATOR BEUTLER: Would you want to expand it to an associate degree? I...I wouldn't have an objection to that.

SENATOR BROWN: I would probably be more willing to look at an associate degree and maybe a lessening of the years; not have it be for four years but have it be for two years.

SENATOR BEUTLER: Two years isn't much. (Laugh)

SENATOR BROWN: Well...

SENATOR BEUTLER: How about an associate degrees and three years?

SENATOR BROWN: (Laugh)

SENATOR BEUTLER: It will be a deal.

SENATOR BROWN: Okay. Are we playing...

SENATOR BEUTLER: Okay, I...

SENATOR BROWN: ...let's make a deal? I'll yield...

SENATOR BEUTLER: All right, I...

SENATOR BROWN: ...I'll yield my time to Senator Beutler.

SENATOR BEUTLER: This is not something that...

SENATOR CUDABACK: Senator Beutler, about two and a half minutes.

SENATOR BEUTLER: Thank you. This is not something that should take us a lot of time. I'm...we're doing this without a sense of where the body is. I assume the body doesn't have any

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objection to this one way or another. So if Senator Brown is agreeable, we'll include an associate's degree and limit it to three years and, Senator Brown, if you would talk about the benefits of this bill one more time around, I'll file that amendment and we can be done with this.

SENATOR BROWN: Well, I, as I said before, I mean, that what...what I want to...the point that I wanted to make with this bill is that there are things that people need to learn about child development that are going to assist them in being better caregivers, and that...that the bottom line is what's best for children, so...and that...that there is a relationship in my estimation...

SENATOR CUDABACK: One minute.

SENATOR BROWN: ...between the educational and training requirements, and what's best for children. One of the reasons that I avoided going for a lot of up-front requirements is the criticism, one...one, the criticism that we're going to have outlandish requirements for childcare, educational requirements for childcare; and, number two, that...that somehow...

SENATOR CUDABACK: Time.

SENATOR BROWN: Thank you.

SENATOR CUDABACK: Thank you, Senator Brown. Mr. Clerk, item on the desk?

ASSISTANT CLERK: Mr. President, I understand that Senator Beutler wants to withdraw FA42 and offer a different amendment that he just provided to me. (FA43, Legislative Journal page 785.)

SENATOR CUDABACK: Seeing no objections, so ordered.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, I don't know what...what is the right balance here and I'm certainly willing to compromise with Senator Brown, so what the amendment does now that is before you is to say that somebody

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with a bachelor's degree or an associate's degree in a related field can...can get some credit for the licensing education requirements. In other words, for the first three years they don't have to take that educational requirement. They will get credit for what they learned in school and hopefully that will be a little fairer and hopefully maybe that will even encourage a little bit trying to attract people who do have some sort of a degree (sic) into the program. Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. Open for discussion on the substituted amendment, Senator Brown.

SENATOR BROWN: Mr. President, members, I will just say that this...this amendment hopefully will do what...one of the things that we want to accomplish, which is to say that...that the educational level of individuals is important to kids. And, with that, I would support the amendment. Thank you.

SENATOR CUDABACK: Thank you, Senator Brown. Senator Beutler, there are no further lights. Senator Beutler waives. The question before the body is, shall the Beutler amendment be adopted to LB 400? Mr. Clerk, what is that number? FA43. The question before the body is, shall FA43 be adopted to LB 400? All in favor vote aye, opposed nay. We're voting on the Beutler amendment to LB 400, FA43. Have you all voted who care to? Have you all voted? Record, please, Mr. Clerk.

ASSISTANT CLERK: 26 ayes, 0 nays on the adoption of Senator Beutler's amendment.

SENATOR CUDABACK: The Beutler amendment is adopted. Mr. Clerk.

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

SENATOR CUDABACK: Open for discussion on the bill. Seeing no lights, Senator Erdman for a motion.

SENATOR ERLMAN: Mr. President, I move the advancement of LB 400 to E & R for engrossing.

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SENATOR BRASHEAR: (Microphone malfunction) Machine vote, please.

SENATOR CUDABACK: Machine vote has been requested. All in favor of LB 400, advance to E & R for engrossing, vote aye...

SENATOR BROWN: Mr. President, I would ask for a call of the house, please.

SENATOR CUDABACK: Did you wish to close if you...did you wish to close, Senator Brown, on that?

SENATOR BROWN: Yes, I will.

SENATOR CUDABACK: If you wish. You don't have to if you don't want to.

SENATOR BROWN: Okay. Yes, I will.

SENATOR CUDABACK: Senator Brown wishes to close. You're recognized.

SENATOR BROWN: Thank you. Do we still have a call of the house and I'll just go ahead and...

SENATOR CUDABACK: We'll count it against your time but you...

SENATOR BROWN: Oh, okay.

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

CLERK: 23 ayes, 0 nays, Mr. President, to place the house under call.

SENATOR CUDABACK: The house is under call. All unauthorized personnel please leave the floor. Unexcused senators please return to the Chamber. House is under call. Senator Brown, you may go ahead. Your time is rolling.

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SENATOR BROWN: Thank you. There have been some very serious legitimate issues that have been raised about this bill. Certainly the cost, the implications of cost is something that we all have to be worried about, because the last thing that I want to do is to make it...make it such that there are fewer good providers and that kids have less opportunity for those...for that good experience in...in their early childhood care and education. But I also think that the unfortunate truth is that the world has changed a great deal and children don't have the same...it's...the same expectations for what's going to happen to them that there used to be. And it...it hurts every time we have to vote for more money for juvenile justice or more money for any of those programs that...that we could hope we might not have to fund if kids had better experiences when they were young. And this is not going to guarantee that for every child it's going to be a perfect experience, but it certainly is something that...that the reason that I'm doing it is the hope that it will be...that, for some and maybe for all, it can be a better experience, and especially those children who are in out-of-home care. The training, the issues of training that we've talked about, that we will be talking about; are child development, discipline, which is a very important thing; developmentally appropriate practices; and, for providers, training in business practices. And it is really my hope that this bill will help increase the professionalism of the field and increase people's awareness of what we actually do in terms of the regulation of childcare. And so I will go back to what Senator Crosby said the other day and urge you to vote for this bill because I believe that it's the right thing to do for kids. Thank you.

SENATOR CUDABACK: Thank you, Senator Brown. The house is under call. All present or accounted for, there's been a request for a roll call...was there a request for a roll call, Senator Brown? Machine vote. Machine vote. The question before the body is, shall LB 400 be advanced to E & R for engrossing? All in favor vote aye, opposed nay. We're voting on advancement of LB 400 to E & R for engrossing. Have you all voted who care to?

SENATOR BROWN: (Microphone malfunction) for a call of the house...I mean for a roll call vote, please.

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SENATOR CUDABACK: Senator Brown, the house is under call, but you...

SENATOR BROWN: I know. A roll call vote in regular order, please.

SENATOR CUDABACK: Mr. Clerk, been a request for a roll call vote. Mr. Clerk, call the roll.

CLERK: (Roll call vote taken, Legislative Journal page 785.) 23 ayes, 17 nays, Mr. President, on the advancement.

SENATOR CUDABACK: LB 400 does not advance. Mr. Clerk, next agenda item. I do raise the call.

CLERK: Mr. President, LB 360. Senator Erdman, I have Enrollment and Review amendments first of all, Senator. (AM7051, Legislative Journal page 700.)

SENATOR CUDABACK: Senator Erdman, for a motion.

SENATOR ERDMAN: Mr. President. I move the adoption of the E & R amendments to LB 360.

SENATOR CUDABACK: The question is adoption of the E & R amendments to LB 360. All in favor say aye. Opposed nay. They are adopted.

CLERK: Mr. President, Senator Chambers would move to amend with AM0530.

SENATOR CUDABACK: Senator Chambers.

CLERK: This is one of your effective date section, Senator.

SENATOR CUDABACK: Senator Chambers, you're recognized. It is withdrawn. Mr. Clerk, next item?

CLERK: Senator Erdman, I have nothing further on LB 360, Senator.

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SENATOR CUDABACK: Senator Erdman, for a motion.

SENATOR ERDMAN: I move the advancement of LB 360 to E & R for engrossing.

SENATOR CUDABACK: The motion is advance LB 360 to E & R for engrossing. All in favor say aye. Opposed nay. It is advanced. Mr. Clerk, next? LB 308.

CLERK: LB 308, Senator Erdman, and I have no amendments on that bill, Senator.

SENATOR CUDABACK: Senator Erdman, for a motion.

SENATOR ERDMAN: Mr. President, I move the advancement of LB 308 to E & R for engrossing.

SENATOR CUDABACK: The motion is to advance LB 308 to E & R for engrossing. All in favor say aye. Opposed nay. It is advanced. Mr. Clerk.

CLERK: Senator Preister, you want to pass over LB 397? Is that...okay.

SENATOR CUDABACK: It is passed over.

CLERK: Mr. President, LB 432. First of all, Senator, I have Enrollment and Review amendments. (AM7049, Legislative Journal page 701.)

SENATOR CUDABACK: Senator Erdman, for a motion.

SENATOR ERDMAN: Mr. President, I move the adoption of the E & R amendments to LB 432.

SENATOR CUDABACK: The motion is advance E & R. All in favor say aye. Opposed nay. They are adopted.

CLERK: Mr. President, Senator Chambers would move to amend, AM0525. It's one of the effective date amendments, Senator.

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(Legislative Journal page 718.)

SENATOR CUDABACK: Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, I will move that this amendment be adopted.

SENATOR CUDABACK: Open for discussion on AM0525. Seeing none, the question is, adoption of AM0525 to LB 432. All in favor vote aye, opposed nay. Voting on the Chambers amendment, AM0525, to LB 432. Have you all voted? Record, please, Mr. Clerk.

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

SENATOR CUDABACK: The Chambers amendment is adopted. Mr. Clerk, next item to the bill?

CLERK: Next item, Mr. President. Senator Beutler, I have an amendment from you, Senator, to strike Section 1.

SENATOR CUDABACK: Senator Beutler.

SENATOR BEUTLER: Withdraw that amendment, Mr. Clerk.

SENATOR CUDABACK: It is withdrawn. Mr. Clerk, next item to the bill?

CLERK: Senator Beutler, AM0687, Senator. (Legislative Journal page 786.)

SENATOR CUDABACK: Senator Beutler, on AM0687.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, I have five amendments up there, all of which are friendly amendments, all of which are modest to minor in their scope. Normally, I would get together ahead of time with the introducer, which I've done with Senator Brown. Unfortunately, I didn't get there enough ahead of time to put them all into one amendment, but I think we can go quickly through these. As I

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understand it, none of them are objectionable to Senator Brown. The first amendment that is up before you at this particular moment has to do with the model form that is required in the bill. The Department of Health and Human Services is required to put out a model form. This is the bill that has to do with genetic testing, you may recall, a number of different provisions relating to that. This model form is a consent form and it requires a review every five years of the form itself, and that form is required to be supplied to the medical people so that they can use it. All this amendment does is to say that every five years after the review, when they modify the model form, if they do, that revised model shall also be provided to the medical people so that they get the original form and, if it's revised, they get the revised form. That's all this amendment does. Thank you.

SENATOR CUDABACK: You've heard the opening on AM0687 to LB 432. Open for discussion. Senator Brown, for discussion.

SENATOR BROWN: Thank you, Mr. President. I appreciate Senator Beutler cleaning up some of the language and making sure that we had the provisions about young children straight in the bill and informed consent for those, for young children, and so I would support the amendment. Thank you.

SENATOR CUDABACK: Seeing no other discussion, the question... Senator Beutler, did you wish to close? He waives closing. The question before the body is, shall the Beutler amendment, AM0687, be adopted to LB 432? All in favor vote aye, opposed nay. We are voting on the Beutler amendment, AM0687, to LB 432. Have you all voted who care to? Record, please, Mr. Clerk.

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

SENATOR CUDABACK: AM0687 is adopted. Mr. Clerk, next amendment.

CLERK: Senator Beutler would move with AM0688, Mr. President. (Legislative Journal page 786.)

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SENATOR CUDABACK: Senator Beutler, to open on AM0688.

SENATOR BEUTLER: Members of the Legislature, this particular amendment has to do...you may want to follow on page 10, subsection (5). This is the portion of the bill that deals with forensic examples...forensic samples. And in this particular subdivision of the bill, it provides that when a person is eliminated as a suspect in the crime, then the sample is to be disposed of. I have changed the language "disposed of" to "destroyed" and required the notification of the individual that it has, in fact, been destroyed. The language "destroyed" and the requirement of notice to the individual is language that has been picked up in other sections of the bill that don't deal with forensic evidence, and I could see no reason why that same language shouldn't be picked up here. So all this does is conform the forensic sample section to the language used in the rest of the bill. Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. Open for discussion on the Beutler amendment. Seeing none, Senator Beutler, did you wish to close? Senator Beutler waives closing. The question before the body is, shall AM0688 be adopted to LB 432? All in favor vote aye, opposed nay. We're voting on AM0688. Have you all voted who care to? We are voting on AM0688. Have you all voted? Record, please, Mr. Clerk.

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

SENATOR CUDABACK: The Beutler amendment is adopted. Mr. Clerk, next amendment?

CLERK: Mr. President, Senator Beutler, AM0690. (Legislative Journal page 787.)

SENATOR CUDABACK: Senator Beutler, to open on AM0690 to LB 432.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, this deals with the section that has to do with the screening of all infants born in the state for certain types of conditions.

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It's a mandatory testing under the current law, and there is a particular provision that now allows those samples to be used for medical research, but I did not see anywhere where it required the written consent of the parent or the legal guardian to allow such blood samples to be used for research, and it seemed to me that requiring that would be in conformance with what we've done in most other instances where this sort of proposition has been put before us. So this amendment simply requires written consent for the use of this material in research. Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. You've heard the opening on AM0690. Open for discussion on that amendment. Seeing none, Senator Beutler. Senator Beutler waives closing. The question before the body is, shall AM0690 be adopted to LB 432? All in favor vote aye, opposed nay. We are voting on AM0690 to LB 432. Have you all voted? Record, please, Mr. Clerk.

CLERK: 25 ayes, 0 nays, Mr. President, on the adoption of AM0690.

SENATOR CUDABACK: AM0690 is adopted. Mr. Clerk, next amendment?

CLERK: Mr. President, Senator Beutler, AM0691, Senator. (Legislative Journal page 787.)

SENATOR CUDABACK: Senator Beutler, to open on AM0691 to LB 432.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, this one has to do with that very same section of the statute that mandatorily requires the screening of infants for a variety of possible diseases. And what this amendment says is that the person responsible for taking the tests shall inform the parent or legal guardian of the test and of the results of the test and provide upon any request for further information at least a copy of the written materials prepared under subsection (5). Under subsection (5) on page 16 of the bill, there is a requirement for the Department of HHS to prepare certain materials that explain what's going on with this testing, sets out a number of

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specific things that they have to put into this pamphlet or material that explains what's going on, but it nowhere says that you ought to inform the parents by providing them a copy of this pamphlet. And so all this amendment does is to be sure the communication with the parent and the guardian is there in every respect, both with regard to the fact that the tests are being taken, with regard to the results of the test and providing them, upon request, if the parents want the information, the explanation and the materials that they already, under current law, are required to prepare that will explain the rationale for the whole testing process to the parent. That's all this amendment does. Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. Open for discussion on AM0691. I see no lights on. Senator Beutler, did you wish to...Senator Beutler waives closing. The question before the body is, shall AM0691 be adopted to LB 432? All in favor vote aye, opposed nay. We are voting on AM0691 to LB 432. Have you all voted? Have you all voted who care to? Record, please, Mr. Clerk.

CLERK: 25 ayes, 0 nays, Mr. President, on the adoption of AM0691.

SENATOR CUDABACK: The amendment is adopted. Mr. Clerk, next amendment?

CLERK: Mr. President, Senator Beutler would move with AM0689. (Legislative Journal page 787.)

SENATOR CUDABACK: Senator Beutler, to open on AM0689 to LB 432.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, this is the last one, and thank you for your patience. This amendment is on page 13 of the bill, subsection (6), which is generally a prohibition against a person selling, transferring or offering genetic testing materials related to this particular type of material that's dealt with in this section of the bill. And all this amendment does is add the word "buy" to that prohibition so that it is broader in effect and you cannot...you cannot not only not sell, transfer or offer for sale, but you

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also...it catches the other end and says that you cannot buy. And this is the way these kinds of prohibitions are ordinarily structured when you intend to stop the transfer altogether. Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. Open for discussion on AM0689 to LB 432. Senator Brown.

SENATOR BROWN: Thank you, Mr. President, and thank you, Senator Beutler, for closing that...closing the circle because this is an important part of the bill, and certainly the provision that you're affecting with this amendment makes it much better. Thank you.

SENATOR CUDABACK: Thank you, Senator Brown. Senator Beutler, did you wish to close? Senator Beutler waives closing. The question before the body is, shall AM0689 be adopted to LB 432? All in favor vote aye, opposed nay. Voting on the Beutler amendment, AM0689, to LB 432. Have you all voted who care to? Have you all voted? Have you all voted? Senator Beutler. Record, please, Mr. Clerk.

CLERK: 25 ayes, 0 nays, Mr. President, on the adoption of Senator Beutler's amendment.

SENATOR CUDABACK: AM0689 is adopted to LB 432. Mr. Clerk, next amendment?

CLERK: Senator Brown would move to amend. (FA44, Legislative Journal page 787.)

SENATOR CUDABACK: Senator Brown, to open on FA44.

SENATOR BROWN: Thank you, Mr. President, members. This amendment is technical. On page 8 and page 17, on the accreditation, we reference the College of American Pathologists and the American College of Medical Genetics Molecular Pathology Program. The American College of Medical Genetics Molecular Pathology Program is a proficiency test rather than accreditation, and so this amendment would strike the references both on page 8 and page 17 to the American College of Medical

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Genetics Molecular Pathology Program, leaving it to read that it shall be accredited by the College of American Pathologists or by any other national accrediting body or public agency which has requirements that are substantially equivalent to or more comprehensive than those of the program. It's a technical change, and I would urge the adoption of this amendment to LB 432.

SENATOR CUDABACK: Thank you, Senator Brown. You've heard the opening on FA44. Open for discussion. Seeing none, Senator Brown, did you wish to close on your amendment? Senator Brown waives closing. The question before the body is, shall FA44 be adopted to LB 432? All in favor vote aye, opposed nay. We're voting on FA44, Senator Brown's amendment to LB 432. Have you all voted who care to? Have you all voted? Record, please, Mr. Clerk.

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

SENATOR CUDABACK: FA44 is adopted. Mr. Clerk, next item?

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

SENATOR CUDABACK: Senator Brown, did you wish to close on this, Senator Brown, or did you? Senator Erdman, for a motion.

SENATOR ERDMAN: Mr. President, I move the advancement of LB 432 to E & R for engrossing.

SENATOR CUDABACK: The question before the body is the advancement of LB 432 to E & R for engrossing. All in favor say aye. Opposed nay. It is advanced. Mr. Clerk, next item?

CLERK: Mr. President, LB 411. I have no amendments to that bill, Senator.

SENATOR CUDABACK: Senator Erdman, for a motion.

SENATOR ERDMAN: I move the advancement of LB 411 to E & R for engrossing.

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SENATOR CUDABACK: Motion is to advance LB 411 to E & R for engrossing. All in favor say aye. Opposed nay. It is advanced. Mr. Clerk, next bill.

CLERK: Mr. President, LB 243. I have no E & R amendments; I do have others, however. Senator Schrock, AM0647 is the first amendment I have, Senator. (Legislative Journal page 766.)

SENATOR CUDABACK: Senator Schrock, you're recognized to open on AM0647.

SENATOR SCHROCK: Mr. President and members of the Legislature, this amendment would amend another section in the bill statutes. Actually it will allow this also to apply to the electric cooperatives. There are seven electric cooperatives in the state besides the power districts. They essentially serve the same function, but we want to make sure it applies to those also, so it was necessary to add this amendment to the bill. I would call it a somewhat technical in nature.

SENATOR CUDABACK: You've heard the opening on AM0647 to LB 243. Open for discussion. Seeing none, Senator Schrock, did you wish to close? Senator Schrock waives closing. The question before the body is, shall AM0647 be adopted to LB 243? All in favor vote aye, opposed nay. We're voting on AM0647 to LB 243. Have you all voted? Have you all voted who care to? Have you all voted? Record, please, Mr. Clerk.

CLERK: 26 ayes, 0 nays, Mr. President, on the adoption of AM0647.

SENATOR CUDABACK: AM0647 is adopted. Mr. Clerk, next amendment?

CLERK: Mr. President, Senator Schrock would move to amend by adding the emergency clause. (AM0699, Legislative Journal page 788.)

SENATOR CUDABACK: Senator Schrock, to open on AM0699 to LB 243.

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SENATOR SCHROCK: Mr. President, members of the Legislature, I'm not sure there's an emergency out there but I do know that there's two districts that are looking at this bill. As you may recall, this legislation would allow two rural power districts to merge, and they may charge different rates to their ratepayers, based upon their indebtedness, for a five-year period of time, and after five years they could...they'd have to charge the same rate to all the members in the district. But there certainly is interest in this bill and if we put the emergency clause on it, I believe there are two power districts that would merge and use this bill quicker. So I would ask you to vote for the emergency clause.

SENATOR CUDABACK: You've heard the opening on AM0699 to LB 243. Open for discussion. Seeing none, Senator Schrock. Senator waives closing. The question before the body is, shall AM0699 be adopted to LB 243? All in favor vote aye, and opposed nay. Voting on AM0699. Have you all voted? Record, please, Mr. Clerk.

CLERK: 25 ayes, 0 nays, Mr. President, on the adoption of AM0699.

SENATOR CUDABACK: AM0699 is adopted. Mr. Clerk, next amendment to the bill?

CLERK: Senator Schrock, AM0698, Senator. (Legislative Journal page 788.)

SENATOR CUDABACK: Senator Schrock, to open on AM0698 to LB 243.

SENATOR SCHROCK: Mr. President, members of the Legislature, this was actually a bill brought to us by Omaha Public Power District. It's originally LB 374 and it has some economic development ramifications. Certainly the Omaha Public Power District is interested in this bill to use for economic development. And it would allow...it would allow them to reach an agreement for economic development for a company that would locate in the state of Nebraska that has a load factor of 500 kilowatts 60 percent of the time, that the rates cannot be effective for more than five years and cannot be less than the

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marginal cost to supply electrical services. This bill did pass out of committee with unanimous vote. Once again, this is LB 374. There were some safeguards added so we did amend the bill a little bit in committee to protect the general ratepayer. And, you know, the contract they have, if the rates go up, there must be a provision in their contract that would reflect that, so I don't think of this as a disincentive for any...for the general ratepayer in an area. So with that, I would ask for you to advance this amendment. It is LB 374. If you have any questions, I will try to answer them. But it's an economic development tool to try and attract business to the state of Nebraska, and it would allow them to negotiate the rate for up to five years.

SENATOR CUDABACK: You've heard the opening AM0698 to LB 243. Open for discussion. Senator Beutler, on that amendment.

SENATOR BEUTLER: Members of the Legislature, this is not just an amendment; this is a bill, of course, and perhaps we've come to that time of year where we're amending bills into other bills in order to get them done already. But this particular bill I think is going...is a matter of some great consequence. It has been a subject of discussion for a number of years, and I'm not sure if I'm remembering everything correctly. So at the very least, Senator Schrock, I want to start asking some questions about it to be sure I understand what's happening. But as a general principle, in the power industry...I'm not going to use quite the right terminology, I don't think, but you're obligated to charge fair and equitable rates, and you're obligated to do that for everybody--for residential customers, for commercial and industrial customers. It's one of the basic operating principles of electrical power in the state. Is that fair to say, Senator Schrock? And if you'd like to elaborate on that...

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

SENATOR SCHROCK: Senator Beutler, that's fair to say.

SENATOR BEUTLER: Okay. And so what this bill is purporting to do, and I don't know if this is the first time we've done this

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or not, I would ask you that also, Senator Schrock. Is this the first time that we've employed this? Or seems to me we did it in one other occasion on some limited form but I can't quite recall when or where.

SENATOR SCHROCK: Senator Beutler, I believe the Quality Jobs Act also allowed this type of provision.

SENATOR BEUTLER: Okay. Well, then I might stop right there. Does the Quality Jobs Act, as it would be purported to be reinstated, have this kind of provision in it?

SENATOR SCHROCK: I can't answer that, Senator Beutler. I don't know.

SENATOR BEUTLER: Is there...as I understand the language of this bill, it's pretty broad when it comes to economic development projects, so I assume that we don't have the Quality Jobs Act anymore, so we don't have this provision anywhere in law. But if we reestablish the Quality Jobs Act with this provision, this bill would nonetheless expand from that to all different types of economic development projects. Is that...is that accurate?

SENATOR SCHROCK: That is correct, Senator Beutler, but I do think you should note we have written in safeguards so that we can't have the power company giving power away. They have to charge a rate that more than covers the cost of them providing electricity to that particular business.

SENATOR BEUTLER: So they have to charge the rate that...the marginal rate. What is it that they don't have to charge under this bill?

SENATOR SCHROCK: Well, I assume that they don't have to charge a rate that everyone else is paying, like you said earlier. This could be a different rate. But it has to be a rate that is more than the cost of providing electricity, more than a delivery charge. And after five years, then they will pay the rate everybody else pays. And it has to be a type of a company that has a pretty constant load because, as the bill states, the

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load factor has to be 60 percent of the time so...and it has to be at least 500 kilowatts. And a lot of people may ask, well, what's 500 kilowatts? I understand a large supermarket would be about a 500-kilowatt customer.

SENATOR BEUTLER: Okay. And so, just so everybody knows what's going to be happening here, to the extent that they choose to use this as part of an economic development package...

SENATOR CUDABACK: One minute.

SENATOR BEUTLER: ...it probably means that somebody else's rates are going to be a little bit higher in order to pay the entire electric bill of the utility. In other words, this is going to necessarily cause a shift and, in probably almost all cases, a shift to residential owners in order to accommodate this rate break. Is that fair to say or not fair to say?

SENATOR SCHROCK: It will not cause a shift to residential ratepayers. And I think what you need to realize here, we're talking about new companies. If they didn't locate here or expand here, there would be no electric load, and the bill has safeguards in it so that they have to provide the electricity at more than their cost of delivery. So I don't think it's going to affect the present ratepayers. From the...

SENATOR CUDABACK: Time, Senator Beutler.

SENATOR SCHROCK: ...standpoint that they may charge a lower rate, that could be passed on to other ratepayers, but now it's going to be passed on to the...

SENATOR CUDABACK: Time, Senator Schrock. Thank you, Senator Beutler. Senator Wehrbein.

SENATOR WEHRBEIN: Yes, Mr. Speaker, members of the body, I'd just like to ask Senator Schrock if I understood. This is only from this time forward, is that right, for new industry...

SENATOR SCHROCK: That's correct.

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SENATOR WEHRBEIN: ...coming in? It has nothing to do with those that are presently customers and so forth.

SENATOR CUDABACK: Senator Schrock.

SENATOR SCHROCK: That is correct, Senator Wehrbein.

SENATOR WEHRBEIN: So it truly is an economic tool from here forward. Thank you.

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

SENATOR SCHROCK: Mr. President and members of the Legislature, I thank Senator Beutler and Senator Wehrbein for this discussion. I believe the safeguards are there so it's not going to affect the electric rates for residential ratepayers. And we're talking about new business here and this may or may not be the reason they would come to Nebraska but it is an incentive for them to be here and it should be the electricity delivered that will not be below the cost of delivering that electricity, and after five years they're going to pay the same rate everybody else pays. It has to be a company that has a pretty constant load, so I think the safeguards are here and I think it makes good sense, so with that, I would appreciate your help on this amendment. And that will close my remarks.

SENATOR CUDABACK: You've heard the closing on AM0698 to LB 243. All in favor of that amendment vote aye, opposed nay. Voting on AM0698 to LB 243. Have you all voted? Record, please, Mr. Clerk.

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

SENATOR CUDABACK: Mr. Clerk, next item to the bill?

CLERK: I have nothing further on the bill, Mr. President. Senator Landis, did you wish to speak to the bill?

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SENATOR LANDIS: Yes, Mr. Speaker, members of the Legislature. I just want to have a little...raise a hypothetical with Senator Schrock, and if you wanted the last...the end of my time to talk about it, that would be fine. If I understand, we can't charge less than the marginal rate for this kind of an arrangement, which is, I think, fine because I think the idea is that we're not going to...we'll allow the entity to reduce its margin but we won't allow them to subsidize across somebody else...to somebody else. However, here's the problem with that, that I want to raise for you, and that is you can reduce the margin here but not below the marginal cost. And, yet, if you say to yourself, I want a 10 percent return on all of the stuff I sell, but I'm only going...I'm not going to get a 10 percent return on 10 percent of my business, I'm going to get a zero return on that 10 percent of my business, but you say to yourself, I want a 10 percent return on all of the business I do, you just raise the other 90 percent up to an 11 percent return, and then you're back to 10 percent for everybody. There isn't a subsidy. You haven't violated the marginal cost, and yet other people's rates go up. Senator Schrock, what assurance do we have from the industry that they won't change the rate of return elsewhere to make up for this amount, even though we're not subsidizing expenses, but that we're going to seek a higher gain in other parts of what we sell to make up for what we would have made here? Do we have any understanding on that score?

SENATOR CUDABACK: Senator Schrock, will you yield?

SENATOR SCHROCK: Senator Landis, you very correctly gave us a scenario and you very well may be right, but I will tell you this; that if there's a general rate increase for everybody, then that rate increase has to be a part of the negotiated contract. So if "Company X" comes to Nebraska and negotiates this five-year contract for rates at a certain rate, if there's a general rate increase for everybody, their rates will also go up during those five years. To the extent that you're correct about the margin being higher for someone else as to another one, you are...I assume you're correct there, but then you have to ask yourself what would have been the cost for those people had this company not built in Nebraska? I don't think it's going to increase the cost; their being here or not being here I

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don't believe is going to increase the cost for the ratepayers for the rest of the state. So...and it is just a five-year plan and I think the safeguards are there, but you...what you say, I think, is absolutely correct. When somebody pays less, somebody else is going to have to pay more. The thing you have to ask yourself, is the rest of the ratepayers going to pay more if this company doesn't come here? And I don't think the ratepayers are going to pay more whether this company negotiates that five-year contract or does not negotiate that five-year contract. It's just going to mean more electricity consumption and probably the whole industry in this state will be a little more efficient because you have a little larger load, and the factor that it has to be constant load is certainly a lot better than, say, myself who runs an irrigation well two months out of the year. So I would suspect that this is not going to cost the ratepayers money. Can I guarantee that? Very few things in life you can guarantee. But I think you...you've played through the scenario. You've set it up perfectly. I think it's a reasonable request for the power companies to ask this and it may...it may have an effect on industry in this state, new industry in this state. And to that extent,...

SENATOR CUDABACK: One minute.

SENATOR SCHROCK: ...I thought it was a good proposal and the committee did, too, and we advanced it. But I appreciate the discussion and I would not disagree with the scenario you laid out for us.

SENATOR CUDABACK: Senator Landis, there's 30 seconds left.

SENATOR LANDIS: I'll just wait. My light is next as well, right?

SENATOR CUDABACK: Your light is next. You may go.

SENATOR LANDIS: Okay. Senator Schrock, I think the amendment is adopted and we're about to advance this bill. If I understand correctly, I'm going to take your answer to say this. We have an agreement...the provisions of this do not allow the subsidization of costs, but that we have opened the possibility

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of increases elsewhere on rate of return rather than costs, which might make up for the rate of return that's being forgone by the use of this amendment. I would feel better, before Final Reading, if there was a letter in your hands from the moving parties behind this provision saying not only do we not intend to subsidize costs but we don't intend to shift rate of return to other people as well. I think it sounds to me as if it's been justified to your committee and to Legislature as a no-lose to other ratepayers while we make this adjustment for economic expansion. If that's the case, I'd like to have that not just in costs but in rate of return. I don't have to have it in the bill, I don't have to have it in an amendment, but I do have to have it as...I would like to have it as an assurance for which we had a written record that that would be the case. I would recommend to you, between now and Final Reading, that you go back to the people who said, don't worry, there won't be any other costs to other people, that they not only make that clear with respect to the costs but also the rate of return that they're going to expect from other ratepayers, which may go up to make that pie larger. Just a thought on my part. I'd recommend that idea to you. I do intend to vote for the bill but, by Final Reading, I will want to know an answer to that question before I vote on Final Reading. Thank you.

SENATOR CUDABACK: Thank you, Senator Landis. Senator Beutler. Senator Beutler waves off. Senator...did you want to close, Senator Schrock? Senator Schrock waives...

SENATOR SCHROCK: Mr. President, I would just say that Senator Landis, I think, has a reasonable request and we will do what we can to accommodate that.

SENATOR CUDABACK: Thank you, Senator Schrock. The question before the body is...Senator Erdman, for a motion.

SENATOR ERDMAN: Mr. President, I move the advancement of LB 243 to E & R for engrossing.

SENATOR CUDABACK: The question before the body is, shall LB 243 be advanced to E & R for engrossing? All in favor say aye. Opposed nay. It is advanced. Mr. Clerk.

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CLERK: LB 34, Senator. I do have E & R amendments. (AM7048, Legislative Journal page 701.)

SENATOR CUDABACK: A motion, Senator Erdman.

SENATOR ERDMAN: I move the adoption of the E & R amendments to LB 34.

SENATOR CUDABACK: The motion is adopt E & R amendments. All in favor say aye. Opposed nay. They are adopted.

CLERK: I have nothing further on that bill, Senator.

SENATOR CUDABACK: Senator Erdman, for a motion.

SENATOR ERDMAN: Move the advancement of LB 34 to E & R for engrossing.

SENATOR CUDABACK: The motion is to advance LB 34 to E & R for engrossing. All in favor say aye. Opposed nay. It is advanced. Mr. Clerk.

CLERK: LB 106, Senator. I do...I have no amendments to the bill.

SENATOR CUDABACK: Senator Erdman, for a motion.

SENATOR ERDMAN: I move the advancement of LB 106 to E & R for engrossing.

SENATOR CUDABACK: The motion is advance LB 106 to E & R for engrossing. All in favor say aye. Opposed nay. It is advanced. Mr. Clerk.

CLERK: LB 108, Senator. I have no amendments to that bill.

SENATOR CUDABACK: Senator Erdman, for a motion.

SENATOR ERDMAN: I move the advancement of LB 108 to E & R for engrossing.

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SENATOR CUDABACK: The motion is advance LB 108 to E & R for engrossing. All in favor say aye. Opposed nay. It is advanced. Mr. Clerk.

CLERK: LB 477, Senator. I have no amendments to that bill.

SENATOR CUDABACK: Senator Erdman, for a motion.

SENATOR ERDMAN: I move the advancement of LB 477 to E & R for engrossing.

SENATOR CUDABACK: The motion is advance LB 477 to E & R for engrossing. All in favor say aye. Opposed nay. It is advanced. Mr. Clerk.

CLERK: LB 270. I have E & R amendments first of all, Senator. (AM7050, Legislative Journal page 723.)

SENATOR CUDABACK: Senator Erdman, for a motion.

SENATOR ERDMAN: I move the adoption of E & R amendments to LB 270.

SENATOR CUDABACK: The motion is adopt E & R amendments to LB 270. All in favor say aye. Opposed nay. They are adopted.

CLERK: Mr. President, the next amendment to the bill, Senator Beutler, strike Section 1.

SENATOR CUDABACK: Senator Beutler.

SENATOR BEUTLER: I'd withdraw that.

SENATOR CUDABACK: It is withdrawn. Mr. Clerk. Did you have an announcement, Mr. Clerk, that you wanted to read?

CLERK: Natural Resources will have an Executive Session now underneath the north balcony, Mr. President.

SENATOR CUDABACK: Next item, Mr. Clerk?

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CLERK: Senator Chambers would move to amend.

SENATOR CUDABACK: Senator Chambers. Senator Beutler, you're recognized on your amendment.

CLERK: Senator Beutler, AM0693. (Legislative Journal page 789.)

SENATOR BEUTLER: AM0693 is a short amendment. Under the bill as it currently is, the maximum licensing fee for a acupuncture license is \$300. If you maximize that fee...it's a fee range with a maximum of \$300. If you maximize that fee, in the second year you don't come up with enough money to pay for the licensing process out of the fees. And so what this amendment does is to put acupuncture under another category so that the fee range is between \$100 and \$600 so that they can make a fee that is...that is necessary in order to cover their cost of licensing. I think for all of these different licensings, the theory that we've applied in the Appropriations Committee and fiscally, generally, is to be sure that the fees are high enough to cover on down the line the cost of licensing, which makes sense. In this particular case, the cost of licensing comes up about a thousand dollars short in the second year and, quite honestly, we don't know how it will go in the future. And because we never quite know how things will go in the future, that's one reason that we give the department the authority of a fee range in order to set the fee appropriately to simply cover the costs. But in this case if you set the fee at \$300 where it is now, you will not be able to cover the cost of the second year out, and maybe not into the future. And so it seemed to me to simply make sense to give them a little more authority and allow them to make whatever adjustment was necessary in order to cover the costs in the future. That's all this amendment does. Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. You've heard the opening on AM0693 to LB 270. Senator Hudkins.

SENATOR HUDKINS: Thank you, Mr. President and members of the body. Senator Beutler talked to me about this amendment earlier

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today and I did the math as well. And if you look at the fiscal note with the expenditures and the revenue for the first fiscal year, 2001-02, there is a positive balance of \$300. If you look at the second year, 2002-03, it's a negative balance of \$1,200. So what you're looking at is a difference of \$900 over two years. If this is enough to fool with, then vote for the amendment. If you don't think that it is, vote against it. And I'll return the rest of my time.

SENATOR CUDABACK: Thank you, Senator Hudkins. There are no further lights. Senator Beutler, do you wish to close?

SENATOR BEUTLER: It's simply an amendment to extend to this particular licensing proposition the same sort of requirements that the license be covered...that the licensing costs be covered by the fee, and the amount is small. What the amount might be in the future, we don't know. But in any event, it sets the principle in place that the fee should cover the license. And if you want that principle to be in place, then you need that...you need this amendment. Thank you.

SENATOR CUDABACK: You've heard the closing on AM0693. The question before the body is, shall AM0693 be adopted to LB 270? All in favor vote aye, and opposed nay. We are voting on AM0693 to LB 270. Have you all voted who care to? Have you all voted? Have you all voted who care to? Senator Beutler.

SENATOR BEUTLER: Senator Cudaback, I'd ask for a call of the house and take call-in votes.

SENATOR CUDABACK: There's been a request for a call of the house. All in favor of the house going under call vote aye, and opposed nay. Record, please, Mr. Clerk.

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

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. Senator Beutler has authorized call-in votes.

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CLERK: Senator Preister voting yes. Senator Hilgert voting yes. Senator Aguilar voting yes. Senator Burling voting yes. Senator Schrock voting yes. Senator Bromm voting yes. Senator Wickersham voting yes. Senator Janssen voting yes.

SENATOR CUDABACK: Record, please, Mr. Clerk.

CLERK: 25 ayes, 2 nays, Mr. President on the adoption of Senator Beutler's amendment.

SENATOR CUDABACK: AM0693 is adopted. I do raise the call. Mr. Clerk, next amendment to the bill?

CLERK: Mr. President, Senator Chambers would move to amend with AM0585. (Legislative Journal page 789.)

SENATOR CUDABACK: Senator Chambers, you're recognized to open on AM0585 to LB 270.

SENATOR CHAMBERS: Mr. President, members of the Legislature, and Senator Hudkins. This is merely that effective date amendment, and Senator Hudkins nods, so she's aware of it. I ask that it be adopted.

SENATOR CUDABACK: Open for discussion on the Chambers amendment, AM0585, to LB 270. Seeing none, Senator Chambers waives closing. The question before the body is, shall AM0585 be adopted to LB 270? All in favor vote aye, opposed nay. Record, please, Mr. Clerk.

CLERK: 36 ayes, 0 nays, Mr. President, on the adoption of Senator Chambers' amendment.

SENATOR CUDABACK: The amendment is adopted.

CLERK: I have nothing further on the bill, Senator Erdman.

SENATOR CHAMBERS: Open for dis...Senator Chambers, did you wish to discuss the bill?

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SENATOR CHAMBERS: Mr. President, members of the Legislature, I had given many arguments against this bill on General File. I was dead set against the bill as it existed in the green copy. I am dead set against it now. However, a change has occurred which moderates and alters the extent of my opposition and the way that I will express it. Senator Hudkins made substantial rewrites of the bill. There's a board which will lead to some accountability. Some unnecessary and to me objectionable language has been eliminated and we're not looking to have an agency or an organization, whatever it was, outside the state be the determining factor whether somebody is qualified to engage in what I call quackery. Any of us can apply any descriptive label to whatever we're discussing. As Senator Hudkins and others pointed out, acupuncture is something that is thousands of years old, but that doesn't mean that everybody who decides they're going to jump on that train has the capability and competency to engage in the practice at a high level of effectiveness. This in America, when I say "this" I mean acupuncture, has become faddish like so many things. Perfumed candles become fragrance therapy or odor therapy or whatever they call it...oh, aroma therapy. Anything, just add therapy, and you're home free. I have seen people actually buy water out of the tap that's put in bottles. And there are people who cart it around the Capitol in great big containers and there are people around here who pay for water out of the tap. If I were not such an honest person, I would go to the side of my house and fill up these bottles and put a label on it and sell it. But I don't believe in child abuse or taking advantage of those who are mentally challenged. What I did think about doing, if people are going to pay for water out of the tap, they're going to buy pet rocks, I was creating an invention which would purify the air. It consists of a cardboard box with holes cut in the front for eyes and then little decals you can put on the front so the mouth can turn up for a smile or down for a frown so you can give an idea to people on the outside what the feeling is of the one on the inside, and you just put this box over your head. And in the same way that that water in that bottle takes on magical properties and qualities, the air within this box is purified. You don't get colds, you won't get pneumonia, you won't get box elder bugs, you won't get arthritis, you won't get anything as long as you have one of these boxes. I do a cable

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program and I talked about it and do you know I had some people who called me and they wanted one, maybe for a gimmick, but they might not have been sure that there wasn't something to this. People are so gullible. There are nurses, there are nursing programs which deal in this thing of not touching people. But you magically move your hands above and around people so that you can deal with the power sources, the energy fields. And if you manipulate your hands just right...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...it's like these instruments which you don't touch but you move your hands close to them and you can generate a tone, a musical tone. And I think it is not good...I'll speak only one more time...for the public to be suckered into believing that every cock and bull patent medicine bit of quackery is something endorsed by and approved by the state. What we need to start putting on these bills is what television stations put on these so-called infomercials. There is nothing about this program that the Legislature is endorsing or vouching for, and if such be the case, we should not enact a law allowing it to take place and have the status of a legitimate operation.

SENATOR CUDABACK: Time. Thank you, Senator Chambers. Senator Kristensen.

SENATOR KRISTENSEN: Thank you, Mr. President, members of the Legislature. I don't plan to take a tremendous amount of time. I appreciate Senator Hudkins putting on one of the amendments, but I will tell you that in the future I think this raises a much larger issue. Physicians, chiropractors can do acupuncture without having any licensing or training in this area, and I think that ought to tell you something that this is really an unregulated area. I know that Senator Hudkins made some...oh, I don't want to say...promises are too strong, but I think she made some assurances to the chiropractors and so on that she wasn't going to make major changes in their licensing and how they did their business with acupuncture through this bill, and I respect that she made those assurances. I would tell the body that I think they need to seriously look at who these people

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are, how they are licensed, what training they have, whether they are a chiropractor, whether they're an acupuncturist or whether they are a medical doctor. With that, I'm very hesitant but I think the body ought to, in the future or next year, I would hope the Health Committee would look at how people are licensed in this area and what training everybody needs to do this work. And if, indeed, it is legitimate treatment, it certainly warrants additional looks at licensing everybody who does this and that training. Thank you.

SENATOR CUDABACK: Thank you, Senator Kristensen. Senator Hudkins, on advancement of LB 270.

SENATOR HUDKINS: Thank you, Mr. President and members. Over the past few days, a number of you have received letters. I have been contacted by at least two of you who have received letters from chiropractors concerned about what this bill was actually going to do to chiropractors being allowed to practice acupuncture. I said very early on that it was not my intent, nor was it the bill's intent, to change how those already allowed to practice may continue to practice. We are not changing their training, we are not changing anything about what MDs and chiropractors are already allowed to do. The only thing that this bill would regulate would be...or would affect would be those who are licensed acupuncturists but, because of the laws of the state of Nebraska, may not practice in Nebraska. This will allow people who are licensed in acupuncturists...acupuncture, after having received the appropriate training, passing the appropriate tests, paying the appropriate fees, these people would then be allowed to practice. So to put anyone's mind at ease who has received one of those letters, that is what the bill does not do, is to affect those who are already licensed and allowed to practice acupuncture in the state. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Hudkins. Senator Chambers, on the advancement.

SENATOR CHAMBERS: Mr. President, I hope enough of you will not vote for this bill so that it will not advance. I'm going to ask for a machine vote but I will not speak again on it. It

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just reminds me of a song that probably young Senator Patrick Bourne is too young to be aware of, but it was called "Jeremiah Peabody's Pills" and there was a part of it that said, "Get rid of that (sniff) runny nose, that hacking cough (hack), that sneeze, ahchoo, that wheeze (wheeze) and other miseries. Get the wonder drug that cures all your ills. Get (singing) Jeremiah Peabody's polyunsaturated, quick-dissolving, fast-acting, pleasant-tasting, green and purple pills." Cured everything. The problem with acupuncture is that it fits into that category, that realm of the mystical, the exotic, so any claim made for it is taken seriously. And when the Legislature authorizes the licensing of people to do this, and places it on a footing such as to give it legitimacy, people, when they see these advertisements of the kind that I was reading the other day, and it wasn't supposed to be an advertisement, it was supposed to be a serious recitation of the things that acupuncture treats, people will tend to believe that. Unfortunately, there are not sources of valid information to counteract this stuff. I don't believe that acupuncture cures fertility, arthritis, and all of those other things that I read out of the booklet that Senator Hudkins gave us. But it doesn't seem to trouble my colleagues that much. I just hope that it turns out to be one of those harmless activities which will not damage anybody inordinately. People, we say, should be allowed to choose their own poison, but we really don't mean that because there are certain types of procedures which we allow lawfully to be done only by people licensed to practice medicine. The dispensing of certain pharmaceuticals can be done only under certain circumstances governed by statute, so we do not really mean it when we say, let people choose their own poison, and we say that as a justification for licensing acupuncture. I do see acupuncturists as "needlers". They can say, well, I want to China and I studied for four years or six years. They can say anything they want to. I know people who have gone to school for more than 20 years and it seems like the farther they went in school, the less educated they became because they knew something when they started and knew nothing when they got out. So the mere fact that they spent a certain amount of time someplace doesn't mean anything. Let them put on demonstrations that will prove the effectualness of what it is they do. Let a woman come in who has been certified infertile,

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then let the acupuncturist do his or her mumbo jumbo, and then let the woman conceive in the ordinary way, and then I'll believe that there's something to acupuncture. Let somebody have sinus problems or the kind of things that Jeremiah Peabody's Pills are supposed to cure, and let them stick their needles and do the manipulating, and that person comes away without that problem, I will say, fine, you've made your case. But this cannot be done...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...and I think it is a mistake for us to advance this bill. Probably enough of you have been coopted, you don't want the battle, you like Senator Hudkins, she maybe even got some of you all an acupuncture treatment or promise of an acupuncture treatment. Senator Hartnett has probably been told when you're hearing one of those boring talks you won't get sleepy. Other members will be told when you're sitting up in those hearing rooms a little acupuncture will help. You don't need acupuncture. I can get you a carpet tack and you just mash your thumb on it, or another part of your anatomy on it, and you will wake up. And I wouldn't even charge you. I'm going to ask, Mr. President, for a machine vote.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator, there are no further lights. Senator Hudkins, did you wish to wish to close on your advancement? Senator Hudkins waives closing. There has been a request for a machine vote. The question before the body is, shall LB 270 be advanced to E & R for engrossing? All in favor vote aye, opposed nay. We're voting on advance of LB 270 to E & R for engrossing, and there has been a request for a record vote. Have you all voted who care to? Voting on advance of LB 270 for E & R for engrossing. Record, please, Mr. Clerk.

CLERK: (Record vote read, Legislative Journal pages 789-790.)  
27 ayes, 6 nays, Mr. President, on the advancement of LB 270.

SENATOR CUDABACK: LB 270 does advance. Mr. Clerk, items for the record? Mr. Clerk, before we do that, next item on the agenda?

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LR 3

CLERK: Well, Senator Erdman, LB 270A is without amendments. I didn't know if...LB 270A, I have no amendments to the bill, Senator.

SENATOR CUDABACK: Senator Erdman, for a motion.

SENATOR ERDMAN: I move the advancement of LB 270A to E & R for engrossing.

SENATOR CUDABACK: The motion is to advance LB 270A to E & R for engrossing. All in favor say aye. Opposed nay. It is advanced. Mr. Clerk, items for the record?

CLERK: Mr. President, your Committee on Revenue reports LB 61, LB 289, LB 292, LB 761 and LR 3CA as indefinitely postponed, those reports signed by Senator Wickersham. Government Committee reports LB 516 to General File; LB 838, General File with amendments; and LB 485 as indefinitely postponed; those signed by Senator Schimek, as Chair. Amendments to be printed: Senator Schrock, an amendment to LB 243; Senator Brashear, to LB 574; and Senator Beutler, to LB 254, to be printed; Senator Hudkins, an amendment to be printed to LB 254. Confirmation report from the Government, Military and Veterans Affairs Committee. And priority bill designation, Senator Dierks has selected LB 803. That's all that I had, Mr. President. (Legislative Journal pages 790-793.)

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Chambers, for a motion.

SENATOR CHAMBERS: I move that we adjourn until tomorrow morning at 9:00 a.m.

SENATOR CUDABACK: The motion is to adjourn until Tuesday morning, February 27, 9:00 a.m. All in favor say aye. Opposed nay. We are adjourned.

Proofed by: Jody Hurlbut