

FEBRUARY 27, 2001

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February 27, 2001 LB 711
LR 29, 30

SPEAKER KRISTENSEN PRESIDING

SPEAKER KRISTENSEN: Welcome to the George W. Norris Legislative Chamber. This morning our chaplain of the day of Father Lloyd Gnirk from St. Pius X Church, which is in Saint...or in Senator Bourne's district.

FATHER GNIRK: (Prayer offered.)

SPEAKER KRISTENSEN: I call the thirty-sixth day of the Nebraska Unicameral Legislature to order. Senators, please record your presence. Roll call.

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

SPEAKER KRISTENSEN: Thank you, Mr. Clerk. Any corrections?

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

SPEAKER KRISTENSEN: Any reports, announcements, or messages?

CLERK: Just two items, Mr. President. Senator Vrtiska has selected LB 711 as his priority bill for this session; and LR 29 and LR 30 are ready for your signature, Mr. President. That's all that I have. (Legislative Journal page 795.)

SPEAKER KRISTENSEN: Thank you, Mr. Clerk. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR 29 and LR 30. Before we begin with today's work, I've got a couple of announcements. On Final Reading, there are some bills that did not get printed that we will not take up today. You should cross off, and this is in the lower half of the Final Reading bills, LB 133, LB 250, LB 269, LB 346, and LB 346A. Those, because they are not printed, we will not take up this morning. (Visitor introduced.) We next move to confirmation reports. Mr. Clerk.

CLERK: Mr. President, Natural Resources Committee, chaired by Senator Schrock, reports on the appointment to...an appointment to the Nebraska Environmental Trust Board. Report is on page 766 of the Journal.

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

SENATOR SCHROCK: Mr. Speaker, members of the Legislature, on February 22nd (sic--21st), the Natural Resources Committee held a public hearing on the confirmation of Warren Arganbright to the Nebraska Environmental Trust. He is a new appointment and he fills the Third Congressional District slot on the trust. Mr. Arganbright is from Valentine and he appeared before the committee at the public hearing. He is an attorney, a landowner, and a rancher. He has experience on the Niobrara River Council, on the Governor's Task Force on Low-Level Radioactive Waste, and he has served on the Minnechaduza Creek Basin Foundation, and that's a new creek I haven't heard of, the Minnechaduza, and I'm not even sure I said it right. But, anyway, his...the committee voted on it and it was unanimous. If you have any questions, I'd be glad to try to answer them.

SPEAKER KRISTENSEN: Debate on the adoption of the report? Senator Jones.

SENATOR JONES: Mr. President, members of the body, I'm a strong support of Warren Arganbright. I've "knowed" him for eight years and he's helped me on a lot of issues. He used to be the county attorney up there and he has served as legal counsel on the Niobrara Council, and he's worked with them on a lot of issues. So I have strong support of Warren. I think he'd be a good addition to this Environmental Trust. Thank you.

SPEAKER KRISTENSEN: Seeing no other debate, Senator Schrock, you're recognized to close. He waives the closing. The question is the adoption of the Natural Resources Committee confirmation report. All those in favor vote aye; all those opposed vote nay. Record.

CLERK: (Record vote, Legislative Journal page 796.) 31 ayes, 0 nays, Mr. President, on the adoption of the confirmation report.

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

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Select File, LB 186A. Mr. Clerk.

CLERK: Mr. President, LB 186A. Senator Erdman, I have no amendments to that bill, Senator.

SPEAKER KRISTENSEN: Senator Erdman, you're recognized for a motion.

SENATOR ERDMAN: Thank you, Mr. Speaker. I move the advancement of LB 186A to E & R for engrossing.

SPEAKER KRISTENSEN: Heard the motion. Question before the body is advancement of the bill. All those in favor say aye. Those opposed say nay. It advances. Members, would you please take your seat for Final Reading. Mr. Clerk, LB 51.

CLERK: Mr. President, I have a motion on the desk. Senator Chambers would move to return the bill for a specific amendment, that amendment being to strike the enacting clause. (FA45, Legislative Journal page 796.)

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

SENATOR CHAMBERS: Mr. President, members of the Legislature, fear not for behold I bring my colleagues good tidings of great joy which shall be to every person who has introduced a bill. My intent is not to kill a single bill this morning. My intent will be made clear later. Am I doing this to protest the fact that we don't read certain bills on Final Reading anymore? Perhaps. Am I doing it simply because under the rules I can do it? Maybe. Am I doing it to manifest an attitude that was manifested toward a black woman who works for me? We'll have to wait and see. But when somebody who means something to me is publicly embarrassed and humiliated then I'm going to deal with the ones who did it in public. When an employee is so hateful that some people don't even want to go to that employee to do his job, he doesn't deserve to be here. If he's so mean and grumpy and gruff that those who hire him are afraid of him, he doesn't deserve to be here. In the church I grew up in as a small fellow they used to say, speak no name and bear no blame.

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So what I have to do is try to use an analogy. The Huns, the Huns were not known to be nice people, but because they were so mean and hateful people would sometimes employ them as guards. The opening to any structure or building in the old days would be guarded by a gate, and if you had one of the Huns there that was known as a "Hun gate". And you didn't mess with the Hun gate. Now a Hun gate is all right to have if you're talking about a maximum security prison, but there should not be a Hun gate at the entryway to the Chamber wherein sit people who represent the interests of the public. And when something inappropriate is done and I'm told that you need to hire a private detective to get at the truth, that is crazy. And when some other person says, I don't think he did anything wrong and he shouldn't be punished, it means to me that that person has the same attitude and I need to do some inquiring to find out how many people were mistreated in this way. If we have a situation where two people are involved, one white and one black, and let's say that there's been an advertisement in the paper that an apartment is for rent and people have made complaints that there's discrimination of a racial nature here because whenever a black person comes he or she is turned away, that happens so regularly, and white people would go into denial as some people around here are in denial and say, well, I don't believe there's anything racial. So what different organizations would do is send a white person after a black person had gone there and been turned away. The white person is rented the apartment, the white person is given the job, and all the way across the board. Well, in this instance, it happens that the white woman was given the service that the person was hired to perform. The black woman comes right behind her, and you know what I'm told? He couldn't hear. He's got a hearing problem. This is what I'm told. I didn't buy that. Well, he couldn't understand Cindy. That's the worst racist stereotype you can give when you say white people cannot understand a black person who is speaking English, and this is the first time I've ever heard anybody around here say they could not understand Cindy when she spoke, despite the fact that she gave an extended explanation of what she wanted. Then the person said, even though she's been around here 29 years, I don't...I didn't know her. It's not his job to know anybody, so that tells me if a black person comes up and he doesn't know the black person, the

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black person can't get the service, but any white person can who is not known. It was really simplified by one official who said, all he has is two piece of papers that he gives; if it's not one, it's the other. And he's not to inquire into who you are and what right you have to be here. These things are routinely given out. And I'm supposed to sit back and docilely let that go. Brothers and sisters, I think I've been what you could call a good trooper in this Legislature. For the new people, I'm going to give them some information to show them why they would not even be getting expenses if it weren't for me, and sometimes your expense check is larger than your paycheck. Next time you go to your office and you look at that furniture and you don't have desks that are jagged and rough and listing to starboard or port depending on which side you lean on it from, you wouldn't have that if I hadn't played a major role in it and pushed and pushed until it was done. I'm the one who used to call attention to the fact that water was running down those walls and damaging the interior of this building, how it was going to rot on the outside, and worked with the man who wants to preserve it. Those are the things that I do. Not one female senator a couple of years ago when I, on the floor, objected to the fact that my female colleagues were being bounced out of positions and not given the consideration they ought to get, nobody came up to me and said, Ernie, you shouldn't say that; people get upset. Not one. When I was critical of the Governor for not appointing women, nobody came and said, Ernie, you shouldn't say that because he shouldn't appoint women and, since he doesn't, you ought to leave it alone. When I go after these judges who have sexually assaulted, literally, white women, and one had a reign of terror in Douglas County and I intervened and brought it to an end, nobody came in this body and said, Ernie, you should not have done that, when I go after prosecutors. Then I found out the university was not treating females and minority faculty members in a proper manner, and I took action and was the driving force. And now it comes to somebody who means something to me and I'm supposed to sit and be quiet after I've done all these things for white people? I've got a kill motion on my bills, and if you want to really go on through it and kill mine I don't care. Brothers and sisters, there's such a thing as prioritizing and a point can be reached where all other things are off the table.

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Nothing else matters. The sun that gives light and life has been eclipsed and I wish this had been a situation where I was in a restaurant or any place and a white man insulted this black woman, and I would have handled it in a way that I'm unable to do now and in a way that I will not do now. I'm not going to inflict physical violence on anybody, at least that's not my intention, so some people better stay away from me. But this is an issue, brothers and sisters, that is not going to go away. You know I've said in the past and some people who are savvy and have an understanding realize that we say things during debate and as a part of legislative strategy which are designed to make it clear which items or elements are on the table.

SPEAKER KRISTENSEN: One minute.

SENATOR CHAMBERS: I have said I would deal with every bill, but I've never done it before. I'm not going to deal harshly with anybody's specific bill, so I'm not going to turn my light on again. I will do it farther down the line. Mr. President, I will withdraw that motion on LB 51.

SPEAKER KRISTENSEN: Motion is withdrawn. We next move to...the first vote is to suspend the at-large reading. There's a motion on the desk. Mr. Clerk.

CLERK: Mr. President, Senator Landis would move to return the bill for specific amendment. (FA63, Legislative Journal page 796.)

SPEAKER KRISTENSEN: Senator Landis, you're recognized.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, I rise to use the same opportunity just to say, for myself personally, I offer my apology to Cindy and, of course, to Senator Chambers for the mistreatment and the insensitivity and the failure to acknowledge and practice the same kinds of acts across the board, treating everybody alike, that should be the hallmark of any individual who works for this institution. I offer my apology as a part of that institution, as somebody who shares in the responsibility for this institution that any member of the institution or its employees would do an act of...of

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thoughtlessness or insensitivity and make another people...make another person feel uncomfortable or ill-treated or slighted, marginalized or discriminated against. I offer Cindy that apology from me and I offer that to Senator Chambers, and I ask to withdraw the motion.

SPEAKER KRISTENSEN: It's withdrawn. The first vote is to suspend the at-large reading. All those in favor vote aye; all those opposed vote nay. Record.

CLERK: 38 ayes, 2 nays, Mr. President, on the motion to dispense with Final Reading.

SPEAKER KRISTENSEN: The at-large reading is suspended. Please read the title.

CLERK: (Read title of LB 51.)

SPEAKER KRISTENSEN: All provisions of law relative to procedure having been complied with, the question is, shall LB 51 pass? All those in favor vote aye; all those opposed vote nay. Have you all voted who care to? Record.

CLERK: (Record vote read, Legislative Journal pages 797-798.) 46 ayes, 0 nays, 1 present and not voting, 2 excused and not voting, Mr. President.

SPEAKER KRISTENSEN: LB 51 passes. LB 53E.

CLERK: Mr. President, Senator Chambers would move to return the bill for a specific amendment, that being to strike the enacting clause. (FA46, Legislative Journal page 798.)

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

SENATOR CHAMBERS: Mr. President, members on the...of the Legislature, having harried and hounded one of Senator Landis' bills, I'm not going to take much time on this one other than to say that, of all people on the floor, Senator Lan...not disparaging anybody else, Senator Landis is the last one who

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would have to say what he said. Senator Landis has been consistent down through the years, even before he was a member of this Legislature, but this is one thing that I will say. Senator Landis apologized, he said, as a part of the institution, because I'm attacking the institution this morning for having that kind of person and continuing to hire that kind of person. But as far as an apology for the one who did the wrong, nobody can give that kind of an apology. And I do appreciate what Senator Landis said. Cindy will appreciate it too. I'm not looking for each person to offer a mea culpa. I didn't expect anybody to say anything at all this morning. This is what I have to do. I have the obligation. The responsibility is mine. I am the one who brought this black woman into this poisoned environment and it behooves me to protect her. It's regrettable that in a setting where we're to be enacting laws and to be the representatives of all the people, trying to make this a better world for everybody, that I, in the year 2001, have to use the term "protect" with reference to ensuring that a female employee of mine is not treated with disrespect and discrimination. What infuriated me the most is the fact that one of this man's colleagues who saw it said he didn't do anything wrong, in her opinion. Well, she needs to know, and I won't call her name, she doesn't make policy down here. And we're talking about ordinary common courtesy. Why does he have to be sent to sensitivity training? What are they going to teach him? You know how you sensitize people, and it's the way you should treat everybody who has a job? These are the things your job require of you; do your job. But if you don't do it, then you're out of here. But I've stayed off people because the Clerk asked me to. I let Harland Johnson stay around after he had some bad things, because the Clerk asked me to. My employee has had problems with other offices under the Clerk's jurisdiction. You know what used to happen when she'd go into the Bill Room? She wants a bill; they threw stuff at her. She didn't tell me at the time that it happened, and I wished she had of. In the Accounting Office, I would send her to get cups, some of these little nickel and dime things that we pay for and we pay their salary, and they're going to interrogate her. Your employees don't face that. Then, out here in front of all those people, a piece of paper that all a white person has to do is come up and say I want it

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and they have...you all have no concept whatsoever of what these kinds of things do to black people, and then to see the defensiveness and the denial. But that's all I'll say on Senator Landis' bill. I want to withdraw that motion, Mr. President.

SPEAKER KRISTENSEN: Motion is withdrawn. Our first vote is to require a suspension of the at-large reading. All those in favor vote aye; all those opposed vote nay. Record.

CLERK: 40 ayes, 2 nays, Mr. President, to dispense with Final Reading.

SPEAKER KRISTENSEN: The at-large reading is suspended. Mr. Clerk, please read the title.

CLERK: (Read title of LB 53.)

SPEAKER KRISTENSEN: All provisions of law relative to procedure having been complied with, the question is, shall LB 53, with the emergency clause attached, pass? All those in favor vote aye; all those opposed vote nay. Record.

CLERK: (Record vote read, Legislative Journal page 799.) 48 ayes, 0 nays, 1 excused and not voting, Mr. President.

SPEAKER KRISTENSEN: LB 53, with the emergency clause attached, passes. LB 129.

CLERK: Senator Chambers would move to return the bill, Mr. President, for a specific amendment. (FA47, Legislative Journal page 799.)

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

SENATOR CHAMBERS: Mr. President, members of the Legislature, I like to use analogies. There are some people around here who are full of fear and trepidation because of my current state of seething rage, but, brothers and sisters, I know how to find a target and the target consists of the one who did the wrong.

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I'm a heat-seeking missile. If you are an employee and you're doing your job, you have not generated any heat. If you have not generated any heat, you are not on my target scope, you're not on my screen, you don't exist as far as this issue is concerned. But if you offend then it's a different matter, and I say that to let these people around here know that my ordinary regular mode is that of being courteous to people and treating the people...treating people the way I want to be treated. But when there are these bullying men, I want them to bully me. I don't want them to snarl and snap at women. I want them to snap at me. I want them to be toward a man what the bullying cowards are toward these women, and then we can bring it to a quick end. And if he knows not to be snappish and bullying and rude to me, he knows how not to be rude to anybody. And I'm going to start paying a lot more attention to what goes on around here and, that having been said, I will withdraw the motion on this bill but, before I do, I want to call attention to something else. We do have a long session. Now the wrongdoer has a defender and protector in the Clerk. Others may feel the need to get involved in that. And when the institution attacks me, then I'll fight the institution. And I'm showing that on bills that I have no opposition to I can talk just five minutes on each one. I don't even have to prepare an extended argument against it and the session is mine. Now, we can decide how much that man means to this body and how much racism the Legislature is going to tolerate and put up with. It's going to be a long, long session. We have had an easy time of it so far. We haven't dealt with redistricting, which we can do in a special session if that becomes necessary. We haven't dealt with teacher salaries or school aid of any kind which, to some people, is a big issue. They're working to contrive a delicately balanced, fragile house of cards on distribution of that tobacco money, very fertile field for somebody who has feet the size of mine and less agility and grace than a bull in a china shop when he takes it into his head. There's a budget to be built. The Governor wants eight state troopers, which some people don't think he should have. He wants to convert carrier enforcement officers into troopers, which is something I kind of disagree with. My dear friend, Senator Schimek, who thinks she's flying under the radar, is interested in a merger bill, so there are some large issues yet to be dealt with and I mention

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this, those, to make this point on Senator Schrock's bill, that I'm going to let it go. None of those things mean as much to me as the issue that I'm addressing here this morning. And I had said the other day I wouldn't address it anymore. Well, there were new developments. I should never have talked to the Clerk about it. But when new developments take place then I have to deal with those and that's what I intend to do. People need to know that they don't run this Legislature. They need to know who they work for and there's not going to be any empire building. And it may be necessary for the Exec Board to take over the hiring of some of these people so that the Clerk is not a buffer. I don't know who trains these people when he hires them, but they have a very nasty attitude, and they're protected, but it's coming to an end. The line was crossed. The die has been cast. And Caesar has crossed the Rubicon. I want to withdraw that motion.

SPEAKER KRISTENSEN: Motion is withdrawn. Mr. Clerk.

CLERK: (Read LB 129 on Final Reading.)

SPEAKER KRISTENSEN: All provisions of law relative to procedure having been complied with, the question is, shall LB 129 pass? All those in favor vote aye; all those opposed vote nay. Have you all voted who care to? Record.

CLERK: (Record vote read, Legislative Journal page 800.)
47 ayes, 0 nays, 1 present and not voting, 1 excused and not voting, Mr. President.

SPEAKER KRISTENSEN: LB 129 passes. LB 146.

CLERK: Mr. President, Senator Chambers would move to return the bill. (FA48, Legislative Journal page 800.)

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

SENATOR CHAMBERS: Mr. President, members of the Legislature, good advice for a gambler or anybody else is you have to know when to hold 'em and know when to fold 'em, but there's no way I

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will fold what I'm doing before I get to my own bill. Senator Kremer, I served with your father. I knew your father, and I'm hoping that you're a chip off the old block, and that's all I will say on Senator Kremer's bill this morning. I will withdraw that motion that I have.

SPEAKER KRISTENSEN: It's withdrawn. Mr. Clerk.

CLERK: (Read LB 146 on Final Reading.)

SPEAKER KRISTENSEN: All provisions of law relative to procedure having been complied with, the question is, shall LB 146 pass? All those in favor vote aye; all those opposed vote nay. Have you voted who care to? Record.

CLERK: (Record vote read, Legislative Journal page 801.) 46 ayes, 0 nays, 2 present and not voting, 1 excused and not voting, Mr. President.

SPEAKER KRISTENSEN: LB 146 passes. LB 155.

CLERK: Mr. President, Senator Chambers would move to return the bill. (FA49, Legislative Journal page 801.)

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

SENATOR CHAMBERS: Mr. President, members of the Legislature, this is a bill that I introduced. I want to take this opportunity to show that no bill that I have in this Legislature means that much to me, so I'm going to let this one go to a vote, and I won't even be offended if you return it and kill it. Sometimes object lessons are needed and people who have done wrong may think that I'm bluffing and that I will not take over this Legislature and offer motions on every bill and be as disruptive as I can. I don't mean interrupting people when they're speaking, but when I do what it is that I do on occasion it's deemed by some to be disruptive. I will go after every bill should that be necessary, but as of this morning it may not be necessary. But I had to get to my bill and I was not going to just single it out. It's kind of ironic because the purpose

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of this bill is to punish people who have inappropriate contact with people who are under their authority; people who abuse the position they hold, violate the trust reposed in them. And, in a way, that's what I've been talking about this morning. Sometimes when a great deal of fuss is made over a matter it loses its simplicity. There is nothing mystical, mysterious or complex about what I'm discussing this morning. How would you want to be treated? If it's my job and I'm paid to perform a service and you come to me for that service in front of other people and I embarrass you by making it clear you're not going to get this service and somebody of my complexion got it just before you got there, how would you feel? Can you try to conjure up a notion of what that may make you feel like? Or if you had a sister...say it wasn't you because you might can more easily bear something that is done to you than you can something that happens to somebody you care about. So whomever the person is that means a great deal to you, imagine, if you can, that it happened to that person and, instead of that person, after having been wronged in the first instance, accorded the consideration that ought to be given, the one who did the wrong is justified, is alibied for, is excused. How would you feel? I don't want somebody telling me that a 70-year-old man cannot understand English and, by the way, if when I speak on this floor you all don't understand my English because it's coming out of the man of a black man, tell me, because I want to be understood on the floor. Whether you agree with me or not is not the issue, but if my English is so poor that you don't understand it, I want you to tell me. And Cindy speaks English as clearly as I do. I understand when Cindy speaks. And as for that man saying he didn't know her, last session, I should have been writing all these things down as they happen, he insulted Cindy last session. Cindy, as most black people tend to do, will speak to anybody who makes eye contact, so she spoke to him. And you know what he did, Senator Redfield? He showed her his back and he did it in front of a state trooper, and she told me and I went up and dealt with him, but I didn't grab him. I just let him know that you don't have to speak to anybody if you choose not to, but you don't have to be blatantly rude. Now what good is sensitivity training going to do him? You know what I should have...how I should have sensitized him? We don't always tell white people in-house secrets, but you see that

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fist. You know what that's known as in the ghetto. That's what we call the African soupbone. So if you hear somebody say they're going to go upside your head with an African soupbone then you know what they're talking about. And some people want to say that we, as black men, are prone to violence. No, here's what it is. There are so many slights, so many insults, so many wrongs in the course of a single day where they should not happen that it does develop an attitude in you, a wariness, a tendency never to let your guard down. And I've given this example before. You have two lines of people. They form a corridor and you put a camel between those lines and a basket on his back, and each person in that line, and, by the way, the line stretches from here to California, each person takes a little pebble and throws it in a basket, throws it in a basket. In the same way that the ocean consists of a large number of droplets of water, floods are caused by individual drops that come down and then they coalesce, form a conspiracy and wash things away. At some point an amount is going to be on that camel's back which the camel no longer has the strength to support, and when that final pebble is thrown in, that point of no longer being able to endure is reached. The camel collapses and the basket of pebbles crushes the camel. And you know what each person says along the way? I'm not responsible; all I threw in was one pebble. And you know what the last one who threw in the pebble that caused the camel to fall will say? My pebble was the last one but, had not all those other people prior to the camel reaching me not thrown pebbles into the basket, this would not have happened. And nobody is responsible, but the camel lies there crushed as a result of the collective actions of like-minded people engaging in the same kind of conduct. And when the camels object the pebble droppers will say, you're imagining things; it's not like what you think at all. And they want to divert attention to something else and act like you are crazy, and that's the way white people often engender in black men and women and even children what white people refer to as an attitude. See, I'm giving you all a concrete example right here and the sucker wouldn't tell me his name when I asked for it. You think a general can ask a private, what's your name? And he refused to give the name. I told that to the Clerk, his boss, but he wants to hire a private detective to see if I'm telling the truth. He wants to hire a

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private detective to interrogate Cindy, the victim. He wants to send the perpetrator to sensitivity training. You know why I'm taking this time? Because to just say it will not impart to you, will not touch your emotions so that you understand the fury that a man of my disposition and temperament feels about this. Anytime we allege discrimination people always want to tell us, whether it's in the courthouse or the doghouse, you're imagining it. So the Clerk tells me that in this situation, where the white woman was served and the black woman wasn't, and she spent all that time explaining what she wanted and never was served by him, I don't think race has anything to do with it. If I believe race had something to do with it then, well, he's going to go into denial, I know that. I didn't hire the man. I can't fire him. But there are other things that I can do.

SPEAKER KRISTENSEN: One minute.

SENATOR CHAMBERS: And I'm going to conduct myself the rest of this session in such a way as to maybe bring to your mind an understanding, just a small bit of understanding, of what I'm talking about and what it is that I'm sensing. And if there's not something done then I'm going to do what I can do, and I can dish it out longer than other people can take it.

SPEAKER KRISTENSEN: Further debate on the motion to return? Seeing none, Senator Chambers, you're recognized to close.

SENATOR CHAMBERS: Mr. President, members of the Legislature, vote as you will on this bill. You can send me a message this morning and I just don't care how you vote, I really don't. You've often heard it said that people who have these near-death experiences, and I guess it's always these people who think that there's a bad something waiting on the other side of life for them, they start doing all this bargaining and negotiating about how, if they are spared, they won't do this or that. But here's what they invariably will say. All of a sudden things are brought into perspective. Those activities, those occurrences that meant so much when I thought my...I had my health suddenly don't matter anymore. There is something that is much larger that brings these things into perspective, and you can dismiss all these other things with a snap of the finger. That's what

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Hungate has done for you all and to me. And you all know that I don't too much care anyway what people think around here because I'm going to do what I'm going to do, but I have never, I have never had the attitude that I have now. Wrong me, I'll deal with it; but don't wrong somebody who means something to me and think that I'm going to let it go, because I'm not. And you may as well start, if you call this punishment, you may as well start punishing me now because I'm not going to become good. I'm not going to change. I'm not going to soften. So, as long as things stay the way they are, I shall remain the way that I am. And I'm not going to withdraw that motion.

SPEAKER KRISTENSEN: Heard the closing. The question before the body is, shall LB 155 be returned for a specific amendment, that's to strike the enacting clause? All those in favor vote aye; all those opposed vote nay. Have you all voted who care to? Record.

CLERK: 1 aye, 38 nays on the motion to return, Mr. President.

SPEAKER KRISTENSEN: The bill is not returned. Anything further on the bill?

CLERK: Nothing further, Mr. President.

SPEAKER KRISTENSEN: Read the bill.

CLERK: (Read LB 155 on Final Reading.)

SPEAKER KRISTENSEN: All provisions of law relative to procedure having been complied with, the question is, shall LB 155 pass? All those in favor vote aye; all those opposed vote nay. Record.

CLERK: (Record vote read, Legislative Journal page 802.) 48 ayes, 0 nays, 1 excused and not voting, Mr. President.

SPEAKER KRISTENSEN: LB 155 passes. LB 165, Mr. Clerk.

CLERK: LB 165, Mr. President, Senator Chambers would move to return the bill. (FA50, Legislative Journal page 802.)

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

SENATOR CHAMBERS: Mr. President, members of the Legislature, having subjected my own bill to what I subjected those other senators' bill to, I will withdraw the motion on this bill and the motion that I have on all the other bills, with the exception of LB 166.

SPEAKER KRISTENSEN: The motion is withdrawn. Mr. Clerk.

CLERK: (Read LB 165 on Final Reading.)

SPEAKER KRISTENSEN: All provisions of law relative to procedure having been complied with, the question is, shall LB 165 pass? All those in favor vote aye; all those opposed vote nay. Have you all voted who care to? Record.

CLERK: (Record vote read, Legislative Journal page 803.)
46 ayes, 0 nays, 2 present and not voting, 1 excused and not voting, Mr. President.

SPEAKER KRISTENSEN: LB 165 passes. Mr. Clerk, LB 166.

CLERK: Mr. President, Senator Chambers would move to return the bill for specific amendment, amendment...

SPEAKER KRISTENSEN: Senator Chambers.

CLERK: ...FA51. (Legislative Journal page 803.)

SENATOR CHAMBERS: Mr. President, members of the Legislature, this amendment is different. I've discussed it with Senator Hudkins. She has no heartburn, I don't think, but the rest of you may develop some. Her bill is designed to reduce the quantity of alcohol that is in a person's system in order to determine that that person is driving while under the influence or whatever the designation will be. She wants to drop the amount from ten-hundredths to eight-hundredths. What I want to do, by way of a compromise, is to strike "eight-hundredths"

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everywhere it appears in the bill and substitute "fifteen-hundredths". Now, what caused me to do this is an article that I saw in the World-Herald. I think that there are classes of people in this society, some belong to the elite class, the leaders--the ones who are different, above, better and privileged, and there's no getting around it and their worth needs to be acknowledged. When I was critical of one and they...we find them congregated on the board or the commission...in the commission seats of the Game and Parks Commission. Now one time not too long ago I kind of irritated Senator Bruning by talking about the Chairman of that commission, who was arrested and had to pay a fine for violating the hunting laws which they administer. This article appeared on page 19 of the Omaha World-Herald February the 21st, and the headline says: "I Should Have Driven Instead Of Him," Nelson Tells Police". I'll read it so that I can make the point and explain why I want to make this compromise in Senator Hudkins' bill: U.S. Senator Ben Nelson reportedly told an Omaha police officer that he should have been behind the wheel, rather than let his friend drive, after the driver of the car Nelson was riding in was arrested on suspicion of drunken driving. The incident occurred January 13, as Nelson and his friend and supporter, G.W. "Woody" Egermayer, E-g-e-r-m-a-y-e-r, Jr., were returning from the annual Royal Game Dinner at Mahoney State Park. The dinner attracts some of the region's most prominent business and professional leaders. Egermayer, 53, is the chief executive officer of Mutual Protective Insurance Company and a member of the Game and Parks Commission. He was appointed by then-Governor Nelson. The Police Department incident report said Egermayer, maybe it's "meyer", I'll say "mayer", driving a 1999 Cadillac Seville, was observed crossing the lane line on West Dodge Road near 96th Street. He was stopped about 11:50 p.m. and tested for alcohol. The officer reported that the passenger said, "I should have driven instead of letting him." The officer listed the name of the passenger, "That passenger was Congressman Ben Nelson." Egermayer tested .168 of 1 percent blood-alcohol content during a field sobriety test and .203 later at Central Police Headquarters, according to the police report. Nebraska law says a driver is legally intoxicated at .10. Nelson declined to comment on the incident, other than to confirm he was the passenger, until after the

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court case is completed. James Schaefer, S-c-h-a-e-f-e-r, attorney for Egermayer, said the Omaha insurance executive will plead not guilty. Egermayer was convicted of drunken driving in February 1988, according to World-Herald files. His license was suspended for 60 days, and he as placed on probation for 180 days. You can see that he was at a gathering of these elite people. He's on the Game and Parks Commission. He was almost double the amount that is considered legally intoxicated in a driver. He is an executive with an insurance company and the insurance people were the ones in support of Senator Hudkins' bill all over the country because they talked about how you need to lower the amount of alcohol that is necessary to determine that somebody is legally intoxicated. Now, why do I call my amendment a compromise? The current level that would lead to a person being deemed intoxicated while driving is .10. Mr. Egermayer tested at .203. I'm going to knock off the 3 on the end, and I'm going to come down right between them. What I was going to do was let the slobs, s-l-o-b, as in boy, remain at .10, or even let that drop to .08, and then create this special category for the elitists giving acknowledgement to the fact that they're in that special class. But I got to thinking that the courts may look at that and say, although the Legislature deems it an appropriate classification and we would agree that these individuals in that class are elitists, they are above everybody else, we do not deem it to be an appropriate classification for purposes of enacting a law, especially one that will be criminal in nature; therefore, we have to strike that classification down. You cannot have .08 for all the slobs, the blue collars, the no collars, the frayed collars, and then .200 for the upper crust. We got to find something in between the bottom crust and the upper crust, and that somewhere in between is .150, and we need to start looking at these people who I was kind of chastised for on the floor for being critical of them who are appointed to the commission. I feel that it is a haven for the good old boys. It's becoming an elitist operation. I'm talking about the commission of the Game and Parks, and I intend to continue looking at that operation and any time they do wrong I'm going to bring it up. I saw an editorial praising Senator Quandahl's bill, which wants to go after young people for alcohol problems, and they don't even have to rise to the level of .08. Point zero two, he got an

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editorial supporting that. It's easy to wage war on our young people. But there was no editorial on Egermayer or Coupland, C-o-u-p-l-a-n-d, the Chairman of the commission who violated the hunting laws. So those are the kind of things...oh, I said I wasn't going to be doing...looking out for other people's interests anymore, but allow me to fall into that and be weak. When ordinary people suffer the weight of the law as far as the negatives and the important elitists don't suffer, what we have to do is give harsh punishments to the ordinary people to make up for the fact that the elitists are not going to be punished at all. Since the elitists are not going to serve time, somebody has got to, so it's our young people and it's those who are not people of means. The point that I wanted to make may not have been made, but I said what I had to say and I now withdraw that motion.

SPEAKER KRISTENSEN: It is withdrawn. Mr. Clerk.

CLERK: (Read LB 166 on Final Reading.)

SPEAKER KRISTENSEN: All provisions of law relative to procedure having been complied with, the question is, shall LB 166 pass? All those in favor vote aye; all those opposed vote nay. Have you all voted who care to? Record.

CLERK: (Record vote read, Legislative Journal page 804.) 43 ayes, 1 nay, 4 present and not voting, 1 excused and not voting, Mr. President.

SPEAKER KRISTENSEN: LB 166 passes. LB 166A.

CLERK: (Read LB 166A on Final Reading.)

SPEAKER KRISTENSEN: All provisions of law relative to procedure having been complied with, the question is, shall LB 166A pass? All those in favor vote aye; all those opposed vote nay. Have you all voted who care to? Record.

CLERK: (Record vote read, Legislative Journal pages 804-805.) 42 ayes, 1 nay, 5 present and not voting, 1 excused and not voting, Mr. President.

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SPEAKER KRISTENSEN: LB 166A passes. LB 192E. First vote is to suspend the at-large reading. All those in favor vote aye; all those opposed vote nay. Record.

CLERK: 38 ayes, 2 nays, Mr. President, on the motion to dispense with Final Reading.

SPEAKER KRISTENSEN: The at-large reading is suspended. Please read the title.

CLERK: (Read title of LB 192.)

SPEAKER KRISTENSEN: All provisions of law relative to procedure having been complied with, the question is, shall LB 192, with the emergency clause attached, pass? All those in favor vote aye; all those opposed vote nay. Record.

CLERK: (Record vote read, Legislative Journal pages 805-806.) 47 ayes, 0 nays, 1 present and not voting, 1 excused and not voting, Mr. President.

SPEAKER KRISTENSEN: LB 192, with the emergency clause attached, passes. LB 245.

CLERK: (Read LB 245 on Final Reading.)

SPEAKER KRISTENSEN: All provisions of law relative to procedure having been complied with, the question is, shall LB 245 pass? All those in favor vote aye; all those opposed vote nay. Record.

CLERK: (Record vote read, Legislative Journal pages 806-807.) 47 ayes, 0 nays, 2 excused and not voting, Mr. President.

SPEAKER KRISTENSEN: LB 245 passes. LB 257E.

CLERK: Mr. President, Senator Hilgert would move to return the bill. (FA79, Legislative Journal page 807.)

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

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SENATOR HILGERT: Thank you, Mr. President. Members, I wanted to speak a little bit on this bill on Final Reading and not on the underlying bill of LB 257 but what was added on Select File with no debate, LB 639. I failed to turn my light on in time on Select File when this LB 639 was added, but I wanted to bring this to the body's attention regarding what LB 639 does. I am not an expert in this field and I may be very incorrect in...and my fear unfounded and, if so, I welcome Senator Jensen to assuage my fear. The idea of LB 639 was to go back to where the law was before and when someone was on medical assistance and regarding when that individual would pass away that when the state will go after repayment for this medical assistance based on that the debt was incurred while the individual was alive and not at death, and I understand that LB 639 does just make the law what it used to be, but I have a concern that the state is going to be in a position of going after the estate of an individual in Nebraska without knowledge of what guidelines exist or not regarding to what the state can claim in the estate. If I remember some of my bankruptcy law, during a bankruptcy proceeding, in some chapters, you have the ability to retain your personal effects, your dwelling, et cetera. What I'm wondering about is to what extent can the state get the estate of...of that decedent. Do you...are we going to be in a position of claiming all the personal effects of an individual who had happened to have been on medical assistance? Is it just hard assets? Is it just cash assets? What exactly is the state going to go after to this poor person's estate? And that's a concern of mine. I would hate to be in a position whereby, and I know this bill doesn't change it, but, you know, this is what we're talking about right now and this will enable the state to proceed in this way. What exactly does the state go after in someone's estate trying to reclaim repayment for medical assistance? I don't think it's appropriate and I certainly want to be part of something where...whereby someone is receiving medical assistance, the state is trying to go after the estate for repayment, and we're going to auction their grandmother's rocking chair or the family Bible or things of that nature. Those are kind of extreme examples, but I think you can all find examples, reflecting upon this, that you wouldn't want the state to be part of trying to go after to satisfy a debt. My staff

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did talk to the staff of the Health and Human Services Committee and we really didn't get a lot of information. I'm not sure, as far as whether that was a lack of communication or not, but this is my concern. This is why I filed the motion. I talked to Senator Wehrbein, said I have a concern about LB 639, as well as Senator Jensen. And if Senator Jensen would like to respond, I'd like to clear this up. Because, again, I don't think that the state, when going after a debt from some poor individual's estate, should not be going after the entire estate. Certainly we should try to find repayment for a debt owed, but I think that there's limitations that either exist, and I hope that...to be informed so, or perhaps that should exist; that the state should not be trying to...to claim, and among those are personal effects. Another example would be what if the individual has disabled step-children? I think that the law has an exemption for disabled children. What about disabled step-children? I mean, what is the state going to go after? What exactly are we doing in this situation? And, again, I apologize to the body for bringing this up on Final and the sole reason is, is I was tardy pushing my button when this was adopted with no debate on Select. So, with that, I would hope that there would be a couple individuals to speak to this issue.

SPEAKER KRISTENSEN: Debate on the motion to return? Senator Bromm.

SENATOR BROMM: Thank you, Mr. Speaker. Senator Hilgert, if I can help a little bit, when the state files a claim in an estate for this particular reimbursement, they would be subject to the general claims provisions in our state statutes pertaining to claims in an estate, and it depends on whether you have a surviving spouse or whether you don't where the state fits in to the...to the order. But let's say that you don't have a surviving spouse and this is...they die leaving children, whether they're adult children or minor children. First of all, there's a \$5,000 exempt property allowance that the children can claim. If there are things like personal property, rocking chairs, family heirlooms, they can claim those under that \$5,000, or they can take it in cash if they choose. They can select up to \$5,000. Now that's total. That's not per child. Then, if there is...if there is a spouse, there's an additional

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\$7,500 homestead allowance that the spouse can claim and...and then a family living allowance a spouse can claim of another \$9,000. So that's \$21,500. Okay, now after that, before the state could get anything, the funeral would have to be paid for, or it's entitled to be paid for if it's not been prepaid, and the costs of administration, which would be court costs and attorney fees, personal representative fees, that kind of thing. Then you would get to...to claims, and medical care or healthcare claims come ahead of other general claims. So if the claim of the state is for nursing home care, for example, that would most likely be considered a type of healthcare claim that would come ahead of some things. Let's say that the individual simply owed their brother some money. The healthcare claim would come ahead of that. Now, if you have a surviving spouse then it gets a little more...all I've told you is true, but then...then you get to a term called the augmented estate and if the deceased spouse left the surviving spouse nothing, the state will come in and say, well, we're not going to...we're not going to...or left the spouse everything, the claim would come in and be satisfied to the extent that the surviving spouse was getting more than what we call the augmented estate. Now it's kind of a complicated formula and...and this amendment that Senator Jensen had, I know how timely that is because I just had a situation where the family was very willing and wanted to pay the state some money for the deceased care, but this...this court ruling came along and the state determined that they couldn't...they couldn't file a claim, and there are other details, but I don't know if that helps you. If...if...I'll yield some additional time back to Senator Hilgert if he has any further questions or wants further clarification.

SPEAKER KRISTENSEN: Senator Hilgert, you have just a little under a minute.

SENATOR HILGERT: Thank you very much. I...I do...I do appreciate Senator Bromm. That does clear up this quite a bit. This is the type of debate, I know, that should have occurred on Select. Again, I'll try to be more prompt in the future. But I did want to make sure that there was basic exemptions in the law before we proceeded with this. I wouldn't want to be a party to anything nefarious. And since I have the remainder of this ten

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seconds, I will withdraw the motion, Mr. Speaker.

SPEAKER KRISTENSEN: Motion is withdrawn. Mr. Clerk, anything else on the bill? Read the bill, please.

ASSISTANT CLERK: (Read LB 257 on Final Reading.)

SPEAKER KRISTENSEN: All provisions of law relative to procedure having been complied with, the question is, shall LB 257, with the emergency clause attached, pass? All those in favor vote aye; all those opposed vote nay. Record.

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 807-808.) Vote is 48 ayes, 0 nays, 1 excused and not voting.

SPEAKER KRISTENSEN: LB 257, with the emergency clause attached, passes. LB 257AE.

ASSISTANT CLERK: (Read LB 257A on Final Reading.)

SPEAKER KRISTENSEN: All provisions of law relative to procedure having been complied with, the question is, shall LB 257A, with the emergency clause attached, pass? All those in favor vote aye; all those opposed vote nay. Record.

ASSISTANT CLERK: (Record vote read, Legislative Journal page 808.) Vote is 47 ayes, 0 nays, 1 present and not voting, 1 excused and not voting, Mr. President.

SPEAKER KRISTENSEN: LB 257A, with the emergency clause attached, passes. LB 375.

CLERK: (Read LB 375 on Final Reading.)

SPEAKER KRISTENSEN: All provisions of law relative to procedure having been complied with, the question is, shall LB 375 pass? All those in favor vote aye; all those opposed vote nay. Have you all voted who care to? Record.

CLERK: (Record vote read, Legislative Journal page 809.)

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47 ayes, 0 nays, 1 present and not voting, 1 excused and not voting, Mr. President.

SPEAKER KRISTENSEN: LB 375 passes. LB 376. The first vote is to suspend the at-large reading. All those in favor vote aye; all those opposed vote nay. Record.

CLERK: 39 ayes, 2 nays, Mr. President, to dispense with Final Reading.

SPEAKER KRISTENSEN: The at-large reading is suspended. Please read the title.

CLERK: (Read title of LB 376.)

SPEAKER KRISTENSEN: All provisions of law relative to procedure having been complied with, the question is, shall LB 376 pass? All those in favor vote aye; all those opposed vote nay. Record.

CLERK: (Record vote read, Legislative Journal page 810.) 47 ayes, 0 nays, 1 present and not voting, 1 excused and not voting, Mr. President.

SPEAKER KRISTENSEN: LB 376 passes. LB 387. The first vote is to suspend the at-large reading. All those in favor vote aye; all those opposed vote nay. Record.

CLERK: 38 ayes, 3 nays, Mr. President, to dispense with Final Reading.

SPEAKER KRISTENSEN: The at-large reading is suspended. Please read the title.

CLERK: (Read title of LB 387.)

SPEAKER KRISTENSEN: All provisions of law relative to procedure having been complied with, the question is, shall LB 387 pass? All those in favor vote aye; all those opposed vote nay. Record.

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CLERK: (Record vote read, Legislative Journal pages 810-811.)
48 ayes, 0 nays, 1 excused and not voting, Mr. President.

SPEAKER KRISTENSEN: LB 387 passes. LB 418.

CLERK: (Read LB 418 on Final Reading.)

SPEAKER KRISTENSEN: All provisions of law relative to procedure
having been complied with, the question is, shall LB 418 pass?
All those in favor vote aye; all those opposed vote nay. Have
you all voted who care to? Record.

CLERK: (Record vote read, Legislative Journal pages 811-812.)
45 ayes, 0 nays, 2 present and not voting, 2 excused and not
voting, Mr. President.

SPEAKER KRISTENSEN: LB 418 passes. LB 472.

CLERK: (Read LB 472 on Final Reading.)

SPEAKER KRISTENSEN: All provisions of law relative to procedure
having been complied with, the question is, shall LB 472 pass?
All those in favor vote aye; all those opposed vote nay.
Record.

CLERK: (Record vote read, Legislative Journal page 812.)
44 ayes, 0 nays, 3 present and not voting, 2 excused and not
voting, Mr. President.

SPEAKER KRISTENSEN: LB 472 passes. LB 25.

CLERK: (Read LB 25 on Final Reading.)

SPEAKER KRISTENSEN: All provisions of law relative to procedure
having been complied with, the question is, shall LB 25 pass?
All those in favor vote aye; all those opposed vote nay.
Record.

CLERK: (Record vote read, Legislative Journal page 813.)
43 ayes, 0 nays, 4 present and not voting, 2 excused and not
voting, Mr. President.

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SPEAKER KRISTENSEN: LB 25 passes. LB 25A.

CLERK: (Read LB 25A on Final Reading.)

SPEAKER KRISTENSEN: All provisions of law relative to procedure having been complied with, the question is, shall LB 25A pass? All those in favor vote aye; all those opposed vote nay. Record.

CLERK: (Record vote read, Legislative Journal pages 813-814.) 44 ayes, 0 nays, 3 present and not voting, 2 excused and not voting, Mr. President.

SPEAKER KRISTENSEN: LB 25A passes. LB 46.

CLERK: (Read LB 46 on Final Reading.)

SPEAKER KRISTENSEN: All provisions of law relative to procedure having been complied with, the question is, shall LB 46 pass? All those in favor vote aye; all those opposed vote nay. Record.

CLERK: (Record vote read, Legislative Journal page 814.) 46 ayes, 0 nays, 3 excused and not voting, Mr. President.

SPEAKER KRISTENSEN: LB 46 passes. LB 48E.

CLERK: (Read LB 48 on Final Reading.)

SPEAKER KRISTENSEN: All provisions of law relative to procedure having been complied with, the question is, shall LB 48, with the emergency clause attached, pass? All those in favor vote aye; all those opposed vote nay. Record.

CLERK: (Record vote read, Legislative Journal page 815.) 44 ayes, 0 nays, 2 present and not voting, 3 excused and not voting, Mr. President.

SPEAKER KRISTENSEN: LB 48, with the emergency clause attached, passes. Next move to LB 193E. The first vote is to suspend

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the at-large reading. All those in favor vote aye; all those opposed vote nay. Record.

CLERK: 37 ayes, 2 nays, Mr. President, on the motion to dispense with Final Reading.

SPEAKER KRISTENSEN: The at-large reading is suspended. Please read the title.

CLERK: (Read title of LB 193.)

SPEAKER KRISTENSEN: All provisions of law relative to procedure having been complied with, the question is, shall LB 193, with the emergency clause attached, pass? All those in favor vote aye; all those opposed vote nay. Record.

CLERK: (Record vote read, Legislative Journal page 816.) 44 ayes, 1 nay, 1 present and not voting, 3 excused and not voting.

SPEAKER KRISTENSEN: LB 193, with the emergency clause attached, passes. LB 226E.

CLERK: (Read LB 226 on Final Reading.)

SPEAKER KRISTENSEN: All provisions of law relative to procedure having been complied with, the question is, shall LB 226, with the emergency clause attached, pass? All those in favor vote aye; all those opposed vote nay. Record.

CLERK: (Record vote read, Legislative Journal pages 816-817.) 44 ayes, 0 nays, 2 present and not voting, 3 excused and not voting, Mr. President.

SPEAKER KRISTENSEN: LB 226, with the emergency clause attached, passes. LB 253.

CLERK: (Read LB 253 on Final Reading.)

SPEAKER KRISTENSEN: All provisions of law relative to procedure having been complied with, the question is, shall LB 253 pass?

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All those in favor vote aye; all those opposed vote nay.
Record.

CLERK: (Record vote read, Legislative Journal pages 817-818.)
45 ayes, 0 nays, 1 present and not voting, 3 excused and not
voting, Mr. President.

SPEAKER KRISTENSEN: LB 253 passes. LB 280.

ASSISTANT CLERK: (Read LB 280 on Final Reading.)

SPEAKER KRISTENSEN: All provisions of law relative to procedure
having been complied with, the question is, shall LB 280 pass?
All those in favor vote aye; all those opposed vote nay.
Record.

ASSISTANT CLERK: (Record vote read, Legislative Journal
page 818.) Vote is 45 ayes, 0 nays, 1 present and not voting,
3 excused and not voting, Mr. President.

SPEAKER KRISTENSEN: LB 280 passes. LB 299.

ASSISTANT CLERK: (Read LB 299 on Final Reading.)

SPEAKER KRISTENSEN: All provisions of law relative to procedure
having been complied with, the question is, shall LB 299 pass?
All those in favor vote aye; all those opposed vote nay.
Record.

ASSISTANT CLERK: (Record vote read, Legislative Journal
page 819.) Vote is 45 ayes, 0 nays, 1 present and not voting,
3 excused and not voting.

SPEAKER KRISTENSEN: LB 299 passes. LB 337.

ASSISTANT CLERK: (Read LB 337 on Final Reading.)

SPEAKER KRISTENSEN: All provisions of law relative to procedure
having been complied with, the question is, shall LB 337 pass?
All those in favor vote aye; all those opposed vote nay.
Record.

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ASSISTANT CLERK: (Record vote read, Legislative Journal pages 819-820.) Vote is 41 ayes, 0 nays, 4 present and not voting, 4 excused and not voting.

SPEAKER KRISTENSEN: LB 337 passes. LB 409.

ASSISTANT CLERK: (Read LB 409 on Final Reading.)

SPEAKER KRISTENSEN: All provisions of law relative to procedure having been complied with, the question is, shall LB 409 pass? All those in favor vote aye; all those opposed vote nay. Record.

CLERK: (Record vote read, Legislative Journal page 820.) 44 ayes, 0 nays, 1 present and not voting, 4 excused and not voting, Mr. President.

SPEAKER KRISTENSEN: LB 409 passes. We next move to General File, LB 287. Mr. Clerk.

CLERK: Mr. President, LB 287 was a bill originally introduced by Senator Thompson. (Read title.) The bill was introduced on January 5, referred to the Health Committee for public hearing, advanced to General File.

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

SENATOR THOMPSON: Thank you, Mr. Speaker, members of the body. LB 287 was introduced at the suggestion of a number of organ and transplant groups that I met with over the course of the interim in discussing some of the key issues facing people who have transplants or are considering having transplants. And the history of this is...goes back to our renal disease program which provides funding for people who have kidney dialysis, and originally was set up because that was the only organ that was transplanted. And, at the time the Nebraska Chronic Renal Disease Program was set up, immunosuppressive drugs, or anti-rejection drugs in the vernacular, were part of that program. And the original transplants occurred for people who

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had exact matches, probably from a relative, a live donor. Since the time the program was started, we have transplanted other organs: pancreas, heart, lungs. Also, people even with kidney donation are able to have transplanted organs that aren't perfect matches. That is, they are from a cadaver. They may have a match, they may be a live donor match... "nonmatch", but they can be transplanted and, as a result, the formulary needs to have drugs that are more recent that make that possible. What's happened in other states is they've added those immunosuppressive medications to their formularies. It's something Nebraska didn't do, and I have listed some of the states that do cover these drugs: Minnesota, Iowa, Oklahoma, Illinois, Indiana, and Wisconsin. And we were just looking for those states in the Midwest with something similar in their programs. What this bill would do is create a fund similar to and add to the Renal Disease Program Fund an additional \$250,000 to be able to help those people who have financial difficulties in meeting the costs of immunosuppressive drug coverage. The program would be administered by the same program, the Nebraska Chronic Renal Disease Program, that has experience, already has a formulary, and the department would just, through their normal process of updating the formulary and establishing rules and regulations, add these funds for that purpose. The funds are a limited, capped fund, so when they're gone they're gone. So it's up to the decision of the department to establish the regulations to make them last as long as they can in a calendar year, to put the restrictions on the fund that may need to be there. Currently, the Renal Program is also a capped fund and when they're out of funds for that particular year people just aren't able to get reimbursed for some of their costs. To get to the reasons why it's important that we move forward on this I'd just like to point to the blue sheet that you have on your desk and attached to it is testimony from the original hearing, but the point we have gotten to with transplantation for a lot of moderate and low-income working families is that originally, years ago, the cost of the drugs were lower, but also costs of "copays" were lower. I can remember in my family's recent history a "copay" for a prescription was \$5 in our insurance. Now it's up to \$25. Well, people who have transplants have to take multiple medications every month and sometimes, depending upon their coverage, this can amount to several hundred dollars

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a month just in the "copays". If you look at page 1, there's a few examples that were given by Mary Lou Lynch, who's a social worker, and I'd like to just share with those of you who weren't on the committee some actual cases of people in Nebraska who are facing hardships and why. She has one transplant patient who is now in her fifties who has had a transplant for many years who's considering divorcing her husband because of the costs of these drugs, and her comment is, I don't want to make him destitute. Second instance, she talks about a patient she's working with who had very good insurance and he's now to the point where he cannot afford the "copays". He's on 20 different medications. His "copay" was \$10 a month. His family was able to absorb that. The "copay" is now \$25 a month. He can no longer afford \$500 as an out-of-payment (sic--out-of-pocket) expense. She also tells a story of the young man who had limited mental functioning and his dream all of his life was to be employed. She had referred him to voc rehabilitation and he called one day and he called and he was crying and he said, they told me it was best for me to stay disabled because I could never get a job that would provide the benefits to afford the "copays" for the medications. Another situation she tells about is a farm family. The wife needed a transplant. They obtained insurance when they were first married in 1958. It was one of the best policies they could get at the time. But the insurance companies put them in a...and put them in a...they were in a group that turned out to be costly and they decided to disband the program. They ended up wiping out the whole program. They ended up without insurance except for the only insurance company they could get coverage with, but it doesn't include any prescription coverage. As a result, they're very worried about losing their farm over the costs. There are people who have lost their life savings paying for these transplantation costs and people who don't get a transplant because of that. Last summer, when I was on...a summer ago, I guess, not last summer, the previous summer I traveled with the Health and Human Services Committee to North Platte and we visited a dialysis unit and one of the issues that was mentioned there was that people stay on dialysis because we have a program to cover dialysis, but they can't afford to necessarily get the transplant because...and they may turn down a transplant for many reasons, but one of the reasons is because they can't

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afford the "copay". Sue Miller, who's a transplant coordinator at Nebraska Health System in Omaha, said, I meet with patients every day who are interested in transplantation. Their nephrologists have referred them to me for consideration for a transplant. Part of the process of evaluation is meeting with a financial counselor to see what their benefits are, so they know up-front what their costs will be, and many of these patients, after they've met with their financial counselor, tell me they simply can't afford to have a transplant. And there is testimony from Marge Monnier, who talks about...and she is a...the financial counselor, telling us that the average dialysis patient's yearly treatments can average \$84,000 a year. A transplant patient's medication can average \$12,000 to \$20,000 but, because of the issue of "copay" and because of limitations of the Medicare Program and, as you can see on here, a lot of other issues, this is becoming very difficult for the average person to be able to...to go forward. And I quoted Barbara Anderson, who's manager of the Organ and Tissue Donor Task Force of Nebraska, on the front page of the blue sheet because I feel, as policymakers, this is probably the strongest argument in favor of setting up this program, and that's the feeling that transplantation is just going to get to be a program that the rich can afford and that the moderate income people, because of the "copays", because of caps on insurance, people who want to go back to work, and we want them to be able to go back to work, are...are going to have to stay sick in order to get covered. That's not what out...where our policy should be heading. And, with that, I will close on this bill and urge you to support it. I think it's good public policy for the state to create this fund and begin a process of being the payee of last resort. They will have been through every other possible way of paying for this before they can even come to the state, so we're...and will have to demonstrate that, that we can help these moderate and low-income Nebraskans be able to continue to work, to get their lives back in line and not go to the terrible tragedies that we know of where people just stop taking the right amount of medication or stop taking medication at all, and...and, in a way, just choose to die rather than to put their families at risk of financial ruin. And, with that, I would ask your support of this bill.

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SPEAKER KRISTENSEN: While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LB 51, LB 53, LB 129, LB 146, LB 155, LB 165, LB 166, LB 166A, LB 192, LB 245, LB 257, LB 257A, LB 375, LB 376, LB 387, LB 418, LB 472, LB 25, LB 25A, LB 46, LB 48, LB 193, LB 226, LB 253, LB 280, LB 299, LB 337, and LB 409. Senator Thompson, you have the next amendment, AM0643. You're recognized to open. (Legislative Journal page 773.)

SENATOR THOMPSON: Thank you, Mr. Speaker, members of the body. AM0643 was suggested by the Fiscal Office to correct drafting errors in the bill and, essentially, what it does is define the Department of Finance and Support as having the responsibility to direct this fund. And I want to correct what I said earlier. I kind of got rolling there and misstated. It will be up to the Department of Health and Human Services Division of Finance and Support to decide how this fund could be administered. In the discussions that we've had about this bill, it could be administered with the Renal Fund, but that would be a decision of the Department of Health and Human Services. It is a separate fund. The second part would be for the A bill, which will follow. We shouldn't have put in statute the amount. That should have been in the A bill. And, with that, I would ask your support of this technical amendment.

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Thank you, Senator Thompson. You've heard the opening on the Thompson amendment, AM0643, to LB 287. Senator Landis, did you wish to speak to that amendment?

SENATOR LANDIS: (Microphone malfunction) Not on the amendment.

SENATOR CUDABACK: Senator Thompson waives off. Senator Wehrbein, did you wish to speak, Senator Wehrbein? Senator Thompson, there are no further lights on. Did you wish to close on your amendment? Senator Beutler, I'm sorry. Senator Beutler. Senator Beutler waives off. Senator Thompson. Senator Thompson waives closing. The question before the body is, shall AM0643 be adopted to LB 287? All those in favor vote aye, opposed nay. Voting on the Thompson amendment to LB 287.

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Have you all voted who care to? Record, please, Mr. Clerk.

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

SENATOR CUDABACK: The Thompson amendment is adopted. Mr. Speaker, you're recognized.

SPEAKER KRISTENSEN: Thank you, Mr. President. Members of the Legislature, while you're all still here, I thought it was appropriate to talk to you just briefly about tomorrow and that agenda. Tomorrow morning we're going to start at 8:30 so we can get an earlier start and try to accommodate a number of people who are going to be leaving. And for those people who have bills tomorrow, we want to have as many people here as I can. I would plan to offer an adjournment motion at 11:00 tomorrow morning, but we would start at 8:30 tomorrow morning and so you'll see that reflected on your agenda. I know that there is one motion here this morning that we will take up to cancel a hearing and that will take place here shortly before noon today. I just wanted to announce we're going to start at 8:30 tomorrow morning; plan to offer an adjournment motion at 11:00 tomorrow.

SENATOR CUDABACK: Thank you, Speaker Kristensen. (Visitors introduced.) Mr. Clerk.

CLERK: Mr. President, I believe we're going to take up Senator Schrock's motion now, Mr. Speaker? Senator Schrock would move to suspend Rule 3, Section 14, to permit cancellation of a public hearing scheduled for tomorrow by the Natural Resources Committee.

SENATOR CUDABACK: Senator Schrock, to open on your suspension of the rules.

SENATOR SCHROCK: Mr. President, members of the Legislature, it's become apparent to me that I will not have a quorum for a hearing tomorrow, so this will be a motion to suspend the rules so we can move those hearings to a week from Wednesday instead of this coming Wednesday or tomorrow.

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SENATOR CUDABACK: You've heard the opening on the Schrock motion to suspend the rules. Any discussion? Senator Wehrbein, did you wish to...Senator Beutler, not on this. Any other discussion? Seeing none, Senator Schrock, to close. You've heard the motion by Senator Schrock to suspend the rules. All in favor of that motion by Senator Schrock to suspend the rules vote aye, opposed nay. This does require 30 votes. We're voting on the motion to suspend the rules to cancel a public hearing, Natural Resources Committee. Have you all voted? Have you all voted who care to? This does require 30 votes. Have you all voted? Record, please, Mr. Clerk.

CLERK: 30 ayes, 1 nay, Mr. President, to suspend the rules and permit cancellation of hearing. Mr. President, I have notice of cancellation of hearing from Natural Resources Committee.

SENATOR CUDABACK: Motion does pass. On with discussion of LB 287. Senator Wehrbein.

SENATOR WEHRBEIN: Yes, Mr. Speaker and members, I...I'm sympathetic to this bill. I simply wanted to maybe have a dialogue with Senator Thompson, if I might, at least some questions. I'm concerned that this A bill actually isn't going to be enough, it would appear to me that the cost of these drugs, I...this...this...like you say, I am sympathetic to the bill. I understand the seriousness of these types of things. I just wonder how far we're going to be able to go in financing a program like this? It seems to me it will rapidly expand, I mean even at \$2,000 a month times just a few people. So I...I was wondering what you...how you consider the accuracy and where...where you think the future of this may go. I...I'm not totally familiar with the program as to why those that have health insurance don't cover all...apparently don't cover all of these costs, all that kind of thing, so any information on this. I probably am going to vote for it, but I think this is a...leads to quite an expanded program. So, with that, that's all I'd have. Yes, Senator Thompson, please.

SENATOR CUDABACK: I didn't hear you, Senator Wehrbein. Did you say...

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SENATOR WEHRBEIN: Senator Thompson. I'd like to have her...

SENATOR CUDABACK: Give your time to Senator Thompson?

SENATOR WEHRBEIN: Yes.

SENATOR CUDABACK: Senator Thompson, you have about two...about three minutes.

SENATOR THOMPSON: Thank you, Mr. President. I considered introducing this bill a year ago and held up on it because I was hoping there was going to be a federal resolution of some of the prescription drug costs. There wasn't. There's...it's under discussion now and my hope would be that eventually this particular problem, which is one of the larger debate on prescription drugs, would be handled at the federal level. If it is, the state is the payee of last resort and eventually, through the appropriations process, if things went extremely well, and I don't know that they will or they won't because the focus right now has been of older, over 65, which a lot of people in this category are not. And so I...I first considered that, but I think it's at such a problem state in this state. I looked at what other states were doing and I felt it was important to come through with...with this. It is a significant but modest amount and, like a lot of things we do here, we can't solve the whole problem. I felt we should at least attempt to solve part of the problem and be able to ease the hardship for some Nebraskans who apply for it. Probably the best estimate I have is that we have...it's probably less than half, but around 40 percent is the best guess I could get of people who are experiencing some financial hardship for this. And what happens to the people in their insurance plans is sometimes their drug coverage may be capped. They may have certain exclusions for these particular types of drugs because they are specific and expensive and in some cases a generic doesn't substitute very well. It's a pretty fragile thing to keep a human being from rejecting a drug (sic). So, in answer to your question, I felt this was a step that we should take. The people involved know it's probably not enough, but it would ease some of the suffering that's...that's going on out there and hopefully, if there is ever a federal solution, it will take this into effect

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or it may...

SENATOR CUDABACK: One minute.

SENATOR THOMPSON: ...happen later on down the line. So the fund is there. The Renal Fund, as you know, is not adequate either to the number of people who need help and this would be similar to that. It's a capped fund and that would have to be debated in the future if it were to be increased. But between the combination of hoping for a federal solution, which is maybe several years away, and knowing that our resources are limited, that was where I came up with the figure.

SENATOR CUDABACK: Thank you, Senator Thompson. Senator, did you wish to respond, Senator Wehrbein? Senator Beutler, on advancement of LB 287 to E & R.

SENATOR BEUTLER: Senator Thompson, let me ask a series of questions so that I can again better understand how this fits into the overall scheme of what we attempt to do in the health care area.

SENATOR CUDABACK: Would you respond, Senator Thompson?

SENATOR THOMPSON: Yes.

SENATOR BEUTLER: First of all, just with regard to the general approach, oftentimes we have bills in here that seek mandatory insurance coverage for different types of things and almost every year we pass at least one bill mandating insurance coverage on this or that. Give some explanation of why, for example, in this instance we are approaching this through a subsidy from...from the state as opposed to trying to mandate insurance coverage for these costs. And I would...I would ask for...to yield time to Senator Thompson.

SENATOR CUDABACK: Senator Thompson.

SENATOR THOMPSON: We do have insurance coverage for people. A lot of the people are insured. It's the "copays" or the caps that are hurting their situation.

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SENATOR BEUTLER: Is...is insurance company mandate...is insurance coverage mandated on these kinds of drugs?

SENATOR THOMPSON: I don't believe it is.

SENATOR BEUTLER: Okay. As...

SENATOR THOMPSON: Most of the...there are two categories of people who fall between the cracks. One is the people on Medicare, and they have a "copay". If they're on Medicaid, they're covered. Then it's the people with private insurance plans, some of which may have coverage and may not, or they may have limited coverage. Or what happens to people is they...they feel they can afford the transplant because this year their "copay" is \$10 and the next year it goes to \$25. Or they may have an insurance plan where they have a limit on how much they can spend on these and these particular costs.

SENATOR BEUTLER: So the answer to the question is because not all people would benefit from making it a mandated insurance coverage? Is that...

SENATOR THOMPSON: Yes, there are a significant number of people who would...who have Medicare who are disabled because of their...maybe another illness combined or because of what...them becoming sick with this program that are also having difficulty.

SENATOR BEUTLER: Okay. The...if the state begins to pick up in a subsidized manner these particular costs is that going to have the effect of discouraging insurance coverage for these particular kinds of costs? I mean, are the insurers going to say, well, let me see, the state is picking up more and more of this so let's cut our coverage here? Or let's say that if the state provides funds we don't have to provide coverage for this. Put a clause in the insurance policy that says no coverage if the state provides funding? Is...

SENATOR THOMPSON: I...

SENATOR BEUTLER: ...are you worried about the fact that maybe

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this will have the...the effect of decreasing insurance coverages and then, by that effect, increasing the amount of money that we will be pressured into putting into this fund to make up for the further lack of insurance funds? I...I would be interested in your response to that possibility.

SENATOR THOMPSON: I hadn't actually, excuse me. Is it okay?

SENATOR CUDABACK: Senator Thompson.

SENATOR THOMPSON: Hadn't thought about it in that context because we're probably just talking about a...

SENATOR CUDABACK: One minute.

SENATOR THOMPSON: ...couple hundred cases in Nebraska that are transplantees having these problems. The...I could check with the other states that have the formularies and see if there's any history with that. This is not a...this is an approach that's been used widely in the Midwest, as you can see from the list of states, and I will check with them to see if there's a dropping in coverage. But, essentially, the insurance coverage is there but it...it is the "copay" and the number of "copays" that people have to meet that is a hardship for a low or a moderate income family.

SENATOR BEUTLER: Since you mentioned low and moderate income families, let me...let me ask you this. The test that's in the bill is 250 cent...percent of the poverty level. What is the significance of 250 percent?

SENATOR CUDABACK: I'm sorry, Senator Beutler, time is up. Senator Tyson, on the motion to advance LB 287.

SENATOR TYSON: Thank you, Senator Cudaback. Members of the Unicameral, it's time to hear very briefly from the Grinch. I will speak on this subject only once and that's now. I intend to vote against this bill. Senator Thompson has very persuasively outlined it and I am sure that there are at least...according to this there's 530 to 550 living Nebraskans with transplants. One of them is a close friend of mine. I

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talked to him yesterday down here. He has a heart transplant. There are probably 530 to 550 stories that Senator Thompson can tell you about the hardships suffered by people who have transplants. I acknowledge that, and anyone who does not feel pity for those people would be inhuman. But we do not have the money to solve or partially solve, in this case, every human illness. We just don't have it. Look at a dollar bill. If there's something that you want that costs a dollar and you have the dollar, you exchange and then you don't have the dollar any more. You only get to spend it once. Now we are going to be asked in this session to spend all sorts of money for all sorts of good things. What we're doing here is every four years we're going to be spending a million dollars of the teachers' salary raise. Think about it in those terms. Think about it in terms that we can only do little with when...when we have little. Do I feel sorry for these people? Yes, I do. Can I solve their problems? Not with my money. And I don't see this as a proper usage of state funds. I ask you to think about this and don't think about the sad stories that can be told, and they are genuinely sad. But what they have done is they have traded that for life, and I don't know what that price is. I ask you to consider this in a mature fashion and vote against it. Thank you very much.

SENATOR CUDABACK: Thank you, Senator Tyson. Senator Wehrbein, on the motion to advance. Senator Wehrbein waves off. Senator Beutler, you're next.

SENATOR BEUTLER: Senator Thompson, let me...let me proceed with question and answer if I could. First of all, with respect to the income level, and let me maybe back up a little bit and just explain to you philosophically what troubles me a little bit and you can talk about that too in the context of the income level. But, generally speaking, as a...as a general proposition, Medicare and the elderly aside, we have the Medicaid Program and we attempt to help people when they reach a certain level, so that everybody in the system has some sort of safety net. And then it seems like every once in awhile we reach up to higher income levels and purport to help or do help with state subsidies or federal subsidies those that, because of a particular kind of problem, are deemed to...to be worthy of a

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subsidy before others who have much lower income, for example. And that's one of the things I wanted to explore with this...with this particular bill. With...with Medicaid, for example, I think there is an income test, although I don't remember exactly what it is. I think there is also an asset test, if I'm remembering correctly. So one question I would have of you is, first of all, is that...is that not true, that Medicaid has both types of tests? And in your bill you have an income test, which is 250 percent of federal poverty, and there is no asset test at all.

SENATOR CUDABACK: Would you...would you respond, Senator Thompson?

SENATOR BEUTLER: Let me...let me...

SENATOR CUDABACK: Excuse me.

SENATOR BEUTLER: ...maybe just ask directly the most obvious question, why is there no asset test? I mean, under your bill, theoretically, someone who is retired and has no income whatsoever may have assets of several million dollars. How...why does the bill not deal with that possibility, for example?

SENATOR CUDABACK: Senator Thompson.

SENATOR THOMPSON: This bill is patterned...or this fund is patterned after the Renal Program Fund and maybe I could back up and kind of take a number of your issues, if you don't mind, in addition to that, which has no asset test. And we followed...what I tried to do was make it as similar to other bills that we've been...that back when I was on Health and Human Services that we have passed in recent years to allow people with special disability issues, and in this case people we want to be well and not on Medicaid, be able to work. And so this bill is patterned in a similar fashion to one that passed two years ago dealing with support services for disabled persons who wanted to work. If we force everyone to go to Medicaid, and...and I told you the issues here and we've heard and...and I know that Senator Tyson...

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SENATOR CUDABACK: One minute.

SENATOR THOMPSON: ...maybe heard some of this at the interim study hearing on the issue, that in order to not impoverish the entire family people are having to look at getting a divorce--something that in many cases their religious beliefs and their personal passions...it's a tragedy. The other is we don't want people to become impoverished and go on Medicaid. We want them to be able to work and they want to be able to work, and that's whom this...that is the group we are trying to address with this bill. People who get transplants, sometimes it's just a matter of a few days of some major virus or other problem and their entire life turns around. They go through their life savings very quickly. We want to reach those people who can work and contribute but need some assistance with the medications and able to do...be able to do so. So this is a philosophical difference...

SENATOR CUDABACK: Time.

SENATOR THOMPSON: ...with this bill other than those who are just totally impoverished.

SENATOR CUDABACK: Thank you, Senator Thompson and Senator Beutler. Mr. Clerk, items for the record.

CLERK: Mr. President, your Committee on Government, Military and Veterans Affairs reports LB 242 to General File; LB 780, General File; LB 391, General File with amendments; LB 558, General File with amendments; LB 703, General File with amendments; LR 4CA, General File with amendments; and LB 714 and LB 720 indefinitely postponed. Enrollment and Review also reports LB 329 to Select File; likewise LB 419, LB 483, LB 484, LB 31, LB 730, LB 96, LB 286, LB 368, LB 10, LB 314, LB 303, LB 303A, LB 191, LB 191A to Select File, some having Enrollment and Review amendments. Hearing notice from Urban Affairs Committee. Senator Chambers, an amendment to LB 31; Senator Brown to LB 346; Senator Chambers, LB 286 and LB 154. (Legislative Journal pages 822-833.)

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Mr. President, a reminder there will be an Executive Board meeting upon adjournment at...in Room 2102; Exec Board, Room 2102, upon adjournment. Mr. President, Senator Wickersham would move to adjourn the body until tomorrow morning at 8:30 a.m.

SENATOR CUDABACK: The motion by Senator Wickersham is to adjourn until Wednesday morning at 8:30 a.m. All in favor of that motion say aye. Opposed nay. We are adjourned until Wednesday morning at 8:30. (Gavel)

Proofed by: S. Ryan