

APRIL 9, 2001

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FLOOR DEBATE

April 9, 2001 LB 215, 600, 664, 668, 668A, 750, 768
 LR 53-54

PRESIDENT MAURSTAD PRESIDING

PRESIDENT MAURSTAD: Good morning. Welcome to the George W. Norris Legislative Chamber for the sixty-first day of the Ninety-Seventh Legislature, First Session. Our chaplain of the day is Reverend Jason Peters from Offutt Air Force Base in Senator Hartnett's district. Reverend Peters.

REVEREND PETERS: (Prayer offered.)

PRESIDENT MAURSTAD: Thank you, Reverend Peters. We will call the Legislature to order. Members, please record your presence.

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

PRESIDENT MAURSTAD: Thank you, Mr. Clerk. Are there any corrections for the Journal?

CLERK: No corrections, Mr. President.

PRESIDENT MAURSTAD: Any reports, messages, or announcements?

CLERK: Mr. President, Enrollment and Review reports LB 215, LB 668, LB 668A, LB 750, LB 768 as correctly engrossed. Mr. President, Attorney General's Opinion to Senator Coordsen regarding LB 600, be inserted in the Journal. Two reports, one from the Auditor, regarding a series of audit reports completed. Mr. President, LR 53-54 are ready for your signature. And an appointment letter...withdrawal of an appointment letter from the Governor. That's all that I have at this time, Mr. President. (Legislative Journal pages 1405-1420.)

PRESIDENT MAURSTAD: Thank you, Mr. Clerk. Members, while the Legislature is in session and capable of transacting business, I propose to sign and do sign LR 53 and LR 54. Mr. Clerk, Select File.

CLERK: Mr. President, the first bill this morning, LB 664. I have no Enrollment and Review amendments. I do have amendments to the bill. Senator Bourne would move to amend with AM1339. (Legislative Journal page 1333.)

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PRESIDENT MAURSTAD: Senator Bourne, you're recognized to open on your amendment to LB 664.

SENATOR BOURNE: Thank you, Mr. President. Members, this amendment is similar to the amendment that we saw on General File to this bill and, as you recall, the bill would allow municipalities to pool for purposes of health insurance, and this amendment simply takes out or it...it limits the agencies or groups that can pool. It would say then, after "agencies", it would insert, other than school districts, ESUs, community colleges, and the Nebraska state colleges. We had had a lengthy discussion on this on General File and the reason I refiled this amendment is because I think that there was some confusion and perhaps some misconceptions or misperceptions about what exactly this pooling arrangement does. And if you recall on the General File argument or debate, we had discussed in great detail the jeopardy to the teachers' alliance pool that this new pooling agreement would have, and I thought that what I would try to do is kind of go back through some of the arguments that were made on the floor and kind of reiterate some of those and tell why there might be some factual discrepancies. I wanted to kind of give you an example of what would happen if LB 664 was passed with my amendment. LB 664, if passed with the amendment: municipalities would still be able to pool; two or more cities or public entities or agencies would go together for the purchase of insurance; but they could not force the school districts to break out of the teachers' alliance plan and go with them. And, if you remember, the big concern on General File was the problem of adverse selection and, as you remember, that is when the school boards or the municipalities would compel the teachers to leave the 70,000 person teacher alliance, that has been in effect since 1968, and they would form their own group. And as we talked about extensively on General File, originally these municipalities would probably enjoy a lower rate but, in time, the pool itself would fracture and the rates would go up, utilization would go up, and 70,000 people's insurance would be rendered unstable. So, as I mentioned, if the bill, LB 664 is adopted with my amendment, municipalities will still be able to pool; it will still be voluntary. There's no impact to the municipalities and their ability to pool other

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than the teacher and the education units, ESUs, and school districts, community colleges and state colleges would be not part of that pool. Some of the other things that we had heard on General File and, again, I think that some of these were misconceptions, we heard about taxes and how we have a responsibility to public entities to reduce spending, and if you read the task force from which LB 664 was developed it talked about that, that there may be benefits, there may be savings to municipalities through the concept of pooling, but there's no guarantee that it would be. And, again, my argument is, is that the possible...the potential savings to school districts through pooling would not offset the instability that would be rendered to that 70,000-person pool. So, as we heard on General File that this pooling bill would reduce taxes, but I think what would happen is the exact opposite. What we have now is we have a 70,000-person pool who uses their purchasing power to negotiate discounts with providers and, according to the educators' alliance, they saved \$40 million last year by this purchasing power, by negotiating discounts.

PRESIDENT MAURSTAD: (Gavel)

SENATOR BOURNE: Thank you, Mr. President. By negotiating discounts with these provider groups, this teacher plan saved \$40 million in insurance premium and, as you know, we pay for education one way or another, so this is a property tax relief. And I would suggest to you that while it was opined on General File that taxes would go down, that this would be a savings, I think that the opposite would be true. Because the greater the number in the pool the greater the savings. When you break this group up into smaller portions, the bargaining power would not be as great. What you would have, instead of a 70,000-person pool, you would have multiple 500 or 1,000 persons pool who will not have this negotiating group power over the insurance companies, so the bargaining power would be gone. The premiums would go up and, in a sense, that would render any tax savings to pooling mute. They would be gone. So I want to reiterate \$40 million a year is saved because the educators' pool is large enough to negotiate discounts with providers and, again, this cannot be done and will not be done if that pool is fractured. We also talked about, on General File, much was made of the fact

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that LB 664 is optional. Well, the current pooling arrangement is optional as well. Educators and school districts are free to leave and enter the...the teachers' alliance pool and, in fact, that's contrary to what the task force recommendation is. They said that there must be limits on the ease of exit from a pool in order to render the pool stable. But, nonetheless, it is optional. It's optional now. With my amendment, if that's adopted on LB 664, it will still be optional. One thing that would not be optional, however, is if municipalities were able to pull the school districts out of the pool they would...they could, in theory, force them to leave the educators' pool and force them to enter into a pooling arrangement that is not as beneficial to them and not as beneficial to the taxpayers. So I want to...I want to make very clear that the tax savings that's going to be rendered with LB 664 or could possibly be benefited from LB 664, it's...it's...it's not necessarily real. I mean the task force mentioned that it was potential that it could save money but it's not necessarily saving money. And, yet, we know that the pool, as it is now, saves about \$40 million a year because the size of this pool allows them to negotiate with the providers and with the insurance companies for a lower rate. And I wanted to mention again, just to reiterate, that it is optional. Whether or not my amendment is added to LB 664 or not, it's optional. When an amendment...if the amendment goes on they can still pool. It's not mandatory. So, with that, Mr. President, I will conclude.

PRESIDENT MAURSTAD: Thank you, Senator Bourne. For debate on the Bourne amendment to LB 664, Senator Beutler.

SENATOR BEUTLER: Mr. Lieutenant Governor, members of the Legislature, I would just likely...like to briefly support the Bourne amendment. I think one of my questions and one of my problems is a matter of timing and another is a matter of direction. First of all, with respect to the matter of timing, we're in a session where we're dealing with a group of people that are highly...with high expectations with regard to our ability and our desire and our tenacity in terms of cleaning up the teacher salary problem. We know we have a problem, we know it's a big problem, but the fact of the matter is we're not in one with respect to how that problem should be solved and

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especially as to how it should be financed. So we have out there a major problem that teachers are focused on and we may or may not be able to solve it. At the same time that we may be a disappointment to them in that regard, now the thing that they're most happy with is under attack. I mean their retirement is decent. Their health benefit, the pooling program I think is something that most all teachers are satisfied with. It's the one stable element of their benefit package that they really feel good about. And so, with respect to the timing, I would simply suggest that maybe this is not the appropriate time to be stirring up the waters with respect to an aspect of their compensation that they feel good about, that is a positive incentive to being a teacher in Nebraska. Beyond that, the question of direction. Pooling is a good idea, in my opinion, and it seems to me that the best pool is the largest pool, and that what we should be working towards is one or two pools for the whole state and all of these different groups of people because that would be the strongest, that would have the most bargaining power, and that, in turn, would result in the most savings to the taxpayers. So why are we working in the direction of splitting up to smaller pools as opposed to working towards one pool? Maybe the report addressed that, I'm not sure. I would like to hear more about that whole question because if we're going to change things in an atmosphere where everybody is relatively happy with what they have as far as the huge teachers' pool is concerned, shouldn't we be sure that we're changing things in the direction of more stability and reduced costs as opposed to potentially "fracturizing" the whole situation, creating chaos, and perhaps in the end increase costs rather than lower costs, and certainly less confidence on the part of our teachers in their overall benefit program. So, at least for me for now, until I hear more, I'm certainly going to be in support of the Bourne amendment. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Beutler. Senator Bromm, followed by Senators Baker, Connealy, Chambers, and Bourne.

SENATOR BROMM: Thank you very much, Mr. President. As Senator Bourne said, we did debate this amendment the other day to some extent, to a fairly extensive extent, and much the same arguments were being made then as are being made now. But I

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think it's essential, certainly essential, to respond and to discuss those. There's several misconceptions that are being articulated by Senator Bourne and now by Senator Beutler as well, and the first and the biggest is that somehow or other the passage of the bill which would voluntarily allow political subdivisions and agencies of the state government, including schools and state colleges and community colleges, would somehow without question break up or damage or place into peril the education alliance arrangement. Now, it's not fair to call that a pool, and I've heard that referred to as a pool several times in the arguments the other day and again this morning by Senator Bourne. That is...that is not accurate. That is a group purchasing arrangement that has...that has evolved. As I understand it, it's been...this particular alliance has been formed two years ago, but certainly the group purchasing arrangement has been there for some time. Not all schools participate in that and I...I'm hearing from some of those schools that they're getting along just fine. Now, I...I would submit to you that if this bill does pass the people involved with the education alliance might want to consider whether or not they want to form a pool. I don't know if they would want to, but they certainly would have that opportunity to do so, and they could have an interlocal agreement between them that would govern the conditions of withdrawal from that pool. There would be all of the oversight of the Department of Insurance that is required by LB 664, which I have the regulations and I have the synopsis of the oversight of the Department of Insurance, which is...which is significant oversight, which would help protect the integrity, the financial stability of the pool if it were formed under this particular bill. Now, I...I'd rather stick with the positive than the negative in terms of this bill, and I think this bill presents opportunities that aren't there now. If the bill is passed, it also creates an incentive for whoever is furnishing insurance to this large of a group to do it in the most efficient and complete way because right now, basically, with regard to many schools, this is the only option they have, albeit a good one, and...and basically the people that are responsible for the budget, that being the school board, really have no...

PRESIDENT MAURSTAD: One minute.

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SENATOR BROMM: ...opportunity for input into this...to this alliance, and the plan that they choose and the deductibles that they select and the coverages that are afforded. I think it is a mischaracterization to say that this will, in any way, tear up, damage, or destroy the...the group purchasing arrangement that there now is. Secondly, I want to again tell you that the state colleges met, the presidents met on Friday or Saturday, and they...they voted unanimously to not be part of this amendment. They've been in this group purchasing arrangement for 26 years. They voted unanimously not to be part of this amendment and, yet, here they are again, stuck in with the rest of...of the...of the parties. So I...

PRESIDENT MAURSTAD: Time.

SENATOR BROMM: ...I think that the amendment, again, should be defeated. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Bourne (sic--Bromm). Senator Baker.

SENATOR BAKER: Thank you, Mr. Lieutenant Governor and members. I'm going to echo some of what Senator Bromm just said. This bill, without the amendment, does not require school districts to leave this plan and I also want to stress the fact that this is not a pooling arrangement. This is a group policy. We have characterized this, some people have, as a pool. It's a group policy. It does not require the local school districts to leave. What it does is gives them an option. Community colleges, they want that option. The state colleges, they want that option. I went to a meeting Friday in my district with ESU people, community college people, board members. It was unanimous to support the bill as it's written, LB 664. It's a little bit ironic to hear Senator Beutler say the larger the pool the better, maybe one or two pools would be better than what we have; and then support the Bourne amendment that says, no, we don't want to enlarge this pool, we want to leave school districts, ESUs, community colleges, and Nebraska state colleges in a separate group; never mind, don't touch this pool; make as large a pool as you can but don't include us in it. I don't see

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LB 664, as written, as a threat to this group plan that NSEA has. If it's working, cost-effective, fine. The local bargaining units at the school district level are going to have to come to an agreement to change and if you are in favor of local control, and I think a good many of us in this body have served on school boards, that's a sit-down situation where you negotiate with the teachers' representatives and arrive at some agreement. And if this pool is doing its job, as claimed, this bill is no threat to that. That group policy seems to be working, you know, very well. Fine, we'll continue with it. We do need to address the issue that LB 305 is going to bring forth on salaries, and having worked on this bill and done research on it, it's obvious that the teachers have taken a big part of their compensation package and put it into fringe benefits, one of them being health insurance, of course. It's been a major item in any negotiated settlement, is health insurance. When you give a teacher a figure, say a 4 or 5 percent package...increase in their compensation package, they've typically applied a big part of that to health insurance and forgone the salary increase. So that enters into this debate also. If this can save money on health insurance costs by making this group plan more cost-effective than I would suggest that that money could be channeled then into teacher salaries. That still does not contradict my statement if it's working, fine; we...it's...this bill should not be a threat to it. If we can improve it, fine. It gives these people an option. And I'm wondering if Senator Bourne conferred with the community colleges and the state college system representatives when they drafted this amendment, because they have talked to me at length and they are not in favor of the Bourne amendment, absolutely not. So, rather than limit the pool by excluding these people from any further options, we need to defeat the Bourne amendment and allow these people to possibly enlarge the group plan, or if they want to form a pool, that's fine. This bill would allow for oversight from the Department of...state Department of Insurance, which is really the way it should be. So I do not consider LB 664 a threat to the group plan. I think it could make it more efficient. It would become a pool with some oversight by the state Department of Insurance. And as we go through this discussion it's becoming more obvious to me that that's one of the reasons they oppose...

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PRESIDENT MAURSTAD: One minute.

SENATOR BAKER: ...it. I don't think they care to have any oversight from the Department of Insurance. So, to wrap up this debate on the Bourne amendment, this...I don't see that the bill poses a threat to...to the group plan that they have out there. Perhaps it can make it more efficient. If it does and they continue the plan as it is but (inaudible) some cost savings then that money could go to teacher salaries. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Baker. Senator Connealy.

SENATOR CONNEALY: Thank you, Mr. President. As a former school board member of a small school, you know, I'm kind of worried about this. I'm worried that for small schools opting out, having the alliance not be as strong as it was before will actually hurt small schools. If you have larger schools with good experience ratings pulling out of the alliance I'm afraid that that option won't be there for rural Nebraska. I think I agree with Senator Beutler in his thoughts on how we're working to increase compensation for teachers and at this time this is probably not the way to go to also maybe put at risk the part of the compensation that's working quite well for teachers in the state. And so I'm in support of the Bourne amendment.

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

SENATOR CHAMBERS: Mr. President, members of the Legislature, this is a puzzling issue for me. I would like to ask Senator Bromm a couple of questions.

PRESIDENT MAURSTAD: Senator Bromm, would you yield?

SENATOR BROMM: Yes.

SENATOR CHAMBERS: Senator Bromm, the structure of this bill is based on voluntariness on the part of every entity that might be interested in joining this pool. Is that correct?

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SENATOR BROMM: That's correct, Senator Chambers.

SENATOR CHAMBERS: No entity or group of entities can be compelled in any manner to join this pool. Is that correct?

SENATOR BROMM: That is correct.

SENATOR CHAMBERS: If the school's pool is left in this bill they would not be required to change anything about their pool. Is that correct?

SENATOR BROMM: That's right. They actually...they actually have a group purchasing arrangement rather than a pool, but that would not be required to change.

SENATOR CHAMBERS: Well, I call it the pool...

SENATOR BROMM: Sure.

SENATOR CHAMBERS: ...I mean to get into the pool.

SENATOR BROMM: Exactly.

SENATOR CHAMBERS: If they get out of this bill, how is that different from their being in the bill with the right not to join the pool? In other words...

SENATOR BROMM: Wait, say that question again.

SENATOR CHAMBERS: Okay. If they don't want to be placed among the ranks of the volunteers, why compel them to be among the ranks of the volunteers when they cannot be required to volunteer to join the pool?

SENATOR BROMM: Um, Senator Chambers,...

SENATOR CHAMBERS: Let me ask it a different way. What will the pool that this bill is talking about lose if the schools are not in this bill?

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SENATOR BROMM: Well, this pool wouldn't necessarily be one pool. It would be...there could be, for example, the state colleges might decide to form a pool if this bill were passed, whereas now they can't. They don't have the authority to pool with each other. It could be that another group of schools or community colleges might want to form a pool, whereas without the bill they can't.

SENATOR CHAMBERS: Okay. I got that, because I'm working towards something.

SENATOR BROMM: All right.

SENATOR CHAMBERS: If the schools were left in this bill and the state colleges wanted to pull out of the school arrangement, that would give them, under this bill, an alternative which they do not currently have without the bill. Is that true?

SENATOR BROMM: That is true.

SENATOR CHAMBERS: If they opt out will they be able to then get back in the school arrangement? If it turns out that they made a poor decision, they were flimflammed by a fast talker, and the pool they thought that they were getting into, based on the colleges alone, did not do what they wanted, would they then be able to opt back into the school's arrangement?

SENATOR BROMM: That would be up to the education alliance, whether they would let them back in. That...I can't answer that.

SENATOR CHAMBERS: So this bill does offer the opportunity to fragment the school's arrangement.

SENATOR BROMM: It provides alternatives, yes.

SENATOR CHAMBERS: But if there would not be the fragmentation...let's...let's...let me divide a piece of paper into two sides so that I can more easily make clear what I'm talking about. On side A would be the schools with their present arrangement; on side B would be all these other entities

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that may want to form one pool or several pools under this bill. If the schools are left under the bill, they don't have to get into any other pool but there are entities associated with them now which could pull out and join with other types of entities...

PRESIDENT MAURSTAD: One minute.

SENATOR CHAMBERS: ...or as an entity of their own, namely, the colleges. So that would allow a change which cannot happen under the bill now, so what I'm going to listen for is an explanation of why it's essential that the schools remain under this bill if the ultimate intent is not to raid the schools and try to fragment their situation and pull some of their members out for the benefit of these other entities which may feel that pooling among and with themselves would not be that wise or advantageous an operation. Maybe you've lost the direction I'm going. I didn't want to phrase it as questions, but I will be listening to see what answers might develop along the way. Thank you.

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

SENATOR BOURNE: Thank you, Mister...

PRESIDENT MAURSTAD: ...followed by...

SENATOR BOURNE: Thank you, Mr. President, members. One thing I wanted to say first off is I wanted to respond to Senator Baker when he indicated that this plan or pool, and "pool" is just a term for a group of people, in a sense. I mean I'm...I'm not trying to say that this is a pool authorized under LB 664. But Senator Baker implicated or implied that somehow this...this arrangement does not have Department of Insurance oversight and that's absolutely untrue. This is a 70,000-person group who contracts with an insurer, Blue Cross and Blue Shield, who hopefully fully comply with the laws of the state of Nebraska. So to say this is an unregulated plan is inaccurate. I want to also make very sure that you all...you...everyone understands that this is totally optional. Senator Bromm says that

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they...this is an optional agreement and he's right, but what would happen is if two municipalities got together to pool or to form a risk management pool they could compel the teachers from that area, if they got together with the school boards and that, to leave the teachers' alliance plan. And as I mentioned before, what would happen is you would mix teachers together with other municipal workers who have a higher utilization rate. The teachers would leave the pool. They would be forced to leave the pool by the municipalities. They would have a higher utilization rate because they've been mixed in with city workers and that who are not homogeneous as the task force recommended. Their rates would go up. Then what would happen is the pool would be weakened. Other communities would do the same thing. People would continually drop out of the pool, rendering it unstable, and the rates for the people in the pool would go up. So, while Senator Bromm is exactly right when he says that it's optional, it's optional to do pooling. But the fact is, is that municipalities could get together with school boards and force teachers to go into the new pool. So when he says that it's optional, that's right, but there is some forcing in there as well because the municipalities, the school boards, could force the teachers out of the successful alliance pool and into a pool that really is uncertain. I want to kind of go over a little bit the task force recommendations that...from which LB 664 was drafted. Last year, pursuant to LB 1217, there was a report written. It was called the report of the Task Force to Explore Health Insurance Opportunities, and this was a...I don't know how many members were on the group but...or in the task force, but they had various meetings and some of their findings are as follows. This is the executive summary, on page 3: Self-insured pooling of various publicly funded employer plans may result in some savings and moderate the premium increases of small employers. So what they're saying is, if municipalities would pool, you have two cities that would pool together, that they have a larger group could result in some savings. And, as I mentioned before, the savings results in the purchasing power that the larger group has over a smaller group. And, as I mentioned, the teachers' alliance is a 70,000-person group that saved over \$40 million last year just because of their size. Because of their size, they were able to negotiate better contracts with providers and, thus, getting a lower rate, and

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that's the whole concept of pooling. However, pooling must be a long-term commitment to function properly. In LB 664, there's no language in there that...that guarantees that it's a long-term commitment. The task force itself recommended that it has to be a long-term commitment and, yet, LB 664 has no provisions in there that make it a long-term commitment. It also says pooling will be more successful if it is mandatory.

PRESIDENT MAURSTAD: One minute.

SENATOR BOURNE: Senator Bromm has repeatedly said that the pooling is voluntary and, while I understand that there is some hesitancy to make something mandatory, the task force itself recommended that it was mandatory. It said, if it is voluntary, employer plans that pay lower premium rates than the pool rate will probably not join and this may result in only plans with higher claims experience joining the pool. So, again, because teachers historically have a low utilization rate, their premiums are lower. When cities get together, municipalities get together, to pool they're going to pool the low utilization rate educators in with the higher utilization rate city workers--policemen, firemen and that--and the result is going to be for the city it might be a lower rate initially but the educators' pool is going to be fractured. Once one group starts doing that then the rest do that and pretty soon, instead of one 70,000-person pool that has enough bargaining power to find \$40 million in savings,...

PRESIDENT MAURSTAD: Time.

SENATOR BOURNE: ...you're going to have hundreds of small groups that have no purchasing power whatsoever and so...

PRESIDENT MAURSTAD: Time. Thank you, Senator Bourne. The speaking order is Senator Bromm, followed by Senators Landis, Vrtiska, Redfield, Janssen, Baker, and Beutler. Senator Bromm.

SENATOR BROMM: Thank you, Mr. President. I think it...there's some things that should be mentioned in response to Senator Bourne's remarks and Senator Connealy's. I was also on the school board, Senator Connealy, and I was on it for 11 years and

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we always negotiated with the teachers, not only on salary but on the whole package, including the health insurance. We paid great attention to what the teachers' feelings were about the health insurance coverage and...and did not force them to take a different plan than what was agreed to and negotiated. Many schools even have the plan in the negotiated agreement between the teachers, the exact plan, not just the benefits but the plan that's going to be used. Of course, the CIR oversees and will hear appeals on negotiations if things can't be worked out, so the fringe benefits have very much been a part of the entire package. And teachers will tell you, I've heard this many, many times, that we feel that our health insurance is part of the deal and that if we didn't have such good health insurance with such low deductible we would expect to get more salary. Senator Beutler, that ties in with your remarks. I'm not suggesting at this point in time that any money, because I don't know the answers, that any money could be saved on health insurance coverage, but there's no way to know that under the present situation. There is no way to know that because you can't find out what it would cost to get a comparable plan. You don't have a way to do that. You're not...you're not able to compare it with anything. But I would suggest to you that if in fact there were an option for a different plan and if...if comparable coverage saved \$500 a teacher per year, that that would provide \$500 a teacher per year that I...that I believe under the present environment would be used for teacher salaries. Now, if you don't...if you don't want to open that door because you don't know what's behind it, then I...I guess that's a choice that you make. I would be interested in hearing what the rationale is for not opening the door for our state colleges which come through the Appropriations Committee for funding, or what the...what the rationale is for not opening the door for community colleges who...who we all support through our property tax dollars. Teachers would not be forced to do anything. The fringe benefits are part of negotiations and that...that I want to leave no misunderstanding about. Presently, we have workmen's compensation pooling and schools participate in that, and the Department of Insurance has...requires at least a three-year...a three-year commitment for anyone who becomes a member of the work comp pool. Now, if schools...if the education alliance wanted to turn this into a pool and they

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wanted to have...

PRESIDENT MAURSTAD: One minute.

SENATOR BROMM: ...an interlocal agreement as part of their pooling arrangement, they could require a fairly long-term commitment. They could require a fairly long-term notice for leaving. That would be however they wanted to draft the agreement. But I think it could be set up so that it is just as stable, just as stable as the present arrangement. The only reason that the present arrangement is so stable is because there's not another game in town. If a school wants to look at their options or the state colleges want to look at their options they can't...they can't very well do that because they don't have any information on what their loss and claim experience is and can't get it, and this doesn't...this doesn't change that. This law doesn't change that.

PRESIDENT MAURSTAD: Time.

SENATOR BROMM: They still wouldn't be able to get it, even after the passage of this law. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Bromm. Senator Landis, on the Bourne amendment to LB 664.

SENATOR LANDIS: Thank you, Mr. Speaker. Members of the Legislature, I got to tell you this is a tough one to wrestle with and I'll give you the benefit of my thinking so far. I'm not actually sure what I'm going to do as I reflect on this. I've got about four or five things that I think are so. I think there's one thing that's true on each of the two sides that has yet to be spoken, and I'll try to say that thing out loud if I can before this speech is done. Pooling is good. It makes sense. We do it in a lot of places. Secondly, we have, in essence, a pool for teachers now and it does save money because it is big, but it is also true that that plan is benefit rich, which means it is expensive to school boards and to taxpayers. It is a genuine benefit that teachers very much like. And the other aspect of that is that not only is it benefit rich but it is also so common that, in my estimation, it is the comparable

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set of benefits the CIR would order a school board to have, which makes this a very unique phenomenon. It is a relatively good benefit for workers and it is a benefit, in my estimation, I could be wrong but I think it's so, is so common it is now comparable and, because it's comparable, the CIR would order it. Now, that means the teachers have the situation in hand. They can bargain and they will get, in essence, the benefits equal to their...this pool or purchasing agreement, however you want to call it, but when they bargain, if the...if the local board doesn't give it to them, they're quite likely to be able to go to the CIR and get the CIR to order the same benefits because this is so common, and therein lies the rub. It is benefit rich and it is, at this point, and I could be wrong but I think it is also enforceable, and that changes the dynamic of school boards to teachers tremendously. Cheaper costs could be had than what we now have by two methods. One, if you had a pool of healthier people that might be cheaper, but over time that won't happen, so that's not where we're going to get a cheaper pool. The place where we're going to get a cheaper pool is if we reduce benefits and the pool will be cheaper if, in fact, the new pool can have something between where a board is going out and paying for something by itself, which it is now faced with, or the benefit package that the group arrangement now gives them, and those are essentially the two most realistic alternatives, and a new pool could be some place in the middle. It could be cheaper than a board going alone. It could also have fewer benefits than the group purchasing arrangement. And if there are multiple pools then the NSEA plan will no longer be comparable by CIR standards. We don't have competition between pools, it's true, now, as Senator Bromm argues. On the other hand, pools work because they're big, not because they're multiple, but because they're big. That's where they get their power. We don't have to have a lot of pools competing against each other. We needed to have large pools that get purchasing power. The problem with the NSEA pool is it is benefit rich and it's more benefit rich than many schools are comfortable in paying. It's expensive. It's not only expensive, but it's pretty much the only game in town because it is comparable under the CIR, and that's tough for a school board to do. However, I will say this. By creating a bunch of different pools I think the underlying thing is to destroy the comparability of this benefit

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package to the CIR.

PRESIDENT MAURSTAD: One minute.

SENATOR LANDIS: That is a significant loss for teachers. In a session in which teacher salary is by no means guaranteed, if we also create the tool by which we would, in my estimation, eventually destroy the comparability of the NSEA benefit plan to local boards we will have done teachers a significant disservice. I will tell you this. I think the way I'm going to analyze this is: is the current plan or the pool too rich; is it too costly; are the benefits too high; does it expect taxpayers to do too much? That's I think a fair question to ask and I think our answers may vary by district and how we see each other, because I think that's what's really at play. And I think a second aspect is, is this going to be a session in which we're going to do something for teachers' salaries? In which case maybe...maybe reducing the benefit package, which is what I think LB 664 will ultimately do, seem fair or not? But a session in which we do nothing for teachers' salaries and we destroy the comparability of the benefit plan would be a net loss for teachers in this state...

PRESIDENT MAURSTAD: Time.

SENATOR LANDIS: ...and no wonder they would fight this hard against LB 664. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Landis. (Visitors introduced.) Senator Vrtiska, on the Bourne amendment.

SENATOR VRTISKA: Thank you, Mr. President. Members of the body, it's already been said, but I have to reiterate. This is a tough one. This is a tough one because over the weekend I talked with various individuals, teachers and et cetera, and, frankly, they don't understand totally what's happening, so how can I understand it? I just had a question to ask Senator Bourne, if he would have...if he would answer.

PRESIDENT MAURSTAD: Senator Bourne,...

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SENATOR BOURNE: Yes.

PRESIDENT MAURSTAD: ...would you yield?

SENATOR VRTISKA: Senator Bourne, we've been talking all the time about...or you've been talking all the time about the numbers, the 70,000 or whatever it is, that belong...is what helps the cost, and I suspect that's true, because the more you have in a pool the more it spreads out the risk and you end up with lower costs. By including the community colleges and the other entities, how is that going to change that dynamic? It will raise the number of people even larger. Would that, in fact, have the possibility of maybe even making the pool better, or what's your response?

SENATOR BOURNE: Well, I can tell you this, Senator Vrtiska, that the community colleges and the state colleges are a part of this pool now and if you talk to the teachers from those colleges they do not want out of this pool. They want to retain their membership in the...in the educators' alliance. I don't know how many teachers there are that make up the community colleges and the state colleges, and so the point of the amendment was...is to...is because they are in the pool or the group now to keep them in there. And I can tell you that the teachers do not want out, because they've enjoyed stable rates for years because of their membership in the educators' alliance.

SENATOR VRTISKA: You know, I have to tell you I...I got this e-mail I thought was kind of interesting. It came from a teacher over the weekend and he says I...I received this e-mail from another teacher with some information about...I'll quote from it...about 66...LB 664. I read this e-mail and I did not fully understand it, but got the feeling that somehow the state wants to control the insurance plan that the teachers currently have. Could you explain in plain English what this bill could do and if there is need to be concern? I have asked several of my staff members and we have all...and we are all "clueless" what this is even about. Here's people who are involved in this process that are having difficulty understanding how they feel about it and what they want to do with it and how we should

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address it, and they're asking me. I didn't bring this bill up. I thought the bill that Senator Bromm brought forward was a bill that was...I could support and have been supportive of it. I'm getting all these other mixed...well, I guess all these other amendments that are being drafted to put on to the bill and I'm kind of like this teacher. I'm trying to understand what all these amendments are going to do and how the bill is going to end up finally and whether I can support it when it gets to that point. I thought that I was satisfied and the people that I talked to originally when the bill was introduced seemed to think that it was a benefit to the...not...wasn't a...wouldn't be a disadvantage to anybody when actually it would be advantageous for many. So I'm having a lot of difficulty in trying to determine what I want to do with this bill. My feeling is, as I indicated, I would like to leave the bill alone and get it passed because it seemed to be the right thing to do, but I guess I'm going to have to stand and listen to more arguments and more debate and get more input in order to have a better understanding. Because, as I indicated earlier, if some of the people that are going to be...are going to be involved in this don't understand it...

PRESIDENT MAURSTAD: One minute.

SENATOR VRTISKA: ...certainly it's more difficult for thus...those of us who are not involved to understand it. I will end up by saying that I supported the bill the way it came out. I thought it was a good piece of legislation and something that I would hope that would be advantageous for a lot of citizens in this state. The way it's being amended, the way it's being changed, the things that are being added, I'm not too sure that I can support. So I'm going to sit and listen and hopefully get...get a clearer understanding. With that, Mr. President, thank you.

PRESIDENT MAURSTAD: Thank you, Senator Vrtiska. (Visitors introduced.) Members, like to announce the cookies being distributed are in recognition of the continuing celebration of the birthdays of Senators Erdman and Foley. Please enjoy them with their best wishes. Senator Redfield, on the Bourne amendment.

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SENATOR REDFIELD: Thank you, Mr. Lieutenant Governor. Members of the body, I have had the Pages distribute to your place a copy of the figures from NASB on the workers' comp pool that they have put together. I alluded to it last week when we debated this bill and I wanted you to see the actual savings that have come to school districts. This is not health insurance. This is the workers' comp pool because they can do that today. And in five years you can see that they saved over a million dollars. That's just what they refunded back to the school districts in credit. This does not include the savings that have also been figured...estimated at another million dollars in reduced premiums paid initially. So in fact school districts, when they pool together, do save money. Now, they were told when they did this that they probably wouldn't save any money because the pool would be smaller. If you look at the first page you'll see that it started out with only, I believe, 32 or 34 school districts and ESUs, and in fact the first year the savings were only \$32,000, but as it grew, today it has...

PRESIDENT MAURSTAD: (Gavel)

SENATOR REDFIELD: Thank you, Mr. Lieutenant Governor. Today there are 143 districts in the state of Nebraska in this pool and the savings are over a million dollars, so there is an exponential growth in savings over the years. I looked very carefully at the Bourne amendment. We had some discussion last week about whether in fact this would allow two districts or more to pool together. In fact, this amendment prohibits it, and that is a concern to me because I have seen what can happen when school districts pool together. The teachers' plan, which we have been using, has continually come back with raises which, as all health insurance plans, increase. Some years it's 25.7 percent increases in health insurance costs, sometimes it's been as high as 33 percent increases in insurance costs, and what that means is that school districts have less money to put back into the pockets of teachers in their raises. Now that's a concern to me. This Bourne amendment that we see before us today again prohibits two school districts or more from going together. When we talked, Senator Chambers, about fragmenting this plan, what we're talking about is continuing to fragment

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the individual districts out there who, if they choose not to participate in the teachers' alliance, have to go it alone. They would not be allowed to pool together. I have two districts that I represent who have successfully used other insurance packages and they have saved money and they have put it back in their teachers' pockets. They have no desire to go back into the teachers' alliance pool because they are not saving money and, in fact, they have become frustrated as they have dealt with it as each year there is a proposal to reduce the benefits from the health plan and to increase the costs. So I believe that giving them the flexibility and the options to look around and to see what is best for their teachers for not only their healthcare but for their pocketbooks, I think that's a good plan and, Senator Bromm, I am going to support the bill and I am not going to support the amendment. If, in fact, we were looking at a bill today that said we were going to give cities and counties and other government groups the option to join the teachers' alliance, we probably would have a very different flavor in the room today. We would be lobbied to allow them to join it because they would like to have a larger pool. But, in fact, I think that it would be unfair if we take this option out and not allow them the choice. Senator Bromm is right, these are negotiated agreements. They would have to agree to it. It would have to be to their benefit or they would not agree. So I think it's a good idea. I think the maximum flexibility in the bill is in the best interests of the schools, the teachers, and the taxes to the taxpayer. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Redfield. Senator Janssen, on the Bourne amendment.

SENATOR JANSSEN: Thank you, Mr. Lieutenant Governor and members of the Legislature. I feel like the old fellow that said the more ahead I go the further behind I get. I think that's what we're doing today. You take one step forward and two back. Health insurance is not only a public entity problem, it's not only schools and colleges, ESUs, private colleges. It's going up all the time. It goes up in business also, let me tell you, sometimes once a year, sometimes twice a year. It seems as though the cost of that insurance goes up and the benefits you get from it go down. Some people feel as though...some

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companies feel as though they got to have a lock on insurance. I don't think that's true. What we're dealing with today is taxpayers' dollars. In most cases, those property taxes are paying the bill. And this is not a choice by all entities. Every entity has...has the right to go bargain for health insurance. The counties have their own insurance. Townships have their own insurance. Maybe they only have one or two employees. Maybe teachers aren't quite as happy with their insurance as we're led to believe. I know several cases where a teacher says, my gosh, this isn't exactly what I thought this was all about. But you're locked into one...to one provider. I don't think that's good. Maybe we would see some better bids without the so-called groupings that we have now. Who knows? Now I've got...I've got schools in my district. Some are in the...in the...in the teachers' plan and some are...go out and bargain on their own. Seems as they're both...they're both happy, and with this bill would that really change that much? Use that school board. It's just like a board of directors of any...of any other company that provides benefits for their employees. You bargain for what is going to be the best in healthcare, providing healthcare, and you also bargain for the least expensive. Looks to me like this is the...the free...free enterprise stuff. I do that in my business. If I don't like what the providers are giving me, my carrier, I'll go looking for something else. Although we are...we do buy in a group. I would imagine the group that I buy with is probably one of the largest in about a five-state area, so we do get a pretty good rate but, to me, that's still...it's still high enough. But I still have the choice to...to go somewhere else with my insurance and I hate to see...I hate to see that happen. I, unless I can be convinced otherwise in the next few hours, I'm not going to support Senator Bourne's amendment. I'm going to stick with the bill a little longer. This is a pretty...pretty big decision we're going to make. It's going to affect a lot of people, but the letters that I have gotten from...from my constituents are very...

PRESIDENT MAURSTAD: One minute.

SENATOR JANSSEN: ...very few, let me tell you. I have probably a half a dozen and, to me, in a county of 35,000 people,

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that...that's not very many. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Janssen. Senator Baker, on the Bourne amendment.

SENATOR BAKER: Mr. Lieutenant Governor, I'd respectfully call the question.

PRESIDENT MAURSTAD: Do I see five hands? I see five hands. The question is, shall debate end? Those in favor vote aye; those opposed vote nay. Senator Baker.

SENATOR BAKER: Would ask for a call of the house, please.

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

CLERK: 27 ayes, 1 nay, Mr. President, to place the house under call.

PRESIDENT MAURSTAD: The house is under call. Would unauthorized personnel please leave the floor. Would members please return to the Chamber, record your presence. Those members that are in the Chamber, please record your presence. The house is under call. Senator Raikes, could you check in, please? Thank you. Senator Brashear, could you please check in? Thank you. Senator Hartnett, Senator Thompson, Senator Chambers, the house is under call. Senator Baker, are you authorizing call-in votes, or do you want a roll call vote? Roll call vote has been requested. Senator Thompson, the house is under call. Roll call vote has been requested. The question is, shall debate end? Those in favor vote aye; those opposed vote nay. Mr. Clerk.

CLERK: (Roll call vote taken, Legislative Journal pages 1420-1421.) 20 ayes, 21 nays to cease debate.

PRESIDENT MAURSTAD: Debate does not end. The call is raised. Further discussion on the Bourne amendment? Senator Beutler.

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SENATOR BEUTLER: Mr. Lieutenant Governor, members of the Legislature, I didn't join in the debate on General File, but I did try to listen to portions of it and I remember at one point in time there was a brief discussion of the Kansas experience with respect to this particular question and, as I recall, Senator Bromm was going to look into the Kansas experience and see if, in fact, things had happened in Kansas just as described on the floor of the Legislature, and I would be interested, after speaking, in whatever Senator Bromm discovered with regard to the Kansas experience. But for those of you who, like me, were distracted on other matters in the first round of debate, let me describe for you, and I'm...I am reading from Senator Bourne's handout, but I want to read the Kansas experience again because if, in fact, it's accurate, which I believe it to be at the moment, it's a fairly devastating example of what can happen: Twenty years ago, educational employees in Kansas were insured by a statewide health plan. Then individual subgroups began to drop out of the plan, enticed by lower, although temporarily lower, premium rates. The statewide risk pool was put into a death spiral because of adverse selection and eventually collapsed. Some employers were large enough over time to survive by creating their own plans, but with skyrocketing premiums and many smaller employers found themselves virtually uninsurable. Virtually no insurance company was willing to write them under any circumstances. As a result, Kansas is now in the process of trying to reestablish a risk pool that would cover education employees. Smaller school districts have petitioned the state of Kansas to allow these school districts to join the risk pool that provides insurance coverage to state employees. Their experience conclusively demonstrate...demonstrates what happens when insurance companies are given the opportunity to pick off or cherry-pick subgroups which may temporarily experience lower utilization. Under such circumstances a statewide plan will ultimately collapse. Again, we seem to be...have in front of us the question of a plan in existence which most people seem to be happy with, which gives good benefits, which is a substantial portion and an important portion of the teacher benefit programs, and yet we seem to be willing to take a chance and to risk instability to have something different than what the teachers themselves regard as in their own best interests. So, again, I would like to hear

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why the Kansas story is not an example of which we should take some great cognizance. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Beutler. (Visitors introduced.) Senator Bourne, on AM1339.

SENATOR BOURNE: Thank you, Mr. President. Members, (inaudible) just a few comments. I wanted to kind of respond a little bit to Senator Vrtiska. He indicated that he did not understand this issue and I would respectfully suggest to him that's the very reason you would not want to support it, meaning the bill. That's...that's the problem. The bill was supposedly written based on task force recommendations, but if you read the bill carefully and if you read the task force's recommendation or their report, the recommendations aren't in the bill. And so when Senator Vrtiska says he doesn't understand it but he's going to go vote for it anyway, I would suggest that that's exactly what we shouldn't do. We should take a slow, careful, measured approach to this to make sure that what we're doing is really the right thing and what...my amendment furthers that in that it...it makes...it leaves the successful pool that's formed now, leaves them out of this. I wanted to also comment on a couple of things that Senator Redfield mentioned. She compared health insurance to workers' compensation insurance and, while workers' compensation, they have pooled for quite some time now and quite successfully, but she also mentioned, and this is the very gist of my argument, she also mentioned that it's the ESUs and the school districts that are doing this. In her example, those are homogeneous groups and that is exactly what you want in group insurance. You want these groups to be as similar as possible. You want their utilization rate to be as similar as possible to each and every member in that group. And when she says that workers' compensation has been successful, it has, but because they have honored the very premise of group insurance in that, that group is similar. They're homogeneous. They've mixed ESUs and they've mixed school districts and that's why it's successful, just as the teachers' alliance pool has done. They have mixed like interests. That's why it's successful. And she also mentioned that two districts in her...or two school districts in her district have left the pool, and she didn't mention the schools, but...in...on the General File debate she

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mentioned that one of those school districts was Ralston. That is incorrect. Ralston has never left the teachers' alliance pool. They're still there. What Ralston had done was changed their deductible and their benefits within, so they're still a member of the teachers' pool; they've just changed the benefits. And when Senator Landis mentioned that this is a benefit rich pool he's exactly right, but school districts, which are subgroups within the teachers' alliance pool, have the autonomy to change the benefits in the way that they want. If they want a higher deductible, they can do that. If they want a higher stop loss limit, they can do that. If they want to add certain types of coverage to their insurance, they can do that. Any school district who is a submember of the teachers' alliance can change the benefits as they see fit and that's what they did in Ralston. They did not leave the pool. They changed their benefits, just like anybody can do. This pool, the teachers' alliance pool, is not mandatory. Anybody is free to come and go as they see fit. It's done all the time. We saw Millard leave. Now they want to come back because they have had higher rate increases. One thing I wanted to point out, when you read the green copy of the bill we're talking about instability and that and I want to tell you how important this is. If you read the green copy, on the bottom of page 6 it says, "no risk management pool organized pursuant to the Intergovernmental Risk Management Act," which is the act that LB 664 amends, "shall be a member of the Nebraska Life and Health Insurance Guaranty Association". What the Nebraska Life and Health Insurance Guaranty Association is, is a group; is basically when an insurer goes bankrupt in this state...

PRESIDENT MAURSTAD: One minute.

SENATOR BOURNE: ...the Nebraska Life and Health Insurance Guaranty Association steps in and pays the claims for the members of that group. So what we have is we have Blue Cross and Blue Shield who are members of the Nebraska Life and Health Insurance Guaranty Association, but this new pool would not be. So if this new pool came out and two cities formed it and had financial problems, they would not be covered by the Nebraska Life and Health Insurance Guaranty Association. So who would make up the difference if that pool failed? The taxpayers. So

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we keep hearing how this is going to cost the taxpayer or it's going to save the taxpayers money and I would...I would suggest to you that by the very fact that there is not this reinsurance, if you will, that if that pool fails, if the new merged pool fails, the taxpayers are going to pay the bill. We have a successful pool now that is in no jeopardy of failing, and primarily because their insurer, their carrier, is Blue Cross and Blue Shield, who belongs to the Nebraska Life and Health Insurance Guaranty Association and the state...

PRESIDENT MAURSTAD: Time.

SENATOR BOURNE: ...and that group would make up the claims.

PRESIDENT MAURSTAD: Thank you, Senator Bourne. Senator Bromm, followed by Senators Baker, Redfield, and Tyson.

SENATOR BROMM: Thank you, Mr. President. I don't want to forget to mention a couple things. You may have noticed that there was an AG Opinion requested on this bill and the Opinion was filed last week. It appears on the docket following the amendments and, basically, the Attorney General's Opinion was that there was no...no constitutional problem with the bill, in case that was a question in someone's mind. Senator Bourne makes a point about the fact that people can come and go now with respect to their insurance coverage under this alliance. I would submit to you that it would be the same after the passage of this bill. People could come and go. It's just that right now if people do want to go, particularly any smaller group or small school, there's no place for them to go, and there may not be after passage of this bill. Again, it's been said and said that this is totally voluntary, totally permissible. Thirdly, Senator...Senator Bourne made a point at one time, not in this last comment but the previous one, about oversight or...or how this arrangement now is...has all the supervision of the Department of Insurance. My understanding is that the Department of Insurance monitors the financial stability and...and the backing of the Blue Cross Blue Shield Company. They do not get into monitoring this particular plan. They do not provide oversight to this plan, but to the company that provides this insurance. Now, under the pooling arrangement, if

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a group chose to do that, and let's talk about a group of towns, for example, because that's not apparently quite so controversial, if a group of towns decided to pool, municipalities, there would be oversight into how this...how stable this arrangement was to begin with, what the agreements were with respect to termination or pulling out of the pool, what the reserves were, what the claim loss experience is. There would be an independent auditor who would review the application and the financial stability and so all of that would exist with regard to the particular pooling arrangement through our existing Department of Insurance, and I think they've done a pretty outstanding job on the other pools that exist right now. The workmen's compensation pool, for example. We've not heard of problems with that, that I know of. This is based on the same principles, the same principles as what...as what the workmen's compensation pooling arrangement would be. The...again, when I introduced this bill, I truly didn't...didn't anticipate this much opposition from teachers or now Blue Cross Blue Shield because they both were on the task force, they both supported the principles of this kind of pooling arrangement or pooling legislation which would enable people to partake in pooling. And, in...

PRESIDENT MAURSTAD: One minute.

SENATOR BROMM: ...fact, there was no opposition at the committee hearing. There was testimony in support from Blue Cross Blue Shield and it's only after the bill gets to the floor and Senator Baker prioritizes the bill do I find any opposition. And so I've been somewhat puzzled by it all, to tell you the truth. I want to just reiterate that this, again, is a totally enabling statute. It is simply to enable governmental subdivisions to have the option of looking at pooling and, if so, it's going to take a lot of work for them to put something together. I don't see that taking away from the educational alliance pool at this point in time. If, down the line, that becomes a significant concern of theirs...

PRESIDENT MAURSTAD: Time.

SENATOR BROMM: ...I would hope that they would extend overtures

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to groups to use them as the pool. Thank you.

PRESIDENT MAURSTAD: Senator Baker, followed by Redfield, Tyson, and Raikes.

SENATOR BAKER: Thank you, Mr. Lieutenant Governor. Members, I do want to stand corrected that Senator Bourne pointed out that there is oversight. What this bill would do is put five-tenths of one percent of the annual contributions of...in health insurance pools into the insurance premium fund, so that is correct. Back to the bill, LB 664 is a permissive bill; it's not a mandate. I'm consistent, I think, in my arguments, as you're going to see here in a few minutes. This is not a mandatory bill. It's simply permissive. It allows these political subdivisions, by adopting the Bourne amendment, you would take out that option to the community colleges, the school districts, the ESUs, the state colleges. That, to me, is a mandate saying we...you're not going to get out of this...this group insurance plan. And you have to keep in mind that this is all dealing with public money, taxpayer funded insurance policies. I have a letter here from a small village in my district stating that they have three full-time employees, which they cover their health insurance on. The premium averages \$1,100...almost \$1,120 per month for these public employees in this village. I don't know what their deductible is, he didn't say, but I'm assuming it's \$250 or \$500 at least. Eleven hundred and twenty dollars per month per employees, a group of three, and they're having a hard time getting insurance. This is all public money and people continually say that the larger the pool the better. Well, why do we want to isolate the educational part of this? There's groups within the Bourne amendment that want out of it now. The state colleges, the ESUs, the...the community colleges, they want out. They want these options that the bill provides. We've got to keep in mind this is all taxpayer money. The larger the group, as Senator Beutler said, the better. Why do we want to restrict the size of the education group, and let's let some other folks in. It's all public money, public subdivisions. I do have a question for Senator Bourne and I, honestly, would like the answer to this if he can...

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PRESIDENT MAURSTAD: Senator Bourne.

SENATOR BAKER: ...find it. Senator Bourne?

SENATOR BOURNE: Yes.

SENATOR BAKER: In this Nebraska Education Health Care Plan Governance Agreement on page 2, subsection (4), it says that there's a Rate Stabilization Reserve Fund established, and it goes on further to say that the fund will maintain the minimum level of 35 percent of the annual premium of the total plan. Could you tell me or can you find how many dollars are in that and what the...what that plan...how it's been used, you know, the last, say, three or four...I think this plan actually, this agreement, has only been in place, what, three years now? Could you tell me what's in that fund or how it's...what the balance has been?

SENATOR BOURNE: Senator Baker, I have not seen that agreement that you're talking about and...but if you'd like to pass it on I'd be happy to review it and find out the answer to that question. But, again, I have not read that particular agreement.

SENATOR BAKER: Okay, that's fair enough. I'll give it to you here soon as I'm done speaking. That would be fine. I have explored some...gotten some information from some Kansas school districts. Of course, my district borders Kansas so we do have some contact with Kansas districts. I guess you can play the numbers game and find numbers that suit your purpose and I'm sure both sides have done this. I have a district here that's a...I consider a fairly large district, about 300 FTEs. They have their own group plan. And I...I know for a fact from the...well, this...this fax that I sent, their premiums are similar to Nebraska's premiums for a family, but they do have a \$1,000 deductible. They have a deductible type pool within the school system, so the teachers don't have to pay that \$1,000 deductible. It's money saved by premium...premiums put into...

PRESIDENT MAURSTAD: One minute.

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SENATOR BAKER: ...a pool that pays the deductible. Very similar and I...as I said, it's a fairly good size district. They have about 300 FTEs. So I don't...I don't know that there's been a train wreck in Kansas. I have another district, a small district, and it, likewise, pretty similar in coverage and costs, and there's a difference in dental and so on, et cetera, but very similar. And I can't say that the disintegration of their pool in Kansas has had a detrimental effect. There may be a district some place that had some catastrophic losses. I don't know. There again, you can pick those districts out and use them as examples saying here's a complete failure. Here's a couple districts that have not had a complete failure so that's the information I have. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Baker. Mr. Clerk, items for the record?

CLERK: Mr. President, Senator Chambers has an amendment to LB 797 to be printed. New A bill: Senator Suttle offers LB 398A. (Read by title for the first time.) And I have a hearing notice from Health and Human Services on certain gubernatorial appointees. That's all that I have, Mr. President. (Legislative Journal pages 1421-1422.)

PRESIDENT MAURSTAD: Thank you, Mr. Clerk. Pursuant to the agenda, we will move to General File 2001 senator priority bills. Mr. Clerk.

CLERK: Mr. President, LB 75, a bill introduced by Senator Connealy. (Read title.) The bill has been discussed by the Legislature, Mr. President. When last discussed, Senator Connealy had offered FA153. Senator Chambers had offered FA162 as an amendment to the Connealy amendment. (FA153, Legislative Journal page 1320; FA162, Legislative Journal page 1379.)

PRESIDENT MAURSTAD: Senator Connealy, well, here's Senator Chambers. Senator Chambers, probably the best way to approach this would be, Senator Connealy, why don't you take just a few brief moments, explain your amendment and then I'll recognize Senator Chambers to provide a similar brief update on his amendment to your amendment and then we'll open up debate.

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Senator Connealy.

SENATOR CONNEALY: Thank you, Mr. President. My amendment to LB 75 would exempt for a time period stations that just have one tank. And, of course, this bill is the bill that would require ethanol blended gasolines in the lowest octane rating of gasoline in every station in the state.

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

SENATOR CHAMBERS: Mr. President and members of the Legislature, my amendment would simply change Senator Connealy's amendment to strike "one storage tank" and insert "two storage tanks".

PRESIDENT MAURSTAD: Thank you, Senator Chambers. Debate on the Chambers amendment to the Connealy amendment to LB 75? Senator Raikes, followed by Senators Hilgert, Connealy, Chambers and Baker. Senator Raikes. Passing. Senator Hilgert. Passing. Senator Connealy.

SENATOR CONNEALY: Thank you, Mr. President. To bring us all back up to date, LB 75 would require that ethanol be offered at gas stations in the state. Currently, 38 percent of the stations in the state don't offer ethanol blended fuels. What we'd hopefully do with LB 75 is increase the usage of ethanol in the state, thus cleaning the air and using a Nebraska product, a product that would replace foreign oil. By putting it in the lowest grade, the lowest octane fuel, we would be able to offer a less expensive product to the consumers and most consumers are price and octane buyers so we'd hopefully increase the sales of ethanol in the state of Nebraska. I have offered an amendment to allow that stations that have one tank, the stations that Senator Jones had talked about in his district, to be allowed to have a five-year period that they wouldn't have to comply with the law. And, of course, Senator Chambers had offered an amendment that would allow for two tanks to be exempted for the five-year period. That would increase the exemption. I'm in opposition to the Chambers amendment. Thank you, Mr. President.

PRESIDENT MAURSTAD: Thank you, Senator Connealy. Senator

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Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, we need to discuss once again what this bill is about. The purpose of the bill is to run regular gasoline out of the state. Ethanol is an inferior product. It is one which has not gained acceptance by the motoring public. There are rural areas of the state, there are farmers in the state who reject ethanol as a motor fuel. Those who know it best reject it. Regular is the overwhelming choice of consumers who drive automobiles. The investors, the producers, the purveyors of ethanol are business people. Their goal is the goal of all business people is to make as much profit on their product as they possibly can. They would also like to eliminate competition. This bill is designed to make the consumer the victim of investors, producers, and purveyors of ethanol. All of them realize they are pushing an inferior product. They cannot justify it on its merit so they want the state to come in, run the competition, which is regular gasoline, off the market and hope that people will be compelled thereby to buy ethanol. The only other alternative would be premium which we know is going to be at a much higher cost than ethanol. If this were a good product, we wouldn't have to hear the phony arguments such as help the farmers. They're not going to help the corn grower. Whatever the price of ethanol is is not going to raise the price per bushel that a farmer gets for his or her corn. It is not one of those items that the government should step in and use its power to compel people to utilize that item. We're being asked to pervert the power of the state. We're asking...we're being asked to destroy the principles of the marketplace. Let those market forces come into play and the product which is desired by the public will remain there. Let ethanol scramble for its share of the market in the marketplace, not by trying to pervert the power of the government to make it drive the competition out of the market and thereby compel people to buy an inferior product. This talk of buying ethanol to be loyal to Nebraska is crazy. This is a bill designed to help a few investors and purveyors and producers of ethanol. That's what it's for. I say again to my good friend, Senator Connealy, and his band of followers, corn is to be eaten. You can eat it off the cob, you can eat it out of the can. You can eat it as corn pones, corn fritters. You

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can eat it as cornflakes. You can drink it as corn liquor if that's your propensity. But it should not be in automobile tanks. Senator Connealy knows that if corn was to be in automobile tanks it would have been created as fuel.

PRESIDENT MAURSTAD: One minute.

SENATOR CHAMBERS: It wouldn't have been created as little kernels on a cob designed for human consumption. This is a bad bill however it is viewed. The public overwhelmingly purchases regular gasoline. Even when there are three pumps, regular, ethanol, and premium, ethanol comes in third. It should have to stand on its own merits which it cannot because it lacks merit. I am in favor of my amendment and opposed to the bill.

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

SENATOR BAKER: Thank you, Mr. Lieutenant Governor, members. I rise in opposition to the amendment to the amendment. Just as a practical matter, this amendment is going to create all kinds of mischief. We haven't defined bulk tanks for people who retail fuel to farmers, ranchers, it says tanks and those are retail tanks. It's simply bulk. And we've also not defined how we're going to define a tank if it's compartments. I know that a lot of tanks hold two products. There are compartments within a tank. That's not answered in this amendment so I rise in opposition to both amendments. Speaking to the bill which we're going to have to decide on here before too many more hours, and these are facts that were in the Lincoln Journal yesterday pointing out the increase in ethanol sales in Nebraska. Ethanol in 1999 was 24 percent of the fuel that we sold, 215 million gallons; in 2000, 35 percent, 295 million gallons. This was in the Lincoln Journal yesterday. Things are going up, they're looking up. We're moving right along where we want to go. Thirty-five percent of the gasoline sold in the state had 10 percent ethanol blended in it last year. It's price sensitive, no question about it. I do disagree with Senator Chambers when he says it's an inferior product. It's not an inferior product. If we can sell 89 octane ethanol at the same price or less than 87 octane no lead, that's a bargain for the

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consumer. There's more energy in it. It's 89 octane, not 87 octane, same price. Sure they're going to buy it. They look at that octane rating, say I can get more for my money when it's the same price. And if we can get the price of ethanol down just slightly more and decrease the price of ethanol blend, then you're going to see consumption go up more and more. My own experience in our store is that the last ten days we're selling about 40 percent ethanol, 60 percent no lead. The price has been the same. Last summer when ethanol was priced less than no lead, we sold 50 percent of each so price sensitive, no question about it. I did drive through Senator Schrock's district as I do every time I go home. In Holdrege, Casey's out west, same price for ethanol 89 octane as 87 octane; ag co-op, same price; Bosselman, same price; Texaco on the east edge of town, same price. The retailers have responded as they will. There's always lapse time in there when the price of fuels change that people have current inventories or fuel under contract that rather than sell it at a loss they may not adjust their retail prices on a daily basis, but they have. It's been about two weeks now that the price of ethanol has been the same price per gallon as 87 octane no lead. And out in my area, likewise, McCook, they're all priced the same. So that's the free market working. And as you see that price come together, your percentage of ethanol sales are going to increase. So I have to disagree with my good friend, Senator Chambers, on this bill. Ethanol is not an inferior product. In all honesty, it's superior. And it increases the octane rating and that's a measure of energy in it so I rise in opposition to these amendments. I think they create more mischief than they would try to solve. Also it's still a mandate. It only goes...it gives these small stations until I think it's 2006 to get in compliance so it's a mandate. It's just simply postponing the effective date. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Baker. Senator Cunningham.

SENATOR CUNNINGHAM: Thank you, Lieutenant Governor and members of the body. I, too, would like to disagree with my good friend, Senator Chambers. Senator Chambers, ethanol is a cleaner burning fuel. It does have valuable place in our

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marketplace today. I was still getting some information so I'm not ready to even talk yet, but I'll try. I'd like to read you some information. General Motors says GM recommends that you use this gasoline. Ford Motors, Ford approves the use of reformulated, cleaner burning gasoline to improve air quality. Dodge and Chrysler, we strongly support the use of reformulated gasolines. Properly blended reformulated gasolines will provide excellent performance and durability for the engine and fuel system components. Honda, to meet clean air standards, some areas of the United States and Canada use oxygenated fuels to help reduce emissions. Toyota, Toyota recommends the use of cleaner burning gasoline and appropriately blended reformulated fuels. These types of gasoline provide excellent vehicle performance. They reduce vehicle emissions and improve air quality. Kawasaki, gasoline containing up to 10 percent ethanol is approved for use. Yamaha, gasohol containing ethanol can be used if ethanol content does not exceed 10 percent. Gasohol containing methanol is not recommended. This is Harley-Davidson motorcycle, your motorcycle will run normally using this type of gas and Harley-Davidson recommends you use it when possible as an aid to cleaner air in our environment. So I guess I do disagree with Senator Chambers on that statement. My car manual, by the way, says it recommends the use of ethanol and I will have better performance with ethanol. And then another issue I disagree with the good senator is he said if there were three pumps, regular, ethanol and premium, ethanol comes in third. My information says that ethanol sells somewhere in the area of 35 percent and premium sells 10 to 12 percent. And another issue is the...putting the profits in the hands of just a few farmers and a few big ethanol companies. One thing you got to realize and I brought this up the other day, when you take in the price of defending our oil fields, the gasoline would be about \$5 a gallon. And right now we don't use any military force to defend the cornfields. So it's just a "no brainer" to use ethanol. And then the statement that ethanol doesn't help the farmer, it doesn't raise the price of corn. Well, I think it's been proven that ethanol does raise the price of corn by 5 to 15 cents a bushel within a 100-mile radius of an ethanol plant. So one of the problems, there are so many myths out there about ethanol and we need to get over those myths. But when we get over them, we find that we have an excellent

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fuel and we need to use it because it will help our farmers, it will help rural Nebraska and all of Nebraska. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Cunningham. Senator Connealy.

SENATOR CONNEALY: Thank you, Mr. President. Senator Baker says that we are increasing the use of ethanol in the state of Nebraska so we don't need this bill. We don't need to increase ethanol use anymore and I'd argue that we do. This is wonderful news that we are increasing the use of ethanol blended fuels. We need to continue this. We need to show other states a new way. Traditionally, Nebraska has been a leader in the ethanol industry as it has been with other areas. But we tend to be rather conservative, we tend to like progressive ideas, but we don't necessarily want to spend a lot of money. That really fits this bill. LB 75 will be a state initiative to increase the use of ethanol blended fuels across the United States because this is a new way to do it, a new way to clean air and clean up our gasoline across the country. I believe that as we implement LB 75 other states will look at this model and take this on instead of the Minnesota model which required or mandated ethanol in every fuel, this is more of a way to require the offering and show that we can have ethanol blended fuels in the lowest grade of gasoline. If we do this here, do it in Iowa, do it in other places around the Midwest, I believe that we'll have a consistent, long-term increase in ethanol use. Many stations promote ethanol. I passed around a letter from a convenience store owner, Neal Hoff, in Hastings. And his last paragraph was, "Not all customers choose E-10 unleaded" although more than half of the customers at his station do, but at least they have the choice. And I believe it's a choice that Nebraskans deserve to have no matter where they fill up. And that's exactly what LB 75 would do, would offer a choice of a lower cost, higher quality fuel for all consumers across the state at every station in the state. And so I urge you to continue to support LB 75 and oppose the Chambers amendment.

PRESIDENT MAURSTAD: Thank you, Senator Connealy. Senator Smith. Senator Smith.

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SENATOR SMITH: Thank you, Mr. President, members. I rise continuing my opposition to LB 75 and I will still take time to look at the amendments, but over the weekend it was interesting hearing from someone who deals with various retail establishments in terms of gasoline and said that a mandate like this will put small retailers of gasoline out of business. If they have to add a tank, they won't. And the point is that I think a mandate like this is the wrong way to go. Anytime we're going to narrow the availability of the gasoline and whatever you want to call it, big oil, whatever, anytime we limit the availability, competition becomes less. And if we can maintain greater availability and be a little more creative in our approach to promoting ethanol rather than mandating its sale, and mandating the use is one thing and mandating the sale is another, but mandating the sale, assuming that people will buy it or assuming that the price will result in a certain manner, I believe is not a good policy and we should not go in that direction. Thank you, Mr. President.

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

SENATOR CHAMBERS: Mr. President, members of the Legislature, I'd like to ask my distinguished colleague, Senator Matt Connealy, a question or two if I may.

PRESIDENT MAURSTAD: Senator Connealy.

SENATOR CONNEALY: Yes.

SENATOR CHAMBERS: Senator Connealy, if you're not trying to drive regular off the market, why don't you simply say that one of the pumps must offer ethanol and don't even talk about minimum octane?

SENATOR CONNEALY: I am trying to offer more choice. I do not want to limit choices. I want to continue to have a regular without ethanol, but I want a regular with ethanol offered in Nebraska. And if you do not structure the bill the way we have it, then that won't happen.

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SENATOR CHAMBERS: But, Senator Connealy, isn't it true that if you don't get this subgrade gasoline you're talking about there is no way that regular can be sold in the state because ethanol will be 89 octane and regular will be 87? Isn't that true, if you don't get that subgrade?

SENATOR CONNEALY: If you don't get 87, you wouldn't get regular either. You have to have a subgrade with ethanol to make it an 87 octane regular gas, but that's available just as regular 87 is available, as premium gas is available. It's just another product.

SENATOR CHAMBERS: Okay. You're going to evade so I'll ask you a different question. What is the federal subsidy per gallon on ethanol? Is it above 50 cents, 53 cents, or is it below 50 cents?

SENATOR CONNEALY: It's above 50 cents.

SENATOR CHAMBERS: It's 53 cents a gallon. Thank you. Members of the Legislature, that's why I say this is an inferior product. When you subsidize it at the federal level 53 cents per gallon, that means the stuff is not going to sell. You know how you determine whether a product is inferior or not in this capitalistic society? Will it sell? That's how you determine it. The actual quality in the abstract does not come into play at all. It's why big companies try to hire clever advertising agencies because the public is going to go for the advertisement and not the product. If the product were not inferior, we would not have to try to get the state to drive the competition off the market. We would not have to subsidize it at the federal level 53 cents per gallon. Senator Baker and others want to talk as though the public is going to analyze in a chemical method the relative merits of 89 octane ethanol versus 87 octane regular. People who burn regular are going to burn regular gasoline. People who don't like ethanol are not going to buy ethanol period. What Senator Baker was trying to show is that sales of ethanol are increasing without a mandate such as this, and that increase is based primarily on the attempt of the ethanol purveyors, investors, and producers to advertise the product, to oversell its benefits just like every other product

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uses puffing, not quite honest pitches to get the public to go for it. As for these corn prices that Senator Cunningham talked about, he said that corn growers within 100 miles of an ethanol plant may raise the price they get per bushel by 10 to 15 cents. I would like to ask Senator Cunningham a question if he will answer.

PRESIDENT MAURSTAD: Senator Cunningham.

SENATOR CUNNINGHAM: Yes, thank you.

SENATOR CHAMBERS: Senator Cunningham, I see you've come out of your coat, too. You're ready for battle this morning.

PRESIDENT MAURSTAD: One minute.

SENATOR CHAMBERS: How many corn growers are within 100 miles of an ethanol plant if you know?

SENATOR CUNNINGHAM: I don't know, Senator Chambers, but it is quite a few.

SENATOR CHAMBERS: What percentage of corn growers are near an ethanol plant?

SENATOR CUNNINGHAM: What would the answer be? A good...

SENATOR CHAMBERS: No cheating. Look at me if you're going to look at somebody and answer if you know and don't if you don't. You really don't know, do you?

SENATOR CUNNINGHAM: I don't know the answer to that.

SENATOR CHAMBERS: So you just gave us a figure that really has no direct connection to what I'm talking about in terms of the overall increase per bushel that a corn grower would receive. You're not talking about the overall price per bushel in Nebraska, but only a small percentage. Would that be right?

SENATOR CUNNINGHAM: I'm talking within a 100-mile...

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PRESIDENT MAURSTAD: Time.

SENATOR CUNNINGHAM: ...radius of the plant.

SENATOR CHAMBERS: Thank you.

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

SENATOR JONES: Mr. President and members of the body, I want to stand and talk just a little bit about my area up there and how that I cannot buy ethanol up Highway 2 hardly at all now. But I'm concerned about the small stations, and I think Senator Smith already alluded to that to find out whether they're actually going to be able to stay open if this bill passes. I do have a question for Connealy on one question that I'd like to ask him.

PRESIDENT MAURSTAD: Senator Connealy.

SENATOR CONNEALY: Yes.

SENATOR JONES: Yes, I want to give you an example of my station at Oconto that I deal with. Right now he carries 89 with ethanol and he carries 89 without ethanol, the two pumps, and the diesel. And he delivers 87 out to my farm. What will happen if this passes if he has to carry the low grade? What's he going to bring out to my ranch, the 89 with ethanol?

SENATOR CONNEALY: If this would...if he has 89 without ethanol and 89 with ethanol?

SENATOR JONES: Right.

SENATOR CONNEALY: And 87 on the tank wagon?

SENATOR JONES: Yes.

SENATOR CONNEALY: Then he's in compliance with the law now. His lowest grade offered at the station would be the same with ethanol. So right now he would be in compliance. This is at

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service stations.

SENATOR JONES: He could still deliver the 87 out to my ranch.

SENATOR CONNEALY: Yes.

SENATOR JONES: But I didn't think he could carry that without ethanol in the lowest grade at the station because he's bringing it from the station to my ranch.

SENATOR CONNEALY: If he has an 87, an 89, and an 89, then it would need to be in the 87. But if he's offering only...under your premise, he was only offering 89 as his lowest grade at the station, then that would be okay. What hopefully we'd do is offer an 87 octane with ethanol. That's what we're hoping to get at every station in the state. And it could mean that he would not have an 89 with ethanol, but I would argue that that 87 with ethanol would be just as high quality a product and you wouldn't be paying for octane you wouldn't need.

SENATOR JONES: If we got 87 with ethanol in every station across the state, my concern is are they going to be able to get 85, the substandard, to all them stations?

SENATOR CONNEALY: We had testimony at the Natural Resources Committee hearing that 85 octane was available, was easily transportable through the pipeline to Nebraska. That if the retailers were required, that they would supply the gasoline. Octane actually is a value so you'd be able to buy the 85 at...the retailers would be able to buy the 85 less expensively than 87 that they're currently buying.

SENATOR JONES: I got one more question. I got some small airplanes in my district, and they're allowed to burn the regular so they are using 87 now. So if they had 87 with ethanol, they cannot use it in the planes. So they would have to carry another tank for that then to service them then.

SENATOR CONNEALY: I would think that the 87 octane without ethanol would be available everywhere. Even if you have to have small tanks, you could do that.

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SENATOR JONES: Okay, thank you. I think the whole key to this whole thing is without mandating it is, is the pricing. If it's priced the same or less, it's going to sell because a lot of the people drive up to the pump and see it's 2 cents less, it will sell. So I think that's the key to the whole thing. Thank you.

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Thank you, Senator Jones. (Visitors introduced.) Mr. Clerk, priority motion.

CLERK: Mr. President, Senator Baker would move to bracket the bill until March 13, 2002.

SENATOR CUDABACK: Senator Baker, you're recognized to open on your bracket motion to LB 75.

SENATOR BAKER: Thank you, Senator Cudaback and members. We've had a lot of debate on this and I think it's time we moved on. I don't know how much longer you senators want to spend on this, but this is going to decide I guess if you want to continue to talk on this. I haven't even started into a lot of my material so we can do that. I'd just mention Senator Chambers or Senator Connealy said that they had testimony at the committee hearing that they could provide this material, this 85 subgrade fuel in Nebraska and look at the committee statement. The only people that might have said that would have been Williams Energy Services. And as we've determined over the course of the debate, they're not a refiner, they're a pipeliner. They own a small interest in a refinery in Memphis and one, a small interest that they got as a result of a merger with MAPCO, another pipeline company I think in Georgia. So they're not the people you need to talk to about providing the product. They're a pipeline company and, you bet, they're going to say we can provide it to you. But they're the ones that are going to have to provide the additional facilities. And Williams Brothers...Williams Pipeline does not go into western Nebraska that I know of. It's KaNeb out there so they weren't present at the hearing. I've talked to them and they said, sure. Of course, that's the company that pipelines the fuel to the Sidney

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terminal. They've said, yes, we can provide it to the other terminals; but, you know, there's a lead time of a couple years to see if they want to put in the facilities, the tanks and so on. So it was interesting to see who the opposition was. To be honest with you, I guess I hadn't paid too much attention to the committee statement. Obviously, the supplier, one of the larger suppliers in this area was Whitehead Oil, Mark Whitehead testified in opposition to the bill. And I don't have a transcript of it, but I would guess he's echoing a lot of what I'm saying. This is putting ourselves at the mercy of big oil. We're going to mandate subgrade 85 octane fuel to be used in Nebraska, we are at the mercy of the refiners and the pipeliners. You talk about getting yourself into a tight box with no way out, we'd be doing just that. And also in opposition is the Nebraska Sierra Club. I'm going to have to go pull the hearing, the transcript on this. I don't understand that, but they are in opposition to this bill also. So as I said before early this morning, the consumption of ethanol has gone up dramatically in the last year. I don't know why we want to upset the apple cart when we're up to 35 percent for the year 2000; 35 percent of total no lead sales contained ethanol last year, 295 million gallons. That's be 29.5 million gallons of ethanol that was consumed in the state. And I'm wondering if we're going to mandate people buy this and retailers market it that we ought to make sure that there's no ethanol imported into Nebraska. It's also got to include in this committee, in the green copy or an amendment that says any ethanol used in Nebraska shall be produced in Nebraska, not imported from wherever. That's something I don't think the bill addresses in any way, shape, or form, imported ethanol being used in Nebraska. I know for a fact that we tried to buy ethanol out at the Sutherland plant for our own use, retail, couldn't get it. So I'm not sure that all the ethanol that's being used in Nebraska is even being produced in Nebraska. So with that, I'd ask people to support the bracket motion. It will give us a chance here to see what happens in the next year with the market. There may be some changes, and I think the more important issue we are faced with as a policy-setting body is LB 536. I think we need to let LB 75 sit, go to LB 536. It's out of committee. It's Senator Cunningham's priority bill, Senator Dierks' bill, get this LB 75 off the plate for now and

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move to LB 536. It's way the more important bill of the two. I've talked to many constituents over the weekend, they agree with me, even the people who said what are you doing opposing LB 75. Once I explained this to them, they were in agreement. They understood the problems involved with mandates and trying to use a product that does not now exist, it's not available in Nebraska except at Sidney terminal in limited quantities, too, I might point out. So with that, I'd ask to...people to support the bracket motion. It would give us a chance to see what happens to the markets. If the trend continues like it has in the last 12 months, we'd ought to be up to somewhere around 46 percent of the total fuel used in Nebraska, gasoline that is, would contain 10 percent ethanol. If we can get up to 46 percent, that's quite a growth. That's another 80 million gallons of product. It'd be 8 million more gallons of ethanol used so this would give us a chance to take some observations and go from there. Thank you.

SENATOR CUDABACK: Thank you, Senator Baker. You've heard the opening motion on the bracket motion. There were several lights on prior to the motion and they are Senator Hilgert, Connealy, Baker, Chambers, Stuhr and Bruning. Senator Hilgert, your light is next.

SENATOR HILGERT: Thank you. Thank you, Mr. President, members. I have a question for Senator Cunningham if he would yield.

SENATOR CUNNINGHAM: Yes, I will.

SENATOR CUDABACK: Senator Cunningham.

SENATOR HILGERT: In the testimony, the debate that you gave the last time you were up you talked about our oil fields and the cost of defending our oil fields. Could you elaborate on that?

SENATOR CUNNINGHAM: Well, I don't have the specifics in front of me, Senator Hilgert, but those figures included just every-day military operations. It didn't include the cost of like the Persian Gulf War or any of those types of things. It's just the every-day efforts.

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SENATOR HILGERT: So you're not talking about Louisiana or Texas or Alaska or the California coastal regions or anywhere else that the United States has oil fields?

SENATOR CUNNINGHAM: I couldn't truthfully answer that.

SENATOR HILGERT: Do we...

SENATOR CUNNINGHAM: All the figure said was it came to \$5 a gallon.

SENATOR HILGERT: Where else do we have oil fields?

SENATOR CUNNINGHAM: Well, most of our oil is imported from the Middle East.

SENATOR HILGERT: Well, we don't own oil fields in the Middle East, do we?

SENATOR CUNNINGHAM: No.

SENATOR HILGERT: Okay, so they're not our oil fields, are they not? They're the kingdom of Saudi Arabia's, they're Kuwait, they're other countries that own these oil fields. They're not our oil fields, are they?

SENATOR CUNNINGHAM: Correct, no.

SENATOR HILGERT: We have 37,000 troops in South Korea. Do we have oil fields or does someone have oil fields in South Korea which is the basis of our deployment in South Korea?

SENATOR CUNNINGHAM: Not to my knowledge.

SENATOR HILGERT: In Macedonia, in Kosovo, we have troops deployed there as well. Do they have oil fields in Kosovo or Macedonia?

SENATOR CUNNINGHAM: Not to my knowledge.

SENATOR HILGERT: In central Europe we have a large presence.

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Is there oil fields in Germany that we're protecting?

SENATOR CUNNINGHAM: Not to my knowledge.

SENATOR HILGERT: Okay. Do you have any communication with Secretary of Defense Donald Rumsfeld that will indicate that if we pass LB 75 that our defense commitments in the Middle East will reduce?

SENATOR CUNNINGHAM: Well, when I had him over to dinner the other night, I was joking there, no, I don't.

SENATOR HILGERT: Well, I don't think it's funny because, you know, we deployed 652,000 troops to the Middle East in Desert Storm. And to make this idea that that was only to defend our oil fields I think is insulting to Nebraska's veterans, to this country's veterans. And of all the arguments that I've heard for LB 75, frankly, that is the most ridiculous one I've heard, that if somehow we pass LB 75 that our defense commitments in the Middle East will somehow be reduced. Frankly, I find that somewhat offensive. I talked about this when you mentioned that earlier, but I'm not going to let the statement go unchallenged. It really is offensive. I do think that whether we pass LB 75, whether Nebraska disappears as a state, our defense commitments in the Middle East will not be affected let alone the passage of one bill in this Chamber. Thank you.

SENATOR CUDABACK: Thank you, Senator Hilgert. We are discussing the motion to bracket LB 75. Senator Connealy.

SENATOR CONNEALY: I rise in opposition to the bracket motion. I know Senator Baker has been opposed to the bill since the beginning. He wants to quit debate. That's appropriate for his position. This is a bill that would increase the consumption of ethanol in Nebraska. It is a bill that won't cost the state money. It will improve the air, improve our gas delivery system in Nebraska. Retailers don't want to be told what to do. They don't want to be told that the pool of gasoline will be broadened to include another product that we believe would be a superior product, a product that we would allow consumers to have more choices. Senator Smith brought up that retailers

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could be put out of business by this bill. I disagree with that. We've also...we've talked about the committee, I mean the amendment that we had up would exempt one tank facilities. There would be no one would have to add a tank. If you're offering two different grades, then you'd have ethanol in the lowest octane in one of those tanks. Senator Jones says there's a lot of the state out his way that you can't get ethanol. And I would argue that that's because retailers are not delivering the product that is better for the state, better for the consumers and better for the air. I rise in opposition to the bracket motion and ask that your support for killing that motion.

SENATOR CUDABACK: Thank you, Senator Connealy. (Visitors introduced.) Senator Baker, on the motion to bracket.

SENATOR BAKER: How did I get ahead of you?

SENATOR CHAMBERS: Because you had your light on before.

SENATOR BAKER: Thank you, Senator Cudaback, members. Back to Senator Jones' question. Senator Connealy and I are interpreting this green copy differently. Section 2 it says each, I guess Senator Jones isn't here, but "Each retailer of motor fuel shall offer for sale, at the lowest octane rating sold by the retailer at that location, motor fuel which contains a renewable fuel content equal to" you know, the ethanol. If he's offering, Senator Jones, 89...or he's selling 87 octane fuel, he's going to offer that as ethanol as I understand because I don't see any exception there if they're going to...just because he's offering 89 octane ethanol at a pump, how can he get by with selling 87 octane no lead to a farmer out of his same tanks? I don't understand that. I guess my question there is I don't see that in the green copy. He also, Senator Connealy distributed a letter from Uncle Neal's Country Convenience Store in Hastings. And as I said in prior discussion that this bill would no doubt increase business at our family-owned store. As I said, I was home this weekend, talked to a lot of constituents and I have three people now come up to me and say, well, if this passes, one of them has a card controlled system with one tank, two compartments in that one

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tank. They're selling road diesel, off-road diesel, and no lead 87 octane fuel. It's a co-op is who it is with a card control and that's it. You have to have a card to buy fuel. It's out...the tank is out away from a town. They just said we're not going to do it. We are not going to upgrade that system. It's expensive. It's a low volume location. We're just going to close it. And if you're going to close that, you're going to put some people at a real inconvenience. You're taking away some competition for those two grades of fuel. It's an inconvenience. The price is going to go up obviously. When you start restricting competition, up goes the price. That's just the free market at work. I still defend ethanol. I did an interview with the radio station out there, and I really truly believe we need to get LB 75 behind us and get on to LB 536. That is a bill that's critical to the ethanol industry in the state. And I also find it rather ironic in reviewing my files that Williams Energy had a couple people up here lobbying us on the bill early on it seems like when it was heard in committee. I think they were up here testifying probably is the reason they were here, but they were in my office. They were looking for subsidies for ethanol production. Why? Williams Energy Services owns an interest in the York plant, the ethanol plant, I believe. I don't want to put Senator Stuhr on the spot, but I think we'll verify that and that's what they told me. I'm just sure that's right that the pipeline company also owns an interest in an ethanol plant. Farmland also owns an interest in the ethanol plant in Aurora. They told me that myself straight to me on the phone. So there's conflict written all over this bill, whether it's retail or ethanol producers or big oil, whatever. This bill opens up a whole can of worms if it should be passed. And for that reason, I'd ask for your support on my bracket motion. Thank you.

SENATOR CUDABACK: Thank you, Senator Baker. The motion before us is to bracket LB 75 until March 13, 2002. Those wishing to speak are Senators Chambers, Stuhr, Bruning, Kremer, Burling, Connealy, Schrock, and Beutler. Senator Chambers.

SENATOR CHAMBERS: Mr. President and members of the Legislature, the last exchange that took place prior to Senator Baker and Senator Connealy speaking had merit on both sides. Senator

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Hilgert was very upset because he thought Senator Cunningham was making an insulting comment about people who fought in the Gulf. Senator Cunningham's error was in saying "our oil fields". But it is clear that America sends large complements of troops where oil interests are at stake. Many people in this Chamber don't remember what happened during the Vietnam War. There was a large oil concern known as Cities Services, C-i-t-i-e-s, Cities Services that was drilling off the coast of Vietnam and they made it clear to this government that they needed military protection for their drilling operations, and they were protected. America has an interest in the oil that comes from the Middle East. America, however, does not own the oil wells so both of them were somewhat correct. I do agree with Senator Hilgert entirely, though, that passage of this bill is going to have no impact on what's happening in the world oil market, whether it's in the Middle East, Africa, off the North Coast, I meant in the North Sea or anyplace else. I just wanted to pour a little oil, if you will, on those troubled waters. Back to this bill. Senator Connealy, if he thinks that ethanol can compete with regular and he thinks this subgrade is going to be available, he should not craft his language in terms of the lowest grade having to be an ethanol blend. He should say 87 octane will be the lowest octane level. Then ethanol would have to bring in this subgrade to compete. But it's foolish for this body to buy the bill of goods that an oil company is going to sell a cheaper product when it can sell a more expensive one. Let me tell you, brothers and sisters, what I'm talking about. An oil company refines this subgrade 85 octane. It refines the higher grade 87 octane which is regular. Regular will burn in your car, 85 octane will not. Why would a refiner sell a cheaper grade for which it gets less money when it can sell a more expensive grade? If you once pass this bill, take 87 octane off the market, then the company, the refiner will send only 87 into this state in order that ethanol will have a vehicle to ride. Ethanol is a product added to gasoline. Currently, it's added to 87 octane and raises it to 89. If you pass this bill and the lowest grade has to be an ethanol blend, the refiner is going to say, shall I send cheaper grade into Nebraska and make less money or should I send my more expensive grade and make more money? I know what I will do. I will send 87 octane into Nebraska and regular will be off the market for

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the consumer but the refiner will still be selling his 87 octane because it's the only gasoline that Nebraska can add ethanol to. So it's foolish for us to accept the notion...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...that this subgrade will come into Nebraska that will lower the profit of the refiner. And they're not going to do that. If there's a demand for 85 octane someplace, they'll continue to send it there. But they're not going to lower their profits in Nebraska by sending in the cheaper 85 octane when they can continue sending in the more expensive 87 octane. By sending in the 87 when ethanol is added, it raises it to 89 which means that unleaded 87 will not be available to the consumer. But 87 octane will still come into the state and raise the octane level as well as the price. I'm for the bracket motion.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Stuhr, on the bracket motion.

SENATOR STUHR: Thank you, Mr. President and members of the body. I stand in support of the bill as I have spoken previously and certainly oppose the bracket bill (sic, motion). I really can't understand this. I think that if a person supports ethanol that you would be supporting this bill. It doesn't make sense to me that people can find I think just some kind of an instance to not support it. And what I'm talking about is I found an article in our paper that appeared last summer. And it said, an interesting aspect in Nebraska is that ethanol usage wanes as you move through the state, that the larger, greatest percentage of ethanol is actually sold in the eastern part of the state and then as you move west it decreases. And when I read that, I really wondered why. I think one of the reasons could possibly be that people just simply don't understand it. You can always find excuses for not supporting a particular issue. But because of the education issue, this was one reason that the Corn Growers Association actually began an education campaign, and I think that that is certainly paying off. We've seen an increase of about 10 to 11 percent in the usage of ethanol. And I think it proves that

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if people really understand and they don't follow those myths that some of those myths developed back in the 1980s when we started using the product. And someone said, well, it's really never been ethanol that caused those problems. Some of them were improper blending, some facility issues, pricing has been mentioned, and some of that has been carried over. And that's why I think it's very important that we continue our education campaign that really proves that ethanol is good for our economy, it's good for the environment, it's good for our vehicles. And I think one of the themes have been in the education campaign is let's get with it, Nebraska. And I say that for all people across the state, let's get with it. I can't understand how we keep saying, well, we're going to support another ethanol bill, but we're not going to support this. It seems to me that we all need to be in this together. Nebraska has a...their economy...ethanol has a rippling effect actually. The ethanol industry has provided over 1,000 jobs. Another 4,700 jobs have been generated in the industry related service sector. We've had capital investments of over \$1 billion in Nebraska. Right now we do have seven ethanol plants. We're looking at adding some additional because we use over 370 million bushels...no, over 200 million bushels of corn that have produced over 370 million gallons of ethanol. Ethanol is really the third largest user of the corn that we produce in this state, and I think that's very, very important to our economy. Again, I know Senator Cunningham mentioned about how it is good for automobiles. It can be used. Most of all of the warranty guidelines...

SENATOR CUDABACK: One minute.

SENATOR STUHR: ...now encourage the use of ethanol in cars. Also the environment, it has helped to clean the air in many of our American cities. And it does, we've talked a little bit about being more energy independent. Ethanol production today reduces the demand for imported oil by more than 90,000 barrels per day. And I think that's a very, very important aspect. Twenty-three gallons of domestically produced ethanol can displace one barrel of imported oil. So I believe that we need to oppose the bracket motion, continue with our discussion in the support of ethanol. As I said before, it's good for our

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economy, it's good for our environment, it is good for our vehicles. With that, thank you.

SENATOR CUDABACK: Thank you, Senator Stuhr. Senator Bruning.

SENATOR BRUNING: Mr. President, members of the Legislature, I rise in opposition to the bracket motion brought by my friend "Texaco" Tom Baker who I thought about renaming J.R. Ewing. He's the one guy that actually owns oil wells around here along with "Exon" Ernie and now my friend here "Amoco" Adrian Smith. Let's call one for the home team here. This is Nebraska. This is a corn state. This is a huge part of our economy. What are we doing here? This is our gym. We want the refs to call one our way. Ethanol is good for this state. It's good for the environment, haven't heard anybody dispute that. It reduces our reliance on foreign oil. I haven't heard anyone dispute that. Those two things alone are enough for me to support the bill, those two things alone--reduction of foreign oil, good for the environment. Then you take the economics into it, and there's been arguments about whether it's going to be useful for our farmers or not. But in my opinion, it's pretty elementary economics that if you raise the need for the corn, the farmers can ship it a very short distance because we have ethanol plants here in Nebraska. You increase the market. It's going to be good for our people. Why would that not be good for our people? I do want to put on the record one clarification to a statement I made the last time and I mentioned this to Senator Chambers. I had said that Minnesota produces only 20 percent of its 85 octane. That is not accurate. Minnesota refineries produce 80 percent of the 85 octane gasoline. They import 20 percent. I was given that information in good faith from the Williams people. They realized that it was inaccurate and they quickly tried to remedy it. I'm trying to remedy it here on the floor and I did tell Senator Chambers that that was inaccurate information. But regardless of that, this is a corn state. We need to support ethanol. This is absolutely a state where our agricultural economy is driven by the sale of corn. Why would we not want to increase the markets? We need to call one for the home team. We need to end the filibuster that's going on here and vote on this bracket. I'm almost excited there's a bracket up so we can finally take a vote on something of

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importance here. We've been talking for eight hours, most of it just talk, some of it actual debate, some of it just time consumption, but this is a good bill. This is something we need to move forward, and I oppose the bracket motion and support the bill. Thank you.

SENATOR CUDABACK: Thank you, Senator Bruning. Senator Kremer on the bracket motion, followed by Senator Burling, Connealy, Schrock, Smith and Chambers.

SENATOR KREMER: Thank you, Mr. President and members. I, too, oppose the bracket. I think I will try not to repeat what Senator Cunningham or Senator Stuhr or Senator Bruning have said. I think they're very good points. A couple points I'd like to make, I think we're kind of looking at a lot of small things, whether the number of tanks or whatever might be. I'd like to draw our attention to the big picture--energy in our country. We know that they're short of energy. We've seen a tremendous mark up in prices of natural gas, of diesel fuel, of all kinds of energy. Why is that? That's because we're dependent on the Middle East and foreign oil to supply all our needs. I hear that the mandate would make the price go up. Why would not the 90 percent be more of a mandate than a 10 percent? What else do you have to put in the fuel other than gasoline so you have 90 percent that's a mandate? Why will not the 90 percent drive the cost much more than the 10 percent? Last year I heard many times that the mileage that you received on your car was less if you used the blend. I thought I would just try it out for myself. My wife and I had to take my granddaughter to Ohio soon after the session ended last year so every other tankful I put in the blended ethanol, every other tank regular gasoline. I got better mileage on the blended ethanol fuel. Another thing is I think we keep talking about the "suboctane" fuel not available. If I would put in an order for anything, if I run a hardware store and had an order in for 100 shovels, I'm sure somebody would supply that. If we had a need for the "suboctane" fuel, there would be plenty of refineries to come in and supply that need. I heard, too, that will this be passed on to the farmers? Will the farmers benefit from this market? Why wouldn't they any more than if we sent corn to China where we need a market for our crops is why we

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have such an oversupply in this country. Partly what happens when we have an oversupply is we also have good cheap food, the cheapest food in the world; but we still need a market for our products. I hear will the farmers benefit that? They will. And I hear that if it's just a small area around an ethanol plant that would benefit, if the corn was all used by an ethanol plant within a 50-mile radius, that would be corn that's not available to export to China or Mexico or wherever it might be. So then the other areas would have a chance to fill that market. So it does not just affect the area right around the ethanol plants, but it does the whole state. Another point that I keep hearing all the time that it's a product that people don't want. Now my math might be kind of bad, but if I put this... started writing down some figures here, I heard this morning that ethanol is being, the blend is used in 35 percent of the automobiles. Thirty-five percent of three different products, you have a premium, you have an 87 octane, an 89 octane, 35 percent of three products makes me say it's the product of choice. Then you'd want to top that off with there's about 35 percent of the stations don't even offer it. So if they would offer it, it would raise it somewhat over the 35 percent so to me it is a product of choice. The place where I buy my gasoline I consistently stopped in last year and asked them what they could price the blend, the ethanol blended fuel at compared to the regular. And just about all the time up until recently they could offer it for a penny or two pennies less, and they always did that. And at that time...

SENATOR CUDABACK: One minute.

SENATOR KREMER: ...60 percent of the people were using ethanol blend. Now that to me says that it's a product of choice, that people do want to use it. The problem is that we have a lot of stations that don't offer it. How many businesses can survive if your competitor priced your product for you or even let you offer it? So that's what we want. We want it to be offered at all stations. Another thing we talked about or we hear that the big ethanol plants are the ones making the money. Who's the counterpart to that? We have many ethanol plants in Nebraska that hire a lot of employees, they increase our tax base. The counterpart of that is a refinery and we don't have any

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refineries in Nebraska. So if it doesn't go to our ethanol plants, even if the farmer wouldn't benefit from it, it would benefit our economy and our rural areas because we would be able to offer jobs and increase our tax base. And so I think it's a plus...

SENATOR CUDABACK: Time.

SENATOR KREMER: ...and many others have said that, too, it's a quality product. It's environmentally sound and it's something that should be offered, at least made available...

SENATOR CUDABACK: Time, Senator Kremer.

SENATOR KREMER: ...to people that want it. Thank you.

SENATOR CUDABACK: Thank you, Senator Kremer. On the motion to bracket LB 75, Senator Burling.

SENATOR BURLING: Thank you, Mr. President, members of the body. We've been discussing this quite a little this year. We discussed it last year. I think maybe it's time for us to move on this and so I'm opposing the bracket motion. We've heard words like mandates and regulations, whatever word you want to use. Yes, we have those. This body passes regulations on a regular basis for businesses. And I shared the other day that in my business we face regulations continually. And I just have to look at it like it's in the public interest and I hope that's why we pass regulations on businesses because it's in the public interest. And if it's in the public interest, somehow we adjust. These businesses, these retail outlets will have time to adjust to the new regulation and it's in the best interest of the public. So I think especially in a time when the interest in energy is at its peak, it's a good time to take a look at renewable energy. We have it right here in Nebraska. I don't know what, if fossil fuels are an inexhaustible supply of energy or not, but grain and grass fuels are annually renewable and they'll be available. We have in our agenda this year a bill called Invest Nebraska. And I think maybe this is probably the best Investment Nebraska bill we might even discuss this year because it does...it has a lower fiscal amount on it than LB 620

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and the product is already right here, being grown right here in this state. The tax incentive is not as expensive, be a little cost to the retailers. But if we want to invest in Nebraska, let's invest in this bill by opposing the bracket motion and moving it forward so that Nebraska can take the lead on promoting the use of ethanol. And I believe that availability does have a direct correlation to consumption and by increasing consumption we will send a message to the country that we need to use this product more for the good of environment and for the good of less dependence on foreign oil. Thank you.

SENATOR CUDABACK: Thank you, Senator Burling. Senator... (Visitors introduced.) Senator Connealy, on the bracket motion.

SENATOR CONNEALY: Thank you, Mr. President. I'd like to yield some time to Senator Landis.

SENATOR LANDIS: I promise to yield it back as well but I just wanted to point out that this issue has brought Carroll Burling to his feet twice. This is the impending Burling filibuster here on this measure, and I'm thrilled that Tom Baker has found a way to do this. I in fact was instructed by his remarks and I'm delighted to have him join in the debate, and I wasn't sure if everybody else noticed that he'd thrown a good punch here and I was listening. I thought it was a good speech. Senator Connealy, you can have your time back.

SENATOR CONNEALY: Thank you, Senator Landis. I once again rise in opposition to the bracket motion. We talked about what this will do for the state of Nebraska, what it will do to retailers and why would, if you believe what I'm saying, why would retailers be in opposition to this bill? I do not think it's going to put them out of business. I don't think it's going to cause great disruptions within the system. What it will do is it will hopefully put a pract (phonetic) in the market that will drive the price down of gasoline. Currently, we've had over the last five years ethanol blended gasoline to the retailers at the wholesale level underpriced regular gas, consistently for five years. The retailers have been able to buy ethanol blended fuels for less money on an ongoing basis than regular gas. But

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as you all know from your own experience for over the last five years, ethanol mid grade gasoline has been higher or at the same price as regular gas. That's been an extra margin for what the retailers call a boutique fuel, a small fuel; and that's exactly the problem. They've been treating ethanol blended fuels, a Nebraska product, a product that's cleaner and better for our state on multiple levels, as a boutique fuel. What we want to do with LB 75 is change that perspective, change the 85 with ethanol to the majority fuel, to the fuel of choice here in the state of Nebraska, to take away the boutique or the small status of ethanol blended fuels in Nebraska. Ethanol fuels are increasing in usage. A lot of that has to do with price. They've had the price come down to even lately because of the price of ethanol. They've been trying to react to that market, but they haven't gone far enough. We've seen for a five-year period where retailers have charged more for a product that they purchased at a lower level. This bill would increase the usage of ethanol blended fuels here in the state of Nebraska, and I ask that you oppose the bracket motion.

SENATOR CUDABACK: Thank you, Senator Connealy. Senator Schrock, on the motion to bracket LB 75.

SENATOR SCHROCK: Mr. President and members of the Legislature, I oppose the bracket motion. Not supporting ethanol in the state of Nebraska is kind of like going to a cattlemen's banquet and finding out that fish and chicken are the only things on the menu. A lot of people are pulling into service stations and they're finding ethanol is not on the menu. And that's what this bill is all about. And we would like ethanol on the menu at the lowest price possible because for many years the price of ethanol has not been fairly priced to the Nebraska consuming public. And, yes, the petroleum marketers who sell the OPEC oil have not always treated us fairly. My hat is off to those who have, but for many reasons I oppose this bracket and I do support ethanol in the state of Nebraska and most of you know that.

SENATOR CUDABACK: Thank you, Senator Schrock. Senator Smith, on the motion to bracket.

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SENATOR SMITH: Thank you, Mr. President, members. I rise in favor of the bracket motion because I do not support a mandate. And the last time I spoke, I just kind of briefly touched on the fact that I had received a call from someone who is pretty familiar with the retail establishment and the sale of fuel. And actually this person visits retailers of fuel on a regular basis that are mom and pop operations and realizes that this bill will put them out of business. This person has no interest, he doesn't get paid commission, he is a common every-day person who sees the impact of this legislation as a mandate. It's a mandate on a retailer and on retailers in general. And anytime we have those mandates, we're going to see negative consequences. And I believe those negative consequences will take the form of higher prices. There's no guarantee that ethanol will be the lowest-priced product available to the consumer. It's just that that's the lowest octane. And let's take, for example, or let's assume that the oil companies are these mean and evil folks that Senator Bruning has alluded to and assume that they're going to just try to just squash the ethanol industry because that's after all what they're all about. And they can price the product however they want. Now I certainly don't want to get into price controls, and I hope that no one else does here. But I think that we need to vote for this bracket motion so that we can ultimately avoid this mandate that would be placed on retailers and consequently the consumer. Thank you.

SENATOR CUDABACK: Thank you, Senator Smith. Senator Chambers, on the motion to bracket.

SENATOR CHAMBERS: Mr. President and members of the Legislature, I want to acknowledge what Senator Bruning did by telling the entire body that the figures he read had been reversed, that Minnesota refines 80 percent of the subgrade and brings in 20 percent. And he told me that before he told the body. As soon as he got the corrected information, he did bring it to me. In addition to giving him credit for that, I want to say again he's starting to dress like an Attorney General. He's just not going to win though. But it's good to have him running like this because he participates in debating more issues now. He's been with the teachers, he's now with the corn growers, he's

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going to be with the hog producers, and he's going to be with everybody and that's what a real politician has to do and it's good to get practice on the floor. But before I continue with that, I have to say that he has got...he gave a good slogan for the whole state of Nebraska, Nebraska is a corn state. And I can see him going out among the hustings, not the husks, and saying Nebraska is a corn state; vote for me for Attorney General. Nebraska is a corn state. When he goes to these conventions all around the world, Nebraska is a corn state. That's what I'm going to say from now on because I agree with him. It is a corn state. And one reason it lacks stature is because it has a corn state mentality where it does not diversify. It is not cosmopolitan. It is narrow-minded. It has turned inward. It fears anything that upsets what they consider the status quo so I think what Senator Bruning did this morning was put the perfect cap on the bottle--Nebraska is a corn state. Now back to the subject at hand. You know why ethanol ought to be selling a lot cheaper than...let me ask Senator Connealy a question, if I may, before I proceed.

SENATOR CUDABACK: Would you respond, Senator Connealy?

SENATOR CONNEALY: Yes.

SENATOR CHAMBERS: Senator Connealy, to your knowledge, is regular gasoline which is produced by any refinery subsidized by the government in a direct way as is ethanol?

SENATOR CONNEALY: Not in the same way as ethanol, no. There are depletion tax credits and business ways that gasoline is subsidized.

SENATOR CHAMBERS: Well, that goes to the people who invest in looking for oil rather than subsidizing gasoline. The oil depletion allowance goes to those others. But it is not a subsidization of regular gasoline. These are different things.

SENATOR CONNEALY: That's correct. It's not...

SENATOR CHAMBERS: Thank you.

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SENATOR CONNEALY: ...subsidized as the 53 cents as you mentioned before...

SENATOR CHAMBERS: Okay, now...

SENATOR CONNEALY: ...which works out to 5.3 cents a gallon for fuel.

SENATOR CHAMBERS: Thank you. Now being a city slicker, I may not know the difference between canola oil and soybean oil, but I know the difference between oil depletion allowance and a direct subsidy. Now ethanol with its subsidy should be selling at the pump for 79 cents a gallon. You know why they're not selling it cheaper than regular--because they're gouging the consumer. They are gouging, gouging, gouging. Senator Schrock has even said that. The consumer is being gouged on the price of ethanol. You know why? Because whoever sells any product wants to make as much money as it possibly can. What I'm going to do is look at how the vote goes on this bracket motion. We're going to be on this bill, even if it goes to Select File, for at least eight more hours over there. If it fails to get 33 votes against the bracket motion, it could be in trouble. And I know everybody is going to think about their own interests. But I don't care whether the body votes to bracket or not. I'm going to support the bracket motion. But if you don't support the bracket motion, I will be happy to renew acquaintances with LB 75...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...on Select File. As a matter of fact, I'm going to raise a glass of water for auld lang syne, should old acquaintance be forgot, and that's what I will say, I won't sing it, as I reacquaint myself with LB 75 on Select File. But just remember this, brothers and sisters, I have my amendments on the bill. They follow that bill in the same way that barnacles attach to a ship, go wherever the ship goes. So it's up to you. It's in your hands. I'm going to watch and see how this plays out.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator

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Connealy, and this will be your third time, Senator.

SENATOR CONNEALY: Thank you, Mr. President. Back to the subsidy for ethanol blended fuels. I don't want people to have the wrong impression. The 53 cents a gallon is on the ethanol, not on the fuel. So as you divide that by ten as one gallon of ethanol goes into ten gallons of fuel, it changes that to 5.3 cents per gallon of fuel and that is a subsidy, and a subsidy that's in the 89 that's in there now or the 87 that we are hoping to drive into the state with changing the way we deliver ethanol blended fuels in the state of Nebraska. This would once again not replace the regular gasoline in the state of Nebraska with just regular with ethanol. This would not require that you get rid of the regular blended fuels. Most places in the state will have both. That's our assumption. And even though we believe that it would be better for the state, better for the economy, all the jobs that are generated from the ethanol plants, all the corn that's consumed or sorghum that's consumed in ethanol production, all the better cleaner air, I still believe that you'll be able to get the ethanol I mean the regular fuels without ethanol everywhere in the state. We are not driving that out. Last year we started off with a bill that would require ethanol in every gallon of fuel, and there was some problems with that. People worried about older cars, worried about airplanes, worried about mowers. There's no problem with this bill. This bill will deliver a regular blended fuel without ethanol everywhere in the state. We're just asking that they also offer the better product, the product with 85 octane than ethanol to bring it up to a regular grade gasoline with ethanol. I would ask that you would not support the bracket motion.

SENATOR CUDABACK: Thank you, Senator Connealy. Senator Chambers, on the bracket motion, and this will be your third time, Senator.

SENATOR CHAMBERS: Yes. Thank you. Mr. President and members of the Legislature, as a state senator from the corn state, I have a few things that I would like to say on this motion. Much of what can be said from the technical side, from the economic side, from the mandate side has probably been said several

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times. But it's going to all be said several more times if we don't bracket the bill. If the bill is not bracketed, what happens? We simply continue debating it until we reach a point where the introducer wants to try to seek cloture. Will he get his 33 votes? I'm not sure. But I've been reading some things about another bill which is going to have to go to cloture which does not show that new people in the Legislature understand the dynamics around here. They got 31 votes to pull that fetal tissue bill out of committee. The easiest vote is to get somebody to vote to pull a bill. The hard vote is to get them to vote for cloture. If you only get 31 votes on the easy vote, where do you think you're going to get 2 more votes? You need to look at who did not vote to pull it, and you're not going to convert any of them. You got 31. So don't get too overjoyed. Don't let people outside the Chamber tell you about the great strength of a bill because it doesn't matter how many votes the bill has if it does not have the number to achieve the goal that you have in mind. Let's say it gets 32 votes and 1 leaning. You need 33 votes which you have not got. Now I'm going to give some advice to my friends who slept on that Omaha and Lincoln bill, but I'm not going to give it on this one. Since this is my third time to speak and I need a little more time than I'll have, I'll save that advice for another time, maybe another day. But this is a bill, LB 75, which definitely does not deserve to be enacted into law. If people want to toy with it, tinker with it, let it take some more time because you think I cannot last eight hours. But I don't have to do that alone. Senator Baker has done yeoman work. Senator Smith has gotten into the mix, and others are starting to see that this is not good policy for the state. As we proceed if the bracket motion is unsuccessful, we will be able to show you that there is not going to be a subgrade or an 85 octane that is going to come into the state. That would be foolish for a refinery to do. Let's say that you need soybean...you need corn to make a product. Corn you can get for 50 cents. Soybean will also be used for the product. It costs 75 cents. I sell both corn and soybean. You've got to have one or the other. Why should I sell you cheap corn when I can sell you expensive soybean and you've got to buy from me? I'm going to sell you the expensive soybean because you've got to have it. That's how the state is put at the mercy of big oil. You are not going to reduce the cost of ethanol blend

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fuel. You are going to drive regular off the market. You're going to increase the cost of ethanol. It will be the only game in town. So the refinery does not even have to think about finding 85 octane.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: If they...if Nebraska retailers would say we will not buy any grade from you other than 85 octane, then retailers are going to have no gasoline at all. They won't be able to sell that ethanol alcohol. It's not fuel. So they'll say, okay, we'll buy what you'll sell us, that's 87 octane. We will add the ethanol which makes it 89 and regular cannot be sold. That's the way this thing is going to work. It is a bad bill, a bad policy. The good thing is to vote for the bracket. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Baker, no further lights being on, you're recognized to close on your motion to bracket LB 75 until 3-13-02.

SENATOR BAKER: Thank you, Senator Cudaback. I would ask for a call of the house and then I'll go ahead and close on my motion.

SENATOR CUDABACK: All in favor of the house going under call vote aye, opposed nay. Record please, Mr. Clerk.

CLERK: 17 ayes, 0 nays to place the house under call.

SENATOR CUDABACK: The house is under call. All unauthorized personnel please leave the floor, unexcused senators please report to the Chamber. The house is under call. The house is under call. Senator Baker, your time is rolling.

SENATOR BAKER: Okay, thank you, Senator Cudaback and members. I take issue with people saying I'm doing this and I don't support ethanol. Folks, if I didn't support ethanol, I'd let this bill go flying right on through and a year or two from now I'd be back saying this was a giant mistake, I told you so. We're putting ourselves in a position to have to listen to the dictates of big oil. We've discussed this thing at length now.

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There's no 85 octane subgrade in Nebraska except the Sidney terminal. We're banking on the fact that statements made by Williams Energy Company, yes, we can get it in to you. Number one, they don't have the refining capacity to do it. Number two, they own an interest in the Aurora plant Senator Stuhr points out, not the York plant. Williams Energy has an interest in the York or in the Aurora, Nebraska, ethanol plant, not York as I had stated earlier. I wanted to clarify that. So here's a pipeline company that has no refining capacity to speak of saying, sure, we can get you 85 octane. You didn't see Farmland Industries or Conoco or NCRA or who was the fourth one we talked to, you didn't see them up here saying we can get this in to you at a cheaper price. They weren't here at the hearing. They didn't say that. They're sitting back licking their chops saying, boy, if they pass that thing we've got them now. We'll give them 85 octane at whatever price we decide it's going to cost them, because it's a mandate, we have to use it. The pipeliners are going to do the same thing. We don't have the facilities at these terminals. We're going to bump the price of transporting that 85 up to pay for our facilities we have to add in a matter of a few years instead of carrying it out 10 or 15 or whatever to recapture their investment. We're going to put ourselves at the mercy of these pipeliners and refiners so don't tell me I don't support ethanol in doing this because I support ethanol. I'm afraid if we pass LB 75 we'd see a decrease in consumption. Why? Because we'd be blending 10 percent ethanol with a higher priced product than we are now and it would drive it out of the market. The price would be higher than 87 octane. That's demonstrated by the terminal price printouts that I have here for the last year and a half. To expect them to change it because we mandate it I think you're absolutely dreaming. If they see that mandate, those refiners, pipeline companies are going to say, gotcha. We'll just instead of a nickel a gallon higher for 85 subgrade now it might be 10, 15 cents a gallon higher and we couldn't do anything about it. We don't have any refineries in the state. The oil production we have goes to refineries down south. We'd be at their mercy. If the ethanol producers, now I'm talking about the plants that are making this ethanol here in Nebraska, if they were sympathetic to the cause to increase consumption, they would not have followed the price of crude oil up last fall and winter. When they were at \$1.40 a

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gallon for raw ethanol, their corn costs or input costs went up some, not because of the price of corn going up. It went up some because of price energy and they could justify some increase. But to increase their price up to \$1.80 a gallon, that's simply the free market enterprise working. That's nothing more than just capitalism, folks. The demand was there. They didn't care about selling ethanol at a cheaper price than they could...in Nebraska than they could get for it in Arizona or California or wherever. They went with the market and they owe that to their shareholders. They weren't sympathetic to keeping the price of ethanol blended fuel in Nebraska down. That's why it went up 3 cents a gallon over the price of no lead 87 octane. So with that...

SENATOR CUDABACK: One minute.

SENATOR BAKER: ...I will close and ask that you support the bracket amendment because should this bill pass I think you could very likely see the price of ethanol go right out of the marketplace and we'd see a decrease in consumption. Thank you.

SENATOR CUDABACK: Thank you, Senator Baker. Senator Kristensen and Senator Thompson, the house is under call. Senator Thompson and Senator Kristensen. Senator Baker says to proceed. Did you ask for a roll call, Senator?

SENATOR BAKER: Yes, please.

SENATOR CUDABACK: Motion not being made by the primary introducer, that does require a majority of elected members. The motion before us is to bracket LB 75 until March 13, 2002. All in favor of the motion vote aye, opposed nay. Did you request a roll call, Senator? I'm sorry. Call the roll, Mr. Clerk.

CLERK: (Roll call vote taken, Legislative Journal pages 1422-1423.) 6 ayes, 28 nays on the motion to bracket.

SENATOR CUDABACK: The motion does not pass. Senator Chambers, your light is on.

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SENATOR CHAMBERS: Mr. President and members of the Legislature, 28 are not 33.

SENATOR CUDABACK: I raise the call.

SENATOR CHAMBERS: Something...oh (laugh)

SENATOR CUDABACK: Did you want something, Senator? I didn't know whether you wanted to...

SENATOR CHAMBERS: What would you have me do? Just take me off. Take me off the board.

SENATOR CUDABACK: It's off, Senator Chambers. It's off. Items for the record, Mr. Clerk?

CLERK: Mr. President, Senator Don Pederson, an amendment to LB 810 to be printed. Enrollment and Review reports LB 420 to Select File. That's all that I have. (Legislative Journal pages 1423-1427.)

Mr. President, priority motion. Senator Kristensen would move to recess.

SENATOR CUDABACK: The motion is to recess until 1:30. All in favor of the motion to recess say aye. Opposed nay. We are recessed.

RECESS

SPEAKER KRISTENSEN PRESIDING

SPEAKER KRISTENSEN: Good afternoon. Welcome to the George W. Norris Legislative Chamber. Legislators, would you please record your presence so we can begin this afternoon's activities. Roll call. Record, Mr. Clerk.

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

SPEAKER KRISTENSEN: Thank you, Mr. Clerk. Items, Mr. Clerk?

CLERK: Mr. President, I have but one item and that's a motion by Senator Beutler to LB 657 to be printed. It's the only item I have, Mr. President. (Legislative Journal pages 1427-1428.)

SPEAKER KRISTENSEN: Thank you. We next return back to LB 75. We are considering the Connealy amendment and a Chambers amendment to that amendment. Senator Chambers, when we left before lunch, your light was on. Do you wish to speak to this amendment at this time, and if you do, it would be your third time? (FA162, Legislative Journal page 1379; FA153, Legislative Journal page 1320.)

SENATOR CHAMBERS: I'm going to put my light on after others who may speak.

SPEAKER KRISTENSEN: I have no other lights on at this moment, Senator Chambers.

SENATOR CHAMBERS: Oh. Then I will speak now. Mr. President and members of the Legislature, what my amendment does is to amend the Connealy amendment. His says that for a five-year period, you will allow those who have one tank to stay in business. After that, it's curtains, the quietus. He is so intent on forcing people to use ethanol that he's willing to drive people out of business to try to achieve that unworthy nefarious goal. What I would like to do is mitigate the damage that his amendment is going to cause. But in addition to that, I do not like the bill, so I intend to continue battling against any form that this bill takes. But one thing that should be kept in mind. Laws that don't have teeth bring the entire law into contempt. This bill has no penalty if a retailer does not stock ethanol. But in order to find out whether there's a hidden agenda, I would like to ask Senator Connealy a question.

SPEAKER KRISTENSEN: Senator Connealy, would you respond?

SENATOR CONNEALY: Yes.

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SENATOR CHAMBERS: Senator Connealy, is there any provision of law anyplace else which would cause a retailer to lose his or her license, whatever it may be, if a law is not complied with, even when the law itself carries no penalty provision?

SENATOR CONNEALY: I'm sure that there is, but I don't know. I am not expert on that enough to know.

SENATOR CHAMBERS: Why did you not put a penalty provision in this bill?

SENATOR CONNEALY: We have other laws that do not have penalty provisions, like the labeling part that retailers have now don't...that doesn't have a penalty in it either.

SENATOR CHAMBERS: So it is your intention, and I want this in the record, that if a retailer does not comply with this bill, there is no sanction to be imposed against that retailer. Is that your intent?

SENATOR CONNEALY: Under this law, there's no...there's no sanction, but my intent is that they follow the law.

SENATOR CHAMBERS: But if they don't, there is no punishment that you intend to have imposed upon them for that?

SENATOR CONNEALY: That's correct.

SENATOR CHAMBERS: Thank you, Senator Connealy. Members of the Legislature, why put into law something that is the expression of a wish or a hope? Why don't you have Senator Connealy offer a resolution? When we are dealing with an area as serious as the one covered by this bill, it should not be designed to trick anybody. It should not be there to give retailers the impression that the full power of the state can come down upon them to punish them if they don't comply with a bill which is nothing more than the expression of a wish, a hope, a prayer. And as the late Dusty Springfield said, wishing and hoping and thinking and praying is not going to get it. It's all right to put that in a song, but it's unwise to put it in the statute.

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So if this bill continues to move, I will have to continue to fight it. I have a group of amendments. One of them would create a penalty in this bill. It would create a violation called a "fuel foible", f-o-i-b-l-e, and it would have a 2-cent per day fine, two cents per day for every day that a retailer does not comply with this law. I'd like to ask Senator Connealy a question.

SPEAKER KRISTENSEN: Senator Connealy?

SENATOR CONNEALY: Yes.

SENATOR CHAMBERS: Senator Connealy, would you support an amendment like that?

SENATOR CONNEALY: I like the sound of the amendment, but I probably would not because I don't think it's a serious amendment.

SPEAKER KRISTENSEN: One minute.

SENATOR CHAMBERS: If I tell you that it's serious?

SENATOR CONNEALY: No, I would not support it.

SENATOR CHAMBERS: What is interesting about it?

SENATOR CONNEALY: The wording and the two cents a day.

SENATOR CHAMBERS: Well, suppose I doubled the fine and called it something else?

SENATOR CONNEALY: I think that people will follow the law as stated in the law without the...without a penalty.

SENATOR CHAMBERS: That's all that I have, thank you, at this time.

SPEAKER KRISTENSEN: (Visitors introduced.) Senator Baker.

SENATOR BAKER: Thank you, Mr. Speaker and members. I rise in

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opposition to this. Actually I think maybe I shouldn't say that. I'll support the Chambers amendment, it's a step in the right direction, but I'm going to have to oppose then the resulting Connealy amendment. Number one, as I've said before, this amendment is going to create all kinds of mischief out there. There's not enough definitions. What about quantity of tanks? There are people in Senator Jones and my district, I'm sure others, that maintain a tank for kerosine during the winter or Number One diesel. Are those going to qualify as tanks or are they going to have to get rid of those? If they get rid of them, that's one less product that the retailers are going to be offering to the state's consumers out there. It's going to be an inconvenience and also probably increase the price. They're going to have to go to another retailer who does offer this material, whether it be kerosine, Number One diesel or whatever. We continue to gather information from refiners. Farmland Industries' refinery in Coffeyville, Kansas, does own an interest in the Aurora ethanol plant. They're opposed to the bill. They said they tried to produce some 85 octane fuel, tried to move it to Nebraska one year, but there were no facilities for it. And this is from Farmland Industries refinery in Coffeyville, said it was impossible to get the material marketed in Nebraska, just simply no facilities. They did produce some for the state of Iowa. They could not get the retailers there to market it, and they apparently had some tanks. They mentioned by...specifically Casey's said absolutely they weren't going to touch it. There's what they call a Reid Vapor Pressure problem with 85 octane. I'm learning right along with the rest of you on this, Reid Vapor Pressure problems and an interface problem with the refinery there in Coffeyville. I think what they were talking about was the volatility of it. I'm not sure. But the bottom line of that conversation with Farmland, we had two people on a phone there, Gene (phonetic) and Steve, said that, yes, if somebody mandates this, there will probably be somebody to fill that void in the market, but they would certainly expect it to be higher priced. And that would defeat the point of the bill again. We keep coming back to that recurring theme that says, yes, trust us, we can get it to you but we're not going to be able to furnish it at a competitive price or a price less than 87 octane. I've had some people with expertise in chemistry and physics call me, one of them from

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Senator Schrock's district, talking about the problems with emissions and so on, lower quality subgrade gas. They apparently...I...it's out of my range of expertise in this field, but there are people out there listening to us would have concerns and have expressed them to my office rather than others. Or maybe other people have got these also. As I said to begin with, I'm rising...I will support the Chambers amendment. It's a step in the right direction, but we're going to need some definitions here as to what tanks, what qualifies as a tank, volumes, quantities they hold, whether they're used year-round, whether a partition tank is considered one tank even though there may be two and up to three products in some of those tanks. This amendment is going to cause all sorts of mischief and real innovative thinking out there on the part of retailers. You start putting mandates on retailers and...and my worst fear is that you are going to force the retailers back against a wall, and if they are offering it, they're going to say, fine, we were offering a product at 89 octane, a superior product, requiring us to lower equality to the out-of-state people and to state residents to an 87 octane blend. That's fine. We'll price it at 15 cents a gallon higher. You got to go back to the bill. There's nothing in the bill that says retailers have to price anything at a certain...

SPEAKER KRISTENSEN: One minute.

SENATOR BAKER: ...markup and, of course, you can't legislative that anyway. So that's another one of the fallacies of the bill that, hey, you can mandate the offering of this fuel to the public. You have no guarantees or hope even of telling these retailers you will price it at a competitive level. In the first place, they may not even be able to obtain the product at a competitive label...competitive price, so they'll be forced, and legitimately so, to price this stuff 10 cents a gallon higher than what we're doing now. So with that, I rise in support of the Chambers amendment but will not support the resulting amendment of Senator Connealy. Thank you.

SPEAKER KRISTENSEN: Senator Connealy.

SENATOR CONNEALY: Thank you, Mr. Speaker. Members, yes, once

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again Senator Baker is correct, we...with this bill, we will be at the mercy of the oil companies. Of course, we're at the mercy of the oil companies right now. They can deliver fuel or have extreme price raises, like we had last week where the price of gasoline went up six cents. We are more reliant on the oil companies if we use more of their products. If we use less of their products, we mix more with a homegrown product, then by nature we will be less reliant. Part of the discussion earlier was on...on incentives for oil industries compared to incentives for petroleum. From "Oxyfuel News", October 16th, I'll read a little bit here, there is historically a large disparity between tax incentives for petroleum industry and for those...for the ethanol and renewable fuel...alcohol fuels, new General Accounting Office report finds. Conducted at the request of the ethanol-friendly Tom Harkin, and based on U.S. Treasury findings, the report found that since 1968 the oil industry has received \$150 billion in tax incentives, the largest deductions include \$82 billion tax break for depletion deductions, and \$42.9 billion through expensing the exploration and development costs. By contrast, since 1979, partial exemption from fuel excise tax for the ethanol industry has totaled about \$11.2 billion, maybe \$200 million in income tax credit, the report says. So there are federal costs for incentives to the ethanol industry, but there are also to the...to the petroleum industry. We are going to be reliant on the petroleum industry if this bill passes. But once again, we're going to be reliant on imported oil, on refineries outside of our state, no matter what we do, because that industry isn't here. I would urge your...not support for the Chambers' amendment and your support for LB 75.

SPEAKER KRISTENSEN: Senator Bruning.

SENATOR BRUNING: Mr. President, members of the Legislature, I rise in opposition to the Chambers' amendment. And I wasn't going to enter this debate again prior to 2:30, when we can expect a cloture motion. But I had to rebut my friend's, "Texaco" Tom Baker's, assertion that ethanol is an inferior product. We've heard a lot of things. And I think there is a chance, if somebody hasn't had enough sleep, that they might buy off on the argument that economically this isn't something we

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should do. There's a chance. When you get to the argument that "Texaco" Tom Baker made here a couple minutes ago that ethanol is an inferior product, that's where I think we've crossed the line. I mean, that...that's...that's where I'm bothered that this debate has...has gone awry. There is no vehicle, nobody has brought in a study that shows that ethanol will not work well in cars. Every major car manufacturer, if you look at your manuals, it says you can use ethanol blended fuel, every single one. I haven't had anybody pass out a study, I assume if it was out there they would have passed it out, that says ethanol is going to gum up my car and it won't work right. But I haven't seen that study. I haven't seen anybody forward a copy of the inside of their car manual that says ethanol is not going to work in the vehicle. We had that argument a year ago, or two years ago, whenever we last talked about ethanol, and I thought it was shot down pretty well at that time. But it's raised its head again, which is interesting, because some of the opponents of this bill say, hey, I support ethanol. They support ethanol, except they think it doesn't work in your car and it's bad for Nebraska's economy, and it's going to help the oil industry. I'm not sure where else you can go to support ethanol if those three things are the case. So I want to make it clear for the record that nobody here on this floor has proven that ethanol does not work in a vehicle, that it's going to gum up your vehicle, and it's going to cause problems in the way your vehicle runs. I have not seen any proof of that; I haven't seen anybody hand out any studies. The only thing we heard two years ago was, well my mechanic says it may not work. Well, your mechanic hasn't done a study on it. General Motors, every other car manufacturer, if you look in the guide that tells what fuels you can use in your car, they say that ethanol blended fuels work fine. We need to defeat this amendment and we need to pass this bill when we get the opportunity here at 2:30. Thank you.

SPEAKER KRISTENSEN: (Visitors introduced.) Senator Baker.

SENATOR BAKER: Thank you, Mr. Speaker. Members, I...I have to take issue with my good friend, back there in the back. I...Senator Bruning, I have never said this was an inferior product. My notes, and I didn't just write these, criticize Senator Chambers saying ethanol is an inferior product. It is

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not an inferior product; it raises the octane of fuel, it's clean-burning, it's...I...I...my notes here, superior product at the same price. We're talking about ethanol 89 octane fuel being a superior product to 87 octane ethanol. And I have not said ethanol was an inferior product; Senator Chambers did, but not me. I defend ethanol and I am a cosigner of LB 536, and I hope that this whole discussion here doesn't drag down LB 536, because that's a bill that's critical to be addressed in this session of the Legislature, as so many potential ethanol plants looking to build in Nebraska, that they have to know where we stand on that and get some...for some long-range planning. So please, if you misunderstood something I said, I need to right that or make sure you understand that ethanol is not an inferior product at all; it's much, much superior. Back to the bill itself, and I obviously am not changing my position on the amendments. I think the amendments are going to create tons of mischief out there. Senator Chambers pointed out there is no penalty to this bill anyway, so I'm not sure that it's workable at all the way it's put together. Back to the bill itself, I look at this as a bill based upon hope, you know, hope that the refiners get this 85 octane fuel to us at a reasonable price, a price that's less, and even...even the study, the Purvin Gertz, or whatever it is, study right in there says it averaged a half a cent a gallon less. We're not talking big, big pennies here, we're talking a half of a penny. That was in Minnesota, I believe without pulling the article up, it was a penny to two cents a gallon less in Iowa. We're not talking a major price break here, folks. That's the first hope, that the refiners are going to get it refined. The second hope is that the pipeline companies are going to get it to Nebraska and not charge us too much for building the facilities. This is going to include a tank at each terminal and rack piping and so on, to get it from the tank out to the trucks. If by chance this bill would somehow proceed to pass and with the time lines it has in it and not have these facilities in here, we'd be trucking our 85 octane fuel in Nebraska. And you talk about expensive, then you're talking about big cents, you know, you're talking 15, 20 cents a gallon to truck this material to Nebraska from wherever it's coming from, until the pipeline people would get their facilities up and running. Then, of course, they're going to charge us more to recover their costs. That's the first two

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hopes. The third hope is that the ethanol price stays down, I guess. You're hoping here that to be competitive with 87 octane or 85 octane, whichever you're talking about here, no lead, that the price of ethanol is at the same price or less. You're basing this bill on hoping the price stays down. The price of ethanol goes above the price of 87 octane no lead, as it did the last six months, you're going to see this product priced above the standard no lead gasoline. So that's the third hope is you're hoping the price of ethanol stays down. And that, to me, is a disservice to the ethanol producers, and that's one of the reasons I opposed the bill. I think this thing could ultimately come back and haunt us when it decreases ethanol producers potential credits, profits. The fourth one is, and it's an unknown, is you're telling an independent group of people out there, known as retailers, that they have to sell this; some of them are going to have to add facilities, they're not going to do that, they're going to close, and the rest of them that are already selling this, as most the stores are, I think as was pointed out, 14 percent of the stations, retail outlets sell 85 percent of the fuel, and those are the big, high volume people that are already selling it. They're going to resent...

SPEAKER KRISTENSEN: One minute.

SENATOR BAKER: ...being told you can't sell your 89 octane product, got to drop it down to 87. That's fine, we'll offer it, but you may see the price up 15 or 20 cents a gallon higher, just to make a statement. And I wouldn't put that past the retailers. I hope they don't do it, but that's not out of the realm of possibility either. So this whole bill is based on hope--refiners hope the pipeline companies, hope the retailers, hope the ethanol price stays down below the price the cost of a gallon of gasoline. You put all four of those...those pie in the sky assumptions or hopes and expect this bill to work, I think that you're probably going to have a rude awakening. And should this thing pass, I'd almost guarantee we'll be back doing...redoing this thing...

SPEAKER KRISTENSEN: Time.

SENATOR BAKER: ...or rescinding it in another session. Thank

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you.

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

SENATOR CHAMBERS: Mr. President, members of the Legislature, since much of what needs to be said on this amendment has been said, I'm going to address my colleague in the back, Senator "Bumblin'" Bruning. Why do I say "Bumblin'" Bruning? Because he like alliteration, "Texaco" Tom, "Exon" Ernie, fair enough. Why do I say bumblin' though? He attributed to Senator Baker words that I uttered, so he wasn't paying attention. Although he came clean on it, he gave us some misinformation the other day and, as I say, he did correct it. But here's what I still have to say about that, he got it from this outfit called Williams Brothers, the pipeline people. Senator Bruning was entitled to rely on them because you would think, when you look at their brochure and consider the other things that have been said about them, that they are reputable, that they know what they're talking about and they should be held to a standard that we would establish for somebody who's going to give information to senators as though it is authoritative. They knew that Minnesota produces 80 percent of that subgrade fuel. But Williams wants to be a pipeline deliverer who think that, if this bill passes, they may have a market in Nebraska that they currently don't have. They don't refine this stuff, they would hope to be the ones to bring it in. But their bringing it in is not going to set the price for it, the refinery will do that. Senator Connealy wants to drive regular gasoline off the market. I defy Senator Bruning, Senator Connealy, Senator Schrock, Cunningham and the rest of that band to show me why a product which supposedly is superior can only have a chance to sell if all the competition is taken off the market. I'm not going to call Senator Bruning "Bumblin'" Bruning all the time, because that may seem a little harsh, after all, he is a youngster, getting his feet under him and testing his wings. I'm going to call him "Little" Jon, because he is in Senator Connealy's band. Why would I call Senator Jon Bruning "Little" Jon? Because of his name. Full John is spelled J-o-h-n. His name is minus the "H", so his name makes him a "Little" Jon. J-o-n is "Little" Jon; J-o-h-n is "Full-size" John. So I call him "Little" Jon,

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not because of Robinhood, although he is in Senator Connealy's band, although Senator Connealy is using the tactics of Robinhood, only backwards, as they say "Hoodrobin", he wants to take from the poor and give to the rich. Regardless of whether ethanol, some of it, is produced in Nebraska, regardless of everything some of Senator Connealy's band has said about it being a superior product, the public is entitled to choose what they please. Nothing seems worse to me as a flavor for ice cream than pumpernickel. But if somebody wants to choose pumpernickel ice cream, let them choose it. They're paying for it, there can be no arguing of tastes. When it comes to gasoline, for whatever reason the public may have for selecting regular, the public is entitled to make that choice. These senators who are going to try to make political hay in another context will speak against government mandates. None from the federal government has been as heavy-handed as this that we're being asked...

SPEAKER KRISTENSEN: One minute.

SENATOR CHAMBERS: ...to do in LB 75. The federal government may say, do this or don't take federal funds, you're given a choice. This is one where they say, regular is to be off the market, ethanol must be burned; I think that is inappropriate. Mr. President, I will ask for a call of the house and that will be all I'll say on the matter at this time, thank you.

SPEAKER KRISTENSEN: There's been a request to place the house under call. All those in favor vote aye; all those opposed vote nay. Record.

CLERK: 21 ayes, 0 nays, Mr. President, to place the house under call.

SPEAKER KRISTENSEN: The house is under call. Would all unexcused members please report to the Chamber and record their presence. The house is under call. (Visitors introduced.) Senator Burling, Senator Beutler. Senator Bromm, would you check in, please. Thank you. Senator Schimek, Senator Preister, the house is under call. Senator Hartnett. Senator Schrock, would you check in, please. Senator...Senator

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Freister, Senator Beutler, the house is under call. Senator Beutler. All members are present. The question before the body is the adoption of the Chambers' amendment to the committee amendment. All those in favor vote aye; all those opposed vote nay. There's been a request for a record vote. Have you all voted who care to? Record.

CLERK: (Record vote read, Legislative Journal page 1428.)
7 ayes, 22 nays, Mr. President, on the amendment.

SPEAKER KRISTENSEN: The amendment is not adopted. I raise the call. Mr. Clerk.

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

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

SENATOR CHAMBERS: Mr. President, members of the Legislature, we may as well get down to cases in terms of how the rest of the session is going to go. Whenever there is a bad bill, such as this, and the body is of a mind to discuss it for eight hours, I'm going to guarantee that we will carry every one of those for eight hours, if it's a bill that I am in opposition to. Now I can be drawn into a position of opposing other bills, if it suits my purpose to do that. And I have a rapidly developing purpose for the rest of the session. This bill may be voted or supported, it may be supported for various reasons at this stage of our consideration. But it is a bad vote which is given in support of this bill because it is anticonsumer. We bumped off Senator Wehrbein's compact for the Southern Dairy Compact, which we should have, and I was instrumental in that, and I'm glad. This is worse than Senator Wehrbein's bill, because at least he did not ban the three grades of milk that the compact was not dealing with directly. This bill is designed to ban a class of gasoline. I cannot stand by and watch that happen. If, in order to defeat this bill, it's necessary to call in the assistance of other bills, then I will do that. And I'm doing it for the consumers. Any time a bill comes through here that I think damages the consumers, I'm going to keep it before us so

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long that every senator who votes for such a bad bill is not going to be able to find a way to slither out from under it later by saying, well I didn't know what we were doing. Everybody on this floor knows what this bill is, everybody on this floor knows what it is doing and it is not doing anything that is proper. Some people talk about the laws we pass that are mandatory in nature relative to education. We are charged, under the constitution, to regulate education. There is nothing in the constitution that charges us with destroying competition, driving it off the market. And it is such a petty, parochial point of view that is being adopted here that it's no wonder that people think of Nebraska as a hick place, out of touch with everything, behind the times. And it is. The people will look at one, small sector of the economy. They call this a farm state. There is farming in this state, but telecommunications has more of a future in Nebraska than family farms or middle-size farms, those things are items of the past. What we're doing or being asked to do with this bill is not to bail out farming, it's not going to do that. Senator Connealy, to his credit, has not made that argument; but there are people out there who may think somehow this is designed to benefit farmers. It's designed to benefit a few investors. Now if you bring up a bill to get state money, taxpayer money to build additional ethanol plants for a product that is not selling, that cannot make its way on the market right now, what is going to happen when you get more plants subsidized directly with taxpayer money, producing this product that won't sell? What is "Little" Jon going to say then? Well, he didn't know; he ought to know, as everybody else ought to know. What will you then say? Compel the introduction of ethanol into every fuel that is sold at the pump in this state so that this stuff being sold from these plants subsidized with public money will have a chance to sell a product that cannot make it competing on the market. I feel somewhat strange giving these arguments, because I'm arguing as a capitalist would argue. I'm arguing by analogy as somebody who believes in free trade would argue, somebody who is saying you create markets, you put products out there, you let the rules or principles or forces of supply and demand come into play. If there is a high supply and not much demand, the price goes down, unless you artificially prop up the price, which is what Senator Wehrbein wanted to do. If you have a shabby,

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inferior product which people are trying to palm off as being a valuable product, but it cannot make it on the marketplace because the public will not buy it, you ruin or ban the competition. And that's what's being done with this bill, annihilating the competition. Who is the one that will not benefit from this bill? The public. Senator Connealy and his band are saying that you've got to compel every retailer of gasoline to stock ethanol. Maybe what Senator Wehrbein should have done was got the Legislature to pass a bill that said every supermarket must sell 10 percent more milk than it sold last year, or it must at least purchase 10 percent more milk, whether it sells it or not, because what Senator Connealy is saying by this bill, compel these retailers to stock this ethanol, whether there is a market in that retailer's area or not, to make a statement and to help the stock and the income of these investors, create a false appearance of a market. But you really don't need a market, just let them know that you're going to drive out the competition in Nebraska so that the hustlers and the investors in ethanol can make money. That's what this bill is about, it is about investors, producers and purveyors of ethanol. It totally drops the public out of the equation. If people wanted ethanol, they would ask for it. They cannot make me put ethanol in my car, even if they drive regular off the market. As I've said before, fortunately I don't live that far from the Iowa border, and there are filling stations not too far across the bridge that I would have to cross. So I don't have to burn ethanol, but there are people who are not that close to a source of the gasoline they prefer to use. If there should be backlash on the part of the public, it will be aimed, in the first instance, at the retailer because people will not be able to find a service station where they can buy unleaded regular; they won't be able to buy it. Then the retailers will point out that it's that dumb Nebraska Legislature meddling in business again, manipulating the market, taking products off the market to remove the competition so the investors in ethanol can make a killing in Nebraska. And that will be the truth. That is the reasoning behind this bill. When others come before us with another giveaway bill for ethanol they need to consider the constraints of time, time, time. And I love to spend time with my colleagues in the Legislature. I have put some spies out to listen in on conversations, and there is going to be an attempt

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to move this bill and other bills to challenge me to see...

SPEAKER KRISTENSEN: One minute.

SENATOR CHAMBERS: ...if I can endure for eight hours on all these bills that I've said I will. And I welcome the challenge; I've only got 29 more days to do it. Every day I have to teach my colleagues something who are not thinking. There are two levels we operate on, the number of hours on a bill, the number of days in the session. If we spend three hours on a day...of a day on a bill and other things, remember, a day has been burned off. How many days have we burned off with LB 75? This is all playing into my grand strategy. As I have said, the Legislative Chamber is a chess board, I am the grand master.

SPEAKER KRISTENSEN: Debate on the motion to reconsider? Senator Connealy.

SENATOR CONNEALY: Thank you, Mr. President. I rise in opposition to the reconsideration motion. This bill would not ban any gasolines in the state, would not eliminate regular grade gasoline in the state. Regular grade is 87 octane gasoline; it will be available everywhere. Some places it could be that it would just be ethanol blended, but most places it will be regular grade gasoline without and regular grade gasoline with ethanol. We had testimony in the hearing that it would be available, be deliverable through the pipelines. We had a study done by a firm out of Houston, Purvin Gertz, who showed that the 85 octane gasoline would be less expensive for the wholesalers than 87 octane gasoline. Octane has value. By buying 85 octane gasoline, putting it in our system, we'd have a lower cost gasoline, thus you put a Nebraska product with it and we'll have a lower cost for the consumers. But it doesn't eliminate regular gasoline without ethanol. Hopefully people will not use that as much as they do now; because it will be available with an ethanol blend, they will choose the better product, they'll choose the product that has Nebraska content. All your fuel now has very little Nebraska content; there's a little bit of oil produced here, but nothing refined here. This bill would move more ethanol within our system, would hopefully put an 85 octane regular blend with ethanol up to 87 everywhere

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in the state, make ethanol available. Under my amendment we would have an exemption for service stations that have one tank that was...is to allow certain places out in the middle of the state that have a hard time selling more than one product. I believe that that is a good compromise; I hope that you vote no on the reconsideration motion.

PRESIDENT MAURSTAD PRESIDING

PRESIDENT MAURSTAD: Thank you, Senator Connealy. (Visitors introduced.) On the motion to reconsider, Senator Baker.

SENATOR BAKER: Thank you, Mr. Lieutenant Governor, members. Senator Connealy, I can see how Senator Chambers comes up with all these amendments. They are ideas presented to him by other senators and constituents. Nebraska content, something Senator Connealy just brought up, I've got about 15 amendments now ready to pile on here. One of them it's going to require all diesel fuel sold in the state be 10 percent soy diesel, "biodiesel". What about those poor soybean producers? We're going to help do this in light of helping the corn producers, soybean producers are next, and the sorghum producers will be after that with sugar. So there's an amendment, we're going to require all diesel fuel be "biodiesel" fuel delivered to any farmer, whomever. Next amendment, Nebraska content, we're going to require that all corn products, food products sold in the state be 10 percent or more of Nebraska produced corn. Doesn't matter where they're manufactured. Oil isn't made here in Nebraska; very little produced, as Senator Connealy said. We're going to...that's the next amendment or one I could consider. And one that would come to the heart of this bill, we could require that all farm delivered fuel contain 10 percent ethanol or 10 percent "biodiesel" soybean products. And the list goes on, and on, and on, and on. And Senator Chambers would best cherish this moment when we're both on the same page here. He's grinning. I think we're going to part ways on LB 536. I...there is a potential compromise there, and that's that the people who provide the incentives would be the growers of the corn and sorghum, they could fund the incentives themselves. So I am more than willing to do that, in fact I, in preparation for LB 536 getting on the floor, I am in favor of raising the checkoff on corn and sorghum

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as a producer. I think if we can't promote our own products by contributing a little bit there, three-quarters of a cent, or a cent a bushel, why then we're not going to go anywhere with our credibility onto LB 536. But I can see Senator Chambers and I may not be on the same page when LB 536 gets up. So I'm cherishing the moment as well when we're on the...on the same wavelength here. An interesting committee statement. Senator Connealy continues to refer back to that. The people that have said we could get 85 octane fuel in Nebraska, as best I could tell, was Williams Energy Company. And let me point out to the body that they don't have pipelines in western Nebraska. Their pipelines, they have terminals in Doniphan, Lincoln, Omaha and Sioux City, Iowa. I don't know how they can say they're going to get fuel to North Platte's Kanab line when they don't have a line out there; there's no pipeline. Furthest west terminal for Williams Pipelines is Doniphan. What about from there west? Our fuel comes out of the North Platte and Sidney terminals, served by Kanab. Kanab has lines...terminals in Columbus, Geneva, Norfolk, North Platte, Osceola and Superior. Conoco has the one in Sidney. Farmland has one...or NCRA has one in Council Bluffs, Iowa. Apparently, they're hanging their hope again on a statement made by Williams Energy Company that they could provide the fuel to Nebraska. Well, I doubt it because they don't have any pipelines. They could provide it as far west as Doniphan. If we have to truck fuel from Doniphan I can tell you what that's going to do to the consumer's price; it's going to go up considerably. You don't haul fuel 200 miles or 300, 400 miles or whatever; you're going up in Senator Jones' area, a couple hundred miles anyway; you don't haul that for nothing; it's a much more expensive proposition than if you pipeline it. So, I think we need to be awfully careful with the people who told us they could get this material into Nebraska when they, number one, they don't control refineries; number two, they are a pipeliner who does not serve western Nebraska...

PRESIDENT MAURSTAD: One minute.

SENATOR BAKER: ...at all; and, number three, they own an interest in an ethanol plant in Aurora. So I have to raise my eyebrow a little bit when they're constantly referred to as the answer to our...our problems, our hopes here is Williams Energy

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Corporation that does not have the ability to fulfill what they've said. I see they do have an interest in a Gary Williams Energy Corp...refinery in Oklahoma, a small one. I don't know whether that's the same Williams or not, but I assume it is. So, maybe they do have some refinery capacity; it's mighty, mighty small though and it's...it's not as close as most of the other refineries listed on this report. So, with that, I will continue to oppose the...the amendment, Senator Connealy's amendment to limit his bill to one-tank operations. It's just simply a...a...a hope that they can get in compliance...

PRESIDENT MAURSTAD: Time.

SENATOR BAKER: ...by the year 2006. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Baker. Senator Wehrbein, motion to reconsider the Chambers motion to the Connealy amendment to LB 75.

SENATOR WEHRBEIN: Thank you, Mr. President, members of the body. Senator Chambers enticed me into the debate here a little bit, some of the things, when he brings in my dairy compact bill. But I'm going to make a few comments about...I struggled with support of this bill myself because some of what, at least some of what Senator Chambers says is true about the free enterprise system. However, I've come to believe in this country and even in this world we don't really have a free enterprise system because we've had various bailouts, if you will, including agriculture in many cases, but we've had a bailout of the real estate...bailout of the real estate industry, in years gone by we've had banks. The list goes on and on and on. And I think part of the reason I would support this bill is because it's an effort to help the...to help ourselves because Senator Chambers talked about value-added. And this is an effort, by those of us in agriculture, to get some value-added. We're told over and over and over again, if you're going to survive in agriculture, farmers have to do some value added. Now many of these plants are investor owned, but also many of them, the ones that are being proposed are also being done by farmers themselves through the cooperative forum. So, hopefully, there will be an increased marketing and an

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increased demand for ethanol and those in agriculture will benefit. One of the reasons that I probably gradually changed my mind over the last few years, doesn't mean I'm not still a Republican, Senator Chambers, but it means that there is...there is...there has to be some tinkering with the free enterprise system to some degree. I look at the...in the world side, you know, we can't get our beef in the European economic market, no matter what we do, including the WTO favorable decision to the United States, we still do not get beef into the European common market because they've raised trade barriers. The point is the free enterprise system doesn't work worldwide as we would like it to do. There is tinkering with the system, there is keeping out of products that are raised cheaper somewhere else, or they don't want to have that competition. They use various forms of food safety standards, whatever it serves. We don't get all our products into Japan that we should. So here we are tinkering with an enterprise perhaps in states. And I see this as an effort to try to improve the demand for ethanol in the state, a way for us to capitalize on what we have here in this country, in this state. I think that long-term, the way we're headed, toward the large commercial farms that Senator Chambers is talking about, is going to be working to a detriment to us as we increasingly concentrate livestock numbers. We are as agriculturists and as farmers, in the minority in this country. Senator Chambers ought to know what I'm talking about there. We are that. One point six million commercial farms in the United States and probably many less than that are truly full-time commercial farms. That ought to constitute as a minority compared to the 240-, 250-, 260 million population we have in this country. So I think it stands to reason that we have no choice to turn to government, to some degree, to try to make our way, whether it's the dairy compact bill, which I intend to bring back, I do not consider that defeated at this point, or to do something in the area of ethanol. It's a way that we can help ourselves add value on the farm and hopefully be rewarded for that rather than being totally at the mercy of the market. And if it's not detrimental to the consumer, in the long-term, I say what's wrong with that.

PRESIDENT MAURSTAD: One minute.

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SENATOR WEHRBEIN: We are getting fairly desperate, I would say, in this state, in this country as to where agriculture is headed. I don't think the U.S. government is going to continue to bail out agriculture after this year, even in the stock market drops today you're hearing people come up with ideas to save those investors in the stock market. So it's not unusual for someone to ask for government interference. If...and I'm responding to what Senator Chambers said about that, it's not that it's that clear cut in the discussions that we're having, but where else to have it, but on the floor of the Legislature. As to what the answer should be, this is a proposal by Senator Connealy and those of us in agriculture to try to do something to help ourselves. And I...I don't believe in this day, where we are locked into competition with giant corporate...

PRESIDENT MAURSTAD: Time.

SENATOR WEHRBEIN: ...America, that this is a way we might be able to do it.

PRESIDENT MAURSTAD: Thank you, Senator Wehrbein. Senator Chambers, on the motion to reconsider.

SENATOR CHAMBERS: Mr. President, members of the Legislature, it would have been good had Senator Wehrbein gotten into the discussion earlier because these are some of the subjects that, as he correctly pointed out, we should be talking about on the floor of the Legislature. Now here is what I've got to say, since when a cloture motion is made there can be no debate, I don't like this bill and I'm going to do all that I can to stop it. There are other bills I don't like either, and this one being on the docket will help me. Doesn't make any difference to me whether I'm fighting this bill or some other bill. But if this one does get a successful cloture vote, it's going to be given the same treatment that its being given now. I'm not going to go away. Any of these types of bills that I perceive to be gouging the public, taking away a right of the public to choose, then I'm going to fight it. When I see a bill designed to wipe out the competition, I'm going to fight it. You all may not remember, but I think it was last session where some car dealers wanted to get the market locked up for themselves so

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that the big manufacturers couldn't do certain things, they couldn't operate a dealership or some such things as that, and I opposed it; I opposed what the car dealers tried to do. As I've stated before, I oppose Senator Wehrbein's milk compact; there are other types of bills along this line that I've opposed, the giveaways to the corporations. You can look at this FDR that got money and then it pooped out, but it opened offices in Japan. There is a meat packing plant in Omaha that got some of that giveaway money; it violated immigration rules, health and sanitation rules and all kind of other laws; they got that money from the state. So the big corporations, regardless of the product they sell, are the ones favored by this and other legislatures. Unfortunately, around the country there are not people like me in other legislatures, so a domino effect takes place. One state says, we're going to give them everything they want, another state says, to beat them out we'll give them everything they want plus, and it becomes a battle among the states to see which one can squander the most of its citizen's resources to draw a corporation to that state, when the only goal of the corporation is to maximize its profits. That's what we're dealing with here in terms of these investors. If the bill that Senator Baker mentioned, about the ethanol plants being subsidized, requires that the producers, through checkoffs, provide the money, I say let them spend their money the way they want to. I wouldn't stand in the way of that. But when you have these people who are going to try to get the state to put in \$3 million or \$4 million a year, so they can make money, I'm not going to support that. Let me say it this way, there would have to be considerable sweetening before I would support something like that. I am watching Senator Connealy as he works this bill. I'm kind of proud of the kid; he's not doing a bad job; he's upholding his end of it; he's got a bad bill, a bad proposition, an indefensible position but, given what little he has to work with, he has done a...

PRESIDENT MAURSTAD: One minute.

SENATOR CHAMBERS: ...pretty good job. And he is pretty confident that he has 33 votes. Because he may have, I've got to make clear my intentions on this and other bills. So I want nobody to be surprised, I don't want any of these new people

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grumbling about all this time being wasted or any such thing as that, actually I hope they grumble, it would be good enough for me to let me know that they're upset, which would serve them right. The punishment goes with the sin. Senator Connealy's got a bad bill; I think you ought to support my reconsideration motion.

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

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, we've got a little more time to go before we meet...reach that awful, awful hour when Senator Connealy is going to stand up, turn around and look at me and say, Senator Chambers, it is time, that means (laugh) execution. I'm curious to see if he's going to get 33 votes. And I think this is such a crucial vote, this is the sixty-first day. I want to burn it into everybody's memory. I want to sear it across your brain, that's what I want. And if I sear it across your brain, from time to time, I'm going to peel the scab away, to keep that sore open, suppurating, because I want people to know what it is that they have done, and I want to mark the day and the time when they do it. So when we get around to that cloture vote, we're going to call the roll here, like they're going to call it up yonder, Senator Connealy, and I'm going to see who all is going to be with you. Remember this, brothers and sisters, wide is the way that leads to destruction and many there be that find it, maybe 35; narrow but straight is the way that leads to salvation, and few there be that find that one. I'm on the road to salvation. (Laugh) I don't expect to have a lot of company, but I will tell you what, as we get deeper into the session, I want the same good spirit being shown now by my colleagues to be shown, because my spirits are going to soar the farther we get. As you put more tools into my hands, more justification, I'm going to throw my net out, then I'm just going to start pulling it in. And for those that escape, I'm going to do a little fly casting, get those. If I've got one of those big marlins, Senator Vrtiska, I'm going to rig myself up and put some of that steel wire out there and catch one like Ernest Hemingway used to do, and I'll battle him like the old man and the sea. When the

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end comes, that big fish is going to be tied to the side of my boat and you can thank Senator Connealy for assisting me in my efforts. What this bill is going to do is not pass ultimately, because you all are not going to be able to stick with it. I will stick to my guns; I'm challenging you; you are not going to stick with this bill. You'll vote cloture today, perhaps, but you will not stick with it. And when I begin my taunting, mocking mode, I've warned you, I might even wear a sweatshirt, but I'm not going to do that, that says "You Were Warned". So I'm making it clear right now, my memory short-term is poor, I don't even remember...well, I was going to say I don't remember what color my socks are, but I only have one color of socks, so I don't have a problem with that. But there are things that I did this morning which I don't remember. The reason I know it, because I had to have done something in the time that I spent, but I don't remember what it was. Short-term my memory is poor, long-term it's virtually infallible because the farther we get from this day, the better and clearer my memory of what happened today will be. And I'm going to watch as the vote unfolds and just see what happens. I would ask for a call of the house because Senator Connealy would probably want that anyway for his cloture motion. Thank you, Mr. President.

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

CLERK: 11 ayes, 0 nays, Mr. President, to place the house under call.

PRESIDENT MAURSTAD: The house is under call. Would unauthorized personnel please leave the floor. Would members please report to the Chamber and record your presence. The house is under call. The house is under call. Members, please return to the Chamber and record your presence. Senator Engel, Senator Hartnett, Senator Jones, the house is under call. Senator Dwite Pedersen. Senator Bromm, the house is under call. The question is whether to reconsider the Chambers motion. Those in favor vote aye; those opposed vote nay. Mr. Clerk, please record.

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CLERK: 6 ayes, 26 nays, Mr. President, to reconsider the vote on the Chambers' amendment to the Connealy amendment.

PRESIDENT MAURSTAD: Motion to reconsider fails.

CLERK: Mr. President, I have a priority motion. Senator Connealy would move to invoke cloture.

PRESIDENT MAURSTAD: Motion for cloture has been filed. It is not debatable. Those in favor vote aye; those opposed vote nay. Senator Chambers has requested a roll call vote. Mr. Clerk, when you're ready, please call the roll.

CLERK: (Roll call vote taken, Legislative Journal pages 1429-1430.) 33 ayes, 6 nays to invoke cloture, Mr. President.

PRESIDENT MAURSTAD: Cloture motion is successful. We now proceed to the Connealy amendment. Those in favor vote aye, those opposed nay. Roll call vote has been requested. Motion to adopt the Connealy amendment to LB 75. Mr. Clerk.

CLERK: (Roll call vote taken, Legislative Journal page 1430.) 35 ayes, 4 nays, Mr. President, on the adoption of Senator Connealy's amendment.

PRESIDENT MAURSTAD: The amendment is agreed to. Question is now whether to advance LB 75 to E & R Initial. Those in favor...roll call vote has been requested. Mr. Clerk.

CLERK: (Roll call vote taken, Legislative Journal pages 1430-1431.) 29 ayes, 13 nays on the advancement, Mr. President.

PRESIDENT MAURSTAD: The bill is advanced. Call is raised. Mr. Clerk, items for the record?

CLERK: Mr. President, items. Senator Brashear, motions to LB 462; Senator Hilgert, an amendment to LB 398; Senator Beutler, LB 398; Senator Byars, LB 398; Senator Schrock, LB 667. That's all that I have, Mr. President. (Legislative Journal

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pages 1431-1435.)

PRESIDENT MAURSTAD: Thank you, Mr. Clark. Mr. Clerk, Select File, LB 664.

CLERK: Mr. President, the Legislature debated LB 664 this morning. At that time Senator Bourne had offered AM1339. I do have an amendment to that, Mr. President. (AM1339, Legislative Journal page 1333.)

PRESIDENT MAURSTAD: Thank you, Mr. Clerk. Mr. Clerk, item on the desk?

CLERK: Mr. President, Senators Bromm and Bourne would move to amend Senator Bourne's amendment. (AM1419, Legislative Journal page 1435.)

PRESIDENT MAURSTAD: Senator Bromm, recognized to open on the amendment to the Bourne amendment to LB 664.

SENATOR BROMM: Thank you, Mr. President. Senator Bourne and I had a chance to discuss LB 664 some while some of you were debating the ethanol legislation. And, in fact, we had plenty of time to do that. And in the process of doing that, we found that there maybe was a course of action that we could agree on recommending to the body that we take, and let me briefly describe it and then I'll give Senator Bourne the rest of my time to...to elaborate or to indicate his position. But I have offered an amendment to his amendment. And this amendment would strike community colleges and Nebraska state colleges. The effect of that would be to leave Senator Bourne's exclusion amendment, pertaining to school districts and educational service units. The practical impact would be that community colleges and Nebraska state colleges could thus participate in the pooling provisions of LB 664. As it stands right now, school districts and educational service units would not be permitted to do so. And without going into all of the considerations in...in...in suggesting this, I...I think there...there is some...some legitimate rationale for going this direction, and let me give you my take on it, Senator Bourne can certainly give you his. But I...I was certainly cognizant of

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some of the discussion this morning indicating that we are engaging in some significant decisions this year, financially and salary wise, retirement wise, with respect to the teachers. And I think we all certainly want to encourage people to enter the profession. We want...we want to pay our teachers appropriately and we are supportive of the job they do. In the eyes of some, if this amendment of Senator Bourne's had failed altogether, it would be interpreted at the very least by school districts or by...by teachers as...as...as being a negative. Now I might not agree with that, but it would certainly be perceived that way. On the other hand, state colleges come to our Appropriations Committee and ask for their entire budget. Community colleges are certainly supported by taxpayer dollars as well, but are in a different category per se than school districts and educational service units. So I think it makes good sense to allow state colleges and community colleges the opportunity to at least be considered for pooling, if that should be their desire to do so. One other piece of this, I have committed, and I believe Senator Bourne has as well, to try to speak with the educational association and the school boards about consideration of some input or some representation on the board that oversees the Education Alliance Health Plan. From my perspective, it would strengthen the plan, it would...it would help communication with school districts if they had some participation in the administration of that plan and the governing board. I don't know if that will come to pass. There is no commitment for that to come to pass, only a commitment by myself, and I'll let Senator Bourne speak for himself, that we will do everything we could, or I will do everything I can to encourage that to happen, which I think is a step forward. This will provide...this will leave in place pooling opportunities for all other political subdivisions, our cities, our towns, our NRDs, other governmental subdivisions to participate in pooling, if they can in fact find their way clear to do so, or if it's an advantage for them. With that, I would hope that the body would consider this to be reasonable. And I would yield the rest of my opening to Senator Bourne, if he would like it.

PRESIDENT MAURSTAD: Senator Bourne.

SENATOR BOURNE: Thank you, Mr. President. Thank you, Senator

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Bromm. Senator Bromm and I have discussed this extensively. And again, what his amendment does is...would take out community colleges and the Nebraska state colleges from my amendment and then hopefully my amendment then would be adopted next. I think Senator Bromm, he convinced me that since the state colleges and the community colleges, on the whole their budgets are funded through the state, it seemed to make sense to delete these two out of here. And I appreciate his support and willingness to work on this. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Bourne. On the Bromm amendment, Senator Chambers.

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

PRESIDENT MAURSTAD: Senator Bromm, would you yield?

SENATOR BROMM: Yes, I would.

SENATOR CHAMBERS: Senator Bromm, I've been over here doing a little scribbling, so I may have missed exactly what your amendment does. All it does is take out of Senator Bourne's amendment the...let me have you tell me what it does.

SENATOR BROMM: Senator Chambers, it takes out of Senator Bourne's amendment community colleges and Nebraska state colleges, so the effect of that is to leave them in the possible subdivisions that might consider pooling.

SENATOR CHAMBERS: Senator Bromm, are the community colleges separate and distinct from the state colleges?

SENATOR BROMM: Yes.

SENATOR CHAMBERS: Each one can be considered an entity unto itself?

SENATOR BROMM: Yes.

SENATOR CHAMBERS: Then, thank you. Mister...Mr. President, I

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want to divide...Mr. President, I want to divide the Bromm amendment so that we take the community colleges and then we take the state colleges. And I believe that is devisable.

PRESIDENT MAURSTAD: Senator Chambers, Senator Bromm, could you please approach the Chair. The way the amendment is written, the structure of it doesn't allow that to be done easily. So...Senator Chambers, you're recognized. You have about three minutes and fifteen seconds left on your time.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I'm not going to seek at this point to derail LB 664, but there are still some issues that I would like to discuss on this bill. The way Senator Bromm...

PRESIDENT MAURSTAD: Senator Chambers, Senator Chambers, did you want to withdraw your request...

SENATOR CHAMBERS: Yes.

PRESIDENT MAURSTAD: ...to divide the question?

SENATOR CHAMBERS: Yes, I...I withdraw my request to divide the question.

PRESIDENT MAURSTAD: Thank you, Senator.

SENATOR CHAMBERS: Thank you, Mr. President. The way the amendment was drafted by Senator Bromm, the question cannot be divided. So right now, both of those entities or groups have to be taken in the one amendment, the state colleges and the community colleges. Right now my intent is just to speak a bit on this bill and the underlying philosophy, as I will do on some other bills. But on this one what I want to know, and I'm asking Senator Bromm this question, maybe it would be better if I asked Senator Bourne. Senator Bourne, I understand why Senator Bromm...

PRESIDENT MAURSTAD: Senator Bourne.

SENATOR CHAMBERS: ...is doing what he's doing. You may have

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explained why you're willing to let the community colleges and the state colleges go. Could you state briefly why that is?

SENATOR BOURNE: Sure. Senator Bromm indicated, in the debates we've had over this, that he feels that since the community colleges and the Nebraska state colleges are totally funded by the state itself, that, you know, we should look for ways for them to save money on insurance. And he felt that this could save money on them. And since those two entities are a small part of the teachers or the educators alliance, I thought that we would reach a compromise, take those two out and keep in the school districts and education service units in the amendment so that they would not be subject to the pooling available under LB 664, should it pass.

SENATOR CHAMBERS: Would you be willing to put in an amendment that would say, if the colleges opt out, state or community, they cannot then get back in? That once out, they stay out?

SENATOR BOURNE: Well, that would make me uncomfortable to do that because I...I have to tell you, Senator Chambers, that I've reached an agreement with Senator Bromm and I'd have to discuss it with him. I don't want him to think that I'm doing anything contrary to our agreement, so...

SENATOR CHAMBERS: I understand.

SENATOR BOURNE: ...thank you.

PRESIDENT MAURSTAD: One minute.

SENATOR CHAMBERS: Okay. Senator Bromm, I would ask you that question.

PRESIDENT MAURSTAD: Senator Bromm, would you yield?

SENATOR BROMM: Sure.

SENATOR CHAMBERS: Would you be opposed to a proposition which said, if they opt out, they have to stay out, so that there is no forum shopping, in other words?

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SENATOR BROMM: I made an agreement with Senator Bourne and I'd be uncomfortable (laugh)...(laugh). You left yourself open for that.

SENATOR CHAMBERS: (Laugh) Yes.

SENATOR BROMM: Senator Chambers, I...I think I would, just on my own, even if I...we hadn't reached this agreement, I would be uncomfortable doing that. I don't know what lies ahead and I wouldn't want to...I wouldn't want to slam that door that tightly.

SENATOR CHAMBERS: Thank you. And I have no more time on this one. I've turned on my light, then I will go into why I was thinking along that line.

PRESIDENT MAURSTAD: Thank you, Senator Chambers. (Visitors introduced.) On the Bromm amendment, Senator Stuhr.

SENATOR STUHR: Thank you, Mr. President and members of the body. I've been listening intently to the debate of LB 664 through the past several days. And up front I just want to say that I do believe that teachers in Nebraska should have good benefits; and I believe that my record will show that I've supported those increases in benefits through the years. I will be supporting the Bromm amendment. I do feel that after visiting with those entities also that they have never been enthralled about being included in the Bourne amendment and that they...they should be separated out for the reasons that have been stated, that they are state supported. But I think in all of our discussion all of the funding that we've been talking about, as far as benefits, are taxpayer money, those are taxpayer's money, whether we're talking about local schools, whether we're talking about community colleges or state colleges. I do feel that schools should have the option. I talked to one of my schools this morning that I wanted to share with you that one of my schools is self-insured. They've been self-insured for about the last ten years. Through those last ten years they have saved about \$800,000, about \$120,000 a year by being self-insured. They have been able to use that money

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towards their teacher salaries. They are above average in the salaries that they do pay their teachers. So I think that this is an important discussion. I do feel that we need to have options. We've been talking a lot about pooling and how many pools shall we have, how large they shall be. I guess it...it's my hope that this communication will continue between the groups so that we can keep increasing some of the benefits for our teachers here in Nebraska and that we can also provide school boards with options. So, with that, I give the rest of my time back to the Chair and will be supporting the Bromm amendment. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Stuhr. Senator Chambers, you're recognized on the Bromm amendment.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I don't know if Senator Bromm is around, but the point that I'm getting to with reference to my discussion is this idea of forum shopping. In the courthouse there are some judges known to be favorable to certain types of plaintiffs or defendants, some judges take the opposite view, so an attorney will try to find the judge whose disposition may more favor his or her client. When we have a bill of the kind we're talking about today, we have a situation where various entities supposedly are trying to get insurance at the best rate possible. If these state colleges and these community colleges are now lumped in with the schools and one or both of these entities decides to go it on their own by joining some other pool, or the two of them making a pool, they may find out that things are not going as well as they thought things would go. If they have left, that reduces the number of people or reduces the size of the pool, we have called it that for convenience, that the schools and they constituted. We have been told that as the size of the pool shrinks, the less favorable are the premium payments that will have to be made. So, if these two would pull out and that would shrink the overall size of the pool, it could affect adversely the premiums that the remainder will pay. So, these two go out on their own, whether they hook up with some other entity or entities or each other, things don't work well, then they decide they want to come back into this bigger operation. What could make them do that? Suppose

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they happen to have one of these huge claims and it causes their premiums to skyrocket and they don't think that it would be good to stay out there alone anymore. So now they want to bring their higher risk selves back into that original group and increase the size of the pool but raise the risk factor. I want to ask Senator Bourne a question at this point.

PRESIDENT MAURSTAD: Senator Bourne?

SENATOR BOURNE: Yes.

SENATOR CHAMBERS: Senator Bourne, could such a thing as what I've described happen? Not that it would, but could such a thing happen?

SENATOR BOURNE: It could.

SENATOR CHAMBERS: Would the schools be at liberty, if this bill is passed, to refuse to let them come back in, if they choose to?

SENATOR BOURNE: I...I think they could.

SENATOR CHAMBERS: Thank you. That takes away some of the concern that I had. But I want to ask Senator Bourne another question.

SENATOR BOURNE: Yes.

SENATOR CHAMBERS: Is there any way, based on the way this bill is structured, if the amendment that you and Senator Bromm are offering, would there be any way that the community colleges and the state colleges could bring pressure to bear to be allowed back in, other than saying, little pig, little pig, let me come in, and the schools say, not by the hair of my "chinny-chin-chin"? They cannot huff and puff and blow the house down, could they?

SENATOR BOURNE: That...that's my understanding, that there would be no leverage, for lack of a better word, that could compel the...the alliance to let them back in.

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SENATOR CHAMBERS: Thank you. Senator Bromm, I'd like to ask you a question.

PRESIDENT MAURSTAD: One minute. Senator Bromm?

SENATOR CHAMBERS: Would you agree with Senator Bourne's assessment?

SENATOR BROMM: I would, I would, Senator Chambers.

SENATOR CHAMBERS: If the body decided that only the community colleges should be allowed to go but that the state colleges had to stay, that would not be a good arrangement in your view, because both of them said they want to be under this bill. Is that true?

SENATOR BROMM: Correct.

SENATOR CHAMBERS: Okay, that's all I have to ask either of these gentlemen and I want to thank them both.

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

SENATOR BROMM: Okay. Thank you, Mr. President. Just very, very briefly. I think everyone understands the amendment, but I'll briefly restate it. This amendment, which has been agreed to by Senator Bourne and myself, would eliminate state colleges and community colleges from Senator Bourne's amendment. The effect of that then would be that state colleges and community colleges, should they choose to do so, could investigate and participate in pooling arrangements for their health insurance. And that's it. And I intend to then support Senator Bourne's amendment after this change. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Bromm. The question is the adoption of the Bromm amendment to AM1339 to LB 664. Those in favor vote aye; those opposed vote nay. Mr. Clerk, please record.

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

PRESIDENT MAURSTAD: The amendment is agreed to. Senator Bourne.

SENATOR BOURNE: Thank you, Mr. President, members. Just so everybody knows where we're at now. How it would read after...after Senator Bromm's amendment is adopted and then after mine would be adopted it is...it would say, "any two or more public agencies, other than school districts and educational service units, may make and execute an agreement providing for joint and cooperative action". So, just to make clear what we're doing, it would exempt out school districts and educational service units from the pooling provisions or the risk management, or excuse me, the joint and cooperative provisions in LB 664. I'd appreciate your support. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Bourne. Senator Tyson, on the Bourne amendment to LB 664.

SENATOR TYSON: Thank you, Mr. Lieutenant Governor, members of the body. I rise in opposition to the Bourne amendment, although it is more palatable as it now stands than before. But I would like you to consider a few things. A few days ago, you got a letter from the NSEA, April the 3rd. And it's a very interesting letter and I think that it should be read, number one, of course, for what it says. Then you read it for what it doesn't say, and lastly you read it for what can be inferred from this letter when you combine it with other knowledge. I would call your attention, if you have that letter, otherwise I'll just tell you what it says, on page 2 of the (inaudible) line says that the Educators Health Alliance does not track subgroup divisions. I just want you to hold that thought. It does not discuss the cost of the premiums to the Educators Health Alliance Plan and what is interesting is what is the sum of the premiums paid. This is a policy, it's my understanding, is owned by educators health plan, which is another name for NSEA with some school superintendents, I believe, in Alliance. The plan is issued by Blue Cross Blue Shield and the number as to how much is paid for that is, of course, confidential between

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the person issuing the policy and the group to whom it is issued; it is a contract. Those numbers are not discussed. The money for those premiums are paid by school boards for which read taxpayers. The sum of monies is not discussed and the sum of monies paid by the school districts is not discussed. And until you have knowledge of those two numbers, you can't make an informed decision. Is it all a pass-through? For every dollar charged by Blue Cross Blue Shield is there a dollar paid by school boards, or is there a profit, a profit that accrues to NSEA? At the size of this policy, a small percentage override is in the millions of dollars and that is a profit. I don't know by what mental processes if either Senator Bourne or the NSEA can know the results of LB 664. Will there be a savings to the plan? We anticipate that there will, but we don't know and neither do they. If you take the 70,000 people that this letter says is covered by the Educators Health Alliance Plan, there's 24,000 members of the NSEA, and I assume that all of them are covered or most of them are covered, the balance of the 70,000, I assume, is other employees or dependents. What is the additional memberships available and the savings possible to the pools that can be formed from this?

PRESIDENT MAURSTAD: One minute.

SENATOR TYSON: There are some assumptions made in this that can be answered if they want them answered. With today's computer technology, subgroups can be readily tracked, but they don't want the information out and I don't blame them. Several years ago, three years ago, Millard opted out; they are now self-insured, they have no desire to go back into the plan. So they evidently find it to be a savings to the people who are supporting that school system, the taxpayers. And the NSEA doesn't want that type of thing to spread, and were I them I wouldn't either. Real savings can occur...

PRESIDENT MAURSTAD: Time.

SENATOR TYSON: Thank you.

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

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SENATOR CHAMBERS: Mr. President, members of the Legislature, I would like to ask Senator Bourne a question.

PRESIDENT MAURSTAD: Senator Bourne, would you yield?

SENATOR BOURNE: Yes.

SENATOR CHAMBERS: Senator Bourne, even with your amendment and...and Senator Bromm's amendment, the two of you collaborating on it, everything that anybody would do under this bill is strictly voluntary.

SENATOR BOURNE: That is partly true. And, if I could expand,...

SENATOR CHAMBERS: Yes.

SENATOR BOURNE: Okay. As I mentioned this morning, I can see a scenario where municipalities would pool and compel school districts to leave the educators plan. So, in a certain sense, it is voluntary, but I can see some employer situations where they would compel teachers to leave the pool, the existing pool.

SENATOR CHAMBERS: So, the potential for coercion is there, but in the language of the bill itself that is not?

SENATOR BOURNE: That's absolutely correct.

SENATOR CHAMBERS: Is there anything that could be put in the bill to prevent that from taking place, that type of coercion?

SENATOR BOURNE: Well, I'm not exactly certain. I suppose that you could do a number of things. Senator Bromm, this morning, mentioned some of the regulations that the Insurance Department has. And while I've not reviewed those, I would assume that there might be some regulations that would restrain ease of exit.

SENATOR CHAMBERS: Thank you, Senator Bourne. I will ask Senator Bromm a question along the same line.

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PRESIDENT MAURSTAD: Senator Bromm, would you yield?

SENATOR CHAMBERS: Senator Bromm, how far do you think rules and regulations by the Department of Insurance could go in addressing the issue that Senator Bourne and I have been discussing?

SENATOR BROMM: Senator Chambers, I think the rules could...could require stability, if I could oversimplify a little bit, and it...but it would still be up to them to determine what stability really is. The interlocal agreement that is entered into by those entities that wish to pool could have a significant time frame involved whereby someone could not leave during that time limit without the express approval of the rest of the entities in the pool. That would be the lever of the stopgap that I think would be most easily provided. Regulations, I think they...they can go...go to the point that I have mentioned, but they would be somewhat subjective and couldn't put a definite time frame, but it would be a matter of judgment. They...they do require, as I understand it now, entities that enter into the workers' comp pool must agree to a three-year commitment, for one example, but I think there is a basis in statute for that.

SENATOR CHAMBERS: If it develops, should this bill pass, that the type of potential coercion starts to approach reality, would you be willing to come back and do something to prevent that? Because I don't gather, from what you've said up to this point, that such is your idea of how this ought to work.

SENATOR BROMM: Yeah. If...if it is manifesting itself in harmful effects upon people's health insurance coverage and benefits, I'd always be willing to revisit it. Now the fact that some group goes somewhere, unless that be...unless that's harmful, wouldn't cause me to become concerned, but if it's harmful I would be concerned.

SENATOR CHAMBERS: Here's what I'm looking at, the part that Senator Bourne and I...

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PRESIDENT MAURSTAD: One minute.

SENATOR CHAMBERS: ...were discussing specifically, relative to the possibility of municipalities maybe bringing some kind of pressure to bear to pull people out of their current arrangement. So it's the coercion, the coercive aspect that I'm looking at.

SENATOR BROMM: May I...may I respond, Senator Chambers?

SENATOR CHAMBERS: Yes, and just speak through the conglomeration.

SENATOR BROMM: Certainly the...after the adoption of the Bourne amendment, with respect to schools, it wouldn't be legally possible for the school to join the city worker pool, it wouldn't be possible because his amendment prohibits that. But if we're talking about other groups, then it will be permissible.

SENATOR CHAMBERS: Okay. And I'll turn my light on.

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

SENATOR BOURNE: Thank you, Mr. President, members. I just wanted to kind of clarify some of the points that Senator Tyson mentioned. I think he's being coy. He's an experienced business person and yet he said some things that don't quite make sense. He had mentioned in this letter that the teachers alliance does not track experience, and he doubted that. Well, what we established this morning, and he knows very well that this is a...it's not necessarily a self-insured pool. They contract with Blue Cross and Blue Shield, and as such the insurance company would track experience. So, really, I don't...I don't know whether or not the NSEA or anybody in the teachers alliance is privy to any of that information as it's a proprietary information. So, while he says that they don't track information, and he questions the accuracy of that statement, I think it would be true because it's a contract between each...the insurer and each insured, and the insurer

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would track that information, not the person or the employer for whom these individuals work. He also mentioned that this plan is owned by the NSEA, and that's absolutely not true, the plan is owned by the 70,000 persons who are in the group. And he mentioned also that there's a profit to the NSEA somehow, and that's absolutely untrue. All the NSEA has to do with it is that they're a teachers organization, and the people that are part of this 70,000 group happen to be members of the NSEA; there is no profit to the NSEA. These are individual contracts between the insured and the insurance company. And to suggest that the NSEA somehow profits on this is bordering on irresponsible. Senator Tyson also mentioned that if LB 664 goes through we can anticipate some cost savings. We've been over this many times. If you read the task force recommendation, they say that bills such as LB 664 may provide for some cost savings, but there is no absolute, there's no given here. And we've also seen where down in Kansas they had a successful statewide group, and they came in and passed legislation similar to LB 664, and we saw some of these groups fracture. Senator Tyson mentioned that Millard opted out, that's absolutely true. But because they opted out their premiums are going up 17 percent this year, while the alliance premiums are only increasing 7 percent. And my understanding is that Millard is looking to get back into the pool. But again, they had an increase in premium twice, in an amount twice of what the alliance incurred this year, 17 percent increase to Millard, who opted out of the group, and a 7 percent for the teachers group. And I also wanted to mention Senator Tyson talked about how the NSEA doesn't want this to spread; he said that the NSEA doesn't want to see more districts like Lincoln leave the pool. Well, who would? Senator Tyson knows very well as a business person that there is strength in numbers, and there's no group insurance plan that wants to see any members leave, that's the strength of the group. We mentioned this morning that because there are 70,000 persons in this group that they were able to save \$40 million in...in negotiations with the providers. So for him to suggest that...that the...the group we're in, or the group that exists now wouldn't save money is incorrect.

PRESIDENT MAURSTAD: Thank you, Senator Bourne. Senator Tyson, on the Bourne amendment.

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SENATOR TYSON: Thank you, Mr. Lieutenant Governor. I wish, first of all, I wish to thank Senator Bourne very, very much for his use of the word "coy". Believe me, it's been years since that thing...word was ever applied to me. However, let's get to the argument again. I am informed that Millard is not seeking reentry into the group. Are premiums increasing? I would be surprised if they were not, they're increasing all the way around. They have a major increase in the insurance, I'm told, at the University of Nebraska at Lincoln. Everyone that I know of, including myself, has been greeted with increased insurance premiums, that's a fact of life. How much they are and who is the party who bears the cost, that answer probably is...there's as many answers to that as there are probably insured in the state of Nebraska under any plan. But, if what I said isn't true, then why not let the numbers out? As far as everyone being covered, all 70,000 people, are there 70,000 policies, or is there one policy? Is it the policy referred to in the letter that I made reference to, NSEA's letter of April 3rd from Mr. Griess, bear with me just a moment, James R. Griess? If that is so, and I...I'm fully aware that probably the Educator (sic--Educators) Health Alliance Plan doesn't track, Blue Cross Blue Shield can. And all they have to do is get the okay to release them? I think they would probably release them. I don't know. That's not a surety, but the letter that we are speaking of, the one from where...from which the \$40 million savings is...is referred to speaks of the plan, the policy, and that policy is held by two parties. I think that Senator Bourne is being disingenuous in his response. But since this LB 664 is a voluntary plan and since one can assume that the people who are paying the bill, who are actually writing the check that goes to the Educators Health Alliance Plan are the school boards representing the taxpayers, if this is a voluntary bill, and it is, if it allows entrance to a voluntary group, and it does, then why not let people that have been elected by the same people that elected you and I make that decision? Are they fools? No, they're not. Are they businessmen? Yes. Do they know one number from the other? Yes. Will they choose the best bargain? I think so. If you let the light of day in on these numbers that we're talking about and the decision by school boards is to stay with the NSEA's plan, then I have no problem

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with that. That's a free choice. It's a choice they don't have now. Let this come into being with an unamended LB 664 and the choice is up to...

PRESIDENT MAURSTAD: One minute.

SENATOR TYSON: ...conscientious, intelligent people who have been given the duty of administrating the school boards and the benefits to their teachers, and I think that in that consideration everyone will gain if LB 664 goes forward unamended. Thank you very much. I urge that you vote against the Bourne amendments, this one and the thirty-four following it. Thank you.

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

SENATOR CHAMBERS: Mr. President, "Baron Tyson", this is my penultimate time speaking on this matter. I don't know if it will be my last one or not, but this bill even with the Bourne-Bromm amendment, causes me some questions. Senator Bromm has said he'll support the Bourne amendment to move the schools out from under this bill altogether. I would like to ask Senator Bromm a question, and I'm going to try to be as narrow in my focus in asking the question as possible. Senator Bromm, was there any suggestion by the community colleges or the state colleges that they have plans or they are being approached to move out of this alliance that they're part of right now?

SENATOR BROMM: Not...not that I heard or that they communicated to me, Senator Chambers.

SENATOR CHAMBERS: In talking with them, did they suggest that they simply want to have the option to do differently from what would be the case if they were taken out from under the bill along with the schools?

SENATOR BROMM: Two things.

SENATOR CHAMBERS: Okay.

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SENATOR BROMM: That's one of them and the other thing is that they would like to be...they would like to be on the governing board to have something to say about how the benefits are tailored and...and what plan is chosen to be the carrier and that kind of thing.

SENATOR CHAMBERS: Did...and they do not enjoy that status on this alliance, or they do?

SENATOR BROMM: No, they do not.

SENATOR CHAMBERS: They're just kind of along for the ride providing numbers to expand the size of the covered group.

SENATOR BROMM: Yes.

SENATOR CHAMBERS: Thank you. I'd like to ask Senator Bourne a question.

PRESIDENT MAURSTAD: Senator Bourne.

SENATOR BOURNE: Yes.

SENATOR CHAMBERS: Senator Bourne, why are not these colleges given a spot on the board, on the governing board?

SENATOR BOURNE: I...I can't answer that. I do not honestly know.

SENATOR CHAMBERS: Is it that their people are not smart enough, because the state colleges don't reach the level of UNL, and the community colleges don't reach the level of the state colleges, or just what is it?

SENATOR BOURNE: I don't think that's accurate. You know, I honestly do not know, but I can find out.

SENATOR CHAMBERS: Thank you. I'd like to ask Senator...Senator Bromm a question.

PRESIDENT MAURSTAD: Senator Bromm, would you yield?

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SENATOR BROMM: Yes.

SENATOR CHAMBERS: Senator Bromm, I thought Senator Bourne might know. Do you happen to know why the colleges are not given a spot on the governing board?

SENATOR BROMM: No, you would have to ask those that control the governing board that. I do not know the answer to that.

SENATOR CHAMBERS: Who is on the governing board, if you know?

SENATOR BROMM: My understanding is that there are five...five NSEA representatives and five school administrator representatives.

SENATOR CHAMBERS: But nobody from the colleges.

SENATOR BROMM: Correct.

SENATOR CHAMBERS: Thank you. Since you don't have the answer, I won't pursue that. Members of the Legislature, I would like to ask Senator Tyson a question.

PRESIDENT MAURSTAD: Senator Tyson, would you yield to a question from Senator Chambers? Senator Tyson. Senator Tyson, Senator Chambers would like to ask if you would yield to a question.

SENATOR TYSON: Yes, sir.

SENATOR CHAMBERS: And, Senator Tyson, please don't be coy. Senator Tyson, are you going to favor the Bourne amendment or not?

SENATOR TYSON: Not.

SENATOR CHAMBERS: If that amendment is adopted, are you going to support the bill or not? Not quite so easy, is it?

PRESIDENT MAURSTAD: One minute.

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SENATOR TYSON: Senator Chambers, I believe that LB 664 is worthy of support unless it gets too badly mangled.

SENATOR CHAMBERS: I will re-ask my question a...

SENATOR TYSON: Maybe.

SENATOR CHAMBERS: ...different way. Do you think removal of the schools from the purview of this bill would mangle the bill to such an extent that you would no longer support it?

SENATOR TYSON: No.

SENATOR CHAMBERS: Thank you. That's all that I have. Thank you, Mr. President.

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

SENATOR BROMM: Thank you, Mr. President. I just want to make a short comment on...on what I think, hopefully, Senator Bourne and I will try to work on after this bill moves along, if it does, and that is to discuss with the entities involved why we can't make this governance board a little more participatory with those people that are involved in the...in the coverage. And going to the letter that Senator Tyson had referred to dated April 3rd from Jim Griess, they list several characteristics of...of...of a good plan that national insurance consultants advise is the best way to control healthcare costs for educational employees, and that includes, among other things, the creation of a governance board made up equally of participating employer and covered employee representatives to govern the plan and negotiate with providers and insurance carriers for reasonable coverage. So that is consistent with one of the...it's one of the characteristics of a good, stable insurance alliance, so I hope that they will be willing to consider that. And the Pennsylvania model that was included in some of the other material that was handed out by the...by the alliance included the Pennsylvania Health Care Trust organizational structure, and as near as I can tell on that

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structure on that governing board, that has six school board people, six teacher representatives, and two administrator representatives. And so the important thing there is that no one of those groups would have control, total control, over the...over the decision making and I think that kind of structure has a lot to offer for this risk...for this group purchasing organization. Thank you, Mr. President.

PRESIDENT MAURSTAD: Thank you, Senator Bromm. Senator Baker, on the Bourne amendment.

SENATOR BAKER: Thank you, Mr. Lieutenant Governor. I had asked a question of Senator Bourne this morning, and I...I guess he's available now. If he could respond to a question, please.

PRESIDENT MAURSTAD: Senator Bourne, would you yield?

SENATOR BOURNE: Yes.

SENATOR BAKER: My question this morning, and I...I don't know whether you've had time to get an answer but I certainly would like one, and that's the Rate Stabilization Reserve Fund. What funding...where is that now? It says it's...it shall be maintained at a minimum level of 35 percent of the annual premium of the total plan. Do you...have you gotten any figures on that or where we are on that?

SENATOR BOURNE: Okay, let me, if I could, take just a minute and then if I...if I take too much of your time I'll push my button and give it back to you, but what Senator Baker is taking about, the Rate Stabilization Fund, is that several years ago the pool, as well as everybody else...or, excuse me the teachers' alliance as well as all other insurance people that...individuals that receive insurance experienced enormous...well, not enormous but they experienced some premium growth. The premiums went up. And so what NSEA did or, excuse me, the Educators Alliance did was form a Stabilization Fund and what they use this fund for is if rates increase an inordinate amount they use that Rate Stabilization Fund to offset some of the premium increase...increases that members might experience, and that's basically what the Rate Stabilization Fund is. The

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teachers' alliance does not make any money whatsoever on that fund and my understanding is, is that the amount varies. It can be one year, if the premiums go up just a very small amount, that that fund can grow quite large and then a year or two down the road, when they experience a higher rate of premium costs, then that fund could be used up by offsetting the increased premium to its insureds.

SENATOR BAKER: Okay, thank you, Senator Bourne. But that...so if they follow their governance agreement here, they call it, then a year that they use some of this Rate adjustment (sic--Stabilization) Reserve Fund, how do they replenish it? Where's the money come from to replenish it, I guess would be my question?

SENATOR BOURNE: Well, I think what happens is that they...they have a stable premium and the money that is taken in, in collections, and this is an assumption and maybe I shouldn't even say it, but it just stands to reason that the money that is not used for insurance premium is set aside in the Stabilization Fund and then several years down the road, when insurance premiums come up, this money is set aside. And, again, what's...the reason this is done is to reduce the burden on the educators in the pool and on the school boards who are part of the administration.

SENATOR BAKER: Okay, I understand. I guess I understand. I don't know as I agree with the philosophy. That's public money, taxpayers' money sitting there in this Rate Stabilization Fund...

SENATOR BOURNE: Oh, excuse me, Senator Baker, I'm not sure that it is, because I think...I think what it is, is that it is the individual teacher's money that is withheld from their paycheck that goes into the Stabilization Fund. I don't believe that that is state money.

SENATOR BAKER: I guess I'd like to have that verified or something. I'd also like to know how many dollars, you know, if you could get me some sort of a figure from the past few years, where that is as amount of money and how it's been used in the

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last few years as far as premium adjustment then? If you could do that, I would appreciate that.

SENATOR BOURNE: I will try.

SENATOR BAKER: Okay. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Baker. Senator Bourne, you're recognized to close on your amendment to LB 664.

SENATOR BOURNE: Thank you, Mr. President. Members, again, what we're doing is...Senator Bromm has agreed to this and other interested parties. It excepts out school districts and educational service units from the pooling provisions in LB 664. I think I'd ask for a call of the house, Mr. President.

PRESIDENT MAURSTAD: Thank you, Senator Bourne. Are you done with your closing?

SENATOR BOURNE: I am.

PRESIDENT MAURSTAD: Thank you, Senator Bourne. The question is, shall the house go under call? Those in favor vote aye; those opposed vote nay. Please record.

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

PRESIDENT MAURSTAD: The house is under call. Would unauthorized personnel please leave the floor. Would members please record your presence. The house is under call. The house is under call. Members could please return to the Chamber, record your presence. Would those members in the Chamber please record your presence. The house is under call. Senator Robak, the house is under call. Senator Jensen, the house is under call. Senator Robak, the house is under call. The question is the adoption of the Bourne amendment to LB 664. Those in favor vote aye; those opposed vote nay. Mr. Clerk, please record.

CLERK: 36 ayes, 1 nay, Mr. President, on the adoption of

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Senator Bourne's amendment.

PRESIDENT MAURSTAD: The amendment is agreed to. Call is raised.

CLERK: Mr. President, I now have, Senator Bourne, AM1306.

PRESIDENT MAURSTAD: Senator Bourne.

SENATOR BOURNE: Thank you, Mr. President. I'd like to withdraw the pending amendments.

CLERK: All of them, Senator?

SENATOR BOURNE: Yes.

PRESIDENT MAURSTAD: The amendments are withdrawn.

CLERK: Mr. President, I believe I have nothing further pending to the bill at this time.

PRESIDENT MAURSTAD: Debate on the advancement of LB 664? Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, I had some legitimate questions about the bill and they were answered, but this bill did give me an opportunity to take a little time off the clock and I intend to do that with other bills. I never want my colleagues to be disappointed in me when I make a promise, and I will not put off until tomorrow what I can do today. Since we have additional bills, I will be dealing with them. I want Senator Maxwell to know that an amendment I have on his bill is legitimate, but he'll see that when we come to it, unless it's already on the gadget. But other than that, this bill is not of great concern to me, but I still have questions about it. I don't see the point of it. I don't see the sense in it. I don't see the need for Senator Bourne's amendment, but it's been adopted. If everything truly was voluntary the only rationale I can see is one that I read in a letter that somebody sent around saying that the threat of these various entities pooling will force these insurance carriers to

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give them a better deal. I'd like to ask Senator Bromm a question along that line.

PRESIDENT MAURSTAD: Senator Bromm, would you yield to a question?

SENATOR CHAMBERS: Senator Bromm, is what I've just said some of the rationale behind this bill, since everything in it is voluntary?

SENATOR BROMM: Senator Chambers, political subdivisions do not now have the legal authority to enter into pooling arrangements. Statutorily, it's not...for health insurance...

SENATOR CHAMBERS: Um-hum.

SENATOR BROMM: ...it is not possible. So this does open up not just a competitive notion or a threat of competition but it for the first time gives political subdivisions--villages, towns, municipalities--the opportunity to get together and see whether they could be a more viable group to offer themselves as a group and purchase health insurance more competitively as a group. I think it really does have merit in that respect.

SENATOR CHAMBERS: But right now they can be self-insurers, if they choose.

SENATOR BROMM: Only...only by themselves.

SENATOR CHAMBERS: Right. And they can purchase insurance, if they choose.

SENATOR BROMM: By themselves.

SENATOR CHAMBERS: Right. And this allows them to come together. Do you think some are going to come together, or the prospect of them coming together is what is supposed to cause the insurance carriers to be more reasonable when they sell insurance, or are these subdivisions expecting to pool and become self-insurers?

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SENATOR BROMM: I think many of them will come together, I...I really do. I think they will feel that they have more bargaining power, if you will. And we've been talking off and on, on the Bourne amendment, about the advantages of having a larger group to negotiate for health insurance coverage and that will be an advantage for them if they decide to pool together.

SENATOR CHAMBERS: Would you see any advantage to a number of villages or smaller towns or any of these groups that would qualify as members of...of political subdivision categories forming a pool for self-insuring purposes? They would put in the money to cover themselves, or that might be too risky?

SENATOR BROMM: Well, I think that would be pretty risky, but part of that plan could be, of course, they would put in some money...

SENATOR CHAMBERS: Um-hum.

SENATOR BROMM: ...but then they would, I would hope, would have some reinsurance or some coverage to cover the catastrophic loss or the big...the big problem that they can't afford to take out of their pocket and cover.

SENATOR CHAMBERS: Okay. Thank you. That's all that I have.

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

SENATOR ERDMAN: Thank you, Mr. President. I move the advancement of LB 664 to E & R for engrossing.

PRESIDENT MAURSTAD: Question is the advancement of LB 664 to E & R. Those in favor say aye. Opposed nay. The bill is advanced. (Visitors introduced.) Mr. Clerk, items for the record?

CLERK: Mr. President, your Committee on Enrollment and Review reports LB 313, LB 313A, LB 438, LB 444, LB 585A, LB 671, LB 671A, LB 772, LB 772A, LB 808 as correctly engrossed. Senator Landis, an amendment to LB 465 to be printed. That's

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all that I had, Mr. President. (Legislative Journal pages 1435-1441.)

PRESIDENT MAURSTAD: Thank you, Mr. Clerk. And the next bill.

CLERK: Mr. President, LB 678. Senator Erdman, I have Enrollment and Review amendments first of all, Senator. (AM7089, Legislative Journal page 1308.)

PRESIDENT MAURSTAD: Senator Erdman.

SENATOR ERDMAN: Mr. President, members, I move the adoption of the E & R amendments to LB 678.

PRESIDENT MAURSTAD: Question is the adoption of the E & R amendments. Those in favor say aye. Opposed nay. The amendments are agreed to.

CLERK: Senator Chambers would move to amend. (FA169, Legislative Journal page 1442.)

PRESIDENT MAURSTAD: Senator Chambers, you're recognized to open on your motion to amend LB 678.

SENATOR CHAMBERS: Mr. President, members of the Legislature, having been slapped around and kicked in the teeth by my seatmate, Senator Connealy, over here in the culture corner, and he got his cloture motion successfully processed, I now have time to look at some other bills. LB 678 is a relatively innocuous little bill brought by our rookie, our tyro, our very personable young Senator Maxwell. Senator Maxwell, what this amendment would do, on page 2, line 15, we're talking about the scope and the word that we should use is "within the scope" rather than "under the scope". Now, if we look at what happened recently when an American submarine rose suddenly and split the surface and sank a ship, it's because the scope was not used in the way that it should have within its purview. It did not pick up what it should have and the ship that was sunk wound up under the scope. Had it been within the scope it would have been seen and we would not be having me talking about it now. But what I want to do is try to use what I consider the appropriate word,

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since we're talking about the scope of a program. I'd like to ask you a question.

PRESIDENT MAURSTAD: Senator Maxwell, would you yield?

SENATOR MAXWELL: Yes.

SENATOR CHAMBERS: Have you looked at the amendment?

SENATOR MAXWELL: I have, yes. Thank you for the heads-up. I had a chance to look at it.

SENATOR CHAMBERS: Now I will ask you another question. Do you agree with the amendment?

SENATOR MAXWELL: I do. It looks reasonable to me. Yes, I appreciate the improvement.

SENATOR CHAMBERS: Now I will ask you a third question. Will you support the amendment?

SENATOR MAXWELL: I will.

SENATOR CHAMBERS: My fourth and last question: why will you support the amendment?

SENATOR MAXWELL: Because I think it improves the bill.

SENATOR CHAMBERS: I appreciate that unsolicited acknowledgement. (Laughter) The amendment is a simple amendment and I'm glad that Senator Maxwell did have a chance to look at it. But if you should have any questions then I will answer them. I want to assure Senator Hilgert that with my discussion of the submarine I was not implying anything about the Desert Storm activity.

PRESIDENT MAURSTAD: Senator Chambers, you're recognized to close. Senator Chambers waives closing. Question is the adoption of the Chambers amendment to LB 678. Those in favor vote aye; those opposed vote nay. Mr. Clerk, please record.

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

PRESIDENT MAURSTAD: The amendment is adopted.

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

PRESIDENT MAURSTAD: Debate on the advancement of LB 678? Senator Maxwell.

SENATOR MAXWELL: Mr. President, members of the body, just a quick refresher, this is a bill that would allow physical therapy students to do clinical work in physical therapy within the scope of an approved training program under the supervision of a licensed practitioner. Just quickly, to recap, when the statutes were drafted back in the 1950s, apparently there was an oversight and there was no exemption for students to do clinical work. This statute would fix that problem, and that's all I have to offer. I'd be happy to answer any questions.

PRESIDENT MAURSTAD: Thank you, Senator Maxwell. Senator Erdman, recognized.

SENATOR ERDMAN: Thank you, Mr. President. Members, I move the advancement of LB 678 to E & R for engrossing.

PRESIDENT MAURSTAD: Question is the advancement of LB 678. Those in favor say aye. Opposed nay. The bill is advanced. Mr. Clerk, next bill.

CLERK: Mr. President, LB 516 on Select File. I do have Enrollment and Review amendments, Senator. (AM7091, Legislative Journal page 1362.)

PRESIDENT MAURSTAD: Senator Erdman.

SENATOR ERDMAN: Mr. President, I move the adoption of the E & R amendments to LB 516.

PRESIDENT MAURSTAD: Question is the adoption of the E & R amendments to LB 516. Those in favor say aye. Opposed nay.

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The amendments are agreed to.

CLERK: Mr. President, Senator Beutler would move to amend. Senator, I have in front of me AM1216, but a note...

SENATOR BEUTLER: Mr. Clerk, members of the Legislature, I've been working with Senator Smith to insert into his bill a little bill that was advanced out of Banking Committee or out of Revenue Committee without objection, but we still have some information to work out on the...on the A bill aspect of it and, until we do, it probably is not entirely comfortable for Senator Smith, so I'll withdraw all my amendments at this point in time.

PRESIDENT MAURSTAD: The amendments are withdrawn.

CLERK: Senator Chambers, I have AM1365, Senator. (Legislative Journal page 1383.)

PRESIDENT MAURSTAD: Senator Chambers.

CLERK: I believe it's one of your...

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, this would be one of the amendments which says that as of the effective date of the bill that's when the reference...I meant that's...okay, the reference will be made to a rule or regulation. This amendment always says to that...to the form of that rule or regulation as of the effective date of the bill. That prevents an inappropriate delegation of legislative authority. It's what I call the Chambers amendment, in my great modesty and humility, and I offer it for your consideration and adoption.

PRESIDENT MAURSTAD: Debate on the Chambers amendment? Senator Chambers, would you like to close, all humility? Waives closing. Question is the adoption of the Chambers amendment to LB 516. Those in favor vote aye; those opposed vote nay. Please record.

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

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PRESIDENT MAURSTAD: The amendment is adopted. Senator Erdman, you're recognized.

CLERK: Just...I want to make sure...Senator Beutler, you wanted to withdraw all of your amendments, is that right?

SENATOR BEUTLER: I do, Mr. Clerk.

CLERK: Okay.

PRESIDENT MAURSTAD: I'm sorry, Mr. Clerk.

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

PRESIDENT MAURSTAD: Okay. Senator Erdman.

SENATOR ERDMAN: Thank you, Mr. President. I move the advancement of LB 516 to E & R for engrossing.

PRESIDENT MAURSTAD: Question is the advancement of LB 516. Those in favor say aye. Those opposed nay. The bill is advanced. Mr. Clerk.

CLERK: Senator, LB 516A, I have no amendments to the bill.

PRESIDENT MAURSTAD: Senator Erdman.

SENATOR ERDMAN: Mr. President, I move the advancement of LB 516A to E & R for engrossing.

PRESIDENT MAURSTAD: Question is the advancement of LB 516A. Those in favor say aye. Opposed nay. The bill is advanced. Mr. Clerk.

CLERK: Mr. President, LB 38, I have Enrollment and Review amendments first of all, Senator. (AM7096, Legislative Journal page 1364.)

PRESIDENT MAURSTAD: Senator Erdman.

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SENATOR ERDMAN: Mr. President, I move the adoption of the E & R amendments to LB 38.

PRESIDENT MAURSTAD: Question is the adoption of the E & R amendments to LB 38. Those in favor say aye. Those opposed nay. The amendments are adopted.

CLERK: Senator Bromm would move to amend, AM1410. (Legislative Journal pages 1442-1444.)

SENATOR BROMM: Mr. President,...

PRESIDENT MAURSTAD: Senator Bromm, you're recognized to open.

SENATOR BROMM: ...thank you very much. This is a fairly short amendment that I've talked with Senator Thompson about and she and I both signed the amendment to introduce it, but it was...was brought to us to provide somewhat clean-up language in the portion of the statute that provides for the suspension of a license where you have a...a second or subsequent conviction of DUI and you have, as an option to the license suspension in the statute, you have the possibility of the installation of an ignition interlock device on the owner's motor vehicles if the owner is sentenced to a revocation of at least one year and has completed at least one year of that revocation. The language inserted after that one-year of revocation says that: "No license reinstatement may occur until sufficient evidence is presented to the department", and that refers to the Department of Motor Vehicles, "that an ignition interlock device is installed on the vehicle and that the applicant is eligible for use of an ignition interlock device." It's simply to assure the Department of Motor Vehicles and the court that, in fact, the ignition interlock device has been installed so that they know they can go ahead and reinstate the operator's license. And, as Senator Thompson and I have discussed, we both feel this is a reasonable amendment. There's two or three things that the Department of Motor Vehicles need to program into their computer regarding the reinstatement of drivers' licenses. This would be one of those things, and there will be a small A bill out of the cash funds of the department that will come along after this

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amendment is adopted, if it is adopted. And, with that, I would conclude my opening. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Bromm. Debate on the Bromm amendment? Senator Bromm, you're recognized to close. Senator Bromm waives closing. The question is the adoption of AM1410 to LB 38. Those in favor vote aye; those opposed vote nay. Please record.

CLERK: 27 ayes, 0 nays, Mr. President, on the adoption of Senator Bromm's amendment.

PRESIDENT MAURSTAD: The amendment is adopted.

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

PRESIDENT MAURSTAD: Senator Erdman.

SENATOR ERDMAN: Thank you, Mr. President. I move the advancement of LB 38 to E & R for engrossing.

PRESIDENT MAURSTAD: Question is the advancement of LB 38 to E & R. Those in favor say aye. Those opposed nay. The bill is advanced. Mr. Clerk.

CLERK: LB 277, Mr. President. I have Enrollment and Review amendments, Senator. (AM7094, Legislative Journal page 1368.)

PRESIDENT MAURSTAD: Senator Erdman.

SENATOR ERDMAN: Thank you, Mr. President. I move the adoption of the E & R amendments to LB 277.

PRESIDENT MAURSTAD: Question is the adoption of the E & R amendments. Those in favor say aye. Those opposed nay. The amendments are adopted.

CLERK: Senator Redfield would move to amend with AM1396. (Legislative Journal pages 1444-1446.)

PRESIDENT MAURSTAD: Senator Redfield.

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SENATOR REDFIELD: Thank you, Mr. Lieutenant Governor. Members of the body, there is an amendment before you. It does involve some technical changes which were brought to us by the Department of Revenue, but it also has a line in there which I think is very pertinent for us to discuss today and that is that we are passing out to you right now the sample form that we had constructed for you to look at the other day and if you look at line 6, which is highlighted, you will see that, while LB 277 fixes the brackets in the Nebraska Code, which is different than the federal, that we have in fact at the state level been using the federal standard deduction and that is just fine. But if Congress, in fact, carries out what is being discussed today and has been approved by the House and is under discussion by the Senate and their tax cut changes the federal standard deduction for married couples to double that of singles, we will in fact then throw the equity out of proportion again because the marrieds would be getting a larger deduction than the singles. That was not our intent with LB 277 and, therefore, the best solution would be to put in statute the current standard deduction that exists at the federal government now. It would become part of our statute and it would also have an inflation factor in there which would coincide with the current federal statute. So it would stay in sync with what we have been doing all along. What it would prevent is that if, in fact, Congress does make that change we would not be seesawed around, up and down, with the federal changes; that we would, in fact, be held harmless and would maintain a standard income rate that is consistent and equitable between the singles and the marrieds. That was the intent of LB 277. This would protect the state and hold us harmless from any action of the federal government. It would set in statute the standard deduction that is currently in place, only it would make it a state standard deduction which would then go on line 6 on our form as a state standard deduction rather than federal. That's the basis of the change in the amendment. I think that it would be a prudent and fiscally responsible thing to do and certainly it does not increase or decrease the price of the bill, but what it does do is it maintains a standard of equity in the state of Nebraska. I will be happy to answer any questions if there are any at this time.

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PRESIDENT MAURSTAD: Thank you, Senator Redfield. Senator Wickersham, on the Redfield amendment.

SENATOR WICKERSHAM: Mr. President, I hope members will support the amendment brought by Senator Redfield. It is certainly a prudent amendment. It is a subject that we began discussing on General File. It does and would protect us if the federal government changes its definitions, as they might as a part of their efforts to resolve the discrepancies between married persons and single persons in the federal code. Now, if they don't make the change, we have still taken one small step, if you will, in a further decoupling of our tax system from the federal code. There are still things that we have in common with the federal system, but we would just have one less item that is in common with the federal system and I think it is certainly prudent to protect ourselves against changes that might occur for different reasons at the federal level, and they could be very expensive in terms of lost revenue to the state of Nebraska. So, again, I would urge you to support Senator Redfield's amendment. I think it is prudent in the context of the current discussions at the federal level.

PRESIDENT MAURSTAD: Thank you, Senator Wickersham. Senator Raikes, on the Redfield amendment.

SENATOR RAIKES: Thank you, Mr. Lieutenant Governor and members. Senator Redfield, if I...if I could, I'd like to ask you a question.

PRESIDENT MAURSTAD: Senator Redfield, would you yield?

SENATOR REDFIELD: Yes.

SENATOR RAIKES: Senator Redfield, if there were no...none of the changes proposed in LB 277, that is that we kept our state income tax structure at it...as it is and we had the federal change that's being proposed and, as I understand it, you said this was proposed, nothing is final yet, what...what would that do to the...I guess two things. One of them is how would that affect the marriage penalty we now have in the state of Nebraska

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and also the income tax revenues of the state?

SENATOR REDFIELD: It would correct the difference in the deductions, the standard deduction that you use in calculating your taxes today. Of course, is you itemize your deductions that is not something that comes into play, but if you do not itemize, it would fix that. At the federal level, they're proposing doubling the single rate. This would correct that in our tax code as well. However, what LB 277 does is it corrects the brackets. That is not being proposed at the federal level.

SENATOR RAIKES: So...so let me...let me make sure I understand. You said at the federal level they're going to double the standard deduction single to joint. Is that...is that right?

SENATOR REDFIELD: That's correct.

SENATOR RAIKES: And then they're also going to, you said, do something about the rate at the single...

SENATOR REDFIELD: No, I said LB 277 basically adjusts the brackets and not just the deduction, but the federal deals only with the deduction as it affects us here in the state of Nebraska.

SENATOR RAIKES: Okay. So...and then the questions about the...the revenue impacts on the state of Nebraska, if there were nothing done, if there were no LB 277 and if this change occurred at the federal level, what would be the revenue impact on the state of Nebraska?

SENATOR REDFIELD: I understand that the loss of income to Nebraska would be \$20 million.

SENATOR RAIKES: Okay. So what...what you're saying then, and I'm just trying to make sure I get these numbers, is that if there were no LB 277 the loss, because of this change at the federal level, would be \$20 million. If you had the federal change and LB 277 as it is now then the loss would be \$20 million plus another \$9 million. Is that correct?

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SENATOR REDFIELD: Well, the 20 million is an annual number and the annual number we have on the out years is 6.6 million, so it would annually be 26.6.

SENATOR RAIKES: Okay. So we're...we're, I guess, and again following Senator Wickersham, we're in a place now, if you will, to assure the revenue base of the state, the income tax revenue base, that it would be necessary to make this change, the one you're proposing in your amendment, whether or not LB 277 is adopted?

SENATOR REDFIELD: If LB 277 was adopted and this amendment was on it, it would protect the state and hold us harmless. If in fact LB 277 is not passed and signed by the Governor we would have a significant loss and would have to be looking at significant cuts in the budget or an increase in taxes to make up the difference. By passing LB 277 with the amendment we are held harmless.

SENATOR RAIKES: Okay, so two...or the amendment would...would preserve the standard deduction amounts that are...

PRESIDENT MAURSTAD: One minute.

SENATOR RAIKES: ...currently in LB 277, but different than the status quo.

SENATOR REDFIELD: That is correct.

SENATOR RAIKES: Okay. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Raikes. Senator Stuhr, on the Redfield amendment.

SENATOR STUHR: Thank you, Mr. President and members of the body. I have a question...a couple questions to Senator Redfield.

PRESIDENT MAURSTAD: Senator Redfield, would you yield?

SENATOR REDFIELD: Yes.

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SENATOR STUHR: Senator Redfield, you're talking about correcting the brackets in the original bill. I'm not talking about the amendment right now. And it is going to cost the state about \$3 million the first year, is that correct, and about...

SENATOR REDFIELD: Two point six, I believe.

SENATOR STUHR: Yes, and then about \$6 million the following.

SENATOR REDFIELD: Correct.

SENATOR STUHR: Now there was something about that this is really...that we're just kind of reversing it, that it's really going to fall on the backs of the singles. Is...can you explain that from what I've just heard?

SENATOR REDFIELD: In the original LB 277 it was strictly a tax cut. It was bringing the married couples down to the exact same tax that singles pay right now. With the committee amendment, which was approved by the body, we said that we were going to bring the singles up a little bit, we were not going to take all of the bonus away, but we were going to bring them up a little bit to reduce the cost. That meant that singles wouldn't get as big a tax cut but they would both be paying the same amount. That means that two singles would pay the same as two married people. Some singles were concerned that one single was going to pay the same as a married couple, and it was two singles would pay the same as a married couple.

SENATOR STUHR: Oh, okay. So my concern is we're trying to keep young singles in Nebraska. We're, you know, we're trying to prevent them from...from leaving and...and so, you know, just...just the impact that it might...might have. Would you like to respond?

SENATOR REDFIELD: Well, Senator Stuhr, I would like nothing better than to pass LB 277 on the green copy. It would be a \$35 million tax cut and that would bring it down to the singles and it would not increase their tax burden at all. However,

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there is not that kind of money in the budget. There are not the votes to pass that and, in fact, we looked long and hard at a number of different solutions. Some people would like to raise the tax on the singles so that it totally offsets the tax cut and I'm not willing to do that. However, there is some increase on them. For most people at the taxable rate, if they have about \$10,000 in taxable income, the increase is \$2 a year. If they have \$15,000 in taxable income it's \$3 a year. That's not a week or a month; that is a year. So the increase we're talking about on singles is not a large number, but the impact on married couples on the amount that they have been paying over and above what they paid on the same income when they were single was very significant.

SENATOR STUHR: Okay. All right. Thank you. I've supported the bill and I'll continue to do so, but thank you for that information.

PRESIDENT MAURSTAD: Senator Redfield, you're recognized to close. Senator Redfield waives closing. The question is the adoption of AM1396 to LB 277. Those in favor vote aye; those opposed vote nay. Mr. Clerk, please record.

CLERK: 27 ayes, 0 nays, Mr. President, on the adoption of Senator Redfield's amendment.

PRESIDENT MAURSTAD: The amendment is adopted.

CLERK: I have nothing...

PRESIDENT MAURSTAD: Debate on the advancement of LB 277?
Senator Raikes.

SENATOR RAIKES: Thank you, Mr. Lieutenant Governor and members. I would just, I guess, like to mention what I think is potentially a problem here. My view is that this is probably not a good bill to go forward with at this time, and a couple reasons. Not that I...I don't think the marriage penalty is something that needs to be addressed and Senator Redfield certainly has a bill that does that, but my concern is that at this time we should not be subjecting the state to a loss in its

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revenue base. If this bill passes and the federal government passes a marriage penalty proposal, then the state's revenue base loss would be held to, I think Senator Redfield pointed out, \$6.6 million, which I think is too much, and I will emphasize again I would think it would be too much particularly if it were coupled with a sales tax increase, even a minor one. The concern is if this bill, for whatever reason, did not pass and the federal legislation did pass then, as I understand Senator Redfield's amendment, the state would be subject to possibly a \$20 million revenue impact. So what my concern is, is that my position is that we should not address this issue right now in this bill, but if we don't then I'm not sure I have a home because there is no other bill that would address the revenue impact that would result in the state of Nebraska because of a federal change. So I want to...I want to make that point and hopefully someone will point out to me that I'm wrong; that there is, in fact, a way to address that issue and it's all been thought of. But obviously I don't have the answer. So thank you.

PRESIDENT MAURSTAD: Thank you, Senator Raikes. Senator Beutler.

SENATOR BEUTLER: Mr. Lieutenant Governor, members of the Legislature, I don't know what is a good time to begin talking about the fiscal impact of all the A bills, but I suppose now is as good as any because we're dealing with one with a very significant A bill impact. I just passed out to you, I...I hope you're interested in looking at all of the...the sheet showing all of the A bills that are priority bills and that are now in the process of going through the Legislature, and I think we're going to have to think very seriously about which we can advance and which we cannot, and what we can afford to do and not do. If you take a look at that list, first of all, remember that characteristically we set aside 12 or 13 or 14 million dollars for A bills in the Appropriations Committee deliberations, and this year I think, if I'm remembering right, Senator Pederson, we set aside \$13 million a year, isn't that right? Okay. So you're starting out with a target of \$13 million a year total A bills. Now, if you look at that sheet, you'll see it's broken down between bills that are on Final Reading, Select File, and

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then priority bills on General File, and then some of the priority bills that are in committee, and you can see, with respect to bills that are on Final Reading, that already we have sitting there bills totaling in excess of \$5 million in '01-'02, and \$13 million in '02-'03. So just the bills that are on Final Reading have already exceeded our limitation for '02-'03. Then, if you go down to Select File, you'll see on Select File there sitting another \$5 million of potential expenditures for '01-'02, and another nearly \$15 million of expenditures for '02-'03. So, between Final Reading and Select File, and this bill is sitting on Select File, you're totaling about \$27 million in the one fiscal year and you're up to over \$10 million in the first fiscal year. This bill, which is \$6.6 million in the second fiscal year, is a big chunk and so I...I'm not sure what I'm going to do but I think that we need to think very seriously about whether this is the right timing for this particular bill. Then, if you look further at the priority bills on General File, you'll have to be thinking about which ones of those you want to advance and you want to take care of. Obviously, the big item is the teacher salary bill, but even if you subtract out the total of \$41 million for teacher salaries you still have \$18 million of additional bills in each fiscal year counting...adding on the priority bills on General File. And, finally then, there's another \$3 million in one year and \$4 million in the second fiscal year for priority bills that are in committee. Now, those may never come around, but the point is we need to do some winnowing in this process and we're getting...it's getting to be that we have a significant amount of expenditures already on Final Reading so maybe there...

PRESIDENT MAURSTAD: One minute.

SENATOR BEUTLER: ...needs to be a little "intenser" discussion of what we want to choose to do and what we don't want to choose to do. I thought at least I would bring this list to your attention for the first time I think this session and I'm sure we'll be discussing it and it will be on your consciousness...on your...on your radar screen more and more often now as we get closer to the appropriations bills and as we think about the final vote on the various A bills. But I hope we don't get

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ourself in a bind where we have loaded on Final Reading a number of bills that are far in excess of what we can afford to do, and I would simply ask you to start thinking about that as soon as possible, including today. Thank you.

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

CLERK: Senator Smith would move to bracket the bill until May 1st of 2001.

PRESIDENT MAURSTAD: Senator Smith, you're recognized to open on your motion to bracket.

SENATOR SMITH: Thank you, Mr. President. Members, I rise with this motion after listening to part of this debate. I think that we need to slow down. The Economic Forecasting Board meets and I believe comes up with a report on April 20th. That would give ten days for us to digest that information. I know that that's a very important bit of information that we'll need to review and, for that purpose, I believe that we should hold off a bit here so that we can think long and hard as to what our priorities are. If this was a true elimination of the marriage tax penalty or the marriage penalty I would look at it a little bit different but...in a different manner, but let me just be clear in that I think we need to slow down and take longer to decide what we're going to do with this. For that reason, I hope that you can support the bracket motion. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Smith. Senator Redfield, motion to bracket.

SENATOR REDFIELD: Thank you, Mr. Lieutenant Governor and members of the body. Senator Smith, I have to tell you, is one of the cosponsors of the bills and I think we have a good rapport and I appreciate that he came to me before he introduced this and asked if it would be a problem. I said, yes, it really is. (Laughter) I have to tell you that I'm not a person who gets angry very easily and I'm not angry at Senator Smith at all, but I sat in Revenue Committee one day and I started looking at the issues that were before us and the people that were asking for money and I started looking at all of the bills

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that we had here on this list and I saw lots of good things that we've wanted to do that we were willing to spend money for, and I was willing to spend money for them too. And there are some very significant A bills on here. We were willing, in 2002 and '03, to spend \$8 million for school consolidation incentives, incentives. We were willing to spend \$3.7 million on public advocacy for...a fiscal note for two years of \$5.5 million. We have been willing to spend money for a number of other things and, you know, that was the day in Revenue Committee when I got angry and said, why do I have to amend my bill and put a burden on the singles? Why do I have to make them lose part of the bonus that they now have? But I'm trying to be as fiscally responsible as I can be and I am trying to bring the costs down at the same time that we're providing equity to the citizens of Nebraska. I still think it is about the same person with the same job and the same income paying the same taxes, and I think that's worth a price, and there will never be a good time because I'm going to ask you how long the marriage penalty has existed. It has existed a long, long time. And if we wait for a time when we have enough money to make it go away there will always be something else we can spend the money on if we have a surplus, or there will always be a shortage and we can't afford it. And I will go back and quote my young colleague who said, if it's the right thing to do it is always the right time. I oppose the bracket motion. I hope that you don't support it. I think that with the amendment we have adopted today that we have protected Nebraska, protected our tax structure so that we do not see a sizeable revenue loss when the federal government decides to make changes to their tax code, that we would be independent of their tax code, but at the same time we would protect our citizens with equity--the same job, the same money, the same person still paying the same tax in Nebraska. I think that's what Nebraska should be about--fairness for its citizens. I hope you don't support the bracket motion.

PRESIDENT MAURSTAD: Thank you, Senator Redfield. Senator Bruning, on the motion to bracket LB 277, followed by Senators Smith, Raikes, and Tyson.

SENATOR BRUNING: Mr. President, members of the Legislature, I, too, am a cosponsor of this bill, but I rise in support of the

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bracket motion, and the reason I do so is the more I thought about this bill I'm just not comfortable with the fact that we're shifting a tax...a taxing break, I guess, from single people to married people, and I don't see what good that does. If we're going to, indeed, take care of the marriage penalty, we need to take care of it. We need to take care of it all. We need to plan for it. We need to get it in the Governor's budget, out in front, long in advance of the session. As you look here at the bills with General Fund impact, look at the two-year total here, and Senator Beutler made this point very well, we're talking about \$125 million in things that we're doing when we've only got about \$15 million to actually spend. I mean we are so far past the mark it's not even funny. And this is one of those things where if it was a pure result, if we were going to take care of the marriage penalty altogether with cuts somewhere else, I would absolutely be supportive of that kind of a tax cut. But here what we're doing is we're saying we're going to take care of the married people; we're just going to hand it all off to the single people, and I'm not sure that's a fair result. From my perspective, it's not. And so one of the things we need to do perhaps is the Governor has, this year, \$30 million built into property tax relief, runs through the community colleges. Perhaps that's something we can do in the '03-'04 budget--work with the Governor in advance to make sure it's in the budget, work with the Appropriations Committee to make sure it's in the budget. Right now here we've got a \$9 million fiscal impact out of this bill that's not in the budget. It's just over and above. And this is a good thing. I agree it's a good thing to reduce the marriage penalty, but we haven't planned for it properly, and so I'm not comfortable with it for that reason and for the reason it's essentially a tax shift to single people. So I'm going to support the bracket motion to give us more time to think about it, more ways perhaps we can do this in the future. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Bruning. Senator Smith.

SENATOR SMITH: Thank you, Mr. President. I filed the bracket motion as a means of taking more time to deliberate. I am not fighting the bill. I'm not removing my name from the bill. We all know that issues come up throughout the session that can

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oftentimes change the picture of a particular bill, like a committee amendment in this case. Nonetheless, I think that we can accomplish a great deal with more information. The information may be good; it may be bad. We don't know at this point, but the fact is we need to wait and see, and for that reason I hope you can support the bracket motion. Thank you.

PRESIDENT MAURSTAD: Senator Smith. Senator Raikes.

SENATOR RAIKES: Thank you, Mr. Lieutenant Governor and members. I am also going to support Senator Smith's bracket motion. I don't discount any of the arguments Senator Redfield made. I do think at this time it is prudent to gather information. As far as accomplishing the objectives that she eloquently mentioned, May 1st is not going to make a lot of difference as compared to today. And we would be able to do it with considerably more information; both about the appropriations of the state of Nebraska, and possibly about federal intentions with regard to the marriage penalty and the income tax. So I think it's simply prudent to support this motion. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Raikes. (Visitors introduced.) Senator Tyson on the bracket motion to LB 277.

SENATOR TYSON: Thank you, Mr. Lieutenant Governor, members of the body. Just a short comment. The bill that Senator Redfield sponsored, and I was one of the cosponsors, corrected an imbalance in the marriage penalty. The shift came about through the Revenue Committee amendments. And all I've heard this afternoon, from the distinguished senators who oppose this bill, is that yeah the bill is fair, but we want the money, so to hell with what is fair. Now, we've already discussed the amendments, and how the bill stands now. Unless we want to go back to the way the bill was originally written, I don't know what waiting a little while longer is going to do. I urge you to oppose the bracket amendment, vote against it, and lets go forward with this bill which is fair. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Tyson. Senator Erdman on the motion to bracket.

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SENATOR ERDMAN: Thank you, Mr. President, members. Also as a single member of the body, I'm a cosponsor of LB 277. I think it's, as Senator Redfield mentioned, the right thing to do. And I've been contemplating on whether I should be opposing the bracket motion or supporting it. Obviously we need to have more information on a lot of bills, not just some that we're directly dealing with. But I think Senator Tyson brings up an interesting point on fairness. And we always talk here at the Legislature, or at least this is what I've been privy to as I've seen, on money. Well first of all, this isn't a cost to the state, this is a benefit to the taxpayer. First of all, and as a single individual, I'm trying to cope with the amendment that my colleagues placed on me here. But I'll look at some who talk about fairness, and I'm assuming, and this might not be correct, but we're going to give the university about \$57 million, in addition to what they'd requested, about a 10 percent increase. And I imagine if you would ask some of our Pages, or myself who was at the university not long ago, and you ask them if they support a tuition increase in addition to the amount of money that they get, they would say that's not fair. So here we are, we're talking about fairness. And I'll tell you that I don't believe that was fair. I believe that if we wanted \$35 million dollars, obviously we could go look at the university's budget, but we're probably not going to take that step. So that...there's money available, obviously it's whose cash cow we're going to take at. But it comes up to the idea of fairness. Now obviously it hasn't been fair to tax our married individuals more than single individuals. It hasn't been fair from that standpoint. This might be a step in the right direction. Obviously not being able to get everything we want the first time around, it might be a process. But if we're going to talk about fairness, let's talk about it in all aspects. Let's talk about it in all pieces of legislation. Let's look at it from a standpoint of where's revenue coming from, as in the university situation. I had a chance last week to attend a meeting of the teachers college, or their advisory board. And I asked them, knowing, and they knew, that the tuition increase was going to go to professors pay; I asked them if they supported an increase in tuition. And not one of them raised their hand, being future teachers, and we have obviously bills before this Legislature to raise their pay. Not one of

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them supported that idea. And so from the fairness side of that, we need to look at all bills in the legislation. Obviously that's off task a little bit, but obviously we have priorities in this Legislature. I think one of the greatest priorities we have is to figure out what our expenses are, to figure out how we find the revenue to accomplish that based on our priorities and to go forward. Now in the university situation, if they want to ask us for \$57 million, or whatever the money might be from Appropriation member, that's great. And if we give it to them, that's fine. But then again for them to raise it on, not only our young people, but on their parents and whoever else who might be paying for that college, isn't fair either, when they're getting additional revenue from somewhere else. So let's talk about fairness. Back on the motion to bracket, I'm undecided. I believe that the green copy of LB 277 was the right bill. I think that...that there's some merit still within LB 277. As far as what we're doing, we're still giving the state of Nebraska and the married individuals a tax cut of \$9 million over the biennium, and I think that's obviously anybody...something anybody would like. But the question is this; you know, people always ask me, what are you doing in the Legislature? And I always joke with them about raising their taxes. And some people find more truth in that than others. But I've heard members on the floor of this Legislature say that raising taxes is more important than being fair to the people of Nebraska. Now obviously that depends on what your priorities are. And I'm going to sit and listen to the debate and see, you know, what...what other people's priorities are, as far as where we're going to spend our money in regards to LB 277. But the money is out there, it's just a matter if we're going to make the tough decisions to make it happen. So I will sit and listen. Once again, I'm not sure where I should be on this bracket motion, but I think Senator Redfield has done a lot of work. I share Senator Smith and Senator Bruning's concerns being...being on the amendment side of this bill. But I will listen. But I think if we're going to talk about fairness, let's talk about it in all aspects of our government.

PRESIDENT MAURSTAD: Thank you, Senator Erdman. Senator Jensen, motion to bracket.

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SENATOR JENSEN: Thank you, Mr. President, members of the body. I also oppose the bracket motion. You know this is no different than any other bill that we pass here with an A bill. They all get to the end, and then we take another look at them. That's what we have with this, that's going to be the same thing, we don't need the bracket motion to do that. Certainly I think we do need to do what is fair. Sure, I would have liked to have seen a larger marriage relief, which I think would be the most fair, but we're getting there. We're at least headed down the road, without saying we're not going to address this issue, which I don't think is right either. I do support the...Senator Redfield's bill. I think we've...with her amendment, we've added some protection in there in case the federal government should pass a law; and we have no idea whether that's going to happen. But I don't see any reason to delay this. We pass LB 277, it just goes in line along with the rest of the A bills, and we can address it when we address the budget. Thank you, Mr. President.

PRESIDENT MAURSTAD: Thank you, Senator Jensen. Senator Wehrbein, on the bracket motion.

SENATOR WEHRBEIN: Yes, Mr. President, members of the body. First of all, I want to preface this by saying life isn't fair, so maybe that's where we're headed on a lot of these issues today. Senator Beutler did hand out a sheet that's...we've been working with in the Appropriations Committee to some extent, for a few days. I just want to say in a sense a bracket motion is probably redundant. I see it says May 1, we probably wouldn't get to this at May 1 anyway, except that it would be on Select File instead of General...it will be off of Select. But it...I...we aren't really going to take this bill up anyway, until after May 1, I assume we're going to be working on the appropriations bill soon. And then this will fall in place behind that. So in a sense, I think it's kill it now or kill it later; or at least stop it now or stop it later in an issue. And I don't...you can go either way you want. I guess if you bracket, I think it's going to have the same affect as if it, if we do nothing and pass it today, it's going to sit there until other, other appropriations bills fall in place. The real issue

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is, when do you want to decide? We've already decided on a couple through IPPs on some bills up above. The real issue is how it's going to fall in place. And I think you heard the...probably heard about the Governor's press release this morning, or press conference. Talking about somewhat lower estimates on revenue. We do not have those final numbers ourselves either at this point. We're going to be working on those over the next few days. Official numbers will come out on the 20th. But it does sense that there is a decline in revenue at this point. And so everything isn't going to fit. So it's a matter of when you want to start making priorities, if you're confident that this is not going to be one that's going to be your priority, and you want to spend money instead on all of the other things, then now is the time to make the decision. If this is your priority, you go ahead and...I don't know what you do. I really believe the May 1st bracket otherwise it's...really makes no difference as I see it, except to say that...indicate the bill is in trouble probably. But either way, we're going to have to be fairly conservative, and we'll have a lot more to say on this in another week, on the 20th when we will present your report, so you have some good reading to go home with on April 20th, over the weekend, to see that we are not going to be able to fit everything in there right now, let alone with some decline in revenue, which we're anticipating. So I guess I'm not really making a decision for you, but if this isn't on your...on your horoscope, I guess, bracket it and let us see how it falls.

PRESIDENT MAURSTAD: Thank you, Senator Wehrbein. Senator Chambers, on the motion to bracket LB 277.

SENATOR CHAMBERS: Mr. President, members of the Legislature. I have to ask Senator Redfield a question about the condition of the bill at this point.

PRESIDENT MAURSTAD: Senator Redfield, would you yield to a question?

SENATOR CHAMBERS: Senator Redfield, is that amendment still on the bill that was put on during the first stage of debate?

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SENATOR REDFIELD: Yes, it is.

SENATOR CHAMBERS: Okay, and you know that I can't support the bill.

SENATOR REDFIELD: I know.

SENATOR CHAMBERS: I mean, I've told you that. Okay. And that's all I'm going to say on this bill. I can't support it. But I have, Senator Wehrbein, made my decisions. I'm going to fight an increase in the sales tax for any purpose, tooth and nail. Any attempt to relax the spending limit for the Omaha Public Schools, I'm going to fight tooth and nail. And if it means bringing down every education bill, that's what I'm going to try to do. And by then putting everything into one bill, rather than consolidate enough support to pass it, I think they're going to consolidate enough opposition to play into my hands. But in any case, we've got eight more hours on the ethanol bill. We've got at least eight hours on the fetal tissue bill. We've got, I know eight hours on these school bills. And all of this is what I need. And I'm tell you this in advance. We can go 12 hours on the budget bill. And I assure you all who have not been here before, I can take 12 hours on one provision of the budget bill. I forget how many hours we took on an amendment to change the date on some bill we were talking about a few days ago. I want you all to know that I have a strategy in my mind, relative to what the session should mean, from my perspective. I'm laying everything out there, nobody is going to be surprised, unless they haven't paid attention, or they think I don't mean what I say. I can get kicked around on LB 75, and I can take it, because I like Senator Connealy, and if anybody can kick me, and I not be so upset, it's Senator Connealy. He's like one of these cops who can write you a ticket, and he's so gracious, you almost want to say thank you, but not quite. So on all of these other things that people are trying to be nice about, not hurt people's feelings, and say well, it might be this way, but it could be that way, the ones that I don't like, I'm telling you that I don't like them, and I'm going to fight them tooth and nail. I don't have any friends on this floor when it comes to that. I don't have friends outside the floor, the teachers are not my

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friends, NSEA is not my friend, the judges are not my friends, nobody, nobody. But I see a lot of enemies, and I see those who, in this body, have collaborated in the past, on school bills, that hurt the children that I'm concerned about. The Omaha Public Schools have created problems, and they want the state to solve them. I read things by Susan Buffet, (phonetic) whoever she is, talking about how the state ought to give money. Where was she when they were resegregating the public schools in Omaha? All of those so-called liberal white people, all those friends of education, pushed for a quarter of a billion dollar bond issue to resegregate the schools. You know how they tricked some black people into going for it over my opposition? We will have school books, we'll have supplies, we're going to treat those resegregated black schools in such a way that they will be quality institutions. Then after people had been suckered into voting for a quarter of a billion dollars, \$254 million to be exact, you know what the school people said? Oops, well we didn't draft the bond proposal correctly so there's nothing in it for books, nothing in it for supplies, nothing in it for all those promises we made, so black people, trust us again. Omaha has been ranked near the very top, by a study conducted by Harvard, in terms of the abuse of nonwhite children when it comes to the special education programs.

PRESIDENT MAURSTAD: One minute.

SENATOR CHAMBERS: They use our children to draw a bounty into that school system. And it's not going to happen anymore. Now you all can get enough votes to override me, you can get 33 votes like you did on LB 75. But if you do it, you're going to have to get 33 votes on bills that I don't even care about. I will take these other bills, so you all start looking at bills that mean something to you. I have no bill at any stage of consideration that means enough to me to change my mind. I have a DNA bill, and it means something to me, not that much. Nothing that I have means that much to me. I may even use one of my own bills for that purpose, and nobody else can move for cloture, I would have to move for it as the introducer, and I won't. I don't even vote to cease debate. So decisions have been made by me. Some of the others of you may have made decisions about what you're going to vote to give money to, but

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you don't have it in you to stand...

PRESIDENT MAURSTAD: Time.

SENATOR CHAMBERS: ...up on the floor and say it so well and know where we all are.

PRESIDENT MAURSTAD: Thank you, Senator Chambers. Senator Jones, followed by Senator Redfield, Senator Wehrbein. Senator Jones.

SENATOR JONES: Mr. President, members of the body. I'm standing up in opposition of the bracket. I supported this bill all the way through, and I'm still going to support it. I realize that there might some problems at the end, where there are...state resources are down, and we might have to do something at the end. But I think that rather than bracket it, I'd like to see it just moved onto Final Reading. And it's going to sit there behind the budget anyway, and maybe that's all the farther it'll go. But I think it should be moved on to...so it'll be in the discussion at the end, to see where we are originally because I think Senator Erdman spoke pretty good when he said that it's a matter of fairness on it. And I've always supported the idea that they should be treated different that way, because of the tax problem. But...so I'm going to stand in opposition of the bracket, and hopefully we can move it on, and then let it set there and see what happens when the final...get the budget done. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Jones. Senator Redfield.

SENATOR REDFIELD: Thank you, Mr. Lieutenant Governor, members of the body. I would like to ask Senator Smith a question or two.

PRESIDENT MAURSTAD: Senator Smith, would you respond?

SENATOR SMITH: Yes.

SENATOR REDFIELD: Senator Smith, LB 516 deals with affordable

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housing. Can you tell me how many units we would actually build with that money, per year?

SENATOR SMITH: Actually, Senator Redfield, it depends on the proposals put forth by those entities applying for the grants and leveraging private dollars, federal dollars...it's quite difficult to determine that.

SENATOR REDFIELD: Can you give me any kind of rough idea? Are we talking dozens? Are we talking hundreds? Are we talking thousands of units?

SENATOR SMITH: I would say hundreds.

SENATOR REDFIELD: Hundreds of units. All right, thank you, Senator Smith. The fiscal note on LB 516, which I support and will continue to support, Senator Smith, estimates a revenue loss to the General Fund in 2003-2004 will be 6.981 million dollars. We think that it's worth spending that kind of money for a few hundred units of housing. Now maybe, if we didn't overcharge a married couple, they could afford the housing in the first place. But, be that as it may, I think that we do set our priorities. I don't think that LB 516 is a bad bill. I think it's a good idea to help people with affordable housing. LB 277 affects 350,000 Nebraskans, 350,000 Nebraskans. I think that that's my priority, not only in the number of people affected, but in the equitable treatment of all Nebraskan's. That's my priority, fairness. It always is when I look at a bill. I try to look at whether it is fair. I think it's a bill that's fair. We can always look at a group to pick on, but I think that we've picked on this group long enough and I think that that's a worthy priority. You're all going to have to weigh that now, you're going to have to pick your priorities as we go into the budgeting process. Senator Wehrbein is correct, this is going to sit on Final Reading until we get to the end with everything else that has a cost, and at that point in time, we will be making our final decisions. Today isn't your final decision. But you can be setting your priorities now. If you want to kill this bill, then you need to decide that. But I don't think that the bracket motion is going to put us in any better position to decide on that particular day. It should be

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in the que with all the other A bills that we'll be looking at, so that we're looking at all the budget bills as a whole, and not just his one in isolation at that time. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Redfield. Senator Wehrbein, motion to bracket LB 277.

SENATOR WEHRBEIN: Mr. President, members of the body. I'd like to bring Senator Wickersham into this a minute, if I may?

PRESIDENT MAURSTAD: Senator Wickersham, would you respond to a question from Senator Wehrbein?

SENATOR WICKERSHAM: Yes.

SENATOR WEHRBEIN: Senator Wickersham, one of the issues that concerns me is, what's...the amendment we just passed, I'm...at this point, the way I understand things, we may need this bill just to preserve Nebraska's tax structure as we know it. Would you make comments on that from a Revenue Committee standpoint, so that...I know Senator Redfield, I've talked to her about that, or she talked to me about that. Would you give me a perspective on the previous amendment, and what may happen at the federal level, from your understanding.

SENATOR WICKERSHAM: Okay, the previous amendment would protect us if the federal government made changes in it's standard deduction as a part of any effort they might make to reduce the disparity between married persons and single persons in the federal code. Now, there's a House version, there's a Senate version; whether either version will pass, whether either version would be retroactive till January 1st, whether either version would contain an adjustment to the standard deduction, remains unknowable, I guess. If the federal government didn't adjust its standard deduction until January 1st of next year, if that was a part of the package, then it wouldn't necessarily have an affect on us, we could meet next session and change, if we wish to do so. But if they made their change retroactive to January 1st of this year, we would...and they actually did change the standard deduction, then the amendment that we've adopted would protect us. Now I don't...you can, you can make

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your own judgements about whether advancement of this bill is necessary to achieve that purpose. We're still some way from the end of the session. Usually if something needs to be done, we have found a way to do it.

SENATOR WEHRBEIN: Thank you. I have...I think that's enough answer for me. I...actually I believe the way I'd understand the way the process is going to work, a bracket is...until May 1st is superfluous. We may end up being the 20th of May before we'd get to this at Final Reading. I am not certain, but I would want to make the best guess at this point, that we would like to have a bill out there perhaps at that time, simply to react to the federal level, making the issue of a...the adjustment a side issue. And so I really don't see what a bracket at this point till May 1st accomplishes. I think a vote against the bracket, let the bill sit on Final and it'll be there in the form...at least in form. I'd...I don't believe that I'll be able to support an income tax cut, but we may want to react to what, perhaps...turn out at the federal level, and at this point we don't know.

PRESIDENT MAURSTAD: Thank you, Senator Wehrbein. Senator Smith, you're recognized to close on your motion to bracket LB 277.

SENATOR SMITH: Thank you, Mr. President, members. I realize that there may be varying opinions as to the statement that we're sending on this bill...or on this motion, excuse me. And I believe that we can either wait and cast a more informed vote on Select File, or we can do it now and then have to change votes later, or other issues come into play. And I think that if we simply wait, if information comes back favorable, we can deal with it accordingly. If it comes back negative, we can deal with it accordingly as well. So I think that with more information we can make a more informed decision. And with that, I hope you support the bracket motion. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Smith. The question is, shall LB 277 be bracketed until May 1? Those in favor vote aye; those opposed vote nay. Mr. Clerk, please record.

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CLERK: 9 ayes, 20 nays, Mr. President, on the bracket motion.

PRESIDENT MAURSTAD: Motion fails. Senator Erdman. Excuse me. Senator Bourne, could you please address your mic...I...

SENATOR BOURNE: Could we get a machine vote please.

PRESIDENT MAURSTAD: The question is, shall LB 277 advance? Those in favor vote aye; those opposed vote nay. Senator Redfield.

SENATOR REDFIELD: Yes.

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

CLERK: 33 ayes, 0 nays, Mr. President, to place the house under call.

PRESIDENT MAURSTAD: Senator Redfield.

SENATOR REDFIELD: I will accept call-ins.

PRESIDENT MAURSTAD: The question...the house is under call. Would unauthorized personnel please leave the floor. Would members please return to the Chamber, record their presence. The house is under call. Senator Hilgert.

SENATOR HILGERT: Roll call vote, please.

PRESIDENT MAURSTAD: Roll call vote has been requested. The house is under call. Members please return to the Chamber, record your presence. Senator Brown, the house is under call. The house is under call. The question is, shall LB 277 advance to E & R for engrossment? Those in favor vote aye; those opposed vote nay. Mr. Clerk.

CLERK: (Roll call vote taken, Legislative Journal pages 1446-1447.)

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SENATOR BROWN: Mr. President.

CLERK: Senator Brown, I apparently...did I mistake your vote, Senator? Mr. President, I'm going to verify, if I may. Senator Brown, you want to vote...

SENATOR BROWN: Yes.

CLERK: You want to vote yes. I'm going to verify, Mr. President 28 ayes, 12 nays, Mr. President, on the advancement of LB 277.

PRESIDENT MAURSTAD: The bill is advanced. The call is raised. Mr. Clerk.

CLERK: Mr. President, with respect to LB 277A, I have no amendments to that bill, Senator.

PRESIDENT MAURSTAD: Senator Erdman.

SENATOR ERDMAN: Thank you Mr. President. I move the advancement of LB 277A to E & R for engrossing.

PRESIDENT MAURSTAD: The question is the advancement of LB 277A. Those in favor say aye. Those opposed say nay. The bill is advanced. Mr. Clerk.

CLERK: Mr. President, LB 398. Senator, I have E & R amendments, first of all. (AM7095, Legislative Journal page 1368.)

PRESIDENT MAURSTAD: Senator Erdman.

SENATOR ERDMAN: Thank you, Mr. President. I move the adoption of the E & R amendments to LB 398.

PRESIDENT MAURSTAD: Question is the adoption of the E & R amendments to LB 398. Those in favor say aye. Opposed say nay. The amendments are adopted.

CLERK: Mr. President, Senator Hilgert, AM1319. Senator, I have

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a note that you wanted to withdraw AM1319, and offer AM1405?

SENATOR HILGERT: That's correct.

PRESIDENT MAURSTAD: Without objection, the substitution is ordered. Senator Hilgert.

SENATOR HILGERT: Mr. President, members. At the request of the primary introducer of this bill, Senator Suttle, I withdraw AM1405 as well.

PRESIDENT MAURSTAD: The amendment is withdrawn.

CLERK: Senator Suttle, AM1366. (Legislative Journal page 1380.)

PRESIDENT MAURSTAD: Senator Suttle, you're recognized to open.

SENATOR SUTTLE: Thank you, Mr. President, members of the Legislature. On General File we talked about Section 3 of the bill; page 11, line...starting with line 9, and specifically line 11 through 16. And we have met and talked, and we're going to just delete Section 3. This bill, or these words were put in "intoxication" was put in, in 1873; this is the wording from 1873. So we didn't think that it was quite up to modern day talking. "Under the influence" and "alcohol blood levels" and so on, and rather than try to pile onto the pharmacists, more punishment for being under the influence, they...this rule would come under the Uniform Licensing Act. They would be disciplined under that. And if they caused bodily harm to someone, or at...were guilty of reckless endangerment, those could be taken up on criminal charges. And this particular section would not be needed. So that's what we have done with my amendment. Appreciate if you would support the amendment. Thank you, Mr. President.

PRESIDENT MAURSTAD: Thank you, Senator Suttle. Debate on the Suttle amendment? Senator Suttle, you're recognized to close. Senator Suttle waives closing. Question is the adoption of of AM1366 to LB 398. Those in favor vote aye; those opposed vote nay. Mr. Clerk, please record.

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CLERK: 31 ayes, 0 nays, Mr. President, on the adoption of Senator Suttle's amendment.

PRESIDENT MAURSTAD: The amendment is adopted.

CLERK: Senator Beutler, AM1400. (Legislative Journal page 1432.)

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

SENATOR BEUTLER: Mr. Lieutenant Governor, members of the Legislature, these are just a couple small cleanup amendments that I'm putting on with the permission of the sponsor of the bill. They have to do primarily with penalty provisions, which are inexact and are...in the terms of our modern code, and merely consolidate some penalty language under the concise description of a Class IV misdemeanor in two different sections of the bill. And then moves to further identify and tie to federal statutes an institutional review section of the bill. That's all it does. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Beutler. Debate on the Beutler amendment? Senator Beutler, you're recognized to close. Senator Beutler waives closing. The question is, the adoption of the AM1400 to LB 398. Those in favor vote aye; those opposed vote nay. Mr. Clerk, record please.

CLERK: 31 ayes, 0 nays, Mr. President, on the adoption of Senator Beutler's amendment.

PRESIDENT MAURSTAD: The amendment is adopted.

CLERK: Mr. President, Senator Byars would move to amend, AM1409. (Legislative Journal pages 1432-1434.)

PRESIDENT MAURSTAD: Senator Byars, you're recognized to open on your motion.

SENATOR BYARS: Thank you, Mr. President. The amendment that I

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offer this afternoon, I'll try to be as brief as possible, what I'm proposing is an amendment that is an amended version of LB 440 that was introduced to the Health Committee, moved by that committee to the floor of the Legislature. When this bill was originally introduced, there was opposition by one mail-order company, 1-800-Contacts, that have had all of their issues resolved. Senator Suttle has agreed to allow us to amend this onto her bill, onto LB 398. Basically what we've done in LB 440 is to try to bring out-of-state mail order contact lens suppliers under the same state oversight that our local companies have to comply with. Requires them to register with the Department of Health and Human Services Regulation and Licensure, in order to dispense contact lenses within Nebraska. Because contact lenses are worn directly on the eye, contact lenses are federally classified as a medical device, to be dispensed only by a valid prescription. That is presently the legal requirement within the state of Nebraska. We found that though some state...some mail-order houses do provide...do require prescriptions, others do not. And without a change in the statutes, there's no means for us to require them to do so. This amendment, or the bill, will effectively bring the mail order contact lens suppliers, essentially the same requirements that are presently enforced with regard to pharmaceutical sales. The amendment does not change the rules which Nebraska companies and healthcare providers have been following for many years. It simply makes clear that everyone who does business in Nebraska, by supplying contact lenses, must play by the same rules, and be subject to basically the same level of enforcement and oversight. By extending the requirements currently incumbent on in-state contact lens providers to those in other states, the amendment is clearly in the interest of Nebraska consumers. As I have said, and I'm sure you all received...we're flooded with e-mails early on, when this bill was first introduced, the objects that have been raised have been dealt with and have been agreed to by all parties. I feel this is an amendment that is very valid and is in keeping with protecting the citizens of our state. And also protects those people who wish to do business in our state. So I would move the amendment.

PRESIDENT MAURSTAD: Thank you, Senator Byars. Debate on the Byars' amendment? Senator Byars, you're recognized to close.

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Senator Byars waives closing. The question is, the adoption of AM1409 to LB 398. Those in favor vote aye; those opposed vote nay. Mr. Clerk, please record.

CLERK: 27 ayes, 0 nays, Mr. President, on the adoption of Senator Byars' amendment.

PRESIDENT MAURSTAD: The amendment is adopted. Debate on the advancement of LB 398? Senator Erdman.

SENATOR ERDMAN: Thank you, Mr. President, members. I move the advancement of LB 398 to E & R for engrossing.

PRESIDENT MAURSTAD: The question is the advancement of LB 398. Those in favor say aye. Those opposed nay. The bill is advanced. Mr. Clerk, items for the record?

CLERK: Thank you, Mr. President. LR 57, by Senator Kristensen, asking the Legislature, through the Governor, or his designated negotiator, to enter into an agreement with the governing body of any federally recognized Indian tribe within the state. Pursuant to that introduction, Mr. President, Senator...Speaker Kristensen would direct that LR 57 be referred to Reference Committee for purposes of conducting a public hearing. That's all that I have, Mr. President.

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

SENATOR ERDMAN: Thank you, Mr. President. I move we adjourn until tomorrow morning at 9:00 a.m.

PRESIDENT MAURSTAD: Thank you, Senator Erdman. The question is, shall the Legislature adjourn? Those in favor say aye. Those opposed nay. The Legislature adjourns.

Proofed by: S. Ryan