

APRIL 11, 2001

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April 11, 2001 LB 398A, 398, 462
 LR 55

SPEAKER KRISTENSEN PRESIDING

SPEAKER KRISTENSEN: Good morning and welcome to the George W. Norris Legislative Chamber. This morning our chaplain of the day is Reverend Kelly Karges, from the United Methodist Church of Seward, which is in Senator Stuhr's district. Reverend.

REVEREND KARGES: (Prayer offered.)

SPEAKER KRISTENSEN: I call the sixty-third day of the Nebraska Unicameral Legislature to order. Senators, please record your presence; roll call. Record, Mr. Clerk.

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

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

CLERK: No corrections.

SPEAKER KRISTENSEN: Reports, announcement or messages?

CLERK: Mr. President, LR 55 is ready for your signature, and I have amendments by Senator Beutler to LB 462, and Senator Landis to be printed to LB 462. That's all that I have, Mr. President. (Legislative Journal pages 1459-1463.)

SPEAKER KRISTENSEN: Thank you. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR 55. We next move to General File appropriations bills. LB 398A, Mr. Clerk.

CLERK: LB 398A, by Senator Suttle. (Read title.)

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

SENATOR SUTTLE: LB 398A is a Cash Fund amendment for the purpose of implementing LB 398; it is about \$67,000, and it will be a Cash Fund and flow fairly easily. I'd appreciate if we'd advance it, to catch it up with LB 398, which is on Final Reading.

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SPEAKER KRISTENSEN: Thank you, Senator Suttle. I have several lights on. Senator Suttle, do you wish to close? She waives closing. Question before the body is the advancement of LB 398A. All those in favor vote aye; all those opposed vote nay. Record.

CLERK: 27 ayes, 0 nays, Mr. President, on the advancement of LB 398A.

SPEAKER KRISTENSEN: LB 398A advances. Mr. Clerk, we next move to General File. LB 462.

CLERK: LB 462, by Senator Dwite Pedersen, relates to abortion. (Read title.) The bill was introduced in January, discussed yesterday, Mr. President. When the Legislature adjourned, Senator Chambers had pending AM0348 to the bill and AM0171 as an amendment to AM0348. (Legislative Journal page 1455.)

SPEAKER KRISTENSEN: Senator Pedersen, could you just give us a brief, very brief summary of the bill, where it's at.

SENATOR Dw. PEDERSEN: Thank you, Mr. Speaker. Members of the Legislature, as we spent the whole day, yesterday, on LB 462, we start out today also with the debate about the use of fetal tissue from elective abortions to save the lives of others. It is a very contentious issue, but I was very pleased with the debate yesterday as the intelligent people have kept this debate very civil, and I hope we will do the same today. Let us not forget that being about the people's work that there are those of us who are very concerned about our tax dollars going for something we do not believe in. Thank you.

SPEAKER KRISTENSEN: We're now debating the Chambers amendment to AM0348. The speaking order, Senator Landis.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, a story was told in the Lincoln Journal Star recently. This is a retired insurance salesman, Lincoln; his name is Ted Simonson. Said, I would like to share my personal view of the controversy surrounding the use of fetal cell tissue and embryonic stem cell research at the University of Nebraska Medical Center. My

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family, along with thousands of other families, has a lot to benefit from continuing this research. Let me tell you why I feel it's so important that the university be allowed to continue this research. Please don't make it appear that I have no faith in God or that I am an immoral person. In 1990, at the young age of 56, my wife, Jan, was diagnosed with Alzheimer's Disease here in Lincoln and at the Mayo Center in Minnesota. Jan was born on a farm south of Lexington on April 4, 1934. She attended UNL and received her BS in elementary education. We met on a blind date at UNL and found out later we were both trying to find someone to take our place until the last minute. We were married on September 12, 1954. She was a teacher here in Lincoln for more than 20 years. During this time we raised four daughters, who continue to live in Lincoln with families of their own, and now we have nine grandchildren, two in college, one in preschool, and others in various grades in different schools here in town. She also received her master's degree in elementary education during this time period. I was her primary caregiver... caretaker at home for seven and a half years, with a lot of help from the local Alzheimer's Association, friends, daughters and the Alzheimer's Adult Day-care at Madonna Hospital. For the last three years and nine months she has been at the Holmes Lake Manor nursing home here in Lincoln. While some of you experience this, it's really impossible for me to explain to you what it's like to watch anyone, let alone someone you love dearly, go from a beautiful, vivacious woman to someone who now needs everything done for, including feeding, bathing, turning over in bed, cleaning her up, since she's totally incontinent. This happens with many diseases, but with Alzheimer's it just seems to go on for so long. In a letter printed in the Journal Star February 11th, Julie Schmit-Albin stated that a TV citizen panel was lacking anyone who could articulate the pro-life position on these issues. This was even though three of the panelists said they were pro-life. These three people thoughtfully stated their support of the research. Because they didn't agree with Schmit-Albin, she saw fit to denigrate them in print. Generally, those against this tell us that it is morally wrong and God will have the final say. In another letter printed in the Journal Star, February 23rd, Dan Parson's stated that the University of Nebraska Bioethics Committee didn't look at all the issues in regards to the use of

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embryonic stem cell research. From the information I've heard, it would appear to me that they did a very thorough job of looking at the issues. We don't know at this point whether it's genetic or not. But in any event, I would like the fetal cell tissue research to...

SPEAKER KRISTENSEN: One minute.

SENATOR LANDIS: ...to continue at the university. As to the most recent estimate, there are approximately 50,000 people in the state of Nebraska that have Alzheimer's. For our daughters and our grandchildren's sake and the other thousands and thousands of children and grandchildren, let's use whatever means are available to find out about this and other diseases. It is because of my strong faith in God that I was able to seek out the help that Jan and I needed and thereby get to where I am now. Please tell me how it can be morally wrong to use tissue, that otherwise would be discarded, to help not only Jan's and my children and grandchildren, but all other future generations affected by this disease. And I don't have an answer to Mr. Simonson. I think he asks a telling question. Tell me how it can be morally wrong...

SPEAKER KRISTENSEN: Time.

SENATOR LANDIS: ...to use that tissue, that would otherwise discarded, to help not only my...

SPEAKER KRISTENSEN: Time.

SENATOR LANDIS: ...sick wife, but others. Thank you, Mr. Speaker.

SPEAKER KRISTENSEN: Senator Dwite Pedersen.

SENATOR DW. PEDERSEN: Thank you, Mr. Speaker, members of the Legislature. Wanted to talk about a couple different things. I, as a Nebraskan, was shocked to learn that research using aborted baby brains had been conducted at UNMC since 1973, last year when that came out. Mad at the university? No. Shocked? Yes. When we heard this bill in committee this year, I visited

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with Dr. Gendelman in the hallway after the hearing and one of the questions I asked him is, have they ever used this tissue, fetal tissue to inject it into mice, because that's what they use quite often to set up their models for their research. He said, yes, they have in the past, but they're not doing it anymore. I was shocked at that, but not upset at the person or the institution. The shock comes from my own morals, whether they be good or bad, which I was taught mostly from my home, from the parents that raised me and my brothers. And when we talk about political posturing or setting yourself up only because of what the people behind the glass stand for, I want to be on record as saying I carried this bill without any of them asking me to. I went to them last year when Senator Hilgert carried this bill, and when mentioning his name I must say here on the record also he's been very helpful and supporting to me in carrying this bill this year. And I said if this bill does not pass this year, I will carry it next year. It's because of something I believe in, not because of something that I have been asked to do. Do I have support from them people who are pro-life, which I am? Sure I do, the same way I have support from people from the National Rifle Association, who I've been a member of for many years, or any other organization. I'm also a Catholic. For that I am proud. Am I a good Catholic? There's only one that can judge that. Being a Christian is something I strive to be, not something I believe I am. And they happen to have what I want, whether I reach their goals or not. My hang-up here with this bill has been life. And if we are going to use the parts from a deliberate death, then how long will it be before we start making park banks out of anybody who's a burden to society? There's a man out here in the Rotunda who's been lobbying for some time, by the name of Wally, who's become a good friend of mine. He's not on the same side as I am. His wife is...got Alzheimer's and he hurts terribly from that. I've learned to love Wally; we don't agree, but I still love him. Senator Kruse said yesterday, you know, it's our...we have to love people.

SPEAKER KRISTENSEN: One minute.

SENATOR Dw. PEDERSEN: And in my case, I do not agree with him, I don't have to, I want to and all people, including those that

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are unborn. I care and I know a lot of you do about the same things that Senator Landis was talking about, those people who have Alzheimer's, Parkinson's, AIDS dementia. I've worked with some of them people. I've seen this pain, and I pray to God that that pain can be taken away. But I do not and will not support that that be done by taking away the life of another. Thank you.

SPEAKER KRISTENSEN: Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, I'm growing weary of hearing Senator Dwite Pedersen and others say that they are opposed to this research because they don't want to see one person helped by taking the life of another. I'd like to therefore ask Senator Dwite Pedersen a question, so I can understand what he is talking about.

SPEAKER KRISTENSEN: Senator Pedersen, would you respond?

SENATOR CHAMBERS: Senator Pedersen, have you jumped back on the kick of saying now that if the research continues it encourages abortions? Is that what you're alleging now?

SENATOR Dw. PEDERSEN: Senator, no, I don't think it will stop abortions, but I do think it brings dignity...

SENATOR CHAMBERS: No, no, not stop. Are you saying that it will cause more abortions to happen? In other words, a woman will get pregnant and have an abortion in order to provide fetal cells for this research? Is that what you're saying?

SENATOR Dw. PEDERSEN: I believe it could, yes.

SENATOR CHAMBERS: And you believe that is what is going to happen?

SENATOR Dw. PEDERSEN: I believe it could, yes.

SENATOR CHAMBERS: What evidence do you have of that?

SENATOR Dw. PEDERSEN: Only my belief in life.

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SENATOR CHAMBERS: Your belief and what?

SENATOR Dw. PEDERSEN: My belief and...and my experience of life.

SENATOR CHAMBERS: Your experience of life. Do you hear people state on the floor and/or have you read yourself that the number of abortions is down in Nebraska?

SENATOR Dw. PEDERSEN: Yes, Senator, I have.

SENATOR CHAMBERS: Is this research currently underway?

SENATOR Dw. PEDERSEN: Yes, Senator, it is.

SENATOR CHAMBERS: If this research encourages abortions, why is the number of abortions dropping?

SENATOR Dw. PEDERSEN: I believe that the education is finally working.

SENATOR CHAMBERS: Thank you, Senator Dwite Pedersen. Members of the Legislature, we have to deal with positions that I think, and this is not directed at Senator Dwite Pedersen, but he opened the door for it, at positions that are silly. This research does not encourage abortion. Many people in this state do not even know what is entailed in this research, they do not see any relationship between it and a woman deciding to have an abortion. So when we get this anecdotal nonsense about people's lives being taken in order to save somebody else's life is totally off the scope. I also think it is silly and foolish for us to put the term "unborn child" in the statute; it is so silly for these people to keep saying that a fetus is an unborn child. A fetus is no more an unborn child than an acorn is an oak tree. People want to keep confusing the notion that a living, whatever it is, comes into being at conception and a full-fledged human being. The Catholics have been saying a full-fledged human being, and down through the years, at least in Nebraska, I've ridiculed them so much that they stopped saying that. Now they say human life, because they're trying to modify it, because I

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was asking them what about these human beings who are captured in these test tubes as a result of in vitro fertilization? So they left it alone because they saw how ridiculous they sounded saying that what is in that test tube is a full-fledged human being. They have never, even under Senator Foley's bill, tried to make it a homicide to dispose of the fertilized egg, never. So they have all these inconsistencies, these rationalizations, but behind it all is their attempt to put into our law Catholic dogma. And I'm going to start looking at more of these propositions...

SPEAKER KRISTENSEN: One minute.

SENATOR CHAMBERS: ...that the Catholic faith tried to convert into the laws of our state. They think they have a right to put them there; I feel I have a duty to keep them out. And when they start bringing these proposals to give tax money to Catholic schools, they're going to find an implacable foe now, because I see their ultimate agenda. It's to turn the laws of Nebraska into Catholic dogma. And I'm not going to tolerate it, and they need to get better, smarter advocates to speak for this position than those who have been speaking on this floor thus far. And they can talk about civil debate all they want to; this is not a civil issue. It is foolishness and nonsense.

SPEAKER KRISTENSEN: Senator Suttle.

SENATOR SUTTLE: Thank you, Mr. President, members of the Legislature. I was talking yesterday a little bit about diabetes and I will finish up today about diabetes and then I will go into...well, I'll just start there, what the National Institute of Health requires of...of institutions that want to do research. Biotechnology is changing the composition of pharmaceuticals used in treating diabetes and other diseases. Recombinant DNA, which is rDNA, uses insulin engineered from human cells rather than animal cells, the previous treatment option, and is associated with better health outcomes. Studies indicate that problems with provoking an immune response are less likely with rDNA than with insulin derived from animals. One of the most exciting areas of biomedical research is an enormous potential of human pluripotent stem cells to treat and cure

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debilitating and deadly diseases. The point I'm trying to make is that we are on the verge of an incredible medical and scientific breakthrough. If we ban research with the use of fetal cells, we'll probably forge ahead and close this other door that recently opened to scientists. The two areas are intertwined. The U.S. Congress has encouraged the National Institute of Health to invest its resources in stem cell research in order to pursue its enormous opportunities. Patients who are suffering from the most deadly and disabling diseases have also asked that the NIH fund this promising arena of research. Federal funding would encourage openness, stimulate more discoveries and translate the promise of this research into practical use more quickly, efficiently and effectively and with procedural safeguards. Recognizing that the ethical issues related to this research require careful consideration, the NIH and the Department of Health and Human Services were committed to developing guidelines to help ensure the pluripotent stem cells research funded by NIH would be conducted in a legal and ethical manner. Human pluripotent stem cells, what are human pluripotent stem cells? They are cells that have a capacity to differentiate into various types of tissue. They are unique, scientific and medical resource. They can develop into most of the specialized cells and tissues of the body, such as muscle cells, nerve cells, liver cells and blood cells, and they are self-renewing, making them readily available for research and potentially for treatment purposes. Scientists derive these unique cells from human embryos and from fetal tissue. There are three reasons why the isolation of human pluripotent stem cells is so important to science and the future of public health. First, pluripotent stem cells could help us to understand the complex events that occur during human development. Second, human pluripotent stem cell research...

SPEAKER KRISTENSEN: One minute.

SENATOR SUTTLE: ...could also dramatically change the way we develop drugs and test them for safety and efficacy. Rather than evaluating safety and efficacy of a candidate drug in an animal model of a human disease, these drugs could be tested against human cell line that had been developed to mimic the disease process. This would not replace whole animal and human

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testing, but it would streamline the road to discovery and ensure that only the safest drugs were tested on humans. Pluripotent stem cells stimulate to develop into specialized cells and tissue, offer a real hope for the possibility of renewable sources of replacement cells and tissues to treat a myriad of diseases, conditions and disabilities for which replacement tissue is in short supply. Examples of these include neurological disorders including spinal chord injuries,...

SPEAKER KRISTENSEN: Time. Senator Landis.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, I want to get to the crux of this argument that people are making, and that is that you can support the research, just not the way it's being done. I think this is a refrain from Senator Pedersen. He says, you know, he supports the ultimate outcome, I think he expresses respect for the people who do the work. The difficulty is there isn't an existing alternative mechanism for doing the research. It is not accurate to say you support the research, just not the methods, because at this point there is only one way of doing some of the research. If LB 462 passes, this promising research ends because there is no alternative way of doing it that we know of at the current moment. And you can't have it both ways; you can't be saying I support the research just not the methods, when there are no other methods and you object to the methods. If you object to the methods then you are, in effect, objecting to the research. Senator Pedersen, you do not support the research. You oppose the research. You're blocking the research and you're going to stop the research, and that's what you're doing. And I think it would be more accurate for the record and for all of us if you spoke what was really going on. Now I know in your heart of hearts you'd like to have it both ways, but it can't be that way, not at this moment. So another rationale has sprung up, and that is, well gosh, I want to support the research; I just don't like the alternatives. If we pass this bill we'll be able to pressure these people into coming up with an alternative source. It's out there; they just haven't figured it out. They've just been spending their time doing something else. They haven't read the papers, they don't know the feeling in the

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body. They are indifferent to the veiled threats that have occurred over time about the UNMC's budgeting process that have occurred over the last year or so. They haven't...they're too busy in their ivory tower to even notice. Wrong! I think there is a diligent search for alternatives, and in some cases I think Senator Pedersen acknowledged that some of those have come about. But there isn't an alternative for all of the work. But the underlying argument that's being made here is, if we pass LB 462, we can pressure science into some kind of a result that we want. It will get those alternatives that they're just not now doing. If we pass a law, science will give us the result that we want. We'll pressure science with these consequences. If that's the case, Senator Pedersen, why don't you introduce a bill that will cut off all funding if we don't find a cure for cancer? That will move the UNMC and they'll have lots of motivation, and all of a sudden there will be a cure for cancer because they'll be afraid of having their funding cut off; it will motivate them to discover what they're not now discovering. And you'll be the father of the cure for cancer, because you will have created a red hot poker with which to threaten the Medical Center, and you'll get the scientific breakthroughs that you want. Science doesn't work that way.

SPEAKER KRISTENSEN: One minute.

SENATOR LANDIS: Are we paying a price for this debate? I think we are. If you look at the newspaper this morning you'll find that a nationally known, promising molecular geneticist is leaving for UNMC, now, for a variety of reasons, but among them is the climate that this state has towards fetal research and science in general; that we're doing science on the floor of the Legislature, and that we're passing laws, that we're cutting off funding, that we're creating criminal sanctions for the conducting of science in certain ways that we don't like, even though they're ways that are appropriate under federal law, even though they're ways sanctioned by the National Institute of Health, even though they're ways that are endorsed by 80 Nobel Prize winners and 120 presidents, even though they're ways that are done by a large number of other universities, like the University of Alabama, California Berkeley, California Los Angeles, University of Florida,...

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SPEAKER KRISTENSEN: Time.

SENATOR LANDIS: Thank you, Mr. Speaker, I didn't hear that.

SPEAKER KRISTENSEN: Senator Janssen.

SENATOR JANSSEN: Thank you, Mr. Speaker. Members of the Legislature, I received a letter a couple days ago from a constituent of mine. And I feel...I want to share this message with you. Dear Ray, I was pleased to see your position on fetal tissue research at UNMC. I don't like abortions; I don't know anyone who does. But when I reflect on what happened to my father with his illness and the havoc that was wreaked on my mother in trying to care for him, nobody should have to experience that. I'm sure that Senator Pedersen's intentions are good but he's wrong. It's a bad bill. It will be a terrible law. As you know, I was diagnosed with MS about two and a half years ago and I'd like to see a cure. It's no fun having MS. But you know what? I'm okay. I've got a great support group. I have medical and disability insurance and I have an employer who has bent over backwards to accommodate my illness. I'm lucky. There are, however, thousands of people who are not as lucky, and there are victims of neuro-related diseases who are not that lucky. They need a cure. My daughter is 20-years old. MS is primarily a young person's disease, striking people between the ages of 20 and 40, more women than men. If she were to be diagnosed with MS and no cure was available and no research was being done as a result of this bill, I'd have a hard time saying hi to Senator Pedersen if I met him on the street. The polling information that I've seen on this suggests a three-way split--a third for, a third against, and a third undecided. Let me decide if I want to take advantage of the advances derived from this research. This bill does not represent the views of the majority of Nebraska voters. There is a very vocal majority intent on imposing their beliefs on the rest of us, the citizens of Nebraska. I don't want Dwite or Kermit or any of the others to have to walk in my shoes, but I do not want them to get a real good look...but I do want them to get a real good look at what it's like to have to put them on every morning for the rest of your life. Well, he says, thanks.

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He said, this was my little rant for the day. I hope to see you and visit with you in the near future. Folks, these are the kind of people that this research is for. This middle-aged man I've known for years. I've known his mother, I knew his mother. She was one of my grade school teachers; fine family, fine lady.

SPEAKER KRISTENSEN: One minute.

SENATOR JANSSEN: To be afflicted with one of these dreaded diseases sheds light on so many things. It makes you realize what life is all about. And it makes you realize what can happen and the things that science is doing and what they have done. The future looks great for these experiments, let's not let that stop abruptly or not be able to use the benefits of research from other states who have a different outlook on things than what we do. Thank you, Mr. Speaker.

SPEAKER KRISTENSEN: Senator Foley.

SENATOR FOLEY: Thank you, Mr. Speaker and members of the body. I...other than a brief statement that I made when we were discussing the pull motion last week, I have not spoken to this question yet. And I sat back in silence yesterday and listened very carefully to some of the arguments that were being offered and gave great consideration to them. And I suppose in my freshman naivete I was hopeful that either I or someone would come up with the silver bullet argument that would end the debate, that it would make things so clear that we would all instantly come to a resolution of this question. And of course there is no silver bullet argument on a question like this, because what's before us really at the end of the day is a question of values. And we all enter this Legislature, each morning, and bring with us our own set of values, and they're different. Last November, when I was elected to a seat in the Legislature, within a day or two I received a very nice letter from Senator David Landis inviting me to a meeting in his office with other members of the Lincoln delegation and some other prominent citizens of our city, including the mayor. And while all of you had been very welcoming to me since my first day here, I have to say that perhaps no one has been more welcoming to me than Senator David Landis, and I want him to know that,

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that I very much appreciate that. And he knew full well when he wrote that letter and invited me to that meeting, and when he welcomed me into his office and gave me a Coke, he knew full well where I stood on this question, and he knew that we were going to have to debate this question, one against the other. But despite that difference, he was very warm and genuine to me and hospitable, and I do appreciate that, David. But I have to tell you, I have great respect for you. I think you are a very, very talented legislator, enormous skills. You chair a committee that handles very complex legislation. My head hurts when I read some of the bills that you carry forward, because they're very complex. But I have to tell you, with all due respect, I am very troubled by an argument that you made in your opening speech yesterday and, in all truth, I'm hurt by it, because what you suggested was that those of us who have pro-life views would be standing on the beach as lifeguards, was the analogy that you used, and that rather than saving an 80-year-old Alzheimer's victim who is struggling in the surf that we would instead save a dead fetus. And I think I've got it right, I think that's what you said. And, if I didn't, I hope you'll correct me. And I have to tell you I'm very offended by that. In your second speech you tried to set forth a legal argument based on a white paper prepared by one of the more prominent law firms in Lincoln, the Cline, Williams Law Firm. And I know you're a great champion of full disclosure, but what Senator Landis didn't tell us yesterday was the relationship between Cline, Williams and the University of Nebraska. He didn't tell us that Cline, Williams has been the outside counsel to the university...

SPEAKER KRISTENSEN: One minute.

SENATOR FOLEY: ...since 1917. He didn't tell us that Cline, Williams receives hundreds of thousands of dollars in billings every year from the university. So we shouldn't be surprised when the university turns to its outside counsel, a firm that in recent years, one year in particular received \$900,000 in billings. And they turned to this law firm and asked for a legal analysis of this bill. Well, what did we expect them to produce? They produced an opinion highly favorable to the university, of course. Senator Kruse took the floor yesterday

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and offered the argument that those of us who are pro-life are simply trying to enshrine Catholic moral teachings into the state code. I don't know how many of you take note of the fact...

SPEAKER KRISTENSEN: Time.

SENATOR FOLEY: I'm sorry?

SPEAKER KRISTENSEN: Time.

SENATOR FOLEY: Oh, thank you.

SPEAKER KRISTENSEN: Senator Connealy.

SENATOR CONNEALY: Thank you, Mr. President. I'm one of the Judiciary Committee that...one of the four that held this bill in committee. I knew when I became a senator, three years ago, that there would be issues that would be, you know, tough, that you'd have to do a lot of deliberation on. I can't tell you how much this issue has weighed on me and how much work that I've done in consideration of LB 462. As a member of the Judiciary Committee, I heard the introduction of the bill that proposes to ban the use of fetal cells in public institutions. Once again, I can't express the complexity of the issue and how difficult it is to uncover the true intent of this bill, and then on the other side whether the wording of the bill answers the intent that is trying to be accomplished. All the members of the Judiciary Committee spent countless hours looking at the materials and meeting with constituents, with individuals, with...in hearings and going through legal treatises from one side or from the other side. We met with friends and family members, and unfortunately, as you see here on the floor, it became a pro-life and pro-choice argument, where good people line up on either side of an argument. But it doesn't warrant that. I couldn't in good conscience follow that path. I continue to maintain that abortion is wrong and that we should do everything we can to prevent pregnancies that end in abortion, but LB 462 does nothing to prevent pregnancies that end in abortion. So what's the intent of this bill? The intent is to make a statement against abortion and that's it. In

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committee hearings and in other correspondence I heard stories of many people who were suffering from the horrible consequences of diseases that are unfairly taking their dignity of life away, diseases like Alzheimer's and Parkinson's, diseases which many of us hope a cure is right on the horizon. The research that's being done at the University of Nebraska Med Center is so important and my belief that allowing the research to continue that will not increase or promote abortions is so strong that I've had to take this position to stand against LB 462. It's based on reality; sometimes life is easier and more pleasant when we aren't aware of the process. Were we more content when we...when the medical world didn't let us know that human fetal cells were used in the development of the polio vaccine? Was it more satisfying to take advantage of medical research and advances when we didn't know that fetal cells were used to develop vaccines for things like hepatitis A, chickenpox and rubella? We're not in that position any longer, so we have to do the best we can with the information that we have. I need to once again make it clear that, here on the mike, that the university...that our state's position is against abortion. There's nothing that we as a state have done, or the University Med Center has done, to condone abortion. I support the work of the pro-life movement. But this is not a pro-life issue. There's been a lot of press about this issue. People have pushed this bill for...

SPEAKER KRISTENSEN: One minute.

SENATOR CONNEALY: ...political reasons, but I couldn't do that; it was about doing the right thing. It's not an easy decision and it's...in a political stance it's not good for some of us that we take this position. We're going to take political hits with that. But you get...on issues like this you have to take a stand and do the right thing. I rise in opposition to this bill.

SPEAKER KRISTENSEN: Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, I'd like to ask Senator Brashear a question or two. Oh, I see him up there. I would like to ask Senator Brashear a question

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or two, and while he comes to his desk I will make a few comments. Everybody, not everybody, many of the senators are trying to discuss this bill as though it's going to make a difference to the zealots and the extremists who masquerade as people who are pro-life. Nothing is so worthless, and "Baron" Tyson can bear this out, nothing is so worthless as a general without a war. These zealots and extremists have no more abortion issues; they've squeezed them dry. Last year that Bob blankety-blank said, and he sent something around in the Chamber, or somebody took his comment and sent it around, this is a wonderful fund raising issue for the pro-life issue or group. They had nothing left. They came in here with that so-called late-term abortion nonsense and said, well, Congress passed a bill the same way. And I said, it doesn't matter whether Congress or whoever did it, it's unconstitutional. Senator Brashear wants to say that he's got a half-baked definition rendered in the negative relative to valuable consideration, and since something like that appears in a federal law it's all right here. The federal law does not ban fetal research. It's entirely different from what we're talking about here. But since Senator Brashear is at his desk now, I would like to ask him a question or two.

SPEAKER KRISTENSEN: Senator Brashear, would you respond?

SENATOR BRASHEAR: Yes, Mr. Speaker.

SENATOR CHAMBERS: Senator Brashear, in your bill..Senator Pedersen's bill, could you turn to page 5, so that I can let you know exactly where it is that I am reading from. In Section 4, which would be lines 5 through 14 on page 5, there is a discussion of action which the Attorney General may maintain for violation of Section 3, which is found on the preceding page, namely, somebody employed by the state, or the use of public institutions or funds for this kind of research could be subject to an action brought by the Attorney General for an injunction. Do you agree with that?

SENATOR BRASHEAR: Yes, Senator Chambers.

SENATOR CHAMBERS: And also, in line 8, there could be an action

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for civil contempt against such a person. Do you agree with that?

SENATOR BRASHEAR: Yes.

SENATOR CHAMBERS: How is civil contempt punished?

SENATOR BRASHEAR: By a fine.

SENATOR CHAMBERS: Is that the only way that civil contempt can be punished?

SENATOR BRASHEAR: No, it can also be...it can also be done by incarceration, but in the discretion of the court, but that's extremely rare, as you know.

SENATOR CHAMBERS: But what you and I, as people trained in the law, do when we look at a law, is to look at what it can do based on its terms, not what a court may do in its discretion. Civil contempt is punishable by a fine and/or incarceration. Is that true?

SENATOR BRASHEAR: I think that's correct.

SENATOR CHAMBERS: Okay. Now when we are talking about this kind of punishment, it is all based on the notion of an induced abortion. And on page 4 and 5, there are six references to the term "induced abortion". On page 4, we find it in lines 13, 18, 23,...

SPEAKER KRISTENSEN: One minute.

SENATOR CHAMBERS: ...25, 28, and on page 5, line 1. All of these references are within the context of Section 3, the violation of which subjects a person to incarceration and a fine. What does "induced abortion" mean?

SENATOR BRASHEAR: "Induced abortion" is any abortion not made an exception...any "induced abortion" not made an exception under Section 3, beginning at the bottom of page 3.

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SENATOR CHAMBERS: So, give me an example of an induced abortion, if you could.

SENATOR BRASHEAR: It would be something which did not qualify with one of the subparts which are listed as the exception at the top of page 4. It is defined in the negative; you are...

SPEAKER KRISTENSEN: Time.

SENATOR BRASHEAR: ...correct.

SPEAKER KRISTENSEN: Senator Raikes.

SENATOR RAIKES: Thank you, Mr. Speaker and members. I've been trying to follow the discussion and have found it both collegial and interesting. I will come right out and tell you I don't support the bill and probably I don't have anything really new to add to the argument in terms of what are the defects of the bill. But I thought I would indicate to you what...well, a couple of things. First, I think one of the things that may have been left out of the discussion is that certainly the rules discussion we had yesterday, and in fact the way the bill is written deserves to be described as clever, and I appreciate clever. So I...I'm intrigued by that. If you look at the intent language of the bill, it says it's the intent of the Legislature to protect the life of the unborn. It's not a law, it's a public policy, it's also called a value judgment, and it's also called in the public interest. I suspect, if you looked at other places in intent language throughout the statutes, you would find that a healthy lifestyle is in the public interest and a part of public policy. I would suspect you'd also find that adult sobriety, rather, is mentioned as an admirable goal in those respects. The intent language also said that this public policy can be implemented by the allocation of public funds. Now it doesn't specifically mention tax policy, but I assume that would be included there as well. It also mentions specifically that there is no requirement for the state to be involved in the abortion business. Now I'm not sure whether that's a buzzword, or whether there is a legitimate entity you can point to as an abortion business. I doubt if it has an SIC code, but I won't argue that point. The intent

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language goes on to suggest that fetal cell research is a problem mostly for two reasons. One is that it creates an entanglement between the state and the abortion industry. Now I suppose that you could argue a parallel to that would be that if you tax cigarettes, that there is an entanglement between the state and the tobacco industry. Or if you tax alcohol, there's an entanglement between the state and the alcohol industry. But at any rate, the entanglement is one of the main points emphasized. The other one is that it would require future abortions. Well, if you allocate cigarette tax monies to repair state buildings, isn't that the same as encouraging people or requiring people to smoke cigarettes which may cause them to get cancer and lead to other ill results? So I'm simply trying to draw some parallels and, although I think this is a clever attempt, I don't think it really accomplishes the logical sequence that's needed. The implied parallel here is that fetal tissue research leads to the state being in the abortion business, however that might be defined. The interesting point, though,...

SPEAKER KRISTENSEN: One minute.

SENATOR RAIKES: ...is it does not punish people who are providing abortion services or receiving those services. And I think the reason for that is that that's contrary to the law of the land. It does punish people who use the coincidental result for a public benefit; it punishes them with a...up to a Class IV felony. It also does prevent Nebraskans from benefitting from gains made elsewhere by this research. So...and the argument there is...that I heard was two: it avoids us being hypocritical by including that kicker in there; and it's also practical. We can't really go back and figure out where all that happened. I think the net result is that perhaps striving for moral purity, which is maybe what the aim here...

SPEAKER KRISTENSEN: Time.

SENATOR RAIKES: Thank you.

SPEAKER KRISTENSEN: (Visitors introduced.) Senator Bourne is a year older; today is his birthday. There are cookies underneath

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the south balcony. I doubt if they are courtesy of Senator Bourne, but they are here on his behalf, and happy birthday, Senator Bourne. Senator Suttle.

SENATOR SUTTLE: Thank you, Mr. President. I was talking about the National Institute of Health guidelines. And the first thing that I want to talk about are how these guidelines are used instead of statutes. First, the guidelines help ensure that embryos will not be created for the purpose of deriving human pluripotent stem cells to be used in NIH supported research. Investigators seeking NIH funds are required to provide documentation that the human pluripotent stem cells were derived from frozen embryos that were created for the purpose of fertility treatment and that were in excess of clinical need. They require a clear separation between the fertility treatment and the decision to donate embryos for this research. In addition, the donation of the human embryos must be made without any restriction regarding the individual who may be the ultimate recipient of the cells for the transplantation. Similarly, researchers wishing to use fetal tissue to derive stem cells must demonstrate that they are in compliance with all applicable laws and regulations. The federal statute applicable to NIH funded fetal tissue transplantation research also includes provisions creating a separation (inaudible) doing the decision to terminate a pregnancy and the decision to donate fetal tissue for research. Second, the guidelines ensure that individuals choosing to donate embryos cannot receive any inducement, monetary or otherwise. The guidelines detail specific elements that must be included in the informed consent to help ensure that potential donors receive sufficient information to allow them to decide whether or not to donate human embryos for this type of research. The guidelines require review and approval by an institutional review board to ensure the consent was informed, voluntary and meaningful. The university does have an institutional review board. Third, the guidelines require accountability on the part of the researcher; detailed documentation must be submitted to NIH to demonstrate compliance. For example, the grantee institution must sign an assurance that the research to be conducted is in compliance with the guidelines and that the institution will maintain documentation to support that assurance. The researcher,

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grantee institution must submit a sample informed consent document with patient identifier information removed, a description of the informed consent process and documentation of the IRB review. Fourth, the guidelines specify types of research that the NIH will not fund. For example, NIH will not fund any research that seeks to derive pluripotent stem cells from human embryos, research utilizing pluripotent stem cells that were derived from human embryos created for research purposes or any research that...

SPEAKER KRISTENSEN: One minute.

SENATOR SUTTLE: ...seeks to derive or utilize stem cells from embryos that were created using somatic cell nuclear transfer, which is cloning. Fifth, the NIH has designed an oversight process that will provide an extra level of protection above and beyond standard peer review of grant applications to ensure that researchers have complied with the guidelines. A newly created NIH working group, called the Human Pluripotent Stem Cell Review Group, will review documentation submitted by researchers demonstrating that they are in compliance with the guidelines. Continued compliance with the guidelines will be a term and a condition of the NIH award. Thank you, Mr. President.

SPEAKER KRISTENSEN: Senator Price.

SENATOR PRICE: Mr. Speaker and members of the body, one nurse following another nurse. Ted Simonson, who Senator Landis referred to, Jan is a patient out at Holmes Lake and used to share meals at the table with my mother, and this was the person I was referring to yesterday--a very, very devoted husband to a wife who is very, very helpless, but the dedication and devotion is there. Wally comes and talks to me in my office. He also is a caregiver, a husband of an Alzheimer's patient, his wife. And these are two very, very devoted husbands. Today and yesterday we're faced by a very ethical and moral issue. We will never come together on this because there is the division, but we must look at what we must do and then move ahead on this bill. Let's reflect back on the many diseases that have been cured, either by vaccine or by treatment in the past, and many of these involved fetal cell tissue, and look at the lives that have been

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changed or have been prevented...the diseases have been prevented in these lives. For the diseases of, just a few are, Alzheimer's, Parkinson's, AIDs related dementia, diabetes, heart disease a cure needs to be found. As our population increases, people live longer, diseases are much more apparent. And I don't mean to focus on just the diseases of the more mature individuals. We also have younger people who are very challenged, actually from birth, with diseases. I have read where umbilical cords, after the delivery of a baby, have been put aside just in case this child would need assistance in the future, and so that's an interesting, interesting thought right now. I have very mixed feelings about cloning and genetic testing. Do I really want to know what is in my future healthwise, and could that fall into the wrong hands, and then I would either be cut out of my insurance or voided on my insurance? So we need to be very careful as we go into genetic research. Fetal and embryonic cells may be essential to the development of a cure for diabetes and other diseases because scientists believe that the potential for adult stem cells in research is markedly restricted, so we need these young cells. My young son was challenged with non-Hodgkin's lymphoma, and luckily he responded well to chemo and to...we would have gone on to other possibilities, but he has been cancer free for three years. I believe in research to find a cure to the many diseases which plague us. Now is the time for all Nebraskans to come together, as close as we can come, and put our differences aside to assist those who are afflicted or will become afflicted by disease. As a nurse I am committed to saving lives or providing the best, healthy lifestyle that we possibly can, even though it means using fetal cells because they're available to us. This continuing research will not increase abortions. I'm convinced women will not go and become pregnant to have abortions to sell this tissue.

SPEAKER KRISTENSEN: One minute.

SENATOR PRICE: Let us use the available tissues that we have for this purpose, and I am opposed to this bill.

SPEAKER KRISTENSEN: Senator Landis.

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SENATOR LANDIS: Thank you, Mr. Speaker. Members of the Legislature, I will make a couple comments about Senator Foley waiting. I bet it was hard for him to sit on his hands. Yesterday, I think he got into the water and did just fine. I'm going to try to spend three minutes and I'll give him two, if I...if I possibly can wrap up my argument in time. Cline, Williams is the UNL lawyer, absolutely true. I should have...I certainly could have said that. I...I...that's a...being an old hand, I just thought everybody knew that, but that's okay. Fair enough. It's not who's opinion it is; it's whether or not it's accurate or not. And Senator Brashear, although he objected to the use of the word contraband, confirmed what that opinion largely says in large measure. By the way, when Bob Crosby's legal opinions were circulated for the Catholic Conference, it wasn't that they were the...the Catholic Conference opinions; it was whether or not they were accurate. And didn't have to be denigrated because he was the chosen lawyer of the Catholic Conference, but whether or not his work was accurate. So I think the test is whether it's accurate or not. As to my analogy, which offended Senator Foley, understand I think we're all pretty much offended by rhetoric, I know that I am at this point. So that's welcome to the situation. The question is not whether the analogy is offensive, as to whether or not it is accurate, whether it is a good analogy. And let me just go back to that analogy, because I think there is an essential argument by the proponents of LB 462 that the ends do not justify the means. The research ends do not justify the means of using this method in the main. To extend that argument further, I think that the argument that I hear is this, and if I'm wrong tell me that I'm wrong: it is more important to refrain from using an electively aborted fetus for research than it is that the research go forward to find cures for terminal diseases. Let me say that again. It is more important to refrain from using an electively aborted fetus for research than it is that the research go forward to find cures for terminal diseases. That's the argument of the proponents. If I'm misstating the argument, fair enough, tell me what it is, but that's what I hear. It's more important that we not use an electively aborted fetus than it is to have the research go forward. But more importantly as to why my analogy is in fact accurate, whether it is offensive, it's offensive because it is accurate, is because this bill says

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if we had a cure we couldn't use it. If we could save lives and have the cure, you couldn't use it in this state. You'd have to leave that man, who was 80 years old and had Alzheimer's, in the water and not cure him, and that's what this law says. If you got the research and the cure from some other place, you couldn't cure that man. And that's what LB 462 says. And, if that analogy is offensive, it's because it's accurate and that's what LB 462 does. Now, as you can tell I got a little hot that time, it's easy to do. I know how that can be. Whatever time I have left, I want to yield to Senator Foley. He's entitled to his share of this argument.

SPEAKER KRISTENSEN: Senator Foley, you have just a little under two minutes.

SENATOR FOLEY: Thank you...thank you for that time, Senator Landis. My light is already on and I think I'm just going to wait for my turn to come up. I've got some additional thoughts to offer and I'll do it when I have the full five minutes. But I do appreciate that time.

SPEAKER KRISTENSEN: Senator Engel.

SENATOR ENGEL: Mr. Speaker, members of the body, I've been listening the last few days and I haven't really said (inaudible), stood up to say anything, but I have been listening to the issues and I just made a few observations and I'd like to comment on a few of them. I've...in the past I've spoken on this issue last year. I've spoken on it earlier this year when we tried to pull it from committee. But I'd just like...some of the things I've heard about, one is imposing our religious convictions on others. Well, I happen to be Catholic. I was born a Catholic and I believe in my Catholic faith, but I have never tried to impose my particular convictions on other religions. I respect all religions. But this is not only...this particular bill is not only...only my convictions and my religion. It also is in the "Declaration of Independence", which I would quote out of right now: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of

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Happiness." In listening to our former president, last year, when he gave his...his annual message to the American people, I listened. I really never supported this person, but he was a great speaker and I wanted to hear what he had to say. And he did mention in his speech, and I was listening to every word of this, he stated, every person has the right to liberty and the pursuit of happiness. He left out, and I'm sure it was on purpose, "life", and I believe that's getting to be our attitude in this country. Now, Senator Chambers, you keep talking about the Catholics on the floor, of which, of course, as you know I am one, and I've heard you chastise us before. And everyone sits around and listens because most of it really doesn't merit a response. And that's your opinion. If you want to pick on Catholics that's fine. I'm not here to defend the Catholic faith at all. But I want you to know that most of the strongest pro-life members in this body are not of the Catholic faith. They are of various and sundry other faiths. So it's not just the Catholics on this floor. And I think if you check the roster here you'll find that most of the strongest are not of the Catholic faith. I read this morning in the paper that in the Netherlands they have legalized euthanasia. Well, what will this become? If we don't mind killing the most innocent, why wouldn't we, at a later date, do what they're doing in the Netherlands, legalizing getting rid of those people who are no longer useful to society? And as we age, I think some of us in this body who are aging, is there any one of us who would want to have some doctor or someone else decide that we're no longer useful, let them take our lives. I think that's what we're leading to in this process. Another thing, in response to Senator Schimek and Senator Thompson, they said we should leave this up to the Board of Regents. Well, the regents were asleep at the switch for how many years? They did not even know this process was going on at the University of Nebraska. When I heard about it last year, and I'm not going to read that letter again, what I wrote to the regents and President Smith and our Governor, and the responses I got, I got...I only received a response from one regent, and that was Drew Miller, who was very, very vocal on the other side of this issue at the present time. But at least he did respond to me, saying that he did not know that this process was going on. So as far as leaving this up to the regents, I think they should spend a little more time

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finding out what is going on in their university system before I'd ever trust this type of issue to them. And hopefully, they...they...they will do something. I don't know what they're going to do. But...and again, currently, the...they're finding...they're finding other sources--umbilical chords, spontaneous abortions, and now we read about liposuction. Well, there's many of us in the body that could certainly furnish many, many, many cells from liposuction, because we do have a lot of extra to...to...to offer, and I would certainly offer up my excess.

SPEAKER KRISTENSEN: One minute.

SENATOR ENGEL: And, in fact, I'd like to get rid of it. Another thing. If...if Dr. Carhart wins his lawsuit against the university, was there something of value then trans...transfer...transposing between the University Medical Center and Dr. Carhart, which I understand, not being a legal person, but I understand is against federal law. And so there...there is another thing I think we should think about now, would the university be in violation if that...if he does win his lawsuit? Something to think about. So, with that, I do support this bill and yield the rest of my time to the Chair.

SPEAKER KRISTENSEN: Senator Schimek.

SENATOR SCHIMEK: Yes, thank you, Mr. President and members. Senator Foley's remarks have changed the direction of my remarks a little bit because I want to clarify for the record that when I was talking yesterday about religious beliefs, I was not talking about a particular organized religion. And I don't believe I ever heard Senator Kruse mention a particular organized religion. I think that within any church you are probably going to have people of divergent opinions on this issue. I don't think that the Catholic Church, for instance, is monolithic in the opinions of people about this particular issue. I think there are many other religions in which this is a divided question. So when I'm speaking about religious convictions, I'm not necessarily...I'm talking about the individual and how the individual views this question. And I don't ever want to be thought as to be disparaging anybody's

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religion on the floor of this...of this body. I believe that we all are entitled to our own convictions and our own beliefs. I would say that I believe that there is one decision we can make which will allow others of our constituents, all of our constituents to act upon their convictions, and that is the decision that we allow the research to continue and that our constituents have the opportunity to make their own decision about whether they, in good conscience, can take advantage of that research. And to me that is the simplest and best solution. And you may disagree with me, but I don't see it any other way. If we ban the research then you're telling the people, with the belief that this is a good thing to do, then you are not allowing them any access at all, even if it comes from another state. So I just wanted to get that on the record. I also wanted to talk just a little bit about some pro-life senators at the national level who have supported this particular research issue. The first one is somebody that I really admire; he happens to be of the opposite party that I am, but Senator John McCain, who is a very strong pro-life person and had an unblemished record until 1992. In 1992, he followed friendship, and the consequence is that he voted to allow research on fetal tissue and fetal tissue transplants. Senator McCain listened to an advocate of fetal tissue therapies, named Ann Udall. Udall's brother, U.S. Representative Mark Udall, a Colorado Democrat, says the bond between his father, former Arizona Senator Morris K. Udall, a liberal Democrat, and McCain transcended party lines and geography. Representative Udall said, I think it was very personal for McCain, a former prisoner of war, to see my father just wasted by this terrible disease, Parkinson's, and over eight years in a VA hospital.

SPEAKER KRISTENSEN: One minute.

SENATOR SCHIMEK: But the fact...and McCain said that the spectacle of Udall's illness had caused his change of heart. I'm not supporting abortion to provide fetal tissue, McCain said in a television interview, but the fact is I've been convinced that it is a promising way to find a cure for a terrible, terrible disease. In April 1992, John McCain voted in favor of a Senate bill authorizing funds for the National Institutes of Health that included a provision to lift the federal research

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moratorium that President's Reagan and Bush had imposed on fetal tissue implants. McCain was chief sponsor of a bill, enacted in 1997, and bearing Udall's name that provides \$100 million a year for fetal tissue research. He also opposed an amendment that would have banned research on fetal tissue transplants.

SPEAKER KRISTENSEN: Time.

SENATOR SCHIMEK: I...thank you.

SPEAKER KRISTENSEN: Senator Kruse.

SENATOR KRUSE: This place is getting to be more like a seminary every day. (Laughter) I love it. Getting to be a little bit nostalgic, sitting back here and watching it all. But, as in seminary, when you get into a free exchange of ideas, there are people that make assumptions about what you are thinking, and I want to correct some assumptions. So I rise to correct some assumptions about my position on three different points. And there's no judgmentalism in any of these assumptions, but they certainly are inaccurate. Senator Foley attached the word "Catholic" to my argument and position. No, no, and no. I don't even...I'm not even thinking that; I'm not trying to avoid saying it. I have studied traditional, basic Catholic doctrine and I have no problem with it. The religious doctrine that we are seeing in the opposition to this bill came from the branches down to the roots. The branches didn't grow from the roots. The conflict that we have here, if it be a conflict, I would rather see it as a nice debate, is whether life or liberty, to use Senator Engel's words, is the most important when crunch time comes. We can debate that quite a while. But traditional Catholic doctrine says that liberty is more important, or else there wouldn't have been Catholics going to war in World War II. There's a whole side little piece, but it's off...it's to the side of just war and so on, just war is more important than life. So I support the traditional Catholic view and I do not see this as a construct of any denomination. Second, Senator Dwite noted that I have to love, and I recognize the fun in that. (Laugh) I was playfully joking and poking at my own theology. I also want to love, and I do so because God is love, and I...again, I don't think I have much choice in it, but I

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want to do that. Number three, I'm amazed to read in the morning paper that my basic religious doctrine is in opposition to life at conception. I have never said that, I have never thought that, I strongly support the position that life begins at conception; that is not a basic religious doctrine, that's a play-off, after you figure out what the value of life is, then you can figure out how much...how you deal with the beginning of life and the end of life, but that doesn't affect the value of life. I extend the full value of life and I hold it in high respect, high, high respect to all the way from conception to whatever we may eventually decide is death. I find the basic doctrine here that is in challenge is whether there is anything that is more important than life. And, as I've already indicated, we decide every day that there are things that we have to do that are going to cost life. I hope that statement helps to extend the life of our seminary a little longer. I thank you.

SPEAKER KRISTENSEN: Senator Wickersham. Senator Stuhr.

SENATOR STUHR: Thank you, Mr. President and members of the body. I, too, have been listening yesterday and today. I do want to say that I am rising in support of the bill. I do respect the discussion that we have been having and the colleagues who I think have presented their discussions in a very dignified manner. And first, let me say that our family has been a long supporter of the university. My husband and I are both graduates; our three children are graduates. In fact, we have a daughter that graduated from the Med Center. We have a granddaughter that's a freshman at the university now. But I...I still feel that university is wrong to continue this type of research. I believe research is important. I think there are thousands of research projects that are going on right now, but I cannot support this type of research being conducted at the university. I...this does come down to one's beliefs, and I do believe that life begins at conception. I do believe in the sanctity of life. One of my concerns has been...is that using taxpayer money to conduct this type and support this type of research. I've asked the question, how many land grant universities are involved in this type of research? I have not received an answer on this, but I do believe it's very

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important. Our university was established in 1869. It was established with the idea of conducting research and education. But my question again is, how many land grant colleges/universities are involved in this type of research? I know that there are many private colleges and many private universities; those do not use taxpayer money. I have a letter that...and I know that many of you also have received numerous e-mails and letters. This was from a constituent in Seward. I want UNL to be a strong university with a diverse student enrollment, strong faculty and excellent research opportunities. I do not have any immediate family that has Alzheimer's disease and so cannot speak for people in those circumstances. My father, however, died from cancer, so I do realize that medical research, in general, really does make a difference in people's life. Despite that, I do not feel that using fetal tissue for research is a good thing. I feel that society needs as many signals as humanly possibly that unborn children are considered living beings and need to be treated as such, showing the respect for life. Does life matter? Yes, I do believe that life matters from the beginning. I do not believe that the end justifies the means. Senator Engel was talking about...

SPEAKER KRISTENSEN: One minute.

SENATOR STUHR: ...some of the research that is going on throughout the country. And I have an article, dated February 21st, talking about the umbilical chords discarded after birth may offer a vast new source of material for fixing brain damage by strokes and other ills, free of the ethical concerns surrounding the use of fetal tissue, researchers said Sunday. In the United States we have 4 million babies born, 99 percent of their chords are discarded. I think that this is an exciting new opportunity that can certainly be considered. I know that the university is searching for alternative means and I hope that they continue to search for these alternative...

SPEAKER KRISTENSEN: Time.

SENATOR STUHR: ...means. Thank you.

SPEAKER KRISTENSEN: Senator Erdman.

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SENATOR ERDMAN: Thank you, Mr. President. Members, I've talked a couple times on this issue and obviously have some strong feelings on it, as do many of the members either side of this issue, and it seems like most of the time I spend correcting some of the comments that were made and I will briefly do that and then yield my time to a senator. We're talking about these groups that benefit from the research are the people and, you know, once again, we're talking about the argument of proresearch, anti-research, and I'll try and use some logic and someone can stand up behind me and refute my logic if I'm wrong. But, as I mentioned yesterday, the National Alzheimer's Association, although it supports fetal tissue research under certain guidelines, it has never funded a research project involving human fetal tissue in more than 15 years that it has been funding research. We knew that. I said that yesterday on the record. But here's another one. According to the American Parkinson's Disease Association in Staten Island, New York, it has not and does not currently fund any research involving human fetal tissue. And you want to know why? Well, they say so. The reason given was that there was another...or there was other promising research that does not involve ethical concerns of human fetal tissue research, so that's what we're talking about. We've heard people talk about embryonic stem cell research. That's not what this bill is about. We had a "minisymposium" at the University of Nebraska-Lincoln. We had a number of individuals, both from the university, who obviously have a vested interest in their livelihood in seeing the continuation of research as far as their employment, and alternatives were brought up and no one could dispute them. In fact, nobody even wanted to acknowledge that they were there so they wouldn't even have to be accountable to the fact that there were alternatives. So that brings me to my logic and we'll see if this...this holds true. All research in science, because yesterday I believe I was accused of being against science, includes fetal tissue research from induced or elective abortions. So that means that with Senator Connealy's bill, LB 75, which is based on research in science, there's human fetal tissue research used there. So that...we know that's not true, so it's not all research. So the next logical conclusion would be then that some research in science includes fetal tissue research from induced and elective

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abortions. That is true, but there is also another caveat to that, which is that some research in science includes fetal tissue research from noninduced abortions, so there's another caveat. So there is research out there that is not specifically saying that if we ban fetal tissue research from induced abortions then we've essentially banned it. Now, reality is, is that if you continue to put limitations on people they'll either figure out how to overcome those limitations, as some of the elder members of this body have with some of the rules, or they will cease to exist. And if that was the case and it would cease to exist then other states would be having similar problems, and I'll point you to two states in particular. One is Ohio, and this is what Ohio law says: No person shall experiment upon or sell the product of human conception which is aborted. Experiment does not include autopsies according to the revised code, and that bill has been in effect since 1974. Three of the top 48 medical schools in this country, according to U.S. News and World Report, are located in Ohio. These institutions, together with their affiliated hospitals, collectively received \$280 million in NIH research grants in 1998. Now that is almost as much as all the NIH funding for Alzheimer's from the aging section of the NIH, so that there's a lot of money going there. In the rankings of primary care medical schools, two additional Ohio medical schools were included in the top-ranked list, bringing the total of top-ranked schools in Ohio to five. Granted, they already have a ban...

SPEAKER KRISTENSEN: One minute.

SENATOR ERDMAN: ...on using a product of human conception which is aborted. In the biotechnology industry, there are 350 identified biotechnology companies in Ohio. The number is growing at 5 to 8 percent a year, and over 60 companies have been operating in Ohio in excess of 10 years. And these are statistics from the biotech industry organization. The survey goes on to cite Ohio's aggressive programs to encourage biotechnology development in the state, such as tax credits, grants, loans, job training, recruitment, and biotechnology academic and research programs. Granted, they have guidelines with which (inaudible) their research can be done, and they

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still have 350 research companies in their state. And when you...and when you think about it, I mean, we're not talking about doing anything differently here than has been done in other states, and I usually don't like to use that argument either. As Senator Chambers has alluded, what other states do is not our problem. What Congress does sometimes becomes our problem, but that shouldn't be our standard as well. But to say that we are going to be...

SPEAKER KRISTENSEN: Time.

SENATOR ERDMAN: ...the only ones that would do this...thank you, Mr. President.

SPEAKER KRISTENSEN: Senator Foley.

SENATOR FOLEY: Thank you very much, Mr. Speaker. Members of the body, back to Senator Landis' comments of yesterday, he...he stated pretty clearly on the record that pro-life senators standing on the beach as lifeguards would allow an 80-year-old Alzheimer's victim, struggling in the surf, to drown as we instead sought to save a dead fetus. That's what he said. I think the fundamental difference...let me...let me just back up a second. Senator Landis, I'm operating under the presumption, and on your own time you can correct me, of course, but I'm operating under the presumption that if the tissue in question were not coming from unborn children but rather was coming from nonconsenting adults that you would oppose such research; you would oppose it because, in effect, we would be taking the life of a nonconsenting adult and harvesting tissue, perhaps organs, from this person and using it for medical research on the hope that there might be some day some benefit derived from that research, and I think that's where you and I simply part company. We have a different set of values regarding the inherent worth of unborn children. I happen to believe that they have enormous value and I think you have a different view on that question and that's where we're...that's where we differ on that...on the issue that you've raised. Back to Senator Kruse, my friend Senator Kruse, he and I, of course, entered the Legislature together; we serve together on the Appropriations Committee and I very much enjoy working with him. He's a fine

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fellow. He's kind of a free spirit. I enjoy him. He made the argument pretty clearly yesterday, and I think he's trying to put some distance between that argument today, but he made it pretty clearly yesterday that at root what we're trying to do with this bill is to enshrine a particular religious doctrine into state law. That's simply not true. When we step on to the floor of this Legislature each day we bring with us the values that we hold and we're called upon to exercise those values hundreds of times as we push those buttons and vote. Senator Kruse has seen me hundreds of times in committee and on this floor cast votes in favor of appropriations for children, for school teachers, for prisoners, for the disabled, for the elderly, for Alzheimer's victims and on and on and on, and not once, not once, has he ever challenged me and tried to argue that I was simply trying to enshrine my religious doctrines into state law. He simply accepted the fact that I was exercising my values in making decisions on how state funds ought to be appropriated based on my values. Some years ago, much to his credit, Senator Chambers led this Legislature in a...what I can imagine, I wasn't here at the time, wasn't even in the state at the time, what I can imagine was a very, very difficult and divisive debate on the whole question of the extent to which the state of Nebraska should invest funds that either directly or indirectly might in some way prop up an oppressive regime in South Africa. And, again, much to his credit, he led the debate on that question and he did so because he brought certain values...

SPEAKER KRISTENSEN: One minute.

SENATOR FOLEY: ...with him when he stepped on to the floor of the Legislature. It wasn't a question of religious doctrine. It was his values. Earlier this session, again, much to his credit, in my view, Senator Chambers once again introduced his bill against the death penalty. I attended the hearing when he presented that bill to the Judiciary Committee and in very somber, respectful tones who did he quote as an authority to support his position on that question? He quoted from Pope John Paul II, the same Pope that he routinely ridicules when it serves his interests. I find that an interesting inconsistency. As it so happens, I testified in support of Senator Chambers'

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bill. It's unusual, but it's not unprecedented for a senator to appear at a hearing and support or oppose a bill,...

SPEAKER KRISTENSEN: Time.

SENATOR FOLEY: ...but I showed up at that hearing that day because I have very strong feelings...

SPEAKER KRISTENSEN: Time.

SENATOR FOLEY: ...on that question as well. No one challenged me because I...that I was trying to enshrine...

SPEAKER KRISTENSEN: Thank you, Senator Foley. Time. Senator Chambers.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, the difference between what I undertake to do and what Senator Foley and those on this bill undertake to do is to not close off the right or the opportunity for anybody who is hurting to find a way to resolve that hurt. He cannot show where I've ever brought a bill that would hurt somebody who is in pain even more. But what I have to do is let people know I'm not going to apologize for anything I said, and when the Pope speaks truth, as he did on the death penalty, I'll quote him and show you that even a man with whom I disagree on other things, when he says something I think is right I will acknowledge it. But he's right on that but he's often wrong, and the Catholic Church down through history has been a political entity rather than a moral force and they're having that dispute in Italy right now because of the kind of transmissions that Vatican Radio is trying to put out and harming the people in Rome, and probably everybody in Rome, or most of them, are Catholics. But here's where the Catholic Church, an organ of the Catholic Church, is engaged in political activity. So I'm not going to do like my colleagues and stand up here and apologize for what I said, because I meant every word of it. Senator Erdman was talking nonsense. When you mention these particular associations that are trying to raise money, you know they're not going to get involved in any political squabble. It's not that the Alzheimer's Association or the Parkinson's Association

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would not participate in these studies if they thought there was not a political consequence. They are realistic, so they're not going to get into that. And Senator Erdman is still too young and naive to know that. There are martyrs which are voluntary, such as some of those that are trotted up before the Judiciary Committee who will be shaking and saying, I've got Parkinson's, you can see it, but I won't use the medication. Well, if they want to be martyrs be martyrs, but don't try to force martyrdom on everybody else. Now I want to ask Senator Brashear a question or two.

SENATOR CHAMBERS: Senator Brashear,...

SPEAKER KRISTENSEN: Senator Brashear, would you respond?

SENATOR CHAMBERS: ...I was asking you the meaning of induced abortion and you told me that any abortion other than...well, let me ask you what you said so I won't put words in your mouth or misconstrue what you said. What is...what is an induced abortion?

SENATOR BRASHEAR: Well, Senator Chambers, we've been over this. An abortion is induced when it's brought about by a third person. And we have carefully defined in the bill, at Section 3 (sic--2), we have, by exception, removed every lawful abortion as an exception and have said that is not...

SENATOR CHAMBERS: Could you...

SENATOR BRASHEAR: ...will not constitute use of fetal tissue.

SENATOR CHAMBERS: Could you call my attention to that by page number and line if you...

SENATOR BRASHEAR: That's in Section 3 (sic--2) where we list all the exceptions, and it begins, (i) performance, an abortion as defined in Section 28-326...

SENATOR CHAMBERS: Well, if I might correct you on your bill...

SENATOR BRASHEAR: ...so that incorporates the rest of the

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statute.

SENATOR CHAMBERS: If I might correct you on your bill, that is Section 2, that's why I was thrown off, rather than...

SENATOR BRASHEAR: Oh.

SENATOR CHAMBERS: ...Section 3. Senator Brashear,...

SENATOR BRASHEAR: Well, I see. I'm sorry. Section 2, subpart (3), I stand corrected. Let the record so reflect.

SENATOR CHAMBERS: Just to make it clear that those exceptions...

SPEAKER KRISTENSEN: One minute.

SENATOR CHAMBERS: ...don't appear in Section 3, if we're looking at them. By you looking at small letter (i) on page 4, line 1, you have excepted every legal abortion. Isn't that true?

SENATOR BRASHEAR: That is correct.

SENATOR CHAMBERS: So any induced legal abortion can be a source of fetal tissue without violating this bill. Isn't that true? And it is true. It is true. What this bill, by its explicit terms, does is to say that fetal tissue can be harvested from any legal abortion and it does not violate this bill. That's why I say people don't read the language of the bill. So if they pass this bill, I don't care, because what those who call themselves pro-life, those who are carrying the banner of the Catholic Church, have said that...

SPEAKER KRISTENSEN: Time.

SENATOR CHAMBERS: ...every...I'll continue.

SPEAKER KRISTENSEN: Senator Connealy. Excuse me, Senator Connealy. Mr. Clerk, item on the desk.

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CLERK: Mr. President, I have a priority motion. Senator Pedersen would move to bracket LB 462 until January 9, 2002.

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

SENATOR DW. PEDERSEN: Thank you, Mr. Speaker. Members of the Legislature, it's no surprise to anybody in here that we do not have the votes we need for cloture and I do not want to see this bill die, so I have filed this bracket motion and hope that you will support it. With that, I'll give the rest of my time to Senator Brashear.

SPEAKER KRISTENSEN: Senator Brashear.

SENATOR BRASHEAR: Mr. Speaker, thank you, members of the body. Thank you, Senator Pedersen. I think this is appropriate. I think, first of all, when I think there is nothing wrong with candor and when you do not have 33 votes for cloture, if you choose to proceed on the cloture route under the rules then you need 33 votes, and they aren't there. I think that kind of honesty is appropriate. I also want to indicate that I think there has been a very high level of debate. There has been as good attendance as I've seen. I think for those of us...those of us at various times have called for debate. It just depends upon the particular point in the process that people have been interested in debate, but, in any event, we have had the debate. I've heard from both inside and outside the body that people on both sides of the issue have thought it was a...a good and high quality debate, and I believe that also. The issue will, of course, not go away and we all know that. I think that's reflected in the division of opinion that exists among the body politic and the electorate at large. I think that this bill has, notwithstanding any two people can have a difference of opinion about the writing of a bill, I think the bill has comported itself reasonably well as a worthwhile piece of legislation before you. I think you have asked...any number of people have asked good questions and I think responsive answers have been given. With that, I understand that some may want to go forward and I understand that we could not have done this unanimously, but so be that. We'll now have a debate on

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bracketing the bill and the bill will remain, as the issue will remain, and we will deal with it in the future, but it allows us to responsibly treat the rest of our business. I would urge the adoption of the bracket motion. I thank you for your time, your attention, your interest, the collegiality, and all that's good that has been demonstrated throughout this. Thank you.

SPEAKER KRISTENSEN: I've left the lights on. Mr. Clerk.

CLERK: Mr. President, Senator Chambers would move to amend the bracket motion until...strike January 9 and insert April 15. (FA178, Legislative Journal page 1463.)

SPEAKER KRISTENSEN: Senator Brashear, for what point do you rise?

SENATOR BRASHEAR: Point of order, Mr. Speaker.

SPEAKER KRISTENSEN: State your point.

SENATOR BRASHEAR: Under our rule...no, under our precedent and procedure, the bracket amend...the bracket motion is not amendable. I'd ask that it be ruled out of order.

SPEAKER KRISTENSEN: Senator Chambers, before I rule, I'll ask for your response.

SENATOR CHAMBERS: Mr. President, members of the Legislature, I would just like Senator Brashear to cite the rule.

SPEAKER KRISTENSEN: I'm...I'm...at this point, Senator Chambers, I...I'm just asking you for a response to me and then I'll rule and then if there's a...an objection or an overruling (inaudible).

SENATOR CHAMBERS: I don't, since I haven't had a rule cited which my motion violates, there's no comment that I can make.

SPEAKER KRISTENSEN: Thank you, Senator. I will rule that it is out of order to amend a bracket motion to a specific date. Senator Chambers, if you'd like to overrule that ruling, you may

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do so. We now go to debate. Senator Connealy, you are recognized to debate on the bracket motion. I had started with you and I don't know if I had inadvertently taken your light off or not, but I'll recognize you to speak.

SENATOR CONNEALY: Thank you, Mr. President. I'd yield my time to Senator Chambers.

SPEAKER KRISTENSEN: Senator Chambers.

SENATOR CHAMBERS: Thank you, Senator Connealy. Members of the Legislature, I told you all I would gloat and taunt and mock on this bill. I have read the newspaper where Schmit-Albin boasted about having 33 votes. Members on this floor have been whipsawed by those vicious people that I say are masquerading as pro-life people. Well, I want them to know I whupped 'em, w-h-u-p-p-e-d; I whupped 'em and sent 'em scurrying away from here with their tails tucked between their legs. They have put my colleagues, who I know are pro-life, into an untenable position. They have called them proabortion, one of the worst lies that can be told, and I haven't heard Senator Foley or anybody else deal with that situation. And if they're going to stand on this floor and think they can get me cow down by talking about, well, we're going to have a nice discussion and we're talking about our principles, bring it on. You bring yours the way you want to and I'm going to bring mine the way that I want to. Senator Brashear offered a motion that the pro-life people applauded because they thought it was a preemptive strike that would give them this bill without debate and discussion, and Senator Dwite Pedersen praised it. And they had to give that up because there were people who supported the bill who said, no, that's out of the question. So the wheels came off that wagon. Other stratagems and subterfuges were attempted and they all fell by the boards. So, with all this talk by the other side of morality and principle, you can read the papers and see who have made the vicious statements, condemning people by lying about their position. The Governor has used his religious position to say why he supports this bill. Well, I want to remind the Governor that the Bible and Jesus spoke against divorce and if he's going to inject himself into this then I want him to get his personal life in order and

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stop presenting himself as a moral prince. Two marriages are not allowed. And when you have a doubling of marriages, it certainly is not allowed. So he's the last one to portray himself as a moral prince who's going to guide other people. And he's going to call people in individually and try to whipsaw and bludgeon them into voting for a piece of trash. You know why I don't care whether you pass the bill or not? Because the language of the bill exempts from coverage every legal abortion. The only abortion...nobody has accused Carhart or any other of these people they call abortion doctors of performing an illegal abortion, not one. Carhart or any other provider of abortions could still give tissue to the university and the university can use it because the abortion is legal. And Senator Brashear, in cleverly drafting this bill, sometimes we outsmart ourselves, on page 4, in line 1, specifically exempted performance of an abortion as defined in Section 28-326, and Section 28-326 is a definitional portion of the law and it defines every way that an abortion can be performed. So any of those means used to perform an abortion would say that that abortion does not constitute use of human fetal tissue from an induced abortion. And he has said that an induced abortion includes all of these kinds that you see on page 4 following the word "except". And under that word "except" are all the legal abortions, all of them, which would include these so-called late-term abortions.

SPEAKER KRISTENSEN: One minute.

SENATOR CHAMBERS: They have done that specifically. See how smart they are? And they think that they're going to outsmart me? You know why they won't outsmart me? Because I read the words that are in a bill. Now I'll tell you what I can do. I can get to thinking so far ahead that I trip over my own self and misread, and you know what I will do when I misread and have it brought to my attention? I'll just stand on the floor and say I misread it; what I thought it said is not what it said. But I'm going by what I read in this bill and what Senator Kermit Brashear acknowledged. All of these abortions are exempted. They are. Read the bill. Use your brains, brothers and sisters. Use your brains. A loaded brain is more powerful than a loaded gun.

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SPEAKER KRISTENSEN: Senator Thompson.

SENATOR THOMPSON: Thank you, Mr. Speaker. Members of the body, I'm going to listen to the debate on the bracket motion. I guess at this point in time I'm uncertain whether I'll support it or not because I do have some additional concerns about this bill. Yesterday, I spent most of my time, as most of the debate today, talking about some of the philosophical reasons that I believe the state should stay out of this and leave this to the university and to medical science to develop the protocols and deal with the...the ethical issues that come from those protocols. But I do have a question about the bill, if I could have...ask Senator Pedersen if he would answer a question.

SPEAKER KRISTENSEN: Senator Dwite Pedersen.

SENATOR Dw. PEDERSEN: Yes, Senator.

SENATOR THOMPSON: On the bottom of page 2, there's language that says, "These activities place the state in an unavoidable entanglement with abortion providers in that the state must develop direct or indirect relationships with such providers in order to obtain a supply of human fetal tissue". First, I'd ask you if you still believe that to be true.

SENATOR Dw. PEDERSEN: Would you...which part of it was it again? Did...

SENATOR THOMPSON: Bottom of page 2, and I guess I'll just preface that with saying that University of Nebraska Medical Center no longer receives fetal tissue from an abortion provider.

SENATOR Dw. PEDERSEN: Well, my guess it is...it's still true because they are getting the fetal tissue from the University in Washington.

SENATOR THOMPSON: Do you consider the University of Washington an abortion provider?

SENATOR Dw. PEDERSEN: I don't know that, Senator.

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SENATOR THOMPSON: Okay. Then I would say in addition to, and this may be a smaller issue with the bill, there are many flaws that I've heard from other members with this bill that I hope we'll never be in the position where we won't have had the opportunity to explore corrections in this language. And I would point out, as Senator Pedersen said, University of Nebraska Medical Center no longer receives fetal tissue from the provider in Nebraska. They obtain it from the Birth Defects Research Laboratory at the University of Washington in Seattle. That program is funded by the National Institutes of Health, which supplies tissues only for grant-funded research in laboratories based at universities and nonprofit research institutes. And I would again say I believe that people who may even be in support of this bill may recognize that we would be putting into law something that's no longer true and that we have to be careful with what we place in law and also with the other mechanics of this bill, which may not achieve or provide even greater restrictions than the writers of the legislation had intended to have happen, and that's part of our debate process. And I'd again state my reasons for opposition to this bill, as I've stated yesterday, and not to just belabor a point, but it has been since the sixth century B.C. that we've used research using human remains; that these issues of ethics and science are very difficult to legislate, as I think this piece of legislation and it's...way it's been written gets to, that I think those belong in a different sphere. In this case, the University of Nebraska Board of Regents, the Medical Center, and the people who deal with medical ethics and medical issues should be developing those policies, not trying to write it through specific statutory language in Nebraska. I think that the diseases that the research would support, both in terms of...

SPEAKER KRISTENSEN: One minute.

SENATOR THOMPSON: ...finding cures but also in terms of providing methods of treatment, we shouldn't be enacting a bill that will in any way harm that research or not enable us to deal with those serious issues facing so many Nebraskans in their daily lives. These are devastating illnesses. Three of them

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have been...I've experienced with my own family and I think that the need to find those cures and to help people live happier, healthier lives and to be able to treat those illnesses in Nebraska should be our overriding concern. Thank you.

SPEAKER KRISTENSEN: Senator Brown.

SENATOR BROWN: Mr. President, members, I rise to support the bracket motion because we're going nowhere and we've been going nowhere for the entire time that we've been discussing it and so, by supporting the bracket motion, it will allow us to move on. I believe that we are here to have discussions and debate that not just galvanize our own positions and allow us to pat ourselves on the back for how smart we are, but force us to look at other people's positions and try to figure out where we can agree and how we can move forward. But we're not doing that, and we're not doing that on either side, and it was never in the intention of either side to do that. If we really believed that...I mean we've had different discussions about whether there is a relationship between this research and the number of abortions, there...we've had discussion that there isn't, but if the essential issue is the use of the tissue we had before us a proposition from Senator Beutler that would have allowed us to have some time to...to look for alternatives. That would have been a meaningful thing that we could have done. If we really wanted to put the pressure on, that would have been a meaningful thing we could have done. We didn't do that because this is an all or nothing thing that doesn't have to do with us moving forward. And so we'll put this to rest for now but, as far as I'm concerned, the damage has already been done. We have one of the finest, nationally recognized researchers who is leaving and at least part of it, I believe, has to be the culture that we have created about how we feel about research in this state, because this bill is about research. We have created an environment that says that even the research that's not directly related to fetal tissue is under threat, and that all researchers have somehow been linked. I...I see nothing good coming of this discussion and the fact that the bill is going to be hanging out there, the issue is going to continue to hang out there and it is going to continue to impact our ability to get people to come to Nebraska and stay in Nebraska who really have

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the opportunity to change the world by virtue of some of the work they're doing, and they're not going to choose to change the world in Nebraska because they're not going to feel that it's a safe place that they can work. So the exodus has begun. We've accomplished what we...what some people, apparently, wanted to accomplish, which is to put Nebraska in a position of not being a leader in this area, not maybe even being a follower in this area. And so what we do with the bill now, whether it still is in a position, whether it be January or April of next year,...

SPEAKER KRISTENSEN: One minute.

SENATOR BROWN: ...is to me, I guess, secondary and I think that we move on because we're not doing anything well with the time that we have here right now. Thank you.

SPEAKER KRISTENSEN: Senator Schimek.

SENATOR SCHIMEK: Thank you, Mr. President and members. I'm going to give some of my time to Senator Chambers in a few minutes, but I've decided to take a few minutes of my own at first. I'm torn on this and am kind of resolving in my own mind, I think, what I'm going to do. I think Senator Brown said some things that are very true and I would...I would echo them. I think that damage has already been done. I am not sure what...what further good can come from bracketing this bill and, in fact, I would be really curious to know what the maker of the motion plans for this bill next year. It is most probable that nothing will have changed in the intervening time. We will all be right back here where we were and where we are today and then we will be doing the whole thing over again next year. Now, maybe you could say if we want to cloture today and we didn't get this bill...we didn't stop debate on it, then it would still come back next year anyway. I don't know if either of these...either motion is a killer motion, but I...I really think it's wrong to keep dragging this issue out amongst the public and across the university system. And I agree with Senator Brown that it's been very harmful and it will continue to be harmful until we resolve it, and perhaps all we're doing here today is putting off a tough decision and I'm not sure that

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that's in our best interest. With that, Mr. President, I would like to yield the rest of my time to Senator Chambers.

SPEAKER KRISTENSEN: Senator Chambers, approximately three minutes.

SENATOR CHAMBERS: Approximately what? Oh, three minutes. Thank you. Thank you, Senator Schimek. Thank you, Mr. President. I would like to ask Senator Brashear a question.

SPEAKER KRISTENSEN: Senator Brashear.

SENATOR BRASHEAR: Yes, Mr. Speaker.

SENATOR CHAMBERS: Senator Brashear, without incorporating any of the characterizations I have made of the people who support this bill, do the pro-life contingencies support your bracket motion?

SENATOR BRASHEAR: I'm...I'm not certain that they all do.

SENATOR CHAMBERS: Well, have you discussed it, I don't mean with the people on the floor, have you discussed it with those who support this bill? Did you support...did you discuss the bracket motion with...

SENATOR BRASHEAR: I have discussed it with some of the leaders of the groups, yes.

SENATOR CHAMBERS: And do they agree with this motion?

SENATOR BRASHEAR: Some of them do; some of them don't.

SENATOR CHAMBERS: Thank you. Members of the Legislature, I'm not the kind of person who will be bluffed out of the game. If you sit down at a card table with me and you tell me I got all these cards, I'm not going to get up and fold. I'm going to say, show me what you got. And if somebody like Schmit-Albin says, I'm, in a manner of speaking, I'm going to kick the Legislature's donkey, then she's going to have to show that she can kick it. And when these other people boast about what

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they've been able to do, then they're going to have to show that they did it. But if you vote for this bracket motion, you are siding with those who support this bill and you're trying to give the appearance that you're collegial; that everybody gets along well. It's not going to get you any points with those people. They turn on their own. They cannibalize their own. So those who are opposed to this bill are not...

SPEAKER KRISTENSEN: One minute.

SENATOR CHAMBERS: ...going to gain anything by voting in favor of this bracket motion. They may get it, but they won't get it with my help. I'm going to resist as long as there is any opportunity to resist anything that would tend to breathe life into this terrible bill. But, as I say, the way it's drafted it can't do my side any harm because it exempts all legal abortions. And it will give me a chance next year, if you all decide to not bracket it or you decide to bracket it, to discuss my A bill to pay for the lawsuit that is going to be brought and which will be won by those who want to strike down this bill. Thank you, Mr. President.

SPEAKER KRISTENSEN: Senator Bromm.

SENATOR BROMM: Thank you, Mr. President. I'm going to support the bracket motion for several reasons. It's already been said by the sponsors of the bill that they'd bring the bill back next year, so the bill is going to be here. If the bill fails on closure (sic--cloture) it will go to the bottom of the pile; it will still be here. There isn't any scenario I can think of that the bill won't be here next year, so it might as well be bracketed and brought up. But let me say some things that maybe could happen in the meantime if there's anything constructive that can happen. I believe the university could continue their efforts, which I feel have been made in good faith, to look for alternative sources to...to remove this very, very contentious issue from so much public discussion and the floor of the Legislature. And I hope and I will encourage them in every way I can to do that, and I believe they will because I think they've made progress in that respect. But let me say a word about...and maybe I am 1 of 49, I don't know, but if you

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are...if you're in a position where you feel strongly that you support life and if you have, with the graciousness of your spouse, have had the opportunity to do some things that I've had the opportunity to do, like adopt children and...and provide a place for teenage mothers who need a place to stay before they have a baby, and then people hold a press conference and say, well, I don't care what you do with your life, you're not pro-life if you're against this bill, those people and those organizations are strongly diminishing their support. And, like I say, maybe I'm the only one out there with that feeling and, if so, that's my problem, but that's not...that's not the way you work with people if you really want to accomplish something. If your goal is really to support life you don't cut the legs out from under people who have for their entire life and expect there to be no ramifications. You do not do that. I know Senator Connealy and I've known his family for a long, long time, and I know another...a number of people on this floor and I feel I know their values pretty well, and if you try to put those people into a box and label them with a bill like this you're doing an extreme injustice. And, Senator Pedersen and Senator Brashear, I would ask you, with whatever influence you have, to work on that aspect of this issue. And I realize that's not your fault and it's not something you can control, but I can tell you if there's something positive that can happen between now and January it is to straighten out that situation to some extent because it is going to impact the complexion of this body eventually...

SPEAKER KRISTENSEN: One minute.

SENATOR BROMM: ...if that kind of labeling continues to occur. If the object is to end certain political careers then that can happen and let it be so, but I will tell you that everything I have done I have done with the idea of the welfare of people and the majority of the people in the state of Nebraska in mind with respect to this issue and with respect for life and what it means to everyone, whether they be...be unborn, just born, 80 years old or whatever, and I will continue to do that. And so you can support me or not support me; you can leaflet my church again; you can send me nasty letters. That's okay. You're not going to change the way I do business and that's the way it is.

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So I hope that something positive can come out of this debate. This has been a great debate and I commend everyone...

SPEAKER KRISTENSEN: Time.

SENATOR BROMM: ...who's participated. You've done...you've done a remarkable job of debating a very tough issue. Thank you.

SPEAKER KRISTENSEN: Senator Brashear.

SENATOR BRASHEAR: Mr. Speaker, I yield my time to Senator Landis.

SPEAKER KRISTENSEN: Senator Landis.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, I hope the body heard Senator Bromm. I thought it was a heartfelt speech with a lot of very insightful wisdom. Thank you, Senator Brashear. If this were any other bill and the mover and the introducer said, would you bracket my bill for next year, we'd do it. We'd do it for any other bill except this one, which is why we're arguing about what to do on this one. I think there is candor in what Senator Brashear and Senator Pedersen have said. They've got 25 votes for this bill, probably have got 30 votes for this bill, and they don't have the votes for cloture. That sounds like reality to me. I think the notion is, by people who don't want to bracket, is that it somehow legitimizes the continuation...somehow legitimizes the bill. I would suggest that it doesn't. I intend to support the bracket motion. Let's imagine that the bracket motion were to fail, which it won't, but if it were to fail we'd continue to debate and then Senator Pedersen would have to consider his options and one of his options would be the rule suspension argument that was made yesterday which would tear this body apart. We will avoid that if we bracket. Secondly, it could splash over into budget issues if we don't accept, legitimately, an outcome in which the introducer says, would you bracket my motion...my bill till next year. Third, I think the problem might then be with a bill that, if it went to cloture and failed, would then be overruling the Speaker's agenda, which can be done with 30

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votes. And also the continued poisoned well, the debate, this debate has not poisoned the well. Other than me offending Senator Foley and perhaps Senator Foley offending me, I think we've gotten through this debate pretty darn well without doing and saying the kinds of things that don't permit us to talk to each other for weeks on end. In the end, those of us who oppose LB 462, and I am one of them, only get a cessation of LB 462 when it passes. That's the only way it goes away. Or until it gets killed, which we can't do. And even if it gets killed, it comes back the next year. Isn't that true? Right. There's only cessation for those of us who oppose in one way and that's when the bill passes or the complexion of the Legislature changes in future elections. It's going to be here whether it's on cloture, whether it's on bracket, whether it's on General File, whether it's to be reintroduced next year, so I suggest that we accept a sense, kind of an olive branch, that says, rather than going down means that would be even more fractious than what we've gone so far, let's bracket till next year. I think that's a reasonable outcome for where things lay with the votes where they are and the level of debate that it's been. I intend to support the bracket motion. I would yield back the rest of my time. By the way, my light is on. When it does, I'll...I hope to call the question before twelve o'clock noon some time.

SPEAKER KRISTENSEN: Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, you all know I'm not one to fold and go in for all this collegiality after things have been said which will not be unsaid. Senator Landis said some things may spill over into the budget. That's very true and that can still happen. If...and I believe they'll get the bracket motion, but they won't get it with my help. I've seen too many times when I've had to lead the way in fighting these crazy trash bills, whose ultimate aim is to affect a woman's right to get an abortion, and I'll wind up virtually alone because others say, well, what they're offering is...it's...it's not really so bad or it affects so few instances. Well, you all have not been in a situation where your rights were eroded, bit by bit, inch by inch, squeezed out drop by drop, so you're quick to back off and say, well, it's

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not going to affect me that much. There are a lot of things that I fight for and against that are not going to affect me directly. People don't mess with me personally. But I'm not here just to make people leave me alone. My view is that if they can, for any reason, find it in their heart or mind to leave me alone, they ought to leave everybody alone, and not everybody ought to have to do what I do in order to be left alone when they're in a set of circumstances where being left alone is the appropriate course of conduct. I know this bill may come back again and it may not. Like I say, I'm never bluffed out of a position by them saying I'll do it again. They told you all they had 33 votes and I knew they didn't. I told you all the reason I didn't even talk on that motion to pull, because a... a king cobra does not waste venom on a dead thing, and I said LB 462 is a dead thing. I said it then. It's dead. And let them bring it back next year and I will take the time. And if my colleagues are up for reelection and they can't deal with the bill, I will deal with it. And if Senator Brashear or anybody else offers a motion that tears up the body like Senator Landis suggested they might do, they cannot force the Chair to rule on something which is totally out of order and outside of our rules. That's the silliness of some of the stuff that has been tried in the last few days. All the person in the Chair does is say that is not an appropriate motion, and nobody can make the Chair turn on the board and let the body vote on something that is totally inappropriate and they say, well, we overrode you so, in effect, we amended the rules; we incorporated Mason into our rules and our rules don't count. Brothers and sisters, I'm the only black man on this floor. I'm the only one who consistently votes against adoption of the rules and I'm the only one who has never moved to suspend the rules. I play by your rules. You white people are the ones who always want to tell my people how we ought to live and do things. I play by your rules. I tell you the only thing I need you to do is tell me what your rules are. And then you know what you want to do? You want to say, well, Chambers got us, we'll suspend our rules. We put them here. We voted to put them here. He abides by them. We don't like them so we, as white men, can suspend them, as we've always done. We always have the upper hand. We always are in the majority. We have the kill power so rules mean nothing except when we can use

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those rules to squelch somebody like Chambers. But if he finds a way, despite what we're trying to do, then we'll just take our eraser and erase the rules because they're written in pencil anyway. And if anybody on this floor thinks they're going to make me fold or back off anything because they're upset or their feelings are hurt, they are stone crazy. There are so many things said on this floor that are offensive to me and I don't jump up every time...

SPEAKER KRISTENSEN: One minute.

SENATOR CHAMBERS: ...like some of my colleagues do who are very thin skinned. But there are many things you all say that are highly offensive to me as a black man, but I don't deal with every one of them. And you all will say, well, if you don't tell me how will I know, and if I told you every time...but that's not the way I operate. I'm going to operate the way that I do and I'm not going to vote in favor of this bracket motion, and I'm going to continue to attack those vicious, meanspirited people who lie about the position of my colleagues. See, when I whup you, I want to whup you fair and square. I don't want to whup you by saying you're something that you're not. I want to show that you are everything you say and then whup you anyway, and this is my victory. I whupped Senator Brashear. I whupped those people out there in the lobby who lie on people, who will harass a woman like Senator Robak in gangs and mobs. Well, let them mob me and let them send their minions in here to change the rules. Just tell me what they are and I'll still win...

SPEAKER KRISTENSEN: Time.

SENATOR CHAMBERS: ...I promise you.

SPEAKER KRISTENSEN: Senator Connealy.

SENATOR CONNEALY: Thank you, Mr. President. Yield my time to Senator Hilgert.

SPEAKER KRISTENSEN: Senator Hilgert.

SENATOR HILGERT: Thank you, Mr. Speaker. Members, I wasn't

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going to speak on this bill because I didn't want to bring up some of the stuff from last year, although I've been supportive of LB 462 and had planned on voting green all the way through. But it seems like it's almost a matter of *deja vu*. We didn't have this opportunity last year, certainly, to bracket to the next year. The bill...all the bills die at the end of last session. I don't see the wisdom of bracketing this bill. We've already lost one senator who supported this bill last year, or a permutation of it, LB 1405, in the meantime. How many will we lose before the next session? So I'm not convinced of this strategy, so-called strategy. I may...I made a mistake last year. I should have driven LB 1405 right into cloture and let it go on and had the votes. I was mistaken. I had made an assessment that, since I had two senators come up to me saying, you know, they just don't have enough time, John; now we'll be there with you next year; that then I had made the decision to withdraw it before lunch and of course, you know, the rest is history. It's a matter of public record. Since then, I've frustrated some people in...advocates for the bill and maybe rightly so, maybe wrongly, I don't know, that's up to everyone to decide, but that's in the past. You know, this is the present and here we have an opportunity again and to try to bracket this bill and lose more support, I don't see the sense in that and I'm just not convinced that this is the right way to go. Senator Landis even outlined some other options should we not get cloture, but certainly not going to try to make that mistake again. I think we ought to go for cloture and see where we're at. I don't think we...I don't think the advocates of this bill get any stronger over the interim, but that's a strategy decision. But the decision I made last year to withdraw the bill, not letting it get to a cloture vote, was one that was criticized. I wonderful, frankly, Senator Brashear, if you've thought of that or whether maybe, you know, you probably are big enough that you don't really care. But, frankly, I do care when people call me a proabortionist or whatever. So, anyway, I'm not going to vote for this bracket motion. I would encourage you not to as well. So...and when I put my light on I was so surprised by this bracket motion I didn't know what I was going to say and my thoughts probably aren't very organized. There's a lot of them, though. I do remember last year and I do remember what the body went through last year and I do remember

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the result of pulling that bill, and here Senator Dwite Pedersen is doing the same thing. I don't know. Senator Pedersen, did you anticipate...would Senator Pedersen yield to a question?

SPEAKER KRISTENSEN: Senator Dwite Pedersen, would you respond to a question?

SENATOR Dw. PEDERSEN: Yes.

SENATOR HILGERT: Senator Pedersen, did you...you know, last year I withdrew the bill before cloture and that turned out to be a mistake. Are you making the same mistake? And, if so, why is this one...why is this any different? Why is it any different, Senator Pedersen?

SENATOR Dw. PEDERSEN: I don't know that it is any...

SPEAKER KRISTENSEN: One minute.

SENATOR HILGERT: I mean we're going...we've lost one senator already who was a advocate of this bill, and then now this year we're...our numbers are decreasing. We don't have an election for another year.

SENATOR Dw. PEDERSEN: I don't know that it is any different, Senator Hilgert. I'm just doing what I think is best.

SENATOR HILGERT: Okay. Well, thank you, Senator Pedersen. Well, I hope everyone thinks long and hard about this and I, for one, will not be supporting this bracket motion. Let's take it to a vote.

SPEAKER KRISTENSEN: Senator Tyson.

SENATOR TYSON: Thank you, Mr. Speaker. Members of the body, I originally had promised myself I wouldn't speak on this for...waiting for the cheers to subside. (Laughter) Senator, I really think that this thing should go forward. Although I'm going to vote for the bracket motion, I'm...I would like to see it go forward because I sense that Senator Chambers is weakening and I don't think he's got the mental or physical stamina

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remaining in him to carry this thing much further. That aside, I would point out just two things, and then I'll shut up and sit down. Thing one: this bill does not ban research. It bans research funded with taxpayers' money in a taxpayer supported facility. Those who think this type of research should go on should start a fund, open a bank account, get contributions; not use money exacted by taxpayers of the state of Nebraska who believe that it is not a proper use of their tax money. Secondly, and this actually is the...my main point, to have a debate, to have a discussion or an argument, call it what you will, if it's to be useful there has to be a predisposition on all sides, and there are a number of sides here, this is not a two-sided question, there has to be a predisposition on all sides to accept the truth if the truth is convincingly presented, and I would offer to you that that has never been the case in the soon to be eight hours, we're four minutes away, in the soon to be eight hours of time that we have spent debating this bill. No one's mind has been changed. This is beyond an intellectual decision. This is a visceral decision. It's a decision brought by each person's examination of his own moral code, and that I think is not subject to change, now or on the 9th of January 2002. But I say that we move on. I say that we should support this bracket motion. And Senator Schimek I think is very right. When we bring it up again next year nothing will have changed because nothing will have been accomplished. These researchers are akin to people in a dark room playing darts. There's a dartboard in there somewhere and people keep shoveling in darts, oh, we call it also money, and they keep throwing darts hoping that one of the walls they hit will have the dartboard on it. Thank you.

SPEAKER KRISTENSEN: Senator Hilgert.

SENATOR HILGERT: I'll call the question.

SPEAKER KRISTENSEN: Question has been called. Do I see five hands? I do see five hands. All those in favor of ceasing debate vote aye; all those opposed vote nay. Record.

CLERK: 28 ayes, 1 nay to cease debate, Mr. President.

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SPEAKER KRISTENSEN: Debate has ceased. Senator Dwite Pedersen, you are recognized to close on your motion to bracket.

SENATOR Dw. PEDERSEN: I think we've heard everything we're going to hear on this, Mr. Speaker and members of the Legislature. I will waive the closing and let it go to the vote.

SPEAKER KRISTENSEN: You've heard the closing. The question before the body is, shall LB 462 be bracketed until January 9, 2002? There's been a request to place the house under call. Is that correct, Senator Chambers? The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record.

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

SPEAKER KRISTENSEN: The house is under call. Senator Hilgert.

SENATOR HILGERT: Like to have a record...roll call vote, roll call vote.

SPEAKER KRISTENSEN: There's been a request for a regular roll call vote. The house is under call. All unexcused members please return to the Chamber and record your presence. The house is under call. Senator Bromm, would you check in, please. Senator Price, would you check in, please. All members are present. There's been a request for a regular order roll call. The question is, shall LB 462 be bracketed until January 9, 2002? Mr. Clerk.

CLERK: (Roll call vote taken, Legislative Journal page 1464.) 40 ayes, 2 nays to bracket the bill until January 9, 2002, Mr. President.

SPEAKER KRISTENSEN: Bracket is successful. I raise the call. Items for the record.

CLERK: Mr. President, some matters to be read in: Senator Byars, an amendment to LB 398A to be printed; Senator Jensen to

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LB 640; Senator Chambers to LB 462. Enrollment and Review, Mr. President, reports LB 398A to Select File.

Mr. President, I have a priority motion.

SPEAKER KRISTENSEN: Mr. Clerk.

CLERK: Senator Coordsen would move to recess until 1:30 p.m.

SPEAKER KRISTENSEN: Question before the body is, shall we recess? All in favor say aye. Those opposed say nay. We're in recess.

RECESS

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Good afternoon. Welcome to the George W. Norris Legislative Chamber. Senators, we're about to reconvene. Record your presence. Record, Mr. Clerk.

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

SENATOR CUDABACK: Mr. Clerk, do you have any items for the record or anything?

CLERK: No, I do not, Mr. President. Thank you.

SENATOR CUDABACK: First agenda item.

CLERK: Mr. President, the first bill this afternoon, LB 620. It's a bill introduced by Senator Kristensen. (Read title.) Bill was introduced on January 16, referred to the Revenue Committee for public hearing. The bill was advanced to General File. I do have committee amendments, Mr. President. (AM1184, Legislative Journal page 1296.)

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SENATOR CUDABACK: Senator Christian (sic--Kristensen), you're recognized to open on LB 620.

SPEAKER KRISTENSEN: Thank you, Mr. President. Members of the Legislature, Senator Redfield...well, I don't see her here this afternoon just yet. I know she's working somewhere else. When I introduced this bill at committee it brought back some...there's Senator Redfield. She brought back some memories for me because I used to sit in the seat that Senator Redfield sits in now on the Revenue Committee and I remember in the early nineties and mid-nineties squirming in that seat, Senator Redfield, listening to economic incentives, listening to all the various proposals for things that we could do for the state. We talked about and we listened to bills dealing with personal property tax crisis. Senator Hartnett is starting to squirm there right now because he remembers those debates. And then last year, at the end of the session, I don't know if you remember or not, but the very last bill that we attempted to deal with last year dealt with the Quality Jobs Act, and that was to extend the sunset that had been placed on that bill originally which was part of our Quality Jobs Act that we passed in the mid-nineties in this state. Time ran out last year and we didn't get a chance to deal with that issue. Over the summer, I felt somewhat guilty, partly because of setting the agenda and not having enough time, but partly because it had been five years and I had sat in my seat struggling with what are we going to do with the state's economy. Became very apparent to me that very few members of the Legislature had been through bad times. I think those times are coming. I don't want to be a "Chicken Little", but I do think there's a downturn coming and it's not far away. But we had listened to so many of those problems. I listened to Senator Hartnett, Senator Coordsen, Senator Warner. Yes, Senator Wickersham, I even listened to you while we were in Revenue Committee those years about the concerns we had over incentives--what is the role of the state; how should we do it if we do do it; how do we accomplish those sorts of things? And I also do a number of forums every year and I went out and listened to the problems in rural Nebraska about, you know, if we just had a little more money we could pay our teachers, we could build our roads, our property taxes wouldn't be so high; we've got fewer and fewer

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people, I wish we had a bigger tax base. What do I do? And the economy has been good and, of course, it is going to take a turn. I'm not going to tell you it's going to be a disaster, but we will slow down. It will take us longer to get there. And everybody complains about our tax base is too small; we don't have enough citizens here to make payments; our cost of government, whether it's the city, whether it's the county, whether it's the school district or whether it's the state, there just aren't enough of us to pay those taxes. And so if you do want to have better teacher salaries, you do want lower ag land values, how do you do it? Well, you can sit back and complain, and that's the easiest to do. But, you know what? It doesn't solve a whole lot. There's no magic wand, and LB 620 is no magic wand. It's not a magic bullet. It's not going to solve all of our ills. But there are two real facts in this world that we're going to have to deal with and one of them is that there is mergers and consolidations going on in this country and all over the world. Our wizards in the stock market, like Senator Cudaback, they know that. People who watch, you all know that. And the second part is, as a result of those mergers and growth, there's great movement in this world and there's great movement in this country. An unprecedented time that we're in and all of these things contribute to competition. In other words, with that growth, with those mergers, with those changes there is opportunity here and there is danger, but we have two choices in the state. We can sit back and complain--my taxes are too high; we don't have enough money to do this--or you can go out and try to attract more people to come back and get involved with those opportunities, more people to pay the taxes, more people to build homes so there's more people to share the burden, in other words, to grow the state. Now you can raise the existing tax rates but I don't hear anybody here saying that they want to do that for the general good. Yes, we have specific projects that we want, for example teacher salaries. One of the proposals is going to be to do just that. We'll have to make that policy choice. But the other part that we have is to be involved in some of those opportunities for growth. To do that, you've got to invest in that. You can't go out and buy that growth. You've got to invest in it. And to invest you're going to have to know what you're getting into. You're going to have to have

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the ability to do it. You're going to have to have the courage and, most of all, you're going to have to have the patience to let it pay off, because it's not going to happen quickly. That's the background of LB 620 for me. I don't like incentives. I don't know very many people that do like incentives unless you're the one getting the incentive, and then you think it's a great deal. But as a public policy, those incentives are not particularly attractive to us as policymakers. But I am also tired of going to these forums. I'm going to the meetings that you all go to or I hear many of our areas talk about I wish we had more people; I wish we had more stimulus. And so we'll put a little money here. We'll token money and we'll try to increase tourism. That's lip service. You need to make decent investment. So what does make sense? What I think I learned from the Revenue Committee, those years sitting there, is that we want new money; we just don't want recirculated money, in other words, the people who already are here and they're just shifting it from a small town to a larger community. Because that doesn't help rural Nebraska and, in the long run, it doesn't help the urban areas either. But we want quality jobs to come in. Well, what are those? How do you measure those? The prior legislation I didn't think was particularly effective in doing that. LB 620 makes those major changes in how you guarantee what quality jobs are. It's frustrating to come in and look at all of our communities and only do things for larger communities if you're from a smaller community. It's frustrating to be in a larger community and say, you know, we're always doing something for the smaller communities. And, consequently, nobody feels like anything gets done. LB 620 isn't going to make that all go away, but I think if you will listen for a few hours you'll begin to get a flavor of that this balances all those competing interests. Now, other states have some flexibility. It's quite amazing what we do for other states. You know that in Oklahoma they basically have said, look, we're going to give it to an agency and you just go out and make the best deal you can, and they give them all the flexibility in the world. They can cut a deal in Oklahoma within a matter of hours. We're never going to be able to compete with that because this body, at least as long as I'm here, and I think many of you, we're not going to give away that flexibility. Are we are little more conservative? Maybe. Are

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we a little more cautious about who we're going to give that to, to give away things? Yes. But I think what we need to keep in mind here is that we're not chasing someone. LB 620 is about investing Nebraska. That's the reason that the title is there. It's different from quality jobs; it's different from LB 775; it's different from all those other things. The specifics of the bill we're going to get a chance to go into. I've got a handout that you should be getting if you don't have it already that talks about three tiers. The middle tier, if you look in that, that's...it's a good sheet for me and that's what I'm going to refer to through most of this debate, the middle tier you see "Modified QJA Tier". That's the "Modified Quality Jobs Act Tier". We make some modifications...

SENATOR CUDABACK: One minute.

SPEAKER KRISTENSEN: ...that make that work easier. But we do two new different things. The first is a "Rural Tier" and that "Rural Tier" is eligible only for...well, it's eligible to every county, but for our good friends in Lancaster, Douglas and Sarpy Counties. The rest we count as rural. And they are the only ones that are eligible and we can go through what those qualifying requirements are, the benefits that they get, how long those last, and under what circumstances they get them. There is an additional tier that is there. It's called the "Super Tier". Does it have any one company in mind? No. Has a company expressed some interest in going after that tier? Absolutely. I'm not going to stand up on the floor of the Legislature and tell you differently. There are many people who are eligible for that tier. Many companies are eligible for that tier and, in the Revenue Committee amendments, that we're going to hear in just a few seconds,...

SENATOR CUDABACK: Time.

SPEAKER KRISTENSEN: ...they address that. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Kristensen. There are committee amendments. Senator Wickersham, as Chairman of the Revenue Committee, you are recognized to open on the committee

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amendments to LB 620.

SENATOR WICKERSHAM: Mr. President, members of the body, let me explain here so that later on you don't become confused when you...when you hear later discussion. I will...I'm going to speak about my personal position. As Chair of the committee that reported out the bill and is responsible for the committee amendments, I will support and argue for adoption of the committee amendments. I will be, later on, offering a series of amendments which I think are in addition to the committee amendments, and it is my intention to oppose the bill once amended because I have grave and continue to have grave reservations about these kinds of acts as a matter of public policy. Senator Kristensen noted that they make people uneasy. I am beyond uneasy about the policies that these kinds of bills represent. If you were here when the original Quality Jobs Act was enacted, you will remember that I was an opponent of that bill as it was enacted. All of the concerns that were expressed at that time are still present and, again, I will suggest to you that, even though I will support the committee amendments and, frankly, will ask you to adopt the committee amendments because I think they are a good...they represent good changes to the bill if we're going to have the bill at all, that ultimately when the time comes I will be an opponent of the bill. That probably doesn't surprise all of you, but I hope you...I hope you see that there is not an inconsistency in my position. The committee amendments address a number of concerns. Some of them are not what I would characterize as substantive in terms of altering the original intent of the bill as introduced. Rather, I would characterize some of those changes as supplemental to the fundamental ideas contained in the bill and those ideas that are supplemental are also consistent with issues that we have seen in the context of LB 775 or other bills that we have introduced...that have been introduced and advanced from the committee. And let me outline those issues for you without going through the committee amendments in serial order. Issues that I would put in the category of conformity with existing policies is the idea of employee leasing--allowing leased employees to count as base employees for purposes of the act. Again, I will suggest to you that that is consistent with the existing policy that is a part of what we all characterize as

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LB 775. Another portion in the committee amendments that is consistent with a bill that has been advanced by the Revenue Committee but not yet considered or adopted is LB 79. That concerns a group of entities that we would call nonexempt cooperatives...or exempt cooperatives, I'm sorry, and exempt cooperatives, for all intents and purposes, look like partnerships or S corporations or other kinds of entities. They are essentially pass-through entities; however, under existing law they do not...they would not be eligible for the benefits that would be conferred by LB 620, if it passed, and they could not pass through the benefits that might accrue by reason of LB 620 to their patrons. There is a...there is a provision in the bill that, as I suggest to you, would conform the Invest Nebraska Act, if it's adopted, to the suggestion that we would also have for you in LB 79, as would be applicable to what we'd commonly refer to as LB 775. Now, what I would characterize as a change that makes a difference that is an important policy consideration is contained in Section 31. What you see is drafted Section 31 of the committee amendments. That change is that a qualifying company, a qualifying company, could only receive either the investment credit or the wage benefit at this level of \$200 million or 500 new employees. They could not receive both. They could only receive one or the other and they would have to choose which one they wished to receive. Now, that was primarily proposed to you as a fiscal consideration by the committee. We have had several different kinds of analysis, economic...econometric models analysis applied to the proposals that are...that we think might be qualified under LB 620, and we were concerned, quite frankly, about their impact on the state's fiscal status. And we will be happy to discuss with you exactly what those studies show if you're interested in them. I can't imagine that what they show will not come up in the discussion. But the proposal in the committee amendment to allow a qualifying company in that, what I would characterize as perhaps a "Super Tier", would be...well, and that's what Senator Kristensen calls it, that's a happy coincidence...in that "Super Tier" would choose one or the other benefit. It will reduce the cost of a particular project to the state. Of course, it reduces the benefit to the applicant. There's also a provision in that section which makes benefits transferable. If you are a pass-through entity, that perhaps is in the nature of a

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conformity provision. Section 34 you will hear more about later because there is an amendment that is proposed to the committee amendments that affects that section, but the provision in Section 34, together with another provision in the bill, are again aimed at fiscal impacts of these projects. The committee amendments, as they are presented to you, would allow only one application per year in what we would characterize the "Super Tier", as the super tier, and then in a subsequent amendment or a subsequent provision in the amendment there is a provision that that "Super Tier" would sunset on January 1, 2004. Again, those...those combined proposals were a product of concerns in the committee for the fiscal impact of LB 620, and if you look at the fiscal note, and Senator Kristensen may want to have other things to say about the fiscal note, but, at any rate, these things cost money, and if you look at the fiscal note you'll see that the fiscal impact for the bill as introduced in the year 2003 would be \$4.7 million; in the year 2004, \$5.4 million; and in the year 2005, which you'll eventually see on our fiscal status, \$15,300 (sic--\$15,300,000). Those are direct revenue losses that we can estimate for the state of Nebraska that would represent part of the cost. Now, the adoption of the committee amendments may alter those numbers. It is our intention to limit the amount of cost that this kind of a proposal might have for the state of Nebraska. One of the other provisions in the committee amendment that I would suggest to you is an important change, vis-a-vis, what we saw in the...what I would characterize as the old Quality Jobs Act, and that is a provision which is somewhat consistent with the Rural Opportunities Act that we passed last year, that is, requiring companies who wish to receive benefits to...

SENATOR CUDABACK: One minute.

SENATOR WICKERSHAM: ...at least pay a higher wage than they would otherwise pay. So we have a proposal that says in order to qualify you have to pay 110 percent of the state's average wage for the year prior, and that average wage is computed based on all employees in the state, whether they are public or private. There is one other provision that I think is important to notice and that is if there is a failure of a company to live up to the promises they have made in the application that there

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is a recapture provision, and that recapture provision is applicable both against the entity that made the application, and in the case of a pass-through entity, such as an S corporation or a partnership, it is applicable to the partners, the shareholders, the beneficiaries, the patrons, whatever you might...however you might characterize them, of that pass-through entity. So we would...we're making an attempt to make sure we would get our money back. We will either get it back from the...from the company or the entity in principal...

SENATOR CUDABACK: Time.

SENATOR WICKERSHAM: ...or we will get it back from its beneficiaries.

SENATOR CUDABACK: Thank you, Senator Wickersham. Mr. Clerk, do you have items on the desk?

CLERK: Mr. President, I now have a series of amendments. The first, Senator Kristensen, AM1357.

SPEAKER KRISTENSEN: Mr. Clerk, I'd ask that you withdraw, Mr. President, withdraw my two amendments, please.

SENATOR CUDABACK: They are withdrawn.

CLERK: Mr. President, the next amendment to the committee amendments is by...by the members of the Revenue Committee. Senator Hartnett, AM1384. (Legislative Journal page 1393.)

SENATOR CUDABACK: Senator Hartnett, to open on AM1384.

SENATOR HARTNETT: Thank you, Mr. President. Members of the body, I think Senator Wickersham touched on this a little bit. I think we had some fiscal concern within the committee as we worked through this bill, and I think, as he mentioned earlier, that we had for the...as Senator Kristensen has mentioned, for the "Super Tier" that there could be only one project per year. That language is struck from the...from, with my amendment, is struck from the...from the committee amendment and we change the language on the...how long this project can go along for the

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"Super Tier" is changed from January the 1st, 2004, and we insert October the 1st, 2002. We kind of shorten the window with the sunset, and that's basically what it does. It simply allows the "Super Tier" to exist for a shorter period of time. And so, with that, if there's...I'd be glad to answer any question. Would simply ask for the adoption of amendment or, Senator Wickersham, if...I think every...all the committee members signed on to this and I just happened to introduce it. So, Senator Wickersham, if I explained it correctly. (Laugh)

SENATOR CUDABACK: Senator Wickersham, did you wish some of Senator Hartnett's time?

SENATOR WICKERSHAM: Yes, that will be fine. Okay. Mr. President, Senator Hartnett has given you a hint of it. What it does is remove the provisions in the committee amendment providing for the one application a year that could be approved language and shortens the sunset from January 1, 2004, to October 1st of 2002. I will suggest to you that the change was made as a result of concerns expressed about the legal implications of the committee amendments. Whether or not those same considerations apply to the amendment as adopted I'm uncertain, but it meets the concerns of some people and it still, I believe, meets the objective that the committee had of limiting the fiscal impact that a large number of applications or even more than a few applications in the "Super Tier" could have for the state of Nebraska. So to protect the state of Nebraska's fiscal status, I would ask that you adopt the amendment that is currently before us.

SENATOR CUDABACK: Thank you, Senator Wickersham. Senator Hartnett, did you wish some of your time back?

SENATOR HARTNETT: (Microphone malfunction) No, (inaudible).

SENATOR CUDABACK: We're now open for discussion on the Hartnett amendment to the committee amendments. Open for discussion, Senator Chambers. Senator Chambers waives. Senator Coordsen, your light was on. Senator Kristensen. Senator Hartnett, did you wish to close on your amendment? Senator Kristensen, did you wish to speak? Your light is next if you wish to.

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SPEAKER KRISTENSEN: Mr. President, I would like to address the Hartnett amendment.

SENATOR CUDABACK: You may.

SPEAKER KRISTENSEN: Thank you. I would support the Hartnett amendment. I've got to tell you, in all honesty, sending the bill to the Revenue Committee is...well, it's no joy (laugh) and...but yet, in a way, it is because the members there absolutely take a bill apart and build it back together. They don't do it to be mean. They don't do it to be...most of them don't do it to be picky. Some do. (Laughter) But let me tell you what they do do. They are concerned about policy. There are days I don't agree with their policy decisions. There are days that I was on the Revenue Committee and I didn't agree with the policy, but as a committee they look at every one of these bills. And, quite frankly, would I have made the changes that the committee made? No. Am I willing to live with them? Absolutely, I am, and this is one of those changes to the committee amendment that I think is appropriate. I do appreciate, Senator Wickersham, the work that you, as Chair, your staff and the members of that committee has put into this bill. It has not been easy. And I don't want people on this floor to think that the Revenue Committee sits down there and doesn't do any work, because you do. The bill has changed dramatically and part of it is their concern for the fiscal impact that occurs. Now, we're going to talk about fiscal impact when there's additional times, but at the Hartnett amendment, it is true that it needs to be changed and the change needs to occur that's in the Hartnett amendment for the fear that if you have just one project restriction you have created a system where you don't allow everybody the opportunity to get in. That is a...a potential land mine that we want to avoid with the adoption of this amendment. Obviously, there are numbers of companies that are eligible for these benefits, but we have fiscal constraints and the fiscal constraints are that there's only so many things that we want to obligate, particularly with the downturn coming. And that's the reason that the Hartnett amendment scales back the eligibility period and has a very, well, I think close to restrictive but it's

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certainly a shorter time frame for projects to apply who will qualify for this "Super Tier". Now, there are other sunsets in the bill, we'll talk about that, but I think it's crucial that with the adoption of this amendment you've guaranteed that there are a number of companies that are eligible for these benefits. We, as a state, are making a policy that we have limited fiscal and financial things that we want to risk or that we want to put at issue and we want to take it slowly. That is, I think, a reasonable state policy; it's a reasonable classification to do these. I appreciate the Revenue Committee signing on, as they have done so on this amendment, and once this is adopted the committee amendments, quite frankly, scale back LB 620 in a significant manner. I think once that occurs we should begin to talk about how the bill actually works and what sort of policies are in there. I support the Hartnett amendment and I hope that you will, as well. Thank you.

SENATOR CUDABACK: Thank you, Senator Kristensen. (Visitors introduced.) On with discussion of the Hartnett amendment, Senator Coordsen, you don't wish to? Senator Vrtiska, light came on, did you wish to address? Senator Hartnett, there doesn't seem to be any more lights. Senator Chambers, did you wish to address it now? You may.

SENATOR CHAMBERS: Thank you. Mr. President, you were right the first time because I did say I didn't want to speak, because I wanted to have a chance to acquaint myself with the amendment. Then I heard Senator Kristensen's comments. I'd like to ask Senator Hartnett an introductory question first.

SENATOR CUDABACK: Senator Hartnett.

SENATOR HARTNETT: Yes.

SENATOR CHAMBERS: Senator Hartnett, where did your amendment come from?

SENATOR HARTNETT: Where...where...it's on...

SENATOR CHAMBERS: No, I meant who...who suggested that you bring it?

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SENATOR HARTNETT: I think the committee talked about it, Senator Chambers.

SENATOR CHAMBERS: The Revenue Committee?

SENATOR HARTNETT: Yes, Senator.

SENATOR CHAMBERS: Okay. Thank you.

SENATOR HARTNETT: Yep.

SENATOR CHAMBERS: I just wanted to know who the players are. Now I'd like to ask Senator Kristensen a question.

SENATOR CUDABACK: Senator Christian (sic--Kristensen), will you yield?

SPEAKER KRISTENSEN: Yes, Senator Chambers.

SENATOR CHAMBERS: Senator Kristensen, were you the one who said that if you allow only one project to actually qualify then it would...well, what did you say on that?

SPEAKER KRISTENSEN: Well, what I mean to say and what I will...I mean...

SENATOR CHAMBERS: Well, what are you...

SPEAKER KRISTENSEN: ...what I'm say...

SENATOR CHAMBERS: ...what will you say on that?

SPEAKER KRISTENSEN: What I will say is this.

SENATOR CHAMBERS: Yes.

SPEAKER KRISTENSEN: If you have that restriction of one project per year or one project, you create a potential that that may have a class that is too restrictive.

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SENATOR CHAMBERS: You mean from a constitutional point?

SPEAKER KRISTENSEN: Yes.

SENATOR CHAMBERS: Well, what about when we're letting something out for bid and anybody can bid but only one gets the...gets the actual contract?

SPEAKER KRISTENSEN: That's permissible.

SENATOR CHAMBERS: Why would it not be permissible to let as many people apply as want to, but point out that this is one of those propositions, since the state is giving something which is not required to give? It's a privilege. It's more than that. It's a benefit. The state...here's my question. Is not...

SPEAKER KRISTENSEN: Yes.

SENATOR CHAMBERS: ...the state entitled to put any restrictions on such a program it chooses as long as the restrictions will apply to every company that would be in that class?

SPEAKER KRISTENSEN: Oh, I definitely think that's true. I think that's the hallmark of that constitutional provision. I think you begin to encroach upon that hallmark when you begin to say a number. It is different than a bid because what we're doing is purchasing. All we need is one of those things. That's different. That purchasing is a different concept than this proposal and I think that there's a legal difference there. I think if you limit it to one you create the question. I'm not saying it's a defect. I'm saying it creates the question, thus, defeats people's interest in it.

SENATOR CHAMBERS: Thank you. Oh.

SPEAKER KRISTENSEN: Nobody wants to buy that.

SENATOR CHAMBERS: Thank you, Senator Kristensen. Members of the Legislature, I disagree with what Senator Kristensen has said, and I'll tell you why. The state cannot be compelled to grant benefits to these companies. The state cannot be

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compelled to shift tax burdens from the citizens...I meant from these corporations to the citizens. The state is legally able to craft one of these programs any way it chooses. The state could say the only companies that will qualify are those. You don't have to put this little sop in there that's for the rural areas, \$100 million and 250 jobs or whatever it is. We can get to that later in more detail. But the state can say that any company that reaches a certain level of projected investment, projected new employees, is entitled to apply for this status; however, only one company is going to be accepted each year. That will then set off a scramble among the companies, if they're coming to Nebraska anyway, to sweeten the pot and they're now trying to appeal to Nebraska instead of Nebraska always saying we'll give you everything. I do not think Senator Hartnett's...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...amendment is necessary. Whether or not the Legislature wants to adopt it is a different matter. But we don't have to just throw the gate wide open and say if 30 companies come here and they say, we're going to do this, then we have to let all 30 of them do it. With that having been said, I'm going to have some questions of Senator Kristensen my next time around. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Hartnett, on your amendment.

SENATOR HARTNETT: I would, if there's no other lights on, would like to speak at some...

SENATOR CUDABACK: Senator, there are other lights, Senator.

SENATOR HARTNETT: Okay. I'll wait then.

SENATOR CUDABACK: Thank you. Senator Chambers.

SENATOR CHAMBERS: Thank you, Mr. President. Senator Kristensen, so that we can get to the principle that I'm trying to discuss, say that 30 companies came to Nebraska and each one

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qualified in the super category. Must Nebraska grant all of 30 of those companies these benefits under this act? Let's say that Senator Hartnett's amendment is accepted.

SPEAKER KRISTENSEN: Okay.

SENATOR CHAMBERS: Must Nebraska accept every company that meets the criteria?

SPEAKER KRISTENSEN: If...if that...if Hartnett amendment is adopted, the framework would be such that, yes, those 30 would come. If they all were qualified and met the statutory framework, assuming everything else, yes.

SENATOR CHAMBERS: You're telling me that these applicants would have created in them a legally recognized right to command the state to accept their application and grant them these benefits.

SPEAKER KRISTENSEN: I'd phrase it just a little bit different. They...they don't mandate we have to accept their applications. We don't grant them the benefits of these incentives unless they follow our criteria. One of them is that application. But I...I could see how you could say that.

SENATOR CHAMBERS: Do you think it would place an undue burden on the resources of this state if 30 of them were granted this status in one year? Let's say ten.

SPEAKER KRISTENSEN: Yeah, and 30 and 10 might be the same. This is a very high level, Senator, and so the chances of...of 10 coming, that's the reason I think the Revenue Committee shortened the time frame here. It was sort of a...we take it...we give it here but we take it away on the other end with the time frame.

SENATOR CHAMBERS: But I want to get to the principle.

SPEAKER KRISTENSEN: Would ten of them cause a great financial...? We'd be so lucky to be that successful. Would that have more...if you follow Senator Wickersham's logic, he says it costs money. I'd say if you had ten of those that you

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actually would be a winner on that. That is a difference in our philosophy.

SENATOR CHAMBERS: So you think it would be advantageous to have any number of companies come here and you grant all of them this status and these benefits that the bill is talking about.

SPEAKER KRISTENSEN: You know, to be candid, if we had ten people that qualified under this "Super Tier" I'd be thrilled to death. Yes.

SENATOR CHAMBERS: Okay. Members of the Legislature, I don't have the same philosophy that Senator Kristensen has. I do not think a state with a population base of about 1.7 million people, if it's that much really, should be granting these kind of huge concessions to these companies. Every time one person doesn't pay taxes somebody else does. Senator Redfield, by comparison, had a modest little bill that came in here that was to bring about equity. It was felt by people, and I got phone calls and I listened to them, that one group should not be made to pay taxes to lighten the burden for another group. But when it comes to these giant corporations who don't need the pittance which, by comparison or relatively speaking, Nebraska is going to give them, these corporations don't need it. But everybody except me and Senator Wickersham so far and probably Senator Janssen is wearing kneepads so that they can better grovel. They go to the feast, Senator Bourne, that's laid out by the corporations and they paraphrase Caesar, or whoever it was: we came, we ate, we groveled. The Legislature is going to do a groveling act. Suddenly, the principle which was the basis for objecting to Senator Redfield's bill is not to be applied here because the one...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...seeking the benefit is so big, is so powerful, is so awe inspiring that it must be given what it wants. But I think a principle, is a principle, is a principle. That's because I'm not religious and my word and my sense of honor bind me more than people's relative situational ethics will bind them. So I'm not going to be in favor of Senator

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Hartnett's amendment, but since it is offered as an amendment to the committee amendment there's nothing I can do about it right now. But it just put another little circle in the target for me to aim at.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Wehrbein, on the Hartnett amendment.

SENATOR WEHRBEIN: Yes, Mr. President, members of the body, I'd just like to ask Senator Hartnett a question, I guess, and I think...I...

SENATOR CUDABACK: Would you yield, Senator Hartnett?

SENATOR WEHRBEIN: ...I think I understand maybe you want to make some changes. If this amendment is passed, especially the first part where it strikes that sentence, what...is there any limitation, practically speaking, in the bill? I mean this opens it up. This expresses a negative, as I would see it.

SENATOR HARTNETT: Yeah.

SENATOR WEHRBEIN: It says you may take as many. Or maybe it expresses a positive. But if that's out, how many projects could be, knowing that there's only probably one out there?

SENATOR HARTNETT: Senator Wehrbein, I think what we've done is that I think, like Senator Kristensen said, we took it away here and then...what we did, we changed the sunset on this bill from...

SENATOR WEHRBEIN: I...I understand that.

SENATOR HARTNETT: ...(inaudible) so I think we see it as that would meet the end of limiting the number of projects that we would (inaudible).

SENATOR WEHRBEIN: Practically.

SENATOR CUDABACK: Would you speak into the mike, Senator Hartnett.

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SENATOR HARTNETT: Yeah, practically. It would limit the number...

SENATOR CUDABACK: Thank you.

SENATOR HARTNETT: ...of projects that we would receive, so...

SENATOR WEHRBEIN: Okay. So one...one sentence limits it and one sentence takes it away.

SENATOR HARTNETT: Correct.

SENATOR WEHRBEIN: Okay. Thank you.

SENATOR CUDABACK: Thank you, Senator Wehrbein. Senator Wickersham, on the Hartnett amendment to the committee amendments to LB 620.

SENATOR WICKERSHAM: Mr. President, we have started to touch on something that I think is vitally important. We have had, as a part of the Revenue Committee's deliberations on this particular bill, a variety of econometric analyses prepared using two different kinds of models. One is called TRAIN; the other one is called IMPLAN. Now, I don't know that it's necessary at the moment to go through the specifics of those plans...of those econometric models and their results now, but I can tell you that I certainly would disagree with Senator Kristensen that we could survive, as a state, ten applications under the "Super Tier" in this bill. It just wouldn't turn out that way. The models I think show us conclusively that these kinds of proposals cost the state revenue. There is a net revenue loss to the state. Now, for those who are proponents of these kinds of proposals, there is an overall gain in the state, but it accrues principally to the private sector. The bill, as introduced to us, would have indicated that there would have been an accrual of benefit to the private sector in the neighborhood of \$225 million. But the net benefit to the state, the part that you and I might be concerned about, the state revenues, the impact on the state revenues is negative, and it is significantly costly over time in terms of a reduction in

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state revenues. Whether or not there is a benefit to someone else and whether or not they appreciate it and whether or not, or whether or not, the state loses revenue. The old notions that somehow these were a plus for state revenues is not supportable. These projects reduce state revenues. There will be less revenue available in the future for other things that you might think are important. If that's mental health, if that's higher education, if that's law enforcement, you will be forced to make choices that you might not otherwise have to make because state revenues will be reduced. It is that risk of a great reduction in state revenues that the committee amendments, in their principle, and the Hartnett amendment are designed to limit. It is not a careless proposal. It is meant to protect the state's revenue base in a way that we hope that you will think is fiscally responsible. It will be an acknowledgement that we're going to spend money and perhaps it will be an acknowledgement that we're comfortable that some...

SENATOR CUDABACK: One minute.

SENATOR WICKERSHAM: ...sectors of the economy of Nebraska will benefit while the state's revenues decline, relative to what they would have been had we not initiated the project. That's okay. That's a decision that we can make. But do not, please do not delude yourself that these things are a free lunch. They are not. As far as the other interests of the state are concerned, they will force you to make choices that you would not otherwise make.

SENATOR CUDABACK: Thank you, Senator Wickersham. Senator Chambers, on the Hartnett amendment. This will be your third time, Senator.

SENATOR CHAMBERS: Mr. President, members of the Legislature, because I'm sure the body is not really following and they're going to accept this amendment because it's being offered, when it is offered, at some point I'm going to move to strike it. I will tell you why after I ask Senator Kristensen a question.

SENATOR CUDABACK: Would you yield, Senator Kristensen?

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SPEAKER KRISTENSEN: Sure.

SENATOR CHAMBERS: Senator Kristensen, this is not a loaded question, but just so we'll know exactly what it is we're looking at, this could be called the Union Pacific bill because Union Pacific is the company envisioned by this bill as the main beneficiary. Would you agree to that?

SPEAKER KRISTENSEN: Can you let me explain, or would you want a "yes" or "no"?

SENATOR CHAMBERS: Sure you can.

SPEAKER KRISTENSEN: Senator, it is not geared towards the Union Pacific specifically.

SENATOR CHAMBERS: But they are the company...

SPEAKER KRISTENSEN: They, Senator,...

SENATOR CHAMBERS: ...in mind.

SPEAKER KRISTENSEN: They are the company that has expressed the interest in the "Super Tier". As I said in my opening, I'm not...I don't want to mislead anybody. They have an interest in this "Super Tier" and when you say that the bill was designed to go get them, this is not designed to go chase the Union Pacific and bring them here.

SENATOR CHAMBERS: Okay, I'll...I'll buy that, because they don't have to be chased. They're coming already, as I said. When a company as big as Union Pacific talks about locating headquarters, that's where the headquarters will be located. They are going to be in Omaha. This is gravy. But here is the point that I wanted to get to by asking that question, so that this is on the table, meaning Union Pacific. Are you aware of any other companies that are likely to qualify under this "Super Tier" provision?

SPEAKER KRISTENSEN: There are a number of companies who are eligible to be qualified. I only know of one who's expressed an

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interest to me.

SENATOR CHAMBERS: Why then cannot we be practical and realistic and leave the language as it is where during a calendar year one application will be accepted, or whatever that term is so that you allow one company to benefit?

SPEAKER KRISTENSEN: It is my opinion that the combination of a sunset and a restriction to one company could raise the legal issue of the class...

SENATOR CHAMBERS: But, Sen...

SPEAKER KRISTENSEN: ...and...

SENATOR CHAMBERS: Oh, excuse me.

SPEAKER KRISTENSEN: ...and it is that possibility, and I underline "possibility", that I would like to avoid and I don't think is worth the risk to do so.

SENATOR CHAMBERS: Well, Senator Kristensen, suppose we would say no more than two in a calendar year, and that gives you all something and it allays a very serious concern that I have about the feasibility of having more than one company each year take advantage of something like this?

SPEAKER KRISTENSEN: It's my understanding that the Revenue Committee looked at that and opted to shorten the sunset period of time as opposed to tinker with the numbers, and it all goes to how...how...how do you define the class. And so the sunset offers a broader range of potential people that can come in, where the number would restrict, perhaps unduly, and that would raise the issue and that's what I would try to avoid.

SENATOR CHAMBERS: Thank you, Senator Kristensen. And, members, I still disagree with Senator Kristensen's rationale. A class is closed if you draft a provision which no other entity can...is allowed to take a shot at whatever it is you're give...you're allowing to take a shot. Here you have laid out the criteria. There is nothing in the law that prevents a race

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from taking place like the race to the...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...courthouse. Whoever gets there first with a paper, to file it on a piece of property and there's no fraud involved, whoever files first is the one who wins. So this is not a situation where you're saying only a railroad company that recently engaged in a merger that made it the largest railroad operation in the world is now interested in this, so you lay out those kind of specifics which can only apply to one company. This descriptive language does not apply only to one company even if only one company of that size has expressed an interest. This is not a closed class. You list all the types of companies that can qualify--if they store, if they steel, if they are in telecommunications, if...and you mention all kinds of things, so it's not a closed class. But since I probably cannot stop that amendment then I will just have to deal with it after the body, in my opinion, injudiciously...

SENATOR CUDABACK: Time, Senator.

SENATOR CHAMBERS: ...attaches it.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Hartnett, your light is the last light. Did you wish to speak or did you wish to close?

SENATOR HARTNETT: I'd like to close, Senator...Senator.

SENATOR CUDABACK: You're recognized to close on your amendment.

SENATOR HARTNETT: Mr. President, members of the body, this...my amendment simply deals with the "Super Tier", as Senator Kristensen has put it. What it does is strikes one per year, but basically the period of time before we have a sunset is about one year, so I would ask for the support. This was...I signed on first, I guess, my name. It is actually Revenue Committee, so all the...all the members, except Senator Redfield, I couldn't find her that day, has signed on so it is a Revenue amendment. I think she'd support it. So I'd ask for

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the adoption on this amendment to the committee amendment.

SENATOR CUDABACK: Thank you, Senator Hartnett. You've heard the closing on AM1384 to the committee amendments to LB 620. All in favor of that amendment vote aye, opposed nay. We are voting on the Hartnett amendment to the committee amendments to LB 620. Have you all voted? Have you all voted? Record, please, Mr. Clerk.

CLERK: 27 ayes, 2 nays, Mr. President, on the adoption of Senator Hartnett's amendment to the committee amendments.

SENATOR CUDABACK: The Hartnett amendment is adopted. We are now open for discussion on the committee amendments to LB 620. Senator Coordsen, you're recognized.

SENATOR COORDSEN: Thank you, Mr. President. Members of the body, I hope this doesn't turn into a sermon. I...someone...some member told me one time that they were lonesome to a George...for a George sermon, but this is probably not the appropriate time to do that. I think it's appropriate to speak...for me to speak on the committee amendments because as I look around the floor I see only three members who were opposed to the original LB 775 that are still left. That's Senator Chambers, Senator Dierks, and myself. I look around the floor and I don't remember, but I do know with the original Quality Jobs Act that Senator Chambers, Senator Dierks, and myself were in opposition to that, and why then might I support LB 620 as it would be amended by the committee amendments, recognizing the truth in what Senator Wickersham did say? One of the larger differences between these...these three issues for me is that in LB 775 there had to be preferential treatment before certain members of the business community would support it. In the original Quality Jobs Act there was something that I took great personal exception to and that was the ability to use eminent domain to take private property, through the force of government, and turn it...give it to someone else as private property, either free or at a price. The committee amendment provide that LB 620 is a much more narrowly structured bill than either of the other two. It also does a number of things in the committee amendment. It ensures that no business can qualify

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unless they pay, at the very minimum, for only those employees who, at the very minimum, will receive the average mini...average state wage, which is somewhere between 26 and 27 thousand dollars a year for...that's the minimum. For the greater categories, that goes up. Recognizing the...the discussion that just happened, this bill will, as Senator Wickersham indicated, have the potential of costing state revenues in the future if nothing else happens in that the credits by all of the economic models, and we've had three different ones ran on it, in fact the credits will exceed the one-time cost of the benefits annualized over time. But I believe that in the current situation that difference is narrow enough, it's up-front enough, and what the state has the potential of gaining with the "enaction" of LB 620, both in the incentive for smaller entities across the state of Nebraska as well as the largest new tier does, in fact, give us the flexibility to make that calculated judgment call that we're willing to forego the potential of future state revenues to encourage the creation of Nebraska in salaried positions that will be significantly greater in order to qualify than what the state average weekly wage. So I don't know whether this is confession time...

SENATOR CUDABACK: One minute.

SENATOR COORDSEN: ...or what it is, but this is the first program of its kind that I've ever felt comfortable with supporting, recognizing that it does carry with it the potential for some revenue reductions that...but also the potential that our economic models may be a little too narrowly structured. The division is close enough, Mr. President, that I feel comfortable in supporting LB 620, as amended by the committee amendments.

SENATOR CUDABACK: Thank you, Senator Coordsen. Senator Vrtiska, on the committee amendments, followed by Senators Kristensen and Chambers. Senator Vrtiska.

SENATOR VRTISKA: Thank you, Mr. President, members of the body. I'd like to ask Senator Kristensen a couple questions, if I could.

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

SPEAKER KRISTENSEN: Yes.

SENATOR VRTISKA: Senator Kristensen, I'm sure you got this news article from the Daily News sent out apparently by (inaudible).

SPEAKER KRISTENSEN: Senator, I'm sorry, I just plain can't hear you.

SENATOR VRTISKA: Apparently you got this paper that was sent out by Senator Tyson that talks about "Rural Areas Need State Support".

SPEAKER KRISTENSEN: I saw that article that was passed out, yes.

SENATOR VRTISKA: My question to you is your description of rural communities, rural areas.

SPEAKER KRISTENSEN: What is my definition in the bill?

SENATOR VRTISKA: No, your definition of rural areas that this speaks to in this...let me...let me just quote a couple of lines from this and that will give you better...

SPEAKER KRISTENSEN: Yeah, I didn't write that.

SENATOR VRTISKA: But I can quote it to you, can't I?

SPEAKER KRISTENSEN: Sure, you bet. Yeah.

SENATOR VRTISKA: Okay. Well, it says that under the original bill that many rural areas in Nebraska couldn't realistically meet the threshold that was set out which was under the old...under the old LB 775, and we all recognize that. As you go down the list, it talks about what your proposal would do and it says it would create special categories for businesses in rural counties with the lower threshold of \$25 million

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investment and 50 new jobs. Then it goes on to say that's still out of the picture for many small rural businesses, but at least more attainable for some of the larger ones. So I guess my question is, your def...what would be...and I'm not talking about Senator Tyson's definition. I'm asking what your definition be of rural communities.

SPEAKER KRISTENSEN: The definition I would use for this is the one I put in the bill. It would be all the counties outside of Douglas, Lancaster and Sarpy. I think that...

SENATOR VRTISKA: Well, I guess my point is, is many of these rural communities would have a difficult time and I suspect because of their size and because of the...the population base, would have a difficult time attracting \$20 million and create that many jobs. My thought was that if it was really talking about rural communities, that I think of as rural communities, and maybe my definition is different than yours, that if it was \$10 million and 25 jobs it would probably fit a picture of what I would consider rural communities. Now, maybe I'm way off base when I talk about what I think rural communities are, but the area that I come from, that's about the area that we're talking about, and I guess I'm trying to...I'm trying to get the definition or trying to get a hold on what the effect would be on many rural areas of Nebraska with even amendment. Now I'm talking about the lower end of your...and I'm not being critical of the bill. I'm just trying to get a picture of how you came up with \$20 million and 25 jobs, and maybe that's where it ought to be. I'm just trying to get a def...get...get your...get your view.

SPEAKER KRISTENSEN: I can tell you why I came up with those levels, Senator. Roughly, 50 jobs is a tenth of what I had the upper job levels at, and we had some of those in the Quality Jobs Act before, so I took roughly a tenth of that. The \$20 million in investment I can't tell you was particularly magic. It's roughly, again, a fifth of what that upper investment level was. I think the Revenue Committee had some discussion at the hearing. I offered that that was something that...

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SENATOR CUDABACK: One minute.

SPEAKER KRISTENSEN: ...I would be interested in if they wanted to lower that, and so it's sort of a, you know, it's a package deal as it came. I offered that. I don't think the Revenue Committee saw fit that they wanted to adjust those levels. They, instead, focused on things that were in the committee amendment and, quite frankly, I'll live with the committee amendment. Was not an unfair question or...or a difficult decision to make.

SENATOR VRTISKA: Well, I'm not trying to criticize what they did. I'm just trying to get a better picture. Because all of us are somewhat parochial in our views as how it fits into our particular area of the state, and probably many areas like mine. And the level that we're talking about would be...and many times easier to create jobs at the level that I'm talking about it would be at your level. I'm not going to sit here and, you know, be stuck on a number that might be this or that, but it appears to me that it'd be much more attractive to some community if that level were lower.

SENATOR CUDABACK: Time.

SENATOR VRTISKA: And I suspect there's not much support for that, but I had to make my point. Thank you.

SENATOR CUDABACK: Thank you, Senator Vrtiska. Senator Kristensen, your light is next.

SPEAKER KRISTENSEN: Thank you, Mr. President. Members of the Legislature, I do support the committee amendments. I'd like to just visit a little bit about what the bill does and doesn't do with the committee amendments. I think the most significant portion of the committee amendment is the change in the upper tier. Under the original bill, there would be these wage credits. Now what's significant about this, Senator Vrtiska, is that these are creating new jobs, and Senator Wickersham and I are going to have some words after the committee amendments are adopted because we're going to have a real disagreement over philosophy on this and that's no surprise, but these are new

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jobs and that they have to have 120 percent of what the average wage is. That's a figure that's reported by the Department of Labor. So they're not lower end jobs. They are higher end paying jobs. That's the reason if you're...if you're too stuck on those numbers in the lower tier you just won't have that many good paying new jobs out there. It's hard to get those, because these are going to be fairly high-paying jobs. But to get this investment tax credit is the other portion. So you could either get the wage credit or you could get investment credit under the committee amendment. My bill had them both. You could qualify for both, and the Revenue Committee basically said, nice try, we're not going to let you have both; you're either going to get the investment credit...and you're familiar with investment credit. It's what you used to get from the federal government. It was a very effective program for stimulating people to buy things and, in this case, the reason it's important is you're going to stimulate those people to make a capital investment in the state. If they're going to make that investment they're going to stay. If they're going to sink in \$200 million, they're not going to be a fly-by-night outfit, come in one day and leave the next. The Revenue Committee, through their committee amendment, is making the judgment, look, you either get the wage credit or you get the investment credit; you don't get both. So I support that portion of the committee amendment, although I'd like to see it done differently. The other tiers, particularly the "Rural Tier", still requires that those jobs roughly be 25 thousand dollars, in fact I think it's 25 something, 3 or 8, that every one of those jobs to qualify has to be at that level. You can't average them. So you can't hire a bunch of people at ten grand and then have somebody who makes a million, average them all together. Each employee must, to count towards those job levels, be above that percentage and that rises. When you get to the "Super Tier" that has to be 120 percent of the average wage. And so I'm concerned about some of the same things you were talking about and that's the reason we wrote the bill as we did. The other portions that I think you should be interested in is what happens if they don't maintain these levels. What happens if they walk off and say, aha, we qualified this year, and they get those benefits, and they fall beyond? Let's say they fall back, they don't make those payments, they can't prove that they're paying people like

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that. There are provisions here in the bill to go back and recapture from that company the credits that we've paid to them. And so that's a protection I think we have. It isn't a give away. They actually have to perform and they have to do something and if they don't do something there is a penalty to get it back from them. What the committee amendment did, and the reason I support it, is that it lessens the impact. In fact, if you take into consideration once the committee amendment is adopted I'd suggest to you that the state doesn't lose when you consider that you're going to pump new people into that community who are going to buy houses, they're going to buy groceries, they're going to buy cars,...

SENATOR CUDABACK: One minute.

SPEAKER KRISTENSEN: ...and they're going to spend money. And so that community has a \$25,000 guaranteed job or better, who's going to be spending money in their community. Now Senator Wickersham is going to tell you that's a loss. That doesn't make any sense, but that's what he's going to say. And it's just like if, in your tax return, if you would go out and...and make an investment in a stock you're not going to make profit in that first year. You're going to have the patience and, over a period of time, it will grow. Same thing happens here. And so I do support the committee amendments. I think the Revenue Committee has done a good job in trying to make some fiscal concerns. And would I like to see the green sheet? I probably should stand up and try to defeat the committee amendments, but I think what the Revenue Committee did was fair and reasonable.

SENATOR CUDABACK: Time.

SPEAKER KRISTENSEN: I'd support them.

SENATOR CUDABACK: Thank you, Senator Kristensen. Members wishing to speak to committee amendments to LB 820 (sic--620) are Senators Chambers, Beutler, Vrtiska, Janssen, and Wickersham. Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, for clarification, I would like to ask Senator Kristensen some

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questions.

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

SPEAKER KRISTENSEN: Yes, I would.

SENATOR CHAMBERS: Senator Kristensen, I'm not trying, at this point, to split hairs. Later on, I may.

SPEAKER KRISTENSEN: You'll tell me when you're going to do that?

SENATOR CHAMBERS: Yes.

SPEAKER KRISTENSEN: Thank you.

SENATOR CHAMBERS: I will announce it. (Laughter)

SPEAKER KRISTENSEN: Okay.

SENATOR CHAMBERS: The bill mentions new jobs and new employees.

SPEAKER KRISTENSEN: Yes.

SENATOR CHAMBERS: Does that...do both of those terms mean the same thing?

SPEAKER KRISTENSEN: Yes.

SENATOR CHAMBERS: Okay. So when we say a new employee, as you pointed out, and we're talking about this average...this wage as a minimum which each employee must receive...the lowest paid would have to receive, we're talking about an individual person. So when we get to the "Super" category, we need 500 individual jobs or 500 individual people...

SPEAKER KRISTENSEN: Yes.

SENATOR CHAMBERS: ...when we say "500 new".

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SPEAKER KRISTENSEN: Yes.

SENATOR CHAMBERS: Now, when we say "new", does that mean people who are going to be hired new, or they can be brought in from some place else?

SPEAKER KRISTENSEN: It...and this is where you're going to have to bear with me a little bit.

SENATOR CHAMBERS: I will.

SPEAKER KRISTENSEN: What we do is that we...this is what the legislation does. It defines a project and it depends. If it is a brand new entity that's just starting up there is a provision in there for what is a base year, base employees. Since they don't have any priors, it's zero.

SENATOR CHAMBERS: Um-hum.

SPEAKER KRISTENSEN: Now, if they are going into an existing facility and they're going to expand it,...

SENATOR CHAMBERS: Um-hum.

SPEAKER KRISTENSEN: ...let's say that they're already here and we're going to add...you...there's a provision in here on how you count base year employees. You make that calculation and then whatever...you start counting at that number and then you have to go to 500 in addition to those. What you should ask me is, well, can they already have the 500 somewhere else and bring them in? And, yes, they can. And, in fact, the one company that has expressed an interest might well bring them in, but they are coming into Nebraska, yes.

SENATOR CHAMBERS: And that was what my question included by saying can they bring people in. How many people is Union Pacific expecting to bring with them from Saint Louis...

SPEAKER KRISTENSEN: Um...

SENATOR CHAMBERS: ...or wherever they are?

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SPEAKER KRISTENSEN: Yeah, and I'm going to go by what I've kind of read and seen as well, Senator. I'd love to sit on the board of directors and see whatever that salary might be and get that, but I don't get to do that, nor do I expect to. But it's my understanding that it...that it's going to be somewhere in that 500 to 600 and, so you allow maybe a little modesty, 700, but I think that 500-700 range is what I...what I've read and understand it to be.

SENATOR CHAMBERS: But one thing that should be made clear, at least that I want to make clear, is that people in Omaha need not expect job openings, 500 of which will be available to be applied for by people in Omaha, because this company is going to have these 500 openings.

SPEAKER KRISTENSEN: Oh, I think that that's fair, Senator Chambers. Now, I do think some of them are going to be new hires. I expect that. But I think that you're right. I...

SENATOR CHAMBERS: Well, I mean other than janitors and those people who probably will not be brought along with them.

SPEAKER KRISTENSEN: Well, but if they don't earn \$25,000 for being a janitor, they don't get counted anyway.

SENATOR CHAMBERS: But how many janitors will they need? If they paid one person...see, I know janitor work. If they paid one person \$25,000, he or she will clean up not only that building but every other building they have too on an eight-hour shift.

SPEAKER KRISTENSEN: Considering that's twice my salary here, it's looking pretty good. (Laughter)

SENATOR CHAMBERS: But the main point is, we need not look at this as something that will alleviate any problem of unemployment in certain pockets of the city where...

SENATOR CUDABACK: One minute.

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SENATOR CHAMBERS: ...such unemployment may exist.

SPEAKER KRISTENSEN: Oh, Senator, I...no, I think you're correct. I think that would be an overstatement. I do think there will be some new hires, but it's not realistic to say they're going to go hire 500 new Omaha people if they do that project. I...I think you're correct.

SENATOR CHAMBERS: Thank you. Mr. President, was that...that wasn't my third time on this, was it?

SENATOR CUDABACK: No, that was a minute, I said,...

SENATOR CHAMBERS: Oh.

SENATOR CUDABACK: ...Senator.

SENATOR CHAMBERS: Oh, okay.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Beutler, followed by Senators Vrtiska, Janssen, and Brown.

SENATOR BEUTLER: Senator Kristensen, I'm trying to get a handle on the bill a little bit and have a couple of questions, if I may.

SPEAKER KRISTENSEN: Absolutely. Sure.

SENATOR CUDABACK: Senator Kristensen.

SENATOR BEUTLER: I think I want to start with Section 21 and just note that...or ask or confirm that the definition of a project is basically however the board describes the project. Is that about right?

SPEAKER KRISTENSEN: It would be a project that is described in the application. If you go back and look at the application requirements, the application requires them to designate certain things and describe those in fairly...well, it says in detail, but that is the project, in other words, where it's located, the type of business it's going to be and so on.

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SENATOR BEUTLER: Okay. And so in the end, though, it will be the board who will approve or disapprove the definition of the project. Is that correct?

SPEAKER KRISTENSEN: They'll...I would say that the definition is here. What they will approve or disapprove is probably how it is describing what its scope is and I, again, maybe I'm splitting hairs. The board is going to approve and designate what the project is, and that's going to come from the application.

SENATOR BEUTLER: Okay. And let's hypothesize three different situations. Let's hypothesize a situation where you have some kind of self-contained factory or facility that is the project; a second situation where you have an addition to an existing facility that's perhaps a new production line but fairly cleanly distinguishable; and then maybe there is a third situation that's a little less unique, different or separate from existing operations. I want to, in those contexts, I want to ask about the employee numbers to qualify and the wages that must pertain to those employees in order for them...in order for the company to be eligible.

SPEAKER KRISTENSEN: Okay.

SENATOR BEUTLER: Let's say you have a completely separate contained facility. That's your project. And let's say that you're qualifying under the 500 new employee section, and let's say that that complete...that complete facility has 600 employees. Can they define that project to include only 500 of those 600 employees?

SPEAKER KRISTENSEN: There is a...there's a provision in here, and I'm just searching for it. I believe if you go to page 18 of the bill itself, it talks about when projects overlap and I'm assuming that you're...and if I'm wrong just shut me off right away so I don't waste your time.

SENATOR BEUTLER: No, I don't want to get into an overlap situation.

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SPEAKER KRISTENSEN: Okay. Okay, because...

SENATOR BEUTLER: Let's just...let's say they had nothing in Nebraska and they build a new manufacturing facility. They need to get up to 500 employees. They are using...actually employing 600...

SPEAKER KRISTENSEN: Okay.

SENATOR BEUTLER: ...in this facility. They have to meet certain Nebraska wage levels.

SPEAKER KRISTENSEN: Yes.

SENATOR BEUTLER: Now, can they choose which 500 of the 600 that they...

SPEAKER KRISTENSEN: Yes, that they choose to qualify? Yes.

SENATOR BEUTLER: So not all employees will be making...

SENATOR CUDABACK: One minute.

SENATOR BEUTLER: ...the average Nebraska wage.

SPEAKER KRISTENSEN: That...that could happen, yes, but for them to get the benefits 500 must and they all must be above...I assume you're talking about the upper tier, they all must be above 120 percent of the average wage.

SENATOR BEUTLER: Okay. So, to a certain extent, they'll be choosing their highest paid employees in order to qualify for this benefit, I suppose,...

SPEAKER KRISTENSEN: Well, under...

SENATOR BEUTLER: ...to the extent that they have employees in excess of the number of employees that are the minimum to qualify.

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SPEAKER KRISTENSEN: Right. In your scenario, they're choosing five-sixths of their employees, which...

SENATOR BEUTLER: Yeah.

SPEAKER KRISTENSEN: ...is a significant number. Yes.

SENATOR BEUTLER: Okay. Thank you. Well, let me ask further,...

SPEAKER KRISTENSEN: Sure.

SENATOR BEUTLER: ...with regard to the committee amendment, you include as employees...or...or let me ask this. For purposes of the wage levels that...

SENATOR CUDABACK: I'm sorry, time is up,...

SENATOR BEUTLER: ...that are re...

SENATOR CUDABACK: ...Senator Beutler. Those wishing to speak to the committee amendments are Senator Vrtiska, Janssen, Brown, Chambers, and Beutler. Senator Vrtiska.

SENATOR VRTISKA: Thank you, Mr. President. Members of the body, I'd like to resume a little conversation with Senator Kristensen, if he would yield.

SENATOR CUDABACK: Senator Kristensen, will you yield?

SPEAKER KRISTENSEN: Yes, Mr. President, I'll just continually yield all afternoon, so thank you.

SENATOR CUDABACK: Thank you.

SENATOR VRTISKA: Good. See, somebody once told me if you think small you'll always be small; if you think big you'll be famous. I never wanted to be famous, so I'm going to remain to be...I guess I'll probably remain small. But, getting back to the issue, I was thinking about...

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SPEAKER KRISTENSEN: Is that heighth wise or...no, I'm sorry. I was interrupting you. I...

SENATOR VRTISKA: I was referring to a company that started in my district with...on a very small basis, it could not meet the level that your lower end suggests, who have now exceeded that point. And the point I'm trying to get at is that to be able to...somebody just to go into speculative business to try to find the finances to meet the level that you're talking about sometimes is difficult. Would you agree?

SPEAKER KRISTENSEN: Yes, I would.

SENATOR VRTISKA: Well, my point that I'm trying to get at, this small company, C J Foods, started out as a very small company with a small number of employees, now employs somewhere around a hundred people and has a million dollar...several million dollar business. But my point is if...had he had to meet this level to start, he could never have started. And I'm thinking about companies...

SPEAKER KRISTENSEN: Right.

SENATOR VRTISKA: ...who may want to start and could, in fact, grow to be the level. And, by the way, he pays the kind of wages you're talking about. So I acknowledge not every...not every company would try to be...be successful, but not every large company would be successful, and I guess what I'm trying to get to is that to give an opportunity in rural Nebraska for small companies to get a start, it seems the level is higher than I would seem to want to accept, and I don't...I don't expect you to...you would...you would agree to an amendment that would lower that at this point. You prob...

SPEAKER KRISTENSEN: Oh, I'm not sure that that's wrong. I mean I...it's a matter of how many people would that amendment bring on versus how many would drop off, because...

SENATOR VRTISKA: I understand that. I'm just trying to make the point that I, even though I, as I indicated earlier, I support the concept that you're doing in the fact you lowered it

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down to bring more people into the fold in outstate Nebraska, where we don't all have the advantage of having financial resources to begin at the level that we're talking about. Yet, there are some small companies in my opinion, and I have the demonstrated fact in my area that it can happen if the...if the manager is good and then does a good job. But the point I'm trying to get at, he could never have started out under this plan of 25...\$25 million and whatever the number, 50 employees,...

SPEAKER KRISTENSEN: Yes.

SENATOR VRTISKA: ...because he didn't start out that big. It was a tough struggle. And I'm trying to think about other companies in small commi...that size communities and where they would get the resources and how they could be successful if they were included into this...in this overall plan with these...with these different steps that you set out.

SPEAKER KRISTENSEN: Could I...could I offer you one thing that may have helped them...

SENATOR VRTISKA: Okay.

SPEAKER KRISTENSEN: ...that's in here? Now, I'm not saying it would have been for that company, but there is a period of years that they get to qualify in. So, if they make the application, I believe it is seven years that they get the opportunity to reach these levels and...and so they don't have to do it all right away. They get a period of time...

SENATOR CUDABACK: One minute.

SPEAKER KRISTENSEN: ...to get themselves up here. So I'll give you back the rest of the time. I just...

SENATOR VRTISKA: Okay. Well, the only point I had is that it's the start-up that we're talking about. And I'm not going...I'm not going to split hairs with you either. I'm just thinking about what might benefit what was set out to be, in a sense, rural Nebraska and the area that I come from. And, again, I

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don't like to think small, but I come from an area where there's not the ability to address some of the areas that are in the bill. And I'm going to sit and listen and I may draft an amendment. It probably won't go anywhere, but then at least I'll have had an opportunity to voice what I think is important for many of outstate Nebraska communities to become involved in this piece of legislation. With that, I appreciate your time. Thank you very much.

SENATOR CUDABACK: Thank you, Senator Vrtiska. Senator Janssen, the committee amendments to LB 620.

SENATOR JANSSEN: Thank you, Senator Cudaback. Members, Senator Kristensen, I'm not going to ask any questions. You can go ahead and take a seat. I just want to make a (laugh)...make a few statements. I plan on supporting committee amendments, but I'm not too particularly happy with the bill. Let me tell you a little bit about my feelings when we have something...I've supported measures like this in the past. Think it's good for the state of Nebraska. But I'm starting to get just a little bit of a sour taste in my mouth about small businesses, local businesses; not small...too small cities or small communities. They are large businesses in those areas. We have large inventories. We have large payrolls, not compared to the Microns, the Union Pacifics, the Cargills, not even close, but they're very important to these small communities. They aren't asking for tax breaks or someone to come in and help them with their inventories. There are occasions, though, when they ask for relief from some government mandated programs that they have to...have to provide in order to stay in existence. And the door is usually slammed in their face by either government or agencies or someone else. These are the things that...that turn me against not wanting to help support something that's very important in this state. Union Pacific Railroad has been here for a million years. They are a large employer in this state. They are an aggressive company. They do good things for the communities that they're involved in. Even though they can't keep the railroad crossings open in Dodge County, other than that, they do a fine job. They move a lot of commerce across this state, a huge amount of commerce, but there are other areas in this state that move a lot of commerce too and we ignore

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those companies, those small businesses. They'll still be here. We don't have to worry about them. They'll make it. Well, I tell you, I think that Union Pacific can make it too. I'm supporting committee amendments, but, my colleagues, let me tell you I'm going to think twice after what's happened this year whether I'm going to support any incentive packages for big business. Thank you.

SENATOR CUDABACK: Thank you, Senator Janssen. Senator Brown, on the committee amendments.

SENATOR BROWN: Mr. President, members of the Legislature, I listened very closely when...when Senator Kristensen was opening and I can't agree with him more that the underlying issue here is economic expansion and stability. And so we have had some discussions about the jobs and...and whether those would be transferred from someplace else in some cases or whether those would be new jobs in other cases, and the key to me is are the people that we're talking about, if they're transferring in, are they currently paying state and local taxes? Are we getting any revenue from those people? And we obviously are not. And so those are new jobs to Nebraska, those are new jobs that are going to pay...not only the individuals are going to pay taxes but if they have family members, if they have spouses that are also coming with them who might be employed, those people are going to pay taxes. And so some of the commentary that we've had in terms of this being a cost to us, I guess that I just have a different philosophy about expansion and economic development and what that means, and I see that as a way to create new jobs and bring new people to Nebraska and expand our economy, not cost us anything. And I think a good example of that is Caterpillar Claas, which was a project that I worked on. It is...it was a company that really did not even exist. Caterpillar existed in the United States. Claas, a German manufacturer, existed in Germany, but they formed a joint partnership to develop a state-of-the-art combine facility and located in Nebraska, at least partly because of economic development incentives which they felt helped level the playing field with some of the other states that had offered them outright money. Now, one of the things that we do not do in Nebraska is offer outright money. We have...it is a

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performance-based system where they have to do certain things. And one of the things that I like the most about the Invest Nebraska Act is that we have defined qualify jobs. It was an issue that I think that was really lacking in our previous economic development legislation and not only have we defined it but I think we've defined it at a very high level. And I want to make sure that everyone understands that in the "Rural Tier", in order to qualify for those 50 jobs, each one of them, we're not talking about averages, each one of the 50 jobs must pay at 100 percent. Now, the preliminary numbers for Nebraska for this year, and these are preliminary numbers, for 100 percent is \$26,661. That is not including benefits, not including bonuses. To qualify for the middle tier, the "Modified Quality Jobs Act Tier", to get to the 500, all those jobs must pay 110 percent. So when Senator Chambers was talking about the janitor, if...if we were talking about a janitor be included in the 500 jobs, to qualify that janitor would need to be paid, based on the preliminary numbers for this year, \$29,326...27, and that's not including benefits and not...

SENATOR CUDABACK: One minute.

SENATOR BROWN: ...including any bonuses. And for the top tier, which is at 120 percent, each one of the jobs that will count towards the 500 jobs must pay \$31,993. If we are talking about those people being new to Nebraska, those are jobs that will be new to paying taxes in the state of Nebraska and...and any of their...anyone else that they might move from their family with them that might be employed would be paying taxes that are new to Nebraska. When I spoke about Caterpillar Claas, of the 25 people they hired in 2000, and obviously they are just gearing up and constructing the facility and...and so they're in a temporary site, they don't have full employment, but 2 of the 25 were former employees at the Omaha Vickers plant which is in the process of shutting down and eliminating the jobs of...

SENATOR CUDABACK: Time.

SENATOR BROWN: ...more than 400 people. It was one of the highest paying companies in the area and they are encouraging Vickers employees...

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SENATOR CUDABACK: Senator Brown, your time is up. Thank you.

SENATOR BROWN: Thank you.

SENATOR CUDABACK: Senator Chambers, on the committee amendments to LB 620.

SENATOR CHAMBERS: Mr. President and members of the Legislature, my approach to this thing and my point of view are different from those of many of my colleagues. I hear Senator Brown, I heard Senator Kristensen talk about bringing all of these high-paid people to Omaha. Well, I tell you they are going to come without us passing a bill like this. Union Pacific is coming to Omaha. When I've said that early on in the session, nobody wanted to respond to it because they knew I was right. So why are we giving something that we don't have to? I'd like to ask Senator Kristensen a question.

SPEAKER KRISTENSEN: Yes, Senator.

SENATOR CHAMBERS: Senator Kristensen, accepting what you said earlier that this bill is not drafted specifically with Union Pacific in mind, although they had expressed an interest, have they stated that they will not bring their headquarters operation to Omaha without this bill or a bill of this kind?

SPEAKER KRISTENSEN: Oh, I think they are going to build the building here regardless.

SENATOR CHAMBERS: So why are we giving them this money when we don't have to?

SPEAKER KRISTENSEN: The purpose would be, and that's a good point, is that it depends on how large that building is going to be. They are going to move and are looking to move those other employees that I believe reside in St. Louis. It makes sense for them to move them somewhere. They have lots of places they could go with them, and, in effect, if they are going to build a building here, if those employees are coming here, they would build the building an additional size to accommodate those

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people coming.

SENATOR CHAMBERS: Senator...

SPEAKER KRISTENSEN: That's the company line, not necessarily a state senator's line, but that would be my interpretation of the company line.

SENATOR CHAMBERS: Okay, I think I will comment and then I have one more time on this, the committee amendments, to speak, I believe, and maybe I'll offer an amendment if necessary, but along the way I'll have a chance to explore all of these questions that I have. I believe for every drop of rain that falls a flower grows. Nobody is paying attention. That's my test. Members of the Legislature, I genuinely believe that when a corporation as large as Union Pacific decides it's going to relocate its headquarters, it is not going to fragment that operation. Why in the world construct a brand new building, which they are in the process of doing now, and say, okay, we need eight floors in this building if we bring all of the people from St. Louis, who are a part of this operation, to Omaha? Well, the state of Nebraska decided that they are not going to give us this money, and consider the amount of money it is compared to the overall amount of money that Union Pacific deals with, and it's peanuts. But here's what Union Pacific says. They get all of these...these important white men, because that's what they'll be, other than the white woman or the black man who might be serving coffee and wiping off the table when they get through; they all sitting around this oblong table and they say, well, Joe, what do you think? So Joe takes out his cigar and he says, well, Jim, what I think is this; that if they don't give us that money in Nebraska, by God, we'll build that building with five stories, and the other three stories we'll build in Kansas City. And so...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...the other one, whichever, I get them mixed up because they all look alike, but the other one says, well, why are we going to do that? It doesn't make sense to split our operation just because little pinhead Nebraska won't give us

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some money that we don't need anyway. So then the first one says, you know, by God, I think you got a point there; we'll go on and build a building with eight stories and take the whole kit and caboodle to Omaha. These men treat us like we're nincompoops and idiots, but they know that I am not, as Mike Harper did. And he said, of all the senators down here, I'm one that he could have hired because, to quote him, and I'll find the article, I have courage. He said I had courage just because I stood up to him and said we shouldn't give him every thing he wants. He wasn't accustomed to that, but I think we need to seriously analyze this bill.

PRESIDENT MAURSTAD PRESIDING

PRESIDENT MAURSTAD: Thank you, Senator Chambers. Further debate on the committee amendments, Senator Jones.

SENATOR JONES: Mr. President, members of the body, I want to stand up and comment a little bit about this bill and some other bills in the past just a little bit. I can think back on LB 828 and LB 829 and LB 830, when we had all the discussion on the floor and worked way into the night to try to get it passed, and then it never went no place. The only one out of them three that I did support was LB 828, and that was on the electrical rates, to give them a break on that because there was extra electricity on the grid anyway, so that's where I come on that one. But the other two I did have problem with and, of course, I don't even want to mention LB 775 out in my district too much because...and I'd like to know how many people actually used LB 270 because I think that was a companion bill that could have been used a lot of times out there. But right now I've got some people talking about a packing plant in my area and I think this would be a big plus to them. So the way this bill is drafted and how, even if it is just UP, I know it will be improvement in North Platte and also improvement in Scottsbluff, which does bring me aboard on it. And I think there's another couple things that I want to...I am a little bit concerned about, and that's the "Rural Tier" and I think that Senator Vrtiska talked about that a lot, and with them kind of comments, I would like to ask Senator Kristensen one question, if I might, to kind of get a little idea whether he'd accept the idea or not.

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SPEAKER KRISTENSEN: (Microphone malfunction) Yes, Senator Jones.

SENATOR JONES: Yes, on the first tier, on the "Rural Tier", I think it would fit my area, you know, like a lot of my communities are 5,000 population or less. Would you be acceptable to changing that to 25 jobs and maybe 10 or 15 million in place of the way it is now? I think they can make the dollars a little bit better than they could the job numbers, and I just wondered if you'd be in favor of doing something like that maybe on Select File? And what do you think about an idea like that?

SPEAKER KRISTENSEN: Well, Senator, I offered in...when I opened in the Revenue Committee that if the committee felt that that was something that they wanted to do that would be acceptable to me. Now as I explained to Senator Vrtiska, it's sort of a package. I mean the Revenue Committee pulled it apart, recrafted it back together, and when you start to tinker with one part of the package, I think you will find that the committee says, but now wait a minute, here's another consideration we had. I know they considered that. I know that was talked about at length. I had no objection to it. What I am going to be is practical here; is if that amendment gains me two senators and loses me five, I am not real smart but I can figure that one out. So would I consider it? Yeah, absolutely, I'd consider it. I...I'd probably take it back to the Revenue Committee and I'd run it through them and gain their consideration.

SENATOR JONES: You see where I'm coming from though in my area...

SPEAKER KRISTENSEN: Oh, sure. Absolutely.

SENATOR JONES: ...and I think that's where I get the biggest complaint. That's the reason I brought out the LB 775 issue, and they don't like to hear that in my area, and so they just feel like they are being left out, and I think this would make it fit the rural area a lot better if they could do that. So

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I'm considering about doing something like that on Select, but I won't do anything on General File on it. But anyway, I'm supportive of the bill. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Jones. Senator Byars, committee amendments, followed by Senators Bourne, Chambers, and Brown.

SENATOR BYARS: Thank you, Mr. President. I wanted...Senator Jones brought up LB 775, and I think it might be good for us to talk about a little bit of history here as we're debating this issue. I think because it's been awhile that we've actually talked about the effect of some of the incentive acts that we've passed in the past, I'd like to talk a little bit about at least the 30th Legislative District, some of the positives, and it's been very positive, of projects that were enabled by the use of LB 775. And let's not forget that LB 775 was originally passed to help us keep existing companies, to prevent the bleeding that was happening in the state of Nebraska. It was passed to help recruit new people to the state, to provide jobs to family members who were...who were not employed, who weren't in the job force at that time. We had a wake-up call. Enron left. As Senator Chambers talked about Mike Harper and ConAgra, whether you agreed with the...the piece of legislation at the time or not, they gave the state a wake-up call and it wasn't one we liked but, nonetheless, it was a wake-up call that was extremely important. And I think that legislation was an extremely critical component for Nebraska at that point in time, and I think it continues to be. LB 775 is not going to go away, and it is constructed so that there can be a tremendous amount of benefit to rural Nebraska. And I'd like to use, as an example, LB 775 has created 68,600 jobs in this state. That's a huge number. The average salary for those numbers is \$30,573. That doesn't include benefits or overtime. It has created over 13 billion, that's with a "b", a 13,985,000,000 investment in this state. In my district alone, in District 30, not including the portion of Lancaster County, I have seen 108 million plus dollars invested because of this incentive act, over 700 jobs created. And, believe me, if we could find more people to fill positions, there would be more than that. So I hope that we don't forget what we've done in the past, that the rural areas

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have been positively affected. This isn't...this isn't Omaha. This is rural Nebraska, and I think it's important that we not forget the power that these incentive programs have. The philosophy, obviously, as Senator Kristensen and Senator Wickersham have both expressed, your philosophy relative to this can be quite varied, but I think we need to look at the positive that's accumulating for the state of Nebraska, and I stress accumulating because these jobs are staying. These jobs are being increased in pay. These jobs are generating more and more dollars into our economy all the time. So, please, look at this on a realistic basis, understand that we have incentives in place in addition to the Invest Nebraska Act, LB 620, and try to think globally and in terms of what...what this is going to mean for the future. So I urge you to submit (sic) the committee...to support the committee amendments and LB 620 with the committee amendments.

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

SENATOR BOURNE: Thank you, Mr. President, members. I just want to indicate my support for the bill and the committee amendments. And I will tell you, one of the biggest reasons that I support the bill is because I feel that it brings the entire state along. When I first heard about the bill, I was kind of concerned that maybe it would just benefit one part of the state and, after reading it and seeing some of the literature, it clearly does not. If you look at, particularly the area that I'm interested in and, as you know from some of the various votes that I've made, is that we bring the entire state into prosperity, and I look at the "Rural Tier" as being of significant help to the third...to the greater Nebraska area. You look at the qualifying requirements, it's 50 jobs or a 20 million dollar investment, and you know I appreciate Senator Jones' and Senator Vrtiska's questioning whether or not that's the appropriate number, but...and if they are interested in changing that I would probably support reducing that as well. Although, if you...to put that into perspective a little bit, last year when we put the call center into rural Nebraska, that was 30 jobs, and so I don't think that it's that hard to get to the 50 job level. Now the 30 jobs, of course, that was, you know, state jobs, but the fact remains that that was a fairly

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small call center and that put 30 jobs into rural Nebraska, so to put that into perspective with what the "Rural Tier" of LB 620 requires, that's only 20 more jobs. So I think it's very, very realistic to provide some incentives to go to greater Nebraska. We also heard some comments about when are we going to "incent" small businesses, and I think that we do that all the time. Last year, we had that rural initiative that Senator Matzke prioritized, and while I understand that there haven't been a lot of applicants or any applicants for that matter for that initiative, I think that's largely because the benefits that come out of that were scaled back maybe a little too much. Senator Wehrbein had a bill last year, I believe it was LB 1348, which provided for some incentives for start-up businesses, and then there's various federal programs as well as Small Business Administration and that. But, again, I just want to indicate my support because I feel that this bill brings the entire state, it makes these benefits or these incentives available to the entire state, and that's one of the large reasons for my support.

PRESIDENT MAURSTAD: Thank you, Senator Bourne. Senator Chambers, would you like to speak?

SENATOR CHAMBERS: (Microphone malfunction) May I speak from here?

PRESIDENT MAURSTAD: Sure.

SENATOR CHAMBERS: Mr. President and members of the Legislature, I feel like I'm king of all that I survey. While I'm under that feeling of euphoria, let me just say what else I feel like saying. I am the greatest. Being back here does something to you which being up there does not. The point that I want to try to make, though, on the bill, picking up where I left off last time, it does not do me any good or the people that I represent or have an interest in to bring high-priced people to Nebraska who are going to pay taxes if there is unemployment among the people that I care about and none of these programs that were created by the state, by the city, or any other entity, whether through federal funds or otherwise, have not succeeded in putting a dent in that unemployment. This bill does nothing, in

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my mind, that would encourage me to support it. It's always a give me, give me, give me in terms of the big corporations and the Legislature responds by giving. I listened to Senator Jones and he made a mistake, a strategic mistake, not just tactical. He was laying out the problems of the rural areas. Then, without getting any commitment except to be told I don't like your amendment on General File, I am not going to like it on Select File, and I'm certainly not going to like it on Final Reading, Senator Jones says I am going to support the bill. What little leverage he may have had is gone. He's not even in the mix anymore. He need not be considered at all. As for my good friend, Senator Vrtiska, who said he thought small...since this is a railroad bill, it made me think of a song. It said something like she sure took me for a yokel, she had every right, I guess. I thought she was a local, hoo, hoo, but she was a fast express. That is what's happening to my rural colleagues. They are used to dealing with these locals, the ones that go chugging, chugging, and they get to a hill and it says I think I can, I think I can, I think I can. Then they get to this place with this big old tank of water and they pull the engine under it and they jerk this cord and water runs into the engine. They tell this guy to put some more wood on the fire to build up some steam. Then the little engine that thought it could chug, chug, chugs along and they get relegated to those romantic, nostalgic images of what the old-time little town, the undeveloped West was, and that is all that they get, maybe a picture on a postcard, but when it comes to something of substance, they are not going to get anything. When a provision is put in a bill to sucker them as they've been suckered so many times, when time comes for a practical application, it does not fit. It's not going to work for them. They will be given an airplane, and it looks just like every other airplane except that it doesn't have a motor in it. And they don't catch on until every other airplane has taken off and gone. They jump into the airplane. They start pushing buttons and pulling levers and turning keys and nothing happens. And what do they say as they step out of the airplane? Sadder but no wiser, but I know that I've been had. They are going to be had in this bill.

PRESIDENT MAURSTAD: One minute.

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SENATOR CHAMBERS: And what I think the rural people need to look at is what I am looking at. Our votes need to be counted in among the total that they need to pass this legislation, but we're not given consideration beyond that. You can do the heavy work. You can pull the wagon. You can do the heavy lifting. But if there is anything of value in that wagon which is going to be distributed, you will not be among the distributees. I cannot support this bill.

PRESIDENT MAURSTAD: Thank you, Senator Chambers. Senator Jensen, on the committee amendments to LB 620.

SENATOR JENSEN: Thank you, Mr. Lieutenant Governor, members of the Legislature. My history really goes back a long ways and I just want to relate a little bit to the incentives that you think about going to large business and do any incentives go to small businesses? When I was 16 years old, still a student at Tech High, I worked part time in a machine shop, and in that machine shop there were 12 of us that worked there, 12 men, and it was dirty and it was oily, but the product that we made I was very proud of, and when it was finished, where did it go? It went down to the Union Pacific. They were stud bolts that we were producing at that time. A year later, I actually went to work for Union Pacific; worked there two and a half years and was laid off. Now you'd think you would have bitterness towards a company when that would happen but it just opened new doors for me and I went back to construction and enjoyed that and began working in that field, and as a carpenter I worked on homes of people that worked at UP. As a contractor, I built homes for people at UP. As a building owner, I leased property to employees and to businesses that work for Union Pacific. I was a small businessman taking incentives that a larger company can provide. We're very fortunate here in Nebraska to, I think, have an excellent balance between our rural communities and the growing of the crops that are produced and of the business communities. And I think when you stop to look at what is happening on the West Coast in California right now, with their energy crisis, and I look at Burlington Northern and I look at Union Pacific in hauling this coal to fire our generation plants so that we have power, not only for ourselves but we even have

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more power that we can export out of this state to other facilities, and think how fortunate that we are that we are not in the brownouts that they are having in California at this time. And then I also look at this bill and say this is not just a Union Pacific bill, but it is a bill that the rural community and many others can use. I look at LB 775 and have been to various locations. I recall, what was it, a couple of weeks ago we were at Duncan Aviation and they didn't miss that...that point that they are there, they've had expansion, because of LB 775 and because of those incentives that are provided to other companies, to all companies from other states. And I guess I could say, yeah, I'd be happy if we didn't have to give this kind of thing; that if we had the right climate, if we had the right amount of lakes and mountains that maybe we wouldn't have to do that, but that's not the case. And even those states that do have those amenities, they also provide incentives. The best thing about this is that not one single dollar, not one single incentive goes out until they qualify. And so it isn't like in other states that have given ground, that have given other incentives, and then the company either didn't come or, if it did come, it closed down a short time later. That is not the case with this bill. I think this is a win-win situation for our state, and I'm looking forward to the passage of the committee amendments and then also...

PRESIDENT MAURSTAD: One minute.

SENATOR JENSEN: ...the passage of this bill. Thank you, Mr. Lieutenant Governor.

PRESIDENT MAURSTAD: Thank you, Senator Jensen. Senator Beutler, on the committee amendments.

SENATOR BEUTLER: Senator Kristensen, if I could follow through a little bit more with...

PRESIDENT MAURSTAD: Senator Kristensen.

SENATOR BEUTLER: ...some other questions I had last time. And again I'm exploring the idea that all these employees will be paid, each one of them, at the average Nebraska wage or 110 or

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120 of the average Nebraska wage.

SPEAKER KRISTENSEN: The new ones, yes.

SENATOR BEUTLER: The new ones, and the concern or the thing that I have a hard time understanding, it does go back again to the definition of a project, and the idea apparently that "project", as defined by the board and under this act, and I've read through now the application information, can be something completely different than what you and I might think of as a new manufacturing project.

SPEAKER KRISTENSEN: Yeah,...

SENATOR BEUTLER: In other words...

SPEAKER KRISTENSEN: Yes, it's...it's...

SENATOR BEUTLER: ...if a company started a independent manufacturing plant and they had a 20 million dollar investment, for example, they need to have 50 employees, or 50 employees have to make the average Nebraska wage, but they could also have another 50 employees who are paid minimum wage. And in fact, between those two groups, between the group that's not defined in the project but is a part of the new manufacturing operation that's being paid minimum wage, and the other group that's being paid at least the average Nebraska wage, in total you could have a funded project under this operation where the actual total amount of wages that were being paid new employees under the company's definition of a project was actually...actually the group was very poorly paid, less than the Nebraska average. Isn't that...isn't that quite possible unless somehow the idea of project isn't further defined?

SPEAKER KRISTENSEN: I want to make sure that I understand your example because it is so hard to do these in five minute bursts, and I understand that, and I will turn on my light to help you do that. Your example is that you have an entirely new manufacturing facility.

SENATOR BEUTLER: Yes.

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SPEAKER KRISTENSEN: That manufacturing facility will meet the investment. You are concerned about the number of jobs, it's going to hire...

SENATOR BEUTLER: Yeah, and let's say that they defined their project for purposes of this act as \$20 million and 50 employees,...

SPEAKER KRISTENSEN: Okay, because they will have to...

SENATOR BEUTLER: ...but, in fact, the new facility costs \$42 million and has 100 employees. Okay?

SPEAKER KRISTENSEN: All right.

SENATOR BEUTLER: Now, under that scenario, it's possible that 50 of the employees could be paid at the Nebraska...this is worst case scenario and I understand I'm making worst case scenario out of it.

SPEAKER KRISTENSEN: Sure. Well, that's all right.

SENATOR BEUTLER: But 50 of the employees could be paid the average Nebraska wage and qualify for the act's "project" and the other 50 employees could be paid minimum wage, and if the two groups are taken together, the actual average wage paid by this new manufacturing facility in Nebraska with all new employees, although not entirely project employees, it could be a very poorly...a facility that has a very poorly paid group of employees.

SPEAKER KRISTENSEN: That is worst case but that is true, but realize that they will not get any incentive money for those lower paid people, zero advantage, none. They will only get the advantage...

PRESIDENT MAURSTAD: Less than a minute.

SPEAKER KRISTENSEN: ...for the well-paid employees. And so we're not giving them an advantage for underpaying those people.

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Quite frankly,...

SENATOR BEUTLER: I un...

SPEAKER KRISTENSEN: ...maybe there are jobs that are a 15,000 dollar a year job that they are hiring somebody to do. Now it's possible,...

SENATOR BEUTLER: Well,...

SPEAKER KRISTENSEN: ...but we don't want to give them an incentive.

SENATOR BEUTLER: ...but then when...but if you are saying, in the sense that most of us think of it, that this new company project coming to town is going to be paying everybody at least the average Nebraska wage, that's...that may be...

SPEAKER KRISTENSEN: Oh, I didn't say that.

SENATOR BEUTLER: ...I know you...I know you didn't...

SPEAKER KRISTENSEN: And I would not represent that.

SENATOR BEUTLER: ...but I'm talking about the...

PRESIDENT MAURSTAD: Senator Kristensen, your light is on next, so you can continue.

SENATOR BEUTLER: ...kind of...

SPEAKER KRISTENSEN: Thank you. Senator Beutler may have my time to continue the questioning.

SENATOR BEUTLER: ...kind of the common concept here. I mean we're creating the impression that new business is coming to town, and every one of those new workers is going to be paid the average Nebraska wage or higher, when, in fact, the way this is written, it's quite possible that the average wage of all those new employees may be worse than the average wage of a lot of other companies that wouldn't qualify for the benefits.

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SPEAKER KRISTENSEN: Under your example, it's in the "Rural Tier", and if you have 50 jobs in a rural county that pay over 25, it's...that's probably highly unlikely, but I'm not representing that every job is going to be paid that. I'm saying they are only going to get a benefit if they pay those employees...

SENATOR BEUTLER: Yeah.

SPEAKER KRISTENSEN: ...that amount. I don't want...I want to dispel that myth that if...there is out there that I'm going to guarantee that every job they are going to bring in is going to be a high-paying job, but they are going to bring in at least 50 of them.

SENATOR BEUTLER: Okay. And under the rural qualification, for example, because again "project" is something that's defined by the board, you could actually have one project that is two projects, couldn't you?

SPEAKER KRISTENSEN: Well, you could only have one project per application.

SENATOR BEUTLER: Okay, let's say you have...let's say you have a plant that's coming in and you know it's...you know the overall cost of the plant is \$40 million and that it's going to have 100 employees. So can you have one project that defines half of your operation and qualifies you for the 20 million and the 50 employees, and then put in a separate application for the other \$20 million and the other 50 employees?

SPEAKER KRISTENSEN: You could have...

SENATOR BEUTLER: ...and have two qualified projects?

SPEAKER KRISTENSEN: You could have two projects at the same location. I don't know that you...I don't think you can split the building in half, but I...

SENATOR BEUTLER: Well, no, that's...why not?

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SPEAKER KRISTENSEN: Well, I don't see where that is going to be allowable, but I think what you could have...

SENATOR BEUTLER: But why...why isn't it allowable?

SPEAKER KRISTENSEN: Well, because it's all one...it's all one consistent project and one...one entity, one purpose of doing it. I'm telling you, though, that in the same location, let's say you have a campus location, in other words, there is more land, you certainly could have multiple projects at the same physical location, and then that's when we are going to get into the overlap issue that we touched on before. You're going to have to allocate those so you don't double dip somewhere.

SENATOR BEUTLER: Would you be amenable to saying something with respect to those employees who are part of the new company project but not part of the...of the...what is this, Invest Nebraska, or...

SPEAKER KRISTENSEN: Yes.

SENATOR BEUTLER: ...Invest Nebraska project? In other words, we shouldn't have a situation where they bring in a bunch of new employees, they qualify for the project but half of the employees are actually being paid poorly, because they count as part of the project all those employees who are the most highly paid, and then leave the others poorly paid. Can we say something about those...those employees who are new employees...

PRESIDENT MAURSTAD: One minute.

SENATOR BEUTLER: ...but who are not defined as part of the project by the company? That would be my question to think about.

SPEAKER KRISTENSEN: You can do that, I suppose you can give those incentives, but most people don't want to reward and give those benefits to those lower paying jobs because they are fearful that just to get the numbers and the bodies they will poorly pay people to get the incentive, and so that is the

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reason I drafted it so you only get the incentive if they're higher paid. I'm struggling to...what you want me to...

SENATOR BEUTLER: No, I wouldn't be excluding that incentive, but putting in an additional requirement so they couldn't use the sub...

SPEAKER KRISTENSEN: I'll...okay, I'm...

SENATOR BEUTLER: ...the subterfuge of just counting...see, I don't know enough about what size investment gets you how many employees in what kind of industry. That's what I know nothing about...

SPEAKER KRISTENSEN: Okay.

SENATOR BEUTLER: ...and so it's hard to talk about this situation. But if a 20 million dollar investment in some industries will yield you 100 employees,...

PRESIDENT MAURSTAD: Time.

SENATOR BEUTLER: ...then I don't want 50 employees defined outside the project and poorly paid.

PRESIDENT MAURSTAD: Senator Wickersham, would you like to close or would you like to use your light to speak?

SENATOR WICKERSHAM: Oh, I think I have something to say, and then if...and then I'll close. I have been listening to the discussion about how wonderful these high-paying jobs are and the benefit that they would confer to the state of Nebraska and, presumably, when those folks are talking about that, they are talking about something positive that would happen for state revenues. Maybe they are talking about the private sector, maybe they are happy for those people who would jobs, but I think we do have to be a little bit concerned about state revenues. The real truth is that all those high-paying jobs mean nothing for the state of Nebraska. Now they mean something to the individuals that receive them, but they don't mean anything to the state. Because the same company that qualifies

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for benefits in the "Super Tier", or what Senator Kristensen is calling the "Modified QJA Tier", or even the opportunity in the "Rural Tier", guess what? That isn't the only benefit they receive. That is not the only benefit that the companies receive. The other benefit that they can qualify for are the regular, what we would characterize I suppose as the regular, LB 775 benefits. And guess what? The 775 benefits cost all of what the companies bring to the state. It's almost a wash. LB 775 is so expensive that LB 775 alone is a wash or close to a wash. So everything we're talking about here in LB 620 is a loss. It has to be a loss. There is no marvelous benefit from high-paying jobs to the state of Nebraska. There is only a benefit to the private individuals who receive the wages and to the persons who own stock or have other interests in the companies. That's where the real benefit goes. And maybe that's a reason for doing a bill like this, but please let's not delude ourselves that we think that there is some accrual to the state of Nebraska as an entity. There is not. LB 775 takes all of that away, if not a little bit plus, and all of this is even more expense. So when I hear this enthusiasm for these high-paying jobs, it really doesn't make any difference. It does not make any difference at all except to the persons who get them.

PRESIDENT MAURSTAD: Thank you, Senator Wickersham. Senator Brown.

SENATOR BROWN: Mr. President, members of the Legislature, I just want to make sure that everyone understands that each individual, in order to be qual...to be considered an employee and qualified for either the 50 in the "Rural Tier" or the 500 in either of the other tiers, must be paid at least the...in the "Rural Tier" the 100 percent, in the other two tiers 110 and 120 percent in pay. That's not including benefits and bonuses. And those numbers, once again, based on preliminary numbers for this year, and as I said these are preliminary, would be \$26,661 in the "Rural Tier". So all 50 positions that would be necessary to qualify for that tier would have to pay, each one of those would have to be paid that amount less...not including benefits or bonuses. For the next tier, it would be \$29,327, and for the top tier it would be \$31,993. And so we've been

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having conversations about having a strata that would be ver...that would be paid at that level, and another strata that would be paid at a lower level. I'm not certain that from a business standpoint that makes a lot of sense. I don't know that that makes for a very good business environment to have that much differentiation between people who might do fairly similar kinds of work. I actually don't think that it's feasible at all. When you're talking about 50 jobs in a rural area, that's a fairly large number of jobs. I don't know that there are going to be a lot of businesses that would have 50 jobs that would pay at that level and then an equal number, as was in Senator Beutler's example, that would be paid at a much lower level. So I do believe that we have, by virtue of the way that Invest Nebraska has been drafted, a very different situation than we've had in the past in terms of ensuring some quality on the part of the project by virtue of the requirements for the pay scale for...for each individual, each individual that qualifies. It is not an average; it is for each individual that qualifies. Thank you.

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

CLERK: Mr. President, Senator Chambers would move to amend the committee amendments. (FA179, Legislative Journal page 1466.)

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

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, I'm going to say slowly what this amendment consists of because I just put it on the desk. On page 2 of the committee amendment, starting in line 7, I would strike the sentence which begins with the word "The" in line 7 through the period in line 11. What I see this saying is that there will be an investment tax credit, and I'd like to ask Senator Kristensen a question so that these terms are clear. Senator Kristensen, the investment tax credit is different from the wage benefit credit, is that correct?

SPEAKER KRISTENSEN: Yes, it is. Yes.

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SENATOR CHAMBERS: The investment tax credit is based on investing a certain amount of money which would be found in the "Super Tier". Is that correct?

SPEAKER KRISTENSEN: Yes.

SENATOR CHAMBERS: So the minimum amount that could be invested to entitle a person to the investment tax credit would be \$200 million. Is that correct?

SPEAKER KRISTENSEN: That's correct. And to get the investment credit, they'd also have to do the 500 jobs. In order to get a wage credit, they'd have to do the 500 jobs too.

SENATOR CHAMBERS: Right. But I want to deal with the amount of money, just so I can get to what my amendment is aimed at. The sentence that precedes the one that I'm trying to strike says: "The investment tax credit prescribed in this section shall be allowable for investments made during each year of the entitlement period that the company is at or above the required levels of employment and investment." In order that I don't get off the beam, since we're talking about this amount being available...this credit being available during each year, what is the earliest year of a project can this credit begin to accrue to the benefit of the company? Could it be the first year, and if so, well, I'll...I'll let you tell me.

SPEAKER KRISTENSEN: Yes, Senator, it could because it...when they get the application done, there is a contract entered into, and when the investment is made, they have a period called the entitlement period or the eligible period that they can...to get that building done. If they do it in the first year, then they are eligible to claim the investment tax credit all in the first year.

SENATOR CHAMBERS: But if they don't, is there a prorated amount they can receive or they can claim it all, but if they don't meet it, they don't meet the standard within that period, they have to give some of it back?

SPEAKER KRISTENSEN: Yeah, let me...

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SENATOR CHAMBERS: Or, yeah, explain it.

SPEAKER KRISTENSEN: You are right. They get seven years in which to, basically, get their things done and get qualified.

SENATOR CHAMBERS: And that would mean the full 200 million and 500 employees?

SPEAKER KRISTENSEN: Yes.

SENATOR CHAMBERS: Okay.

SPEAKER KRISTENSEN: Now, if they get the investment done, they are eligible to go into the investment credit, take that in its first year. Let's say they don't meet the job requirement or they fall below it or they don't pay them enough, then there is a provision where they can go back and recapture that money from the company.

SENATOR CHAMBERS: But the company could not reach this standard, say, in the sixth year and then go back for the previous five and say, now that I'm up to it in the sixth, I want the credit based on those five years preceding it which I did not meet the standard.

SPEAKER KRISTENSEN: No, but...well, but understand that the credit is going to be equal to a per...15 percent of their investment. So whatever year that they meet that and qualify, they can take the full investment credit in that year. They get ten years in which to use that credit. They can collect it during that period of time. If they don't use all their credits, in other words if they don't have any tax due, because this isn't a cash refund to them,...

SENATOR CHAMBERS: Right.

SPEAKER KRISTENSEN: ...it's a credit on their tax return, they have an additional eight years of carryover investment credit. And if I'm going...if I'm getting in too deep, tell me.

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SENATOR CHAMBERS: No, it's very clear.

SPEAKER KRISTENSEN: If not, that's as plainly as I can explain it.

SENATOR CHAMBERS: And you made it very clear because there can be no realization of anything of this investment tax credit until they actually cross that threshold of \$200 million and 500 employees. Because if I read this correct, correctly, this credit would be allowable for investments made during each year of the entitlement period that the company is at or above the required levels of employment and investment. So let's say they reach this level in the third year. They could continue to draw down this credit every year thereafter that they remain above the threshold. Is that true or am I missing something?

SPEAKER KRISTENSEN: Maybe missing just a little. The investment credit is the original cost.

SENATOR CHAMBERS: Yes.

SPEAKER KRISTENSEN: It's the money they expend.

SENATOR CHAMBERS: Yes.

SPEAKER KRISTENSEN: So whether they expend it in the first year, the fifth year, it doesn't make any difference. When that expenditure gets made, the credit then accrues and they can begin to get it. They could take all of it in that first...

SENATOR CHAMBERS: Oh, it's the full 15 percent...

SPEAKER KRISTENSEN: There you go.

SENATOR CHAMBERS: ...on the entire investment;...

SPEAKER KRISTENSEN: Yes. Absolutely.

SENATOR CHAMBERS: ...not just the amount that brings them up to the threshold.

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SPEAKER KRISTENSEN: Bingo, right.

SENATOR CHAMBERS: Okay. Now I'm with you. Why then does it say when the company has met those levels, it is...is this a 15 percent credit that it can take every year from then on?

SPEAKER KRISTENSEN: It is a 15 percent on the total investment. You can take it in the one year, or you could take it over a period of time. You don't get more than 15 percent of the entire investment. If you want to use it in the first year, you can do that. And what they do is they can claim the credit, they can carry it over, they can use it, but they don't get 15 percent every year. They get a...they'll get a dollar amount.

SENATOR CHAMBERS: Here's where I'm losing what seems clear when you speak. The language of the committee amendment says: "The investment tax credit prescribed in this section shall be allowable for investments made during each year of the entitlement period that the company is at or above the required levels of employment and investment." So if they meet...they cross this threshold in the third year, the year doesn't really matter but say the third year, and they maintain that level for one year or six years, what difference does it make since they only get 15 percent and they can only get it once? Why does it say they get it for each year that they are at or above?

SPEAKER KRISTENSEN: Okay, the...

SENATOR CHAMBERS: Here's what I'm getting to and maybe you explained this but my...

SPEAKER KRISTENSEN: No.

SENATOR CHAMBERS: ...question wasn't adequate. Let's look at a period of seven years. The third year they reach the threshold. They want to claim...they've made the full investment and they got the 500 employees and they want to claim the entire 15 percent on there...you know, of that investment which they are entitled to. The following four years, they fall below the employment level. Do they have to give some of that 15 percent

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back?

SPEAKER KRISTENSEN: Yes.

SENATOR CHAMBERS: And it's prorated across the number of years when they are not at or above...oh, let me ask it a different way. They fall below in the fourth year. What percentage of that 15 percent is taken back by the state at that point?

SPEAKER KRISTENSEN: They get the 15 percent. They are able to use it over the 10-year period.

PRESIDENT MAURSTAD: One minute.

SENATOR CHAMBERS: But let's say they claim the entire 15 percent,...

SPEAKER KRISTENSEN: In the first year.

SENATOR CHAMBERS: Yeah, and it will be the third year after they get started, and then the next year after that, the fourth year, they drop below the employment level.

SPEAKER KRISTENSEN: If they were, and I don't want to pick, but if they are...if...were they in...were they good for three years?

SENATOR CHAMBERS: No, they didn't...they didn't reach the threshold until three years.

SPEAKER KRISTENSEN: They were good for one year then.

SENATOR CHAMBERS: They invested, but they didn't get up to the 500 employee complement until the third year.

SPEAKER KRISTENSEN: It's my understanding that then they only get one year of that investment credit because they were only eligible for that one year.

SENATOR CHAMBERS: Would that...

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SPEAKER KRISTENSEN: Then that...

SENATOR CHAMBERS: And that would be one-fifteenth or 15 per...

SPEAKER KRISTENSEN: One-tenth, I believe.

SENATOR CHAMBERS: One-tenth. Okay, since...

SPEAKER KRISTENSEN: It's 15 percent of the investment gets you a dollar amount, but they have to be qualified for a ten-year period of time. Since they were only qualified for one year of the ten, they only qualify for a tenth of the total amount.

SENATOR CHAMBERS: So it is a kind of prorating based on...from, during that ten years, when they are actually...

PRESIDENT MAURSTAD: Time.

SENATOR CHAMBERS: ...above the threshold.

SPEAKER KRISTENSEN: Yes.

SENATOR CHAMBERS: I'm kind of seeing it.

PRESIDENT MAURSTAD: Thank you, Senator Chambers. Senator Wickersham, on the Chambers amendment to the committee amendments.

SENATOR WICKERSHAM: Mr. President, I rise in opposition to Senator Chambers' amendment, and I do so in a posture that I hope is consistent with other statements that I have made. I think that the provision in the committee amendment as it now stands allows the state to smooth out, if you will, because I think companies will apply for the investment credit as they are eligible for the investment credit, it smooths out what I think the fiscal impact of these provisions will be. Now if you would rather lose, for example, \$15 million in one year as opposed to \$5 million in one year and \$5 million in the next year and \$5 million in the year after that, then you should vote for Senator Chambers' amendment. And those are only example numbers. I don't think those, although they could be numbers

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that would be applicable to a project, I don't have anything in mind when I give you that example. But let's say the ultimate total of investment credit was going to be 15 million. Just simply ask yourself, would you rather have that impact on the state in one year, you know how we like those big unforeseen expenditures that come through and affect the fiscal status of the state, would you like that in one year or would you like that spread out? The committee amendment allows it to be spread out and the incentive is for the companies to spread it out if they can use the credit. Now there might be examples of where they would not be able to use the credit and we might still find them bunching it up and taking it all in one fell swoop, whether it's 15 million or 25 million or some other millions. But at least the committee amendments give the opportunity to spread that cost out and it is on that basis that I would oppose Senator Chambers' amendment.

PRESIDENT MAURSTAD: Senator Chambers.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I need to ask Senator Kristensen some more questions.

PRESIDENT MAURSTAD: Senator Kristensen.

SENATOR CHAMBERS: Senator Kristensen, the entitlement period is ten years, which begins to run at the time the application is accepted or approved. Is that true?

SPEAKER KRISTENSEN: Approved and then there is a contract signed, yes.

SENATOR CHAMBERS: All right. Now, in the sentence that I was talking about striking, it says the following: "The credit shall also be allowable during the first year of the entitlement period for investment in qualified property at the project after the date of the application and before the required levels of employment and investment were met."

SPEAKER KRISTENSEN: Yes.

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SENATOR CHAMBERS: So all...this is something like a hook. If I invest \$100 at the project site, I can start claiming this credit that I would be entitled to had I reached the \$200 million investment and 500 employees. Is that what that sentence means?

SPEAKER KRISTENSEN: It means that you can get the credit in the first year providing that, and I've got to read.

SENATOR CHAMBERS: Take your time.

SPEAKER KRISTENSEN: You can get your...

SENATOR CHAMBERS: I mean take my time, whatever you need.

SPEAKER KRISTENSEN: Yeah, take your time, that's exactly. You can get that credit in the first year before you've got those required levels of employment, but what happens to you is if you don't get there then you've got to recapture that issue, and I believe there is an interest payment. I'm looking over here at staff. There is an interest provision in there on the recapture, and I...I don't...and I don't know if there is a penalty or not. There can be. You're beyond my knowledge off the top of my head.

SENATOR CHAMBERS: That's all right. Thank you. Members of the Legislature, the reason I have to do this by offering amendments, when we're just having a straight discussion of the entire committee amendments, you can only talk three times, but that is not enough opportunity for me to have the questions answered that I want answered. But I'll tell you one thing. On this bill I've allowed more to take place than I did on that fetal tissue bill. We went eight hours and I did not allow a single vote on any amendment nor on any of my amendments to the amendment. Not one vote was allowed to be taken. Nada, not one, but on this bill there have been some votes already. At least Senator Hartnett's was adopted. At this point, I am not trying to just stop everything connected with the bill. The committee amendments will actually improve a bad bill. But when you improve a bad bill, that doesn't necessarily make it good. It makes it less bad. So what I'm offering now and my

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discussion is not for the purpose of doing away with the committee amendments, but just trying to understand what it is that we're talking about and I doubt that it is clear to everybody who is going to vote yes on these amendments what we're voting yes to. But I need to understand, and right now I don't completely understand. This provision of the committee amendments that I'm looking at, which would be subsection (3) of Section 31 in the committee amendments, is one that caused me a great amount of difficulty to understand and I'm just kind of grasping it now. But the fact that I see Senator Kristensen and the staff discussing it, it's not the easiest thing to make people understand who were not at the committee hearing, who did not have access to all of the developmental discussion that went into the construction of the committee amendments that we're looking at.

PRESIDENT MAURSTAD: One minute.

SENATOR CHAMBERS: So my intent here really is not to just delay the bill, except delay it long enough for me to get an understanding. I had another question that I wanted to ask, but since I only have one minute I'm not even going to try. I probably couldn't get it formulated and I know there wouldn't be a chance for it to be answered. So when I turn on my light this time, I know it's my last go-round on this amendment.

PRESIDENT MAURSTAD: Thank you, Senator Chambers. Senator Kristensen, your light is on next.

SPEAKER KRISTENSEN: Thank you, Mr. President and members of the Legislature. Senator Chambers, you know, I think you're right. This is a different type of bill than the last one we dealt with, and it also has a different approach to it, and that approach is...I mean, whether it's the subject matter, whether it's the emotion, whether it's the outside influences, I don't know, but I mean I don't foresee anybody trying to file motions here to stop any of this. It is a different style of bill. You can read this the first time through and it's as close to Chinese as you may get. Now part of the reason for that is, is that we're just not used to reading tax law day in and day out, and it is difficult. For me, it's easier to read it than some

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of the education statutes but not a whole lot different. And so what I want to do, I'm not ready to say yes to your amendment. However, I'm not ready to say absolutely no to it either. So that puts me in a position of what do I do, as I look through your amendment. Your amendment may have a portion of it that I want to look at. What I would tell you is, out of caution, I probably will be hesitant, I will vote no, but I will take that provision and look at it. There aren't a lot of amendments filed here (inaudible) Senator Wickersham. Well, if he's not listening, I can characterize them as typical Wickersham amendments, but if he's here, they are good policy choices we have to decide. I will, because there aren't so many amendments, if we do have to make some change, I'll come back and tell you I think there's a problem or if...if it's not drafted correctly that makes sense to me, I'll do that, but I will probably be cautious right now but with the promise that I will come back and revisit that if I think there is a problem or if you've raised a legitimate point that I need to look at. So with that, that's how I will approach it. Now that the Chair of the committee is back, those good public policy issues are yet to be decided and maybe I'll be even...I'll vote no out of caution right now but not slamming the door on future to look at that very issue you raised or any other issue you have. Thank you.

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

SENATOR CHAMBERS: Thank you, Mr. President. And members of the Legislature, I don't even have to take this to a vote, but to me it was such a perplexing area that I had to have it discussed now and I had spoken all the times I could on the committee amendments. So I will not force a vote on this particular portion, because if I come to thoroughly understand it and it seems like a sensible policy, then I might not try to remove this. But on the other hand, we are setting up a general principle. That general principle that...that says...the general principle says that before you can get this 15 percent investment credit, you have got to reach a certain threshold of employees and monetary investment. The two have to be together. But there is a way to get out of that, and the way to get out it

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is to invest any amount of money in some property at the site of the project. So I'm wondering, why set the threshold? Why don't, if somebody signs a contract, and I'm not saying this should be done, why not, if they sign a contract, before you accept them, you're going to have to be convinced that they can deliver and meet these standards, otherwise it's foolish to accept their application. Just let them start drawing down the credit then instead of adding a second layer where they don't have to do much of anything the first year, just invest...I'm going to see if there is anything that suggests an amount of money. This is what I would strike: "The credit shall also be allowable during the first year of the entitlement period for investment in qualified property at the project". Maybe I'm missing something here. Senator Kristensen, what does qualified property mean?

PRESIDENT MAURSTAD: Senator Kristensen, would you yield?

SPEAKER KRISTENSEN: Yes, Senator. Mr. President, I'll yield to all questions, so thank you.

SENATOR CHAMBERS: Okay. The property which must be invested in, there is a qualifier. It says that you can draw down, start drawing down this credit the first year of the entitlement period for investment in qualified property. What is qualified property and does that definition include a certain percentage of the ultimate investment that would have to be made?

SPEAKER KRISTENSEN: Qualified property is a definition that we already use, and I believe it's the same, you'd know it as LB 775, and that's what I'll...that definition is already in the statute. We make reference to qualified property, and it's the original cost that's used for the qualified property to determine the amount.

SENATOR CHAMBERS: So that means if you've purchased the property, that is what we're talking about...

SPEAKER KRISTENSEN: Yeah, it has to be tangible...

SENATOR CHAMBERS: ...in terms of this investment?

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SPEAKER KRISTENSEN: ...there's some provisions here that talk about it have to be tangible property that's subject to depreciation or amortization, and we do make some reference back to the Internal Revenue Code, and it's the same definition of investment that we used in LB 775, and that's been in our revenue code for some period of time.

SENATOR CHAMBERS: But here's what I want to know. There is no dollar amount for sure. Is there any percentage amount of the total \$200 million that would have to be invested at this point or just an investment in the type of tangible property that would be involved with the project?

SPEAKER KRISTENSEN: I believe just the type of the tangible property.

SENATOR CHAMBERS: So it could be as low as \$1,000 or \$5,000 or whatever as long as it's for the kind of property that would be a part of the project.

SPEAKER KRISTENSEN: Yes, but you realize you also have to include...

PRESIDENT MAURSTAD: One minute.

SPEAKER KRISTENSEN: ...the commitment to get up to that total investment figure.

SENATOR CHAMBERS: Right. I am saying...

SPEAKER KRISTENSEN: Yeah.

SENATOR CHAMBERS: ...okay, since there is one minute, here's what I'm trying to say. The general rule is that the threshold for getting the credit is 500 employees and \$200 million, but you can circumvent all that if you make an investment in this property that's qualified during the first year. Then you can start drawing on that tax credit during that first year even though you are nowhere near the 500 employees or the 200 million investment.

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SPEAKER KRISTENSEN: That is correct...

SENATOR CHAMBERS: Okay, and that's...

SPEAKER KRISTENSEN: ...with...

SENATOR CHAMBERS: ...why I'm wondering if this is...

SPEAKER KRISTENSEN: Yes.

SENATOR CHAMBERS: ...necessary language or if there is a different approach. But my time is up now I realize so...

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

SENATOR HARTNETT: Mr. President, members of the body, I simply rise to support the committee amendments; probably will not support Senator Chambers' amendment. But I think one of the things, I was here, I guess, and I did support LB 775. There's very few of us left. One of the things I think we have done with this act that we didn't do with LB 775 and so forth is that we put a wage qualifier into this bill. The "Rural Tier" is 100 percent of Nebraska average wage; the "Modified" middle tier, 110; and the top tier is 120 for wages. It's also towards new employees: 500 jobs in the middle tier, 50 in the rural, and 500 jobs in the top tier. So I think...I think that is what I see as a benefit of LB 620, and with that I would give the rest of my time to Senator Chambers.

PRESIDENT MAURSTAD: Senator Chambers.

SENATOR CHAMBERS: Thank you, Mr. President, and thank you, Senator Hartnett. Here's what I'm trying to say through all of the discussion I've engaged in up to now. Either the standard is going to be 500 employees plus \$200 million or it is not. If it is not, then I think we should take an approach different from the one in the bill. The one in the bill now that I am trying to strip out with my amendment says you can start deriving benefit from that credit the first year of this period

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by simply investing some money in qualified property, any amount of money. So this creates a loophole through which a company can begin to take advantage of this credit the first year. I'd like to ask Senator Kristensen a question.

PRESIDENT MAURSTAD: Senator Kristensen.

SPEAKER KRISTENSEN: Thank you, yes.

SENATOR CHAMBERS: Senator Kristensen, let's say that it would be Union Pacific and they have other income. What percentage of that 15 percent would they take advantage of? Would it be, during the first year, one-tenth of...

SPEAKER KRISTENSEN: No, they could take the full amo...actually, your last quest...and I'm sorry to interrupt you but...

SENATOR CHAMBERS: Go ahead.

SPEAKER KRISTENSEN: ...your last question caused me to go back. I think I've finally discovered what you were asking me, and so it's a little different because I think I now see what you're getting at.

SENATOR CHAMBERS: Well, explain from there because that's what I want.

SPEAKER KRISTENSEN: Okay. The portion that you were talking about deals with that very first year of entitlement. Entitlement starts when you qualify but they look at the first of the year, for example. You have to have those before you get the credit. Let's say that this happens the 1st of November. You've made your investment, you've got your employees, but that's in November. In January, when you took a look at it, that first year prior to reaching those levels you didn't qualify, but you do qualify during that first year. You get that full...you get to take the credits in that year because you qualified in November. I can tell by the look on your face I am not helping you.

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SENATOR CHAMBERS: No, I just want to be sure we are talking about January and November being in the same year.

SPEAKER KRISTENSEN: Yeah.

SENATOR CHAMBERS: Not the January following November...

SPEAKER KRISTENSEN: Right.

SENATOR CHAMBERS: ...but the January preceding.

SPEAKER KRISTENSEN: Right.

SENATOR CHAMBERS: Now I'm with you.

SPEAKER KRISTENSEN: Okay. You've got to reach those levels during that year. That's what starts the entitlement period. In other words, you're entitled to the credits. You have to have that investment made in that year and you have to get up to those wages. Where I was getting crossways with, not crossways, but where I was misunderstanding, you were talking about making a partial investment,...

PRESIDENT MAURSTAD: One minute.

SPEAKER KRISTENSEN: ...in other words build a...build a part of a building each year that you went off or you built...you bought this equipment and you bought a saw one year and the next year you bought...

SENATOR CHAMBERS: No, what I was thinking was you'd invest the full 200 million but it would take you some time before you got the employment level up to the 500, so you would have the 200 million investment but not the 500, so what I was trying...well, the time is going to be up so...

SPEAKER KRISTENSEN: No, you...no, but you're exactly getting close. You have to have that employment level in that year. The reason that the phrase you are picking on is, not picking on, but the phrase you're examining would be in the first year if you reach that employment level in November but you weren't

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there in the previous January, you still get a full year's worth of credit. That's...that's the reason it says...

PRESIDENT MAURSTAD: Senator Kristensen, your light is on next. You can continue, please.

SPEAKER KRISTENSEN: I give my time to Senator Chambers as well to finish this. That's the reason it says the credit shall also be allowable during the first year of the entitlement period for the investment in qualified property. It's after the application is made but on January 1 they may not have the required levels of employment or the investment. They get that done in November of that year. They are going to get the credit for that first year.

SENATOR CHAMBERS: Senator Kristensen, I don't read it that way.

SPEAKER KRISTENSEN: Okay.

SENATOR CHAMBERS: I read it as saying that you don't have to reach those levels in order to get this credit starting in the first year. You just invest some money in that property. I'm looking at what the language actually says.

SPEAKER KRISTENSEN: Well,...

SENATOR CHAMBERS: It doesn't say that in order for you to get this credit the first year, if you have reached the employment and investment levels at the end of the year, you can get the credit for the full year even if at the first part of the year you had not reached that level. The sentence that I'm talking about simply says, the credit shall also be allowed, which means it's an alternative to the 500, \$200 million standard. This is an alternative way to start taking advantage of the credit immediately.

SPEAKER KRISTENSEN: It...it is sort of what I call a transition instead of an alternative. If you look over...look in...do you have the green copy with you, Senator?

SENATOR CHAMBERS: Yes. Let me...yes, I have it.

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SPEAKER KRISTENSEN: Okay, look over in Section 16 where it defines, the first one is the definition of entitlement period.

SENATOR CHAMBERS: Yes.

SPEAKER KRISTENSEN: Okay, entitlement is that ten years where you qualify the first year and then nine years after that. So the entitlement period is the period in which you are entitled to the benefits, this investment credit. If you then go over to the committee amendment, they're talking about solely in that first year you can get credit that first year. And I'm trying to think of a better way to say this. All I can say is, before you got to the levels of employment and investment during that first year, you can still get the first year benefit, which in the investment credit is the entire amount. The crack staff of the Revenue Committee is standing behind you, Senator. They can speak plainer English than I can.

SENATOR CHAMBERS: Can this credit that you get on this project be used against income from a source other than this project?

SPEAKER KRISTENSEN: It can be used on your Nebraska income tax obligations.

SENATOR CHAMBERS: So Union Pacific, if that's the company which may have tax obligations, could begin setting this credit against what that tax obligation is during the first year of this entitlement period...

SPEAKER KRISTENSEN: Yes.

SENATOR CHAMBERS: ...if they have just invested some property...some money in that qualified property.

SPEAKER KRISTENSEN: And I think they...but I think they have to reach those levels.

SENATOR CHAMBERS: That's not what the second sentence says that I'm talking about.

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SPEAKER KRISTENSEN: Okay.

SENATOR CHAMBERS: That's what I can't see. Why don't I leave it alone and talk to the staff over here. You said the crack brain staff?

SPEAKER KRISTENSEN: No, I said the staff who has a crack at it...

SENATOR CHAMBERS: Oh. (Laughing)

SPEAKER KRISTENSEN: ...in explaining it to you.

SENATOR CHAMBERS: Okay, I will see what I can gather.

SPEAKER KRISTENSEN: Thank you. Do I have a little bit of time, Mr. President? I'm going to buy a little bit of time to try to talk about this amendment. You've got to figure out when do we start, so do you start when you have all the investment or all...

PRESIDENT MAURSTAD: One minute.

SPEAKER KRISTENSEN: ...the employees? And we're saying that you have a ten-year period that you're entitled to the wage benefits. You can take your investment credit in the very first year or you can take it over a ten-year period. You have your choice. What I...Senator Chambers and I are talking about is a transition of that first year because that first year, on January 1, you are not going to have the building all built and the employees hired that first day, but during the year you may get that job done. To me that's what it says, but I'm certainly open for some other interpretation. Senator Chambers, my time is just about up. Members, thank you for your patience.

PRESIDENT MAURSTAD: Thank you, Mr. Speaker. Senator Hartnett.

SENATOR HARTNETT: I would give my time, Mr. President, I give...would yield my time to Senator Chambers, if he so desires.

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PRESIDENT MAURSTAD: Senator Chambers, Senator Hartnett is willing to yield you time.

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Hartnett. Senator Kristensen, here is what I think will help. Rewrite it so that we don't try to save words at the expense of clarity and we could indicate that what...the things we are talking about here; that in that first year you still, before the year is over, must reach those employment and investment levels. Otherwise, you cannot get the credit during that year. But having said that, let me ask you this question.

SPEAKER KRISTENSEN: Sure.

SENATOR CHAMBERS: At what point in that first year would you begin trying to make use of this credit? Would you have to wait until such time as you reach the employment...

SPEAKER KRISTENSEN: That would be my...

SENATOR CHAMBERS: ...and investment levels?

SPEAKER KRISTENSEN: From a policy point of view, you ought to be...you should have to reach those levels of investment and of the number of jobs.

SENATOR CHAMBERS: So the entitlement period does not start when the application is accepted but rather at the point when the 500 employees...

SPEAKER KRISTENSEN: When you meet those...

SENATOR CHAMBERS: ...and \$200 million...

SPEAKER KRISTENSEN: ...threshold, yes, when you meet those threshold levels. That's the reason I was...that's the reason I was confused when you fir...I didn't realize what you were getting at. That's the reason I went back to that definition of the entitlements. When you meet or exceed those thresholds is when entitlement begins.

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SENATOR CHAMBERS: So can...is there a possibility, and we don't have to do it here on the floor.

SPEAKER KRISTENSEN: My...my pledge to you is I'll sit down and see if I can rewrite it.

SENATOR CHAMBERS: Okay. Mr. President, are there any other lights on? Then I will now withdraw my amendment.

PRESIDENT MAURSTAD: The amendment is withdrawn. Further debate on the committee amendments to LB 620? Senator Wickersham, you're recognized to close.

SENATOR WICKERSHAM: Mr. President, members of the body, I want to correct something, the first thing I want to do is correct something that I said or, at least, I think I said in opening on the committee amendment that is not accurate. I represented to you that if there was a recapture event and it involved a partnership, limited liability company, subchapter S corporation, or other kind of entity that we would be able to recapture not only from the entity but from the individuals who had an interest in the pass-through entity. That is not correct. The language in the bill would limit us to recapturing, or in the committee amendment would limit us to recapturing from the entity itself. Now the rule, the more expansive rule is the rule in LB 775. The rule, the less expansive rule that is in the committee amendment has been suggested to us by Revenue because they think it's impractical to pursue individuals in all of those instances. And as I think about it, we might actually have some difficulty piercing a limited liability company to do that because of the particular nature of those organizations. There are...the committee amendments I hope that you have been listening. The committee amendments do make some substantive amen...some substantive changes to the bill. I would suggest to you, whether you are an opponent or a proponent of the bill in the main that the changes being suggested by the Revenue Committee are appropriate and that they are, overall, beneficial if we are to have a policy such as LB 620 represents and would ask you for your support for the committee amendments.

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PRESIDENT MAURSTAD: Thank you, Senator Wickersham. The question is the adoption of the committee amendments to LB 620. Those in favor vote aye; those opposed vote nay. Voting on the committee amendments. Mr. Clerk, please record.

CLERK: 35 ayes, 0 nays, Mr. President, on the adoption of committee amendments.

PRESIDENT MAURSTAD: Committee amendments are agreed to. Mr. Clerk, items for the record.

CLERK: Mr. President, thank you. Revenue Committee gives notice of hearing on LR 57. A new resolution, LR 59, is by Senator Tyson asking the Legislature...well, that will be laid over, Mr. President. A new A bill, LB 666A by Senator Wehrbein. (Read by title for the first time.) Senator Schrock has offered...would like to print an amendment to LB 461; Senator Dierks to LB 536. That's all that I have, Mr. President. (Legislative Journal pages 1467-1469.)

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

CLERK: Mr. President, an amendment to the bill. Senator Wickersham would move to amend. AM1477, Senator. (Legislative Journal page 1469.)

PRESIDENT MAURSTAD: Senator Wickersham, you are recognized to open.

SENATOR WICKERSHAM: Thank you, Mr. President. This amendment is on your machines. It would not have been printed in the Journal yet, but if you want to look and find what this amendment is, you will find it is LB 507 with the committee amendment. So if you want to...if you want to find it on your device or if you want to find it as an amendment or you want to find it in the paper version, you would find this amendment as LB 507 with the committee amendments. This is a bill that was advanced unanimously by the Revenue Committee. It had a hearing at which there was no opposition. It would cause an alteration of the fiscal note for this bill. It would cause about another \$300,000 to be expended as a part of the fiscal note for the

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bill over the next biennium. With those cursory remarks, let me go to the substance of what the amendment is. This is a provision that would allow or would provide for an independent audit. If you can imagine that we have a circumstance now in which an activity of state government is not audited, we have one, and it deals with the incentive acts. The incentive acts are not audited in the way that you would think that other government programs are audited because all of the information is confidential. So there is no audit. What the amendment does is provide for an audit process that keeps all of the information confidential but provides for the audit. Now the mechanism for obtaining the audit is to cause the Auditor of Public... Auditor of Public Accounts to contract with a qualified independent firm to perform the audit. I have no illusions about the Auditor's Office having the current ability or the ongoing ability to conduct the kind of an audit that is called for in the amendment. And, of course, that's the reason you have a fiscal note, because if the Auditor is going to have to contract with somebody you are going to have to pay for that. So the bill provides for the Auditor of Public Accounts to contract with a qualified independent firm and to perform an audit of the Employment and Investment Growth Act, the Employment Expansion and Investment Incentive Act, the Invest Nebraska Act, and the Nebraska Redevelopment Act, and, finally, the Quality Jobs Act. Those are the economic development incentive acts that we have. If we don't pass the Investme... Invest Nebraska Act, it, of course, would not be applicable to that. What do we expect to find out of the audit? What are the directions to the company that is going to prepare the audit? They are to verify data collected from the companies receiving benefits. They are to determine whether or not there has been compliance with the law, both initially and throughout the entitlement period. They are to determine whether actions taken by the Department of Revenue to assure the requirements of the enabling acts are complied with. They are to determine whether or not, in fact, new jobs are created or whether we are simply moving around preexisting jobs. That's kind of a problem potentially, because if we are not getting new jobs out of it, you can make a good argument that we haven't met the objectives of the act. Right now we have no way to make an independent determination about whether or not we're actually getting new

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jobs out of these proposals. We have to make a determination about whether the new jobs that are claimed by the applicants are, in fact, new jobs or whether they are simply overtime. That's something that we cannot currently determine, but the way jobs are determined, the way the definition of jobs is determined, it could be overtime. I think we should know whether it's overtime or not. We would need to know, for some of these purposes, whether the new jobs created...actually how they compare to the average job in the state of Nebraska in terms of pay, benefits and overtime. I think that's important information for us to know. We will not know that unless we make an independent investigation. We should know where the new jobs were created by SIC code. That will allow us to make a more complete analysis of projects if we know exactly where the jobs are being created. We need to know the nature of the investments being made. That will assist us in evaluating proposals and to know whether or not they are valid and whether our objectives have been met. We would be able to find out about whether we have increased output resulting from a project and we would know to the extent the performance standards are being enforced by the Department of Revenue. Now this revenue...or this audit, the initial audit would be completed by January 1st of 2003, and then there would be an audit prepared every five years after that. And as I say, there are provisions that keep the aud...make sure that the audit report itself masks the identity of individual recipients of benefits. This is not an attempt to find out who is receiving benefits or how much benefit they are receiving. It is an attempt to make sure that the law is being complied with the same as we would conduct any other audit, so there are stringent privacy or prot...or provisions that would protect confidentiality in the amendment. This is not a novel idea. There are audits performed in other states of these kinds of programs and, in fact, it was in one of the journals that I am sure that we all receive that I noticed that other states had the programs and began to wonder why we did not have one because we prepare periodic audits in all other areas of govern...of state government that I can think of, and we have reports that come to us in those instances from the State Auditor's Office that detail whether or not the statutes are being complied with, whether or not there are misspent monies, all of the things that you would expect out of an audit

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report, but we do not receive that...those kinds of reports pertaining to the programs that would be audited in this instance because much of the information is confidential. So I would hope that you could see fit to support the amendment. As I've indicated, it was a bill that came out of Revenue, did not have opposition at its hearing, and had the unanimous support of the committee members.

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Thank you, Senator Wickersham. You heard the opening on AM1477 to LB 620. Open for discussion on that amendment, Senator Kristensen.

SPEAKER KRISTENSEN: Thank you, Mr. President and members of the Legislature. This is the part of the bill where it gets difficult to deal with. I've not seen this amendment until we started this afternoon. I understand it had a public hearing and it may have some good public policy points to it. My problem is accepting, when I have an opponent to a bill who wants to add one of his bills into the bill, it is hard for me to be a very magnanimous host because I reward my opponent. I happen to like my opponent. I probably have affection for him more than most on the floor, maybe more than anyone, (laughter) but it is difficult at this point for me to decide what to do. And so I'm...I've got to sit here and make some policy choice rather quickly. Let me talk to you, generally, about how I would feel. I think that there...it's appropriate, and it is in the bill, that there be some reports back to the Legislature about this bill. Senator Chambers and I have already talked about doing that. To the extent that there is some audit, I understand that there may be a need to do that. I'm a little troubled about the fiscal impact. Senator Wickersham, could you help me with what the fiscal impact of this would be this biennium and why there would be an expense this biennium, if you would, please.

SENATOR CUDABACK: Would you respond, Senator?

SENATOR WICKERSHAM: The...the fiscal note shows two expenditures, one in the amount of \$243,000, the other one in

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the amount of \$49,000. Those expenditures are the estimated cost to the State Auditor for contracting with an outside, independent firm to conduct the audit.

SPEAKER KRISTENSEN: Would...those would be audits of projects, though, that are not related to LB 620, is that correct?

SENATOR WICKERSHAM: It would establish a program that, if LB 620 passes, would eventually be applicable to LB 620, but it would be applicable to the existing economic development incentive acts.

SPEAKER KRISTENSEN: So, in other words, we're going to be auditing...and I just want to make sure I'm clear, we're going to be auditing the current LB 775 projects, we're going to audit the current Quality Job Act prob...or projects, and we're going to spend money to do that. But that...none of those audits are going to be on any of the LB 620 ones. Is that correct?

SENATOR WICKERSHAM: That would be correct, because there couldn't be any LB 620 projects to be audited at the time the audit would be completed, but there would be conceivably LB 620 projects the next time the audits were completed or prepared, and that would be five years into the future.

SPEAKER KRISTENSEN: Senator Wickersham, and I...you and I have not talked about this. But here's what I would...here's what I would observe. I would put in an audit procedure for LB 620 projects, and that would establish the precedent of doing audits. That would not incur any fiscal note for this year, and that would not establish doing audits on LB 775 projects or the Quality Job projects, that you would have to...because otherwise, quite frankly, I don't think this amendment is germane and would probab...to avoid that whole discussion would...would agree and state that I don't mind putting in some audit provisions for LB 620, but I'm uncomfortable about pulling in all other incentive packages and paying for those on the backs of LB 620.

SENATOR CUDABACK: One minute.

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SPEAKER KRISTENSEN: And so is...is that a concept that you would be comfortable doing? I would agree to write some audit provisions in here, and that would help serve your purpose and establish a precedent to do that and would show that's a good policy, and it would ultimately help LB 507 down the line.

SENATOR WICKERSHAM: Well, if we had the audit provisions that are in the amendment, and those cover areas that I think are important, if you...I wouldn't...I want to be careful about what we might suggest to our colleagues here because I...I think you intend that we would have a meaningful audit process, but just to have an audit and call it an audit...

SPEAKER KRISTENSEN: I would...I would take some of...I would...your...your scope and concept has no problems to me as it applies to LB 620 and its projects.

SENATOR WICKERSHAM: All right.

SPEAKER KRISTENSEN: What I'm...what I'm having and uncomfortable about is that you're going to do this to all the LB 775 projects and Quality Job projects that have nothing to do with LB 620,...

SENATOR CUDABACK: Time.

SPEAKER KRISTENSEN: ...and the cost of doing that is going to go on the A bill of this.

SENATOR CUDABACK: Thank you, Senator Wickersham. Senator Tyson, on the Wickersham amendment.

SENATOR TYSON: Thank you, Senator Cudaback. Members of the body, I rise in opposition to AM1477 to LB 620, somewhat along the lines that Senator Kristensen just mentioned. This is spending...incidentally, I went to the gizmo, the desk set. There is no intent. There is no fiscal note. There is no Committee Statement. There is no original text. There is a proposed amendment, which is now an amendment to LB 620, and there is the status. So this comes for consideration in the middle of what can only be characterized as a major bill, and I

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would characterize this as detritus, which is a nice word for junk, that is thrown in here. If this has a salutary purpose, it should be considered by itself. There is a fiscal note, we hear from Senator Wickersham, of...I think he said \$300,000, but that's subject to correction. And at a time when we should be looking to save every penny, I don't think that looking over the shoulder of the Department of Revenue serves any purpose. The only purpose that I can think it would serve would be, if you'll look on page 2, and this would be line 13, "issue a report to the Legislature and Governor detailing the results of the audit and any recommendation for change". We can put that with the 744 other reports that we discard in the recycling basket. I think that this is superfluous to our purpose and I urge that it be rejected forthwith. Thank you very much, Senator Cudaback.

SENATOR CUDABACK: Thank you, Senator Tyson. Senator Chambers, on the Wickersham amendment.

SENATOR CHAMBERS: Mr. President, members of the Legislature, and for "Baron" Tyson's benefit, I have to stop being so peripatetic, Senator Tyson, when I should be at my microphone. I'd like to ask Senator Kristensen a question, if I may, on Senator Wickersham's amendment.

SPEAKER KRISTENSEN: Yes.

SENATOR CHAMBERS: Senator Kristensen, I have been occupied with other things over here, not trifling things but things we have kind of a deadline on. What is your reaction to Senator Wickersham's proposal?

SPEAKER KRISTENSEN: I told Senator Wickersham that you and I had talked about some reports to the Legislature. In fact, there's some...there is some of that language now in the bill, some of the things we've done today. But I told Senator Wickersham I'm not opposed to the audit. What I have a problem with is he's a known opponent to the bill, he doesn't like the bill, and so I'm going to reward him for not liking the bill. That's a problem. But his...his amendment goes a little too far because it takes all incentives, existing ones in LB 775 and other things, which really aren't germane to this, but I don't

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want to get into the germaneness fight. What I told him was his concept of an audit has merit as it relates to 640...or to LB 620 projects. And...and I would be willing to work with him, and I think he and I are going to try to bind something here where we would be able to do some audits onto LB 620. But those costs wouldn't occur now, because there aren't any projects, and there won't be any projects for a period of time, that will qualify. And it's just additional monies he's adding in here. He and I...think, could work something out. He could gain the concept of starting an audit to these incentives that we've never had before. He gets that part, and I narrow the scope of it. And that way I can...I can swallow an opponent's reward.

SENATOR CHAMBERS: Improve...thank you. Members of the Legislature, sometimes an enemy can see more clearly than those who are right up on the matter, because there is a greater degree of detachment, simply because there is no investment of emotional capital in the success of the bill. I would like to see some kind of auditing. But as I look at the fiscal note, they tell us about the Quality Jobs Act and the Invest Nebraska Act cannot be used together but can be used with the Employment and Investment Growth Act, LB 775; the Employment Expansion and Investment Incentive Act, LB 270; and the Rural Economic Opportunities Act, LB 936. When various of these bills are lumped together and they're all in the same area of reducing the revenue that the state would have, I can see the value of an auditing process that would branch and cover all of them, because I'm opposed to the bill, too. I haven't decided how much I'm going to try to offer in the way of amendments to improve it because, in the same way you wonder what you should accept from a foe, I'm wondering how much work I should put into what to me is a complicated bill, when I'm not going to get anything out of it. And by me, I don't mean me, personally. But it's not going to do anything for the people in whom I have a great amount of interest, for whose welfare I feel a great deal of concern. If I help improve a bill that I think, by the way, can be improved, that's not a slam at anybody, any bill this complex can be improved. I'm just trying to figure...

SENATOR CUDABACK: One minute.

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SENATOR CHAMBERS: ...how much I should invest in it, in terms of my time. But when something comes along in the way of an amendment that I think is going to be healthful in this area of what I call corporate giveaways, I'm going to support it. But if you and Senator Wickersham are working something out,...let me ask Senator Wickersham a question in the few seconds I have remaining. Senator Wickersham, are you going to proceed with your amendment at this time,...

SENATOR CUDABACK: Senator Wickersham.

SENATOR CHAMBERS: ...or are you and the Speaker going to try to work something out?

SENATOR WICKERSHAM: The Speaker and I are going to try to work something out. When my time comes up I'm going to withdraw the amendment and ask that it be refiled for Select File.

SENATOR CHAMBERS: Thank you.

SENATOR WICKERSHAM: And we'll substitute an agreed amendment for that at...on Select File.

SENATOR CHAMBERS: Thank you.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Wickersham, on your amendment to LB 620.

SENATOR WICKERSHAM: Mr. President, I would ask that the amendment be withdrawn and that it be refiled for Select File.

SENATOR CUDABACK: So ordered, Senator Wickersham. Senator Kristensen. Mr. Clerk, item on the desk?

CLERK: Mr. President, Senator Wickersham would move to amend with AM1480. (Legislative Journal page 1470.)

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

SENATOR WICKERSHAM: Mr. President, members of the body, this is

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a simple amendment. I don't often have amendments this short. This is a very, very short and simple amendment, but I think that it addresses an important issue. If you go to page 7 of the committee amendments and you go to line 11, you'll see that if someone is interested in challenging a board decision, this is the board...the jobs board, granting an application, that any person who would wish to file an appeal has only 30 days in which to perfect that appeal. Now, during that period of time you might not even be able, for example, to obtain a transcript of the board's proceedings, even though I think the board's proceedings are going to be quite short. If I understand how the things operate, they operate most of the time without a public record, it is only their votes that actually get recorded, although there are some provisions in the board sections to require that they weight various items. But there probably would be at least a kind of an evidentiary hearing or proceeding where someone submitted materials in support of an application. But at any rate, if you wanted to cause one of those decisions to be reviewed under the provisions that were in the committee amendment, you would have only 30 days to do that. Now that is not something that...is arguably something that we should have discussed in the Revenue Committee but did not. But once it came to my attention it would be my view that a longer period for review of the record and even the obtaining of a record is appropriate; that you would have some difficulties preparing any kind of an appeal because that's going to have to be in the court system of a decision that was made. So the proposal is to change that appeal period from a 30-day period to a 180-day period. Now I don't think that there should be concerns or objections about that kind of an amendment. It seems to me to be something that would be fair and would be reasonable. If you're going to have a provision that allows persons to appeal or object to a particular decision, I think it is important that you give them a meaningful period in which to prepare that objection. I...I can't imagine the, for example, well, I guess it sometimes happens to us around here when we move the agenda and we're not quite ready. But I don't think that we should subject the citizens of the state of Nebraska to that kind of a process. I think if they're interested in one of these proceedings, they should...they should be allowed a reasonable amount of time to obtain the public record for the

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proceedings, such as it may be, to evaluate that public record and then to make a decision whether they want to appeal, or cause an appeal or a contest of that decision to be made. I...I...one thing, I guess, I would suggest, in case people have misgivings about the longer period of time, if I were a person who were thinking that I were...was interested in challenging a decision and I had not had time to properly evaluate a record and to properly weigh the legal and evidentiary issues that are raised, I might file a protective appeal before I really knew what my position was going to be. On the other hand, if I had an adequate amount of time to research and to review the record, I might not file an appeal at all. So I think that we have an interest, not only in the convenience of our citizenry and allowing them what we would characterize as a reasonable opportunity to challenge, if they wish to challenge, but I would also have some hope that the kind of provision that I am mentioning would actually reduce potential appeals, particularly if a good record and a good case was made for the application. Because it would only be after you'd had a chance to review the record to assess the issues, the legal issues, that might be raised that you would be able to make a final determination as to whether or not you had a good appeal. I think people are entitled to that opportunity, it might actually reduce the number of appeals, and I would hope that you would support this amendment.

SENATOR CUDABACK: Thank you, Senator Wickersham. You've heard the opening on AM1480 to LB 620. Open for discussion. Senator Kristensen.

SPEAKER KRISTENSEN: Thank you, Mr. President. Members of the Legislature, let me review for you, I oppose the amendment, so we'll get that out of the way to begin with. There needs to be notice of this hearing. What Senator Wickersham is talking about is the board. This board is consisting of the Governor, consists of the State Treasurer, and also has one other member on it. There must be a 10-day notice of this meeting and that's going to go out to six newspapers all over the state of Nebraska so there is notice of this board's meeting. Now the meeting is an open meeting. Yes, there is some parts that are confidential because they're going to be dealing with people's tax returns.

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I'm sure you wouldn't want a hearing with your personal tax returns; that's another issue we can discuss. But it does have a court reporter, so there is going to be a recording made of this. The board is going to make its decision and there is a 30-day period in which people are allowed to appeal or challenge that decision of the board. Now, why 30 days? Well, if you were going to do this, if you were going to create a decision, where else would you look? Might you look at the court system? If you're going to appeal from the district court to the Court of Appeals or the Supreme Court, you get 30 days. If you're going to appeal an administrative proceeding, you get 30 days. If you're going to appeal a county court decision to the district court, you get 30 days. It is a uniform date; it makes sense; we use it all the time in the system. Senator Wickersham wants to spread this time out because what this does is put you in limbo for a period of time. It puts you in limbo for six months because there is no activity, because you can't move until your appeal time runs. So it's designed to delay and ultimately dissuade anybody from doing this. The other portion of the 30-day appeal time is that you don't have to have the full record done. If you had no interest and you didn't go to the hearing, why do we want to give you six months, unless your motives were purely to delay or to ultimately try to thwart these. Because whatever company your business is interested in getting approval, they have to make these decisions. They're not going to make a decision to build or employ until they know they've got approval. Well, if Senator Wickersham and his band of merry troublemakers can come in and hold that decision up for six months, they win because nobody wants that uncertainty. So what you're going to do is go from 30 days to 6 months, you're going to lengthen six times more than anything else is done in the judicial system. Although, Senator Wickersham, my affection may wear a little thinner, this isn't an amendment...I'll gladly work with him on the audit amendment. We're going to work something out there. This is one I can't and it really does wreak havoc with the bill and does not have a good intent, nor a good result. I'd urge the body to vote no on this particular amendment. Thank you.

SENATOR CUDABACK: Thank you, Senator Kristensen. Senator Tyson, on AM1480.

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SENATOR TYSON: Thank you, Senator Cudaback, members of the body. Senator Kristensen has already said, in a nicer manner than I would probably employ, everything that I had to say. There...there is a...a somewhat well-known method of torture in China, called the death of a thousand cuts. We've had 2 of them, we 998 to go. I would say that this is...the purpose of this amendment is to do nothing but dirty up the bill and I would strongly urge your rejection of it. Thank you.

SENATOR CUDABACK: Thank you, Senator Tyson. Senator Wickersham, on your amendment.

SENATOR WICKERSHAM: Mr. President, I'm...(laugh)...I...I don't know whether I would be a band of merry-makers or not. I think the...the reference to merry-makers was probably to Robinhood. I've never been of that persuasion. But I do think that we are onto a substantive issue. And I'm not bringing the suggestion to be troublesome. I think that there is a legitimate issue about whether or not, in 30 days, you could decide, based on a record that you might or might not have real access to, to determine whether or not you want to file an action. What we're talking about here is the enforcement of the laws of the state of Nebraska by a private action. We're talking about the enforcement of the laws of the state of Nebraska through the actions of a private citizen. We're giving the citizenry an opportunity to enforce the laws of the state of Nebraska. Is that a real opportunity? Is that a sham opportunity? Is that a wink and a nod opportunity, or is that a real opportunity? I don't think it creates any more uncertainty to allow that period. If you wanted to eliminate uncertainty, we'd eliminate the provision. But I doubt that you are in favor, any of you are in favor of that. After all, the laws in Nebraska do have to be enforced by somebody. And if we give the citizenry the opportunity to do that, it ought to be a meaningful opportunity, not a wink and a nod. That's what the amendment is about. Now, think of the uncertainty that is created if you have a very limited period in which to file an appeal and you force people to file an appeal or an objection before they know what they're doing. How much uncertainty does that create? Because now you've got a legal proceeding, now you've got a legal

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proceeding, how much uncertainty does that create? And actually, to be quite candid, I think the citizenry can do...can serve the state in assisting us in enforcing the provisions of these kinds of laws. In fact, we've had a case recently in which that occurred. We found out that, for example, when we passed a bill and it said that the Department of Revenue shall adopt rules and regulations, that you can't act before they have in fact adopted the rules and regulations. So the citizenry can be effective in these kinds of cases, and I think, quite frankly, we owe it to them to give them the legitimate opportunity to be effective in these kinds of cases and I hope that you agree.

SENATOR CUDABACK: Thank you, Senator Wickersham. Senator Brashear, on the Wickersham amendment.

SENATOR BRASHEAR: Mr. President, members of the body, I've been listening to the debate most of the afternoon, and I understand Senator Wickersham's good intentions. But when he got to the point where we were going to extend the time for notice of appeal for six months in order that someone could carefully examine the record, I think he's being extremely clever and just a touch disingenuous. The way it really works, and he knows well because he's skilled, you file the notice of appeal and you study the record during the course of the long period of time before the appeal is substantively heard, before the briefs, or pleadings, or whatever are due. But by staying with the 30 days as it's written in the bill, as Senator Kristensen has spoken to it, what you do is you allow people, in a commercially reasonable period of time, to know whether their project is going forward or it is not. And notice of appeal within 30 days is not onerous, is reasonable and, as Senator Kristensen pointed out, it's standard, it's usual, it's expected, it will work and it will not thwart. And I would urge that we respectfully reject Senator Wickersham's amendment. Thank you.

SENATOR CUDABACK: Thank you, Senator Brashear. Senator Beutler, on the Wickersham amendment to LB 620. Senator Beutler.

SENATOR BEUTLER: Senator Kristensen, if I could ask you a

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couple of questions, I'm still feeling my way through the bill.

SPEAKER KRISTENSEN: Sure.

SENATOR BEUTLER: In Section 31 of the Standing Committee amendment, which is on the first page, beginning line 9, it talks about a company receiving, in lieu of the wage benefit credit, may receive, in lieu...in lieu of the wage benefit credit otherwise allowed by the Invest Nebraska Act, the incentive provided in this section, et cetera, et cetera. Okay?

SPEAKER KRISTENSEN: Just page...page and line, I'm sorry, one more time, please.

SENATOR BEUTLER: Page...it's on page 1 of the Standing Committee amendment,...

SPEAKER KRISTENSEN: Okay.

SENATOR BEUTLER: ...starting on line 9.

SPEAKER KRISTENSEN: Thank you.

SENATOR BEUTLER: The...in lieu of the benefit credit incentive.

SPEAKER KRISTENSEN: Okay.

SENATOR BEUTLER: Okay? Looking at that, then looking back on the top of page 3, and I'm looking at the pagination at the bottom of the page. So up at the top it says, subsection (5)(a). Are you with...are you with...

SPEAKER KRISTENSEN: I'm...I'm...I'm dealing with an AM. I'm sorry, Senator. Are you dealing with something different?

SENATOR BEUTLER: AM1184,...

SPEAKER KRISTENSEN: Okay.

SENATOR BEUTLER: ...one, two, three, four,...

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SPEAKER KRISTENSEN: Okay.

SENATOR BEUTLER: ...top of page 5, maybe on yours.

SPEAKER KRISTENSEN: Okay.

SENATOR BEUTLER: Subsection (5)(a)?

SPEAKER KRISTENSEN: I see it, yes, okay.

SENATOR BEUTLER: Okay, there it's talking about an individual shall be considered an employee, is included in the calculation of a wage benefit credit only if the compensation paid for the year is, et cetera, et cetera, et cetera. And in that section, you have set out the 100 percent average annual wage, and the 110, and the 120.

SPEAKER KRISTENSEN: Yes.

SENATOR BEUTLER: But the section seems to be talking for wage benefit credit only. Okay?

SPEAKER KRISTENSEN: Yes.

SENATOR BEUTLER: Now, if you flip back again to page 1, line 9, where it talks about the alternative incentive, in order to get that do you also have to have the average Nebraska wage of 100, 110, or 120?

SPEAKER KRISTENSEN: To...and I assume you're talking about if you're going to get the investment tax credit.

SENATOR BEUTLER: Yes.

SPEAKER KRISTENSEN: Yes. You must meet those levels of...

SENATOR BEUTLER: Where...where does it say that?

SPEAKER KRISTENSEN: It's...it's going to take me just a little bit to...to read through and leaf to do that, okay?

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SENATOR BEUTLER: Yeah, actually you don't have to answer it right now.

SPEAKER KRISTENSEN: The answer is yes,...

SENATOR BEUTLER: I'm looking for that link, and it's probably there, but I wanted to be sure it applied to both.

SPEAKER KRISTENSEN: I...I'm just going to read it, and...and if you have other questions, I'll be glad to listen while I'm finding that for you. But I'll find it before we're done.

SENATOR BEUTLER: Okay. Well, Senator Cudaback, I would just leave off and not take the body's time and I'll...I'll consult with Senator Kristensen. Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. Senator Wickersham, you're recognized to close, if there's no other discussion, on your amendment to LB 620.

SENATOR WICKERSHAM: Thank you, Mr. President. Well, it really is a simple amendment. It simply extends the period in which an appeal can be filed or a challenge of a board's decision to, I suppose, we characterized it in terms of the grant of an application. But I suppose there is some...some justification in saying that if a application was denied, if an application was denied what is the appropriate amount of time to allow the affected applicant to prepare an appeal or a challenge of the board's decision? I guess, if you were going to be hard-nosed about this you would say that those kind of persons ought to be able to get their act together in 30 days. Well, maybe 180 days would do them some good. Again, they might have some trouble analyzing and assessing the record and their legal position within the 30 days that are provided for, and I would suggest that 180 days actually helps them as well as the citizenry, and I would hope that you would support the amendment.

SENATOR CUDABACK: You've heard the closing on AM1480 to LB 620. The question before the body is, shall that amendment be adopted? All in favor vote aye, opposed nay. We are voting on the Wickersham amendment, AM1480, to LB 620. Have you all voted

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who wish to? Record, please, Mr. Clerk.

CLERK: 4 ayes, 19 nays, Mr. President, on the amendment.

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

CLERK: Mr. President, Senator Wickersham would move to amend with AM1484. (Legislative Journal page 1470.)

SENATOR CUDABACK: You're recognized to open on your amendment, AM1484, to LB 620, Senator Wickersham.

SENATOR WICKERSHAM: Mr. President, members of the body, this is a fairly simple...again, this is a fairly simple amendment, but this one has what I think is a very, very important and very substantive effect. And, in fact, it creates a kind of incentive. And I think it is the kind of incentive that meets some of the concerns that I thought I heard Senator Vrtiska expressing earlier and others expressing earlier that the kinds of projects that we see for the economic development incentive acts have not been spread across the state. Now we've made a variety of efforts to cause that to happen; to date it has not yet happened. The amendment that is being proposed is one that would give an additional incentive for that to happen. Remember, there is something in the bill as it now stands characterized as a "Rural Tier". Senator Vrtiska is going to ask us to lower the qualifications for participation in that "Rural Tier"; he has an amendment on file. However, the amendment that is before you now takes a different approach. It says that you won't qualify in the "Modified Quality Jobs Act Tier", in other words, you cannot have a granted application, you cannot have a granted application in the "Modified Quality Jobs Act Tier" until you have a qualified project in the "Rural Tier". What I think the amendment does is assure us that at least one project will occur in the "Rural Tier". Now it might only be one, because that's all the amendment requires. The amendment only requires that one project be accomplished in the "Rural Tier", but that be accomplished first, and then it opens the door for projects in what Senator Kristensen has characterized in his handout as the "Modified Quality Jobs Act Tier". Now, why is it

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important that we would use those kind of constraints? What has happened under the existing economic development acts is that the benefits have largely accrued in the most populous parts of the state. We've had a number of studies that have confirmed that for us. In addition, if you examine the information that is published annually by the Nebraska Department of Revenue showing what the annual average tax liability is per filer or per capita for individuals in the state of Nebraska, I think you'll be startled by the results. The last...the most recent year that we have information for, we have four counties that are at the average on the per capita tax liability, only four. So you have 93 (sic--89) counties that are below the average; 4 that are above the average. We have a substantially skewed economy in the state of Nebraska. The same thing, the same kind of pattern holds true if you examine sales tax receipts on a per capita basis. You see that there are areas in the state where we have very robust economic activity, and the rest of the state that is not doing nearly as well. And that is not a new phenomenon; that is a phenomenon that if you track the data that is available through the annual report published by the Department of Revenue, you'll see that it is a longstanding problem and that none of the economic development acts that we have passed thus far have done anything to remedy it. Now we have had individual examples where activities have taken place, but they have not ultimately resolved the issue. I think many people who try to think about how to resolve the issue are quite taken aback, they do not know how to resolve the economic issues that the data will show you clearly exists. I'm not going to suggest that the amendment that I'm proposing would be a solution to that divided economy that we have in the state of Nebraska, but I'm going to suggest to you that it couldn't hurt anything. It would assure that we have at least one project in the rural areas before we have the other projects. And I think, quite frankly, that would create an incentive to make sure that the economic developers and the other persons who are probably a lot more interested, quite frankly, without being pejorative about it, that are a lot more interested in the middle tier projects would somehow find and promote and cause a "Rural Tier" project to go forward where we might otherwise find people just kind of shrugging their shoulders and saying we don't know how we're going to use that; it doesn't seem to fit; it doesn't seem

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to work. Well, if you have a little bit more incentive, in other words the richer package of advantages that is in the middle tier, you might indeed be able to find some way to find a project, just one project, that would work in the "Rural Tier"; get that promoted, get that done and then take advantage of the provisions that are in the "Modified Quality Job Acts Tier". And, Senator Vrtiska, I'm not trying to suggest that your amendment does not have merit but I think, quite frankly, this amendment would meet some of your concerns.

SENATOR CUDABACK: You've heard the opening on AM1484 to LB 620. Open for discussion on that amendment. Senator Kristensen, you're recognized.

SPEAKER KRISTENSEN: Thank you, Mr. President. Members of the Legislature, I rise to oppose this particular amendment and I think you...you know, I think, this amendment is unfortunate. What this amendment does is basically say, well, you know what, until we get a rural project, we're not going to have any other projects in the state. And it perpetuates what we all profess, and unfortunately from time to time occurs here, is a rural versus urban split, putting those of us in the middle in a position we don't want to be in. How do you say that you shouldn't go first in the rural area? Well, you don't. What you say is that you're qualifying, you do it. In effect, what this amendment does is tweak and allows Senator Wickersham to try to pit rural Nebraska and tug on their string, saying us first, us first. Well, unfortunately, that's the exact sort of behavior that I think perpetuates a rural/urban split in this Legislature. Can we do it? Sure. Sometimes is it effective? Yes. But that...that's really not the purpose to be here. If you don't like the bill, don't vote again...you know, don't vote for it; vote against it. But don't...don't try to stir up a rural/urban split and try to put your rural friends in a box. And that's the reason, you know, if that was a...a policy that had a good one, and my guess is that the Revenue Committee, in their careful consideration, would have brought that up and looked at it, and they didn't. And I just think that it's amendments like this that unnecessarily deepen those rifts between colleagues, and I would hope that you would see that for what it is and vote against it. Beyond that, I don't even think

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the amendment deserves much more comment, thank you.

PRESIDENT MAURSTAD PRESIDING

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

SENATOR VRTISKA: Thank you, Mr. President. Members of the body, I...I stand in support of the amendment, but I would like to place in your memory that, if you vote for this, I'd like to have you vote for my amendment that's coming up, and that would change the tier down to a lower level, where I don't think there would be any problem with anybody in being able to qualify for the advantage they can take of this legislation. I think it would happen so quickly that...and I don't think it's an urban/rural split. I think it's just a case of trying to do the same thing for some small communities across the state that we're trying to do for some of the large communities. And I support those things for some of those large communities because I understand the dynamics of it, I understand the revenues that are generated and it helps us all. But while we're doing that I would like to see an opportunity for some of the smaller communities to take advantage of it. And I think lowering it to the level that I'm talking about, \$10 million and 25 jobs, would not be a difficult mark to reach, would give an advantage for a community to jump in, we're only talking about one, and take advantage of it soon as the bill is in place. And I can assure you I'm...that that, in my mind, no doubt would happen. So I don't think it's pitting one against the other, I think it's just giving an opportunity for each side to...each...each group of...of communities to have the same advantage. Because obviously the community that I talked to you about earlier, that's in my district, could not have reached the...they have reached it, but they couldn't at the outset reach the level that the lower tier now dictates or suggests. But they could have very easily reached the level that I'm talking about, and would have created those jobs, albeit certainly not 500 jobs, or 250 jobs, but 25 jobs. And I think most of you recognize that 25 jobs in a small community is even probably more than 250 or 500 jobs in one of the larger communities. So I guess I would hope that you would consider this amendment and then, when

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you're through with that, when my amendments come up you would look at it carefully and agree that this is the right thing to do; this is the right thing because it helps the whole bill, as far as I can see. I've said from the beginning that I supported this legislation simply because I know the effect of it. I know how it helps create jobs, and jobs pay money, and money pays taxes, and that's what keeps...makes the world go round. So, I...I'm just letting you know that I'm supporting this. I just am trying to get a small, small, small piece for some of our communities who could never reach the level of hiring 250 or 500 people because, first of all, they're not available without bringing them in from the outside; secondly, there's not housing or infrastructure there to support those kind of jobs if they were made available. So I think what I've asked you to do is fair and simple and it's not a tremendous thing. And so if you see that this is a...I want my amendment to go in any event, but I guess certainly if...

PRESIDENT MAURSTAD: One minute.

SENATOR VRTISKA: ...if this amendment were to pass, mine would be certainly a great advantage, would be advantageous to this piece of legislation because the effects could take...would be almost immediately. I think there would be an immediate attempt to secure a part into this piece of legislation. So I hope you look at the overall picture and don't look at this as a rural/urban issue by any stretch. With that, thank you.

PRESIDENT MAURSTAD: Senator Wick...Senator Wickersham, followed by Senator Chambers.

SENATOR WICKERSHAM: Mr. President, I'm...I'm sorry that Senator Kristensen is not seeing this amendment for what it is. I'm not attempting to promote a division amongst you. I want you to think about what the true economic conditions in this state are and what we might be able to do about them. Now, if it makes anybody uncomfortable to state that we have a very robust economy in a very limited portion of the state, and that we have a much worse economy in other parts of the state, and you want to continue that, fine. But that's the issue that this amendment begins to address and begins to direct our attention

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to. I can't imagine why Senator Kristensen bothered to put what he calls, what he calls a "Rural Tier" in the bill if he was not concerned about those areas in the state that aren't doing very well economically. And they do happen to be rural. That's a fact. But if he wasn't concerned about them, and if he didn't want to bring up the rural/urban split, if there is such a thing, why does he have something he calls a "Rural Tier" in his bill? If he's attempting to do something that he thinks is for rural communities, why not give it a little kick? And that's the purpose of this amendment. Now, Senator Kristensen says that it is for the purpose of making sure that you get yours first. Well, it doesn't do that either. The fact of the matter is what we're talking about here is the renewal of the Quality Jobs Act, and guess what? There have already been seven applications approved under the Quality Jobs Act. This is a renewal of the Quality Jobs Act. At the worst, at the worst what Senator Kristensen could be describing is a sandwiching, just a sandwiching of a project in the "Rural Tier" between seven existing applications and any future applications that might come in during the five-year period that this extension or this renewal of the Quality Jobs Act would be in place. I am, quite frankly, a little befuddled by his opposition. Why should it be opposed? Why should it be opposed? Why should it be improper to create an incentive to actually implement one of the provisions that he put in the bill? Why would anyone oppose arguably making a provision in their own bill more effective? Why would anyone oppose adding a provision in a bill that might assure them that the provision they had in the bill would actually be used? I think, if anything, the reason for Senator Kristensen's opposition...

PRESIDENT MAURSTAD: One minute.

SENATOR WICKERSHAM: ...would require additional discussion, even if you don't like the merits of the bill, of the proposal. Why, why, why, why, why oppose something that actually makes what you're attempting to do and what you've recognized yourself, why, why not enhance the chances that that would be effective?

PRESIDENT MAURSTAD: Senator Wickeraham, you're recognized to

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close.

SENATOR WICKERSHAM: Mr. President, members of the body, the amendment that is being proposed very simply says that on this extension of the Quality Jobs Act that the...what Senator Kristensen characterizes as the "Modified Tier" would not have any new applications approved until there was an application approved in the "Rural Tier". Very, very, very simple. We already have seven, seven approved applications in the same program that would now be characterized as a "Modified Quality Jobs Act Tier"; seven of them already exist. There is...there are the opportunity for more, because there's going to be a five-year window open. It may be relatively easy to do something in the "Modified Quality Jobs Act Tier". It may be harder to do something in the...what Senator Kristensen has characterized as the "Rural Tier". If it is harder to do something in the "Rural Tier", why should we not do, in this bill, something that will give persons an incentive to work a little bit harder to do that? If it is hard to do, maybe they need an extra incentive. Kind of fits the model, doesn't it? If it is harder to do, give them a greater incentive to do it. That's what the amendment does and I would hope that you would support it.

PRESIDENT MAURSTAD: Thank you, Senator Wickersham. The question is the adoption of AM1484 to LB 620. Those in favor vote aye; those opposed vote nay. Mr. Clerk, please record.

CLERK: 3 ayes, 20 nays, Mr. President, on the amendment.

PRESIDENT MAURSTAD: Amendment is not agreed to. Items for the record, Mr. Clerk?

CLERK: Thank you, Mr. President. I have amendments to be printed to LB 620 by Senators Wickersham and Vrtiska. Senator Chambers has an amendment to LB 659 to be printed. (Legislative Journal pages 1471-1472.)

Mr. President, I have a priority motion. Senator Beutler would move to adjourn until nine o'clock, Thursday morning, April 12.

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PRESIDENT MAURSTAD: Motion is to adjourn. Those in favor say
aye. Opposed nay. We are adjourned.

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