

FEBRUARY 4, 2005

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February 4, 2005 LB 21, 33, 52, 61, 89, 96, 119, 169, 175
 176, 261, 274, 301

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Good morning. Welcome to the George W. Norris Legislative Chamber. Our acting chaplain this morning is Senator Kise, from the 13th District. Senator Kruse.

SENATOR KRUSE: (Prayer offered.)

SENATOR CUDABACK: Thank you, Senator Kruse, for doing that for us. We appreciate it. I call the twenty-first day of the Ninety-Ninth Legislature, First Session, to order. Senators, please check in. Record please, Mr. Clerk.

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

SENATOR CUDABACK: Any corrections for the Journal?

CLERK: Mr. President, I have no corrections at this time.

SENATOR CUDABACK: Any reports, announcements, or messages?

CLERK: Your Committee on Enrollment and Review reports LB 119, LB 33, LB 21, LB 261, LB 169, LB 52, LB 61, LB 89, LB 175, LB 176, LB 301, and LB 96 to Select File, some of those having Enrollment and Review amendments attached. Your Committee on Transportation, chaired by Senator Baker, reports LB 274 to General File with committee amendments attached; that report signed by Senator Baker. I have hearing notices from Transportation Committee, and from the Business and Labor Committee, signed by their respective Chairs. I have a confirmation report from the Natural Resources Committee. Mr. President, an appointment from the Governor regarding an appointment to the Nebraska Accountability and Disclosure Commission. Mr. President, I have a communication from the state of Louisiana. That will be reflected in the Journal and on file in the Clerk's Office, available for member review. And I have a report of registered lobbyists for this week. And finally, Mr. President, received reports from the GIS Steering Committee, the Health and Human Services System, and the Investment Finance Authority. All of those will be on file in the Clerk's Office. That's all that I have at this time,

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Mr. President. (Also, a report from the Department of Revenue, Legislative Journal pages 431-438.)

SENATOR CUDABACK: Thank you, Mr. Clerk. (Doctor of the day introduced.) Mr. Clerk, General File, LB 383.

CLERK: Mr. President, LB 383, a bill introduced by Senator Landis. (Read title.) Bill was introduced on January 12, at that time referred to the Revenue Committee, advanced to General File. I have no amendments to the bill at this time, Mr. President.

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Landis, to open on LB 383.

SENATOR LANDIS: Thank you, Mr. President, members of the Legislature. The Nebraska state tax code makes many references to the federal tax code and, normally, we've just said the federal tax code, recognizing that the federal tax code changes year by year. Well, what we have in this bill is an idea that sprang up under Chairman Wickersham five years ago or so, maybe a little bit longer. It's an annual bill that we use so that when the Nebraska statutes say "as referred to in the federal tax code," that we are responding to the current tax code or the most recent tax code, rather than the tax code when that provision of Nebraska law was passed. So if you pass a bill in 1992 that makes reference to the federal tax code, and it says blah, blah, blah, blah, Nebraska state tax code as defined in federal section blank, blank, blank of the federal tax code in 1992, and it's now 1998 and there's been a couple of definitional changes in the intervening year in that section, what do you use? Do you use the 1992 definition, or the 1998 definition with the federal definitional changes? This says you use the current definition...definitions, essentially. It's an annual bill. It's needed to update statutory references to the Internal Revenue Code that are outside the income tax statutes. The bill would amend 49-801.01 to state that references to the Internal Revenue Code mean the code as it exists on the effective date of this bill, instead of April 16, 2004. We're updating our reference to whatever federal tax changes have occurred in the last year. I would urge the advancement of this

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annual piece of legislation.

SENATOR CUDABACK: Thank you, Senator Landis. You've heard the opening on LB 383. Now open for discussion on the advancement of LB 383. Senator Landis, there are no lights on. He waives closing. The question before the body is, shall LB 383 advance to E & R Initial? All in favor vote aye; opposed, nay. The question before the body is advancement of LB 383. We're voting on the advancement of LB 383, offered by Senator Landis. Have you all voted on the advancement who care to? Record please, Mr. Clerk.

CLERK: 28 ayes, 0 nays, Mr. President, on the advancement of LB 383.

SENATOR CUDABACK: LB 383 advances. Mr. Clerk, LB 216.

CLERK: LB 216, offered by the Revenue Committee. (Read title.) The bill was introduced on January 7, referred to the Revenue Committee, advanced to General File. I do have committee amendments to the bill, Mr. President. (AM0042, Legislative Journal page 337.)

SENATOR CUDABACK: Senator Landis, Chairman of the Revenue Committee, you're recognized to open on advancement of LB 216.

SENATOR LANDIS: Thank you. In fact, there will be a bill, there will be some committee amendments, and then there will be two floor amendments. One appears in your gadget, as Senator Chambers calls it; one was drafted by Senator Brashear's staff and myself but a moment ago. LB 216 is a Revenue Committee bill. It is the annual proposal from the Revenue Department for the updating of their administration of the Revenue Acts of the state of Nebraska. One of the first things that it does is to lower from \$100,000 to \$20,000 that amount of taxes paid in a year for which the tax administrator would have the authority to require an electronic transfer. By the way, the department says that an electronic transfer saves the department significant costs of administration. They want to promote this idea. Right now taxpayers over \$100,000 are required to do this. I think it's fair to expect that the tax administrator, given the amount

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of savings that could be engendered by this amendment, will probably make use of this authority, even though it's permissive. This would impose reporting responsibilities and requirements for confidentiality for the employees of the State Treasurer and DAS that are the same for the employees of the Department of Revenue, and this is where they're handling sensitive and confidential tax information. It would broaden the sales tax exemption for school groups and booster clubs. Right now booster clubs who put on a meal to support a school organization offers that meal without paying taxes, but if you buy a Coke and just the chips without the hot dog, the pieces are taxed by sales tax. This would just say booster clubs and school functions like this, when they sell food, that kind of thing, it is in fact tax-exempt. It eases the withholding burden on publicly-traded partnerships, and it adds to the list of exempt health-care agencies, home health-care agencies, hospices, and respite care service agencies. So those are tax-exempt health-care agencies for the purposes of our statutes. When an employer sponsors an annuity, this would require withholding to pay for that annuity. It imposes withholding requirements on contracted payroll service companies, and that will be the source of an amendment in just a moment to clarify that. By the way, contracted payroll service companies support this idea. It allows the payroll company to withhold for all of the people that they're doing business for and it makes it cost effective for the company and for the employees as well, and, by the way, concurrently easier to administer for the state of Nebraska. It would require a filing of a Nebraska amended return within 90 days of the related federal return, and that is something in fact we did amend in the committee to respond to some testimony that we got. It would also provide that appeals for deficiency determinations are to be done in the District Court of Lancaster County. Those are the general topics in this measure. The bill did engender one testifier and that was Bill Peters, a former Tax Commissioner, who made one suggestion for the bill. I will say this: Bill is now out in a private practice. In fact, if there's anybody who sues the state of Nebraska on tax issues more than Bill Peters, I don't know who they are, because Bill is a talented lawyer in the area and, in fact, he found but one area in the...from a taxpayer perspective, if you will, where he

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made his suggestion. The committee took it and we'll find it in a moment when we get to the committee amendments. Mr. President, that's a fair description of the general terms of LB 216 on behalf of the Revenue Committee.

SENATOR CUDABACK: Senator Landis, you are recognized to open on the Revenue Committee amendments to LB 216.

SENATOR LANDIS: Okay. Well, the amendment has to do with filing an amended Nebraska return, usually after there's been a delay in the filing of a federal return. That's the normal circumstance that would occasion this situation. And the department said, look, if you're going to have this federal return, then your state return will be...your state amended return will be 90 days after your amended federal return. However, you could have a situation in which the statutes grant you a period of time to make an amended return, which we have under our statutes. The federal return could be done early in that time line and the state would then impose a 90-day return obligation from the filing of the federal return, knowing that the state obligation might be two years out. So what we agreed to do was to say this: Provide that the deadline for the filing of an amended Nebraska return is either 90 days after the related federal return, so that a taxpayer will get at least 90 days; or if they have more time under their state allowable period of time, then they get to use the usual deadline for the amended state return, whichever is later. In other words, what you can't have is less than 90 days to file an amended state return, and if you are entitled to more time than that under current law, you get more time. That's the committee amendment and I would ask for the adoption of the committee amendment.

SENATOR CUDABACK: You've heard the opening on the committee amendments to LB 216. Mr. Clerk, motion on the desk? Okay. Open for discussion on the committee amendments. Senator Landis, there are no lights on. You may close.

SENATOR LANDIS: To reiterate, the taxpayer is in no way prejudiced, but in fact is guaranteed a 90-day window at a minimum, and I think this is a taxpayer-friendly committee amendment. I would urge its adoption.

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SENATOR CUDABACK: The question before the body is adoption of the committee amendments, AM0042, to LB 216. All in favor vote aye; opposed, nay. The question before the body is adoption of the committee amendments offered by the Revenue Committee to LB 216. Have you all voted on the issue who care to? Record please, Mr. Clerk.

CLERK: 28 ayes, 0 nays, Mr. President, on adoption of committee amendments.

SENATOR CUDABACK: Committee amendments have been adopted. Mr. Clerk, next motion.

CLERK: Mr. President, Senator Landis would move to amend LB 216 with AM0216. (Legislative Journal page 419.)

SENATOR CUDABACK: Senator Landis, you're recognized to open on AM0216 to LB 216.

SENATOR LANDIS: Thank you, Senator Cudaback, members of the Legislature. Shortly after the bill was reported out, we received a letter from the National Payroll Reporting Consortium and they asked us as to the intent of some of the language that had been reported out because, while they supported the general notion of the bill, they thought that the language might have an ambiguity that would implicate their members, and they wanted to know from the Department of Revenue their intentions. The Department of Revenue made clear what their intentions were and, in fact, to capture that intention accurately and cut off the ambiguity, this amendment is offered. What the section is, is Section 14 of LB 216 and this is to allow employers to appoint a common pay agent. Now, a common pay agent is defined, under the IRC, the Internal Revenue Code, in Section 3504, to pay and file withholding taxes on a consolidated basis. Particularly where you have employees spread out in different situations and what you do is you get a common pay agent. The common pay agent allows the employer to have this one person who is responsible for the withholding taxes for all of these diverse, let's say, people working at home, employees, and cover all of their withholdings simultaneously. Good idea, easy administration,

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good for business, good for the taxpayer, good for the government because it gets a known professional to do the work. However, when we make reference to that in the bill, we did not reference the Internal Revenue Code section and, because of that, it would be possible to confuse the common pay agent with a payroll service provider, and these are two different functions. So what the department wanted was to get to the common pay agent and to do that we needed a clarifying amendment. We needed to clarify that payroll agents are those to be subject to withholding, are those considered by such as by the federal Internal Revenue Service. The clarification, again, sponsored or suggested by National Payroll Reporting; the Department of Revenue agreed and what the provision says essentially is any employer or payor may appoint an agent--new language--in accordance with Internal Revenue Code 3504. Had we received the letter before we dealt with the committee bill, we would have been able to include this in the committee amendment, but we caught this shortly after the bill came up for floor consideration. I ask for the adoption of the committee amendment.

SENATOR CUDABACK: Thank you, Senator Landis. You've heard the opening on AM0216, which is an amendment to LB 216. (Visitors introduced.) On with discussion of AM0216. Any senator wishing to speak to AM0216 to LB 216? Seeing no lights on, Senator Landis. He waives the opportunity to close. The question before the body is adoption of AM0216 to LB 216. All in favor vote aye; opposed, nay. Voting on AM0216, offered by Senator Landis to LB 216. Have you all voted on the question who care to? Record please, Mr. Clerk.

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

SENATOR CUDABACK: The motion was successful. The amendment has been adopted. Mr. Clerk, next motion on the desk.

CLERK: Mr. President, Senators Landis and Brashear would move to amend with FA11. (Legislative Journal page 438.)

SENATOR LANDIS: Thank you, Mr. Clerk. Senator Cudaback,

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members of the Legislature, this is a floor amendment drafted by Senator Brashear's staff and my staff as well. One of the provisions of this was to clarify an existing tax rule with respect to admissions. Understand that whether you are a profit-making or a nonprofit-making organization, if you sponsor a public event and you sell tickets, those tickets are taxed, so there's a sales tax on admissions, if you will, to a public event. That's true if you're at The Grand theater downtown in Lincoln; it's true if you are on a university campus and you're buying a ticket to a play. I've paid plenty of sales tax going to plays on the university campus. Now, what happens when you have a membership in an organization and the membership entitles you to free admissions? You're a member of a museum, but as a member of a museum you get five free admissions to the museum. Well, the statutes now say you divide those two values. You divide the contribution value and you separate out the admission value, and what we are doing here is to make sure that we retain that clarification that the contribution section of that kind of a membership fee would continue to be tax-exempt and only the admissions section would be subject to taxation. Additionally, the amendment in the bill makes for a clarification in this way. To get around the admissions language, on occasion some groups have said, you know what, become a member and then we'll give you admissions or usage and, because it's a membership but not an admission, you'll be able to come but you won't have to pay sales tax--I think an attempt to circumvent this statute. To get around that, the Revenue Department said, look, if you're a member, you're a voting member. You get a chance to decide policy. That's a membership. If that's a membership, fine; that certainly is tax-exempt. But if you're a member and you're not one of the people who gets to decide the organization, this is not...this is not a membership that is, on its face, tax-exempt. Membership where you get to vote for the leadership, absolutely, you are a member. Members where you aren't going to be able to choose who the leaders are begins to be something that could be a disguised form of admission. And so what this does is it helps clarify that...well, the provision in the bill helps clarify that bright line. What Senator Brashear brought to my attention was what about places where we have a clear membership, they meet the standards, people become a member and they vote, but they're also given free admissions

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as well? Is there any risk that we could somehow jeopardize the tax-exempt status of the membership? And I want to make perfectly clear that we have no intention of doing that. Department of Revenue doesn't want to do that. The Revenue Committee doesn't want to do that. We think it's existing law and we want it to be crystal-clear. I believe Senator Brashear and I agreed that this language makes that clear. I would yield the remainder of my time to Senator Brashear for his reaction.

SENATOR CUDABACK: Senator Brashear, you have about six minutes and a half.

SPEAKER BRASHEAR: Thank you, Mr. President. Members of the body, I am in complete concurrence with that which Senator Landis has presented, and I urge the adoption of the amendment and the advancement of the bill. Thank you.

SENATOR CUDABACK: Thank you, Senator Brashear. Further discussion on FALL, offered by Senator Landis and Senator Brashear? Seeing no lights on, Senator Landis, did...he waives the opportunity to close. Did you care to say something, Senator Brashear? The question before the body is, shall FALL be adopted to LB 216? All in favor vote aye; opposed, nay. Voting on FALL, offered by Senator Landis and Senator Brashear to LB 216. Have you all voted on the question who care to? Record please, Mr. Clerk.

CLERK: 28 ayes, 0 nays, Mr. President, on adoption of the amendment.

SENATOR CUDABACK: The amendment has been adopted.

CLERK: I have nothing further, Mr. President.

SENATOR CUDABACK: Further discussion on the advancement of LB 216 to E & R Initial? Anybody wishing to...seeing no lights on, Senator Landis, did you wish to close?

SENATOR LANDIS: I wanted to say thank you for the indulgence of the adoption of the last two amendments. Had we been able to catch them a little earlier, we could have saved some floor

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time, but they have come up later than the...the bill's early action by the committee, and I'm grateful for your indulgence. I ask for the advancement of LB 216 on behalf of the Revenue Committee.

SENATOR CUDABACK: Thank you, Senator Landis. You've heard the closing on advancement of LB 216. The question before the body is, shall LB 216 advance to E & R Initial? All in favor vote aye; opposed, nay. The question before the body is advancement of LB 216. Have you all voted who care to? Record please, Mr. Clerk.

CLERK: 29 ayes, 0 nays, Mr. President, on the advancement of LB 216.

SENATOR CUDABACK: LB 216 does advance. Mr. Clerk, LB 334.

CLERK: LB 334, introduced by Senator Janssen. (Read title.) The bill was introduced on January 11 of this year, referred to the Revenue Committee, advanced to General File. I do have Revenue Committee amendments, Mr. President. (AM0056, Legislative Journal page 337.)

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Janssen, to open on LB 334.

SENATOR JANSSEN: Thank you, Senator Cudaback. Members of the Legislature, LB 334 was heard in the Revenue Committee, January 21, and was advanced to General File, with one amendment, unanimously. LB 334 makes changes to the Community Development Assistance Act. The Community Development Assistance Act was created by the Legislature in 1985 to encourage contributions by business firms to community betterment organizations in their effort to provide more community service. Currently under this act, a business can make a contribution to an organization for community improvement projects in certain areas of the state, and receive the tax credit, up to 40 percent of the amount contributed. LB 334 makes three changes to that act. First, it makes individuals, as well as businesses, eligible to contribute and apply for the tax credits. Second, it adds entrepreneurial development to

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approved services. And last, it increases the total amount available to the department for tax credits from \$250,000 to \$500,000. The committee amendments lower this to a total available tax credit of \$350,000, an increase of \$100,000 over the current amount. That's about the size of it, Senator Cudaback.

SENATOR CUDABACK: You've heard the opening on LB 334. There are committee amendments offered by the Revenue Committee. Senator Landis, as Chairman, you're recognized to open on those amendments.

SENATOR LANDIS: Thank you, Mr. Speaker, members of the Legislature. The committee struck one of the three provisions of the bill. This is a measure that is a tax credit that currently is where a community development organization goes out and gets a corporation who will make a contribution, they get that contribution and they are able to give that corporation a tax deduction for making that contribution for a community development purpose. Over the life of this bill, which has been on the books for about 15 years, a total of \$3 million of tax credits have been used. Those \$3 million of tax credits have been part of community development programs which had a total cost of \$61 million. So we've provided \$3 million of tax credits for \$60 million of community betterment--not a bad ratio, not a bad proportion. However, those kinds of things need to be to provide the provision of services that a neighborhood might need or that wouldn't be forthcoming from the city. It might be an anticrime program. It might be assistance to organizations. But it has a relatively tight set of criteria to it, certainly by comparison to, let's say, our TIF statute, which says blighted and substandard, which is (laugh)...which is regularly found in cornfields and terrifically valuable property in the hearts of towns. Our TIF standard has been really a standard with no purpose. This standards, in fact, have some teeth to them, some significance, and the bill has been relatively well administered and well carried out. So, when the proponents wanted us to allow the tax credits to include entrepreneurial training, it seemed to go past community development and into economic development. It went past making neighborhoods stronger and it got into the place of essentially

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the kinds of things that perhaps a chamber of commerce should be doing, or that some other organization should be doing, for which a tax deduction should not be necessary. So we struck the reference that community betterment included entrepreneurial training. We've kept it to its traditional purposes. However, the other two changes that are still there are the tax credit goes to individuals, and the absolute max of this amount of tax deduction in any one year, which is now \$250,000 and has been that for way for 15 years, moves to \$350,000; not \$500,000 in the bill, \$350,000, \$100,000 more of authorized tax credits for community development in a program that has, by the way, proven to be pretty darn successful and pretty good bang for your buck on...with respect to the amount of credits given and the amount of community development that we've received in return. Thank you, Mr. Speaker.

SENATOR CUDABACK: Thank you, Senator Landis. You've heard the opening on AM0056 by Chairman Landis. Open for discussion on those committee amendments. Senator Stuhr.

SENATOR STUHR: Thank you, Mr. President and members of the body. I stand in support of LB 334. I wanted to add that it is one of the priorities of the Rural Development Commission that they have selected as one of their priorities for this session. We certainly do support adding the individuals, making them eligible to receive the tax credits. Adding individuals, we feel, will really help to encourage local investment in communities, and the more that individuals invest in their local communities, the better equipped these communities are to become more developed and to retain our citizens in these communities. In the last ten years, I wanted to share with you that approximately 71 percent of the projects that used these funds from the CDAA were in rural communities, but the other 29 percent were also in Lincoln and the Omaha areas. And this is a tool, really, that works for rural communities without excluding some of the distressed urban areas. So I think it's a win-win situation for our entire state and it does help, too. I think it has a proven track record that it does help to improve our communities in various ways. And if you would look at the list of projects that have been completed, they do run from one end of the state to the other. So I certainly think that

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this...I support the amendment. Even though we were asking for some additional funding, I believe it's fair that the committee came out with the \$350,000 tax credit. And we do really believe that this is an appropriate tool that can be used in many communities across the state. So, thank you, and I give the rest of my time back to the Chair. Thanks.

SENATOR CUDABACK: Thank you, Senator Stuhr. Next speaker, Senator Howard, you're recognized to speak.

SENATOR HOWARD: Thank you, Senator, Chairman. I would like to add my endorsement to the words spoken by Senator Stuhr and Senator Landis. I recently had a conversation with representatives from Omaha and was very impressed by the monitoring that they have done of the amount of money that's been given to them in the past. So I fully expect they'll continue their good works, and would endorse the bill. Thank you, sir.

SENATOR CUDABACK: Thank you, Senator Howard. Other senators wishing to speak to the committee amendments? There are no lights on. Senator Landis, you're recognized to close on the committee amendments.

SENATOR LANDIS: \$100,000 added to the cap, so it goes up to \$350,000 in a year, and individuals can participate. By the way, the presence of individuals will, I think, make this used more, and the track record of this program is pretty darn good for community development. I support Senator...I concur with Senator Howard's characterization that this has had a relatively impressive record of utilization and bang for buck. I ask for the adoption of the committee amendment.

SENATOR CUDABACK: Thank you, Senator Landis. You've heard the closing on the committee amendments. The question before the body is, shall AM0056, offered by the Revenue Committee, be adopted? All in favor vote aye; opposed, nay. The question before the body is adoption of the committee amendments. Have you all voted on the question who care to? Record please, Mr. Clerk.

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CLERK: 31 ayes, 0 nays, Mr. President, on the adoption of committee amendments.

SENATOR CUDABACK: The motion was successful. The amendments have been adopted. Anything further on the bill, Mr. Clerk?

CLERK: Nothing further, Mr. President.

SENATOR CUDABACK: Thank you. Discussion of the advancement of the bill itself? Senator Landis, your light is on.

SENATOR LANDIS: Thank you, Mr. Speaker. Members of the Legislature, I'm going to take a couple of minutes to do something rather unusual. I'm going to be talking about this bill, which I support, and compare it to a bill that we'll be seeing Monday, which I don't support, which I think overwhelmingly the body will support and has been lobbied very hard for. But, since I'll be in Madison, Wisconsin, on Monday, as a citizen senator, making some money and won't be here, and since I think the bill has been strategically moved to Monday because I won't be here on Monday, I think I'll just have a few words to say now about LB 28, the coming bill with respect to charitable...or contributions to foundations. I am not...I'm not unrealistic here. My guess is that there are at least 35 to 40 commitments for that bill on the floor. Let me make a few remarks about the bill. First, this bill has tight purposes. They're listed statutorily. LB 28 is any foundation for any 501(c)(3) in the state of Nebraska. I went to a museum in Los Angeles one day. They had miniatures and they were beautiful. It was a pleasant time to go around, but they were little dollhouses, if you will. At the door on my way out, they had a bill that they sold...a book that they sold called, Beating all Taxes by Becoming a 501(c)(3). The family ran the museum, which was their hobby, then hired themselves, paid themselves, created a foundation and became entirely tax-deductible for which, with the planned giving of LB 28, will be entirely tax-free, up to \$10,000 a year under the bill, because there are no limits to the bill, as opposed to this one that says, you know, what, it's got to be for community development. So that's one problem that LB 28 has that this provision doesn't have. A second thing that this bill has,

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which I think is wise, is a cap. It says \$350,000 is what we're going to spend for community development through the tax credit mechanism, and there is no cap in LB 28. It can go as high as we want. The fiscal note is now 5 million bucks. Okay? I think that's problematical. I think a third difficulty of this bill is that this, I think, isn't something that you can't use to the point that it dulls the progressivity of our income tax code, because it's capped and it's modest. You use the kinds of...you use the kind of tax planning that LB 28 uses if you are above an estate of \$1 million under a state exemption, or a \$1.5 million for a federal credit, because you get that much tax exemption now. You do an LB 28 contribution if you are a millionaire. That's where it starts. The people who have a rational purpose for using LB 28 are millionaires, which means that we'll be reducing the wealthiest taxpayers by the use of the tax credit. A fourth problem that this bill doesn't have, this bill says give me the money now; get the public benefit now. Under LB 28, you get the tax credit today; we don't get the benefit until you die, which could be 30 years later, which means I think that's problematical. Fourth, this bill, I think, which is now both individuals and corporations, is for the purpose of accessing current needs for community development. LB 28 says in its argument, we're about to have a generational change of wealth and that generational change of wealth is wealthy people in Nebraska with big farms who might move out and leave their money to someplace else if there isn't a tax-attractive place to leave it in Nebraska. All right, if there's going to be a generational change of wealth, it's got to be for an individual, doesn't it, because generations trade money. Corporations don't have generations, do they? They are perpetual. But you know what LB 28 gives a tax credit to? Corporations. This whole idea that we're going to protect...

SENATOR CUDABACK: One minute.

SENATOR LANDIS: ...a generation of giving doesn't apply to corporations, because there is no generational thinking for them. There is no tax implication. But LB 28 is a tax credit for corporations as well. The selling purpose of LB 28 is very different than the operation. I'll tell you, LB 334, Senator Janssen's bill, is the carrying over of a capped, tight, current

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bill in which we get very dramatic exchanges. That is not going to be true for LB 28, and I understand 35 of you, I'm going to guess, at a minimum are committed to voting for it. I just wanted to tell you that, as the Revenue Chair, when you see my "no" vote coming out of committee, those are some of the reasons I voted no against the bill. And on Monday, when I'm gone, making a little money, and it comes up strategically on that day, I won't get a chance to make these arguments then. I'm making them today. Thank you, Mr. Speaker.

SENATOR CUDABACK: Thank you, Senator Landis. Senator Landis, your light is next. You may continue, if you care to.

SENATOR LANDIS: I've had my say.

SENATOR CUDABACK: Senator Landis waives his right to speak. Any further senators wishing to speak on advancement of LB 334? Seeing no lights on, Senator Janssen, you're recognized to close.

SENATOR JANSSEN: Thank you, Senator Cudaback. I don't know I need to close after Senator Landis' statements that he made. All I can say is deja vu. That's it. Thank you.

SENATOR CUDABACK: Thank you, Senator Janssen. You've heard the closing on advancement. The question before the body is, shall LB 334 advance to E & R Initial? All in favor vote aye; opposed, nay. The question before the body is advancement of LB 334. Have you all voted who care to? Record please, Mr. Clerk.

CLERK: 36 ayes, 0 nays, Mr. President, on the advancement of LB 334.

SENATOR CUDABACK: LB 334 does advance. Mr. Clerk, LB 37.

CLERK: LB 37, Mr. President, is by Senator Schimek. (Read title.) The bill was introduced on January 6, referred to the Government Committee, advanced to General File. I have no amendments to the bill.

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SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Schimek, to open on advancement of LB 37.

SENATOR SCHIMEK: Yes, thank you, Mr. President and members. I could open by saying this is a simple bill, and actually it is a simple bill in that it is...only has three very simple provisions in it; however, I don't think this is going to be a simple bill in terms of conversation. This bill is about the Hall of Fame Commission, which is something that we established in statute a long time ago and have done some updating to those statutes over the years. In 1996, I believe it was, then Senator Don Wesely introduced a bill because he was concerned that we were inducting far too many people into the Hall of Fame; that the Hall of Fame should be reserved for those very distinct and definite leaders in our state. And we made some changes in the bill then. We...I remember one of the things we did is we changed the length of time under which someone could be considered to the Hall...for the Hall of Fame after their deaths would be 35 years. Now, that bill originally said 50 years, and that's one of the provision in this, in this bill, that I want to alert you to. But I became concerned about the process again, after the flap over the Hall of Fame nominees last fall, and actually sat down with the Historical Society, which houses the Hall of Fame or staffs the Hall of Fame, and talked with them about it. And the result of those conversations was that we came up with a bill that had three recommendations. First of all, we thought that the Governor should be required to consider gender and ethnic diversity and appreciation from...for Nebraska history and culture when making an appointment to the Hall of Fame Commission. And without even looking at who the present commissioners are, and they meet some of these criteria, we thought that that was something that should definitely always be considered, and I do understand that there are people on the society right now...or the Hall of Fame right now who do have backgrounds in history and do have knowledge of the state. The second provision is that the Nebraska Hall of Fame would hold...would hold public hearings when doing the Hall of Fame selection. Right now, to the best of my knowledge, it's usually one hearing and then a selection. And in the discussions we felt that it should be a five-year period to consider, to take those nominations, and then to have

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hearings in the last half of that five-year period, and that they be in each congressional district. If you recall, during the last Hall of Fame Commission meeting there were students from clear out in Chadron, Nebraska, who drove clear down here to have their say on the selection process, and we should probably make that part of the process more accessible. We also talked with the director of the society about getting the initial information out in the first place about the selection process so that people could be thinking about this. The third thing that the bill does require is that the person be deceased at least 50 years, and the thinking behind it is that, again, so that we don't eventually end up 100 years from now with Hall of Fame nominees all around this Capitol. We think it should be reserved for those people who are truly, truly outstanding and that they, in order to judge that, that person should be deceased for a substantial amount of time. Now, I know we're going to have some conversation about that part of it later on, because Senator Brown and I have just had a conversation about it, but the bill's intention is to make the process better. And I think that...I think that we have an obligation to do something about the process this year, and I would just like to encourage you all to take part in the debate and to discuss this and to put something forward this year. With that, Mr. Chairman, I would return my time to the Chair.

SENATOR CUDABACK: Thank you, Senator Schimek. You've heard the opening on the advancement of LB 37. Open for discussion of that motion? Senator Chambers, followed by Senator Brown. Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, I would like to ask a question of the presiding officer. Are we going to adjourn at noon?

SENATOR CUDABACK: Maybe not exactly at noon. If we can move the bill by 12:10...

SENATOR CHAMBERS: Oh, you're not going to move the bill. So maybe I need to talk to show you're not going to move it. Then we will go on and get out of here. I'm not going to offer any amendments, but I'm willing to keep us here until 1:30, when I

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have a Judiciary Committee hearing where we've got some atrocious bills talking about methamphetamine. And law enforcement thinks that I'm going to accept a law enforcement solution to a problem by creating a set of circumstances where they might have carte blanche to consider anybody who buys a product with ephedrine or pseudoephedrine in it is probably going to use it to make meth, so they can get a search warrant to go into these people's houses. They want a log to be kept, people to sign the log. There is so much in the way of Big Brotherism, unreasonable infringement on the rights of citizens by law enforcement that I just...I don't trust them when they bring anything. So maybe if we stay here until 1:30, we can drain off some of the hostility that I feel toward what they're going to present, and they will have an easier time of it. Then, if they see any of you all on the highway going above the speed limit, you won't get a ticket because they will say you drained off a lot of the venom of the king cobra and, instead of being a king cobra, he was reduced to the status of a king snake. That is one which has no venom whatsoever. This bill is not one that I support. I would rather you do away with this whole concept of a Hall of Fame. One of the most blatant, lacking-in-taste images out there is a person with a...with the World-Herald, holding a copy of the World-Herald with Omaha World-Herald written on it. That's a cheap, chintzy advertisement for the World-Herald. It cheapens the whole concept. It's an ad. Rather than say 50 years, do away with the whole thing and let whoever paid for some of those atrocities out there have them. Let the World-Herald take that thing and put it on a pedestal in front of their building, but it certainly shouldn't be in a hallway where you're recognizing people who have done something of consequence. Then you've got grocers. Now, I'm sure Senator Cunningham would like that because maybe he can get in the Hall of Fame, because not only is he a grocer, but he's the head of a grocers' organization. Nothing against grocers. They are essential. In fact, I'll probably give some of my money to a grocer before the day is over. But they should not be in the Hall of Fame. It is becoming a corridor of shamefulness on the part of those who make these simpleminded placements. How much time do I have on this one, Mr. President?

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SENATOR CUDABACK: About 1, 25, Senator.

SENATOR CHAMBERS: Okay, because you were looking a little nervous and I didn't want to run overtime, and I will not run overtime. Soon as my time is up, I'm going to stop.

SENATOR CUDABACK: It's your time, Senator.

SENATOR CHAMBERS: Okay. But I'm...I want to assure you I'm not going to take any more than my time. Senator Schimek has stated, and I believe her, that this bill was not brought with any specific individual in contemplation. I believe that.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: I have no question about that. However, I do have an individual in mind whom I think should be there, and that's Malcolm X. Most people in Nebraska, after they have croaked, will not be remembered 50 years from now by anybody. Nobody will know what they did. The only reason you remember Henry Fonda and some of these people, they made movies and that's what kept their name alive, but nothing that they did. Marlon Brando, Stella, Stella, well, now am I going to get in the Hall of Fame, huh? And, in addition to that, I'm a lawmaker. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Mr. Clerk, items for the record? Mr. President, notice of hearings from the Agriculture Committee, the Education Committee, both of those signed by their respective Chairs. Your Committee on Education, chaired by Senator Raikes, reports LB 114 to General File; that's signed by Senator Raikes. Revenue Committee reports LB 44 to General File, LB 90 to General File; those signed by Senator Landis. Government Committee reports LB 217 to General File, LB 227 to General File; those signed by Senator Schimek. And Health and Human Services Committee reports LB 174 to General File; LB 25, General File with amendments; LB 177, General File with amendments; LB 26, LB 27, LB 338, and LB 339 indefinitely postponed. And Senator Landis, an amendment to LB 298 to be printed. (Legislative Journal pages 439-445.)

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Mr. President, I do have a priority motion. Senator Wehrbein would move to adjourn until Monday morning, February 7, at 10:00 a.m.

SENATOR CUDABACK: You've heard the motion to adjourn till February 7, 2005. There's been a request for a board vote. All in favor of adjourning till February 7...

SENATOR CHAMBERS: Roll call vote.

SENATOR CUDABACK: There's been a request for a roll call vote on the question. Mr. Clerk, call the roll on the motion to adjourn till February 7 at 9:00 a.m. (sic). Yes, Mr. Clerk, call the roll, please.

CLERK: (Roll call vote taken, Legislative Journal page 446.) 26 ayes, 6 nays, Mr. President, on the motion to adjourn.

SENATOR CUDABACK: The motion was successful. We are adjourned till February 7 at 10:00 a.m. Members, have a nice weekend.

Proofed by: Bernie Ward