

FEBRUARY 7, 2005

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February 7, 2005 LB 37, 170, 212, 466, 533, 570

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Good morning. Welcome to the George W. Norris Legislative Chamber. Our chaplain this morning is Pastor Mike McDonald from Grace Bible Fellowship Church, Stella, Nebraska; Senator Heidemann's district. Pastor.

PASTOR McDONALD: (Prayer offered.)

SENATOR CUDABACK: Thank you, Pastor McDonald, for being with us. We appreciate it. Senator Heidemann is from District 1. I call the twenty-second day of the Ninety-Ninth Legislature, the 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: I have no corrections.

SENATOR CUDABACK: Reports, messages, or announcements?

CLERK: Mr. President, your Committee on Banking, Commerce and Insurance, chaired by Senator Mines, reports LB 170, LB 466 to General File; LB 212, LB 533, and LB 570 to General File with committee amendments attached. That's all that I had, Mr. President. (Legislative Journal pages 447-448.)

SENATOR CUDABACK: Thank you, Mr. Clerk. We now go to General File. Mr. Clerk, LB 37.

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

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Schimek, would you take a minute or two and review the bill, the happenings on Friday?

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SENATOR SCHIMEK: I would be happy to, Mr. President. Thank you. I'm not sure that anyone remembers our brief discussion from Friday, so I'm just going to touch lightly on the three provisions in the bill, which deals with the Nebraska Hall of Fame. And the bill itself amends those statutes and requires the Governor to consider gender and ethnic diversity, and appreciation for Nebraska history and culture when making an appointment to the Hall of Fame Commission. Second provision is that before the Nebraska Hall of Fame Commission selects one finalist for induction, the commission will hold public hearings regarding the finalists in each of the congressional districts. And finally, the bill requires a person to be deceased 50 years before he or she can be named to the Nebraska Hall of Fame. Current law requires the person to be deceased for 35 years. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Schimek. We will now go on with discussion of the bill itself, advancement of LB 37 to E & R Initial. Any senators wishing to speak? Senator Schimek, there are no lights on. You're recognized to close on advancement of LB 37, if you care to.

SENATOR SCHIMEK: Mr. President and members, I'm feeling a little uncomfortable about this because I think there is one member, at least, who has a problem with this bill, and I should have turned on my light to enable him to come back to the floor and talk about the bill.

SENATOR CUDABACK: Senator Schimek, are you closing, Senator Schimek?

SENATOR SCHIMEK: Pardon me?

SENATOR CUDABACK: Are you closing or not?

SENATOR SCHIMEK: Well, I guess I have to, don't I?

SENATOR CUDABACK: Well, if you...if you wanted to speak, you could. But you didn't say you were closing.

SENATOR SCHIMEK: I think I'm speaking then, if I may, if that

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would be all right, because I do want him to have the opportunity to talk about it. For those of you who are unfamiliar with the Nebraska Hall of Fame, that was established in 1961 in order to recognize prominent Nebraskans, and the Hall of Fame...and I've taken this off the web site, incidentally, and it's not entirely up to date, but the Hall of Fame honors people who were born in Nebraska, who gain prominence while living in Nebraska, or who lived in Nebraska and whose residence in Nebraska was an important influence on their lives and contributed to their greatness. The Hall of Fame, with members appointed by the Governor, is permitted to nominate one person to the Hall of Fame every two years, and that has changed. In 1996, we changed that to every five years. In 1976, the nation's bicentennial year, the commission selected four people to be honored. No person can be considered until at least ten years after his or her death. The Nebraska Hall of Fame display is located on the second floor of the Capitol, and there are 23 members in the Nebraska Hall of Fame. I have to relay to you one of the things that came up during our conversation with the Historical Society on this, on this bill, and that is that a lot of people outside of Nebraska look at our Hall of Fame as being the way they wish their Hall of Fame is, because we don't...we don't have huge numbers of people that have been inducted into our Hall of Fame, as they have in some other states. It's gotten totally out of hand. So a lot of states look toward our Hall of Fame with admiration and maybe a little envy. One of the things that this bill is trying to do is to prevent...actually, to prevent people from lobbying for contemporaries, and we're also trying to make certain that the Hall of Fame does not become overcrowded with those who should be...or could be honored or should be honored. So, with that, Mr. President, I think the member that I was discussing a moment ago is back on the floor, so I will conclude my remarks.

SENATOR CUDABACK: Thank you, Senator Schimek. Senator Brown, to address the advancement of LB 37.

SENATOR BROWN: Thank you, Mr. President, members. I was the one person from the committee that was not voting on the advancement of this bill, and it's not because I believed that we should do nothing, but I do think that some of the issues

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that we are trying to solve with this legislation are not really going to be addressed. And in...I do think that we should proceed...I'm not sure if "cautiously" is the right word, but I don't think that we should have to have additional members of the Hall of Fame on a regular basis. I don't think we should have a system that encourages that sort of thing. And, yet, some of the restrictions that are in this legislation about the number of years that a person must be dead before they can be considered for the Hall of Fame I think are a little bit arbitrary. A few years ago, about seven or eight years ago, we moved from a 10-year period to a 35-year period, and now we're moving to 50 years that you must be dead. The rationale for that is that none of the contemporaries of that person can be involved in what would essentially be a popularity contest, and that by being dead for 50 years it becomes more of an historical assessment of the validity of this person being in the Hall of Fame. But I'm not sure that that arbitrary 50 years guarantees anything, and I actually...we voted on this bill a couple days before Johnny Carson passed away, but he was in my thoughts when we were discussing it because he is a person who's an entertainer and Senator Chambers made some references the other day that tended to make me think that he wasn't sure that being an entertainer in and of itself should be enough to qualify one for the Hall of Fame, and I would tend to agree with him. But then there are some entertainers like Johnny Carson, for whom Nebraska was such a piece of his ability to communicate, and he did put a face on Nebraska for millions and millions of people and had sociological significance in his lifetime that was such that I do believe that he would be...he would warrant the inclusion even without an historical assessment of his significance. And so some of the arbitrary decisions that...or arbitrary rules that we put in place to make sure that the people that are considered are of historical significance may not allow us to be able to recognize people when they need to be recognized who really are significant. And I don't think it addresses some of the underlying issues, like Senator Chambers and I have had a discussion about Malcolm X and the inclusion of Malcolm X, and there are all kinds of reasons, certainly, other than popularity. Because in a white-dominated society, the views of Malcolm X would not be considered popular. It has to be taken in the context of what...of what he added to the

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discussion about...

SENATOR CUDABACK: One minute.

SENATOR BROWN: ...civil rights in this...

SENATOR CUDABACK: I'm sorry. One minute, Senator Brown.

SENATOR BROWN: ...thank you...in this...in this country. And I don't think that any of the changes that are proposed here make it any easier for us to have a discussion, with one exception, and that is that I do believe very strongly in the provision of the bill that says that we must have public hearings. I do think that the commission has been having public hearings, but maybe not sufficient to involve the public in the way that they need to be involved in this particular discussion. So I am anxious to hear more about this and figure out if there is someplace we need to go, or whether people think that this is something that kind of works itself out through the process of the Hall of Fame Commission.

SENATOR CUDABACK: Time, Senator.

SENATOR BROWN: Thank you.

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

CLERK: Mr. President, Senator Chambers would move to amend the bill. (FA12, Legislative Journal page 448.)

SENATOR CUDABACK: Senator Chambers, you're recognized to open on your FA12.

SENATOR CHAMBERS: Mr. President, members of the Legislature, Senator Brown touched on some issues that have been in my mind ever since I became aware of the fact that they have what they call a Hall of Fame in Nebraska. She mentioned that this is a white-dominated society, which is obvious. There's very little in any location in Nebraska which memorializes the fact that black people ever were in this state, are in this state now, or

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will continue to be in this state. Since those who will make the judgments are white people, they are going to cast a judgment in favor of those people they feel comfortable with, so maybe if they had a cook or a chauffeur or a yard boy or somebody who did flunky work who is black, they would say this was a good colored boy or good colored gal--that kind of language is still used--so I think he or she ought to be in the Hall of Fame because he or she is a credit to his or her race, and we want all these little colored "chilin'" to grow up to be just like this one, one who will drive Miss Daisy and stay in his place and anticipate the wants, desires, and wishes of his or her master and mistress, and be there on call and sticks closer, not than a brother, but closer than that person's skin and will be more loyal to that person than that person is to him or herself. I would rather there be no Hall of Fame, so-called, at all. There will not be passing through this state black people of the stripe and tenor which white people making decisions about will meet with their approval. There is no way. First of all, I don't want to be a part of anything that relates to Nebraska. That's why I'll be cremated. There will be no location where anybody can go and say, there lie the remains of Ernie; no way. How many black people are likely to stay in Nebraska and labor long enough to achieve anything that white people would deem to be significant? A black person could not simply open a chain of grocery stores. A black person could not simply start a newspaper. A black person could not simply be an auctioneer and get into the so-called Hall of Fame. But those are the kind of white people who make it. White people stick together. The ones who make the decisions are appointed by the Governor, and the Governor selects people of his or her own ilk--some group with whom the Governor feels comfortable. Those types of people are not representative of even the white people at large throughout this state. I don't know that there is a white person in that Hall of Fame who was in a status which would be deemed ordinary, and I don't mean by "ordinary" that he or she did not achieve anything of consequence. But it should not be necessary to kowtow to prejudices, which are prejudgments of a negative kind, or biases, which are unjustified favoring opinions. People use the two terms interchangeably, but really they're opposites. English is not the indigenous language of Africa. I cannot speak an African language, but I've learned

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the language that I am required to speak in this country, and it boggles my mind that the people whose language it is, meaning it's a white language, don't have as much concern or care about it as I do, and it would not be considered my mother tongue. If white people who write newspapers, whether editorials or news columns, would be careful of the use they make of their language, if those who speak on television as newscasters, commentators, pundits, panelists or whatever, would be careful about the language that they use, and I'm not talking about profanity now, I mean ordinary conversational English, the public at large would have a better grasp of vocabulary, understand how and when to use certain words, and take pride in expressing themselves clearly. You are fortunate if you receive a letter from somebody where the sentences are complete. A sentence consists of more than a certain number of words, after which you put a dot called a period. There's a subject; there's a predicate. There are verbs. There are nouns. There are pronouns. There are adjectives. There are adverbs. There are...well, I won't talk about infinitives because some people will think I'm getting religious because they'll mix up infinitive with infinity. And then, if I were to say infinity, they would attach that to an automobile. So how likely is it that people who cannot even make critical, in the sense of being analytical, judgments about the ordinary things of life going to evaluate the work and achievements of a person not of their, quote, race, unquote. It cannot be done. It will not be done. Malcolm X is better known all over the world than any person who ever came from Nebraska. That is even including Marlon Brando and Henry Fonda. Now, Henry Fonda I was talking to somebody about because I didn't see him as a great actor. All of his roles were the same, like John Wayne's, but there was one movie Henry Fonda played in that I really liked. It was called, Once Upon a Time in the West. Because Henry Fonda always played the squeaky clean all-American, the people who were advising on the making of this film thought that brown contact lenses should be put over his eyes, because he has blue eyes and villains don't have blue eyes. Blue eyes go along with the concept of Aryan, superior, and all that's good, but because of the fact that there would be such a contrast that would take hold of people's minds when they saw this terrible villain with blue eyes, the movie would be given added punch. But the fact of the matter is

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that this movie, which lasts six days in the short version, was not made in the United States. It was made in Italy. And it's one of the best films that Henry Fonda was in, that Charles Bronson was in. There's another guy I cannot...I can never remember his name, but he played an old gunfighter, and he's played in many movies. Maybe his name will come to me before I sit down, but that's probably why his name will never be in a Hall of Fame. But as Senator Brown pointed out, it is my view that simply being in the entertainment world is not sufficient. The entertainment world has various means and methods for honoring those in their profession, but if a person happens to be an entertainer but has transcended that activity and shown himself or herself to be a humanitarian in the broad sense of the word, who has done things that touches...that touch the lives of other people, that make the lives of people better, best of all, if what they do will enrich the mind and the spirit, they should be considered. And Johnny Carson was a person who would fit that category, as far as I'm concerned, but I don't think what he did is as consequential as what Malcolm X did. Malcolm came from the dregs of society in terms of what he was in his younger days. His father was murdered in Detroit while he was very young. His father was outspoken. The family had been run out of Omaha, Nebraska, by the Ku Klux Klan when he was a small boy. His father continued to be outspoken and he wound up being found mutilated on a streetcar track. The streetcar had run over him. That's how he was killed. Malcolm X had been a pimp, a robber, a chaser of white women and they chased him,...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...a gambler, and all of the things that are considered bad. He went to prison, not one who read that well but with a very keen mind. When he became aware of Elijah Mohammed, who was head of what was then called the Black Muslims, now the Nation of Islam, the emphasis was on reading and understanding. I'll put my light on again. Thank you, Mr. President.

SENATOR CUDABACK: You may continue. Your light is on, Senator Chambers.

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SENATOR CHAMBERS: Thank you. Malcolm started with a dictionary and he started with the first word, which was "aardvark." That word impressed him so much that later on in his life, when he was being pursued for the purpose of being assassinated, his home had been bombed, firebombed, his wife and his children had been menaced, threats had been made against his life and attempts had been made; Malcolm X was in a car and another car pulled beside it and a man put a cane out the window and that was to show him how easily he could be bumped off...anybody can be bumped off in this society. Under that kind of pressure, the intellectual curiosity that Malcolm X had nevertheless asserted itself. And when they passed the museum, he had them stop the car so he could go in and see a replica of an aardvark. Malcolm realized that he could not have a very narrow view of what constitutes the family of humanity. He was a man who, when he became a Muslim, believed in the moral teachings that a person should live an upright life and be an example to others. He would begin all of his speeches with, according to the Honorable Elijah Mohammed. He gave the Honorable Elijah Mohammed credit for all of his thoughts, anything he did that was of value. People virtually worshipped this man, but Malcolm was such an honest person and one who would not play favorites that when he became aware of the fact that Elijah Mohammed had impregnated some teenage girls who were working for him, Malcolm took issue with it, and that was how his death warrant was signed. Although people who were called Muslims were the ones who shot him, it was at the behest of the U.S. government. Malcolm was such a powerful speaker, such a powerful force and influence in the black community that he was a threat. Why was he a threat? Because Malcolm said, we have a right to defend ourselves. But that wasn't all he said. We need to be responsible for our children, our wives, our brothers and sisters in the community. We must emphasize education, working together and keeping resources within the community so we can build something for ourselves and not always have our hands stuck out begging the enemy to give us this or give us that; develop that kind of an attitude. He made it to the world stage and was invited by the heads of states all over the world to talk. He was invited to give a speech at Oxford in England, which he did. He was highly respected for his mind, the change that took place in his

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personal life. Even today there are famous ministers who preach, but their lives are not what they should be. Look at Jim Bakker. Look at that fellow who was the cousin of Jerry Lee Lewis, living terrible lives, highly immoral. But Malcolm was a moral man. When the FBI was following him around and spying on him, whereas they made criticisms of other black so-called leaders, they had to acknowledge that Malcolm was as pure a man of any race as they had ever spied on. When he's away from home and going to give speeches, he was in his hotel room. Never was a woman there. Never was there any liquor. Never was there any tobacco, alcohol, or drugs. Malcolm was what he projected himself as being. He also had developed a methodology...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...for taking people off hard drugs. What they would do is get individual Muslims who had kicked the habit and surround this person and let him or her know that there is not going to be any pussyfooting with this. If you have made up your mind that you want to kick this habit you let us know, but you go home and think about it; because when we put you in this room, you're not coming out of this room until you're clean. Your hollering, your crying, your begging will fall on deaf ears because everybody with you will have been through it and will know that's the only way, unfortunately. Psychiatrists who were interested in proceeding to examine this method and use him as a consultant, if he would consent, were thwarted because he was assassinated before that could be done. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. On with discussion of the Chambers amendment. Senator Schimek, followed by Senator Brown and Senator Chambers. Senator Schimek.

SENATOR SCHIMEK: Thank you, Mr. President and members. I'd like to address Senator Chambers' comments for a minute and say, Senator Chambers, 50 years after you've been cremated I don't think you're going to have anything to say about whether we put you in the Hall of Fame or not. (Laugh) No, I'm just kidding. It's...actually, Senator Chambers, I don't think that we're that far apart on what we'd like to see the Hall of Fame be in the

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sense that, I agree with you, I don't believe that perhaps we have looked as diversely as we might at inductees. I'm not even sure that our criteria has always been exactly what it should be. One of the reasons that one of these provisions talks about gender and ethnic diversity is because I don't know if there have ever been any people of ethnic diversity on this commission. I have no way of knowing that. But I don't think that any of the present-day members are, although again I'm not sure about that. I also believe that people in this state deserve to have some input into this process and they shouldn't have to travel for seven or eight hours to come to a hearing to testify on behalf of somebody that they would like to see inducted, such as all those students from Chadron did when they came in to testify in favor of Malcolm X. So that...those were one of my concerns, too, and the other concern is the same as yours, about making this available to everybody who'd like to see their relative inducted. Now, I can't support your amendment, the 100-year provision, because in essence I suppose that takes out the Hall of Fame altogether for the next 100 years, although as a Legislature we could come back next year and institute again. So maybe there's no point in arguing about that. Just for the information of this body, I'd like to read the names of those who have been inducted into the Hall of Fame, and I would...I would guesstimate that most of you will know 85-90 percent of these names, but there's probably a few names on here that you've never heard of before and there may be a few people that you don't really know much about them. First one is George W. Norris; Willa Cather; John J. Pershing; Edward J. Flanagan; William Frederick Cody; William Jennings Bryan; Bess Streeter Aldrich; John, and I cannot pronounce his middle name, Neihardt; J. Sterling Morton; Grace Abbott; Mari Sandoz; Nathan Roscoe Pound; Standing Bear; Robert W. Furnas; Edward Creighton; Susette LaFlesche Tibbles; Gilbert M. Hitchcock; Loren Eiseley; Hartley Burr Alexander; Arthur Weimar Thompson; Dwight Palmer Griswold; Nathan J. Gold; and Chief Red Cloud. Those are the ones that we have inducted over the past 40-some years, and if we've inducted 20-some over the past 40 years,...

SENATOR CUDABACK: One minute.

SENATOR SCHIMEK: ...and we would do the same thing over the

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next 40 years, again, we would be running out of room. If we're going to...if we are going to get to that point...now, granted, probably a lot of these were inducted because they stand out historically and they're in the past and you can do that. But if we're going to induct at that rate of speed, we're going to have to figure out some way of rotating those busts or doing something like that to handle the volume, and I'm not sure that that's what we want to do. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Schimek. Senator Brown.

SENATOR BROWN: Mr. President, members, I'm glad that Senator Schimek went through the list. We have talked a little bit about what kinds of changes need to be made and I think we are getting off on some discussions about who should be...and I will admit that I started it a little bit by the discussion about Johnny Carson, but we are just 49 people who have opinions just like the rest of society. The question really is what should the structure be so that we best protect the process of arriving at the people who are truly significant. And all of us may have differences of opinion. I was going to point out, as Senator Schimek did, that Senator Chambers is almost guaranteeing that because even he would admit that he's probably not going to be as vigorous at 100 and whatever he is (laugh) as he is right now. He may believe that he will still have some vigor, but his ability to influence society on behalf of those individuals that he thinks should be included would be less with his amendment than it would be certainly with the current status of 35 years and...or with what the bill calls for, which is a 50-year period. And so I'm still back to, from the process standpoint, what are the things that need to be changed that are going to best make sure that we have the right individuals represented? And what I said initially is that I don't believe that there are a lot of things about the process that we can change that are going to meet all of the objections or all of the concerns that Senator Chambers has. There may be issues about the change of society in general, that Senator Chambers is certainly a part of, but we may not be able to accomplish by virtue of this bill. And I don't want to make changes just for the sake of making changes. I want to make sure that those things actually accomplish something. I do think the requirement to have

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geographically diverse hearings and have a statutory requirement for diversity of the members of the commission are good things. But I would point out in Senator Schimek's list that I'm sure that at least three and maybe more of the members of the Hall...the current Hall of Fame are...four are Native Americans. And so we have in our process up to this point reflected well the contribution of the native people in the importance in Nebraska, and I hope that we are able to do that with other groups, too, but I'm not sure what...that I know yet what the...what needs to be changed in the process to make sure that happens. Thank you.

SENATOR CUDABACK: Thank you, Senator Brown. Senator Chambers, and this will be your third time, Senator.

SENATOR CHAMBERS: I'm aware. Mr. President, members of the Legislature, let me touch on something that happens right here in the Legislature. We had two bills; one that was going to increase the amount of tuition for National Guard's people. Had I not put my...dug my heels in and stopped, we wouldn't have been discussing that bill as seriously as we should have. But white people don't see the role that I played in that. White reporters write from the standpoint of white people writing about white people for white people. When we had the bill the following day which was going to say that somebody who had been discharged from the military under honorable conditions but had a general discharge, people who spoke before me when Senator...I think it was Senator Cunningham who had offered that amendment, said that people with one of those general discharges under honorable conditions could not serve on some of these county veterans committees, I was the one who dug my heels on that and said, you will not do it, and turned it around. But white reporters writing for white people ignored it. There are many things that I stop from going the wrong direction on this floor, and black people do watch what happens in the Legislature because it's on public television and it also is on these little computer gadgets. And they read the newspaper, and when they ask me, how can you have played the role you did, but when I pick up the World-Herald or these other newspapers I don't see it mentioned in terms of what you did, I say this is why you all need to read other than the World-Herald, you need to watch the

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legislative action as it unfolds. White people never are going to acknowledge the role that any black man or black woman plays when that role is one that shows leadership in their area, in their arena. Now, if I came in here and hit somebody upside the head, you can bet the World-Herald and the Lincoln Journal Star would carry that in detail and have photographs. This is why white people cannot judge black people. If they cannot make judgments in an area where they're supposed to have expertise, how can we, who are not white, trust anything they present? Those of us who are participants in the rolling forward of history of this state can see how the role of black people is diminished, minimized, and in many cases all but erased. Then a black man such as myself, who will not take low, who is not afraid to express his point of view, has to stand up and fight day after day after day, session after session after session. And I see my white colleagues growing discouraged in a matter of days, lose all heart. They could not confront what I confront and function as I do. They don't have the moral or intellectual strength or drive, and I've been here going on 35 years and have observed all of them. Why do I rise to the top? Why is my name known and theirs not? Because I work, I do things, and they don't. They hide. They take low. They come up and whisper to me and whisper to others about the way things ought to be done, but they will not stand forward and push. Black people have typified and exemplified what this country supposedly is about much better than white people. We do it against overwhelming odds, day after day. I would never do what Timothy McVeigh did, but I'd have far more justification. I would never fly an airplane into any facility where any innocent person would be killed, but some of America's strong allies did that,...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...and Bush and his ilk will not even acknowledge it. The majority of the people on that plane were from Saudi Arabia, so they attack Iraq. It is hard being black in a white society and remaining sane. It would be so much easier to throw bombs, to be a sniper, to do those kind of things, but we have done more to uplift this society than the white people, but it's not acknowledged. But young white people see it and that's why they copy anything they see that a black

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person does, even when it is negative. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Chambers, there are no further lights on. You're recognized to close on FA12 to LB 37.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, when a black person is in a position such as this, we call it in the caldron, we call it in the belly of the beast, we call it in the fire, because our circumstances are different. How many senators do you see informed on as many issues as I've got to be informed on? When a senator or a former senator croaks, they might mention one thing that that senator gave time to and did not succeed in achieving anything, one thing, maybe two. But when you look at what black people do, we have to work across the board, across the spectrum, and have knowledge of an encyclopedic nature on all kind of issues. What does a feral pig have to do with my district? What does ethanol have to do with my district? What does some Agriculture Committee in the Legislature have to do with my district? Nada. Nothing. We take things more seriously than the white people who are supposed to be our superiors and our betters. We know it; white people know it. If we were the inferior people they say that we are, they wouldn't trust us to take care of their old people. They wouldn't even trust us to drive Miss Daisy, because the first thing we'd do, when we got the old bat around the corner or in an alley, would be to rape her, and she's not our type. That's not even what we want, but that's the way they project us. I am so unappealing as a black man that they have to pass a law making it a crime for a white woman to marry me. Well, if I'm as abhorrent, as repugnant as these white people, including Abraham Lincoln, said, those traits should be enough to repel any and every white female. So why do you have to pass laws to keep your white females from marrying black men, or your white men from running to marry black women? Why? If a dog is out there running in the street, why do you have to lock up all the dogs to keep your women from bedding down with a dog? You don't realize the kind of things your laws tell us about yourself and the inner workings of your mind. And that's what we see all of the time. And these are the thoughts that are in my mind. But

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I have to come here and function. I have to draft bills like you all draft bills. I have to try to protect and ensure the integrity of your constitution. I'm the one who doesn't want to put things like "State Fair" and "hunting" and "fishing" and "guns" in the constitution, your constitution. And none of that is going to harm me if you put it in there. But I do believe that a constitution is the basic law of the land, whether it be at the state level or the federal level, so I will be the garbageman in this Legislature. I will do the things that white people don't have sense enough or heart enough to do. I want to make this society what it is professed to us in the world that it is supposed to be. The only value in all those hypocritical pronouncements is that I can point to them and say, this is what you promised, this is what you said this country is about. While you're over there spreading democracy everywhere else, we don't have it in this country, as black people, and we have to use those things to make our arguments. To date, the only weapon that I use is my brain, my mind,...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...words, you-all's words that I get from you-all's constitution, you-all's Supreme Court decisions, you-all's presidential proclamations. And who disregards those things more than anybody else? You-all. Words, as Shakespeare said, full of sound and fury, signifying nothing, but I have to try to make use of them, poor and pitiful tools they are. But we have to use what we find at our disposal. If I have the heart and the spirit of a Mozart and have nothing with which to make my music but a penny whistle, I have to make music come out of that penny whistle such as nobody has done before. My amendment would say that a person has to have croaked at least 100 years ago before being considered for the Hall of Fame, and I hope you all will adopt it. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. You've heard the closing on FA12, offered by Senator Chambers to LB 37. All in favor of adoption of the Chambers amendment...Senator Chambers.

SENATOR CHAMBERS: Call of the house and a roll call vote.

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

CLERK: 27 ayes, 0 nays, Mr. President, to place the house under call.

SENATOR CUDABACK: The house is under call. All unauthorized personnel please leave the floor. Unexcused senators report to the Chamber. The house is under call. The house is under call. Senators please check in. Unauthorized personnel please leave the floor. Senators please remain in their seats. Unexcused members check in, please. Senator Stuhr. Senator Stuhr. Senator Stuhr, the house is under call. Please report to the Chamber. All members present or accounted for. Mr. Clerk, call the roll on the question before the body, please. The question is, shall FA12 be adopted?

CLERK: (Roll call vote taken, Legislative Journal page 448.)
3 ayes, 33 nays, Mr. President, on the amendment.

SENATOR CUDABACK: The amendment was not adopted, and I do raise the call. (Visitors introduced.) Mr. Clerk, motion on the desk?

CLERK: Mr. President, Senator Chambers would move to amend. (FA13, Legislative Journal page 449.)

SENATOR CUDABACK: Senator Chambers, you're recognized to open on FA13.

SENATOR CHAMBERS: Mr. President, members of the Legislature, Senator Louden voted with me so that his record for the session of having the worst vote would remain intact, but I'll find something that even he cannot vote for. (Laughter) Members of the Legislature, what this amendment would do is to go to the same location in the bill on page 3, in line 19, strike the new matter, reinstate the stricken matter. What that would do is to strike "50" years and restore "35." If you voted against my amendment because you thought 100 years is an unreasonable

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period of time for which a person must have been away from here, I think 50 is unreasonable. Thirty-five, in my view, is excessive, but it was not my view that I should come in with a bill to reduce the number of years that a person had to have been dead before consideration. Now, in my case, they ought to be allowed to start consideration before I croak, and maybe 100 years after I croak enough momentum will have been built up just by virtue of the amount of discussion. People won't know anything about me, but they say, for so many people have talked about him so long, that is a basis to be in the Hall of Fame. But this is not for myself. Brothers and sisters, in the community where I live, I'm not talking about the city of Omaha now, the neighborhood where I live, there was a very small park. You could call it a micromini park, it is so small. If Serena Williams hit a tennis ball twice--hit it once, then went where that ball fell and hit it again--it would land on my front porch. That's how close I live to this little park. If Barry Bonds got a good cut at a ball, he would knock it over the house where I live if he hit it from that park. If the big bad wolf huffed and puffed and huffed and puffed and was in that park, he could blow down the house where I live. That's how close it is. The white people on the city council and one misguided Negro who is trying to be white, named Franklin Thompson, voted against what the community group wanted to do. There is a procedure in Omaha where they have neighborhood groups, and these groups are accorded the right, the privilege, the authority to name these and other items in their community. That group went through all of the process. They crossed every "t", they dotted every "i." They obtained the approval of the Parks Commission, which looks...which oversees this kind of activity. They got the agreement of the mayor and, most of all, the agreement of the community members where we live. But white people were in a position to say no, so they insulted the neighborhood group. After all of the talk about democracy, the value of these neighborhood associations, because they can play a role in the activities of the city as those activities will impact on their community, then the city council majority will tell them no. The city council chose, in their arrogance, to name it contrary to the wishes of the neighborhood group, so they approached the mayor and asked him to veto that because it was an insult to the neighborhood group and another attempt by the city council to

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insult them. The mayor vetoed it. The issue was brought up again by Frank Brown, who is a member of the black community. Again, the city council said no. Black people are well aware of the attitude of white people toward us. Now, if I were white, there is no way that with the things that I've done in this Legislature that I wouldn't be out there with all those people, no way, but I wouldn't choose to be out there. I don't want to be out there. This has nothing to do with me. In fact, everything that I do which is seen to be of value in other parts of the country and even around the world, literally around the world, are the things which, when I'm fighting them here I receive the most opposition on. I have spoken before the U.N. I had a conflict and confrontation with then President Carter at the White House. I've spoken before a congressional committee. When the so-called Kerner or Riot Commission was in effect, I spoke by invitation there, and the newspapers wrote about my testimony more than anybody else's. But in the city and the state where I live, what is the attitude? I probably am the most reviled, hated person in this state, because there are more white people than any other group. If I were trying to cheese up to white people, I would conduct myself entirely differently from the way that I do. I'm not here trying to win friends. Nobody in this Chamber do I go home with. They don't go home with me. We don't eat together. We don't socialize together. Friends share experiences. We as black people probably have an entirely different concept of what constitutes friendship. I have very few friends of any race, ethnicity, nationality, religion, or whatever other label you want to apply. So I am looking at these things from a different perspective, with a different point of view, and I will not allow myself to be submerged in a sea of whiteness and come forth sounding like a white man in blackface. That is not me. Malcolm X could be considered a man who's on the infrared end of the spectrum, the infrared end of the spectrum where anger, indignation, and a willingness to use self-defense would be found. Martin Luther King was on the ultraviolet end, the peaceful, willing to suffer anything end. But because both men in their own way self-determined the course they would watch...walk, both of them were assassinated. The same ones who hated Martin Luther King hated Malcolm X, and they cheered when both men fell. But Malcolm never got the recognition that Martin Luther King got

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because King used the language of white people and the approach they approved of. Whereas Martin Luther King said, if blood must flow in the streets let it be our blood, as black people, and not the blood of our white brothers. This, after three young people had been murdered in Philadelphia, Mississippi, and buried in a dike--Cheney, Swarner, and Goodman--which, by the way, is the city that Ronald Reagan went to, to kick off his presidency, and he was buried in Simi Valley. So it's appropriate that those two places bracketed his life--the place where the three civil rights workers were murdered by the Klan, and Simi Valley where the racists exonerated cops who had brutally beaten Rodney King. And in-between was the racist activity of Ronald Reagan, the appeal openly to the Ku Klux Klan. He made no secret about it. That's how we see these people and that's why we judge them differently from the way you all do. I think they named an airport after Ronald Reagan. Well, they didn't inquire of us whether they should name anything after him. White people named a huge ugly building in Washington, D.C., after J. Edgar Hoover, the FBI building, and that man did more that would undermine the constitution than anybody outside this country who would be called an enemy of America. He wasted I don't know how many tens of thousands, maybe hundreds of thousands of dollars, having me spied on, me, and all of his agents would have...all they would have had to do was ask me anything they wanted to ask me, and they would have gotten my opinion.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: They attended speeches that I gave, and the media were there. Why did they have to send an FBI agent? When I got some of this stuff through the Freedom of Information, I would have laughed at it, and at first I did, till I was reminded of how sinister this kind of activity is. I'm the only one where any record exists where the head of the FBI, J. Edgar Hoover, told his agents, don't have any confrontation with Chambers because he will publicly embarrass the bureau. That was what J. Edgar Hoover said. You can get this information through the Freedom of Information Act. Nobody on this floor can say that. The FBI had John F. Kennedy, Robert F. Kennedy shaking in their boots, and all these other white big shots, but

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not me. I was the one that he didn't want to pour his agents on. I wouldn't say this if it wasn't true. And yet, black people such as myself will be diminished and erased from the record if white people have their way. So we're going to do some erasing of everybody.

SENATOR CUDABACK: Time.

SENATOR CHAMBERS: Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Chambers, you may continue.

SENATOR CHAMBERS: Mr. President, members of the Legislature, so you will know what this amendment does, it leaves the law where it stands right now in terms of the number of years that a person has to have been dead. Do you notice how delicate white people have to be? Let me read you this law. The people who used to have words like "idiot," "imbecile," and "moron," and "illegitimate child" in the statutes, listen to this: "If a finalist is selected for induction, the commission shall name him or her to the Nebraska Hall of Fame during the final year of each five-year period." No individual shall be named to the Nebraska Hall of Fame until at least blank number of years after such person's demise. What is a demise? I know what dead is. I know what croak is. I don't know anything about this demise. Where did that come from? Why can't they say what they mean? I'd like to ask Senator Schimek a question, because she's reached her desk now.

SENATOR CUDABACK: Senator Schimek, would you yield to a question from Senator Chambers?

SENATOR SCHIMEK: Yes. Thank you, Mr. President.

SENATOR CHAMBERS: Senator Schimek, I've heard of a demagogue, I've heard of a demijohn, I've heard of a demitasse. Does demise fit in that category, or can you enlighten me as to what a demise is?

SENATOR SCHIMEK: I haven't the foggiest notion, Senator

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Chambers. I'm sorry. (Laugh)

SENATOR CHAMBERS: Thank you. The fact that the word before it, the noun "person," is possessive, a demise belongs to a person, so I don't know whether you have to have an educational degree in order to be a possessor of a demise. I don't know if you can earn a demise based on experience. Now, none of the friends that I have own demises, as far as I know. I know it's not the name of a vehicle, because it's not spelled with a capital letter. But based on the way the Nebraska Legislature legislates, that isn't necessarily a giveaway. Why cannot they say if, from the context, after such person's death? When you look at these papers that are put out after somebody croaks, and it may be the only time their picture and their name will appear in print, they might put something like, born into this world July 1, 1902; born into eternity July 1, 1997. No, they're born and they die. There are words which serve a purpose. Words should not become so fearsome that people cannot make use of them. Undertakers know that they deal with the dead. We all know what it means to be dead from having read about it. I am one of those rare persons who knows what it means to be dead from personal experience. When I go for a checkup, there is no heartbeat, there is no pulse in my neck, none in the crook of my arm. The reason I know that's where they look, because that's where they try, or in my wrist. And then, when that strange glazed look comes over their face, I know that they've discovered what others have. That's that I must not have a heart. That's why I say so authoritatively people who say that they feel something from their heart or they're doing it from their heart always have an advantage over me because they possess something that I don't. Clinically, I would have entered the status known...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...as dead 12 years ago, but my energy level was so high when I came into being that it hasn't run down yet. And as that life force decays and deteriorates, the estimate, the best one that a scientist can make, is that that life force will sustain me for maybe 50 or 60 more years. But as far as dead or alive, I'm dead now. I'm the only one who can tell you

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about that. So I'd only have 88 years, if you'd have adopted my amendment, before I could be inducted. This amendment that I'm offering will leave the number of years a person would have to have been dead, and we can get on to a discussion of issues that Senator Schimek's bill raises that I think are of far greater consequence. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. You've heard the opening on FA13. Senator Brown.

SENATOR BROWN: Mr. President, members, if...this was the piece of the bill that I was...I had the most concern about. I'm not even certain that in all cases 35 years is justified, but I would feel a little bit more comfortable if we adopted the Chambers amendment, I believe. But I will only feel more comfortable if that means that Senator Chambers will allow us to move on and have...and assume that the rest of the pieces of the bill are things that we can all agree on and that need to be...changes that need to be made. And he is having a conversation right now and so I can't get an answer from him about whether this would address the issues that he has. I still believe that there are some very rare but justified situations that might...might warrant us considering somebody even before the 35-year period, let alone the 50-year period. And so I want to look at some circumstance that would allow this Hall of Fame Commission maybe, potentially with a unanimous vote, to consider someone outside the 35-year or 50-year window. But I wondered if Senator Chambers would yield to a question.

SENATOR CUDABACK: Senator Chambers, are you available for a question?

SENATOR CHAMBERS: For my female colleague, anything.

SENATOR BROWN: Thank you, Senator Chambers. If we adopt this amendment, does that address most of your concerns with the bill, and we can...

SENATOR CHAMBERS: It addresses my only concern. After that is gone, the rest of the bill I think has great merit.

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SENATOR BROWN: Okay. Thank you. Then I would urge my colleagues, and I feel a little uncomfortable doing this because I generally try to go with the committee that I'm on and not try to undermine legislation that has been advanced from that committee, but I believe that there are other aspects to this bill that are important and I think that we should move on. So I would urge the adoption of the Chambers amendment. Thank you.

SENATOR CUDABACK: Thank you, Senator Brown. Senator Schimek, on the Chambers amendment to LB 37.

SENATOR SCHIMEK: Yes, thank you, Mr. President and members. I turned my light on so that I could have a chance to either be in favor of or opposed to this amendment based on a conversation that I was going to have with Senator Chambers, and Senator Chambers and I had the conversation that Senator Brown and Senator Chambers just had on the air, so to speak, and I'm willing to support the Chambers amendment. Senator Chambers, I have to, for the record, say that I do know what demise means. I thought you were getting me...trying to get me to tell you how it related to demagogue or demijohn or demitasse, and I didn't have the faintest idea about that. But I do know what demise means. So, Senator Chambers, I know your word is good and I would encourage this body to adopt the Chambers amendment, FA13. Thank you.

SENATOR CUDABACK: Thank you, Senator Schimek. Senator Chambers, you're recognized.

SENATOR CHAMBERS: Mr. President, members of the Legislature, I will agree, after having been bludgeoned into submission by Senator Schimek. She came over here, and if anybody watched it they saw a smile on her face, but people can wear what looks like a smile and say things between their teeth which are far more menacing and sinister. That's why, for you ladies, a man does not make any presumptions when he sees what appears to be a smile on the face of a woman. But if this amendment is adopted, remember, a person still will have to have been dead for 35 years, which is what the law says now. My amendment will simply leave that where it is. Then we come to some policy issues which I think do have great merit and significance, and they

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should be a part of this entire complex for selecting people to go into this Hall of Fame. Since I probably won't say anything else on the bill if this amendment is adopted, I better get this in now. I'm going to have to do something on a bill that I don't want to do, but as a state senator, I feel compelled. I even helped draft amendments dealing with feral pigs. Who even sees a feral pig as anything other than something to be exterminated? But I see something different. I'm not a Buddhist, I'm not anything when it comes to any religion, but I see something of life in every living thing that causes every living thing to be related to every living thing, so I think this deserves to be in the record. It's called, "To the Feral Pig - With Respect and Regrets." And in the margin I wrote: "As 'Defender of the Downtrodden,' I probably am the only one who would write words such as these about a beast such as this." And at the top is the reproduction of a picture of a feral pig, and if you just look at it and don't give it any thought, he looks so fearsome, maybe even ferocious, ominous, and threatening that maybe a person would feel, at first blush, anything that looks like that ought to be killed, but it wasn't here originally. If human beings had left nature alone, things that are viewed as menaces would stay in their territory, humans would stay in theirs, and there could be peace, and maybe what Rodney King asked for could work across the animal kingdom; namely, why can't we all just get along. "Long of tusk and shaggy of hair - / Hair as coarse as tangled wire; / Yellowed tusks that rip and tear, / Eyes that gleam and flash their fire. / Iron-hard hooves that cleave the earth, / Leaving tracks that, light of day / Show that in the shadowy night, / A Feral Pig did pass this way. / Wily, wary is this Beast, / Warier than the running Ram! / He shall be no human's feast, / Because he is a cunning-ham. / Never will he be just 'pork,' / And so, the butcher shall not 'grade' him; / Tho' he's deemed 'the Devil's work,' / He is but what humans made him. / Life - where human beings abound - / Knows not fairness; that is why / The Feral Pig is run to ground, / And noble, man-made Beast must die...." Why do I say "noble"? Anything that nature puts here has nobility. Human beings ascribe traits and characteristics to various creatures and the ones they hate the most are the ones to which they ascribe human traits. They will say that...

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SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...an animal is vicious. Animals are not vicious. Viciousness is a human trait that requires certain motivation. Animals do what they do for survival. They don't make wars because they love to kill or they'll get bits of medal and ribbon for having killed and maimed a certain number of their own kind. If you adopt my amendment, you will not have to listen to me on this bill but one more time. And after you adopt this amendment, I will tell you why I think what remains in the bill is of value. It will no longer be an area where I feel I have to contest against anybody, so the nature of my remarks will be somewhat different. And I really do have profound sympathy for these feral pigs and regrets that manifested in these animals is the cruelty of human beings, of which I am one. But I am one because I was born of a woman, not because I chose to be one. However, I can choose to transcend those base, vicious and cruel traits that so many of my brothers and sisters...

SENATOR CUDABACK: Time.

SENATOR CHAMBERS: ...manifest. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Chambers, there are no further lights on. You're recognized to close on FA13, if you care to.

SENATOR CHAMBERS: I will simply ask for a call of the house, and I will take a machine vote.

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

CLERK: 29 ayes, 0 nays, Mr. President, to place the house under call.

SENATOR CUDABACK: The house is under call. All unauthorized personnel please leave the floor. Unexcused senators report to the Chamber. The house is under call. Senator Janssen would

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you check in, please? Thank you. Senator Byars. Thank you. Senator Brown, thank you also. Senator Stuthman. Senator Beutler, would you check in, please? Thank you. Senator Thompson. Senator Bourne, the house is under call. You say we can go, Senator Chambers? The question before the body is, shall FA13 be adopted? Senator Chambers has asked for a machine vote. The question before the body is, shall FA13 be adopted? Have you all voted on the issue who care to? Record please, Mr. Clerk.

CLERK: 43 ayes, 1 nay, Mr. President, on the adoption of the amendment.

SENATOR CUDABACK: The motion was successful. FA13 has been adopted. I do raise the call. (Visitors introduced.) Mr. Clerk, anything further on the bill?

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

SENATOR CUDABACK: To discuss advancement of LB 37, anybody wishing to discuss LB 37? Senator Schimek, there are no lights on. You're recognized to close on advancement of LB 37.

SENATOR SCHIMEK: Thank you, Mr. President and members. I'm going to just speak a moment or so, and then give Senator Chambers any time that he would like on my closing. Just to remind you what this bill does, now that we have amended out the 50 years and put back in the 35 years that's part of the existing statute, and frankly, I'm not sure what the right number is. Fifty years sounds more reasonable to me, but we could argue all day about that and I just decided the other things in the bill are worth doing and we need to get on with our business. This bill will now require the Governor to consider gender and ethnic diversity, and appreciation for Nebraska history and culture when making an appointment to the Hall of Fame, and it will also say that the Hall of Fame, before it selects anybody for induction, has to hold public hearings in each of the three congressional districts. I think this is a key element. I also mentioned to you, I think, the other day that when we were talking about this with the Historical Society we also encouraged them to look at their own publicity process

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in even initiating the induction process or the naming of who should be in the Hall of Fame. So, hopefully, not only will the bill help, but some of the conversations that we've had with the Historical Society be helpful as well. With that, Mr. President, I would give the rest of my time to Senator Chambers, if he so wishes.

SENATOR CUDABACK: Senator Chambers, did you wish to use the remainder of Senator Schimek's time?

SENATOR CHAMBERS: Yes, and I may not use all of it. But, Mr. President, the most significant part that I see now in the bill, and I think it is very consequential, the fact that it got out of committee shows me that there exists at least on some issues a greater sensitivity than was the case when I first came down here 35 years ago. That language is on page 2, in lines 9 through 12: "The Governor shall consider." It's not mandating that he do anything in the way of a quota, and it's good the committee did not put that red flag or that red herring into the language. "The Governor shall consider gender and ethnic diversity and the person's appreciation for the history and culture of the state when making the appointments." That is as reasonable and judicious a policy statement as I think can be made. The rest of it on page 3, which discusses kind of the process which would allow people to have input without driving all the way to Lincoln, or just walking to the location on one day to give their point of view is a good process and an improvement over the way things are. So I am very firmly and strongly in support of LB 37, as it exists now. And if Senator Schimek wants the remainder of her time, then I relinquish it to her.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Schimek. She waives the opportunity to use the rest of her time. The question before the body is, shall LB 37 advance to E & R Initial? All in favor of advancement vote aye; those opposed vote nay. The question before the body is advancement of LB 37. Record please, Mr. Clerk.

CLERK: 34 ayes, 0 nays, Mr. President, on the advancement of LB 37.

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SENATOR CUDABACK: The motion was successful. LB 37 advances. On with General File. LB 28, Mr. Clerk.

CLERK: LB 28, by Senator Connealy and others. (Read title.) The bill was introduced on January 6, referred to the Revenue Committee. The bill was advanced to General File. At this time, I have no amendments to the bill, Mr. President.

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Connealy, to open on advancement of LB 28.

SENATOR CONNEALY: Thank you, Mr. President, members. LB 28 provides an income tax credit for certain charitable contributions. The bill contains a tax credit for up to \$10,000 annually, no carry-forward or carry-back provisions. It also has a Nebraska-based permanent endowments...you'd give it to these endowments that are 501(c)(3) organizations. It allows a 40 percent credit for present value of planned gifts by individuals and estates and corporations. It allows a 20 percent credit for outright gifts by corporations now. It goes into effect in 2006 and sunsets in 2010. The bill also creates the Commission on Endowed Giving, consisting of six members appointed by the Governor, two from each congressional district. The commission is charged with promoting this bill and planned giving in Nebraska. The commission sunsets on October 1 of 2007. A one-time appropriation of \$2,000...I meant \$250,000 is in the bill to fund the work of the commission and to promote the idea of this planned giving. Up to \$12,500 can be used for administrative purposes by the Department of Revenue, where the commission is going to be placed. LB 28 is based on a law that was passed in Montana in 1996. This measure has been tremendously successful in Montana. Since the bill's passage, Montana has seen an increase of \$74 million in charitable gifts. The population of Montana is approximately one-half of Nebraska's, so you know, we expect a large increase for Nebraska also. Nebraska is seeing a tremendous amount of transfer of wealth coming here in the next few years. According to a study by the Community Foundation, approximately \$258 billion will be transferred from one generation to the next. That's over \$5.2 billion annually in the next 50 years.

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And in the handout that went around, it's broken out by district what that proposed transfer of wealth from one generation to the next is going to be in your own district. If we could just keep 5 percent of this money in Nebraska, it would be a tremendous amount of help for our schools and our universities, for our communities, and for economic development, and other efforts that can be done with endowed giving. The betterment of our communities and opportunities for our people to invest in the good life will be enhanced by this bill. I urge your support of LB 28. It was passed out of the Revenue Committee on a 5-3 vote, I think. And I would encourage your support.

SENATOR CUDABACK: Thank you, Senator Connealy. You've heard the opening on the advancement of LB 28. Open for discussion on that motion. Senator Don Pederson.

SENATOR D. PEDERSON: Thank you, Mr. President, members of the Legislature. I'm here with mixed emotions. I have a very good friend, Matt Connealy, who is proposing this bill. I look at the list of the people who are proponents for the bill, I look at the list, and they're all good friends. I look at the list of the people who are supporting this bill as cosponsors. And also, I am on the Humanities Council for the state of Nebraska. So those are my conflicts. But I have an overriding conflict, and that is, I'm the Chairman of your Appropriations Committee, and I'm very concerned about this bill. It is very worthwhile, it's highly motivated for the good of the state of Nebraska. But we have just come off of three to maybe four years of very tough economic times in this state. And currently, things are doing a little better. But we're still not back where we should be. But I look at the fiscal note on this bill, and the fiscal note...it doesn't matter whether you spend the money or there's a credit that causes a reduction in revenue; it works out about the same way. And this bill, for '06 and '07, indicates that it will be almost \$5 million that we are going to lose in revenue. And you know, when you look at a budget such as we have, approaching \$6 billion for the three-year, or two-year period, that doesn't sound like a lot of money. But when you remember back just three and four years ago the problems that we had facing a loss of revenue like that. Now, the thing that concerns me, too, is the long run. I don't have the figure

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right with me at this moment, but Medicaid is eating us alive. Medicaid and aid to individuals and TEEOSA approximate 50 percent of our state budget. And these are going up almost 10 percent. And when you look at that and you see that over the period of time our revenue stream has been approximately 5 percent increase, you say, what's...how is this going to work? And if...what's going to be lost? What's going to be lost are all those other things that involve the welfare of the state of Nebraska. It involves our higher education. It involves K-12 education. It involves our healthcare. And all of the various things that we need are economic development. We need economic development in this state, so there's a job for our students when they graduate from high school and from college. We need this very badly. We need to provide money for that. And I'm concerned that currently we're not providing enough for any of those things. But if you take \$5 million out of our budget by way of increased revenue, you are limiting the number of things that we can do as a state, things that we must do to develop our state's future. And I'm deeply concerned about this. I'm sorry that I have to be here with the wet blanket, as you might say. But I think it's something that we have to recognize. We...in the Appropriations Committee, we hear nothing but good proposals. And it's just that we hear a lot of proposals we can't afford. I know the Revenue Committee hears a lot of proposals that they think we can't afford either. And I'm suggesting that this bill, although very well-intentioned, calling for us to lose, essentially, \$5 million the first two years, and, if it's a successful program and goes for four years and they get a lot more, we're going to have a lot more loss of revenue.

SENATOR CUDABACK: One minute.

SENATOR D. PEDERSON: And we simply can't afford that. Senator Landis the other day referred to some other means by which this maybe has some problems, about the potential ill use of the device. And I'm not going to go into that. I'm simply going to tell you that as the Chairman of your Appropriations Committee, I think that we can't go back to where we were when we thought we were having 13 percent income, and spending things in a discretionary manner. We have to make certain that we are, (A)

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saving enough money to do the things we have to do when we have to do them; and that (B) we have to have sufficient money to help the development of our state. And although this is very well-intentioned, and I admire greatly the people that are in favor of this, I simply tell you that at this point I do not believe we can afford this bill. Thank you.

SENATOR CUDABACK: Thank you, Senator Pederson. On with discussion. Senator Redfield, followed by Senators Friend, Connealy, Loudon, and Stuthman.

SENATOR REDFIELD: Thank you, Senator Cudaback, members of the body. It gives me no pleasure to rise and speak in opposition to LB 28. Everyone understands and recognizes the wonderful work that a lot of these nonprofit organizations do in the state of Nebraska and in our country, and how they benefit our citizens. At the same time, I wanted to bring to your attention just how good a program now exists to encourage people to make these kinds of planned donations. On page 2 of the bill, subsection (f) talks about charitable gift annuities. And I have distributed on the floor a number of plans and how it might work out for different individuals. If you look at the one marked "A," this is one about a lady named Valerie. She's been a careful saver. She has a number of certificates of deposit. And what she said is that over the past three years, the return on her CDs has declined significantly, and there just are not any CDs with a good rate of return. I'm also interested in a secure return. I want to know that a good return will be paid. The ideal choice for me would be a secure high-return. Valerie talked to a friend who had found exactly that choice. Her friend had set up a gift annuity with a favorite charity. Valerie thought that perhaps the gift annuity would be helpful for her. Valerie said, I was very pleased to discover that based upon my age, a gift annuity would pay 8 percent, plus there would be a good tax deduction, and part of the income would be tax-free. After finding out how easy it is to set up a gift annuity, I transferred \$20,000 from a CD that had matured, into a charitable gift annuity. My CPA is also pleased that the charitable deduction will save over \$3,000 in taxes this year. With my tax savings and increased income, I plan to take a very nice vacation this year. Fixed payments for Valerie from the

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gift annuity are about three times what she was receiving from her one-year certificate of deposit. She is very pleased with the increased income and charitable savings. So the challenge she faced was the fact that her interest rate was only 2 to 3 percent over these last few years. She wanted more income, and she wanted to have a secure income. And the solution that was proposed to her was to create a charitable gift annuity. She would receive fixed payments for life. She would receive higher rates. In fact, her return would be three times annually what she was receiving now. And she would get a great income tax deduction. So if you follow through, you see that in fact it's a sweet deal. It's a very sweet deal. And more than that, the annual annuity that she would receive would be quite a bit, proportionately, tax-free payout, as opposed to the CD that she was currently paying tax on. It's a good deal. And I think that Senator Connealy has recognized that, and that's why he's brought this bill here. But the reality is, we're asking ourselves the question today, whether Nebraska needs to sweeten the deal. Is the deal sweet enough as it is now, with federal incentives and tax deductions that exist? Or do we need to sweeten the deal in order to encourage people to give? If you look at handout number "C," you see the one that is talking about \$10,000, which is exactly what Senator Connealy's bill sets as a limit. Many years ago, Clara bought stock in a company that built...

SENATOR CUDABACK: One minute.

SENATOR REDFIELD: ...and sold homes. Over the years, the stock has increased in value many times. This stock was a good investment. And while it has gone up in value several times, Clara is still...is now tired of guessing the market. She's looking for security. She discovered that she could receive a return of almost 8 percent, based upon her age, and this fixed payment was in addition to a large income tax deduction. Clara decided to transfer \$10,000 of appreciated stock to a charity. And she is delighted to save \$1,500 in income taxes. I will continue with the discussion the next time I press my light. Thank you, Senator Cudaback.

SENATOR CUDABACK: Thank you, Senator Redfield. On with

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discussion, advancement of LB 28. Senator Friend.

SENATOR FRIEND: Thank you, Mr. President. Members of the Legislature, this is the most interesting...now, it's relative. This is the most interesting bill I've seen out here this year so far. To me, it is. That doesn't mean anybody else is listening. But the bottom line, to me, right now, is that this is the most interesting thing I've seen. Now, the first thing that occurred to me when I read this probably about a week ago, read it again, had to blink a couple times, and then read it a third time, the tax code can be seen and can do a lot of different things for a state and the federal government. In my opinion, I think a tax code can and should, in a lot of instances, promote and help drive economic growth in our nation and in our state. A tax code can also...that promotes or can drive for sound economic, public policy can be a good thing as well. Now, a lot of times those things are linked. In a perfect world, they'd always be linked. But I don't think they're linked all the time. If it was a perfect world, the Patriots wouldn't have won last night; the Eagles would have. But it's not a perfect world, so we...I think we all...I digress. I think we all know that. Again, opinion based on some research would dictate to me that reductions, reductions in tax rates on labor or capital or both can lead to higher levels of economic activity. Tax policy changes that provide credits or specified deductions for some and not for others, or not for all, for the most part have little effect on economic growth. However, at times credits, such as things like the child...I don't...the child tax credit, the federal child tax credit, may be important for combatting or reversing, possibly reversing, inequity in a code that's always allowed maybe for adult personal exemptions and things like that that aren't being offered for children or that lag behind inflation levels. It's...I don't think...it's not like these ideas or policies like these are going to send our economy into a roller coaster type of effect. Or it's not going to drive that. So I think the question that we all have to ask ourselves...I really don't know where I'm going to go with this bill. I...the reason that I found it interesting is it's intriguing. I like these ideas. We're handing...Senator Redfield mentioned sweetheart deals. We're handing all kinds of those things out. We have to ask

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ourselves a question, I think, right now: What can or should the tax code do for us? What can a fair, an equitable tax code do for us right now? And what can it do for us in relationship to charitable giving? Are we doing enough? Are we to a point where we can make it more equitable, similar to the instance or the analogy that I made to the child tax credit? I don't have an answer to that question right now. But I think we ought to ask the question, and we should try to find an answer here to this right now on General File before we fly forward into Select File. Thank you, Mr. President. That's all I had at the moment.

SENATOR CUDABACK: Thank you, Senator Friend. Senator Connealy.

SENATOR CONNEALY: Members, I don't disagree with Don Pederson. I believe that that's exactly his job, to hold up from Appropriations Chair and say, you know, we can't afford this stuff; this is a lot of money. And it is. And this is early in the session. This is one of the first of these packages that we're going to be seeing this year. And we're going to be talking about economic stimulus and other things that happen. And hopefully we're going to be able to talk about a lot of these here on the floor. It's not my intent to drive this through at the beginning of the session and get this on Final Reading before we end up and know where we are. You know, I...if I have enough support, I wouldn't assume that this would happen until the end of the session. And hopefully, by that time I could convince Senator Pederson of the credibility and the ability to make this thing pay for itself. We are looking at a large potential of transfer of wealth from this state to other places in the United States. We see it every day. We had testimony last year when this bill was in front of the Revenue Committee about, you know...bankers said that people come to the funeral in a small town, and then run to the bank, pull the money, and go off to wherever they came from. The family assets move out of the state, and we become more and more of a tenant state here, especially in places like my hometown of Decatur. We need to stem that. We need to figure out ways to stop that. I farmed a piece of ground south of Decatur for about 20 years. And it was a widowed lady who had lived there all her life, and ended up without any close relatives, and gave the ground away

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to a charity, ended up giving it to the Shriners, a great organization, does work for kids here in the state of Nebraska. But the majority of that money went to Florida. And it will go to Florida forever. That asset of 200-and-some acres will be generating money, and will be doing some work all around the United States, which is great work, and I believe...I don't want to discount that. But it didn't stay in our community. And I believe that more and more of that is happening. If there's any way that we can keep more of those assets here in the state, I think it's something that we ought to look at. I am very appreciative of Senator Redfield talking about how we can drive more charitable giving. And the ways with annuities and savings accounts and insurance accounts are good ways to help people plan ahead and be able to expand the amount that they give to worthy causes. And the tools that she's talking about using are in place now, and should be in place. This is another tool. This is a tool to drive giving to charitable organizations here in the state, 501(c)(3) organizations that, to some extent,...Senator Landis, I believe, talked how you get around that on Friday. But I...the majority of 501(c)(3) organizations do fantastic work. And I think that we have to work on the majority here. We have to stop abuses wherever we see them. But that's how we structured this, so that if it's an organization that fits that category and has a long-term planned gift--you give, and the money would only be used from the interest, not the principal--that that money would be here to be used by our citizens for years to come. I want to increase that giving. Thank you.

SENATOR CUDABACK: Thank you, Senator Connealy. On with discussion. Senator Louden.

SENATOR LOUDEN: Thank you, Mr. President and members of the body. My opinion is this, that I think it's a very good idea. Whether its time has come or not, I don't know. I've gotten letters from constituents that would like to have this brought forward because of the giving for some of the charitable institutions, that sort of thing. But as Senator Pederson has mentioned, there's 4 million bucks in there that...it isn't exactly money that will be spent out of the treasury; it's that the state...it's money that we won't get. Not only that, on

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some of these places, there can be some difference on the county level. A lot of your counties rely on inheritance tax money for their emergency funding that they use. I haven't seen anything, any numbers on there on what effect that will have on our county level. I think at the present time we're still into paying off our nuclear waste debt. We have a few other debts. I think this is probably something that would maybe work in the future, when money was a little more plentiful. And I admire Senator Connealy for saying that he didn't want to bring this forward. So my suggestion would be to probably bracket this until later on in the session, to see how we come out, and spend time and work on it then. But at the present time, I'm quite reluctant to support this bill. Now, if Senator Pam Redfield wants the rest of my time, I'll turn it over to her if she so desires.

SENATOR CUDABACK: Senator Redfield.

SENATOR REDFIELD: Thank you, Senator Loudon. I appreciate the time. I'd like to finish up on the packet "C," and explain what Clara would actually get out of the current climate that we have within the federal tax code. She actually would receive an annuity of \$800 on this proposal. And even if she were to put that money in a CD now at 5 percent, which is hard to get, she would only be getting \$500. So she'd actually see her income increase each year by \$300. And in addition to that, \$114 of that would be tax-free money. She would get an income tax deduction from the feds of \$1,392 for the deduction of \$4,641. And if LB 28 were to pass, she would also receive a \$4,000 credit on her state income taxes. So in other words, over half of the money that she would be giving away would be paid for, in essence, by the taxpayers. And she would not see her income decrease each year; she would in fact see it increase. Now, the only loser in this whole picture here is actually the heirs, who would not get the value of that \$10,000 CD when she passed on. But for Clara, in her lifetime, this is a great deal. I have also distributed to you a couple of pages from the IRS publication 526. It's marked "B." And on the second page of that hand...or the back of that handout, at the top of the page you'll see something about a remainder trust, which is also one of the qualifying plans in LB 28. It is actually listed as (a) on page 2, a charitable remainder trust. And it tells you

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there, at the top of the second column, that a remainder interest in your personal home or farm, a remainder interest is one that passes to a beneficiary after...

SENATOR CUDABACK: One minute.

SENATOR REDFIELD: ...the end of an earlier interest in the property. The example is, you get to keep the right to live in your home during your lifetime, and give your church a remainder interest that begins upon your death. So in fact, under these kinds of unitrusts, you can, in a sense, have your cake and eat it, too, because you can remain in your home, or remain on your farm, and enjoy it during the rest of your lifetime, but see that it passes on to a charity in future years. And I have pushed my button, so I will explain the other handouts on unitrusts later. Thank you.

SENATOR CUDABACK: Thank you, Senator Redfield. Senator Stuthman.

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. First of all, I am in favor of charitable giving. Realistically, I am. But I have to look at it in respect to, you know, what is this going to do, you know, to the taxpayers of the state of Nebraska? We are continually reminded of shortfalls, we need to raise taxes, we need to do something, you know, to keep the programs going. This bill, LB 28, you know, is going to cost...well, realistically, it's not going to cost the state anything; it's not going to bring in the revenue that was anticipated, the \$5 million. Another issue that I have is, you know, the administrative part of it, to start with, with the commission, \$300,000-some for that. Who and what group is going to be responsible to make up this \$5 million-plus? That is a very much of a concern of mine. Is that going to have to come at the expense of possibility of broadening the sales tax base down the road a little bit, you know, to make up for that portion? Are we going to have to tax the average common worker, you know, a little bit to take care of this, because someone, you know, has made a charitable contribution, and that he's going to get a credit or a benefit from it? I think, you know, they can make these charitable givings. They can do this. They

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can do it already, you know. And I don't know whether we should be passing a bill that will, you know, help them out as far as their financial burden to the state. We don't seem to help the average common-folk person, giving him a tax credit, you know, so that his tax bill would be as big as it normally should be, because he's taken in some more money. I mean, these are things that we need to realistically look at. That \$5 million just really knocked me in the face because somewhere along the line, we have to make up for those \$5 million. How are we going to do that? The only way that we can realistically do that is by adding an additional tax, building the economy so that the money would normally come in. But these are questions that I have. And I'm really concerned about, you know, the direction that we're setting, who we're going to put the burden on to benefit people that are making a charitable giving. Like I had said earlier, I am not against the charitable giving part of it. Individuals can do the charitable giving. Maybe this will help them make a decision whether they want to contribute "X" amount of dollars or not to it. But I think we have to...we as a legislative body have to be concerned about who and at what expense are we going to do this. And that \$5 million and \$300,000 to administrate the program, that is very much of a concern of mine. So with that, those are my comments. I will get into the discussion a little later on, as we continue. But as for now, I'm going to return the...(microphone malfunction).

SENATOR CUDABACK: I'm sorry, Senator Stuthman, for that cutoff.

SENATOR STUTHMAN: That's okay.

SENATOR CUDABACK: Mr. Clerk, items for the record.

CLERK: Mr. President, I have a confirmation report from the Natural Resources Committee. Your Committee on Natural Resources reports LB 342 to General File. Those reports signed by Senator Schrock. Hearing notice from General Affairs, signed by Senator Janssen. Amendments to be printed: Senator Connealy to LB 313; Senator Preister to LB 312; Senator Preister to LB 646. Reference report regarding gubernatorial appointment. And new A bills. LB 85A by Senator Byars. (Read LB 85A by title for the first time.) LB 243A by Senator Byars. (Read

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LB 243A by title for the first time.) Senator Howard would like to add her name to LB 66; Senator Engel to LB 101; Senator Dwite Pedersen to LB 478; Senator Erdman to LB 522 and LB 617. (Legislative Journal pages 449-451.)

Mr. President, I have a priority motion. Senator Byars would move to adjourn until February 8 at 9:00 a.m.

SENATOR CUDABACK: You've heard the motion by Senator Byars to adjourn till February 8, 9 a.m. All in favor of the motion say aye. Opposed to the motion say nay. Ayes have it. We are adjourned.

Proofed by: D. Smith