

**FEBRUARY 17, 2005**

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Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 1  
LR 44

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Good morning. Welcome to the George W. Norris Legislative Chamber. Our chaplain of the day is Pastor Carl Lilienkamp, from Grace Lutheran Church, Wayne, Nebraska, Senator Engel's district. Pastor.

PASTOR LILIENKAMP: (Prayer offered.)

SENATOR CUDABACK: Pastor Lilienkamp comes from the 17th District. Thank you very much for being with us this morning. I call the thirtieth day of the Ninety-Ninth Legislature, First Session, to order. Senators, please record your presence. Record please, Mr. Clerk.

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

SENATOR CUDABACK: Are there any corrections for the Journal?

CLERK: I have no corrections, Mr. President.

SENATOR CUDABACK: Any reports, messages, or announcements?

CLERK: I have a confirmation report from the Natural Resources Committee, that signed by Senator Schrock, as Chair. A hearing notice from Appropriations Committee, signed by Senator Pederson. Mr. President, new resolution, LR 44, introduced by Senator Kremer. That will be laid over. I have the report of registered lobbyists for this week, to be inserted in the Journal. And on file in the Clerk's Office are two reports from the Energy Office and a report from the Department of Roads. And that's all that I have, Mr. President. (Legislative Journal pages 549-551.)

SENATOR CUDABACK: Thank you, Mr. Clerk. We now go to Select File. And as noted, those with amendments, outside of E & R, will be passed over. Mr. Clerk, LB 1.

CLERK: Mr. President, Senator Flood, on LB 1 I have no amendments to the bill, Senator.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 1-3, 80

SENATOR CUDABACK: Senator Flood, for a motion.

SENATOR FLOOD: Mr. President, I move the advancement of LB 1 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 1 to E & R for engrossing. All in favor of the motion say aye. Those opposed to the motion say nay. It is passed.

CLERK: LB 2, Senator. I have no amendments to the bill.

SENATOR CUDABACK: Senator Flood, for a motion.

SENATOR FLOOD: Mr. President, I move the advancement of LB 2 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 2 to E & R for engrossing. All in favor of the motion say aye. Opposed to the motion say nay. It is advanced. Mr. Clerk.

CLERK: Senator, LB 3. I have no amendments to the bill.

SENATOR CUDABACK: Senator Flood, for a motion.

SENATOR FLOOD: Mr. President, I move the advancement of LB 3 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 3 to E & R for engrossing. All in favor of the motion say aye. Opposed to the motion say nay. It is advanced. Mr. Clerk.

CLERK: Mr. President, Senator, I have no amendments to LB 80.

SENATOR CUDABACK: Senator Flood, for a motion.

SENATOR FLOOD: Mr. President, I move the advancement of LB 80 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion by Senator Flood to advance LB 80 to E & R for engrossing. All in favor say aye. Opposed to the motion say nay. It is advanced.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 59, 83, 88

CLERK: Mr. President, LB 83. Senator, I have no amendments to the bill.

SENATOR CUDABACK: Senator Flood, for a motion.

SENATOR FLOOD: Mr. President, I move the advancement of LB 83 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 83 to E & R for engrossing. All in favor of the motion say aye. Opposed to the motion say nay. It is advanced. Mr. Clerk, LB 51.

CLERK: Mr. President, I do have an amendment to LB 51.

SENATOR CUDABACK: LB 51 will be passed over. Mr. Clerk, LB 59.

CLERK: Senator, LB 59. I have no amendments to the bill.

SENATOR CUDABACK: Senator Flood, for a motion.

SENATOR FLOOD: Mr. President, I move the advancement of LB 59 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion from Senator Flood to advance LB 59 to E & R for engrossing. All in favor of the motion say aye. Opposed to the motion say nay. It also is advanced. Mr. Clerk, LB 88.

CLERK: LB 88, Mr. President. Senator, I have no amendments to the bill.

SENATOR CUDABACK: Senator Flood, for a motion.

SENATOR FLOOD: Mr. President, I move the advancement of LB 88 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 88 to E & R for engrossing. All in favor of the motion say aye.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 33, 88, 169, 261

Opposed to the motion say nay. It is advanced. Mr. Clerk,  
LB 33.

CLERK: Mr. President, LB 33. Senator, I have no amendments to  
the bill.

SENATOR CUDABACK: Senator Flood, for a motion.

SENATOR FLOOD: Mr. President, I move the advancement of LB 33  
to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 33 to  
E & R for engrossing. All in favor say aye. Opposed, nay. It  
is advanced. Mr. Clerk, LB 261.

CLERK: Mr. President, LB 261. Senator, no amendments to the  
bill.

SENATOR CUDABACK: Senator Flood, for a motion.

SENATOR FLOOD: Mr. President, I move the advancement of LB 261  
to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 261 to  
E & R for engrossing. All in favor, say aye. Opposed to the  
motion say nay. LB 261 is advanced. Mr. Clerk, LB 169.

CLERK: Mr. President, LB 169. Senator, I do have Enrollment  
and Review amendments. (AM7003, Legislative Journal page 433.)

SENATOR CUDABACK: Senator Flood, for a motion.

SENATOR FLOOD: Mr. President, I move the adoption of the E & R  
amendments to LB 169.

SENATOR CUDABACK: You've heard the motion to adopt the E & R  
amendments to LB 169. All in favor of that motion say aye.  
Opposed to the motion say nay. They are adopted.

CLERK: I have nothing further on that bill, Senator.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 52, 61, 169

SENATOR CUDABACK: Senator Flood, for a motion.

SENATOR FLOOD: Mr. President, I move the advancement of LB 169 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 169 to E & R for engrossing. All in favor say aye. Opposed, nay. LB 169 is advanced. Mr. Clerk, LB 52.

CLERK: Mr. President, LB 52. I do have Enrollment and Review amendments, Senator. (AM7007, Legislative Journal page 433.)

SENATOR CUDABACK: Senator Flood, for a motion.

SENATOR FLOOD: Mr. President, I move the adoption of the E & R amendments to LB 52.

SENATOR CUDABACK: The motion to adopt the E & R amendments to LB 52. All in favor of the motion to adopt E & R amendments say aye. Opposed to the motion say nay. They are adopted.

CLERK: I have nothing further on the bill, Senator.

SENATOR CUDABACK: Senator Flood, for a motion.

SENATOR FLOOD: Mr. President, I move the advancement of LB 52 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 52, E & R for engrossing. All in favor of the motion to advance say aye. Opposed to the motion say nay. It is advanced. Mr. Clerk, LB 61.

CLERK: LB 61, Senator. I have no amendments to the bill, Senator.

SENATOR CUDABACK: Senator Flood, for a motion.

SENATOR FLOOD: Mr. President, I move the advancement of LB 61 to E & R for engrossing.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 15-17, 61

SENATOR CUDABACK: You've heard the motion to advance LB 61 to E & R for engrossing. All in favor of that motion say aye. Opposed to the motion say nay. It is advanced. Mr. Clerk, LB 16.

CLERK: LB 16. I have no amendments to the bill, Senator.

SENATOR CUDABACK: Senator Flood, for a motion.

SENATOR FLOOD: Mr. President, I move the advancement of LB 16 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion by Senator Flood to advance LB 16 to E & R for engrossing. All in favor say aye. Opposed to the motion say nay. LB 16 is advanced. Mr. Clerk, LB 17.

CLERK: LB 17. Senator, I have no amendments to the bill.

SENATOR CUDABACK: Senator Flood, for a motion.

SENATOR FLOOD: Mr. President, I move the advancement of LB 17 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 17 to E & R for engrossing. All in favor of the motion say aye. Opposed, nay. LB 17 is advanced. Mr. Clerk, LB 15.

CLERK: LB 15. Senator, I do have Enrollment and Review amendments. (AM7010, Legislative Journal page 470.)

SENATOR CUDABACK: Senator Flood, for a motion.

SENATOR FLOOD: Mr. President, I move the adoption of the E & R amendments to LB 15.

SENATOR CUDABACK: You've heard the motion by Senator Flood to adopt the E & R amendments to LB 15. All in favor of the motion say aye. Opposed to the motion, nay. They are adopted.

CLERK: I have nothing further on the bill, Senator.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 15, 18, 329, 383

SENATOR CUDABACK: Senator Flood, for a motion.

SENATOR FLOOD: Mr. President, I move the advancement of LB 15 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 15 to E & R for engrossing. All in favor of the motion say aye, please. Opposed, nay. It is advanced. Mr. Clerk, LB 18.

CLERK: LB 18. Senator, I have no amendments to the bill.

SENATOR CUDABACK: Senator Flood, for a motion.

SENATOR FLOOD: Mr. President, I move the advancement of LB 18 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion by Senator Flood to advance LB 18 to E & R for engrossing. All in favor of the motion say aye. Opposed, nay. LB 18 is advanced to E & R for engrossing. Mr. Clerk, LB 283.

CLERK: Mr. President, I have an amendment filed to LB 283.

SENATOR CUDABACK: LB 283 will be passed over, as noted. LB 329, Mr. Clerk.

CLERK: Senator, I have no amendments pending to LB 329.

SENATOR CUDABACK: Senator Flood, for a motion.

SENATOR FLOOD: Mr. President, I move the advancement of LB 329 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 329 to E & R for engrossing. All in favor of the motion say aye. Opposed to the motion say nay. LB 329 is advanced. Mr. Clerk, LB 383.

CLERK: LB 383. Senator, I have no amendments to the bill.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 216, 334, 383

SENATOR CUDABACK: Senator Flood, for a motion.

SENATOR FLOOD: Mr. President, I move the advancement of LB 383 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion by Senator Flood to advance LB 383 to E & R for engrossing. All in favor say aye. Opposed, nay. LB 383 is advanced. Mr. Clerk, LB 216.

CLERK: LB 216. Senator, I do have Enrollment and Review amendments pending. (AM7015, Legislative Journal page 475.)

SENATOR CUDABACK: Senator Flood, for a motion.

SENATOR FLOOD: Mr. President, I move the adoption of the E & R amendments to LB 216.

SENATOR CUDABACK: You've heard the motion by Senator Flood to adopt the E & R amendments to LB 216. All in favor of that motion say aye. Opposed to the motion, nay. They are adopted.

CLERK: I have nothing further on LB 216, Senator.

SENATOR CUDABACK: Senator Flood, for a motion.

SENATOR FLOOD: Mr. President, I move the advancement of LB 216 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 216 to E & R for engrossing. All in favor of that motion say aye. Opposed to the motion say nay. It is advanced. Mr. Clerk, LB 334.

CLERK: I have Enrollment and Review amendments to LB 334, Senator. (AM7013, Legislative Journal page 475.)

SENATOR CUDABACK: Senator Flood, for a motion.

SENATOR FLOOD: Mr. President, I move the adoption of the E & R amendment to LB 334.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 11, 37, 334

SENATOR CUDABACK: You've heard the motion to adopt the E & R amendments to LB 334. All in favor of the motion to...say aye. Opposed, nay. They are adopted.

CLERK: I have nothing further to the bill, Senator.

SENATOR CUDABACK: Senator Flood, for a motion.

SENATOR FLOOD: Mr. President, I move the adoption of LB 334 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 334, E & R for engrossing. All in favor of the motion please say aye. Opposed, nay. It is advanced. Mr. Clerk, LB 37.

CLERK: Mr. President, LB 37. I have Enrollment and Review amendments, Senator. (AM7014, Legislative Journal page 476.)

SENATOR CUDABACK: Senator Flood, for a motion.

SENATOR FLOOD: Mr. President, I move the adoption of the E & R amendment to LB 37.

SENATOR CUDABACK: You've heard the motion to adopt E & R amendments to LB 37. All in favor of the motion say aye. Opposed to the motion say nay. They are adopted.

CLERK: I have nothing further on the bill, Senator.

SENATOR CUDABACK: Senator Flood, for a motion.

SENATOR FLOOD: Mr. President, I move the adoption of LB 37 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 37 to E & R for engrossing. All in favor say aye. Opposed, nay. It is advanced. Mr. Clerk, LB 11.

CLERK: Senator, LB 11. I have no amendments to the bill.

SENATOR CUDABACK: Senator Flood, for a motion.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 11, 20, 53

SENATOR FLOOD: Mr. President, I move the adoption of LB 11 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 11 to E & R for engrossing. All in favor of the motion to advance say aye. Opposed, nay. LB 11 is advanced. Mr. Clerk, LB 53.

CLERK: LB 53. Senator, I have no amendments to the bill.

SENATOR CUDABACK: Senator Flood, for a motion.

SENATOR FLOOD: Mr. President, I move the advancement of LB 53 to E & R for engrossing.

SENATOR SMITH: Board vote.

SENATOR CUDABACK: There's been a request for a board vote to advance LB 53, E & R for engrossing. All in favor of the advancement of LB 53, E & R for engrossing, vote aye; those opposed, nay. The question is, shall LB 53 advance to E & R for engrossing? Have you all voted on the advancement of LB 53 who care to? Record please, Mr. Clerk.

CLERK: 32 ayes, 6 nays, Mr. President, on the advancement of LB 53.

SENATOR CUDABACK: LB 53 does advance. That completes that section of the agenda. Mr. Clerk, do you have any items?

CLERK: Not at this time, Mr. President. Thank you.

SENATOR CUDABACK: Thank you. We now go to Select File. Mr. Clerk, LB 20.

CLERK: Mr. President, first of all, on LB 20, Senator Flood, I have Enrollment and Review amendments pending. (AM7000, Legislative Journal page 395.)

SENATOR CUDABACK: Senator Flood, for a motion.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 20

SENATOR FLOOD: Mr. President, I move the adoption of the E & R amendment to LB 20.

SENATOR CUDABACK: You've heard the motion to adopt the E & R amendments to LB 20. All in favor of the motion say aye. Opposed to the motion say nay. They are adopted.

CLERK: Mr. President, Senator Chambers would move to amend with AM0117.

SENATOR CUDABACK: Senator Chambers, you're recognized to open on your amendment AM0117 to LB 20. Senator Chambers.

SENATOR CHAMBERS: Mr. President, I withdraw that amendment.

SENATOR CUDABACK: The amendment is withdrawn. Mr. Clerk, when you get time.

CLERK: Mr. President, Senator Chambers would move to amend with AM0191. (Legislative Journal page 410.)

SENATOR CUDABACK: Senator Chambers, you're recognized to open on AM0191.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, this is an amendment that those of us who have paid attention to this bill have come to an agreement on. There is a word in it that Senator Loudon wanted, which says that these beasts shall be destroyed. I do not like the thrust of the bill, killing these animals who exist only because of what human beings have done with them. Nevertheless, the amendment was worked out. It is agreed to by everybody. And I'm asking that you adopt it. And I must quote from a letter that I got from one of my colleagues this morning, one of my colleagues who is a quitter and a runner-away from the battle: I offer this amendment with a heavy heart. That's a direct quote from that letter. I don't know if you all got it. But my seatmate, for whom I have...I used to have tremendous respect, is quitting. Running off, giving up the struggle. Now, I think the letter that I got may have been the text that was put in everybody's letter, although it was personalized. But I can't be sure.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 20

Because there was a line in it that said: It has been a pleasure serving with all of you. Since it was addressed to me, Ernie, I wonder if she has been checking out my medical records and found out that I indeed am a person with multiple personalities. Some people think I don't have one. But she apparently found out my secret. And I'm not mad at her just because she found out my secret and told on me. I'm mad at her because she's quitting. But in reality, there would be no way for me to make a comment, ordinarily, on the letter, and the regret that I feel that Senator Thompson is going to leave. Since I'm offering an amendment on this bill, which is not controversial, and I'm not going to take a lot of time on the amendment, I decided to take this moment to offer those few words of enlightenment and encouragement. Thank you, brothers and sisters. I hope you will adopt this amendment. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. You heard the opening on AM0191. Open for discussion. Senator Kremer.

SENATOR KREMER: Thank you, Senator Cudaback and members of the body. I just rise in support of the Chambers amendment. The purpose of LB 20 was to remove any ambig...ambiguity, there we go, under existing law. And just to bring back your attention a little bit, LB 29 and LB 20 were combined into one bill. And it places feral swine in statute. And Chambers' amendment does clarify that a little bit, and it says, they shall be removed. There was some discussion that, who should carry out the duties of destroying? And there was some discussion whether it should be the Department of Ag or the Animal Control. It was...the bill was actually worked out together between the two, and felt like it should be in Game and Parks, because the Department of Agriculture really did not have the resources or the authority to do it. They would have to contract with the damage control program under USDA. So they felt like they were part of the bill, the damage control people, and so that they felt comfortable with Game and Parks doing it. So thank you. And Senator Chambers' bill also does make a reference, rather than have a definition in two different places, refers one to the other definition in another part of the statute. So with that, I do support the Chambers amendment, and ask you to also. Thank you.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 20

SENATOR CUDABACK: Thank you, Senator Kremer. Discussion of the Chambers amendment, AM0191. Senator Louden.

SENATOR LOUDEN: Thank you, Mr. President. And I, too, am rising to support this Chambers amendment. I think part of the amendment that I was...worked for, was to get the description of the feral swine in there, so that they can be described different than someone's stray animals. I think Senator Janssen mentioned here one time on the floor that there's two things that you probably don't like to see made, and that's legislation and sausage. And with this one here, why, this is something where we ground it up long enough till we finally came up with a product that's probably a pretty good-looking product that I'm sure even Jimmy Dean would be proud of. So with that, I wanted to thank everybody that's voted for my amendments early on in the discussion. And I'm certainly supporting this amendment now. Thank you. And I support Senator Chambers for bringing it forward.

SENATOR CUDABACK: Thank you, Senator Louden. Further discussion on the Chambers amendment. Senator Chambers, there are no lights on. He waives the opportunity to close. The question is, shall AM0191 be adopted? All in favor vote aye; opposed, nay. We're voting on the Chambers amendment, AM0191 to LB 20. Have you all voted who care to? Record please, Mr. Clerk.

CLERK: 35 ayes, 0 nays, Mr. President, on the adoption of Senator Chambers' amendment.

SENATOR CUDABACK: The amendment has been adopted.

CLERK: Senator Flood, I have nothing further pending on the bill, Senator.

SENATOR CUDABACK: Senator Flood, for a motion.

SENATOR FLOOD: Mr. President, I move the advancement of LB 20 to E & R for engrossing.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 20, 118

SENATOR CUDABACK: You've heard the motion to advance LB 20 to E & R for engrossing. All in favor say aye. Opposed, nay. It is advanced. Mr. Clerk, LB 118.

CLERK: LB 118. Senator Flood, I have Enrollment and Review amendments, first of all, Senator. (AM7001, Legislative Journal page 398.)

SENATOR CUDABACK: Senator Flood, for a motion, please.

SENATOR FLOOD: Mr. President, I move the adoption of the E & R amendment to LB 118.

SENATOR CUDABACK: You've heard the motion to adopt E & R amendments to LB 118. All in favor of the motion say aye. Opposed, nay. They are adopted.

CLERK: Senator Cunningham would move to amend with AM0317, Mr. President. (Legislative Journal page 510.)

SENATOR CUDABACK: Senator Cunningham, you're recognized to open on your AM0317 to LB 118.

SENATOR CUNNINGHAM: Thank you, Senator Cudaback and members. I'll give you a brief update on LB 118, which deals with the selling of farm equipment dealerships. As I stated during the first round of debate, I worked with both of the major equipment dealers and the equipment manufacturers on the language in LB 118. Both sides were in agreement, but we ran into some problems on the floor. There was some discussion. Senator Chambers had an amendment. Senator Beutler and Senator Landis had some concerns. And since that time, we've worked on...we did pass the amendment that day. And we decided that amendment needed some further clarification. And in that time frame, I've worked with Senator Beutler, most specifically, and I believe Senator Chambers and Senator Landis are on board. But what AM0317 would specify, that the approval or denial of the request must be in writing and sent by certified mail. It also reinstates the 60-day time line. If the supplier has not approved or denied the request within 60 days, it will be deemed approved. Additionally, the request must be sent by certified

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 118, 119

mail. And as I said, I've dealt with the senators involved that had concerns. I'm not aware of any problems with this amendment right now. And I would appreciate your vote. Thank you.

SENATOR CUDABACK: Thank you, Senator Cunningham. You've heard the opening on AM0317. Open for discussion. Senator Cunningham, there are no senators wishing to speak. He waives the opportunity to close. The question before the body is, shall AM0317 be adopted to LB 118? All in favor vote aye; opposed, nay. The question before the body is adoption of the Cunningham amendment, AM0317. Have you all voted on the issue who care to? Record please, Mr. Clerk.

CLERK: 33 ayes, 0 nays, Mr. President, on the adoption of Senator Cunningham's amendment.

SENATOR CUDABACK: The amendment has been adopted. Mr. Clerk, anything further?

CLERK: Senator Flood, I have no further amendments.

SENATOR CUDABACK: Senator Flood, for a motion.

SENATOR FLOOD: Mr. President, I move the advancement of LB 118 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion by Senator Flood to advance LB 118 to E & R for engrossing. All in favor say aye. Opposed, nay. It is advanced. Mr. Clerk, LB 119.

CLERK: LB 119. Senator Flood, I have Enrollment and Review amendments, first of all. (AM7006, Legislative Journal page 431.)

SENATOR CUDABACK: Senator Flood, for a motion.

SENATOR FLOOD: Mr. President, I move the adoption of the E & R amendment to LB 119.

SENATOR CUDABACK: You've heard the motion by Senator Flood to adopt E & R amendments to LB 119. All in favor of that motion

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 119

say aye. Opposed, nay. They are adopted. Mr. Clerk.

CLERK: Mr. President, Senator Mines would move to amend with AM0398. (Legislative Journal page 537.)

SENATOR CUDABACK: Senator Mines, to open on AM0398 to LB 119. Senator Mines.

SENATOR MINES: Thank you, Mr. President. The amendment addresses two concerns that we discussed on General File. And I would like to first of all thank Senator Beutler and the Department of Insurance. We spent a great deal of time working these details out. And let me just capsulize, if I might, what they include. Let's just begin with file and use for personal property and casualty forms. The amendment inserts in the...would insert and amend Section 44-7508.02 of the Property and Casualty Insurance Rate and Form Act, to provide that personal line coverage moves from a prior approval to file and use system, as the bill provides. The Department of Insurance is required to review the personal lines forms filing within 30 days after the filing has been made. This requirement will reinforce legislative intent that the department must give these forms threshold scrutiny, as determined by the director, according to the nature of the particular filings. For some forms, a word-for-word review is critical, and we must do that. And for others, quite frankly, it's not the best use of staffs' time. In the the file and use system, the director can disapprove a filing with insurance of a written disapproval notice within 30 days after the filing is made. And the insurer can then request a hearing. Beyond the 30-day threshold, the director can disapprove a filing if after there's been an opportunity for a hearing. So, very simply, in the first 30 days, the insurer has the burden of going forward and the burden of proof; after 30 days, the director has burden of going forward and the burden of proof. Let's move on to the Insurers Investment Act. The amendments would also amend Section 44-5143 of the Insurers Investment Act, which allows insurers to invest in notes of bonds secured by inclusive or wraparound second mortgages or liens. The new language contains a number of restrictions and requirements. As an example, the insurer must file for the record in the office of the recorder of the county

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 119

in which the real property is located a duly acknowledge request for a copy of this notice or default of sale under the preexisting lien. A second provision is in the bill, and has been removed. And that includes, the insurer must otherwise arrange with the recorder of the county in which the real property is located to be advised in cases of the filing of record of any notice of default or sale with respect to any obligation secured by the preexisting lien. And Senator Beutler rightfully indicated that the register of deeds would set themselves up for liability problems if they obligated themselves to advise an insurer of the filing of notice of default for a sale with respect to any obligation secured by a preexisting lien. And finally, the insurer must be entitled, under applicable law, to receive notice of default, sale, or foreclosure of a preexisting lien. The amendment will remove the language. And I believe that it clears up any questions we had, and would urge approval of the amendment. Thank you, Mr. President.

SENATOR CUDABACK: You've heard the completion of the opening on AM0398, offered by Senator Mines to LB 119. Open for discussion on that motion. Senator Mines, ...I'm sorry, there are. Senator Beutler, you're recognized to speak.

SENATOR BEUTLER: Senator Cudaback, I just wanted to publicly thank Senator Mines for keeping a very open mind on a very big bill, and for bringing me in and making me listen and making a lot of other people listen. We had a wonderful discussion, a couple discussions. And it was the process working at its very best, and I appreciate that. Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. Further discussion on the Mines amendment? There are no lights on. Senator Mines waives his opportunity to close. The question is, shall AM0398 be adopted to LB 119? All in favor of the motion say...vote aye; opposed, nay. We're voting on the adoption of the Mines amendment. Record please, Mr. Clerk.

CLERK: 34 ayes, 0 nays, Mr. President, on the adoption of Senator Mines' amendment.

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Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 21, 119

SENATOR CUDABACK: The amendment has been adopted.

CLERK: Senator Flood, I have no further amendments to the bill, Senator.

SENATOR CUDABACK: Senator Flood, for a motion, please.

SENATOR FLOOD: Mr. President, I move the advancement of LB 119 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 119 to E & R for engrossing. All in favor say aye. Opposed nay. It is advanced. Mr. Clerk, LB 21.

CLERK: Mr. President, LB 21. Senator, I do have Enrollment and Review amendments, first of all. (AM7002, Legislative Journal page 432.)

SENATOR CUDABACK: Senator Flood, for a motion, please.

SENATOR FLOOD: Mr. President, I move the adoption of the E & R amendment to LB 21.

SENATOR CUDABACK: You've heard the motion to adopt the E & R amendments to LB 21. All in favor of the motion say aye, please. Opposed, nay. They are adopted.

CLERK: Senator Erdman would move to amend with AM0082. (Legislative Journal page 402.)

SENATOR CUDABACK: Senator Erdman, to open on AM0082 to LB 21.

SENATOR ERDMAN: Thank you, Mr. President. Senator Flood, you're doing a fantastic job. Members of the Legislature, the amendment to LB 21 is a technical amendment. If you read the actual copy of the bill, the language is quite redundant. The amendment would clarify that, would strike some of the redundancy, and rather reference the previous statute in which the individuals who get a boater safety permit is referenced at. So instead of actually rewriting all of the same language that's in the previous section in the actual state law, we're just

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Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 21, 89

simply asking to reference it. So it's a technical amendment that I believe makes the language clearer. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Erdman. You've heard the opening on AM0082. Open for discussion on that motion. Senator Erdman, there are no...he waives the opportunity to close. The question before the body is, shall AM0082, offered by Senator Erdman, be adopted? All in favor vote aye; opposed, nay. The question before the body is adoption of AM0082, offered by Senator Erdman to LB 21. Have you all voted on the motion who care to? Record please, Mr. Clerk.

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

SENATOR CUDABACK: The motion was successful. The amendment has been adopted. Mr. Clerk.

CLERK: Senator Flood, I have no further amendments to the bill, Senator.

SENATOR CUDABACK: Senator Flood, for a motion.

SENATOR FLOOD: Mr. President, I move the advancement of LB 21 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 21 to E & R for engrossing. All in favor say aye. Opposed, nay. LB 21 is advanced. Mr. Clerk, LB 89.

CLERK: Mr. President, LB 89. No Enrollment and Review. Senator Chambers would move to amend with FA14, Senator.

SENATOR CUDABACK: Senator Chambers, to open on FA14.

SENATOR CHAMBERS: Mr. President, I'd like to ask Senator Byars a question, if he will yield.

SENATOR CUDABACK: Senator who?

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Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 89

SENATOR CHAMBERS: Senator Byars.

SENATOR CUDABACK: Senator Byars, would you yield to a question?

SENATOR BYARS: Certainly will.

SENATOR CHAMBERS: Senator "Seat Belt," is this what the bill that we're working on and the amendment that you and I have discussed?

SENATOR BYARS: Yes, this is correct.

SENATOR CHAMBERS: Thank you. Mr. President, I want to withdraw my pending amendment.

SENATOR CUDABACK: It is withdrawn. Mr. Clerk, next amendment.

CLERK: Mr. President, Senator Byars would move to amend with AM0447. (Legislative Journal page 541.)

SENATOR CUDABACK: Senator Byars, to open on AM0447 to LB 89.

SENATOR BYARS: Thank you, Senator Cudaback. And thank you, Senator Chambers. As Senator Chambers and I had dialogue relative to LB 89, his concerns on General File, we have inserted language which he is comfortable with, that regards education examination for licensure in the state. And they have to be equal or exceed the requirements regarding education examination for licensure in Nebraska. And if you remember, this is our mission of mercy bill that allows dentists from other states to come in, as long as they're appropriately licensed and approved by the state of Nebraska. So I would ask your approval for AM0447.

SENATOR CUDABACK: Thank you, Senator Byars. You've heard the opening on the Byars amendment, AM0447. Open for discussion on that motion. Senator Byars, there are no senators wishing to speak. He waives the opportunity to close. The question before the body is, shall AM0447 be adopted? All in favor vote aye; those opposed, nay. The question before the body is, shall AM0447 be adopted to LB 89? Record please, Mr. Clerk.

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Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 89, 175

CLERK: 35 ayes, 0 nays, Mr. President, on the adoption of Senator Byars' amendment.

SENATOR CUDABACK: The motion was successful. The amendment has been adopted.

CLERK: Senator Flood, I have no further amendments, Senator.

SENATOR CUDABACK: Senator Flood, for a motion.

SENATOR FLOOD: Mr. President, I move the advancement of LB 89 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion by Senator Flood to advance LB 89 to E & R for engrossing. All in favor say aye. Opposed, nay. LB 89 is advanced. Mr. Clerk, LB 175.

CLERK: LB 175. Senator, I have Enrollment and Review amendments, first of all. (AM7004, Legislative Journal page 433.)

SENATOR CUDABACK: Senator Flood, for a motion, please.

SENATOR FLOOD: Mr. President, I move the adoption of the E & R amendment to LB 175.

SENATOR CUDABACK: You've heard the motion to adopt the E & R amendments to LB 175. All in favor of the motion say aye. Opposed to the motion say nay. They are adopted.

CLERK: Mr. President, Senator Jensen would move to amend with AM0227. (Legislative Journal page 526.)

SENATOR CUDABACK: Senator Jensen, to open on AM0227 to LB 175.

SENATOR JENSEN: AM0227. Yes, thank you, Mr. President, members of the Legislature. AM0227 was filed as a result of the Legislature's discussion on LB 175 on General File. As you will recall, LB 175 deals with physician assistants and their authority to prescribe drugs and devices under a scope of

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Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 175

practice agreement with a supervising physician. Current law permits a physician to delegate authority to the physician assistant to prescribe all drugs and devices, with one exception--a physician assistant may only prescribe Schedule II controlled substances for a 72-hour period for the relief of pain, and a prescription may not be renewed by the physician assistant. LB 175 removes the 72-hour restriction. It also clarifies, any limitation placed by the supervising physician on the prescribing authority of the physician assistant have to be recorded on the scope of practice agreement that they both enter into. You'll remember that LB 175 also added physician assistants to section of law originally adopted as LB 226 in 1999. These were intended to be harmonizing changes and technical in nature. There was some discussion on General File about other sections of AM0227. Simply removes those sections from the bill. They were not essentially to the underlying purpose of LB 175, which was to remove the 72-hour restriction for physician assistants. My office has contacted Senator Chambers, the Nebraska Academy of Physician Assistants, about the amendment. And I believe that they would...I know the physician assistants would support it, and I...in our conversation with Senator Chambers, I hope that he will, too. And I will just ask for adoption of AM0227.

SENATOR CUDABACK: Thank you, Senator Jensen. You've heard the opening on AM0227, Senator Jensen, to LB 175. Open for discussion on that motion. Senator Chambers, you're recognized to speak.

SENATOR CHAMBERS: Thank you, Mr. President. Just so that the record is complete, Senator Jensen and I did talk about this. I am in agreement. I had stated at the time that my amendment was adopted that if there was any reason for it to go away, I would agree to that. And this is the way we decided to resolve that issue. And I want to thank Senator Jensen and our friend Jeff for bringing us to this amicable conclusion. And I support his amendment.

SENATOR CUDABACK: Thank you, Senator Chambers. Further discussion on the motion? Senator Jensen, there are...he waives the opportunity to close. The question before the body is,

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Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 175, 176

shall AM0227 be adopted to LB 175? All in favor vote aye; opposed, nay. Have you all voted on the question who care to? Record please, Mr. Clerk.

CLERK: 33 ayes, 0 nays, Mr. President, on the adoption of Senator Jensen's amendment.

SENATOR CUDABACK: The Jensen amendment has been adopted.

CLERK: I have nothing further on the bill, Senator Flood.

SENATOR CUDABACK: Senator Flood, for a motion.

SENATOR FLOOD: Mr. President, I move the advancement of LB 175 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion by Senator Flood to advance LB 175 to E & R for engrossing. All in favor say aye. Opposed, nay. It is advanced. Mr. Clerk, LB 176.

CLERK: LB 176. Senator, no E & R's. Senator Jensen would move to amend with AM0341. (Legislative Journal page 526.)

SENATOR CUDABACK: Senator Jensen, to open on AM0341.

SENATOR JENSEN: Thank you, Mr. President, members of the Legislature. You'll remember that LB 176 relates to the use of AEDs, automatic external defibrillators. And the purpose of the bill was to expand the availability of AEDs as much as possible. The bill now permits anyone to use an AED to render emergency care or treatment, and protects them from civil liability if they do so in good faith. The purpose of this change was to make AEDs more widely available and usable for persons who may need assistance to save their lives. This was the primary purpose of LB 176. The bill also added new language that required the owner of the AED to ensure that the AED was maintained and tested according to the manufacturer's guidelines, and that designated personnel are trained in its use. The new language created an internal conflict in the legislation, and raised other potential liability concerns. AM0341 simply removes that new language from the bill, but still

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 176

requires the owner of an AED to notify the local emergency medical service of its location, and any change in that location. I might mention, I did pass out before you a couple articles that were in the Lincoln Journal-Star. The one is particularly of use, I think, because it has step-by-step instructions on all AEDs. And I'll just quote a...from that article. And they're talking with Peter Eppens, who is a firefighter-paramedic. And he says: It's an idiot box, Lincoln fire...paramedic Peter Eppens said, hoping nobody holds him accountable for the disparaging term. What he meant is that nobody can screw up with an AED. They're foolproof. Eppens, recipient of six Phoenix Awards, has shocked six dying hearts into meaningful service during his more than ten years with the fire department. You can't fail with it, he said. And all I want to do is just make mention of the fact that this is a foolproof instrument. It tells you verbally how to use it. And so by being mainly...merely taking it off the wall, or wherever it is, open it up--by the way, an alarm will go off when you open it up. But the instructions are very clear, and it can be used. I also want to make mention of the fact that I have visited with the Chairman of the Exec Committee, who is very interested in expanding the AEDs here in the Capitol. I mentioned that we have one in the Clerk's Office. The Chairman said that we would like to put one out on the floor out here, also one downstairs, and maybe one up on the 14th floor. And so I'm pleased that we will have expanded places where they can be used and will be available to the public. And with that, I would just ask for the adoption of this amendment, and movement of the bill. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Jensen. You've heard the opening on AM0341. Open for discussion on that motion. Senator Chambers, followed by Senator Engel. Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, today I fell into a Chris Beutler mode. I was doing something else while Senator Jensen was opening on his bill. When Senator Beutler heard Senator Mines describe a bill, Senator Mines had said "omnibus," and Senator Beutler thought maybe, being honest, he had said "ominous." And to be frank--I was listening in my office--I heard it the way Senator Beutler did, that it was an

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 176

"ominous" bill. That's what I felt about what Senator Jensen was offering. Because at first I thought he said "STD." But then, as I listened and looked at his handout, he's talking about "AEDs." So I would advise our colleagues to maybe be a bit more careful in how they pronounce and enunciate some of these words or these acronyms and whatnot. I just thought I'd throw that out there. Now that I'm clear on what the bill does, I'm going to...the amendment, I'm going to support that for sure, as well as the bill.

SENATOR CUDABACK: Thanks for the clarification. On with discussion, Senator Engel.

SENATOR ENGEL: I'd just like to add to what Senator Jensen said. We have met, and we are going to have one down in the...towards the Governor's Office, where they have the confectionaries, and it will be set in there. And I've discussed that with Mr. Ripley and the Highway Patrol. And then we want to get one more. We want to get a third one. So we'll try to get that done. And they will be maintained by our security force here. So they'll always be up to date. So, thank you.

SENATOR CUDABACK: Thank you, Senator Engel. Further discussion on AM0341? Seeing no lights on, Senator Jensen, you may close on AM0341. Waives the opportunity. Question before the body is, shall AM0341 be adopted? All in favor vote aye; those opposed, nay. Question before the body is, shall AM0341 be adopted to LB 176? Record please, Mr. Clerk.

CLERK: 34 ayes, 0 nays, Mr. President, on the adoption of Senator Jensen's amendment.

SENATOR CUDABACK: The amendment has been adopted.

CLERK: I have nothing further on the bill, Senator.

SENATOR CUDABACK: Senator Flood, for a motion.

SENATOR FLOOD: Mr. President, I move the advancement of LB 176 to E & R for engrossing.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 176, 301

SENATOR CUDABACK: You've heard the motion to advance LB 176 to E & R for engrossing. All in favor say aye. Opposed, nay. LB 176 is advanced. Mr. Clerk, LB 301.

CLERK: LB 301. Senator, I do have Enrollment and Review amendments, first of all. (AM7008, Legislative Journal page 433.)

SENATOR CUDABACK: Senator Flood, for a motion, please.

SENATOR FLOOD: Mr. President, I move the adoption of the E & R amendment to LB 301.

SENATOR CUDABACK: You've heard the motion to adopt the E & R amendments to LB 301. All in favor of the motion say aye. Opposed, nay. They are adopted.

CLERK: Mr. President, Senator Jensen would move to amend with AM0441. (Legislative Journal page 539.)

SENATOR CUDABACK: Senator Jensen, you're recognized to open on AM0441 to LB 301.

SENATOR JENSEN: Thank you, Mr. President. AM0441 simply makes some technical corrections to the Health and Human Services System cleanup bill. You'll recall, the bill transferred various public health related functions from the Department of Health and Human Services to the Department of Health and Human Services Regulation and Licensure. The amendment makes a technical revision in Section 81-3202 to harmonize with that change. It also corrects a federal statute reference, and makes other technical changes. I would ask for adoption of the amendment. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Jensen. Anybody wishing to speak to AM0441? There are no lights on, Senator Jensen. He waives his closing. The question is, shall AM0441 be adopted to LB 301? All in favor vote aye; opposed, nay. Have you all voted on the question who wish to? Record please, Mr. Clerk.

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Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 96, 301

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

SENATOR CUDABACK: The amendment has been adopted.

CLERK: I have nothing further on the bill, Senator.

SENATOR CUDABACK: Senator Flood, for a motion, please.

SENATOR FLOOD: Mr. President, I move the advancement of LB 301 to E & R for engrossing.

SENATOR CUDABACK: The motion to advance LB 301 to E & R for engrossing. All in favor of the motion say aye. Opposed to the motion say nay. LB 301 is advanced. Mr. Clerk, LB 96, please.

CLERK: LB 96. Senator, I do have Enrollment and Review amendments. (AM7005, Legislative Journal page 434.)

SENATOR CUDABACK: Senator Flood, for a motion, please.

SENATOR FLOOD: Mr. President, I move the adoption of the E & R amendment to LB 96.

SENATOR CUDABACK: You've heard the motion to adopt the E & R amendments to LB 96. All in favor of that motion say aye. Opposed to the motion say nay. They are adopted.

CLERK: Mr. President, Senator Chambers would move to amend with AM0434. (Legislative Journal page 522.)

SENATOR CUDABACK: Senator Chambers, to open on AM0434 to LB 96.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I have problems with this bill, but I have offered a proposal to the sponsors that would take away my opposition. But they don't want that amendment, I don't think. So in order that the record is clear, before I launch into my opposition to this bill, I'd like to ask Senator Janssen a question, if he would yield.

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Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 96

SENATOR CUDABACK: Senator Janssen, would...

SENATOR JANSSEN: Yes. Yes, I will.

SENATOR CHAMBERS: Senator Janssen, at the time I was going to file this amendment, did I make you aware of that?

SENATOR JANSSEN: You certainly did.

SENATOR CHAMBERS: Did I make available to you a copy of the amendment?

SENATOR JANSSEN: Yes, you did.

SENATOR CHAMBERS: Did I suggest that you discuss it with the National Guard people, and whoever else has an interest in the bill?

SENATOR JANSSEN: Yes, you did. And I did.

SENATOR CHAMBERS: And what was their conclusion? What did they decide about the amendment?

SENATOR JANSSEN: They decided that they did not like it, because there were about 53 students that were attending private schools because of their location in the state. And they felt it would be unfair for them to lose their credits in those colleges and universities.

SENATOR CHAMBERS: Well, suppose we "grandmother" those students in, and then there is no more allowing this money to be going to those who will attend private and independent schools?

SENATOR JANSSEN: Well, I'm sorry, Senator Chambers, but I believe that in the future, you're still going to have members of the Air Guard and the Army Guard that will live in those areas of the state where it's more accessible for them to go to a private school, even though they only receive the credits that are the same at the University of Nebraska.

SENATOR CHAMBERS: Now, Senator Janssen, if this bill does not

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Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 96

pass, those who currently are receiving assistance pursuant to the present law will not be harmed in any way, will they? Because we will just return...we will remain at status quo, isn't that correct?

SENATOR JANSSEN: That's correct. Um-hum.

SENATOR CHAMBERS: And we will still have in the existing law that dollar amount, several hundreds of thousands of dollars, that will limit the total amount that can be spent on this kind of aid, correct?

SENATOR JANSSEN: That's right. There...but there are some new things that have happened, Senator Chambers. The federal government now has just recently allocated much more money towards this program, which will help offset the state's obligation on that also.

SENATOR CHAMBERS: So we don't really need this bill, actually, to the extent that it was believed when it was first brought to us, do we?

SENATOR JANSSEN: No, we need this because of the Air Guard. The Air Guard's funding will come from the state dollars. And a majority of it...of the federal money, will be going to the Army Guard.

SENATOR CHAMBERS: And the people with the National Guard, being strategists and of a military turn of mind, are familiar with the eight principles for successfully waging a battle. Shouldn't they be aware of those eight principles?

SENATOR JANSSEN: Well, I would imagine they should be aware of that, yes.

SENATOR CHAMBERS: Now, one of those that I think is very important is surprise. There is nothing I have done thus far that has surprised you or anybody else. Isn't that correct?

SENATOR JANSSEN: That's correct.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 96

SENATOR CHAMBERS: Since I'm dealing with a military operation, I'm entitled to use any of those eight principles that would be found in the waging of a military campaign. And they should not be surprised by any of them, should they?

SENATOR JANSSEN: No, I don't believe they would probably be surprised at any battle technique that you would render, Senator Chambers.

SENATOR CHAMBERS: Senator Janssen, I know that the reason this bill came at this time was because of what's happening in Iraq. I think I can talk about that situation and why it should not be exploited, for eight hours, very easily. In your opinion, do you think that would be something I'm able to do? Or that I'm bluffing?

SENATOR JANSSEN: No, Senator, I've been here 13 years and I've seen you operate, and nothing surprises me anymore.

SENATOR CHAMBERS: And the National Guard feel that they can muster enough forces to get 33 votes to move this bill over my opposition, by forcing cloture, and thereby perhaps throwing the rest of the session in turmoil? They're prepared to do that because they are selfish, narrow-minded, and they want their own interest and their own way. But if they play their cards wrong, if they overplay their hand, not only will they not get this, but they will poison the session. And that's possible. Now, they might can get cloture on Select File. But this bill will come up on Final Reading, and there are other bills that will come up. Do you think the National Guard is aware of those dynamics that come into play on the floor of the Legislature during a session?

SENATOR JANSSEN: I imagine they're aware of that.

SENATOR CHAMBERS: Did you bring these things to their attention when you were discussing this amendment with them?

SENATOR JANSSEN: No, I didn't.

SENATOR CHAMBERS: Do you think they're out there with sweaty

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 96

palms, palpitating hearts, and panting and gaspings, as this particular part of our discussion proceeds?

SENATOR JANSSEN: Oh, I don't believe they are.

SENATOR CHAMBERS: Do you think they're out there, though?

SENATOR JANSSEN: They're concerned. They're concerned.

SENATOR CHAMBERS: Well, have you ever watched a program on television called The X-Files?

SENATOR JANSSEN: No, I haven't.

SENATOR CHAMBERS: Well, there's...I guess you could call it a legend, that goes across the screen. It says, "the truth is out there." If they would be designated "the truth," could we say that the National Guard representatives are "out there" behind the glass?

SENATOR JANSSEN: Yes. There are representatives from the National Guard behind the glass.

SENATOR CHAMBERS: Well, since I'm going to be dealing with this bill, if you think that they would like to have further discussions with you, they'll have that opportunity, because I'm going to take some time. Your time, my time, everybody's time. But that's all I'll ask you at this point, Senator Janssen. Thank you.

SENATOR JANSSEN: Um-hum.

SENATOR CHAMBERS: Members of the Legislature, I didn't like this bill the other day. But because I didn't want an impasse to develop at that point, I agreed to just let the bill go on to this stage of debate. And I pointed out that I could do the same thing at this stage of debate that I could have done on General File. But I try, whenever I can, to be collegial and move the business of the Legislature. But there is business that I have, that I'm interested in, and now the piper must be paid. There are many people who like to go to the dance, dance

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 96

to the fiddler's music. Then, when the fiddler is through and says, pay me what you owe me, they say, we don't want to pay you, because we got out of you what we wanted. The dance is over; we don't need you anymore. So the fiddler, crestfallen, walks away sadder but wiser, and will not be bitten by those critters again. The piper was the Pied Piper in the town of Hamelin. And the city council, composed of politicians like we have in this body and any other political assembly, needed somebody to get rid of these rats. They were everywhere, everywhere--in the high silk hats, in the baby's crib, in the cupboards, in the library. Everyplace a living creature could exist, rats were there, and the politicians couldn't figure out how to get rid of them. So here comes this guy in the funny clothes, with a little flute. And he said, I can get rid of your rats for you. They said, you can? Desperate people will go for anything, because they know they can't be any worse off than they are now. So they wanted to strike a deal. And he said, I'll get rid of your rats, but you have to compensate me. And they worked out the deal. They didn't really believe that he could get rid of the rats. So he stepped out into the street, put the flute to his lips, and began to blow.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: Lo and behold, there was a whirring and a stirring, and everybody in town heard it. They noticed in their homes that the rats were leaving the houses, going out into the street. And when they looked out into the street, what to their wondering eyes should appear but...I'll turn on my light and finish when I'm called on again, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. You've heard the opening on AM0434. Open for discussion. Senator Don Pederson.

SENATOR D. PEDERSON: Thank you, Mr. President, members of the Legislature. Senator Janssen. Senator Janssen.

SENATOR CUDABACK: Senator Janssen, would you yield to a question, please, from Senator Pederson?

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 96

SENATOR JANSSEN: Yes.

SENATOR D. PEDERSON: I'd like to discuss this issue with you for just a few moments. You have talked to the Legislative Fiscal Office about this bill now, have you not?

SENATOR JANSSEN: Yes, I have.

SENATOR D. PEDERSON: And the facts have somewhat changed from the time that it was originally proposed by you when we talked on the floor during General File, is that correct?

SENATOR JANSSEN: That's correct.

SENATOR D. PEDERSON: Now, is it your understanding, as it is mine, that the way this will be structured now, that the Army National Guard will essentially pay 100 percent of this tuition through the federal funds?

SENATOR JANSSEN: That's correct.

SENATOR D. PEDERSON: As long as the federal funds last.

SENATOR JANSSEN: As long as they're available.

SENATOR D. PEDERSON: And we don't know how long that will be.

SENATOR JANSSEN: No.

SENATOR D. PEDERSON: But currently it's allocated in that fashion. The 75 percent that you're talking about would essentially be for the Air National Guard at this time.

SENATOR JANSSEN: That's correct.

SENATOR D. PEDERSON: And we have adequate funds to do the Air National Guard at this time, and those funds would be impaired, however, if we had to do the Army National Guard at the same time.

SENATOR JANSSEN: That's correct.

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Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 96

SENATOR D. PEDERSON: Okay. I just wanted to clarify that, that it is a measure, at this point, that simply financially benefits funding for the Air National Guard, and the Army National Guard is being paid for by federal funds. I think that needed to be clarified at this time. Thank you.

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

SENATOR CHAMBERS: Thank you, Mr. President. Picking up where I left off, what to their wondering eyes should appear but this strangely attired individual, walking down the street, all of the rats following him. And he had a smile on his face. He didn't even look like he was built like human beings, the ordinary human beings. It didn't look like, where joints are found in other people, that joints were found with this person. It looked like little springs were there, because he moved with such fluidity that nobody had ever seen such a thing before. Others began to think that maybe he was an apparition, not a human being at all. But he marched and came to the sea. And the rats took the signal, and the music caused those rats to go into the sea, and all were drowned. The Pied Piper came back to the politicians. The Pied Piper said, we struck a deal; I've delivered on mine, now you deliver on your end. And they responded as the dancers had to the fiddler: We got what we wanted. The rats are gone. You cannot bring them back. We're not going to give you anything. Beat it, buster. And if you don't, we have a contract with the Omaha Police, and we'll bring them in here and they will mistake your flute for a long rifle and they will blow you away. Now, what do you want to do? So he turned away, and his smile never faded. He just stepped out into the street, put his flute to his lips, and played a different tune. And this time, no rats were there to respond. But there were little children, and they responded. And the townspeople noted that all of their children were leaving their homes, they were leaving the playground, they were even leaving the Class I schools, those homes where they were being homeschooled, they left the homeschools. Here come the little children, from wherever they were. Little toddlers who kind of stumbled along when they walked suddenly stood upright and

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 96

walked like grown men and women. Infants in swaddling clothes threw off those swaddling clothes and walked. Little-bitty fellows, but they walked. And they were all following the piper. And the townspeople were worried. If he is as vicious as the townspeople were, the same fate that befell the rats will befall these children. But the piper was not a cruel person. The piper did not hate children. The piper was not going to make the children suffer for the sins of the fathers and the mothers. He marched them to a mountain. The mountain opened. The children went through the opening. Then the aperture closed, and that was that. Except some people thought there was someplace on the other side of the mountain where these children went, and they grew into adults and they lived happily ever after. Now, I'm the piper. I allowed Senator Janssen and the National Guard to have their dance on General File. Well, now the time has come, and the piper must be paid. The clock is striking midnight and Mephistopheles has come to Dr. Faustus and told him: You got everything you bargained for;...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...now you've got to pay. Faustus didn't want to. He said, I wish I could become one of the stars and be lost among all of those stars. I wish I could become a drop of water and disappear in the ocean. But that's not the way these deals work. You have to be aware of who it is you're dealing with. You can trick human beings. You can con God. But when you make a deal with the Devil, you're going to have to pay when payoff day comes. That day has come in this Legislature for LB 96.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Chambers, you're recognized. And this will be your third time, as you know.

SENATOR CHAMBERS: Thank you. Mr. President, since the National Guard has dug their heels in and they're going to fight, I'm going to take a vote on my amendment. And I'm going to say what it is, for the record. This amendment would no longer allow state funds to be spent in private or independent colleges or universities which are regionally certified or accredited. It's

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 96

public money. It ought to go to public institutions. I have not supported the subsidization of private and independent schools with taxpayer money. If these private, independent, and religious schools want to offer alternative education, that's fine. In their schools they can teach anything they want to, and people can choose to go there or not. But there should not be a direct or indirect subsidization of those schools from the General Fund, where everybody's money is placed. So this amendment would not allow the support that goes to these National Guard people, who got into the Guard, by the way, to make some extra easy money. That's why they got in. They know that they're not trained for combat, and the military know it also. The National Guard is fundamentally a federal operation. The vast majority of the funds come from the federal government. The federal government has the final word on what the Guard will do. The states have the Guard in a holding action. As long as the federal government does not need them, they have to have someplace to reside. They get equipment from the federal government, in addition to the money. So let the federal government assume the primary responsibility. And since the Guard wants to fight me and show everybody in this state who might have a bill before the Legislature how easy it is to whip me, they're going to be given that opportunity on this bill, on this day, as a start. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Chambers, there are no further lights on. You're recognized to close on AM0434.

SENATOR CHAMBERS: Thank you. In addition to what I've said already, members of the Legislature, why do I oppose this bill? The current law gives these people 75 percent of what it takes to go to school. There are other employees who do as much for this state as the National Guard people do. The National Guard people, and those who belong to the Army Reserves, which are two different operations, did not anticipate that they would be maltreated in the way that they are by their U.S. government. They are taken and placed into combat without adequate training for combat, without adequate equipment when they get there. There were some National Guard people who refused to ride or be a part of a convoy delivering equipment or supplies because the

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 96

vehicles they were required to ride in did not have armor. When Donald Rumsfeld, the Secretary of Defense, was asked about these problems--not only the lack of armor, but the lack of other equipment that was needed--what was his response? Being the quip-master, quip-meister, the jokester, he said, well, you don't go to war with the army you want; you go to war with the army that you got. And waited for the laughter and the applause that usually comes when he's talking to the pandering lapdog U.S. media, who have become propagandists for Bush and the war effort. It was not funny to those troops assembled in Kuwait, listening for his answer. I've pointed out to people before that Teddy Roosevelt had a daughter named Alice. She was very unmanageable. She rode her horse inside the White House. When she got married, in the White House, she took a sword from the scabbard of one of the Marines, and used it to cut the wedding cake. Teddy Roosevelt, as happens with fathers who have unmanageable daughters, was asked, why don't you control Alice? Teddy Roosevelt said what any intelligent father who faces reality said: I can manage Alice or I can manage the country, but I can't do both, and for my part, I choose to manage the country. Rumsfeld said: I can quip or I can equip; I can't do both. For my part, I would rather quip. And that's the attitude they have toward these people in Iraq. But it's not the responsibility of this state to pay that particular piper. This is money which should not be spent at all. Senator Thompson added an amendment to this bill which says that these individuals can receive up to 100 percent of the tuition or the money required to go to school. There's a limit on the total amount, that's set by what they would have to pay if they went to a designated state school. These private schools and independent schools charge exorbitant tuition. Nevertheless, that amendment...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...did not bring about justice, but further complicated a situation, and injected the possibility of discrimination and arbitrariness. No rules, no guidelines are established in this legislation to make sure that the favorites of the adjutant will not get 100 percent, and those who are disfavored will get nothing. The amount can range from 0 to

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 96

100 percent. For those of you all who call yourselves conservatives, who call yourselves responsible legislators, you show me any education aid program like that, which is addressed to a specific, discrete group of similarly situated people. Because this is not a need-based program, where that much discretion is given to the one administering it.

SENATOR CUDABACK: Time, Senator Chambers.

SENATOR CHAMBERS: Thank you, Mr. President. I would ask for a call of the house and a roll call 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: 16 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. Would senators please check in. Unauthorized personnel please leave the floor. Senator Cunningham, Senator Byars, Senator Combs, Heidemann, Hudkins, and Johnson. Senators Raikes, Brown, Schimek, and Landis, please check in. Thank you. Senators Baker, Foley, and Friend, please check in. Senator Raikes, Senator Friend. Senator Raikes and Senator Friend, the house is under call. Senator Raikes, the house is under call. Please check in. Senator Raikes is on his way. All members are present or accounted for. The question is, shall LB 96...or, AM0434 be adopted? There's been a request for a roll call vote by Senator Chambers. Mr. Clerk, call the roll, please, on the question.

CLERK: (Roll call vote taken, Legislative Journal pages 554-555.) 1 aye, 26 nays, Mr. President, on the amendment.

SENATOR CUDABACK: The amendment was not adopted. I do raise the call. Mr. Clerk, next motion.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 96

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

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

SENATOR CHAMBERS: Thank you. And Mr. President, the rest of the day that we're here you all are going to have a chance to punish me some more, because I'm going to give you the opportunity to vote on a number of motions and amendments, and on other bills. And I think we may as well reach this point in the session today as later. One day I misstated the number of days we had been here. This is the thirtieth day. That means we have now reached a 60-day session. And you all know what I can do during a 60-day session. I can do that standing on my head, stacking marbles in a corner. I know how to provoke my colleagues. I know how to make them rise to the bait. And I've demonstrated it, as I will demonstrate it more during the session. But like old Mephistopheles, you've got to make those who are rising to the bait feel that they're gaining something. So they got their pound of flesh this morning with that vote. The quid pro quo has taken place. Now I'm going to discuss some additional matters on this bill. I was given a copy of a speech that Ted Sorensen, a Lincoln native and retired public servant, delivered at the New York...at the New School University commencement, in New York City. That was in May. Just the first few words of his speech. "This is not a speech. Two weeks ago I set aside the speech I prepared. This is a cry from the heart, a lamentation for the loss of this country's goodness and therefore its greatness. Future historians studying the decline and fall of America will mark this as the time the tide began to turn--toward a mean-spirited mediocrity in place of a noble beacon." There's more of this I intend to deal with before the debate on LB 96 is concluded. How can I refer to what has taken place as a debate, when only one person is participating? I gave a hint this morning, looking at the way Senator Thompson referred to me in her letter. She said: It has been a pleasure serving with all of you. Which, as I stated, meant that I'm a person of multiple personalities. So although you see one being standing here, there may be more than one

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 96

force, entity, in that being. So there are things that I'm going to talk about. And it will, in a sense, be a debate. I will have colleagues sitting in their chairs, thinking of what they could say, what they ought to say, but which they dare not say. I see my good friend Senator "Patton," walking down the aisle to his seat with a cup of coffee in his hand, waiting for the opportunity to draw an analogy between his and my activities, and those between Napoleon and Wellington. And I'm waiting with bated breath for him to make that disclosure to us, and to use what has become a cliché for me, improve the education of all of us. But in the meantime, I'm going to get back to this bill. As it's written--I want to emphasize this--an adjutant general is given carte blanche to do whatever he wants to do. Why in this instance do I just say "him" rather than "him or her"? You're not going to have a female adjutant general in this state. Senator Thompson, as I pointed out, prevailed on the body to adopt an amendment which said that this aid can range from 0 to 100 percent. I don't think that kind of leeway should be given to anybody who is administering an aid program. When you have an organization such as the National Guard, although most of the people who join are looking for some quick, easy money, a chance to have their education subsidized, they still may have differing opinions on other matters. Some people are considered mess-ups in a military setting. They ask questions, they don't jump when somebody pops a finger, and they insist on being treated with dignity and respect. These people are not liked by commanding officers. Commanding officers in a military setting must be able to command unquestioning obedience, no matter how dumb the commanding officer is. Disregard the fact that he got his position because of a political appointment. The uniform, the position entitle him to what he considers to be unflinching, unquestioning obedience, and some people will not go along with that program. This bill, as drafted, puts a stick in the hands of the adjutant to punish such people. I have not seen my colleagues, including...I see Senator Landis walking. Senator Landis wouldn't agree with something like this at the university if there were a set of circumstances where the head of a department could punish unpopular people working in the department by granting boons to some and withholding them from others, and be authorized under the statute of Nebraska to do so. I don't see Senator Raikes,

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 96

so I'm going to ask Senator Don Pederson a question,...

SENATOR CUDABACK: Senator...

SENATOR CHAMBERS: ...because he is head of the Appropriations Committee.

SENATOR CUDABACK: Senator Don Pederson, would you respond?

SENATOR D. PEDERSON: Yes, I will.

SENATOR CHAMBERS: Senator Pederson, when the university presented a budget, to which committee did they present that budget?

SENATOR D. PEDERSON: On their budget, they will present it to the Appropriations Committee.

SENATOR CHAMBERS: And you have served on that committee before you came...became Chairperson. Is that correct?

SENATOR D. PEDERSON: This is my ninth year.

SENATOR CHAMBERS: During any of those years did the university ever bring a program which would allow some professors to be given 100 percent of a benefit and others similarly situated would get nothing?

SENATOR D. PEDERSON: I've never seen that happen.

SENATOR CHAMBERS: Isn't that the effect of the amendment that Senator Thompson put on this bill, which the Legislature has agreed to?

SENATOR D. PEDERSON: Well, I'm not sure you could characterize it exactly that way.

SENATOR CHAMBERS: Well, it says that the aid can be up to 100 percent. When there is no minimum, that means that total aid may be withheld from some. Isn't that true?

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 96

SENATOR D. PEDERSON: Well, that's a way you would be able to read that, yes. I know that was not her intention at all and I don't know why it was up to 100 percent.

SENATOR CHAMBERS: But when you say "up to," that means anything between 100 percent and 0.

SENATOR D. PEDERSON: That's correct.

SENATOR CHAMBERS: Isn't that true?

SENATOR D. PEDERSON: That's correct.

SENATOR CHAMBERS: It could be 2 percent.

SENATOR D. PEDERSON: Yes, it wouldn't be, but it could be.

SENATOR CHAMBERS: Right. Have you ever seen anything like this in any bill that we have presented before where there are entities...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...or individuals who qualify and total discretion is given to the one administering it to give some 100 percent and others nothing?

SENATOR D. PEDERSON: As you know from what I said on the General File of this bill, I was not very much enthused about this particular bill and I'm not certain that it accomplishes that much.

SENATOR CHAMBERS: But my question is, have you seen any benefit program, whether it's to these corporations, or any other program that you can think of, where similarly situated people, all of whom qualify, are faced with the prospect of some receiving nothing and some receiving 100 percent of what it is they ask for?

SENATOR D. PEDERSON: No, I have not seen that, and I don't care for that particular amendment.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 96

SENATOR CUDABACK: Time.

SENATOR CHAMBERS: Thank you, Senator Pederson.

SENATOR CUDABACK: Thank you, Senator Chambers. (Visitors introduced.) Further discussion? Senator Chambers.

SENATOR CHAMBERS: Thank you. Mr. President, to show how I own this Legislature...and when I say that, people get irritated and they say, he doesn't own the Legislature. When I can make the Legislature shoot itself in the foot, I own the Legislature. When I can make these senators so upset with me they will legislate in a way they have never legislated before, I own the Legislature. They know that what is in this bill is not wise. It has never been done before. It should not be done. And I ought to just let the bill go to show how incompetent the Legislature is, how lacking in responsibility a majority of my colleagues are. So what I presume to be my responsibility is to hold the Legislature's feet to the fire and continue to do battle and call the public's attention to what is being done here. If it were not for what is happening in Iraq, this bill would not have been brought this session. Although Senator Janssen has tried to do similar things before, he pointed out that he thinks the timing is right. Why? Because people's emotions are high. They feel they have to go along with anything associated with that war. I don't. Now, whereas I might own the Legislature, nobody owns me. And nobody can provoke me to make a fool out of myself because that person irritates and annoys me. Look how I run this Legislature. Look what you're doing. And I'm going to make you do more and more foolish things. And what you need to consider is this: Does anything that a majority of this body will do harm me in any way? No. My intelligence remains intact. My behaving responsibly by opposing inappropriate legislation remains intact. And they will see the Legislature behaving as children used to. There's something you wanted a child to do, so you're a child yourself, you tell that other child, you better not do that, and the child runs and does exactly what you told him or her had better not be done. If you don't want the child to do something, you tell that child, you better do that. Then the

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 96

child won't do it. That's the way the Legislature is. Senator Janssen ordinarily doesn't have strings pulled on him from outside, but that no longer is the case. The National Guard has him jumping through a hoop. It has a majority of my colleagues supporting a bill which makes no sense at all. I don't know how many people are even aware of the statutes that govern the Military Department in the state of Nebraska. I have read all of those statutes and what called them to my attention was the attempted lynching of a black Nebraska National Guardsman in Alabama at one of their summer camps. And after I dealt with the issue, Nebraska did not go there anymore. And at the time all of this was going on, people were telling me I couldn't get anything done;...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...that the National Guard was too big and that then Governor Jim Exon was not going to fold. That's the way they considered his cooperating with what it was I thought ought to be done. Well, he didn't fold. He did the right thing. He said the National Guard is not going down there anymore. And there was correspondence, communication between him and the Governor of Mississippi, which was the state that sent those guardsmen to that camp, and they went through the motions of stringing this young black National Guardsman up. I do not view the National Guard or anything else that pertains to America and this state exactly the way my white colleagues would view them. I do not trust an adjutant general with this kind of authority. I would not trust the administrator of a university, or a college,...

SENATOR CUDABACK: Time.

SENATOR CHAMBERS: ...or an agency with this kind of discretion. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Further discussion? Senator Thompson, on the motion to reconsider.

SENATOR THOMPSON: Thank you, Mr. President, members of the body. Just wanted to comment on Senator Chambers' analysis of

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 96

what we did on General File and say that I've filed an amendment that I think, when we get to it, will take care of some of these issues. There is a reason why we have three rounds of debate, and the second round here is a second chance to consider it, and Senator Chambers is right. I did amend it so that it wasn't an automatic 100 percent for two reasons. One, the purpose of this fund is to subsidize--this is the National Guard--is to subsidize any federal...beyond anything that might be available federally. Sometimes it's there; sometimes it's not. Currently, there is some there and, in my view, we shouldn't...this should be the secondary fund to what the federal government may provide for these troops. So in drafting that amendment, I wanted to make sure that if there were funds available at the federal level, we would utilize those first, as is currently the intention of the statute, and then we could fill in behind that. So the amendment that's coming will say, leave the original language, this was a benefit that was 75 percent of tuition, and it will say 75 percent up to 100 percent. So that doesn't allay all the concerns that Senator Chambers has about how the program might be administered, but at least it would start at a 75 percent threshold. And then I...because that is already the law to use other funds first, this would give the department the flexibility to go up to 100 percent if those other funds aren't available. I know we're on the reconsideration motion, but I wanted to offer that to the body; that it will be coming in a future amendment and hopefully will improve this language from what I proposed and was adopted on General File.

SENATOR CUDABACK: Thank you, Senator Thompson. Senator Chambers, you're recognized to speak on your reconsideration motion. This is your third time, as you know.

SENATOR CHAMBERS: I understand. Thank you, Mr. President. In view of what Senator Thompson is trying to do, trying to rescue this Legislature, which the Legislature does not deserve, since I'm going to lose her company anyway at some point, I wish she would make her resignation retroactive to about 9:00 a.m. this morning. Then she could not rescue this silly Legislature from its own silliness. Oh, I love to be in this position. But unlike some of my more adolescent colleagues, Senator Thompson

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 96

is similar to me in this respect. If I become aware that something that I have done or recommended is not merited or warranted by the facts, I will change. I don't have anything to gain by holding a position which I know is flawed or invalid. Senator Thompson has shown that she wants the Legislature to behave in a more rational, deliberative, responsible manner than it has up to this point, and I'm going to do all I can to prevent that from happening. You made your bed; I want you to lie in it. You know so much, you are so smart, you're going to fix Senator Chambers. Well, Senator Chambers wants you to continue in that mode. I want to stay fixed. You know, that's a term they use when they do certain things to pets. Once fixed, they cannot be unfixed. And you know what some cats said, some feral cats, wild cats? They were looking at this dog that was tied...well, he was chained to a post in the middle of a backyard--no shade, no water, just sitting there with his head drooped, his tongue hanging out, panting. And he had been fixed two weeks before. And these two cats were sitting on the fence, and they looked in that yard and they said, thank God we're not man's best friend. That's the way man treats his best friend. The Legislature is not my best friend. The Legislature sins in haste and should repent at leisure. How much is this bill worth? It's worth everything to Senator Janssen, because his name is on it. It's worth everything to the National Guard, because they're going to show you how to whip Senator Chambers. And I'm sure there are other lobbyists out there just pulling for the National Guard. I read history, but I don't have to go all the way back to history. I can read the newspaper and see how people who rely strictly on the strength of numbers and kill power, with no intellectual processes involved, can be brought to a halt by a much smaller, more mobile determined force. So the Legislature may reach a point where they can invoke cloture and get their 33 votes here, and that will be what I would call a Pyrrhic victory. You're going to lose so much in the way of your resources that you're not going to win the war. Now, if you want to, you can try to change the rules in the middle of the session to try to silence me and give me something else to mock you for, to show how inept the Legislature is. Why should the Legislature be brought to a halt on a bill like this, which is not even needed?

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 96, 242, 563

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: It's not needed. Circumstances have changed, but the Legislature is unable to modify its conduct unless compelled to do so, unless beaten over the head with a two-by-four. I don't have to worry about too much this morning because we're going to do something else, I guess, at 11:00. At 11:00 a.m. we go to committee priority bills, and the first one, LB 242, certainly is of a nature that will generate a lot of discussion, not just by me, and the one following that, LB 563. Senator Janssen, again? To redefine "beer" to include flavored, malt beverages? Why, how much time do you think we're going to take on that bill? I only have to hold us on this bill...

SENATOR CUDABACK: Time, Senator, but...

SENATOR CHAMBERS: Thank you, Mr. President.

SENATOR CUDABACK: ...you're recognized to close, as there are no lights on, Senator Chambers.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I'm closing on my amendment...my motion. My motion is to reconsider my amendment, which was overwhelmingly rejected. I think I may have equalled Senator Louden's best effort this year, because my amendment got one vote. It would have gotten mine, too, except I had to be in a position to reconsider, so I was not voting. But I strongly support my amendment. I'm serious about it. And if this bill does manage to move to Final Reading, I'm going to file it there again and I'm going to hold us on this bill until the Speaker takes it off the agenda or until Senator Janssen can get 33 votes, and I will count votes like everybody else does. But I'm not going to go after one individual senator. There might be people who genuinely think this is a good bill, this is a good thing to do. Not being a mind reader, I cannot distinguish the motive of one from the motive of another. All I can do is look at the total number of votes and then do to those people what they're doing to me on this bill. For the new senators, I get kicked around in this Legislature so much that I have empathy for soccer balls, for footballs. And when soccer balls and footballs get

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 96

together into one of their conventions, they say, there's only one thing on this earth that gets kicked around more than us and it's that black senator out there in Nebraska, wherever Nebraska is located; nothing and nobody gets kicked around as much as he does. But I must pick myself up, dust myself off, and start all over again. When you're in a lengthy battle, you have to pace yourself, and periodically I'm going to come back to specifics in the existing law with reference to this aid program and talk about some of the factors that will cause my colleagues to feel they have to support something like this, even though it is not fiscally wise at this time. I read in the paper where Senator Don Pederson said that, although the projections as far as the state's revenue coming in are a bit less bleak, discipline must be exercised by the Legislature. It ought to be exercised starting here, on this bill. But if this one goes through, others ought to have that same opportunity. And whereas I will not support every new spending bill, I might do what I can to put my colleagues in a frame of mind to support them. I'm even going to offer a different name for this bill before we get through with it, and I wanted Senator Connealy to be here. You can take your seat if you want to, Senator Connealy. (Laugh) I'm going to name this bill the cousin to the ethanol boondoggle. That's all it is, a boondoggle. This bill does not deserve to be passed. I think 75 percent tuition forgiveness or credits constitutes more than is justified. You all are looking at an aberration that occurred with reference to the National Guard and you're going to exploit it. You're like those people who sell these little yellow ribbons that are magnetized and people stick them all over their cars, and these different colored ribbons. You think they are selling those ribbons to you all because they care about people in Iraq? If they cared about the soldiers, they'd be saying like me, bring them home.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: You made a mistake. And like Sorensen said, America has become a meanspirited country and lost its status as a noble nation. Now, I never thought it was noble, but he's a white guy and he can think that because good things happen to him and his kind; bad things happen to me and mine. Mr. President, let's see how much they want to punish me. I

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FLOOR DEBATE

February 17, 2005 LB 96

want a call of the house.

SENATOR CUDABACK: Been a request for a call of the house. All in favor of the house going under call vote aye; those opposed, nay. The question is, shall the house go under call? Record please, Mr. Clerk.

ASSISTANT CLERK: 14 ayes, 0 nays to go under call, Mr. President.

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. All unexcused senators please report to the Chamber. Senator Cunningham, Senator Byars, Senator Johnson, Senator Langemeier, Senator Heidemann, Senator Howard, Senator Synowiecki. Senator Chambers, will you check in, please? Thank you. Senator Foley, would you check in, please? He is on his way. Thank you. Senator Thompson, will you check in, please? Senator Landis. Senator Thompson and Senator Landis, the house is under call. Senator Thompson. Senator Thompson is on her way, Senator Chambers. Senator Chambers, how did you wish to proceed once Senator Thompson has checked in?

SENATOR CHAMBERS: Efficiently, expeditiously, and by way of a roll call vote.

SENATOR CUDABACK: All members are present or accounted for. Been a request for a roll call vote on the motion to reconsider the amendment...vote on AM0434. Mr. Clerk, call the roll on the question, please.

ASSISTANT CLERK: (Roll call vote taken, Legislative Journal pages 555-556.) Vote is 1 aye, 26 nays on the motion to reconsider, Mr. President.

SENATOR CUDABACK: The motion was not successful to reconsider. We do raise the call. As the agenda states, it is 11:00 a.m. Agenda states General File, 2005 committee priority bills. Mr. Clerk.

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FLOOR DEBATE

February 17, 2005 LB 242

ASSISTANT CLERK: Mr. President, LB 242 was introduced by Senator Schimek. (Read title.) The bill was read for the first time on January 10, referred to the Government Committee, that committee reports the bill to General File with committee amendments attached. (AM0153, Legislative Journal page 399.)

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Schimek, you're recognized to open on LB 242.

SENATOR SCHIMEK: Thank you, Mr. President and members of the body. This bill has been sitting around the Legislature for a time now because the Government Committee sent it to the floor last year and, as with a lot of bills, time ran out on it. It is legislation that is the result of an informal rewrite committee, consisting of the legal counsel for the Government Committee and the executive director and formal legal counsel of the Accountability and Disclosure Commission. And this group met during the summer of 2003 and drafted the legislation. The bill was introduced in 2004 and was advanced to General File, but time ran out. The purpose of the rewrite was to clarify the language of the Nebraska Political Accountability and Disclosure Act. The rewrite does make a few minor substantive changes to the act. Our whole philosophy in doing this bill was that there not be anything of substance that would be in the bill itself. Our sole intention was to rewrite the statutes so that they were better organized and more easily understood, and also comported with other statutes. So the changes that were made that were, again I say, minor, the first one was clarifying the penalty provision regarding loans to candidates. The civil penalty will be not less than \$250 and not more than the amount of money received by a candidate committee in violation of this section if the candidate committee received more than \$250. It amends Section 49-1453, to provide a means of dissolving a committee after determination by Accountability and Disclosure Commission that the late filing fees, civil penalties, and interest is uncollectible. And, Senator Chambers, I'm sure that you remember the times when we've had candidate committees...or we actually didn't have candidate committees so much as we had ballot issue committees that did not pay their civil penalties, fines and so forth, and there needed to be some way of dealing with that. Third thing is eliminating the requirement that an

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FLOOR DEBATE

February 17, 2005 LB 242

independent expenditure report or earmarked contribution report be filed with the local election official. This change is consistent with previous elimination of other requirements to file campaign reporting documents with the county clerk or election commission. It's always...I mean, in every other aspect we have centralized that information. The fifth thing that it does, or the fourth thing that it does is changes the reporting requirements for businesses and organizations to more than \$250 to make it consistent with other reporting thresholds for candidate committees or PACs. And what it says in existing language is \$250 or more. In every other place it's more than \$250, so this just makes it consistent with the other provisions. The fifth provision is requiring lobbyists, who are registered...or who are required to be registered but are not registered with the commission, to file reports. Sixth thing is clarifying that lobbyists need to report office expenses reasonably related to the practice of lobbying. And actually, I introduced a bill at the...or an amendment at the committee hearing that would require lobbyists to report only extraordinary expenses directly related to the practice of lobbying, and I believe that the amendment that we drafted clarifies that for us. Another provision is extending the filing requirement from 15 to 30 days after the end of each calendar quarter for principals and lobbyists. This provision was added as a committee amendment last year at the request of a lobbyist, and I believe, if I'm remembering that the argument was when you come to the end of the year sometimes, because of vacations and all that kind of thing, it becomes difficult to get that in 15 days after the end of the calendar quarter. So if we could make it 30 days, it would be helpful. We...another provision was restoring the original intent of Section 49-14,101.01 to prohibit a public official or employee from using public resources for any purpose other than prescribed reasons. The current language only prohibits using public resources for personal financial gain. Another provision was eliminating the word "campaigning" in Section 49-14,101.2 (sic), since the word is not defined under the act. The term is replaced by the phrase "supporting or opposing," which is consistent with other language in the act. Eliminates the reference of the Governor not receiving compensation for being a commission member since the Governor is

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Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 74, 242

no longer an ex-officio member of the commission. Clarifying that the commission has the authority to appoint hearing officers as provided in the Administrative Procedures Act, and that the hearing officer or some other authorized person may administer oaths and affirmations for testimony. And finally, requiring a majority of the commission to vote in determining whether there has been a violation of the act. The current language only requires a majority of members present. So I think, with that, Mr. Chairman, I would ask for the consideration of LR (sic) 242. I think it's a good rewrite. I would be happy to try to answer any questions that people may have. Thank you.

SENATOR KREMER PRESIDING

SENATOR KREMER: Okay. Thank you, Senator Schimek. You are recognized to open on the committee amendments.

SENATOR SCHIMEK: Thank you, Mr. President. The committee amendment contains the provisions of LB 74, and you will find that on your gadget, because after adopting it as an amendment to LB 242, the committee killed the bill, so the committee statement is on your computer. LB 74 is Senator Beutler's bill, which the committee heard, and it increases the fees charged for a lobbyist to register. For a lobbyist who receives compensation, in other words, is paid for the job that they do, but did not anticipate...oh, I'm sorry, the fee is increased from \$100 to \$200. It's doubled for each principal. For a lobbyist who receives compensation but did not anticipate receiving it at the time of application for registration, the fee is increased from \$85 to \$185, and that means if a lobbyist started out as a volunteer lobbyist and sometime during the year decided...or is offered a paid job as a lobbyist, then their fee has to go up. The fee for a lobbyist who is not receiving compensation remains at \$15, so that would be your volunteer lobbyist. These fees will be remitted to the State Treasurer, who will give...who will credit 75 percent of the fees back to the Accountability and Disclosure Commission Cash Fund, and 25 percent to the Clerk of the Legislature Cash Fund. And with that, Mr. President, I would yield some of my time to Senator Beutler, if he wishes to address the committee amendment.

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FLOOR DEBATE

February 17, 2005 LB 242

SENATOR KREMER: Senator Beutler.

SENATOR BEUTLER: Senator Schimek, thank you very much. That was a good explanation of the committee amendment. I'd just add a couple of things. The lobbyist fees hasn't been changed since 1994, so it's been a while since they've been changed. This is...really started out as part of the effort to try to get our different agencies more cash funded where it was reasonable to attempt to do so. I think this is within the realm of reason. At least nobody opposed the bill. It raises an additional about \$65,000 a year, \$122,000 over two years. The Accountability Commission budget was approximately \$410,000 in General Funds in '03-04, so that will give you a little idea of the scale of things. It helps a little bit. Thank you.

SENATOR KREMER: Thank you, Senator Beutler and Senator Schimek. We're open for discussion on the committee amendments to LB 242. Senator Smith, you're recognized.

SENATOR SMITH: Thank you, Mr. President and members. If Senator Schimek would yield to some questions.

SENATOR KREMER: Senator Schimek, would you yield?

SENATOR SCHIMEK: Certainly. Thank you.

SENATOR SMITH: Senator Schimek, you mentioned that the word "campaigning" in Section 49-14,101.02, since the word is not defined under the act the term is replaced by the phrase "supporting or opposing," and to make that consistent with the other parts. And I'll probably get into this, I should have stated before now, but some of my concerns. But when we've entered, as a result of this attempt to regulate campaigns, we've entered a new era in American politics, whether it's at the state level, whether it's at the federal level. And "supporting or opposing" can be thrown out the window and now we have ads that might have a certain mission and objective, but the ads are out there to educate the public on someone's voting record. How is that affected when "supporting or opposing" could be...could be hard to determine? And so I'm just

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FLOOR DEBATE

February 17, 2005 LB 242

wondering on that...or if it were an educating ad, if that would have any play in that. I apologize for the long question.

SENATOR SCHIMEK: Senator Smith, could you more concisely state that, please? (Laugh) I'm sorry.

SENATOR SMITH: That's a fair request. When you're replacing "campaigning" with "supporting or opposing," I can see that wording not accomplishing its objective because someone may be holding themselves out to educate the public on a voting record, and that's not necessarily supporting or opposing. How should we use "support or oppose" in an attempt to be more clear?

SENATOR SCHIMEK: If somebody is going to point out somebody's voting record, you don't think that would be in opposition to that candidate?

SENATOR SMITH: Not necessarily. Wouldn't have to be. I can see pointing out a voting record that would be in support of. I mean, it would come down to the tone of the ad, probably, but what I'm getting at is the fact that the more we try to regulate, the more problems we're going to have.

SENATOR SCHIMEK: I think the language is okay, Senator Smith, but I'm willing to listen to what...

SENATOR SMITH: Okay.

SENATOR SCHIMEK: ...you have to say.

SENATOR SMITH: Well, and thank you, Senator Schimek. There's been this movement across America in an attempt to remove money from campaigns and rich people from being so involved in campaigns that (laugh) we brought more rich people to the table in this last federal election than ever before. And they specifically dodged McCain-Feingold and actually made McCain-Feingold look like a joke to the American people who typically supported it through surveys, and we're doing, I think, the same thing at the state level in trying to eliminate dollars. We set limits. We have these triggers for campaign...public financing of campaigns. We have a lot of

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FLOOR DEBATE

February 17, 2005 LB 242

different things here that are an attempt to regulate, and I think they're well-intended. They're very well-intended, but it seems like...

SENATOR KREMER: One minute.

SENATOR SMITH: ...year after year we come up with new regulations, and I think this is just one concern that with the well-intended changing of the language of campaigning to supporting or opposing, it's not going to do the trick. Thank you, Mr. President.

SENATOR KREMER: Thank you, Senator Smith and Senator Schimek. Senator Chambers, you're recognized to speak.

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, I am looking at the summary of what amendments will accomplish that we find in our bill book, and I would like to ask Senator Schimek a question, if she would be willing to answer.

SENATOR SCHIMEK: Certainly.

SENATOR KREMER: Senator Schimek, would you yield?

SENATOR SCHIMEK: Yes.

SENATOR CHAMBERS: Senator Schimek, I'm not on the committee amendment, but this will give you a chance, if you need to check it out by the time the committee amendment is taken care of. Where in the bill would we find the language that restores the original intent that would prohibit a public official or employee from using public resources for any purpose rather than just financial gain, personal and financial gain? And that's...I'm asking that but...

SENATOR SCHIMEK: You want the page number, you mean, on that?

SENATOR CHAMBERS: Yes, but you don't have to...if you don't have it right now, I will let the discussion on the committee amendment proceed and that will give you a chance to find it.

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FLOOR DEBATE

February 17, 2005 LB 74, 242

SENATOR SCHIMEK: I'm going to find it shortly, but go ahead, Senator.

SENATOR CHAMBERS: That's all that I would have, Mr. President, on the committee amendment. Thank you.

SENATOR KREMER: Thank you, Senator Chambers and Senator Schimek. Seeing no other lights, Senator Schimek, you are recognized to close on the committee amendments.

SENATOR SCHIMEK: Yes, thank you, Mr. President and members. As I mentioned to you earlier, this was LB 74. It increases lobbying fees. I think it's justifiable. They haven't...they haven't changed in a long time. The thing I didn't say to you, but I kind of alluded to it in my opening remarks, is that the committee amendment also made that change about how office expenses are reported by lobbyists and principals and, with the amendment, extraordinary office expenses directly related to lobbying are required to be reported. So, with that, Mr. President, I would simply urge the adoption of the committee amendment.

SENATOR KREMER: Thank you, Senator Schimek. Okay, you've heard the closing on the adoption of the committee amendments to LB 242. All those in favor vote aye; all those opposed vote nay. Have you all voted? Have you all voted? Record, Mr. Clerk.

ASSISTANT CLERK: 26 ayes, 0 nays, on the adoption of committee amendments, Mr. President.

SENATOR KREMER: We're open for discussion on the advancement of LB 242 as amended. Senator Smith, you're recognized to speak.

SENATOR SMITH: Thank you, Mr. President. I have another question for Senator Schimek, if she's available.

SENATOR KREMER: Senator Schimek, would you yield?

SENATOR SCHIMEK: Yes.

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FLOOR DEBATE

February 17, 2005 LB 242

SENATOR SMITH: Thank you, Senator Schimek. On lobby registration...and we raised the fees and I don't really necessarily object to that, but I want...I would like, for the record, to clarify who needs to register as a lobbyist. I mean, there are nonprofits, and the fee is different than those who are lobbying for profit. My question is, does everyone who testifies at a hearing need to lobby...or register as a lobbyist?

SENATOR SCHIMEK: No.

SENATOR SMITH: If someone testifies or advocates for an issue as part of their professional life, do they need to register as a lobbyist?

SENATOR SCHIMEK: What do you mean as part of their professional life?

SENATOR SMITH: That would be incidental to their job. Let's say that an economic development director out in rural Nebraska likes a bill, or doesn't like the bill, and decides to advocate for or against. Do they need to register as a lobbyist?

SENATOR SCHIMEK: I don't believe so, Senator.

SENATOR SMITH: And so what is the threshold for who needs to register and who does not?

SENATOR SCHIMEK: I think it goes beyond...and this is my interpretation, and I think probably Frank Daley is standing back there somewhere and I could clarify with him. But I think if a group, a volunteer group, let's say, comes in to testify on a bill, that that's okay. They don't have to register as a lobbyist. But once they start actually lobbying, they go to senators and personally give them information and make their points with those senators and continue to be maybe in the Rotunda, watching votes and watching legislation as it passes, then I think they need to register as a lobbyist. It's kind of a fine line, and I always encourage those people, about which there is any question at all, to go ahead and register, because

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Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 242

they can do it and they can do it for \$15. And so that's a reasonable amount to ask of them and I think it just...it makes it cleaner when they do so.

SENATOR SMITH: And I would agree with that. I...some of my underlying concern is that it's a little ambiguous as to, you know, in the Rotunda once, in the Rotunda every day, all day. And so what I would like to do over a time then, I guess, is hopefully clarify who needs to register as a lobbyist and who doesn't. I was asked for some advice from the constituency and it was hard to...hard to pin down. And so it's something that I think our body should move toward, is a more concise threshold. And if you have further comments.

SENATOR SCHIMEK: Yes, and committee counsel has just told me that I should make clear that if you're doing this lobbying...

SENATOR KREMER: One minute.

SENATOR SCHIMEK: ...on behalf of somebody else, that's a point at which you should register as a lobbyist. So even if you're a volunteer group, if you're doing it and doing it on behalf of others, you should, you should register.

SENATOR SMITH: Okay, so that would be a concise matter. Does the economic development director from rural Nebraska need to register because they are meeting with senators for...and I don't have a specific scenario here. This is a hypothetical scenario, but it...it's something that I think should be clarified, because I don't want to see anyone stung in this process when they're well intending folks that...and I used economic development director because it's a common example across Nebraska. They're looking at bills and wanting to make sure that their policies are included or their vision for rural Nebraska, and I know that a lot of them already do register.

SENATOR KREMER: Time.

SENATOR SMITH: Thank you, Mr. President.

SENATOR KREMER: Thank you, Senator Smith and Senator Schimek.

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Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 6, 28, 51, 63, 96, 185, 202, 242, 276  
283, 306, 603, 639, 668  
LR 45

Seeing no other lights, Senator Schimek, you are recognized to close on LB 242.

SENATOR SCHIMEK: Thank you, Mr. President. And again, I would say we weren't attempting to rewrite, in the sense that we weren't attempting to do anything substantive in this bill. We were attempting to rearrange for clarity and to make points of the law comport with other portions of the law. And I would like to thank the people who worked on this, because it's kind of a drudge type of work that they had to do. And, with that, Mr. President, I would simply urge the adoption...or the advancement of LB 242. Thank you.

SENATOR KREMER: Thank you, Senator Schimek. You have all heard the closing on LB 242. All in favor vote aye; all opposed vote nay.

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Have you all voted on the question who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: 29 ayes, 0 nays on the motion to advance the bill, Mr. President.

SENATOR CUDABACK: LB 242 advances. Mr. Clerk, items for the record?

ASSISTANT CLERK: Mr. President, I do. Thank you. I have notice of committee hearings from the Health and Human Services Committee. New resolution, LR 45, by Senator Brashear; that will be laid over. Amendments to LB 283 from Senator Raikes to be printed; LB 668 by Senator Johnson; LB 51 by Senator Kremer; LB 28 by Senator Landis; LB 96 by Senators Chambers and Thompson.

Your Committee on Transportation reports LB 276 to General File with amendments; LB 639 to General File with amendments; LB 63 as indefinitely postponed; LB 185, LB 202 indefinitely postponed. Health and Human Services reports LB 6 advanced to General File; LB 306, General File; LB 603, General File; and

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Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 254, 514, 563, 573, 644, 720  
LR 9

reports LR 9 to the Legislature for further consideration. Committee on General Affairs reports LB 573 to General File with amendments. Revenue reports LB 254 as indefinitely postponed; LB 514, LB 644, and LB 720, all as indefinitely postponed. (Legislative Journal pages 556-564.)

SENATOR CUDABACK: Thank you, Mr. Clerk. Next agenda item, LB 563.

ASSISTANT CLERK: LB 563 was introduced by Senator Janssen. (Read title.) Bill was read for the first time on January 18 of this year, referred to the General Affairs Committee. That committee reports the bill to General File. There are no committee amendments.

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Janssen, to open on the advancement of LB 563.

SENATOR JANSSEN: Senator Cudaback and members of the Legislature, LB 563 adds what we call flavored malt beverages to the Nebraska definition of "beer." On Wednesday, December 29 of 2004, the Alcohol, Tobacco Tax and Trade Bureau announced the final regulations regarding flavored malt beverages had been made. The flavored malt beverage and related regulatory amendments were printed in the Federal Register on Monday, January the 3rd of 2005. What is a flavored malt beverage? It's a drink that has been made and been created using both the fermentation and distillation. It is the flavoring that makes this type of drink distinct. It includes beverages such as Mike's Hard Lemonade, Smirnoff Ice, and Zima. The regulations were issued very late in the year, even after the General Affairs Committee had already held an interim study hearing on this topic. Much of what we discussed at that hearing is now outdated, but one thing has remained very clear. We have to clarify whether this product, flavored malt beverages, is a beer or a spirit under the laws of Nebraska. The new federal regulations have made it quite easy for us. The regulations state that in order to be taxed and treated as beer, 51 percent or more of the alcohol in flavored malt beverages has to be the product of what we call brewing or fermentation. No more than 49 percent of the alcohol may come from flavorings, which is the

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Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 563

distillation process added to that product. This regulation would allow only half the amount of added distilled spirits alcohol flavoring that can now be found in many flavored malt beverages. The regulation will go into effect January 3 of 2006. Whether flavored malt beverages should be taxed as liquor or beer has been a controversial question over the past few years. Federal and state laws treat beer, which is brewed beverages, and spirits, which is distillation, differently for taxation and distribution purposes. Since flavored malt beverages are being made using the fermentation process but have added distilled spirit alcohol flavoring, the determination as to what category the new product should be categorized under has been unclear. I introduced this bill to recognize the federal changes in Nebraska statutes and to clarify that the standard that the liquor...Nebraska Liquor Control Commission must enforce when determining whether a malt beverage is a spirit or a beer. The committee heard the bill on February 7 and advanced it unanimously to General File. Now, why do we...why do we need this? We need it to make sure that we comply with the federal regulation changes. The TTB, which is the Tobacco Trade...Tax and Trade Bureau, enacted a new definition of flavored malt beverages to clarify the statutes so flavored malt beverage is under the Internal Revenue Code and Federal Alcohol Administration Act. That clarification was needed to make uniform the production, composition, and taxation, and labeling of this type of alcohol. Does this...we encourage more drinking of this type (inaudible)? No. It simply makes sure that our statutes define the beverage, which already exists in Nebraska, correctly. The clarification of...we are addressing has nothing to do with the sale or marketing of the product. Why do we care if all flavored malt beverages are classified as beer or spirits? In Nebraska, beer is taxed differently than spirits. And the state...is the state losing money adopting this definition? Not likely. The flavored malt beverages makers can reformulate their recipe to make sure that they meet this definition. So with that, I would answer any questions anyone has. I think this is something that must be done in the state to comply with the federal rules and regulations. Thank you.

SENATOR CUDABACK: Thank you, Senator Janssen. You've heard the opening on advancement of LB 563. Open for discussion on that

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FLOOR DEBATE

February 17, 2005 LB 563

motion. Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, I am a teetotaler. Senator Janssen, I am not in my mode of attacking every bill yet because of what happened on the National Guard bill, so I want you to know this is not related to that at all. Since I don't drink alcohol, have never drunk alcohol...the closest I came to it was one time I had shaved and nicked near my lip, put some alcohol on it, and then when I licked my lip I tasted and I said, what in the world would people pour this stuff in a glass and drink it for? But anyway, Senator Janssen, this beverage...this is really a mixed drink that we're talking about, isn't it?

SENATOR CUDABACK: Senator Janssen, would you yield?

SENATOR JANSSEN: Yes, Senator Chambers, it has beer which comes from the fermentation process, and it has...also has alcohol derived from distillation.

SENATOR CHAMBERS: And it can be up to 49 percent alcohol derived from distillation.

SENATOR JANSSEN: That's correct.

SENATOR CHAMBERS: And if it's not defined as beer, it's going to be defined as liquor. It's going to be one or the other, right?

SENATOR JANSSEN: That's correct, uh-huh.

SENATOR CHAMBERS: When I look at the ones who testified, I haven't talked to any of them, was that their concern, that we're taking a liquor and defining it as beer?

SENATOR JANSSEN: Well, that, according to the federal statutes, the rules that just came down from them, it can't have any more than 49 percent of the distilled product in it and still be called...called a beer.

SENATOR CHAMBERS: I understand that...

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FLOOR DEBATE

February 17, 2005 LB 563

SENATOR JANSSEN: Yeah. All right.

SENATOR CHAMBERS: ...but I'm saying, in looking at the committee statement and seeing the people who were opposed to it, was their opposition based on the issue that I'm raising, that perhaps it should be classed as a liquor instead of beer?

SENATOR JANSSEN: Not necessarily. They are just against all alcohol, any...they are there whenever we are discussing an alcohol situation.

SENATOR CHAMBERS: So they...did they feel that the product ought to be banned in Nebraska?

SENATOR JANSSEN: Well, I would imagine they would think that every type of alcohol should be banned in the state.

SENATOR CHAMBERS: But, Senator Janssen, because (singing) imagination is funny, I don't want your imagination. I want you, if you can recall, to let me know what they said was their objection. Did they say they're opposed to this product being labeled beer because they're opposed to all alcohol consumption and this just makes another product legal?

SENATOR JANSSEN: That's right.

SENATOR CHAMBERS: So they wanted it...

SENATOR JANSSEN: They're opposed (singing) when they're in or out of the money. They're opposed to that.

SENATOR CHAMBERS: (Laugh) It's a good thing it isn't raining, because he and I'd be singing in the rain for the rest of the morning and people would hope that there would be a lot of thunder. But, Senator Janssen, why can we not define this as liquor? Would the tax be higher?

SENATOR JANSSEN: Well,...

SENATOR CHAMBERS: Because I see all the purveyors of alcohol

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Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 563

supporting it.

SENATOR JANSSEN: According to the federal regulations, which we...

SENATOR CHAMBERS: I don't want the federal.

SENATOR JANSSEN: Well, that's...that's what we base this on.

SENATOR CHAMBERS: I want...we...we can define...we can define beer in Nebraska as liquor, if we choose. Can't we? We don't have to distinguish between spirits...

SENATOR JANSSEN: We could.

SENATOR CHAMBERS: ...and beer for taxing purposes.

SENATOR JANSSEN: We could, yes.

SENATOR CHAMBERS: Now, is this being defined for taxing purposes?

SENATOR JANSSEN: Yes.

SENATOR CHAMBERS: There must be a difference then in the taxation on spirits and beer.

SENATOR JANSSEN: That there is.

SENATOR CHAMBERS: And the taxation on spirits must be higher than that on beer.

SENATOR JANSSEN: Yes, it is.

SENATOR CHAMBERS: Now, the...

SENATOR JANSSEN: Would you like to know what that is?

SENATOR CHAMBERS: ...the purveyors of beer...I'm not going to ask you the rate. I just want to get to the principle. The purveyors of beer probably feel there would be a lot of

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Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 563

people...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...who would like to buy this product because it will have more of a kick, based on the distilled alcohol. Is that true?

SENATOR JANSSEN: No, it can only have up to...

SENATOR CHAMBERS: Forty-nine percent.

SENATOR JANSSEN: Well, no, it's less than that. It would be the amount of alcohol that's in beer. It couldn't be any more than that.

SENATOR CHAMBERS: Right, and...

SENATOR JANSSEN: I believe it's 6 percent, yeah,...

SENATOR CHAMBERS: Well, you mean...

SENATOR JANSSEN: ...of alcohol.

SENATOR CHAMBERS: ...so if you put 49 percent of distilled spirits in this malt liquor, it's going to be considered to have no more than 6 percent alcohol content?

SENATOR JANSSEN: In the mixture, yes.

SENATOR CHAMBERS: That's like saying I'm going to give you 20 percent for this item, 80 percent for that item, 100 percent for that item, and 120 percent for the other, and it's supposed to add up to 100 percent. Help me to understand this. What constitutes...

SENATOR CUDABACK: Time, Senator.

SENATOR CHAMBERS: ...alcohol...

SENATOR CUDABACK: You may continue.

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Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 563

SENATOR CHAMBERS: Okay. Senator Janssen, thank you. I'm going to ask Senator Connealy a question or two, while you work your way through that. Senator Connealy, you heard the question...

SENATOR CONNEALY: Yes.

SENATOR CUDABACK: Senator Connealy.

SENATOR CHAMBERS: ...so would you...

SENATOR CONNEALY: Yes, Senator Chambers. Forty-nine percent of the six percent. Six percent of the volume of the liquid can be, because that's what...that's what beer is normally, can be alcohol. Of that 6 percent of alcohol, the majority of it has to come from a brewing process instead of from a distillation process, and that's the difference. And I think it's about a 30 percent difference in tax by total volume if it's different. But this is normally thought of as a beer type product.

SENATOR CHAMBERS: So we're talking about 49 percent of 6 percent alcohol. Now, if you'll stay on your feet, which...is alcohol produced through the brewing process?

SENATOR CONNEALY: Alcohol is produced from a brewing process or through distillation, either one.

SENATOR CHAMBERS: Which of the two would have the greater kick, if you had an equal amount of each?

SENATOR CONNEALY: Be no difference. Be no difference.

SENATOR CHAMBERS: So why, then, are we talking about a bill such as this? What does the 3 percent or the 49 percent of the 6 percent distillation or distilled liquor add to this drink?

SENATOR CONNEALY: It doesn't really change the result of it. It's because of the process that we have in taxation that we have a difference in distilled spirits, even though they're mixed, and brewed products. And because of that setup, there's always a, you know, a balance between whether you're going to

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 563

have something be classified as a beer or as a distilled spirit.

SENATOR CHAMBERS: Right, it's (inaudible).

SENATOR CONNEALY: This is normally...a 6 percent type product is normally a beer.

SENATOR CHAMBERS: Okay, it's a money issue, and all this other really is irrelevant, in a sense. What does it alter as far as the taste of beer?

SENATOR CONNEALY: I don't know if it does. I've never had these products, so I don't know for sure, but...though I don't think there was any testimony that had anything to do with taste.

SENATOR CHAMBERS: Are we talking about flavoring?

SENATOR CONNEALY: Yeah. Sometimes they use alcohol's flavoring, I understand, but this is a product that tastes like tea or lemonade or some other...

SENATOR CHAMBERS: Though then why don't...why don't you just let them put lemonade in the beer?

SENATOR CONNEALY: That would be fine with me. (Laugh)

SENATOR CHAMBERS: Okay. Now, who came up with this product and why was it created?

SENATOR CONNEALY: I don't have information on that.

SENATOR CHAMBERS: Will it give a greater outlet for distilled alcohol? Is there any distilled alcohol in beer right now?

SENATOR CONNEALY: In these products there's some distilled alcohol in some of them, if not the majority of them.

SENATOR CHAMBERS: In beer that's sold right now in Nebraska as beer.

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Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 563

SENATOR CONNEALY: In beer...in beer there is. I think that some beers are added some distilled alcohol, so...but it's...usually it's a pretty small amount. Most of the beer comes...the beer alcohol comes from distillation (sic), but I think that there's some processes that do add a little bit of distilled alcohol.

SENATOR CHAMBERS: You mean most of it comes from brewing...

SENATOR CONNEALY: Brewing.

SENATOR CHAMBERS: ...currently.

SENATOR CONNEALY: Sorry. Brewing.

SENATOR CHAMBERS: So somebody decided that putting distilled spirits in beer is going to do something that will make it more attractive to the beer-buying public.

SENATOR CONNEALY: And these...and the way I understand it, these are quite popular products.

SENATOR CHAMBERS: Why? They don't give more of a kick, you said.

SENATOR CONNEALY: (Laugh) I don't know why because I don't drink them, so I don't know.

SENATOR CHAMBERS: Do they...okay, thanks. I'll ask Senator Janssen. Senator Janssen, may I ask you a question?

SENATOR CUDABACK: Senator Janssen, would you yield?

SENATOR CHAMBERS: Do you drink beer?

SENATOR JANSSEN: Not very much.

SENATOR CHAMBERS: Okay.

SENATOR JANSSEN: Once in awhile.

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Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 563

SENATOR CHAMBERS: I'm going to ask...I'm going to look for somebody who looks like they drink beer. I'd like to ask Senator Foley a question. (Laughter)

SENATOR CUDABACK: Senator Foley, do you yield, Senator Foley?

SENATOR CHAMBERS: I'm just kidding, Senator Foley. I'd like to ask Senator Abbie Cornett a question or two, if I may.

SENATOR CUDABACK: Senator...

SENATOR CHAMBERS: Senator Cornett, not to embarrass you, and if it's too personal, don't even bother to answer. Do you consume, on occasion, beer?

SENATOR CORNETT: Yes.

SENATOR CHAMBERS: Have you tasted one of these products that we're discussing here?

SENATOR CORNETT: Yes, and I used to manage a bar.

SENATOR CHAMBERS: Okay. So are any of the beers that you've consumed before currently using this mixture, the distilled and the brewed alcohol?

SENATOR CORNETT: I don't know if any of the beers are. The malt liquors...

SENATOR CHAMBERS: Okay, malt liquor.

SENATOR CORNETT: Yes.

SENATOR CHAMBERS: Have you consumed a malt liquor without this in it, without this distilled beer...I meant alcohol?

SENATOR CORNETT: Well, there's a number of different products. There's malt liquor, which is...tastes like beer. Then there is these items that you're talking about which are like Mike's Hard Lemonade, Zima,...

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Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 563

SENATOR CHAMBERS: So there is a difference in the way they taste.

SENATOR CORNETT: Completely.

SENATOR CHAMBERS: But...

SENATOR CUDABACK: Time, Senator. Senator Janssen, you're next, followed by Senator Chambers.

SENATOR JANSSEN: Senator Chambers, maybe I can help you with this. Senator Cornett did start down that trail. You know, if there's...there's one that's called Zima. Now, I'm not sure if that's the one that tastes like tea or not...

SENATOR CHAMBERS: Then how are you going to help me if you don't know what you're talking about? (Laugh)

SENATOR JANSSEN: Well, I'm explaining it to you so you understand what we're talking about.

SENATOR CHAMBERS: Okay.

SENATOR JANSSEN: There is...I think the federal law says that you can't have any more than 6 percent alcohol in beer, and that all comes from fermentation. Now, if they put other alcohol in there, I'm not sure, but I think that the old brew meisters--the Storz, the Coor's and those people--that was their expertise, was getting a better taste from the fermentation process. Well, of course, distilled products, that is where the bourbon and the rye and all the other hard liquor drinks come from, that is all from distillation, and then the aging process brings out the flavor of charcoal in some of the bourbons and so on and so forth. What this does, it uses...it uses both of the...the alcohol comes both from the distillation process and some from the fermentation process. Well, the federal government says, only...on these products, only 51 percent can come...or has to come from the fermentation process. Forty-nine percent can come from the distillation process, and then they flavor it with all this, like with the tea and the lemonade. But the alcohol content of that mixture can only be 6 percent.

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Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 563

SENATOR CHAMBERS: Does the...if I'm able to ask you a question,...

SENATOR JANSSEN: Absolutely.

SENATOR CHAMBERS: ...does the distilled alcohol make it easier to add these flavorings and they be detectable in the drink and that's why they want to put the distilled alcohol in the mixture?

SENATOR JANSSEN: Apparently, that is the situation, Senator. I know nothing about the makers of this, the people who sell it. But in order for it to be taxed as a fermentation...

SENATOR CHAMBERS: Beer.

SENATOR JANSSEN: ...product, no more than 49 percent of it can come from the alcohol. Fifty-one percent has to come from the brewing process.

SENATOR CHAMBERS: Uh-huh.

SENATOR JANSSEN: Does that help you any, or did I confuse you more?

SENATOR CHAMBERS: No, no, you didn't confuse me more. It did help some.

SENATOR JANSSEN: All right.

SENATOR CHAMBERS: Okay. Thank you. But it's your time.

SENATOR JANSSEN: All right, Senator Chambers, whatever I have left, I'll give to you.

SENATOR CUDABACK: Senator Chambers, about...

SENATOR CHAMBERS: Thank you. Could I resume my discussion with Senator Abbie Cornett, who's had more experience?

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 563

SENATOR JANSSEN: I relinquish my time to you. You can do with it what you want.

SENATOR CHAMBERS: Oh, you're so generous. Thank you, Senator Janssen.

SENATOR JANSSEN: Oh, I know.

SENATOR CUDABACK: Thank you.

SENATOR CHAMBERS: Senator Cornett, is Senator Janssen on the right track in speculating that adding the distilled alcohol makes it possible to detect these other flavorings to a greater extent than if all of the alcohol in the beer were from the brewing process? Is that why the distilled alcohol is to be added?

SENATOR CORNETT: Yes. Does...basic grain alcohol has very little taste, so it's easier to add the flavorings to it.

SENATOR CHAMBERS: So we're talking about the flavoring, but also the desire not to have it taxed as spirits are taxed, but at the lower rate that beers are taxed.

SENATOR CORNETT: Yes. What it...what it is...

SENATOR CUDABACK: One minute.

SENATOR CORNETT: ...for is drinks that people...how to describe this. A beer has a certain taste and an aftertaste, which tends to be more bitter. These are usually a sweeter drink but they have a little bit of the effervescence that beer does. Why they want...would...they want them taxed at the lower rate because they contain the higher percentage of brewed alcohol than distilled.

SENATOR CHAMBERS: But the appeal of this is to people who may not like the taste of beer,...

SENATOR CORNETT: Yes.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 563

SENATOR CHAMBERS: ...but the beer sellers and makers would like to reach that...expand their market among people who will start drinking this product.

SENATOR CORNETT: Yes.

SENATOR CHAMBERS: Okay. Thank you. That was very helpful. I'll wait until I'm recognized, Mr. President, before I proceed.

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

SENATOR CHAMBERS: Thank you. And, Senator Cornett, that's all I will ask you because now it's clear and I have a better understanding, I think, of why there may have been opposition. If there is an alcoholic beverage which does not taste that good, some people will take it for the effect that the alcohol will have on them. There are others who might not drink as much because of the taste as they will if the taste is more pleasant. So the opposition could have been based on the idea that part of the appeal of this product is to younger people who might like the taste, and they may be opposed...I'm talk...I'm speculating about the opposition...they may be opposed to anything that would make the consumption of alcohol more glamorous, more desirable, and thereby entice people who are below the age to legally consume alcohol, except at home, to start consuming it. I don't have any more opposition to this that Senator Janssen is attempting to do than I have to any alcohol bill, and my opposition to alcohol is what Senator Janssen had stated about the groups that oppose this. I'm opposed to the ingestion of all drugs. I'm especially opposed to those drugs that create addiction. I'm opposed to those drugs that causes this society to have to set up procedures whereby people who are so addicted, or even if they're not addicted but under the influence of that drug, and I'm talking about alcohol, have to be taken to halfway houses. Some are thrown in jail. Families are divided. People get cirrhosis of the liver which can lead to liver cancer, and all of the other terrible things that are caused by this demon drug--alcohol. Why in the world is everything going to be done through advertising to make it appealing, and then expect young people not to go for that which everything has been done to make

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 563

it appealing to everybody? Then the young people are to be punished more harshly and in a way different from the adults. What has possessing alcohol someplace else got to do with you having a driver's license? Nothing. But if it's going to deter young people, punish older people, who violate the liquor laws, by losing their driver's license. And by violating, I mean if they sell it to underage people, if they procure it for underage people. Take the driver's license of any and everybody who violates the liquor laws. But if you don't do that, you're not going to do that to these young people, as long as I'm in the Legislature. The hypocrisy is patent. And if young people would listen to me, they would not drink. I'm not encouraging them to drink. But we're talking about penalties that are created by the Legislature to punish conduct. And I'm not going to stand by and let you punish those more harshly, who are more innocent, than you punish these old people, who know better and who join in trying to make alcohol appealing, who may let their underage children drink alcohol at home; when alcohol is used in religious services. Then when the young people fall prey to what the adults are responsible for, they become the scapegoats and the children are punished for the sins of the mothers and the fathers, and that is as wrong as two left shoes. And the reason I will oppose this bill is because it's making the consumption of alcohol more desirable and alluring to these young people, but I'm not going to wage my all-out battle on General File.

SENATOR CUDABACK: One...

SENATOR CHAMBERS: Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. (Visitors introduced.) On with discussion, advancement of LB 563. Senator Jensen.

SENATOR JENSEN: Thank you, Mr. President, members of the Legislature. Could Senator Janssen ask a few questions...or could I get the answers to some questions, please?

SENATOR CUDABACK: Senator Janssen.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 563

SENATOR JANSSEN: Sure.

SENATOR JENSEN: Tell me the purpose for introducing of this bill. Now, this product has been on the market for some time.

SENATOR JANSSEN: Uh-huh.

SENATOR JENSEN: Why now do we need a bill such as this today?

SENATOR JANSSEN: We need it to comply with the federal regulations that just came down.

SENATOR JENSEN: And those federal regulations are what?

SENATOR JANSSEN: They are just about the same definition that we give it. Actually, they...it is. In order to be taxed and treated, 51 percent alcohol comes from flavored malt beverages by the brewing process; no more than 49 percent of the alcohol may come from flavored distillation added to the product. That's what the fed regs say (inaudible).

SENATOR JENSEN: So what is it being currently taxed as today?

SENATOR JANSSEN: As beer.

SENATOR JENSEN: As beer.

SENATOR JANSSEN: Uh-huh.

SENATOR JENSEN: And it will be continued to be taxed as beer?

SENATOR JANSSEN: As long as it doesn't have over 49 percent coming from distillation.

SENATOR JENSEN: And there are some out there that do have more than 49 percent?

SENATOR JANSSEN: You know, I'm not sure at the present time whether...I don't think so. It could be. I can find that out for you.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 563

SENATOR JENSEN: Well, I guess what I'm really trying to understand is why we in the body should vote for this. Is it just to comply with federal regulations?

SENATOR JANSSEN: Yes.

SENATOR JENSEN: Well, I still have difficulty, and I won't ask any more questions, however, on that. And it's interesting what Senator Chambers was saying, and I can buy into part of that, and particularly when he was questioning who would drink this product. I don't think anybody over 40 years old has ever had one of these. It is a product for young people. Senator Cornett, I don't know what your age is and so I'm not going to inquire either.

SENATOR CORNETT: (Microphone malfunction)...(inaudible).

SENATOR JENSEN: (Laugh) But anyway, maybe it is that nobody over 30 would drink these products, but it is a product for young people. And I do have a concern any time that we develop products that would encourage more young people to participate and to drink alcoholic products. And I know it's marketed for young people also, so I do have a concern about that. Now, if this is a bill that needs to identify just how this is to be taxed, I can certainly look at that. But I, like Senator Chambers, really do not want to promote a product that more young people are going to indulge in and indulge in very heavily. I certainly go to the grocery store from time to time and see young people and what they're carrying out of the store, and I do know that some of these products are being used, and being used very heavily, and some of the parties that young people have, underage individuals, it is also present. So I will be glad to listen to the testimony and if there's a reason taxwise that this should pass, I could...I could support that. But if it's just to make this product more attractive to young people, I'll certainly be opposing it. Thank you, Mr. President.

SENATOR CUDABACK: Senator Jensen. Senator Janssen, you may either speak or close, as there are no further lights on but yours.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 563

SENATOR JANSSEN: Thank you, Senator Cudaback.

SENATOR CUDABACK: What are you...what are you...

SENATOR JANSSEN: Well, I'll be...I'll be closing.

SENATOR CUDABACK: You're closing.

SENATOR JANSSEN: Yeah.

SENATOR CUDABACK: You're recognized to do so.

SENATOR JANSSEN: All right. Some of the questions that have been asked about why we need to do this, it's something that we have to...we have to do because of the federal regulations, and we mirrored that as close as we could to what the definition is and how we should tax it. So, with that, it's something that we have to...we have to get accomplished this year and...in order to comply with the federal regulations, and give the Liquor Control Commission some statutory power to work with. They need to know where they can go and what their limits are. Actually, this is something that we have worked with the...with the Liquor Control Commission for quite some time. They needed something in the statutes that they could use as a guide to go by. With that, I ask for your support of this. It's something that needs to be done this year. Thank you.

SENATOR CUDABACK: Thank you, Senator Janssen. You've heard the closing on advancement of LB 563. The question before the body is, shall LB 563 advance to E & R Initial? All in favor vote aye; opposed, nay. The question before the body is, shall LB 563 advance to E & R Initial? Have you all voted on the question who care to? Have you all voted? Record please, Mr. Clerk.

ASSISTANT CLERK: 26 ayes, 2 nays on the motion to advance the bill, Mr. President.

SENATOR CUDABACK: LB 563 does advance. (Visitors introduced.) Mr. Clerk, items for the record?

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Transcriber's Office  
FLOOR DEBATE

February 17, 2005 LB 12A, 28, 96, 106, 182, 259, 305

ASSISTANT CLERK: Mr. President, I do. New A bill, LB 12A. (Read LB 12A by title for the first time.) An announcement from Senator Kremer that the Ag Committee will meet in Room 1524 on next Tuesday, February 22. Committee on Health and Human Services reports LB 259 to General File with amendments, and LB 305 to General File with amendments. I have an Attorney General's Opinion addressed to Senator Redfield. That will be inserted in the Journal. Amendments to be printed to LB 96 and LB 28 by Senator Chambers. Senator Preister would ask to add his name to LB 182, and Senator Johnson to LB 106. (Legislative Journal pages 564-572.)

Finally, Mr. President, a priority motion: Senator Wehrbein would move to adjourn until next Tuesday, February 22, at 10:00 a.m.

SENATOR CUDABACK: You've heard the motion by Senator Wehrbein to adjourn till February 22, 10:00 a.m. All in favor of the motion say aye. Opposed to the motion say nay. We are adjourned. Have a nice weekend, members.

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