

FEBRUARY 24, 2005

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February 24, 2005 LB 21, 89, 119, 175, 176

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Good morning. Welcome to the George W. Norris Legislative Chamber. Our acting chaplain this morning is Senator Price from the 26th District. Senator Price.

SENATOR PRICE: (Prayer offered.)

SENATOR CUDABACK: Thank you, Senator Price, for doing that for us, especially on such a short notice. I call the thirty-third day of the Ninety-Ninth Legislature, First Session, to order. Senators, please check in. Record please, Mr. Clerk.

ASSISTANT CLERK: There's a quorum present, Mr. President.

SENATOR CUDABACK: Any corrections for the Journal?

ASSISTANT CLERK: Mr. President, I have no corrections this morning.

SENATOR CUDABACK: Any messages, reports, or announcements?

ASSISTANT CLERK: Mr. President, I do. I have a series of appointments to the Nebraska Transit and Rail Advisory Council that are being withdrawn; notice of committee hearing from the Appropriations Committee. Your Committee on Enrollment and Review reports LB 21 as correctly engrossed; LB 89, LB 119, LB 175, and LB 176, all as correctly engrossed. That's all I have, Mr. President. (Legislative Journal pages 601-603.)

SENATOR CUDABACK: Thank you, Mr. Clerk. We now go to legislative confirmation reports. Mr. Clerk, first report.

ASSISTANT CLERK: Mr. President, the first report is offered by the Natural Resources Committee of Jerrod Burke to the Game and Parks Commission. That report is found in the Journal on page 549.

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Schrock, Chairman of Natural Resources Committee, you're recognized to open on the confirmation report.

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SENATOR SCHROCK: Mr. President, members of the Legislature, on February 16 the Natural Resources Committee held a hearing on Jerrod Burke to the Game and Parks Commission. The Game and Parks Commission, as you recall, is now an eight-member commission. Jerrod Burke is from Curtis, Nebraska. Jerrod received a bachelor's and master's degree in education from the University of Nebraska at Kearney. He's actively engaged in a family farming operation in southwest Nebraska, and is also a teacher at Medicine Valley Public Schools. Jerrod is a member of the city of the Curtis Board of Zoning Adjustment, and is a lifelong hunter and fisherman. The committee's vote was unanimous to recommend approval of Jerrod Burke to this full legislative body. He lives in Senator Baker's district, but he grew up in Gosper County, which is a part of my district. I do know his father. He's a teacher and it kind of reminds me of the saying, if you want something done ask a busy man to do it, because I believe he's a very busy man. Has a family, brought them with him to the hearing, and I would recommend his appointment to the Game and Parks Commission.

SENATOR CUDABACK: Thank you, Senator Schrock. You've heard the opening on the report by the Natural Resources Committee. Open for discussion on that report. Senator Baker.

SENATOR BAKER: Thank you, Mr. President and members. I also, obviously, want to...I speak...I think highly of Mr. Burke. He's a dedicated person. He's a teacher, as Senator Schrock said, at Medicine Valley. He's a breath of fresh air to that committee. I really appreciate him applying and certainly would ask for your vote of approval for his appointment to the Game and Parks Commission. Thank you.

SENATOR CUDABACK: Thank you, Senator Baker. Further discussion on the report by the Natural Resources Committee? Seeing no lights on, Senator Schrock, did you wish to...he waives his opportunity to close. The question before the body is, shall the confirmation report by the Natural Resources Committee be adopted? All in favor vote aye; opposed, nay. Voting on the confirmation report presented by the Natural Resources Committee. Have you all voted on the adoption of the report who

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care to? Record please, Mr. Clerk.

ASSISTANT CLERK: (Record vote, Legislative Journal pages 603-604.) 26 ayes, 0 nays on the adoption of the report, Mr. President.

SENATOR CUDABACK: Report has been adopted. Next report, Mr. Clerk.

ASSISTANT CLERK: Mr. President, the Government, Military and Veterans Affairs Committee would report on Steve McCollister to the Accountability and Disclosure Commission. That report is in the Journal on page 583.

SENATOR CUDABACK: Thank you, Mr. Clerk. Chairperson Schimek of the Government, Military and Veterans Affairs Committee, you're recognized to open on your first report.

SENATOR SCHIMEK: Yes, thank you, Mr. President and members. The Government, Military and Veterans Affairs Committee had their hearing last week on Steve McCollister for appointment to the Accountability and Disclosure Commission. We had a good hearing, and I'll tell you a little bit about Mr. McCollister's background, although I'm sure that some of you know him or know of him. He's a graduate of West Side High School in Omaha, University of Nebraska-Lincoln, and has an employment history of owning Archer Petroleum in Omaha from 2000 to the present. Worked for McCollister and Company for about ten years and also worked for US WEST Communications as a business development manager and strategic planning manager. He has many, many community activities, which I won't go into, but he is a member and past chairman of the Douglas County Board of Commissioners and a candidate for mayor in Omaha, also served on the Douglas County Commissioners for almost eight years. During his public service, he also served on the Metro Area Planning Agency, National Association of Regional Councils, Douglas County Board of Health, Economic Development Committee, and the Douglas County Hospital Board. Highly qualified, and the committee gave him their unanimous endorsement for appointment to the Accountability and Disclosure Commission.

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SENATOR CUDABACK: Thank you, Senator Schimek. You've heard the opening on the first report offered by the Government, Military and Veterans Affairs Committee. Open for discussion on that report. Seeing no senators wishing to speak to the report, Senator Schimek, do you wish to close on the first report? She waives closing. Question before the body is, shall the report offered by the Government, Military and Veterans Affairs Committee be adopted? All in favor vote aye; opposed, nay. Have you all voted on the first report who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: (Record vote, Legislative Journal page 604.) 25 ayes, 0 nays on the adoption of the report, Mr. President.

SENATOR CUDABACK: The report has been adopted. Mr. Clerk, second report.

ASSISTANT CLERK: Mr. President, the Government Committee would report favorably on Steve Danon and Donald Eisenhower to the State Emergency Response Commission. This report also is in the Journal on page 583.

SENATOR CUDABACK: Senator Schimek, you're recognized to open on your second report offered by the committee.

SENATOR SCHIMEK: Yes, thank you, Mr. President. And, Mr. President, am I to report on both of these at the same time, or separately?

SENATOR CUDABACK: Yes, Senator Schimek.

SENATOR SCHIMEK: Yes? (Laughter) Yes what?

SENATOR CUDABACK: Together. I'm sorry. Together.

SENATOR SCHIMEK: Together, thank you. I thought so because the Clerk mentioned them together, so...

SENATOR CUDABACK: Together.

SENATOR SCHIMEK: The first appointee, Mr. President, is Steve

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Danon of Omaha. He is a safety consultant/trainer, and has had experience with first response systems as an occupational safety teacher. He also has been a specialist with Aon Risk Services, and worked for Liberty Mutual of Omaha as well. He was educated at Bellevue University, and the committee recommends him unanimously also. The second appointee, and these are both, as you said, to the State Emergency Response Commission. The second one is Don Eisenhower of Plymouth, Nebraska. Mr. Eisenhower works for the Farmers Cooperative in Plymouth and has a long, long list of educational background in the kinds of security and disaster areas that we would wish for somebody like this in this position. He spent 16 years as the chairman of the Jefferson County Local Emergency Planning Committee; former vice chair and chairman, Nebraska Ag Co-op Safety Directors; OSHA 300 certified trainer, et cetera, et cetera. We also found Mr. Eisenhower well qualified and recommended him to the body unanimously. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Schimek. Open for discussion on the reports offered by Senator Schimek, Chairperson of the Government, Military Affairs Committee. Seeing no lights on, Senator Schimek, she waives closing. The question before the body is, shall the second report offered by the Government, Military and Veterans Affairs Committee be adopted? All in favor vote aye; opposed, nay. Have you all voted on the report who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: (Record vote, Legislative Journal pages 604-605.) 28 ayes, 0 nays on the adoption of the report.

SENATOR CUDABACK: The second report has been adopted also. We now move on to General File, 2005 senator priority bills. Mr. Clerk, LB 71.

ASSISTANT CLERK: Mr. President, LB 71 was introduced by Senator Stuhr and others. (Read title.) The bill was read for the first time on January 6, referred to the Agriculture Committee. That committee reports the bill to General File with committee amendments attached. (AM0343, Legislative Journal page 477.)

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Stuhr, you're

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recognized to open on LB 71.

SENATOR STUHR: Thank you, Mr. President and members of the body. I come before you today to introduce LB 71, which would reenact the Agriculture Opportunities and Value-Added Partnership Act. This act was originally passed in 2000 and was scheduled to sunset in 2004; however, funding was only received for two years and then was cut because of our state budget problems. You do have a green handout that enumerates some of the key provisions of the bill, so you could look at those as I go through some of those also. I do believe that there is a need for rural Nebraska to create economic opportunities that enable people to improve their income, to build assets and develop their capacity to contribute to the betterment of their communities; also, to build strong communities, which enable local residents to be more self-sufficient, which contributes to the overall strength and well-being of Nebraska. And it's also important to add value to ag products, offering farmers and ranchers the potential to obtain a larger share of the food dollar. The purposes of this act are detailed in Section 4 and enumerate some desirable economic outcomes to be attained. Basically, the main purposes of the act are: to enhance the opportunities in the development of small business enterprises for agriculture and rural communities; to encourage partnerships, networks and cooperative efforts for the promotion of value-added initiatives. This act would provide grants of up to \$75,000 to entities listed in Section 6, and among those entities eligible to apply for grants include communities, counties, agencies, educational institutions, economic development providers, nonprofit corporations, ag associations, and other groups that meet the purposes specified in Section 4. Grants may not be used to assist only one enterprise, business, or single individual. A 25 percent match is required. A recipient shall not receive more than one grant in any one calendar year for the same project. Grants will be awarded on a one-year basis and for no more than three years. Some projects and activities that the grants can be used for are found in Section 7. Mr. President.

SENATOR CUDABACK: Senator Stuhr.

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SENATOR STUHR: It seems to be a bit noisy.

SENATOR CUDABACK: Members, try to hold the...it down to a low roar, in respect for the speaker.

SENATOR STUHR: Thank you.

SENATOR CUDABACK: Thank you.

SENATOR STUHR: Some projects and activities that the grants can be used for are found in Section 7 and include such areas as research, education and training development, technical assistance, feasibility and market studies, and others. The act will be managed as a joint venture between the Department of Economic Development and the Department of Agriculture, although DED will be the lead agency. The act is to sunset January 1, 2009. The original value-added agriculture grant program was successful and beneficial to our state. LB 71 builds on that success and experiences with the changes made in this proposal. I would like to thank Senator Kremer and the Ag Committee for all of their work and assistance on this bill, and I firmly believe that a healthy, prosperous rural Nebraska contributes to a stronger, brighter future for all Nebraskans. And I would be happy to answer any questions that you might have, and thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Stuhr. You've heard the opening on LB 71. There are committee amendments, as stated. Senator Kremer, Chairman of the Ag Committee, you're recognized to open on those amendments to LB 71.

SENATOR KREMER: Thank you, Senator Cudaback and members of the body. We do have committee amendments which make about four changes in the bill. First of all, it amends Section 5 of Section 9, which assigns the primary administrative responsibility to Department of Economic Development to avoid administrative inefficiency and lack of clear authority under the joint administration by the two agencies. Original bill had joint administration by the Department of Agriculture and the Department of Economic Development. The amendment does retain the provisions of the original bill for collaboration between

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the two agencies in designing the program and soliciting the award grants, but the primary administrative responsibility is with the Department of Economic Development. The second thing it does, it strikes a provision in the introduced bill that requires a prescribed distribution of 25 percent of available grant funds to projects serving certain purposes, and 25 percent to projects of other purposes that are stated in Section 4 of the bill and the amendment. This provision was found in Section 5 of subsection (2) of the introduced bill and is not retained in the amendment, so that it does not have to prescribe that, so for the purpose of trying to get the most...the projects that they feel are the most important. The third thing it does, it adds a new section that becomes Section 9 of the committee amendment which adds expressed authority to recapture grant funds in the event of misuse of the funds by the recipient or if fraud were to be used to obtain the grant funds. We found that there was one instance where the funds were given out in the original practice and grants that were...we've had for the last three years and it was never used, and this gives a way of being able to recapture those funds. The fourth thing it does, it inserts a new section to conform with the introducer's intent, but omitted in the original bill, to state the legislative intent of \$1 million to be appropriated for the purposes of the act for three consecutive years, with grant funds to become first available on January 1, 2006. This is nonbinding intent language, and an A bill will still be necessary to accomplish the intended appropriation. This, the \$1 million, was inadvertently left off of the committee amendments, so the amendment to follow actually does that. It puts this part back in that would be the intent of \$1 million to be appropriated for this purpose. With that, I will close on the committee amendments.

SENATOR CUDABACK: Thank you, Senator Kremer. You've heard the opening on the committee amendments to LB 71. Mr. Clerk, motion on the desk.

ASSISTANT CLERK: Mr. President, Senator Kremer would move to amend the committee amendments with AM0569. (Legislative Journal page 605.)

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SENATOR CUDABACK: Senator Kremer, to open on AM0569 to the committee amendments.

SENATOR KREMER: Thank you and, members of the body, I just stated what this committee...this amendment does. We inadvertently left off the \$1 million, so this puts that back in, and it's the intent that \$1 million be appropriated for the purpose of the act for three consecutive years. So that puts this back in, which was not intended to be left off the committee amendments. Thank you.

SENATOR CUDABACK: Thank you, Senator Kremer. You've heard the opening on the amendment to the committee amendments to LB 71. We're now open for discussion. Senator Hudkins, followed by Senators Chambers, Stuhr, Connealy, and Senator Don Pederson, Senator Stuthman. Senator Hudkins.

SENATOR HUDKINS: Thank you, Mr. President, members of the body. I will be supporting this bill and its amendments. If you were listening when Senator Stuhr gave her introductory remarks, I would like to expand on that just a little bit. One of the purposes of this bill is to enhance the opportunities for small businesses. These businesses can be in agriculture in the rural communities, and it would also encourage partnerships, networks, and cooperative efforts for promotion of value-added activities. This is an agricultural state and we're always looking for ways to enhance the income of our rural neighbors. One of the items that I was particularly interested in, it was on your blue sheet that was handed out, has to do with grapes and wine. The Nebraska Winery and Grape Growers Association received an award of \$28,000. I'm especially interested in this because I have a vineyard in my district, James Arthur Vineyard near Raymond. These funds will be used for purposes of marketing, promotion, research, and education. Just ten years ago, Nebraska did not have any wineries. Five years ago there were only 3, and now there are 12 in production and 4 or 5 or 6 more on the drawing board. There are also, at this time, over 300 acres of grapes in cultivation. Back before World War II there were many, many more acres of grapes, but due to a series of circumstances, those grapes were plowed under and that land was used for other crops. But I will be supporting this because, if you look at

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that blue sheet, we're talking about research and opportunities for hydroponic tomato growers; the Nut Growers Association, pecans and walnuts, and if you've ever bought pecans you know they're not really inexpensive. Alfalfa; alfalfa is a big crop in the central part of the state. We know of individuals that are raising alfalfa in Nebraska that is shipped all over the country, some of it even goes down to the winter circus quarters for the larger circuses in the country for the giraffes, and if you have giraffes you know you have to have a special kind, very good alfalfa hay. Sunflowers; sunflower oil is quite a value-added product and these funds will be used for construction of a sunflower oil crush plant near Kimball. And dry peas; now who would ever think of having dry peas grown in Nebraska, but with this \$10,000 award there will be a pea processing plant in or near the area of Hemingford. So I think this is a very good bill and I will be supporting it. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Hudkins. On with discussion of AM0569, Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, the Legislature should do something or it shouldn't. 'f it's felt that this program should get \$1 million for three years in succession, do it. I am not going to support putting something like this in the bill to try to put pressure on a future Legislature. The wording is superfluous. It conveys a false notion to the public that somehow this binds the Legislature. I've had people speaking to me about this bill, and this is the provision that they really like--\$3 million. There's no \$3 million in this bill. There's not going to be an A bill appropriating \$3 million. This is what I dislike about the way rural people handle their affairs, but I'm not going to say that since I don't live in the rural area I'm going to stay out of it. When they bring it to the Legislature, it becomes a legislative matter, and this is not a wise way to legislate. They can't get \$3 million now. They can't get \$1 million now. So why go through this charade? Starting in 2006...I'd like to ask Senator Kremer a question or two.

SENATOR CUDABACK: Senator Kremer, would you yield to a question

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from Senator Chambers?

SENATOR KREMER: Yes.

SENATOR CHAMBERS: Senator Kremer, do you think this program will be more worthy of this \$1 million per year appropriation in whatever the year it's supposed to start than it is now?

SENATOR KREMER: Okay, more worthy in 2006...

SENATOR CHAMBERS: Yes.

SENATOR KREMER: ...than now?

SENATOR CHAMBERS: Yes.

SENATOR KREMER: I think it's probably worthy now and then, both.

SENATOR CHAMBERS: Then why don't you put an A bill...

SENATOR KREMER: There is an A bill to follow.

SENATOR CHAMBERS: To appropriate \$1 million?

SENATOR KREMER: Yes.

SENATOR CUDABACK: Senator Kremer.

SENATOR KREMER: Yes.

SENATOR CHAMBERS: No, he answered.

SENATOR CUDABACK: I'm sorry.

SENATOR CHAMBERS: I like that, but I don't support it.

SENATOR KREMER: Okay.

SENATOR CHAMBERS: But I think that's the approach that ought to be taken. Senator Kremer, this is the other question that I

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will ask you. How is the A bill worded; that that money will be appropriated starting January 1 of next year, that's the way it would be worded?

SENATOR KREMER: I was just pulling it up on the machine and I don't have that in front of me, so let me...let me (inaudible).

SENATOR CHAMBERS: Okay, and I'll speak and then you can tell me when you get it, because you may not have been prepared for this question. And I don't have the A bill on my machine.

SENATOR KREMER: Okay. It says \$1 million a year, terminating in 2009.

SENATOR CHAMBERS: Okay. So when that...if that A bill is adopted, then \$1 million will be appropriated by this session of the Legislature out of this year's budget. Is that true?

SENATOR KREMER: Yes, it is.

SENATOR CHAMBERS: Right, because that's the only way it could start being spent or being made available January 1. That's all I will ask you. Thank you,...

SENATOR KREMER: Okay.

SENATOR CHAMBERS: ...Senator Kremer. Members of the Legislature, this could be a boondoggle bill, and maybe it's not. I'd like to ask Senator Erdman a question, because I see him back there.

SENATOR CUDABACK: Senator Erdman, would you respond?

SENATOR CHAMBERS: Senator Erdman,...

SENATOR ERDMAN: Yes, Mr. President.

SENATOR CHAMBERS: No, this is Ernie. I'm just a mere senator, as you are; not the President. Senator Erdman,...

SENATOR ERDMAN: I'm aware of that, Senator Chambers.

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SENATOR CHAMBERS: ...you're the Vice Chair of the Ag Committee, correct?

SENATOR ERDMAN: That is correct.

SENATOR CHAMBERS: Is this the bill we were discussing, because I may have it mixed up with something else, where there were some grants provided and one of them gave the maximum amount allowable...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...under a grant, so that they could determine whether or not a small operation could compete against Cargill and ADM in the use of sunflower seeds? Was this...was this the bill that those matters were being discussed pursuant to?

SENATOR ERDMAN: Yes, it was, Senator Chambers. I apologize for the delay. Senator Engel was bothering me.

SENATOR CHAMBERS: I understand they harass you back there, especially when you're talking to me, but that's the question I wanted answered. Thank you. Members of the Legislature, this has been a boondoggle. If there are people so foolish that they think that they can compete with ADM and Cargill on something like the use of sunflower seeds, and the idea is preposterous, but the full amount of the grant available was expended, this program is not worthy to be funded. But I'm going to listen. However, I wanted to make it clear what my view is and maybe it can be counted by people who will speak in support. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. On with discussion of AM0569. Senator Stuhr.

SENATOR STUHR: Thank you, Mr. President and members of the body. I did want to share with you that at the hearing there were a number of organizations from across the state and individuals that did support this bill. And I do want to thank

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Senator Wehrbein, because he really was the...Senator Wehrbein and I believe Senator Vrtiska were the originators of this concept back in 2000. And in the year 2000, it was passed. It was a four-year bill, to sunset in 2004. Yes, as I stated in my opening remarks that we always learn by experience, and the former bill was completely under the administrative responsibility of the Department of Agriculture. This bill states that there will be a joint venture between the Department of Economic Development and the Department of Agriculture. The Department of Economic Development will use their skills and expertise in the area of awarding grants. They do this much more frequently than the Department of Agriculture, so they will be the lead agency in the administration of this proposal. Yes, there was the one instance and I have shared that with you because things are not always perfect. But, as I said, we have made provisions in this bill to try to look at those areas where there was some areas to...for improvement, and that is what we are attempting in this bill. There was wide support for the bill, because it is something that works. It provides small grants, up to \$75,000, for various small enterprises, and these are particularly needed in rural areas. And I wanted to share with you an article from January 1...or January 18, and it talks about the 3rd District. Fifty of the sixty-eight counties in the 3rd District are labeled as out-migration, meaning they have lost at least 10 percent of their population in the last two census counts. And this bill just proposes to offer some opportunities to enhance small enterprises and also the opportunity for people working together. This grant cannot be used for a single individual, a single farmer or a rancher, but what it is promoting is the partnership, the networking, the cooperative efforts of people working together to try to add some value to the products that they produce. And the blue sheet, I think, will give you a very good background. As I said, there was support from Farm Bureau, Farmers Union. Sometimes organizations are on opposite side. Everyone is together in supporting. You have received a letter from the Cattlemen's Association. All of those letters I think have been delivered to your office, but I knew that you would not have time to see them before this discussion started. So I hope that that answers some of your questions. I believe that...

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SENATOR CUDABACK: One minute.

SENATOR STUHR: ...the amount that we have appropriated, \$1 million, is very...is actually a small amount when you look at the return that we will be getting from these projects and the efforts of people in rural communities, and those again will, I believe, promote a better Nebraska and a brighter future for all of us. Thank you.

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

SENATOR CONNEALY: Thank you, Mr. President and members. I want to thank Senator Stuhr for introducing this idea that reintroduces a program that I think really worked well. This was put together a few years back and it was really performing highly and it was one of the things that worked in economic development, and especially in rural economic development. We had to come back and make some really tough decisions. In the budget cuts of...over the last three years, this was one of the ones that was not funded. It's because of the fact that it has an A bill, and I think that that's going to be a concern here on the floor, too. You know, a lot of stuff that we do in economic development doesn't have an A bill. It's off on tax incentives and the like that we can't see the real cost. The bang for the buck here on this little program, with a small amount of money in it, is really phenomenal. It's generated jobs. It's gotten programs started, as you see through the list, with the wine industry and with farmers markets and things that are continuing to perform. Even if one of these were to continue to perform it would be worth the cost, and we have multiples. And I believe that with a little bit of help we're going to start more of these small businesses that generate jobs for a small amount of money. I want to thank the committee for the bill and the amendments, and I'd urge that you support this bill, even though it does cost some money.

SENATOR CUDABACK: Thank you, Senator Connealy. Senator Don Pederson, on AM0569.

SENATOR D. PEDERSON: Thank you, Mr. President, members of the Legislature. I was looking at the fiscal note in connection

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with this bill and, once again, we're talking about \$1 million. So you'd say \$1 million here, \$1 million there, and pretty soon it adds up to a lot of money, and that's what tends to happen. And here's a bill that has a very worthwhile purpose and everybody in this Legislature, probably everybody in the state would like to have agricultural areas, the rural areas develop, but I think that at some point we have to start looking at where we are spending our dollars and whether we have a cohesive idea of how we're trying to utilize the assets of this state. Now this is a program that offers grants to people and I'm sure that they're worthwhile, but I do have to ask at what point are we going to restrain what we do? And I think that our economics has been very poor for the past three and almost into four years. Hopefully, we're seeing a sign of improvement, but we haven't really seen that yet. And we had to cut back on this program because we did not have adequate funds. In the Appropriations Committee, we have tried to adhere to the program that we are not going back to restore things simply to restore them, because there's no way that we could possibly do that. And I look at this bill with \$1 million a year and, although it's a very worthwhile purpose and everyone wants to support this kind of an activity, I think we have to say in the total picture of the dollars that we have available and the purpose for this particular bill, whether we are achieving what we think we would like to achieve. I'm very concerned about encroachments on our assets in this fashion. So, with that, I just want a word of caution to you that at some point we're going to have to come to the end and say, now, can we really afford this program, can we afford that program, and I think that you have to ask yourself that question. And it's easy to talk about a program that has a good purpose, and I appreciate what Senator Stuhr is having to say. I have a great deal of respect for her and what she is trying to accomplish. But I do have to put this cautionary word out that this is a relatively expensive program for offering grants to try to get people to improve their businesses. And does it fit into our general economic picture? You'll have to ask that of yourself. I'm very concerned about it myself. Thank you.

SENATOR CUDABACK: Thank you, Senator Don Pederson. Senator Stuthman, on AM0569.

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SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I'm realistically in total support of trying to add value to our number one industry in the state of Nebraska, which is agriculture, but I do have some concerns, you know, with this. I share the concerns that Senator Pederson had with the \$1 million in it. In looking at the information that we have before us this morning, the amount of dollars that have been spent, with about a quarter million dollars on this one blue sheet, I am really troubled and probably a little bit disgusted at the one, the amount of money that was spent out of that fund, the \$75,000 award, which is not in operation anymore. And I always have a problem with trying to, you know, start a feasibility study, looking at it and try to start something up. In some areas, it works out real well; in others, it doesn't work. I think we really have to look at, you know, what do we have in Nebraska and what are we trying to get with this million dollars? You know, is this million dollars going to be totally used, you know? I think if it was used for the right direction, it would benefit the state a lot. I think a lot of these smaller grants that were listed here by the 20...10, 20, 30 thousand dollars, and those operations are still going, you know, they are going to expand in the future. It was more or less a jump-start to get those going and they're going to amount to something and they're going to be beneficial in time to come, just because we have given them a little bit of a shot in the arm to get going. But when we get some of the larger amounts, the requests, and they don't turn out, it's very, very troubling to me, you know. Are we as taxpayers, you know, having to support something that's an idea, a pie in the sky, that's never going to amount to anything? That really concerns me. I would like to engage in a little conversation with Senator Stuhr, please.

SENATOR CUDABACK: Senator Stuhr, would you respond to a question from Senator Stuthman?

SENATOR STUHR: Yes.

SENATOR STUTHMAN: Senator Stuhr, how many this last value-added operations that we have been going...has been going for, what,

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the four years?

SENATOR STUHR: Senator Stuthman, actually the program only lasted for two years because it was not funded, because of the...you remember the budget crunch. You weren't maybe here, but we were experiencing some severe budget deficits, so there was no funding. And I really would not have even had to put that particular one on there, but I wanted to point out that we have made adjustments in the bill so that this is not going to happen again as far as looking at the quality of people who will be receiving these grants. There were numerous grants that were successful.

SENATOR STUTHMAN: Yes, I realize there's numerous grants that were successful, but can you tell me, have there...has there been any amount of money that has been in support of these or that has been given to some organizations that have...are not in business anymore, or is this the only one?

SENATOR STUHR: I believe there was one other, one other instance of some...of a smaller amount of money that was not successful. But we certainly have a track record of many areas that were successful.

SENATOR STUTHMAN: Okay, now...

SENATOR STUHR: So it's a learning process.

SENATOR STUTHMAN: Okay. Thank you, Senator Stuhr. We're attempting to put \$1 million into this and, realistically, it looks to me like this here has spent a quarter million dollars and it's been the two-year program.

SENATOR CUDABACK: One minute.

SENATOR STUTHMAN: Do we really need to have the \$1 million in that? What happens to that if that isn't utilized, if the \$1 million isn't utilized? Yes, it still stays in the fund, but will that be available for another year down the road? And maybe I need to ask that question of Senator Kremer, if he would be willing to answer.

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SENATOR CUDABACK: Senator Kremer, would you respond?

SENATOR KREMER: Yes, I would, and I'm not sure that I can answer that. Maybe Senator Stuhr could more. But I...the \$1 million is intent, and it has to be appropriated \$1 million a year, so if it's not used I don't know if it carries over or not. Does...maybe you could ask Senator Stuhr. I'm not sure.

SENATOR CUDABACK: Senator Stuthman, would you like to ask her a question?

SENATOR STUTHMAN: Yes,...

SENATOR CUDABACK: Senator Stuhr.

SENATOR STUTHMAN: ...I would like to ask Senator Stuhr if she would...

SENATOR CUDABACK: Senator Stuhr.

SENATOR STUTHMAN: ...have the answer, please.

SENATOR STUHR: Excuse me.

SENATOR STUTHMAN: Yes, I will...I will relate the question again to you, Senator Stuhr. And it is, if we only utilize \$250,000 out of this million in the next year, after January 6, you know, where does the rest of the \$750,000 go? Does that...

SENATOR CUDABACK: I'm sorry, but your time is up, Senator Stuthman.

SENATOR STUTHMAN: Thank you.

SENATOR CUDABACK: Next speaker would be Senator Wehrbein to AM0569.

SENATOR WEHRBEIN: Thank you, Mr. President, members of the body. I rise to support the amendment but I, since we're on the bill, I'm going to talk a little bit about the bill. I'd remind

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the body, you know, one of the things that you want to guaranteed to get nothing is to...you guarantee if you do it...if you do nothing, you're going to get a guarantee you'll get nothing. And I think this has been a very successful program. We did cut the funding because of the struggle we had, and it was a very difficult decision, particularly on my part, because I thought it was one of the most successful programs we've had. I will say we're going to have several proposals coming forward. I know the Revenue Committee is working on some. I do not know what they're going to have. I've got a couple myself in that committee. But this is one program that's had a fairly good track record of success, and I think along with that we have to expect some failures. There were some failures. But if you take no risks, you're certainly going to get nothing back, and that's kind of the entrepreneurial thing that I think this particular bill has really encouraged. KAAPA, the two front...the two on the front, are one of the most successful self-help programs that's gone on in the state. We have a highly successful ethanol plant at Axtell and they are even, I think, on the verge of expanding. And remember, their money has to be...this is match money, so if there was some money lost, so did the group that used the money. In the case of the one Senator Chambers raised, was the sunflowers, those people lost the money, too. Not every business is successful, whether you're in the restaurant business, the farming business or anything else, so there's some risk. And to some degree I think this does provide some money so people can make studies to see if there is a risk or not. This is seed money in many cases, and perhaps \$1 million is plenty, but I think this ought to advance at this point, at least a couple times, until it plays out against all the other requirements that are going to be there, demands, if you will, the regular budget, if you will, that's going to be coming. But it appears to me, because of the success of this, it ought to be one that's on the top line when we get there. I noticed in the paper this morning the USDA is going to cut a lot of their grants that would cover many of these kind of areas at the federal level. I know Nebraska is going to have to make some decisions what our priorities are, but because of the track record that this has, I think this one at least ought to stand out for a few more weeks or a few more months until we get till May and to see how it fits in. And

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beyond that, I don't know what else to say. If there's questions about some of the specifics, we can certainly find out, but the track record here, my notes say, 4...or, actually, 22 out of 26 were successful, and those primarily were study monies, looking at the business plans, developing business plans, looking at the markets and so forth. I don't know where else that risk money is, but I remind you once again those that got this money also had their own money at risk, so it wasn't like these grants were all...the only ones at risk. I would say that if the million dollars wasn't used that it could be carried over and it'd probably be a decision of the Appropriations Committee if they wanted to take that into account when they did the next year's budget. But if there's a million in starting June...July 1, a million in July 1 of 2006 also, that's \$2 million. If that was not used over that time then the committee could decide whether to carry that money over, reappropriate it, take it all back, reduce the level, whatever that...those decisions would be. We can decide that here in the A bill as to what we appropriate and go on from there. But I think we ought to give this very, very serious consideration. I support the amendment, I support the Agriculture Committee amendment and I support the bill, and I think you ought to, too.

SENATOR CUDABACK: One minute. Thank you, Senator Wehrbein. Senator Chambers, AM0569.

SENATOR CHAMBERS: Mr. President, members of the Legislature, I don't like chimeras. That's one you'll have to look up in the dictionary. But to help you out, I wish Senator Tyson was still here, because he's not offended, c-h-i-m-e-r-a, or will-o'-the-wisp, or Saint Elmo's fire. If these projects do not persist longer than the amount of money in the grant, they're worthless. If somebody says, I feel bad because my farm is going under, hey, and I got an idea and I want \$75,000 to do this, and the people running the program says, well, Senator Wehrbein said you got to come up with this matching money. They say, well, it doesn't have to be in cash, though. And they say, well, that's right. I'd like to ask Senator Wehrbein a question.

SENATOR CUDABACK: Senator Wehrbein, would you respond to a

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question from Senator Chambers?

SENATOR CHAMBERS: Senator Wehrbein,...

SENATOR WEHRBEIN: Yes.

SENATOR CHAMBERS: ...on the sunflower seed fiasco, are you telling me that the people who wangled that money lost \$75,000? Did they put up \$75,000 to match the \$75,000 they got?

SENATOR WEHRBEIN: Senator Chambers, I don't know the details of that, and I'm certainly willing to get that, but I...the intent was that they match that money. So they lost the equivalency of it, I would assume it's actually the cash. I can't...I don't know that for sure.

SENATOR CHAMBERS: Okay.

SENATOR WEHRBEIN: But the way the bill is designed, it's matched.

SENATOR CHAMBERS: Okay, I will see what you find out on that specific one.

SENATOR WEHRBEIN: All right.

SENATOR CHAMBERS: But at this point, where they want to give more money to National Guard scholarships, they want to give more money to other projects that I don't think are worthy, I'm going to fight them. And others might be taken in by that nostalgic notion about doing something for agriculture. We should, but we should make sure we're doing something that is of value and not just doing anything. I haven't heard a person on the floor mention about whether the borders are going to be opened between Canada and the United States to let Canada beef come back into this country. There are some Canadian producers who are talking about using one of these treaty provisions to get money from the United States for closing the border because of the fear of Mad Cow. The Legislature can't do anything about those things. When you talk about the number of ranches diminishing, the number of farms diminishing, \$1 million, if

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given, divided among those who are going under is not going to save a one of them. This kind of approach is not going to stop the number of farms from declining. A so-called small farm, whatever that is, medium-sized farm, whatever that is, is not a viable economic entity in terms of earning a living. If you run a farm and you have to get a job in a nonfarm capacity, that farm is not producing enough money to sustain you and your family. I don't know why people in the agricultural sector won't discuss these realities when they come with a bill like this that could amount to a boondoggle. You might be able to delay for a period of time somebody from going under and having to go find a job or move out of that area which is not economically viable and go someplace where you can find a job. Young people leave certain areas of Nebraska and leave this state because the opportunities are not there, but also there is so much hatefulness, so much narrow-mindedness. I wish you could have heard some of the Christians who came and spoke against a bill that was designed to protect gay and lesbian people from discrimination in employment. They're coming there preaching all this Christianity, but they don't believe everybody in Nebraska should be protected under the law from employment discrimination.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: Then I have a bill like this come before us which does not deal with any of the issues that will relate to how Nebraska is judged by those outside of the state who might want to come here. If you had a company and some of your top officials are gay or lesbian and they say, we can't go to Nebraska because of their narrow-minded, hateful attitude, then these same people want to come here and present something like this and expect me to go along with it? Uh-uh, we're going to start dealing on the floor. You support nondiscrimination in employment and I'll support something like this. I don't know if you've got 33 votes for this bill, but I've been rubbed the wrong way and if you've got 33 votes for this, more power to you. It will mean that the ag people have finally found a way to get together and consolidate some strength, and I had to get kicked in the teeth as a result, but I would hope that that attitude carries over into other things. But I've got to

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provoke you. I've got to stir your pure minds. And I've...

SENATOR CUDABACK: Time.

SENATOR CHAMBERS: ...got to make you think and come face to face...

SENATOR CUDABACK: Time, Senator.

SENATOR CHAMBERS: ...with these issues that I think are important. And if I think it is important, by God and by Ernie, it is important. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. (Visitors introduced.) On with discussion of the amendment to the committee amendments to LB 71, Senator Raikes.

SENATOR RAIKES: Thank you, Mr. President, members. I appreciate Senator Stuhr bringing this bill. I am certainly ready to consider it, but probably not ready at this moment to endorse it, and I'll mention a couple of reasons why. First off, Senator Stuthman I think pointed out that we had about \$250,000 in grants over a two-year period. I don't know if the \$1 million a year is just wishful thinking or if there's some reason, some calculation, some objective calculation that came up with \$1 million a year. It doesn't seem as though the list of grants would justify \$1 million a year, given the handout. The second thing, if you look in the green copy at some of the things that this is intended for, two, the top two, are research, and education and training. Wouldn't it make more sense...we have the Institute of Agriculture and Natural Resources that we support with state funds for specifically those reasons. Maybe it would make more sense to appropriate money or to, in effect, maybe just require them to do more in certain areas that are aimed at on this particular bill. A third concern I have is the...one that's, again, already been raised, and that is in-kind contributions. Now, I may have been involved in the original approval of this than involved in-kind, but that always concerns me. It's very difficult to define what a contribution is and I wonder about the situations when there is a group, however organized and defined, that qualifies for a

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certain amount of money but really doesn't have very much, if anything, on the line when you look at it in detail. So in-kind contributions is a concern. I would feel more comfortable with the approach if it did not allow in-kind contributions. And then finally, to pick up on a theme raised by Don Pederson, Senator Don Pederson, we have a number of bills in Revenue Committee right now dealing, in one way or another, with rural economic development, starting with ethanol. There are a number of bills that would revise or change LB 608, and LB 608, as you recall, was a...basically a refundable tax credit, cash money to individuals who begin business ventures in the smaller counties in the state. We need a prioritization here. We cannot do everything. We cannot do...we cannot do ethanol, we can't do LB 608, we can't do small business rural microenterprise, we can't do livestock investment credit. We've got to prioritize, so is this is a priority or isn't it? And if it is a priority, do we go ahead with this and then forget about all the other ideas that have been brought forward? I don't think you can do everything. So we're at a point where we need to consider prioritization. I would like to hear some discussion about that. Thank you.

SENATOR CUDABACK: Thank you, Senator Raikes. On with discussion. Senators wishing to speak to AM0569 are Senators Redfield, Stuhr, Fischer, Stuthman, Connealy, Landis, Synowiecki, Wehrbein, and Chambers. Senator Redfield.

SENATOR REDFIELD: Thank you, Senator Cudaback, members of the body. If I could engage some discussion with Senator Connealy, I would appreciate it.

SENATOR CUDABACK: Senator Connealy. Senator Connealy, would you respond? Senator Connealy. Senator Connealy, I'm sorry to interrupt your conversation there,...

SENATOR CONNEALY: Sorry. Sorry.

SENATOR CUDABACK: ...but would you respond? I'm sorry.

SENATOR CONNEALY: Yes.

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SENATOR CUDABACK: Apologize.

SENATOR REDFIELD: Thank you, Senator. Picking up with Senator Raikes' comment, we have a number of bills in Revenue Committee. We have been trying to sort through these because, in fact, we know that we need to work on economic development. We need to work on it not only in the urban areas, but in the rural areas. And, Senator Connealy, you have a bill, LB 309, that is before the Revenue Committee and in that bill you actually ask us to allocate investment tax credits among applicants that have strong business plans, the potential for success, and the likelihood of making contribution to revitalization of an economically depressed area. Now, I'm looking at this bill. I'm looking at your bill. We're looking at a number of other bills in the committee and I'm asking you if you could tell us how your bill would differentiate and what would be the advantages of either or both so that we could compare and make some decisions here.

SENATOR CONNEALY: Okay. It's two different approaches to somewhat the same area. This bill actually is more for start-up and more for beginning, to give people a leg up and to start venture...more of a venture capital type, whereas LB 309 tends to be more of someone who already has a business plan and allows them to get that needed capital for the small business. It works in the same area. But I argue that, you know, we spend about \$250 to \$1, our urban economic development and our rural economic development. One program doesn't fit everywhere. What works in my little town of Decatur wouldn't necessarily work in Beemer, which is just a few miles away. You have to have different programs and different approaches and not spend a tremendous amount of money, but have those programs available so that they fit situations that are out there. You know, we're picking at a program now that's a \$1 million, when we're spending hundreds of millions of dollars on urban economic development and on big box projects, and I believe that this needs to be part of the mix. So I put it right up high as a priority, along with LB 309.

SENATOR REDFIELD: Thank you, Senator. I appreciate your response because we have talked about venture capital.

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Actually, some of the discussion in committee has talked about the fact that, while Nebraska is committed to putting some dollars into connecting potential businesses with investors, they actually found in that program that until they got them to the point where they had a sound business plan and they really had done a lot of intricate homework, they weren't even ready to talk to investors. And so I don't know that I see the plan here as a venture capital program. I'm seeing this as they're looking for getting people together, doing some research, finding out if there's some feasibility of, say, growing nuts in their area and seeing whether there's a market for it. So I'm seeing that as a very different plan, but still in my own mind trying to prioritize, with the limited funds available, where we can get the most economic bang for our buck so that we see a return on the dollars, and then have those dollars in the future to invest and expand into other programs. So, I'm listening to the discussion, but I'm going to caution everyone to understand that we're still wrestling with this in Revenue Committee...

SENATOR CUDABACK: One minute.

SENATOR REDFIELD: ...and we're looking to get the best return so that we can expand businesses and expand programs down the road. Thank you very much.

SENATOR CUDABACK: Mr. Clerk, are there announcements or reports?

ASSISTANT CLERK: Mr. President, an announcement: Transportation Committee will hold an Executive Session at 10:15 in Room 2022; that's Transportation at 10:15, 2022.

SENATOR CUDABACK: Thank you, Mr. Clerk. (Visitors introduced.) On with discussion of AM0569. Senator Stuhr, followed by Senator Fischer and others.

SENATOR STUHR: Thank you, Mr. President and members of the body. I have been doing some checking and I'm not sure where Senator Stuthman got his \$250,000 figure, but I understand that all of the money, all, the \$1 million that was allocated for each of those two years, was completely spent. There were more

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and more programs than what there were...than what there was money to be allocated for these grants. So I want to emphasize that this is not a new program. This is a program that was in effect for two years, and what we're doing in LB 71 is actually enhancing that former program and taking and making it more accountable. Yes, there may have been one or two businesses that did not succeed, but we do not have an account of all of the businesses because accountability wasn't required in the past, and we are requiring accountability. There will be a report given to the Legislature at the end of each year telling and reviewing the programs and how successful they were. Some of the grants were also given for not only one year, but the second year to build on that success. And I think Senator Connealy said it correctly in the fact that this program, and Senator Wehrbein would agree, I'm sure, was designated to help those small beginning enterprises. They do need money. And I am talking to Senator Raikes. In that list of things that he noted that were in the bill that...what the grant monies could be used for, those are not in any specific order but do list that research...I think any time that you are looking at starting a new business, you need to do some research. And every week, every week when I go home, back to my constituents, I'm...somebody is asking me about is there someway; they have an idea that they would like to start a new business. That is the only way that we're going to retain jobs and retain our young people in rural Nebraska. There have to be opportunities, and that is what this bill does. It provides opportunities for agriculture and small communities, and also for those businesses that want to add value. And there's a good definition in the bill, talking about how do you add value to a product. But some of the projects and the grant money could be used for research, it could be used for education and training, and this is where they get the assistance of the university to help, and some other private groups, to help them in this endeavor, market development, development of cooperatives. Again, this money cannot go to any single individual or a business. It is to promote partnerships and networks, and we know that that's what works in rural communities, because we just don't have the population back there and people do need to work together. It does...it provides some start-up or working capital for the development of the project. It might be community-based,

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rancher, farmer-based. And I believe that Section 7 does outline those different areas. So again, I want to...

SENATOR CUDABACK: One minute.

SENATOR STUHR: ...emphasize, yes, I know that we must do priorities. I would hope that at least we could move this bill on and, as we've done in some other areas, when we get further into the budget year, we could make some adjustments. I know that that is always possible. But I just want to emphasize that the demand is there. Every single dollar was spent and there weren't enough dollars to use for all of the projects that were requested. Thank you, Mr. President.

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

SENATOR FISCHER: Mr. President and members of the body, we've heard it said today that we need to look at where we are spending our money in this state, and I agree with that. That's a true statement. It's also been said we need to look at the total picture, and at the total state, is how I would continue that statement. Does this bill fit into our general economic picture in this state? I believe it does. You've heard me say many times before I believe that this state needs to make a commitment to rural Nebraska. Rural individuals in rural communities are suffering. In my district, the 43rd District, we have three of the poorest counties in the United States, three in the top ten, and we're struggling to maintain businesses and also, in order to maintain those businesses, we have to have young people remain in rural Nebraska. I think some of you probably saw in the Sunday paper there was an article on the front page about Mullen, Nebraska, and Mullen is in Hooker County, which is in my district. This article spoke about a young man named Trent Wilson who went to mechanic school in 1998 and he never planned on coming back to Mullen, Nebraska, or to Hooker County, but he is back and he has started a repair shop. He has a partner and there is an essential business that's growing. About two years ago, Mullen came close to losing several of its local merchants. If you look at that and also at the rankings that show that the area has some of the lowest per capita income in the nation, that served as a wake-up

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call for Hooker County, it served as a wake-up call for Mullen, and it should be a wake-up call for the entire state. Economic development in sparsely settled Sandhills communities in Sandhills area is hard to achieve because we face many unique problems in our area of the state. Mainly, it's due to transportation costs. And when you're...as in Hooker County, when your license plate number is 93, that denotes the smallest population when that numbering system was established. Hooker County now has 783 residents. That's only one person per square mile. So we do have a number of challenges that we face in this state. I believe LB 71 helps rural Nebraska. It helps the people in rural Nebraska by offering us another opportunity in developing businesses and being able to tap into that expertise that is so desperately needed in rural areas. I believe that LB 71, with its \$1 million in appropriation, will provide those opportunities for growth in the rural parts of this state, and I would support this bill and its amendments. Thank you.

SENATOR CUDABACK: Thank you, Senator Fischer. (Visitors introduced.) Senator Connealy.

SENATOR CONNEALY: Thank you, Mr. President and members. I've been in ag production all my life. I actually rented my ground out to my cousin last year, but I've been in agricultural production for a long time and I...and almost that whole time I've also been in ag promotion and trying to generate business. And if you look at what we've done in our industry over the last few years of our industry, the last 25 years of my life, we've ended up exporting about the same amount as we did in the 1970s. Through my career, we've been static. Production has increased. You know, we have had a more vibrant agricultural economy, but where has that all gone? It's gone to industrial uses. It's gone to programs that we've tried to figure out ways here in the United States to use our products more, to put more value there. It is...has been the story of my agricultural career--ethanol, industrial uses for grain, making more products out here on the land. Trying to retain some more of that value here is what it's about. It hasn't worked every time. Every idea has not been a success. But if we don't continue to try to figure out ways to build new markets, to keep more of that value here in our home state, we're going to continue to dwindle on the vine.

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I believe that this is one part of that project, one part of that process that adds more value, that starts jobs. You know, under this program there was a little wool products manufacturer in Washington County that generated three jobs for I think \$15,000. And you say, well, that's about \$5,000 a job. That program was very successful. I believe that if you put money in a program like this you're going to get an awful lot more bang for the buck, more jobs for less dollars, than you will in almost any other investment in economic development. We have to do it in rural areas. Otherwise, we're going to be...continue to lose infrastructure that's out there, that's available, and we can't continue to just move people off the land and out of our rural communities into the metropolitan areas. We can't continue to say, well, it's working here so let's all go into the metropolitan areas. We need to make sure that we have viable rural communities. This is one small approach that allows us to do that.

SENATOR CUDABACK: Thank you, Senator Connealy. Senator Landis, on amendment to the committee amendments.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, I found several speeches, but certainly Senator Fischer's, powerful and galvanizing. I believe that it's...the circumstances that we find ourselves, particularly in rural Nebraska, are chastening, if not depressing. On a good day I think they're chastening; on a bad day I think they're probably disheartening. And towards that, I believe that, that sincerely. I believe that this may be part of the bigger puzzle that Senator Connealy just talked about. I'm not...I don't dispute that. My difficulty, as somebody who doesn't know and looking from the outside and wanting to be helpful, is whether or not this is the best piece or the piece we can afford from the ones that are out there claiming our time and attention. I don't know and I need some help. I've got a bill in Revenue, LB 526. It's to provide ethanol incentives and funding. It costs \$50 million bucks; \$25 million of it for a new program on ethanol. I've historically supported ethanol. Right now, ethanol has \$128 million red tag to it that we can't afford. I was doing that when I voted all the way for that process and helping rural Nebraska. I've got a \$120 million shortfall in

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our budget because of it. So I kind of...kind of gave at the bank at the moment, but it was done because I want to be helpful here, and here's another \$50 million bucks. I'm not sure if that's it. There are three bills, one of them my own, on how to make the rural economic development bill better. Doesn't cost any money, that's true, but it does make it more available and to more people, however, more to larger communities more than...rather than smaller communities. We've got a bill in on certified local investment, which is designed for small businesses essentially in rural areas. It costs \$3 million bucks. There's a \$2 million bill in on small business rural microenterprise tax credit, and there's an open-ended livestock modernization expansion--essentially LB 775 for stockyards, cattle operations, and pig operations. I'll be helpful. I am a rural...I'm an urban senator who wants to be helpful to rural Nebraska. I think it's important, but I need help in identifying what it is that I most valuably can do. The other day I brought a bill to the Banking Committee, rather like this bill. It's for a program that already exists. Costs a couple of hundred thousand bucks for each of two years. It's to design to put venture capitalists together with Nebraska entrepreneurs. Banking Committee held the bill. Asked the Chairman, what's the story? He said, look, Dave, it's not that they dislike the bill; they just didn't have a sense of the priority of what was most important. And you know, I said to myself, I understand that completely. I get it. And, by the way, the Banking Committee is filled these days with skinflints. I mean, we'd be proud to have them on the Revenue Committee, for God sakes. Rich Pahls, got to be...this is no pushover; Mick Mines; Chris Langemeier; Mike Flood; Jim Jensen; Pam Redfield--these are tough, tightfisted, conservative folks who won't let the bill out, not because they don't want venture capital and they don't want entrepreneurs to work. They just want to make sure that if they spend some money it's for the best way to spend money. And, by the way, I resonate with that. That is what we are struggling with right now on the Revenue Committee, because the banking...I'm sorry, because the business community has brought us a smorgasbord with absolutely no sense of what the most important dollar to spend for economic development is. I must say I have a risk of hypocrisy if I cannot bring any sense of prioritization to what I do. If we can't bring any

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prioritization to economic development generally in the Revenue Committee, it would be...

SENATOR CUDABACK: One minute.

SENATOR LANDIS: ...hypocritical to demand that of the rural sector. However, right now that's what we're trying to do. I need the same sense of prioritization from them.

SENATOR CUDABACK: Thank you, Senator Landis. (Visitors introduced.) On with discussion. Senator Synowiecki.

SENATOR SYNOWIECKI: Thank you, Senator Cudaback, members. Senator Stuhr, would you yield to a question or two?

SENATOR CUDABACK: Senator Stuhr, would you yield?

SENATOR STUHR: Certainly.

SENATOR SYNOWIECKI: Thank you, Senator Stuhr. Relative to the fiscal note, I'm looking at the first page and the administrative cost of anywhere from \$66,000 to \$68,000 per year. Could you help enlighten me relative to these fiscal...or these administrative costs associated with the bill? Are these new state employees, essentially, that are going to be needed to oversee the program or...

SENATOR STUHR: Senator Synowiecki, what we did in the new A bill, which would follow, is to take...reduce that amount, and we took \$20,000 out of that \$1 million for administration of the grants, so that it wasn't, you know, an additional appropriation.

SENATOR SYNOWIECKI: So you did take \$20,000 out of the \$1 million...

SENATOR STUHR: Yes.

SENATOR SYNOWIECKI: ...for administrative costs, but they're identifying...

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SENATOR STUHR: Right.

SENATOR SYNOWIECKI: ...they're identifying potential administrative costs of up to \$68,000.

SENATOR STUHR: Yes, that is correct, and we've had some conversations and, you know, we may hit a happy medium, but it will, as far as I'm concerned, it will come out of that \$1 million so that there won't be additional administrative costs.

SENATOR SYNOWIECKI: Thank you, Senator Stuhr.

SENATOR STUHR: Does that help explain?

SENATOR SYNOWIECKI: Yes. Thank you.

SENATOR STUHR: Okay.

SENATOR SYNOWIECKI: Also, Senator Stuhr, Senator Wehrbein kind of presented that a lot of these grant recipients, as criteria for the application, they have to put up certain amounts of money, and I'm looking at the bill. It indicates that the only matching amount that's required, and please, I'm asking this as a question, is in-kind contributions or a matching amount of money. So potentially, the word "or" is in there, so potentially these grants can be distributed with no up-front money. Is that correct?

SENATOR STUHR: No, that isn't. Actually, 25 percent match is going to be required for...

SENATOR SYNOWIECKI: Okay, but...

SENATOR STUHR: ...any grant that would be received, whether that's up-front money or in-kind or a combination of both. So if, say, it was, you know, \$50,000 awards, up to \$60,000, one-fourth of that would have to be matched.

SENATOR SYNOWIECKI: But what in your mind then would be the definition of "in-kind?" Because this indicates document a

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matching amount in money or in-kind contributions.

SENATOR STUHR: In-kind contributions could, you know, could be a variety of things. I think that sometimes, if you are going to use the money for some education or training to help you start this new business, possibly if you had to stay overnight or whatever, those kinds of things that could be counted as in-kind.

SENATOR SYNOWIECKI: Okay. Thank you, Senator Stuhr.

SENATOR STUHR: You know, you would contribute those on your own.

SENATOR SYNOWIECKI: Such things as staff time.

SENATOR STUHR: Yes, uh-huh.

SENATOR SYNOWIECKI: Okay.

SENATOR STUHR: You would contribute that on your own.

SENATOR SYNOWIECKI: But that is not...conceivably then these grants could be distributed with no up-front money as far as cash.

SENATOR STUHR: I...conceivably, yes.

SENATOR SYNOWIECKI: Now, these are loan...these are grant programs and we've heard a lot of discussion on the floor this morning, Senator Stuhr, some success stories surrounding this.

SENATOR STUHR: Yes.

SENATOR SYNOWIECKI: Even those that have been met with a tremendous amount of success, there's no requirement to pay back any. This is not a loan program, is that correct? It is a grant program?

SENATOR STUHR: Yes, it is a grant program.

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SENATOR SYNOWIECKI: So even for those that have...

SENATOR CUDABACK: One minute.

SENATOR SYNOWIECKI: ...use this money as seed money and have gone on to meet success, there's no requirement whatsoever for repay.

SENATOR STUHR: No, there is not in this program, but we have written in the bill that if it wasn't successful that there would be a way to recapture that amount, which we didn't have in the last bill, you know, if the project wasn't successful.

SENATOR SYNOWIECKI: Thank you, Senator Stuhr. And also, relative to the committee amendment, there is language in there regarding outcomes; that those...that the departments will provide, on January 1, a listing of the recipients and the outcomes, the success measures. For the program that was in existence...existed in 2000-2001, is that information available, if I could review that? Was that in the original copy of the bill for the 2000-2001 program?

SENATOR STUHR: Excuse me.

SENATOR SYNOWIECKI: I'm looking at Section 10, page 4, of the committee amendment.

SENATOR STUHR: Right.

SENATOR CUDABACK: Time, Senator.

SENATOR SYNOWIECKI: Thank you, Senator Cudaback.

SENATOR CUDABACK: You're welcome. Senator Wehrbein, followed by Senators Chambers, Stuthman, Stuhr, and Erdman. Senator Wehrbein.

SENATOR WEHRBEIN: Thank you, Mr. President and members. I didn't realize I was up so soon. I wanted to correct something I said to Senator Chambers, if he was listening. It's 20...it is 25 percent, not 50 percent match, that I wanted you to

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understand that. But I did want to also make a comment to Senator Chambers. This bill is not about saving the family farm and ranch. And it's specifically in here, page 3, starting with line 10, project mean any activity in the area specified in Section 7: "Project does not mean, and grant funds shall not be used for, any activity primarily designed to contribute to a single business, enterprise, or individual or designed to subsidize an existing farming or ranching operation." That's line 10 to 15 on page 3. And then it goes on to say, toward the bottom, it's to support the development of agricultural communities and economic opportunity through innovative partnerships among farming and ranching operations, rural communities, and businesses for the development of value-added project...agriculture products. And that's what I wanted to say about this. If there is any salvation to agriculture, I think most are starting to agree it's in the value-added area. Commodity production is either going to be gigantic, the thing most of us abhor, although the trend is there, where one person is going to be farming 5 to 10 to 15 to 25 to 50 to 100 thousand acres. In fact, in Brazil, those size of operations are now not uncommon at all, 50,000 acres on up. If you're going to be in commodity agriculture, that's where it's going to be to compete. Whether we're going to go there in Nebraska to that extent, none of us know. But there is some opportunities, I think many of us feel yet, in niche or value-added areas, and if agriculture producers can capture some of that value added through some of these kinds of enterprises, I think there's still hope for some areas in rural Nebraska. And so I see agriculture as going maybe several ways, but particularly two: You're either going to be a large, very large commodity producer, strictly low cost--you're going to produce corn as cheap as you possibly can and do it on a giant volume; or you're going to have some opportunities off the farm using yours, a neighbor's, a community's, if you will, adding value such as ethanol production that KAAPA has done, such as perhaps sunflower production, such as perhaps fiber production, some areas that we don't even know about. And one of the reasons research and development is in this, because there's some real opportunities, I think, in the future for research and development. It's in another bill I have, by the way, that Senator Landis referred to. Research and development: Why can't we have some research

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and development opportunities in rural Nebraska, where someone can get an idea, build a machine, build a new mousetrap, if you will, in rural Nebraska, and find some way to study, to get some money up front to, through a grant, to have a business plan, to find some markets, to look at the markets to see if it's there, to see if it's viable, using some of their own money, albeit 25 percent, have the state help them look at this, and have it directed toward agriculture, not a general plan that we...we have some of those broad-based plans. This is specifically to agriculture value-added. What's wrong with that idea? And if there's a few dollars lost, so be it. Back to the entrepreneurial spirit--if you don't try, you're never going to gain, you're never going to have an answer. I'm involved in a deal that somebody has come up with a brilliant idea, they can't get a patent. I'm not involved,...

SENATOR CUDABACK: One minute.

SENATOR WEHRBEIN: ...I'm aware of it. They've come up with a brilliant idea, but they can't get a patent on it because it's not, in this case, physics books. There's millions of ideas out there yet to be discovered, and maybe, just maybe, there's going to be one in agriculture. Maybe, just maybe, this will be an opportunity that we can find here. I freely admit, this has got to be up against every other opportunity. Revenue Committee has most of them. We're going to have to prioritize. But let's advance it at least once, and I would say twice, and let it go along with...and this one, of all the programs, is at least pretty well proven. Thank you.

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

SENATOR CHAMBERS: Yes. So I'm going to have to offer some amendments and some other things, because this bill is not going to move today. Senator Wehrbein had said that this is not a bill to save the family farm, and maybe that's the way he sees it. But here's what this bill is saying that I find. On page 1, starting in line 20: The Legislature further finds that there is a need to:...and then subdivision (b): "Enhance income and opportunities for farming and ranching operations to stem

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the decline in the number of such operations." A farm is an operation, a ranch is an operation. This is designed to find a way to stem the decline in the numbers of these operations. Get rid of all this intent language. I've said before that people put things in intent language, and the language itself has no legal consequence, but it often is not a statement of fact. I'd like to ask Senator Wehrbein a question.

SENATOR CUDABACK: Senator Wehrbein, would you respond?

SENATOR CHAMBERS: Senator Wehrbein, can you find in the committee amendment, which is what I'm looking at, because that's what we're considering, and I'll give you time because I have a few minutes. Would you look on...

SENATOR WEHRBEIN: Yes. Which one is it?

SENATOR CHAMBERS: ...on page 1,...

SENATOR WEHRBEIN: I don't have it right...

SENATOR CHAMBERS: Oh.

SENATOR WEHRBEIN: Go ahead and tell me.

SENATOR CHAMBERS: It's several pages. This is what it says: The Legislature further finds that there is a need to: "Enhance income and opportunities for farming and ranching operations to stem the decline in the number of such operations." Do you agree with me that when they say farming operations and ranching operations they're talking about farms and ranches?

SENATOR WEHRBEIN: Yes. I...

SENATOR CHAMBERS: And if they're trying...

SENATOR WEHRBEIN: ...I do.

SENATOR CHAMBERS: If this is to stem the decline in the number of such operations, does that mean it's trying to save these operations?

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SENATOR WEHRBEIN: Well, but...

SENATOR CHAMBERS: Here's what I'm getting at. I don't want you to think that I'm manufacturing the comments that I'm making. I'm looking at the language in the committee amendment. And that's all that I will ask you, because I don't have much time, and you...

SENATOR WEHRBEIN: You're going to make me punch in again, aren't you? (Laugh)

SENATOR CHAMBERS: Huh? Well, you didn't have to, because I can offer...I can't make an amendment to an amendment. But if this amendment is attached to the bill, the bill is dead. Because it's bad legislating. And the amendment we're looking at is talking about, it is the intent of the Legislature to appropriate \$1 million, and so forth. That is not amending an A bill. You've got an A bill that's attached. Don't put this in this positive legislation. This is substantive legislation. We don't appropriate money in this manner. That's what the A bill is for. The "A" stands for appropriation. This doesn't have to be in the bill. So now I'm going to nitpick. If you're going to do this bad legislating in my name, then I'm not going to let a bill with that in it go across this floor, unless you've got 33 votes. But the point I'm dealing with right here on the committee amendment...and the committee amendment is not what you'll vote on next. What you'll vote on next is the amendment to the committee amendment, which talks about how this \$1 million will be appropriated, \$1 million each of the next three years. And the language is not needed. It doesn't do anything. It doesn't accomplish anything. Stop mucking up this legislation and forcing me to be a grammarian and a "syntactist." There's probably no such word, but I'm talking about syntax. (Laugh) Not "sin tax," where you tax liquor and things like that, but "syntax," where you're talking about...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...the construction of language in sentences and so forth. This bill is aiming to accomplish what it cannot

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accomplish, and that should not be put in findings by the Legislature, because this bill is not going to do it. Maybe it would be good if something could be found that would lead to a decline...to a lessening of the decline in the number of farms and ranches. But there has not even been a discussion as to whether that is a desirable thing to do or not. If you've got too many of a bad thing, let the ones be winnowed out according to Darwinian principles. If you've got a number of good things but they can't make it on their own, then you start trying to prop up and support those that are good but can't make it. But just a blanket statement that you should decrease the number...that you should decrease the decline in the numbers of farming and ranching operations, with nothing more, is not appropriate...

SENATOR CUDABACK: Time.

SENATOR CHAMBERS: ...and that language ought to be taken out. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Stuhr. And this will also be your third time, Senator.

SENATOR STUHR: Thank you, Mr. President and members of the body. The one portion in the amendment, and...that we need to include if we remove...if Senator Chambers wants to remove that appropriating \$1 million, would be making grants available on or after January 1, 2006. I think that gives us some time line that the grants would be made available. That's my comment on that particular issue. And I haven't had a chance to talk to Senator Chambers about that particular point. I do believe, again, and I'd just like to point out, that this is not a new project or a new bill. It is a reenactment of a successful act that was passed in the year 2000. And there are many, many examples. And, Senator Synowiecki, in response to your question about, is there more information, what I handed out this morning was just a very brief one page of just telling of some of the successful projects. But you can go on-line, and the Department of Agriculture does have a complete listing of all of the projects, and a more detailed account of the success of those projects. So there is a more detailed response on that

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particular point. Again, I think this is just a piece of the puzzle. I know that we do have to prioritize. I would like to see the bill moved on, and then come back to it. If we need to look at reducing the amount, I think we can certainly do that at a later time. And if we take this amendment...if we take that amount out, we are not specifying any particular amount in this bill. So, in response to Senator Chambers also talking about operations, it clearly states in the bill that this money shall not be used for an individual operation. But we're talking about forming partnerships, one operation with another operation. We're talking about forming cooperatives, again, finding some innovative ideas to add some value to...and we have many successful projects that...in fact, we probably have maybe 30 or 40 new businesses that have been developed with that money. So I know Senator Dierks came and also supported the bill and I remember one of the statements he said, that the return on this is going to be fourfold, fivefold. We really don't know. But this is just beginning of seed money and I believe it's an important bill to help keep our young people on...in our rural areas and provide them some opportunities that are not there now. And that little bit of extra capital means a lot when you're starting a new business. I will...Senator Kremer is not available, so I'll turn the rest of my time back over to the Chair. Thank you.

SENATOR CUDABACK: Thank you, Senator Stuhr. Mr. Clerk, items for the record?

CLERK: Mr. President, your Committee on Agriculture reports LB 531 to General File with amendments, and your Committee on Business and Labor reports LB 166 to General File with committee amendments; those two reports signed by their respective Chairs. Hearing notices from Business and Labor Committee. An amendment by Senator Kremer to LB 51, to be printed. Confirmation report from the Agriculture Committee. And priority bill designation: Senator Howard, LB 264; Senator Brown, LB 546. (Legislative Journal pages 605-608.)

Mr. President, I have a priority motion. Senator Chambers would move to bracket LB 71 until May 30, 2005.

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SENATOR CUDABACK: Senator Chambers, may I announce the doctor of the day first, if you'd allow me to?

SENATOR CHAMBERS: Sure.

SENATOR CUDABACK: Thank you. (Doctor of the day introduced.) Thank you, Senator Chambers, for allowing us to do that. You may now open on your bracket motion, Senator Chambers.

SENATOR CHAMBERS: Mr. President, I'm offering that as a unanimous consent motion first.

SENATOR CUDABACK: Is there any objection to bracketing the bill till May 3? Objection? There is an objection, Senator Chambers. Senator Chambers, you're recognized to open on your motion to bracket.

SENATOR CHAMBERS: (Laugh) Senator Connealy, paraphrasing you, why can't just all get along? Mr. President, members of the Legislature, I had spoken three times, so I had to do this to get an opportunity. There are times when people will say things such as, well, if you don't like what's here, why don't you do something else or offer something else? It's not my job to rewrite other people's bills. It's my job, if I agree with it, to support it; if I don't like it, to kill it. So what do you want me to do? Kill it? And I bet I can. I'll kill it skillet dead. But I'm not going to do that unless I have to. If the purpose of this language in the amendment that is before us is to set up a time from which this money would be available, you don't have to put \$1 million in it for the next three years, because the appropriations...the A bill will do that, if the Legislature agrees. Suppose you put in this positive legislation, \$1 million is going to be appropriated starting January 1, and the Legislature appropriates \$20,000. Then what? Which prevails--this bill, or what's in the A bill? Well, we can't appropriate money through this bill. The A bill appropriates the money. So you have the legislation, which somebody out there will read, saying, there's \$1 million available for this program. But the Legislature only appropriated \$20,000, so there is not \$1 million available. Don't put the dollar amount in. All you would have to do, if

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you feel something is necessary, is to say that any amounts appropriated by the Legislature will be available for grants on and after whatever the date is. You can't bind us to \$1 million. Why put \$1 million in it? I just wish my colleagues would think. It's their bill, not mine. I don't get paid more money because I do more work. And I don't have people who support my propositions to a greater extent because I help try to straighten theirs out. I ought to just let you make your own bed and lie in it. It's unfortunate that after all these years I began to think in what might be called an institutional fashion, and have taken on a feeling of responsibility for how the Legislature operates as an institution. I should have kept the same attitude I had when I came down here, where it's just a bunch of white people stumbling and fumbling and messing up and showing why they shouldn't be in charge of anything, and they only reason they are is because there are more of them and they have the kill power. I should have just stood on the floor and lambasted the way I see these lobbyists come through. And women are hired as lobbyists, to be forerunners and front runners, but they don't control anything. Look at the women in this body. If a woman stands on this floor, with every right that any male senator has to express her view as forcefully as she chooses, to make use of the rules in the same way that I make use of the rules, she is "not womanly," she is "too aggressive." I wish there were more of them who would be more aggressive. And then people want to tell people that my attitude is too harsh, when I can see the very things that I'm condemning in society at large taking place within this body. And who else will talk about it? Nobody. I'm not going to be suppressed. I'm not going to swallow my tongue and swallow spit because I fear the attitude of these people in this Legislature, and they're afraid of their shadow. Lobbyists dictate to them, order them out of here, and tell them what they better do. Some young pup named Cheloha is dragging cops around here to attack one of my bills, and Mayor Fahey sent him here. So now I'm after Mayor Fahey. He's the lobbyist for the city. And I'm after your Governor for the way he insulted me. What a black man has is his self-respect and his pride. And when a white man insults a black man in his pride and in his self-respect, that is what we deem a mortal sin. And those of you who are Catholics know what that is; and those of you who are not, go ask one of your Catholic friends.

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Don't play with me, as the Governor chose to do, and toy with me, as the Governor chose to do. Don't ask for my opinion when you're trying to make a toy out of me. I take him at face value. I thought he was dealing with me as a man, in the way I was dealing with him. But he saw me as a toy and somebody's boy. Well, maybe I'm Lillian Chambers' boy, that's my mother, but I'm not Dave Heineman or any white man's boy, or any white woman's boy, or any white person's boy. And when they decide that this is the fight that they want, they're going to get it from me. They can't come to me like they do some of you and say, you better do it this way, or you better do it that way, or else. I tell them, or else what? Or else what? You're not talking to one of these white senators. You're talking to Ernie Chambers. And let's even drop "Senator" off it, because that's a white person's title and it means nothing. Look at those who carry it. What do they do? What do they stand for? Scared of their shadow, whining and running and saying, I ought to support this, but I'm afraid to; the cops don't like it, the prosecutors don't like it, the judges don't like it, the municipalities don't like it. Well, what about you? Where are you in this mix? So when you all bring this poorly crafted legislation and it comes to my attention, I'm going to take issue with it. And you're going to rewrite that amendment. Now, I'm going to play hardball. You're going to rewrite that amendment which is before us right now, so you ought to start rewriting it. And if you don't rewrite it, your bill is dead. Now I'm going to do you like the Governor does you, and like his hatchet man does you: I run this show; you're going to do it my way or you're not going to do it at all. But here's the difference. What I'm telling you to do is not something that will diminish you at all. It will not demean you. It will bring the product that you're producing more in line what responsible legislation ought to look like. Why...and you new senators, maybe you're the ones I need to appeal to...why do you want to put into this bill, LB 71, a statement that it's the intent of the Legislature, beginning January 1 of next year, to appropriate \$1 million? If somebody reads that, that's what they're going to see. The bill is not going to be in the statute books. This is what they see. January 1 comes. Because of whatever vagaries take place on this floor, maybe no money is appropriated, but the bill is allowed to live, to be a vehicle for future use. What

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will people think, who read the bill, when they find out that the Legislature has made all these glowing findings, made all these statements about how these grants are going to benefit the agricultural sector, then they apply for a grant and they're told there's no money there? And you say, no money? And then innocent, naive people that the citizens are, thinking that the statutes mean what they say, will bring you a copy of the statute book and say, but this says that the Legislature, it's their intent to appropriate this money. When they say it's their intent, that means they mean to do it. So the money has got to be there; the law says it's there. Then you begin to...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...try to explain. Well, no, that's not how money is put into any program and made available. There has to be an appropriation bill, and the Legislature didn't appropriate any money. I will stop now, Mr. President, because I've got to go into consultation anyway. Thank you.

SENATOR CUDABACK: Thank you, Senator Chambers. You've heard the opening on the bracket motion. On with discussion. Senator Erdman.

SENATOR ERDMAN: Thank you, Mr. President. Members of the Legislature, I rise in opposition to the bracket motion. And Senator Chambers may have some ideas that could be worked out with Senator Kremer. And obviously, if the bracket motion is adopted, then they won't get that opportunity. So I'm going to rise in opposition to the bracket motion. On the underlying bill, I think it's important...Senator Landis brought up some interesting points, and I think it's valid for us to have that discussion. Obviously, the Revenue Committee is having that discussion. Where should we set priorities? What should our funding look like? That includes some of the proposals for all of Nebraska for economic development. Part of that includes the discussion on rural Nebraska's economic development package or proposals that may be there. And I think that's appropriate. And for us to be able to enter into that discussion as a body, to give some direction to the Revenue Committee, I think is helpful to them, or at least from our perspective, whether it's

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on the mike, whether it's one-on-one with the Chairman or with the other members of the committee. Specifically with LB 71, I know of at least a couple examples where this has been a successful program, under the original bill that Senator Wehrbein had in LB 1348. We had two different proposals, two different opportunities for farmers in our area to purchase the processing facility for the commodity that they're growing. When we want to talk about how do we provide profit, how do we improve the bottom line of agriculture, it's you allow more of the farmers to claim the profits that are taken in that middleman position. So what we had was an opportunity for farmers to get together as sugar beet producers to apply for the grant. They received a \$75,000 grant. Then they had the opportunity to approach Tate & Lyle with some of the extra information, or the company they were purchasing it from, with some extra collateral to do the administrative, to do the legal side of things, to get things in order that ordinarily would have had to come out of their pocket. This proposal then allowed them to purchase that facility. And within the next year, year and a half, they will have literally got to the point where they are self-sufficient as an entity. In other words, they've put up enough capital on their own to be able to not only purchase a facility, but to service their debt. That one is in play right now. That one is in business. It's not on your sheet. What's going on, as we have seen in other parts of the country, in that industry, where the producers own the facility, they share in all of the profits; where the old system was, they shared in only the profit from the actual process and sale of the sugar product. So now they're sharing in the sale and the profit off of molasses and other by-products that come from the processing of sugar beets. As we've seen in places like the Red River Valley in North Dakota and Minnesota, that has shown huge, huge benefits to those communities, both financially to the community and to the individual producer. And another example is where another group of farmers got together as a cooperative and purchased a facility from one of the largest agricultural companies in the world. They purchased it, at the time, from ConAgra. They purchased a bean processing facility. Nebraska is actually the, or was the, number one producer of dry edible beans, as far as Great Northerns, in the United States. And all of those, if not most of those, are

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grown only in the Panhandle, around this area. And so there was an opportunity for us, as the lowest-cost producer of dry edible beans, to be able to justify purchasing the processing facility. And the funds that were available to that company, or to that cooperative, under the original bill, LB 1348, secured an opportunity for those farmers to again share in the total value of the processing of that crop. Now, in the bean industry it's quite unique, because the margins are generally between \$7 and \$10. So in other words, what I would receive as a farmer may be \$7 or \$10 less than what the processor would sell them on the world market. With the purchase of this facility, those margins have shrunk substantially, down to between \$2 and \$5. So what that means is, regardless of whether you're an actual member in that cooperative or not, the simple fact that there was funding available, a limited amount, that was matched by the farmers to be able to accomplish some of the administrative costs that they needed to do to be positioned and, might I add, according to what Senator Raikes' question, actually work with the university and the Institute of Ag, through the Panhandle Research Center, to do the study necessary to ensure it would be viable...

SENATOR CUDABACK: One minute.

SENATOR ERDMAN: ...to partner with them, then they've provided the opportunity for all producers of dry edible beans in our area to be more profitable, because we have shrunk the margins, because of the competition that is now there that is owned by the farmers, that is controlled by the farmers. So there are values. This is a specific example...these are two specific examples, excuse me, of where the program has worked. If you're going to ask me on priorities, I say we spend the money, as Senator Landis pointed out, where we get the most bang for our buck. In my area, we've seen the success of this program. And I think the details could be worked out to see future successes throughout the state. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Erdman. Senator Stuthman, on the motion to bracket LB 71.

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. I want the people to realize, you know, that I am not

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against, you know, the value-added part of it. I know we should be discussing the bracket motion that we got on there. But in the event that...I had to push my light, you know, many times to be able to speak. So what I realistically want to do for a few minutes is enter into a little bit of a dialogue with Senator Connealy, if he would respond, please.

SENATOR CUDABACK: Senator Connealy, would you respond?

SENATOR CONNEALY: Yes.

SENATOR STUTHMAN: What I want to know is, what is your feelings as far as, you know, the value added to the agriculture part of it, the incentives, the amount of dollars that we're trying to put into this type of program? And then can you tell me a little bit about the amount of dollars that we are putting into incentives for urban development in...with respect to that?

SENATOR CONNEALY: Yeah. I believe that we need to continue as an industry to figure out other ways to get value, especially into our state. So value-added has to be part of what we do. It's really the story of what has happened in the last 25 years. And that's been our success in America, being able to make more products and utilize our grains, in particular, more. But I think it happens on other things, like wood products here in Nebraska, and diversification. So I think it's important for us, if that answers the first part. The second part is, you know, I don't know if I can tell you the exact number of what we do on economic development. Most of what we do in economic development is incentives that's off the books. It's on people's tax forms. And so we don't actually know how much we do, but it's someplace around \$150 million, \$139 million to \$150 million a year for those specific programs that we do. One of the things that we have as a challenge for our small programs and for our economic development in the rural areas is that's on the budget. We see it, it costs \$2 million or \$1 million, and it's easy to be cut. And that's what happened to this program the third year of its life, when we had a downturn here.

SENATOR STUTHMAN: I think...thank you, Senator Connealy. I think that's very, very important, in the fact that, you know,

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with the ethanol industry, the incentives that we have given to that, realistically, you know, if it raises the value of my corn of 10 cents a bushel, that's dollars in the pocket. If it's something that's in competition with me, then I am a little bit concerned about it. But realistically, when you can get more dollars generated into the communities, into the rural communities, which this is very important for, and then the agriculture, which is our number one industry, if we can just get more dollars, I think there's one thing that the state is going to realize this year. Because the ag economy has been quite a bit better, livestock prices have been good, the yields this year have been pretty good. The price isn't very good, but just the past year, there was an opportunity to sell corn at a very respectable price. I think one thing that is going to come into the coffers of the state of Nebraska this year is a lot of money from the rural areas, in the income tax part of it. That's going to help substantial in the balance of the economic picture of the state of Nebraska. So that's what we look at. You know, I think we always have to keep in mind that, you know, agriculture is the number one industry. And if we can just...if we can do some things, you know, that increase the value of it, increase competition for that, I think it's something that's very, very viable. But yet, I'm really concerned about trying to jump-start something that realistically doesn't mean a lot, will never have any future. But that can be handled into the regulations, the guidelines, and the accountability for it. This is not a giveaway program at all. This is something, you know, that I think can be worked out, you know. If the \$1 million, you know, can generate...

SENATOR CUDABACK: One minute.

SENATOR STUTHMAN: ...millions of dollars back in revenue to the state of Nebraska, then it's very, very good. I mean...but I think we need to keep that in mind. I don't think the \$1 million that's going to be going into it, you know, is just \$1 million out the door and never get anything back. Then I would be totally, totally opposed to it, because then it would be a giveaway program. But if we can increase anything that would bring more value to communities, to save agriculture and keep that as our number one business, livestock is a very, very

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important part of it. So that is the thing that I'm really concerned about, if we can add value to things, you know, bring more dollars into the community so that it is a win-win situation. But, you know, the guidelines, regulations, need to be set very strict, so that we're not having a giveaway program. So with that, I would give the balance of my seconds back to the Chair. Thank you.

SENATOR CUDABACK: Thank you, Senator Stuthman. There are no further lights on. Senator Chambers, you're recognized to close on your bracket motion, if you care to.

SENATOR CHAMBERS: Mr. President, members of the Legislature, I want to explain what happened. I tried to before, but I don't think people paid attention; now they might. I had spoken three times on that amendment that was pending. If I had not done what I have done, a vote might have been taken, the amendment might have been added. Then I would have been forced to fight against the bill, which is not my number one desire. So I had to offer this motion to have the opportunity to explain why I thought that amendment was so bad. The reason I felt it was so bad is because often when we're dealing with the rural or farm sector, the Legislature might make grandiose statements and promises, and nothing results from it. So I would not want there to be language in the statute books promising \$1 million for the next three year...each of the next three years, and nothing, perhaps, be appropriated at all. So I didn't want to see any of those dollar amounts in the statute. I've talked to Senator Wehrbein and Senator Kremer, and we've reached an agreement that that language is not necessary. So when I finish, I'm going to pull that motion, because I'm not interested in bracketing the bill. I'm interested in a bill, if it's going to pass this body, being accurate in what it proposes, what it professes, and what it offers. So when that attempt to put a dollar amount in this bill is taken off the table, then the committee amendment itself can be dealt with. I've told Senator Wehrbein and others that when that amendment that is objectionable for the reasons that I gave--and there is agreement that it's not necessary--I will not stop the bill from moving from this point. Others might have comments they want to make. They might have issues. But as far as mine, I will

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continue discussions with Senator Wehrbein, Senator Kremer, Senator Stuhr, and whoever else may have a heavy interest in the bill. But I am not in such an accommodating mood and frame of mind that I will support \$1 million for a program like this. I'm not committing myself to \$1 million. If all you want to do is keep the program alive so you have a vehicle, I'll support that, if that's what the rural people want. But I don't think that would be a wise thing to do when you have enough forces, if you use them correctly, to get something in the way of dollars put into this bill. You're not going to get \$1 million. You can forget that. If you leave it at \$1 million, I don't even have any more work to do. I can just sit back and ride with the tide and go with the flow. But if something is going to be attempted in this area, there should be some money, and that would be like earnest money, not E-r-n-e-s-t, but e-a-r-n-e-s-t, meaning that this shows that you are acting in good faith. So, Mr. President, I'm going to pull that motion.

SENATOR CUDABACK: It is withdrawn. We're back to discussion of AM0569, which is an amendment to the committee amendments to LB 71. Anybody wishing to speak to AM0569? Seeing no lights on, Senator Kremer, you're recognized to close on AM0569.

SENATOR KREMER: Thank you, Senator Cudaback and members of the body. I also want to withdraw AM0569. And I agree that the \$1 million there is just intent. It does not bind the next Legislature. And evidence for that is that with LB 1348 that was passed three years ago, I believe, the third year there was not any money available. It was not appropriated, so that there was no money for it, even though the program was to extend for three years at that time. We felt at one time that the date was necessary in there. That's so any amount of money that was appropriated by the Legislature would be appropriated by that date, but it seems like that that's not necessary either. What's really good to know is that Senator Chambers won't have anything to do for the rest of the session, he can just lay back, so we can really look forward to that. So with that, I will withdraw the amendment, because I believe it...we still have the A bill coming up that would determine how much.

SENATOR CUDABACK: It is withdrawn. We're back to discussing

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the committee amendments, AM0343, to LB 71. There are no lights on, Senator Kremer. There are some lights on. Senator Stuhr. There is, rather.

SENATOR STUHR: Thank you, Mr. President and members of the body. I do appreciate the discussion that we have had this morning, and I do support the committee amendments, because I believe that you will find in the committee amendments now some accountability that we did not previously have. And also, it adds a new section to provide the recapture authority in the event grant funds are obtained fraudulently or misappropriated by the recipient. Again, this builds in some accountability that we did not have before. So I certainly wholeheartedly do support the committee amendments. Thank you.

SENATOR CUDABACK: Any further discussion on the committee amendments? Further discussion? Senator Kremer, you're recognized to close on the committee amendments.

SENATOR KREMER: Thank you, Senator Cudaback and members of the body. We're back now to where we really have three basic parts to the committee amendments. The first one, the primary administrative responsibilities falls with the Department of Economic Development, rather than jointly with the Agriculture Department. It also removes the distribution that 25 percent had to go a certain way; 25 another place. It removes that so the awards can be granted more on the meritorious projects of the...of all those that are submitted. The third thing that it now does is gives ability to recapture if somebody does something that's fraudulent, or has maybe not used the money in an appropriate way, that we can recapture that. So hopefully that we've made the bill better than what even LB 1348 was, even though we think it was very successful. And from there, it will be up to the Legislature on how much we want to appropriate to that. With that, I will close on my...the committee amendments, and ask you to advance the bill. It came out of committee with no opposition. And there was nine that testified in favor, and zero in opposition. It was advanced out of committee 7 to 0. So, with that, I'd like to ask for your support in advancing the amendment.

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SENATOR CUDABACK: You've heard the closing on AM0343. The question before the body is, shall the Agriculture Committee amendments be adopted to LB 71? All in favor vote aye; and opposed, nay. The question before the body is the committee amendments, offered by the Agriculture Committee to LB 71. Have you all voted on the question who wish to? Record please, Mr. Clerk.

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

SENATOR CUDABACK: The motion was successful. The amendments have been adopted.

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

SENATOR CUDABACK: Thank you, Mr. Clerk. On with discussion of the advancement of LB 71 to E & R Initial. Seeing no lights on, Senator Stuhr, you're recognized to close on advancement.

SENATOR STUHR: Mr. President, I call...I'd like to call for a call of the house.

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: 21 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. Senator Redfield, Senator Jensen, Senator Combs. I'm not going to admit that I read the excused. Senator Cunningham, Senator Langemeier, Senator Howard, Senator Synowiecki, would you check in, please? Thank you. And Senator Preister. Senator Dwite Pedersen, would you check in, please? Senator Stuhr, your time is running, as you know. You may...

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SENATOR STUHR: Okay. Thank you, Mr. President and members of the body. I thank you for the discussion that we've held this morning on LB 71. This is a reenactment of a former bill that was passed in 2000, and that was a very successful and beneficial act to Nebraskans, particularly those in rural areas. It did help to enhance opportunities for small business enterprises, and also those in rural communities. It encouraged partnerships, networks, and cooperative efforts for promotion of value-added activities. There's been a lot of discussion about the appropriation. We did remove that intent in the bill. And we know that we do have certain priorities, but I would ask that you would help support this bill, and we'll talk about the A bill in a few minutes. There is also a match required in the grants that would be awarded. And, as was pointed out, the two years that this program was in operation,...

SENATOR CUDABACK: One minute.

SENATOR STUHR: ...the \$1 million was totally spent, which meant that there was a great deal of interest in the program, and also a great deal of success. So this bill would sunset in 2009. It will be managed by the Department of Economic Development and the Department of Agriculture, so it will be a joint venture. I believe that this bill will be an important bill for all Nebraskans, not only those in rural communities. So I would ask for your support. Thank you.

SENATOR CUDABACK: Thank you, Senator Stuhr. All members are present or accounted for. The question before the body is, shall LB 71 advance to E & R Initial? All in favor vote aye; opposed, nay. Have you all voted on the question who care to? Record please, Mr. Clerk.

CLERK: 40 ayes, 0 nays, Mr. President, on the advancement of LB 71.

SENATOR CUDABACK: LB 71 does advance. Mr. Clerk. We do raise the call. Mr. Clerk, LB 71A.

CLERK: Mr. President, LB 71A, a bill by Senator Stuhr. (Read title.)

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SENATOR CUDABACK: Senator Stuhr, to open on LB 71A.

SENATOR STUHR: Thank you, Mr. President and members of the body. The A bill will appropriate the amount of money necessary to carry out this act. And I know that we may have to make some adjustments later on, but I would ask for your support at this time. Thank you.

SENATOR CUDABACK: Thank you, Senator Stuhr. You've heard the opening on LB 71A. Open for discussion. Senator Stuhr, there are no lights on. Did you wish to...she waives the opportunity to close. The question before the body is, shall LB 71A advance to E & R Initial? All in favor of the motion vote aye; those opposed, nay. Have you all voted on the motion who care to? Record please. Mr. Clerk.

CLERK: 31 ayes, 0 nays, Mr. President, on the advancement of LB 71A.

SENATOR CUDABACK: LB 71A does advance. Mr. Clerk, do you have any items for the record, or...?

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

SENATOR CUDABACK: Thank you. We now go to General File. Mr. Clerk, LB 243.

CLERK: LB 243, Mr. President, a bill by Senator Byars. (Read title.) Introduced on January 10 of this year, at that time referred to Health and Human Services. The bill was advanced to General File. I do have committee amendments, Mr. President. (AM0055, Legislative Journal page 346.)

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Byars, to open on LB 243.

SENATOR BYARS: Thank you, Senator Cudaback. LB 243 does provide for continuation of the Center for Nursing Act in the state of Nebraska for an additional five years. The Center for Nursing Act is set to expire July 1 of 2005. This has been a

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tremendously successful piece of legislation on the part of this body and certainly, as testimony was brought to the Health and Human Services Committee, there is a need for the continuation of the Center for Nursing in our state. Just for some of you who might not remember, I will take just a few minutes to talk about what it is that the Center for Nursing is and does, and make you aware also that there is no fiscal note other than a cash fiscal note. This is supported by the nurses themselves, by an assessment that they pay to maintain their Center for Nursing. The activities include, not limited to, but, raise awareness of the implications of what happens with the nursing shortage in our state; they provide recruitment and development of adequate numbers of appropriate faculty, nursing faculty, to support increased enrollments in nursing programs; they do data collection on nursing supply and demand that are critical for various organizations and health facilities to be able to plan their activities and expansions; have developed models to predict future need for nurses in the state to achieve a steady, reliable supply of nurses; they provide a centralized location for coordination of recruitment and retention activities; and they also establish the infrastructure within the credentialing division of HHS Regulation and Licensure, to provide ongoing support for their activities. The committee did feel it necessary, we will have an amendment, putting the E clause into this piece of legislation. Senator Cudaback, I would certainly be open for any questions. This was unanimously moved out by the Health Committee. There were no opponents to the continuation of this...of the Nebraska Center for Nursing. I would ask you to advance LB 243, as amended.

SENATOR CUDABACK: Thank you, Senator Byars. Senator Byars, is Senator Jensen here to introduce the committee amendments? So now you're recognized to open on them.

SENATOR BYARS: Thank you, Senator Cudaback. The amendment, as I said, is to...AM055, is to create the emergency clause within this piece of legislation. So I would ask that you would approve the amendment.

SENATOR CUDABACK: Thank you, Senator Byars, for the opening on the committee amendments, offered by the Health and Human

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Services Committee, presented by Senator Byars. Open for discussion. Seeing no lights on, Senator Byars, did you wish to close on the committee amendments? He waives closing. The question before the body is, shall AM0055 be adopted to LB 243? All in favor vote aye; opposed, nay. The question before the body is adoption of the Health and Human Services Committee amendments to LB 243. Have you all voted who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: 27 ayes, 0 nays on the adoption of committee amendments, Mr. President.

SENATOR CUDABACK: The motion was successful. The amendments have been adopted. Back to discussion of the bill itself. Senator Byars, there are no lights on. He waives the opportunity to close. The question before the body is, shall LB 243 advance to E & R Initial? All in favor of the motion vote aye; opposed, nay. The question is, before the body, shall LB 243 advance? Record please, Mr. Clerk.

ASSISTANT CLERK: 26 ayes, 0 nays on the motion to advance the bill.

SENATOR CUDABACK: The motion was successful. LB 243 does advance. Mr. Clerk, when you get time, LB 243A.

ASSISTANT CLERK: Mr. President, LB 243A. (Read title.)

SENATOR CUDABACK: Senator Byars, to open on LB 243A.

SENATOR BYARS: Thank you, Senator Cudaback. As I noted in my opening on LB 243, the bill authorizes the use of credentialing fees to be adjusted to cover the cost of the Nebraska Center for Nursing. It...the Board of Nursing decides annually on the amount of funding to be used by the center. It can't exceed \$80,000 per year. The dollars come from a biennial review of the amount needed to take from the nurses' fees that they pay themselves. They are willing to do this, know the value that they're giving to the state. And I would ask that you would advance LB 243A, which is all cash funded.

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SENATOR CUDABACK: Thank you, Senator Byars. You've heard the opening on LB 243A. Open for discussion on that motion. Senator Byars, there are no...he waives closing. The question before the body is, shall LB 243A advance to E & R Initial? All in favor vote aye; opposed, nay. The question before the body is advancement of LB 243A. Record please, Mr. Clerk.

ASSISTANT CLERK: 28 ayes, 0 nays on the motion to advance the bill, Mr. President.

SENATOR CUDABACK: The motion was successful. LB 243A does advance. Mr. Clerk, an announcement, please.

ASSISTANT CLERK: Mr. President, the Banking Committee will be holding an Executive Session under the south balcony at 11:45; that's Banking Committee, south balcony, 11:45.

SENATOR CUDABACK: Thank you, Mr. Clerk. (Visitors introduced.) Mr. Clerk, LB 76.

ASSISTANT CLERK: LB 76 was introduced by Senator Baker. (Read title.) The bill was read for the first time on January 6 of this year, referred to the Transportation and Telecommunications Committee. That committee reports the bill to General File. There are no committee amendments.

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Baker, to open on LB 76.

SENATOR BAKER: Thank you, Mr. President, members of the body. LB 76 is a bill that updates statutes dealing with descriptions of commercial vehicles and what it takes to comply to receive a commercial driver's license. I'll go through it...some of the...highlight the changes. And then I don't know how much interest there is in this bill, but I'd be glad to answer questions if there are then. But Section 3 of the bill changes the definition of "commercial motor vehicle" and it describes, instead of pounds, it converts some of these definitions into kilograms. And it also determines that...there's some changes dealing with the number of passengers and so on in a vehicle that carries passengers. Section 7 adds new language. It

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prohibits anyone under 18 years of age from operating a commercial vehicle. We currently do not issue CDLs to anyone under 18...this put...in the state of Nebraska, but this puts it in...parallel with what's in the federal regulations, so that we cannot issue a CDL to anyone under 18. Section 8 amends the commercial driver's license history check to the past ten years. Right now, there's no limit on it. So this goes...Section 8 says we can go back only ten years. Section 9 amends that language by allowing a commercial motor vehicle general knowledge examination to be waived if the applicant holds a Nebraska-issued learner's permit for a commercial driver's license that is valid, or has been expired less than one year. Section 10 amends the reporting requirement of a current CDL holder to 10 days if they have an out-of-state violation. Right now, they have 30 days to report that violation. The bill amends this from 30 to 10 days to report that violation in another state. Section 11 amends language that states that for violations that occur while a person is operating a motor vehicle other than a commercial motor vehicle, a person is disqualified from driving a commercial vehicle for at least 60 days if he or she is convicted of two serious traffic violations, meaning reckless driving, careless driving, so on; 120 days if they're convicted of three of these within a three-year period. So it adds some stipulations there. And the last section with changes in it, Section 12, prohibits a CDL holder from entering a diversion program, commonly referred to the STOP program in Nebraska, it prohibits that CDL holder from masking a violation by attending a STOP class. They may attend it, but it still has to be reported, and it would go against the prohibited acts, and so on, of a CDL holder. That is...those are the changes in LB 76. I would be glad to answer any questions at this time. Thank you.

SENATOR CUDABACK: Thank you, Senator Baker. You've heard the opening on LB 76. Senator Chambers, you're recognized.

SENATOR CHAMBERS: Thank you. Mr. President, I would like to ask Senator Baker a question or two.

SENATOR CUDABACK: Senator Baker, would you respond?

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SENATOR BAKER: Yes, I would.

SENATOR CHAMBERS: Senator Baker, if a driver does not report this conviction within ten days, what is the penalty?

SENATOR BAKER: Well, once it is verified that they had a penalty, then they can suspend that commercial driver's license, depending on the severity of the unreported incident. It could be...the driver's license...or the CDL could be suspended indefinitely, I guess, depending on the violation.

SENATOR CHAMBERS: Okay. And that is covered elsewhere in the bill, right?

SENATOR BAKER: Yes.

SENATOR CHAMBERS: Okay. Now, if we go to page 3...because we are working from the green copy, aren't we?

SENATOR BAKER: Yes, we are.

SENATOR CHAMBERS: Okay. In lines 7 through 11, there is a discussion of the federal hazardous material regulations, found at 49 C.F.R. part 172, subpart F. Before we get to that citation, the language on page...on line 7 says, quote, is of any size and is used in the transportation of materials found to be hazardous for the purposes of the federal Hazardous Materials Transportation Act and which require the vehicle to be placarded. Suppose, Senator Baker, Congress amends this Hazardous Material Transportation Act, and removes some of these materials. What happens to Nebraska's law? Does it change automatically to reflect any changes that Congress makes in this act?

SENATOR BAKER: In the case where it would be less restrictive, you're saying, in this particular 49 C.F.R.?

SENATOR CHAMBERS: Yes.

SENATOR BAKER: I think we'd have to come back and amend our statutes. I don't think we could simply ignore the fact that

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they're less restrictive.

SENATOR CHAMBERS: So what version of this act does this bill refer to?

SENATOR BAKER: It's what was adopted as of January 1 of 2005.

SENATOR CHAMBERS: Is that in the bill? Because I don't see that.

SENATOR BAKER: No, it's not. It was in the bill I think we had previously adopted, or I think it's on Final Reading, that got us into compliance with the federal regulations dealing with hazardous materials.

SENATOR CHAMBERS: So should that be included here? Would it be necessary, so that you know which form of this regulation LB 76 is being keyed into?

SENATOR BAKER: I think when it refers to 49 C.F.R. part 172, it would be what's currently in effect on the federal level. I think by referring to this, it would say, these are effective January 1, 2005. So I don't think we'd have to put anything additional in the green copy here, because it is referring to 49 C.F.R. part 172, which is effective January 1, 2005.

SENATOR CHAMBERS: Well, suppose Congress repeals it before that time, and we still have this language in the statute. What then?

SENATOR BAKER: Well, we're going to have to go back. And I assume if they repeal it when we are out of session or, you know, before we can act upon it next year, it simply would be disregarded and would not be applicable to what we have in the statutes. Our statutes would not be applicable in this case.

SENATOR CHAMBERS: Well, without me raising another issue that I see whenever reference is made to a federal statute or regulation, you're saying that under the language of part 172, subpart F, the federal legislation does not take effect until what year?

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SENATOR BAKER: No, it's in effect now.

SENATOR SCHIMEK PRESIDING

SENATOR SCHIMEK: One minute.

SENATOR BAKER: It's in effect January 1, 2005. And we're trying to...

SENATOR CHAMBERS: So why don't you say, as it exists at the time of the adoption of this bill? Then we know precisely what we're talking about.

SENATOR BAKER: We could do that.

SENATOR CHAMBERS: Okay. And you don't have to. I'm just wondering. Because people, again, will take their notice as to what the law is from what they read in the statute. And without any reference to a date attached to this hazardous material regulations, it would change as the regulation changes. And Congress is the one who would make those changes. And the Legislature cannot delegate to Congress the power to amend Nebraska statutes. But you can talk to your staff and see if they think that that might be the thing to do. But that is the only other question I have. Thank you.

SENATOR SCHIMEK: Thank you, Senator Chambers and Baker. Senator Raikes, you are the next speaker.

SENATOR RAIKES: Thank you, Mr. (sic) President, members. Senator Baker, I wonder if I could ask you a couple questions.

SENATOR SCHIMEK: Senator Baker, would you yield?

SENATOR BAKER: Yes, I would.

SENATOR RAIKES: Senator Baker, I'm going to sort of ask you to do my homework for me on this. As you know, commercial driver's licenses have become very important for farm operators these days. Most farm operations have vehicles that require a CDL for

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their operation. What will be the impacts of these changes on CDL holders that are farm operators?

SENATOR BAKER: Quite honestly, a farm operator holding a CDL license is probably not going to be affected much at all by this, and certainly less, even, if they did not have a hazardous materials endorsement, which most of them do not have a hazardous materials endorsement.

SENATOR RAIKES: Are you required to have that endorsement if you haul herbicides on a...

SENATOR BAKER: There are quantity restrictions on those. And I...quite frankly, I think it's less than 120 gallons. I can't...I'd have to qualify that statement.

SENATOR RAIKES: But it would be fairly common, at least in my experience, that an operator, a farm operator of a semitruck would have more than that minimal amount.

SENATOR BAKER: Well, it would be in the case of fertilizer, but that's exempt. That's not a hazardous material.

SENATOR RAIKES: But even if you look at herbicides, insecticides, many bulks of those kinds of things, and so on.

SENATOR BAKER: They have to be...they have to have a label on them. But I...they don't have to be placarded, so they wouldn't be...they would be exempt from the hazardous materials section, as far as a commercial...a CDL. You would not have to have a hazardous materials endorsement to have a...say, a one-ton truck with a shuttle of Roundup on it, for instance.

SENATOR RAIKES: Even if you had two or three shuttles, amounting to four or five hundred gallons, that would not be required?

SENATOR BAKER: I'm going to have to check on that for you. There are quantity restrictions and I, off the top of my head, don't know what those are.

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SENATOR RAIKES: Okay. Well, let me...

SENATOR BAKER: That...I will say this. This bill does not affect those quantities and those requirements, though. This bill doesn't address those.

SENATOR RAIKES: But you did mention a possible impact on agricultural CDL holders who do have this endorsement, hazardous materials. And why did you mention that?

SENATOR BAKER: Well, it would affect them as far as the violations and things affected, and also the STOP program. They couldn't mask those violations. Those violations affect anyone with a CDL. And what this says is you cannot mask those violations by taking the STOP program. They still have to be reported. This bill would affect...

SENATOR RAIKES: So if I'm...if I have a CDL and I'm driving my car and commit an infraction, then if I could go through a STOP program...well, let me back up. I could not go through a STOP program and get the ticket, if you will,...

SENATOR BAKER: Waived.

SENATOR RAIKES: ...erased, if I hold a CDL?

SENATOR BAKER: You could still do that, but you have to report that to the Department of Motor Vehicles, commercial driver's license division. You can go ahead and take the program, but you can't mask it off of the CDL requirements. You could take the program. You just still...

SENATOR RAIKES: I could take the...would I need to pay the fine, then?

SENATOR BAKER: No.

SENATOR RAIKES: So I could...

SENATOR BAKER: You could go ahead and take the program, but you still have to report the violation to the Department of Motor

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Vehicles.

SENATOR RAIKES: I would do that?

SENATOR SCHIMEK: One minute.

SENATOR BAKER: In the state of Nebraska, it would be done automatically. If it's outstate, then you'd have to do that.

SENATOR RAIKES: So what would be the impact of that on me as a CDL holder?

SENATOR BAKER: There would be no impact on you as a CDL holder if the violation occurred within the state of Nebraska. If it was outside the state, it reduces the time you'd have to report it from 30 days to 10 days. If you were hauling material from out of state, were cited outstate,...

SENATOR RAIKES: So are you telling me this is already being done? If I go through the STOP program, it already is the case that that violation is put on my record, whatever record there is, at the Department of Motor Vehicles?

SENATOR BAKER: I think so. Yes, that's correct.

SENATOR RAIKES: So there's not a change in that regard.

SENATOR BAKER: No. This is dealing with outstate violations and the reporting period being reduced from 30 to 10 days.

SENATOR RAIKES: Okay. Thank you, Senator Baker.

SENATOR SCHIMEK: Thank you, Senators Raikes and Baker. Senator Bourne, you are recognized to speak.

SENATOR BOURNE: Thank you, Madam President, members. Would Senator Baker yield to a question or two?

SENATOR SCHIMEK: Senator Baker, would you yield?

SENATOR BAKER: Yes, I would.

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SENATOR BOURNE: Senator Baker, does this bill have anything to do with the Department of Roads?

SENATOR BAKER: Not directly, that I know of, Senator Bourne.

SENATOR BOURNE: I was just asking for some clarification on that regard. I do want to ask you a couple quick questions, though. On...Senator Raikes' question kind of was along the lines of what I was asking. Is the language that would deny, or not...disallow a person under age 18 from having a CDL, is that new language?

SENATOR BAKER: Yes, it is.

SENATOR BOURNE: So...and how do these CDL licenses relate to 17-year-old, 18-year-old, or close to 18-year-old kids driving on the farm? Do they have to have a CDL?

SENATOR BAKER: Not unless they're driving a vehicle that qualifies as a commercial vehicle, which is air brakes,...there's a whole set of guidelines of what constitutes a commercial vehicle on a...in that case.

SENATOR BOURNE: Okay. But it is new, in that right now there's no requirement that you have to be at least 18 to have a CDL license?

SENATOR BAKER: No.

SENATOR BOURNE: And so the bill does change it in that regard, that you would have to be at least 18 years old to have a CDL?

SENATOR BAKER: Yes, it does.

SENATOR BOURNE: Okay. So I...and again, I'm not a farmer, but I...my question, originally--and then Senator Raikes touched on it, but didn't go far enough--is that it would impact farm kids that are 16, 17, and under 18, if they have...say they're driving a truck back and forth from the field to an elevator or a silo?

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SENATOR BAKER: It would not affect the 16-, 17-year-olds if they're driving a single-axle truck. What this would affect would they'd be driving a multiple unit, a semitruck, if you will.

SENATOR BOURNE: Okay.

SENATOR BAKER: Personally, my policy is no one under 21 drives any of those trucks in our operation.

SENATOR BOURNE: Well, I just bring that to your attention. I did want to clarify that. I'll leave that to the ag specialist to determine whether or not that makes sense. I do want to ask you another question, though, on page 13 of the bill, up there starting in line 3 through 12. And it talks about a 60-day suspension if they were involved, in this state or any other, in two serious traffic violations. Can you tell me in what section is "serious traffic violation" defined, so I can take a look at that?

SENATOR BAKER: It's in the CDL statutes. I'm talking off the top of my head here, but it's exceeding the speed limit by 20 miles per hour or over, over .0...I'm sorry, it is here in Section...on page 14: For purposes of this section, serious traffic violation...you're going to test me now. I said 20; it's 15 over. It's on the top of page 15--willful reckless driver...driving and so on. It is in the bill.

SENATOR BOURNE: Where are you seeing that, Senator Baker?

SENATOR BAKER: Top of page 15, line 2: "Speeding at or in excess of 15." I was incorrect. I thought it was 20, but it says 15. Willful reckless driving is a serious offense; improper lane change, as described in Section 60-6,139. There's a list, a whole group of violations there, that are what are considered serious violations as applied to a commercial driver's license.

SENATOR BOURNE: Okay. And just for clarity, does that definition of "serious traffic violation" only apply when

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they're driving a commercial vehicle? Or would that apply to their personal vehicle as well?

SENATOR BAKER: It applies only when they're driving the commercial vehicle, unless they get, as it says on the page you were quoting from prior there, they receive two or more. And this goes back to page 13. It's...

SENATOR BOURNE: So...

SENATOR BAKER: It would apply...a serious violation could occur in a vehicle other than the commercial vehicle. If they have more than two of these, two or more of these, in a 60-day period, then it reverts goes...reverts back to...

SENATOR SCHIMEK: One minute.

SENATOR BOURNE: Okay. So if I have a commercial driver's license, and yet I'm driving my personal car, and I am ticketed for improper lane change twice in a certain time period, then my license for the commercial vehicle is suspended for 60...?

SENATOR BAKER: For 60 days. Yes.

SENATOR BOURNE: Okay. So again, it would apply to more than...I mean, I can understand in a semitruck or a commercial vehicle if you're doing improper lane change, or following too close. But this would apply to anyone holding a CDL, even if they're in their personal vehicle?

SENATOR BAKER: Yes.

SENATOR BOURNE: Okay. I do have a couple more questions and...as it relates to...the statute is fairly broad, in that it says, in this or any other state. Does our state currently share information with other states regarding, say, Senator Synowiecki's traffic violations?

SENATOR BAKER: Yes, they do.

SENATOR BOURNE: We do. How does that occur? We share that?

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SENATOR BAKER: We share all that information.

SENATOR BOURNE: Is it in a centralized database? Or only upon an inquiry?

SENATOR BAKER: It's forwarded automatically to the...

SENATOR SCHIMEK: Time.

SENATOR BAKER: ...state Department of Motor Vehicles.

SENATOR SCHIMEK: Thank you, Senator Bourne and Baker. Senator Synowiecki, you're recognized by the Chair.

SENATOR SYNOWIECKI: Thank you, Senator Schimek. Senator Baker, would you yield to a question relative to Section 12?

SENATOR SCHIMEK: Senator Baker.

SENATOR BAKER: Yes, I will. Yes.

SENATOR SYNOWIECKI: You know, the dialogue that you had with Senator Raikes caused me to have some questions relative to this, in particular as it relates to Section 12. "The state must not mask, defer impositions of judgment, or allow an individual to enter into a diversion program that would prevent a commercial driver's license driver's conviction for any violation." Question is, I think a large majority of these diversion programs, STOP classes and so forth, are preconviction diversion type of arrangements for individuals. Is that your take on these STOP classes and other diversion programs in...

SENATOR BAKER: Yes, it is.

SENATOR SYNOWIECKI: ...Douglas and other counties?

SENATOR BAKER: Yes, it is.

SENATOR SYNOWIECKI: And how, then, Senator Baker, if I'm cited and not convicted, and I decide to...according to the way the

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green copy reads right now, I would not...if I'm CDL, not even be allowed to enter into a preconviction diversion program. Is that correct?

SENATOR BAKER: I...this doesn't preclude you from entering diversion program. You just simply can't mask that by completing it. Still going to report it to the commercial driver's license division of the Department of Motor Vehicles.

SENATOR SYNOWIECKI: So it will be reporting a ticket, not a conviction. And the green copy says we can't mask a conviction. But if you're entering a STOP program, that's a preconviction program. Isn't that correct? I mean, you're not convicted.

SENATOR BAKER: That's what we're addressing, is that would be masking that conviction. You've agreed, as the result of completing that STOP program--you know, that is the point of this...these statutes. It doesn't show up otherwise on your record. This requires you to go ahead and submit that ticket that you received. And by agreeing to go to the diversion program, in effect, you're saying, yes, I'm guilty of this infraction and I'm going to take the STOP program to keep it off my record. But we cannot mask that for a CDL applicant.

SENATOR SYNOWIECKI: It's...again, Senator Baker, I might be wrong, but it's my understanding you don't necessarily admit to the violation in some of these diversion programs, which are preconviction diversion programs. In other words, I think perhaps we need to be a little bit more clear in that we cannot mask a violation. We are not, is my understanding of the logistics of these programs, are masking a conviction, because the conviction does not take place.

SENATOR BAKER: Well, my reply to that would be, if you're going to agree to a diversion program, you would not have done that unless you assume you would have been found guilty of that infraction.

SENATOR SYNOWIECKI: If Senator Howard is issued a ticket for speeding, that is not necessarily a conviction for speeding, a ticket in and of itself. Correct?

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SENATOR BAKER: That's correct.

SENATOR SYNOWIECKI: Then Senator Howard can enter into a STOP class or a diversion program offered by the county courts to defer that conviction. She defers that conviction for the sole purpose of preserving the points on her driver's license, and therefore is not convicted of that speeding ticket. So I think there's a difference here between a citation and a conviction, and I believe that needs to be delineated in Section 12, that we can't mask a violation.

SENATOR BAKER: Okay. I've been...

SENATOR SYNOWIECKI: Because if you're not convicted, you're not convicted.

SENATOR BAKER: I have been corrected. They cannot enter a STOP program to mask a conviction. They're simply going to have to pay the fine and have it shown on their record. It makes them ineligible for the STOP program. I...

SENATOR SYNOWIECKI: So if I'm a holder...let's go back to Senator Howard's example. Senator Howard is a CDL...

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: One minute.

SENATOR SYNOWIECKI: ...holds a CDL license. She gets stopped for speeding. She is, because of her holding of a CDL, not eligible to participate in that diversion program? That's contrary to your dialogue with Senator Raikes.

SENATOR BAKER: Yes, it is. I stand corrected. You are correct. They cannot enter the diversion program, period.

SENATOR SYNOWIECKI: Even if it's a violation or a citation received that has no connection whatsoever to their professional duties as a CDL holder?

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SENATOR BAKER: That's correct.

SENATOR SYNOWIECKI: Okay. Thank you, Senator Baker.

SENATOR CUDABACK: Thank you, Senator Synowiecki. Senator Bourne.

SENATOR BOURNE: Thank you, Mr. President, members. Would Senator Baker yield to another question or two?

SENATOR CUDABACK: Senator Baker, would you yield?

SENATOR BAKER: Yes, I would.

SENATOR BOURNE: Senator Baker, I'm kind of concerned about the taking of a person's driver's license for 60 days in this regard. Can you tell me...I assume that the DMV brought this. And can you tell me what the harm...or what they're trying to get at? And I mean, I can understand if an individual is driving a commercial truck, a large semi that's under this law. But what you're saying is that a person who holds a CDL license, who makes a couple mistakes in his or her personal car, is going to be denied their livelihood for 60 days.

SENATOR BAKER: I can equate this to my own operation. I would be very concerned if I had an employee who had two convictions outside of the commercial vehicle I would have them driving. I would want them suspended for 60 days. If they can't adhere to the state's traffic laws in their personal vehicle, for instance, and are guilty twice within this time frame, I wouldn't want them driving my commercial truck. I'll be quite honest with you.

SENATOR BOURNE: Well, here's my concern. If you look at the definition of "serious traffic violation"...and that is existing language, right?

SENATOR BAKER: Yes, it is.

SENATOR BOURNE: Okay. That is not new. So help me out with this. Say an individual who has a CDL is on a Sunday trip with

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their family, and they do an improper lane change, and that's defined in another section of statute, and it simply...it's pretty broad. It just simply says, changing from one lane to another without first ascertaining that such a movement can be made with safety. So I would assume they, you know, merged back into the other lane too quickly, and didn't leave enough space. So say they're pulled over by the police officer for that. And then...that's seems fairly innocuous, if they're in their personal vehicle. And then say...well, I can kind of see to a certain extent, then, if they're 15 miles an hour over...I guess, Senator Baker, and again, I just started reading the bill. I guess what I'm concerned about is that you have a...even though these are defined as serious traffic violations, to me, an improper lane change is fairly innocuous, and I'm even guilty of this occasionally. I travel, or maybe my wife would say, follow a little too closely upon occasion. But again, those are subjective things by the...that the police would view. And I guess what I'm concerned about is that these individuals would lose their livelihood, their ability to drive a truck. And I assume most truck drivers, if you're not driving, you're not getting paid. I'm kind of concerned that maybe this is too broad, and that if they were actually just driving their commercial vehicle, I think that would be a little more appropriate to deny them their ability to drive that commercial truck, if they're violating the laws in this regard.

SENATOR BAKER: Senator Bourne, I understand your concern. My concern is...and I have employees with commercial driver's licenses pulling semis loaded with grain, so on. I wouldn't...we hold those people to a higher standard, those people with commercial driver's licenses. And if they can't demonstrate to me that they can behave and adhere to the laws of the state of Nebraska in their personal vehicle, I want to know that, and I don't want them driving my vehicles, quite honestly, for liability reasons. If they have two serious violations in this period of time, I do not want them driving a commercial vehicle for me. And I wouldn't want them on the state highways, to be honest with you.

SENATOR BOURNE: So again, even if they make a mistake in their personal vehicle, which, you know, you can kind of say that if

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they were doing an improper lane change in a...say, a small Mustang or something,...

SENATOR CUDABACK: One minute.

SENATOR BOURNE: ...versus a semitrailer truck, you're lumping that together.

SENATOR BAKER: Yes, I am. I think that's a reflection of their driving attitude, when they could carry that over to a commercial driver's...a commercial vehicle.

SENATOR BOURNE: Now, let me ask you one last question, and then I'll leave it alone. Does there have to be, in terms of due process, does there have to be a hearing to deny somebody a license, even for a limited period of time, the 60 days? You see where I'm coming from?

SENATOR BAKER: I don't think so. I think if they have those two...it's just like if your license is suspended for points violations, or...I don't think there's a hearing process. There would be an appeal process, I'm sure, but as far as an automatic hearing, no.

SENATOR BOURNE: Would the hearing from...or the potential for a hearing for the underlying offense would be sufficient to deny them the license? You see where I'm coming from? If they were able to fight that ticket that they got in another state, would that be the due process that's necessary when you're taking away someone's...?

SENATOR BAKER: I would agree with that, yes.

SENATOR BOURNE: Okay.

SENATOR CUDABACK: Time.

SENATOR BOURNE: Thank you.

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

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the advancement of LB 76.

SENATOR BAKER: Thank you, Mr. President. I appreciate the discussion points here. And I am adamant, as a citizen of the state of Nebraska and a policymaker, I want to hold people with commercial driver's licenses to higher standards than someone driving a Mustang, for instance, as Senator Bourne pointed out. These people are driving vehicles that are licensed to be at 80,000 pounds. They don't stop as fast. And if someone's driving record in their personal car reflects upon their commercial driving habits and so on, I want to hold those people to that standard that's in the bill. And I just...I won't budge from that. I think that's just good public policy. I would ask for advancement of LB 76 to Select File. Thank you.

SENATOR CUDABACK: Thank you, Senator Baker. You've heard the closing on advancement of LB 76. The question before the body is, shall LB 76 advance to E & R Initial? All in favor of the motion vote aye; opposed, nay. The question before the body is advancement of LB 76 to E & R Initial. Have you all voted on the question who care to? The question is, shall LB 76 advance? Record please, Mr. Clerk.

CLERK: 27 ayes, 0 nays, Mr. President, on the advancement of LB 76.

SENATOR CUDABACK: LB 76 does advance. Mr. Clerk, items for the record?

CLERK: Mr. President, your Committee on Enrollment and Review reports they've examined and engrossed LB 162 and LB 301. New A bill. (Read LB 546A by title for the first time.) Senator Landis would like to print an amendment to LB 169. Senator Schimek would like to add her name to LB 376 as cointroducer. (Legislative Journal pages 609-610.)

And, Mr. President, a priority motion. Senator Janssen would move to adjourn until Friday morning, February 25, at 9:00 a.m.

SENATOR CUDABACK: You've heard the motion by Senator Janssen to adjourn until Friday morning, February 25, 9:00 a.m. All in

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favor say aye. Opposed, nay. We are adjourned.

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