

**MARCH 29, 2005**

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Transcriber's Office  
FLOOR DEBATE

March 29, 2005      LB 9, 19, 55, 78, 97, 105, 115, 122, 133  
147, 201, 241, 247, 259, 291, 306, 306A, 313  
319, 320, 331, 342, 380, 396, 402, 404, 406  
450, 451, 453, 471, 472, 475, 476, 482, 501  
520, 525, 528, 534, 542, 544, 615, 626, 639  
640, 672, 676, 723, 754, 762, 763

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK:      Good morning.      Welcome to the George W. Norris Legislative Chamber. Our acting chaplain this morning is Senator Baker from the 44th District. Senator Baker, please.

SENATOR BAKER:      (Prayer offered.)

SENATOR CUDABACK: Thank you, Senator Baker, for doing that for us. We appreciate it. I call the fifty-first day of the Ninety-Ninth Legislature, First Session, to order. Senators, please record your presence. Record please, Mr. Clerk.

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

SENATOR CUDABACK:      Are there any corrections for the Journal, Mr. Clerk?

CLERK: No corrections, Mr. President.

SENATOR CUDABACK: Messages, reports or announcements?

CLERK: Mr. President, your Committee on Revenue, chaired by Senator Landis, reports LB 19 to General File; LB 542 to General File with amendments; and the following bills indefinitely postponed: LB 133, LB 147, LB 313, LB 404, LB 472, LB 482, LB 520, LB 615, LB 672, LB 723, LB 763; all reported indefinitely postponed. Mr. President, communication from the Governor to the Clerk. (Read re LB 9, LB 55, LB 78, LB 97, LB 105, LB 115, LB 122, LB 201, LB 241, LB 247, LB 259.) Second communication to the Clerk. (Read re: LB 291, LB 306, LB 306A, LB 319, LB 320, LB 331, LB 342, LB 380, LB 396, LB 402, LB 406, LB 450, LB 451, LB 453, LB 471, LB 475, LB 476, LB 501, LB 525, LB 528, LB 534, LB 544, LB 626, LB 639, LB 640, LB 676, LB 754, LB 762.)

And finally, Mr. President, notice of withdrawal of a gubernatorial appointment to the State Fair Board. That's all that I have. (Legislative Journal pages 1003-1007.)

SENATOR CUDABACK: Okay. Thank you, Mr. Clerk. We now go on to

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

March 29, 2005

legislature conformation report. I should say "reports," as there's three individual reports. Mr. Clerk.

CLERK: Mr. President, the first report for Business and Labor Committee involves the appointment of David Cullan to the Commission of Industrial Relations. (Legislative Journal page 987.)

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Cunningham, as Chair of the Business and Labor Committee, you're recognized to open on the first report.

SENATOR CUNNINGHAM: Thank you, Senator Cudaback and members. David Cullan of Omaha is seeking appointment to the Commission of Industrial Relations. His term will be effective December 22, 2004 through June 9, 2007. Although David is a new appointment to the Commission of Industrial Relations, he has served two previous terms on the commission, with the last one ending in 1998. David has his law degree from Creighton University and practices at David J. Cullan and Associates. He has been active in the Nebraska Bar Association and the Nebraska Association of Trial Attorneys. He was formerly a member of the Department of Labor Appeals Tribunal, and currently serves on the Omaha Personnel Board. I urge you to appoint David J. Cullan to the Commission of Industrial Relations.

SENATOR CUDABACK: Thank you, Senator Cunningham. You've heard the opening on the first report offered by the Business and Labor Committee. Open for discussion on that report. Seeing no lights on, Senator Cunningham, did you wish to close? He waives closing. The question before the body is adoption of the first report offered by Business and Labor. All in favor vote aye; those opposed, nay. Have you all voted who care to? We're voting on the first report offered by Business and Labor. Please vote if you care to. Members, have you all voted who wish to? We're voting on the first report by the Business and Labor Committee. It does require 25 votes. Record please, Mr. Clerk.

CLERK: (Record vote, Legislative Journal page 1007.) 26 ayes, 0 nays, Mr. President, on the adoption of the first report.

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

March 29, 2005

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

CLERK: Second report by the Business and Labor Committee involves the appointment of Kenneth Stewart to the Boiler Safety Code Advisory Board. (Legislative Journal page 987.)

SENATOR CUDABACK: Senator Cunningham, to open on the second report.

SENATOR CUNNINGHAM: Thank you, Senator Cudaback and members. Ken Stewart of Omaha is seeking an appointment to the Boiler Safety Code Advisory Board. His term will be effective February 23, 2005 through January 1, 2009. Mr. Stewart has over 20 years of experience in the heating and air conditioning field. He currently serves as general manager of American Boiler Company and is the quality control manager for American Boiler's "R" Stamp Program. His duties at American Boiler Company include ordering equipment and materials, overseeing project installations, and code and compliance enforcement. Mr. Stewart also worked for BG Peterson Company, a boiler manufacturer, as a representative for six years. I urge you to confirm Ken Stewart for the Boiler Safety Code Advisory Board. Thank you.

SENATOR CUDABACK: Thank you, Senator Cunningham. You've heard the opening on the second report. Open for discussion on that report from Business and Labor. Senator Cunningham, there are no...Senator Cunningham waives closing. The question before the body is adoption of the second report offered by the Business and Labor Committee. All in favor vote aye; and opposed, nay. Record please, Mr. Clerk.

CLERK: (Record vote, Legislative Journal page 1008.) 28 ayes, 0 nays, Mr. President, on the adoption of the confirmation report.

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

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

March 29, 2005

CLERK: Third report, Mr. President, two appointments to the Boiler Safety Code Advisory Board: Mr. Martin Kasl and Thomas DiMartino. (Legislative Journal page 987.)

SENATOR CUDABACK: Senator Cunningham, you're recognized to open.

SENATOR CUNNINGHAM: Thank you, Senator Cudaback and members. The first two...of the two is Tom DiMartino of Gretna, seeking reappointment to the Boiler Safety Code Advisory Board. His term will be effective January 1, 2005 through January 1, 2009. Mr. DiMartino has served over 30...or has 34 years of experience in boiler operations and has professional endorsements in Nebraska and New Jersey. He's currently employed by HSBCT and has worked in engineering divisions, sales and marketing, and educational services. He has experience in investigating boiler and pressure vessel accidents and advising clients to develop efficient shop operations. I urge you to appoint Tom DiMartino to the Boiler Safety Code Advisory Board. And the second appointee is Martin Kasl of Lincoln, seeking reappointment to the Boiler Safety Code Advisory Board. His term will be effective January 1, 2005 through January 1, 2009. Mr. Martin (sic) has been employed at Engineering Technologies Incorporated for almost eight years and has over 15 years of experience in the engineering field. I urge you to reappoint Mr. Kasl to the Boiler Safety Code Advisory Board. Thank you.

SENATOR CUDABACK: Thank you, Senator Cunningham. You've heard the opening on the third report, Business and Labor Committee Chairman. Open for discussion. Seeing nobody wishing to speak, Senator Cunningham, you're recognized to...he waives opportunity to close. The question before the body is adoption of the third report offered by Business and Labor Committee. All in favor vote aye; opposed, nay. We're voting on the confirmation report offered by the Business and Labor Committee. Have you all voted on the issue who care to? Record please, Mr. Clerk.

CLERK: (Record vote, Legislative Journal pages 1008-1009.)  
28 ayes, 0 nays, Mr. President, on the adoption of the confirmation report.

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

March 29, 2005      LB 121

SENATOR CUDABACK: Thank you, Mr. Clerk. (Visitors introduced.)  
Mr. Clerk, do you have anything else before we move on?

CLERK: I have nothing at this time, Mr. President.

SENATOR CUDABACK: We now move on to Select File, consent  
calendar. Members, if you don't know the rules that apply to  
consent calendar, please read them. We will now go on to  
LB 121, Mr. Clerk.

CLERK: LB 121. Senator Flood, I have Enrollment and Review  
Amendments first of all. (AM7066, Legislative Journal  
page 969.)

SENATOR CUDABACK: Senator Flood.

SENATOR FLOOD: Mr. President, I move the adoption of the E & R  
amendments to LB 121.

SENATOR CUDABACK: You've heard the motion to adopt the E & R  
amendments to LB 121. All in favor say aye. Opposed say nay.  
They are adopted.

CLERK: Senator Louden would move to amend with AM0914.  
(Legislative Journal page 990.)

SENATOR CUDABACK: Senator Louden, to open on your AM0914.

SENATOR LOUDEN: I filed this amendment after consulting with  
Bill Drafters. On General File, we adopted an amendment offered  
by Senator Schrock. That amendment dealt with big game permits.  
The green copy of the bill referenced Section 37-407. The  
Schrock amendment also referenced that section, but Bill  
Drafters advises that other sections of statute also pertain to  
big game permits. Those sections should also be referenced.  
This amendment adds those, and you can read the section numbers  
on page 1, line 16, of the amendment. The rest of the amendment  
clarifies that the \$5 fee, the rule and regulation authority,  
and the electronic issuance authority pertain to the big game  
permits as well as to the hunting and fishing permits. I ask  
your adoption of AM0914, and I would be happy to answer any

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

March 29, 2005      LB 121, 234

questions. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Louden. You've heard the opening on AM0914. Open for discussion. Senator Louden, there are no lights on. He waives closing. The question before the body is adoption of AM0914 to LB 121. All in favor vote aye; those opposed, nay. The question before the body is adoption of the Louden amendment, AM0914. Have you all voted who care to? Record please, Mr. Clerk.

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

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

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

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

SENATOR FLOOD: Mr. President, I move the advancement of LB 121 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 121 to E & R for engrossing. All in favor of the motion say aye. All opposed, nay. LB 121 is advanced. Mr. Clerk, LB 234.

CLERK: LB 234. Senator, I do have Enrollment and Review amendments. (AM7063, Legislative Journal page 969.)

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

SENATOR FLOOD: Mr. President, I move the adoption of the E & R amendments to LB 234.

SENATOR CUDABACK: You've heard the motion to adopt the E & R amendments to LB 234. All in favor say aye. Opposed, nay. The E & R amendments are adopted.

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

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

March 29, 2005      LB 234, 516

SENATOR CUDABACK: Senator Flood.

SENATOR FLOOD: Mr. President, I move the advancement of LB 234 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 234 to E & R for engrossing. All in favor say aye. Discussion? Seeing none, opposed? Ayes have it. LB 234 is advanced. Mr. Clerk, LB 516.

CLERK: LB 516. No Enrollment and Review. Senator Beutler would move to amend, AM0874. (Legislative Journal page 967.)

SENATOR CUDABACK: Senator Beutler, to open on your amendment.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, this is an amendment that's been worked out with Senator Baker, and it simply clarifies what he intended with regard to liability on this issue, and makes it clear that the liability would only be for intentional acts. And I would yield the rest of my time to Senator Baker if he would wish to speak.

SENATOR CUDABACK: Senator Baker.

SENATOR BAKER: I will speak briefly. Thank you, Senator Beutler. Senator Beutler is up to his usual good work, improving the bill, and I support the amendment. It clarifies what our intentions are. And would ask for support of the body to adopt the amendment and advance the bill. With that, I would return whatever time...Senator Beutler, do you want the time back? Thank you.

SENATOR CUDABACK: Senator Beutler, did you wish to...

SENATOR BEUTLER: I would return the rest of my time to the Chair.

SENATOR CUDABACK: Thank you, Senator Beutler. Open for discussion on AM0874. Seeing no lights on, Senator Beutler, did you wish to close? He waives opportunity to close. The

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

March 29, 2005      LB 485, 492, 516

question before the body is adoption of AM0874 to LB 516. All in favor vote aye; opposed, nay. The question before the body is the Beutler amendment, AM0874. Have you all voted on the issue who care to? Record please, Mr. Clerk.

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

SENATOR CUDABACK: The Beutler amendment has been adopted.

CLERK:     Senator Flood, I have no further amendments.

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

SENATOR FLOOD: Mr. President, I move the advancement of LB 516 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 516 to E & R for engrossing. All in favor say aye. Opposed, nay. LB 516 is advanced. Mr. Clerk, LB 485.

CLERK:     LB 485. Senator, I have no amendments to the bill.

SENATOR CUDABACK: Senator Flood.

SENATOR FLOOD: Mr. President, I move the advancement of LB 485 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 485 to E & R for engrossing. Any discussion? Seeing none, all opposed. LB 485 is advanced. Mr. Clerk, LB 492.

CLERK:     LB 492. Senator, I do have Enrollment and Review amendments. (AM7064, Legislative Journal page 969.)

SENATOR CUDABACK: Senator Flood, for a motion.

SENATOR FLOOD: Mr. President, I move the adoption of the E & R amendments to LB 492.

SENATOR CUDABACK: You've heard the motion to adopt the E & R

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

March 29, 2005      LB 39, 299, 352, 492

amendments.      All in favor say aye.      Opposed, nay.      They are adopted.

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

SENATOR CUDABACK: Senator Flood.

SENATOR FLOOD: Mr. President, I move the advancement of LB 492 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 492 to E & R for engrossing. All in favor say aye. Opposed, nay. LB 492 is advanced. Mr. Clerk, LB 39.

CLERK: LB 39. Senator, I have no amendments to the bill.

SENATOR CUDABACK: Senator Flood.

SENATOR FLOOD: Mr. President, I move the advancement of LB 39 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 39 to E & R for engrossing. All in favor of the motion say aye. Opposed, nay. LB 39 is advanced. Mr. Clerk, LB 352.

CLERK: LB 352. Senator, I have no amendments to the bill.

SENATOR CUDABACK: Senator Flood, please.

SENATOR FLOOD: Mr. President, I move the advancement of LB 352 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 352 to E & R for engrossing. All in favor of the motion say aye. Opposed, nay. LB 352 is advanced. Mr. Clerk, LB 299.

CLERK: LB 299. Senator, I have no amendments to the bill.

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

SENATOR FLOOD: Mr. President, I move the advancement of LB 299

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

March 29, 2005      LB 144, 299, 684A, 684

to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion of Senator Flood to advance LB 299 to E & R for engrossing. All in favor say aye. Opposed to the motion say nay. LB 299 is advanced. Mr. Clerk, LB 144.

CLERK: LB 144. Senator, I have no amendments to the bill.

SENATOR CUDABACK: Senator Flood.

SENATOR FLOOD: Mr. President, I move the advancement of LB 144 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 144 to E & R for engrossing. All in favor of that motion say aye. And opposed to the motion say nay. LB 144 is advanced. Mr. Clerk, LB 684.

CLERK: LB 684. Senator, I have no amendments to the bill.

SENATOR CUDABACK: Senator Flood.

SENATOR FLOOD: Mr. President, I move the advancement of LB 684 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 684 to E & R for engrossing. All in favor of the motion say aye, please. Opposed to the motion say nay. LB 684 is advanced. Mr. Clerk, LB 684A.

CLERK: LB 684A. Senator, I have no amendments to the bill.

SENATOR CUDABACK: Senator Flood.

SENATOR FLOOD: Mr. President, I move the advancement of LB 684A to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion by Senator Flood to advance LB 684A to E & R for engrossing. All in favor of that motion say aye. Opposed to the motion say nay. LB 684A is

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

March 29, 2005      LB 131, 242, 668, 684A

advanced. Mr. Clerk, LB 668.

CLERK: LB 668. Senator, I have no amendments.

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

SENATOR FLOOD: Mr. President, I move the advancement of LB 668 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 668 to E & R for engrossing. All in favor of the motion say aye, please. Opposed, nay. LB 668 is advanced. Mr. Clerk, the last bill, LB 131.

CLERK: LB 131. Senator, I do have Enrollment and Review amendments. (AM7065, Legislative Journal page 970.)

SENATOR CUDABACK: Senator Flood, please.

SENATOR FLOOD: Mr. President, I move the adoption of the E & R amendments to LB 131.

SENATOR CUDABACK: You've heard the motion to adopt the E & R amendments to LB 131. All in favor of the motion say aye, please. Opposed, nay. E & R amendments are adopted.

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

SENATOR CUDABACK: Senator Flood.

SENATOR FLOOD: Mr. President, I move the advancement of LB 131 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 131 to E & R for engrossing. All in favor of the motion say aye. Opposed, nay. Ayes have it. LB 131 is advanced. We now move on to Final Reading. Members, E & R final reading motion to return to Select for a specific amendment. Mr. Clerk, LB 242.

CLERK: Mr. President, Senator Brown would move to return LB 242 to Select File for a specific amendment, AM0840.

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

March 29, 2005      LB 242, 519

(Legislative Journal page 976.)

SENATOR CUDABACK:    Senator Brown, you're recognized to open on your motion to return to Select File for a specific amendment.

SENATOR BROWN:      Thank you, Mr. President, members of the Legislature.    This amendment is a bill that I sponsored to clarify conflict of interest provisions for local elected officials and to make it more consistent with the way that we handle our conflict of interest provisions.    It is a bill that the League of Municipalities has been concerned about, and it has advanced from committee several times in the past.    This year it advanced unanimously, and this is an appropriate vehicle, and I believe that Senator Schimek supports the inclusion of this in her bill.    And I would be glad to answer any questions.    It's actually a fairly simple concept.    Thank you.

SENATOR CUDABACK:    Thank you, Senator Brown.    You've heard the opening on the motion to return for a specific amendment.    Open for discussion, Senator Schimek.

SENATOR SCHIMEK:     Yes, thank you, Mr. President and members.    The amendment that Senator Brown is requesting here was actually LB 519, and it was heard by the Government Committee on February 24.    It did come out with amendments, came out on a 7 to 1 voting with 1 person absent.    It was supported by the League of Municipalities, Nebraska Accountability and Disclosure Commission, and an individual who came in on his own behalf.    I think it's a good idea, it's a good bill, and I would recommend adoption of the Brown amendment.    Thank you.

SENATOR CUDABACK:    Thank you, Senator Schimek.    Further discussion on the motion to return?    Senator Brown, there are no further lights on.    You're recognized to close on your motion to return.

SENATOR BROWN:      Thank you, Mr. President.    This is a simple addition, and it's very consistent with the underlying bill, and I would move...would appreciate your adding the amendment.    Thank you.

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

March 29, 2005      LB 242

SENATOR CUDABACK:      Thank you, Senator Brown. All in favor of returning LB 242 to Select File for a specific amendment vote aye; those opposed, nay. We're voting on the motion to return for a specific amendment. Record please, Mr. Clerk.

CLERK: 37 ayes, 0 nays, Mr. President, on the motion to return the bill.

SENATOR CUDABACK:      The motion to return...the bill has been returned. Mr. Clerk, please.

CLERK: Senator Brown offers AM0840.      (Legislative Journal page 976.)

SENATOR CUDABACK:      Senator Brown, to open.

SENATOR BROWN:      Please adopt the amendment.

SENATOR CUDABACK:      You've heard the motion to adopt AM0840. All in favor vote aye; opposed, nay. Have you all voted, AM0840 offered by Senator Brown to LB 242, who care to? Record please, Mr. Clerk.

CLERK: 34 ayes, 0 nays, Mr. President, on the adoption of the Select File amendment.

SENATOR CUDABACK:      AM0840 offered by Senator Brown has been adopted. Senator Flood, would you...Senator Flood, please, when you get time. Motion, please.

SENATOR FLOOD:      Mr. President and members, we're back together again on LB 217.

SENATOR CUDABACK:      I'm sorry, Senator Flood. The motion to advance or readvance LB 240. I'm sorry. I led you on.

SENATOR FLOOD:      I have a number of roles this morning. Mr. President, I move the advancement of LB 242 to E & R for engrossing.

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

March 29, 2005      LB 217, 242

SENATOR CUDABACK: You've heard the motion by Senator Flood to readvance LB 242 to E & R for engrossing. All in favor say aye. Opposed, nay. It is advanced. Now we go to Select File 2005 senator priority bills. Mr. Clerk.

CLERK: Mr. President, Senator Flood, first of all, I have Enrollment and Review Amendments to LB 217, Senator. (AM7057, Legislative Journal page 832.)

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

SENATOR FLOOD: Mr. President, I move the adoption of the E & R amendments to LB 217.

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

CLERK: The next amendment, Mr. President, Senator Flood. I have AM0895, Senator, but I have a note that you want to withdraw AM0895.

SENATOR CUDABACK: Senator Flood.

SENATOR FLOOD: Yes, Mr. President, members. I'd like to withdraw AM0895.

SENATOR CUDABACK: AM0895 is withdrawn.

CLERK: Mr. President, the next amendment I have to the bill, Senator Flood, AM0968. (Legislative Journal page 1010.)

SENATOR CUDABACK: Senator Flood, you're recognized to open on AM0968 to LB 217.

SENATOR FLOOD: Thank you, Mr. President and members. We're back together again on LB 217, and this is the bill that would create the Public Facilities Construction and Finance Act. As a brief reminder of what this bill is all about, this bill is aimed at encouraging political subdivisions to work together, whether it be with library projects, information technology, or

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

March 29, 2005      LB 217

building buildings, or working on joint projects. We have been working diligently and negotiating with a number of interested parties in this body that have taken an interest in this LB 217. The bill as written in the green copy allows two political subdivisions as defined in the bill and as amended, to cooperate on building a building up to \$5 million, provided that they only use 5 percent of their restricted funds in debt service in any given year. And at last...at our last meeting on this bill, Senator Beutler amended and was successful in amending the number of voters it would take to remonstrate against this joint bonding authority between two political subdivisions, from 15 percent of all registered voters in any one public agency to 15 percent of the registered voters in...the same number that voted in the election...last election for Governor. We've run into some problems with that because county clerks across Nebraska have had trouble actually defining how many voted in the last election for Governor when you've got a public agency that spans over four separate counties and the software is not available yet. We've gone a step further. A number of you have shared some concerns that this bill maybe gives the public agencies too much authority in bonding without an election and exceeding their lid in levy limitations. So I would offer this amendment. And what this does, this significantly ratchets down the number of people that are required to remonstrate against a joint public agency. As you will look in the amendment that's on file that we're discussing right now, AM0968, 5 percent of the registered voters or the numbers listed in the amendment, whichever is less, this significantly reduces the number of people in places like Omaha and Lincoln that can petition against a joint project. Under 5 percent of the total voters in Omaha would be 12,700. With this amendment, it would be 1,500 people that could sign a petition to place this joint bond issue on the ballot. In a city of the primary class such as Lincoln, it would be 1,000. In a city of the first class, it would be 750 or 5 percent, whichever is less. And a city of the second class would be 250 or 5 percent, whichever is less; and villages, 50 people or 5 percent of the registered voters, whichever is less. We are significantly reducing the number of people it would take to vote against, or to remonstrate against any proposed joint project. We did the same thing for counties, school districts and other qualified public agencies. For

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

March 29, 2005      LB 217

example, if an ESU cooperated with another joint agency or public agency, 250 registered voters in the ESU's territory could sign a petition to place that issue on the ballot. This is a commonsense, logical approach to the concern about the public not having their say in a bond issue. I'm very comfortable with these numbers. I realize that in proportion, Lincoln and Omaha, their numbers are much lower than it would be for a city the size of Norfolk, Grand Island, Hastings, just because it would take 1,000 people in Lincoln or 1,500 people in Omaha, but 750 in Norfolk. The idea behind this amendment is to allow any one citizen living in a district of their political subdivision to actually have a petition put together and be successful in getting it on the ballot. I don't want somebody living in the city of Omaha to have to go around and gather 12,700 signatures just themselves. This gives them the ability to do it by themselves. Fifteen hundred signatures may be sitting outside of Crossroads Mall for four hours on a Sunday, or at an event in the park or wherever it may be. On the same token, it's not going to be very difficult for somebody in the city the size of Norfolk to gather 750 signatures or 5 percent, whichever is less. And the reason we kept the 5 percent and the number is that you may get into a city the size of 200 people where 5 percent is much lower than 50 as it's reported in the amendment for a village. So I think this is a logical, commonsense approach to giving the public the ability to let one person put this on the ballot so that everybody can vote on it. That's why we drafted the amendment. I would be happy to answer any specific questions that you have about it. But again, these numbers are the result of much negotiation on the issue, and I would appreciate your consideration and support. I return the balance of my time to the Chair.

SENATOR CUDABACK: Thank you, Senator Flood. You've heard the opening on AM0968, offered by Senator Flood to LB 217. Open for discussion. Senator Flood, there are no lights on, so I will recognize you to close on your amendment. Senator Flood waives his opportunity to close. The question before the body is adoption of AM0968 to LB 217. All in favor vote aye; those opposed vote nay. The question before the body is adoption of the Flood amendment, AM0968. Have you all voted who care to? Record please, Mr. Clerk.

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

March 29, 2005      LB 217

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

SENATOR CUDABACK: Senator Flood's amendment has been adopted. Mr. Clerk, next amendment, please.

CLERK:      Next amendment, Mr. President, Senator Beutler, AM0962. (Legislative Journal page 1012.)

SENATOR CUDABACK: Senator Beutler, to open on AM0962 to LB 217.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, this amendment would simply add back into the bill the ability to bond storm water drainage projects. And you may recall that there was some confusion as to whether those people who were opposing a bill in Natural Resources opposed having storm water drainage in this bill. And we had a meeting on that and that's clear to everybody. They do not oppose it. They understand that this would be paid with property taxes, not with individual fees. So I think that's been cleared up, and there's no logical reason then why storm water, which is always one of the major infrastructure items of political subdivisions, why they should not be included in this bill. And I would recommend that they be included. Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. Are you through opening, Senator Beutler?

SENATOR BEUTLER: I am finished.

SENATOR CUDABACK: Open for discussion, Senator Flood.

SENATOR FLOOD: Thank you, Mr. President and members. I will tell you that Senator Beutler and I worked with the lobby very carefully and with the members of the body to talk about storm water. This does not have anything to do with the storm water issues that are in a different bill that we discussed on General File. This is a project that communities work on regardless of the political environment, and I support his amendment.

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

March 29, 2005      LB 217

SENATOR CUDABACK: Thank you, Senator Flood. Further discussion on the Beutler amendment? Senator Beutler, there are no lights on. Are you...Senator Beutler waives closing. The question before the body is adoption of the Beutler amendment, AM0962, to LB 217. All in favor vote aye; opposed, nay. The question before the body is the Beutler amendment, AM0962. Have you all voted on the amendment who care to? Record please, Mr. Clerk.

CLERK: 28 ayes, 0 nays, Mr. President, on the adoption of Senator Beutler's amendment.

SENATOR CUDABACK: The amendment has been adopted. Mr. Clerk, next motion, please.

CLERK: Senator Beutler would move to amend with AM0963. (Legislative Journal page 1012.)

SENATOR CUDABACK: Senator Beutler, you're recognized to open on AM093 to LB 217.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, this is the amendment that would rise...raise by a small amount the caps relating to the city of Lincoln and the city of Omaha. As you consider this, please keep in mind that you've now adopted an amendment whereby, in the city of Omaha, only 1,500 signatures are needed to force an election. And with regard to the city of Lincoln, only 1,000 signatures are needed to force an election. So one petition signer standing downtown in either area would get the...probably get the number of signatures necessary. But in any event, if there is an item that has a broad consensus, I wanted to recommend to you that, just as we did the equipment in this bill, we allow the bigger cities to have a little more leeway. I've passed out a chart to you that should be to all of you by now, pointing out the difference in valuations as that relates to the amount of the bond issue. Take a look at that if you would. Over in the right-hand side of the chart, those arrows relate to the city of Lincoln to, for example, the city of Schuyler. And if you had a \$5 million issue for Schuyler, what would be the equivalent bond issue in the city of Lincoln, considering the differences in valuation? And you can see it would be a \$500 million bond issue in

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

March 29, 2005      LB 217

Lincoln, and we typically have no bond issues that high. But it just illustrates the difference in terms of relative scale. And we're not asking for \$500 million for Lincoln, but just for \$15 million. That's what the cap in this amendment would suggest for the city of Lincoln. So when you compare these valuations, you can see the vast difference. And of course, whatever that difference is, it represents an equivalent pressure on the individual taxpayer. So a \$5 million bond issue in Schuyler represents the same kind of burden in Schuyler as a \$50 million...\$500 million bond issue would in Lincoln. But we're not asking...again we're not asking that it go to \$500 million, the equivalent, but merely \$15 million. On the left-hand side, I tried to show you the same thing with regard to the city of Omaha, comparing it to the town of Wayne. There, a \$5 million issue for Wayne equates to a \$690 million issue for the city of Omaha. It's the same equivalent burden on the taxpayer. That's a factor of 138 times in terms of valuations. So, and the limit that we're asking for in the amendment for Omaha is just \$25 million. So these really are very, very small amounts, and in terms of comparisons to what you're allowing cities of the first class to do and other small municipal subdivisions, it's not even asking but a small portion of that proportionate allowance. That's basically the objective of the amendment. Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. You've heard the opening on AM0963. Open for discussion on that motion, Senator Flood.

SENATOR FLOOD: Mr. President and members, I see both sides of this issue and I've worked closely with Senator Beutler on his angle here, and obviously I...from the start, I think it's fair to say I have any concerns raising the cap above \$5 million because it was...the bill was originally intended to address small projects. On the same token, for two reasons I see the other side very clearly as well, and that is, Lincoln and Omaha are much different than Battle Creek and Norfolk, in population, in valuation, the amount of restricted funds, the impact on the taxpayer. So I recognize that as a major difference, and I also worked very hard to ratchet these numbers down so it's not hard to put this on the ballot. And because it only takes 1,000

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

March 29, 2005      LB 217

votes in Lincoln and 1,500 votes in Omaha, I do see...I do see kind of a concession there. The requirement for the remonstrance came down. Lincoln and Omaha have different needs than the rest of the state. For that reason, I'm supportive of Senator Beutler's efforts. I return the balance of my time to the Chair.

SENATOR CUDABACK: Thank you, Senator Flood. Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, this is the camel. When the bill was brought by Senator Flood, and after work had been done on it, it was clear that the purpose was to help smaller communities combine with other entities to do some things that would be of mutual benefit. I am not going to agree to let Omaha go up to \$25 million. There should be the mandated vote for a metropolitan class city. And if this amendment is adopted, I'm going to try to get Omaha out of the bill. And if Omaha is not, I'm going to fight the bill. The form that Senator Beutler is trying to put it in will be all right for Lincoln. If the Lincoln senators don't mind their constituents ponying up this amount of money, that's for them to decide. I live in Omaha. The amounts of money that Omaha has at its disposal would be considered astronomical compared to these little towns. In the farming sector, people are familiar with the term "economies of scale." There are things which large farm operations can do which small ones cannot. So you're not able to say, we will take this that's being done by the large operations and reduce it proportionately so that we get down to the family farm-size operation and all of the factors remain unchanged; we only have a smaller version of this big one. When you're talking about little towns and you mention dollar amounts, that is one thing, because you're taking into consideration the actual amount of money that is reasonable. When you then move up to the larger cities, especially Omaha, it's not going to work, from my point of view, to say that proportionately this is the amount that Omaha should be able to get involved with compared to the amount the smaller cities, towns, and whatnot may get involved with when you compare that to a percentage of whatever the total amount of value they have at their disposal. The amendment that I'm drafting now is to take the metropolitan class city out of Senator Beutler's

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

March 29, 2005 LB 217

amendment. Like me, Senator Beutler is a pragmatist. He is a politician. We all are politicians, some don't want to acknowledge it, and some are more astute than others. If Senator Beutler could get Omaha to go along, there probably would be, in his way of thinking--and I'm speculating about his way of thinking--there would probably be more support for the adoption of his amendment. Senator Beutler is concerned about and interested in Lincoln. So put Lincoln in it. I'm concerned about what Omaha is doing. If there is a project that would cost \$25 million that Omaha is interested in, Omaha can come up with that. They don't have to put the camel on this little bill whose sole purpose was to bring the nose of the camel into the tent. You are now creating a situation where you had a little bitty skinny horse out there, but you also had little skinny jockeys, so everything was all right. Now you're going to take some swollen, overstuffed jockeys and put them on...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...these little skinny horses. And the skinny little horses may have their backs broken. So I'm going to oppose putting Omaha in this. I'm crafting an amendment as I stated. If my amendment is adopted, I will leave the citizens of Lincoln to the good graces of those who are here to represent their interests. I have not talked to the people in Lincoln. I don't talk to them about these issues. I will listen if they contact me. But I live in Omaha and have a very direct interest in the kind of projects and proposals that affect that city. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. On with discussion, Senator Redfield, Senator Beutler, and Langemeier. Senator Redfield.

SENATOR REDFIELD: Thank you, Mr. President, members of the body. First of all, I want to thank Senator Flood for the previous amendment. I do think it was a good idea and it was sensitive to the demands upon the public. It is very, very difficult for people to gather signatures. It is an expensive proposition if they have to hire people to help them, so I appreciate that amendment very much. Having said that, I still

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

March 29, 2005      LB 217

rise in opposition to the amendment that is before us because, in fact, we have a bill that started out with a very minimal expense of a \$5 million bond and would mushroom for the city of Omaha to \$25 million, fivefold increase. I don't believe that we passed the bill on General File with that expectation. I would not have supported the bill if it had started out at that dollar amount without a guaranteed vote of the people. I think that the general understanding of the public in Nebraska is that whenever a bond of any amount is going to be let by a public entity, they expect that they're going to be able to vote on it. And this certainly is going to break that precedence, and I think that it exceeds the bounds of sensibility, and I would urge those from Omaha to stand against the amendment as it is drafted. Thank you.

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

SENATOR LANGEMEIER: Thank you, Mr. President, members of the body. As I sat in committee and listened to this bill as it came before us, the \$5 million was a concern to me. And as I looked at Schuyler, and we've tried to pass some school bonds and \$5 million looks like it would have passed the last school bond, I had concerns that we could go and pass a school bond through this program without the will of the people. And as I looked at the restricted funds classification in this particular bill, there's no way they could ever get to the \$5 million. If they could have got to three-quarters of a million, would have been top end. And so I looked at it as that value to Schuyler, and the \$5 million maybe for the bigger communities. And the way it's structured with the voting and the ability to basically bypass a vote unless you petition to prevent that, I think it's crucial that we keep it at \$5 million across the board, and that would address the bigger communities. And the smaller communities, their restricted fund level is going to restrict their ability to do it anyway. And with that, I'd yield my time back to the Chair.

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

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

March 29, 2005      LB 217

CLERK:      Mr. President, excuse me. Senator Chambers would move to amend Senator Beutler's amendment.

SENATOR CUDABACK:      Senator Chambers, you're recognized.

SENATOR CHAMBERS:      Mr. President, members of the Legislature, Senator Beutler is willing to withdraw his amendment, so what I'm going to do is withdraw my pending amendment which the Clerk just referred to.

SENATOR CUDABACK:      It is withdrawn. Your light was next, Senator Chambers. Did you wish to not speak? Senator Beutler.

SENATOR BEUTLER:      Senator Cudaback, members of the Legislature, if you believe that this bill as it is structured now, then to me it seems like there is no real argument but that the cities of Lincoln and Omaha should be treated better than they're treated in this bill. And were the circumstances different than they are today, I would fight very hard for that. But the circumstances are that, to my knowledge, the city of Lincoln and the city of Omaha were not involved in this bill until there was a discussion brought up, upon examination of the bill, of exactly what the bill did. And so it's a little bit hard and a little bit unfair to Senator Flood to be raising these questions on what is otherwise a somewhat difficult bill to handle. And I don't want to do that to him, so I will withdraw the amendment. But I hope down the line you will consider adjustments to this and other legislation because, to the extent that this is a fair concept in your mind, and in light of the fact that so few remonstrance signatures are necessary now, it just seems to me totally unfair to be excepting Lincoln and Omaha out of the bill. But with that, I would withdraw the amendment, Senator Cudaback, Mr. Clerk.

SENATOR CUDABACK:      Thank you, Senator Beutler. AM0963 is withdrawn. Anything further on the bill, Mr. Clerk?

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

SENATOR CUDABACK:      Further discussion? Seeing none, Senator Flood, for a motion.

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

March 29, 2005      LB 217, 675

SENATOR FLOOD: Mr. President, I move the advancement of LB 217 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 217 to E & R for engrossing. All in favor say aye. Opposed to the motion say nay. LB 217 is advanced. Mr. Clerk, LB 675.

CLERK: LB 675, no Enrollment and Review. Senator Langemeier would move to amend. Senator, I have AM0831 in front of me with a note that you want to withdraw AM0831.

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

CLERK: Senator Langemeier would move to amend, Mr. President, with AM0961. (Legislative Journal page 1012.)

SENATOR CUDABACK: Senator Langemeier, to open on AM0961 to LB 675.

SENATOR LANGEMEIER: Thank you, Mr. President and members of the body. When we were on General File, I submitted, when I first introduced this bill, an amendment that we have passed that became a committee amendment that classified where the students could use their school permit, and we took out a couple of lines. And as we sat through General File to Select File, I needed to make one more amendment. And so I introduce AM0961, which strikes the word "within" the...and throughout a school district. And we had a little concern that if a student attends a parochial school within a school district, could they not go to their parochial school as well as the school that's in that district? And so we took "district" out and replacing that with: the school in which he or she attends, to make sure it's clear that they're only to drive to the school in which they attend. The second part of this amendment is, on page 10 we're going to strike, on line 15, strike "two" months for the length of the learner's permit to be good. There's some concern that, in my first drafting of this, that if it's a requirement that you have to have a learner's permit for two months prior to getting a school permit, that if your birthday is on Sunday, and not all communities have testing centers for Monday morning,

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

March 29, 2005      LB 675A, 675

that you couldn't take the test and get your learner's permit till Friday, and so you would be a week lost between you're turn 14 to 14 and two months, that you couldn't physically hold your license for two months. And so we're going to take the "two" months and make the learner's permit good for "three" months, which would allow for any lapse between you actually turn...when you turn 14 and have the ability to take the test. And that is my amendment, and I'll return the rest of my time back to the Chair.

SENATOR CUDABACK: Thank you, Senator Langemeier. Open for discussion on AM0961 offered by Senator Langemeier. Senator, there are no lights on, so I will recognize you to close. He waives closing. The question before the body is adoption of the Langemeier amendment, AM0961, to LB 675. All in favor of the motion vote aye; those opposed, nay. The question before the body is the Langemeier amendment, AM0961. Record please, Mr. Clerk.

CLERK: 30 ayes, 0 nays, Mr. President, on the adoption of Senator Langemeier's amendment.

SENATOR CUDABACK: The amendment has been adopted.

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

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

SENATOR FLOOD: Mr. President, I move the advancement of LB 675 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 675 to E & R for engrossing. All in favor of the motion say aye. Those opposed, nay. It is advanced. Mr. Clerk, LB 675A.

CLERK: LB 675A. Senator, I have no amendments to the bill.

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

SENATOR FLOOD: Mr. President, I move the advancement of LB 675A

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Transcriber's Office  
FLOOR DEBATE

March 29, 2005      LB 206, 268, 675A

to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 675A to E & R for engrossing. All in favor of that motion say aye. Opposed, nay. LB 675A is advanced. Mr. Clerk, LB 206.

CLERK: LB 206. Senator, I do have Enrollment and Review amendments. (AM7059, Legislative Journal page 885.)

SENATOR CUDABACK: Senator Flood, please.

SENATOR FLOOD: Mr. President, I move the adoption of the E & R amendments to LB 206.

SENATOR CUDABACK: You've heard the motion to adopt the E & R amendments to LB 206. All in favor of that motion say aye. Opposed, nay. They are adopted.

CLERK: I have nothing further on LB 206, Senator.

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

SENATOR FLOOD: Mr. President, I move the advancement of LB 206 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 206 to E & R for engrossing. All in favor say aye. Opposed to the motion say nay. LB 206 is advanced. Mr. Clerk, LB 268.

CLERK: LB 268. Senator, first of all I have Enrollment and Review amendments pending. (AM7058, Legislative Journal page 885.)

SENATOR CUDABACK: Senator Flood.

SENATOR FLOOD: Mr. President, I move the adoption of the E & R amendments to LB 268.

SENATOR CUDABACK: You've heard the motion to adopt the E & R amendments to LB 268. All in favor of the motion say aye. And opposed to the motion, nay. They are adopted.

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Transcriber's Office  
FLOOR DEBATE

March 29, 2005      LB 268

CLERK:      Senator Beutler would move to amend with AM0860.  
(Legislative Journal page 966.)

SENATOR CUDABACK:    Senator Beutler, to open on your amendment,  
AM0860, to LB 268.

SENATOR BEUTLER:    Senator Cudaback, this was an amendment worked out with the sponsor of the bill. You may recall on General File we had some discussion about the fact that with respect to these award...this award benefit program relating to fire protection district volunteers, that for tax purposes and for the benefit of the volunteer and the program, they had to structure it in such a way that it was subject to claims of creditors of the city, village, or rural or suburban fire protection district, so that even though nobody ever thinks this is ever going to happen, it could happen; and so the sponsor was agreeable to putting into the program's provisions that are otherwise provided to them in the statement, a simple notice that this is a possibility, it could happen. And the language in the amendment simply describes what they will include: shall include the following statement and such additional explanation as shall be deemed appropriate by the sponsor. And the statement will read: Due to definitive interpretations of the relevant provisions of the Internal Revenue Code, in order to ensure that funds deposited on behalf of a participant are not taxable to the participant in that or any subsequent year in which they are nonforfeitable, any funds held by a city...dah, dah, dah...on behalf of a qualifying program shall be subject to the claims of creditors of the city, village or rural...protection district in the event of insolvency or bankruptcy. So all we're doing is being very clear to those that are in the program that this is the way the program is set up. It's set up this way for their benefit and, even though there's almost zero probability that such a thing would happen, it is subject to claims of creditors of the entity that's setting up the program. And with that, I would return my time to the Chair.

SENATOR CUDABACK:    Thank you, Senator Beutler. You've heard the opening on AM0860 by Senator Beutler. Open for discussion,

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

March 29, 2005      LB 268

Senator Friend.

SENATOR FRIEND: Thank you, Mr. President. Members of the Legislature, we...as Senator Beutler mentioned, we did discuss this in General File. Senator Beutler worked with the committee counsel, and I believe the committee knew this was coming, based on the previous discussion. I think it only enhances the bill, and I think that it provides...any time you can, obviously, provide communication and understanding, particularly in regard to personal...for a lot of these folks, for personal fiscal matters, I don't see any type of problem at all. I would ask for the adoption of AM0860. I want to thank Senator Beutler for bringing that amendment, and the passage...the advancement of LB 268. Thank you.

SENATOR CUDABACK: Thank you, Senator Friend. Further discussion? Senator Beutler, yours is the only light on, Senator Beutler, so you may either speak or close.

SENATOR BEUTLER: Senator Cudaback, I just want to make a proper acknowledgment which I many times forget to do, and I'm sorry that I do, because oftentimes it is the staff in this Legislature that thinks of the creative solutions or how to do this in the most effective way and works up the language for us. And that was the case in this instance. I identified the problem, but the solution and the work on it and everything that's good about it was really the work of Bill Stadtwald and the Urban Affairs Committee, Senator Friend's Urban Affairs Committee. And I just like to acknowledge that once in a while because we get an awful lot of good staff work done for us from time to time. Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. Was that your closing, Senator Beutler?

SENATOR BEUTLER: Yes.

SENATOR CUDABACK: Okay. You've heard the closing on AM0860. The question before the body is, shall it be adopted? All in favor vote aye; opposed, nay. We're voting on adoption of AM0860, offered by Senator Beutler to LB 268. Record please,

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

March 29, 2005      LB 268, 439

Mr. Clerk.

CLERK:      30 ayes, 0 nays, Mr. President, on the adoption of Senator Beutler's amendment.

SENATOR CUDABACK: The amendment has been adopted.

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

SENATOR CUDABACK: Further discussion? Seeing none, Senator Flood, for a motion, please.

SENATOR FLOOD: Mr. President, I move the advancement of LB 268 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 268 to E & R for engrossing. All in favor say aye. Opposed, nay. LB 268 is advanced. Mr. Clerk, LB 439.

CLERK: LB 439. Senator, I do have Enrollment and Review amendments. (AM07060, Legislative Journal page 885.)

SENATOR CUDABACK: Senator Flood, please.

SENATOR FLOOD: Mr. President, I move the adoption of the E & R amendments to LB 439.

SENATOR CUDABACK: You've heard the motion to adopt the E & R amendments to LB 439. All in favor of the motion say aye. Opposed, nay. E & R amendments are adopted.

CLERK: Senator Kremer would move to amend with AM0871. (Legislative Journal page 917.)

SENATOR CUDABACK: Senator Kremer, to open on AM0871 to LB 439. Senator Kremer.

SENATOR KREMER: Thank you, Mr. President and members of the body. This amendment to LB 439 is purely a clean-up amendment. It reinstates inadvertently stricken amendments, then it becomes...that became the bill. Our committee amendments became

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

March 29, 2005      LB 150, 439

the bill and we inadvertently struck a section in there. The original striking in this amendment is to reinstate and to not...it is not related to the substantive purpose of the bill. So it's only to reinstate a couple places in the committee amendments. And it's on page 9, Section 6 where it says: or partner, limited liability company, or a member or an officer. It just reinstates that back in and it was something that was left out inadvertently. So I'd ask your support on this amendment. Thank you.

SENATOR CUDABACK: You've heard the opening on AM0871. Open for discussion on that amendment. Senator Kremer, there are no senators wishing to speak. Senator Kremer waives closing. The question before the body is adoption of AM0871 to LB 439. All in favor vote aye; opposed, nay. The question before the body is the Kremer amendment, AM0871. Have you all voted on the amendment who care to? Record please, Mr. Clerk.

CLERK: 30 ayes, 0 nays, Mr. President, on the adoption of Senator Kremer's amendment.

SENATOR CUDABACK: The amendment has been adopted.

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

SENATOR CUDABACK: Discussion? Seeing none, Senator Flood, for a motion, please.

SENATOR FLOOD: Mr. President, I move the advancement of LB 439 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 439 to E & R for engrossing. All in favor say aye. Opposed, nay. LB 439 is advanced. We now go to Select File 2005 committee first priority bills. Mr. Clerk, LB 150.

CLERK: LB 150, Senator, I do have Enrollment and Review Amendments. (AM7017, Legislative Journal page 597.)

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

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

March 29, 2005      LB 150

SENATOR FLOOD: Mr. President, I move the adoption of the E & R amendments to LB 150.

SENATOR CUDABACK: You've heard the motion to adopt the E & R amendments to LB 150. All in favor say aye. Opposed, nay. E & R amendments are adopted.

CLERK: Senator Beutler would move to amend with AM0817. (Legislative Journal page 970.)

SENATOR CUDABACK: Senator Beutler, to open on AM0817.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, you will recall that this bill has to do with the controversy before the federal courts now with respect to the legitimacy of the organization that's currently in place to promote the development and marketing of certain beef industry development programs. And you may recall that there is some anticipation, or there is some possibility, that the current system will be struck down. And in the event that should happen, the proponents of this bill are interested in reestablishing a program on as similar a basis as possible with what existed before the court case. I understand that court case is still pending, although it may come down any day now. So what I tried to do with the bill, and recommend, and this is an agreement I think that's agreeable to Senator Kremer and others who are interested in the bill, I tried to make it a little bit more like a public entity and to attach to it some of those ideas that we characteristically attach to a body that is a public entity. I do that because, whether you agree with it or not, we are functionally using government to raise money for a purpose that is very peripheral to government, and some would argue that it shouldn't be a function of government and others would argue that it should be a function of government. The fact of the matter is, we have in the past made it a function of government and now we're forced to restructure it. When I say in the past we've made it a function of government, we've given the necessary tools to make this organization work in the way that it has worked in the past. So now I'm trying to be sure that if we're going to have this form that it be in such a form that it could be approved by the state; that it's legitimate in terms of

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

March 29, 2005      LB 150

us authorizing money to such an organization; that it's not necessarily controlled by one organization but could go, depending on the Department of Agriculture's decision, it could go to more than one organization or a different organization; and generally speaking, is more under the arm of the Department of Agriculture. Having said that, the bill picks up on the idea of a qualified entity and defines what a qualified entity is. It defines it as a beef promotion entity, and has some additional explanation of what the purpose of a qualified entity would be, and then substitutes that language in there and allows the Department of Agriculture to choose the appropriate qualified entity to be their representative for carrying out the programs that are the subject of this whole idea. It indicates that this entity won't be appointed forever, that the contract shall be for a term of five years. It also, another very important item for me, it required an independent audit, and then it also requires that whatever entity is picked, that they are required to put into their bylaws provisions that are substantially equivalent to the Open Meetings Act that we use with respect and employ with respect to every public agency in this state. So overall, they will be treated with some additional strings attached to them, and that is part of the price they pay for getting authorization, government approval, and government authentication of the organization that they are putting in place. Again, I think Senator Kremer is all right with these amendments, and I'd be glad to answer any questions that I can. Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. You've heard the opening on AM0817. (Visitors introduced.) On with discussion, Senator Kremer, on the Beutler amendment.

SENATOR KREMER: Thank you, Mr. President and members of the body. I just want to stand and support Senator Beutler's amendment. In fact, I cosigned onto the amendment. And it does change some things that I think make it better. We did refer to the beef council which is better if it's called a qualified entity that's elected the same way. It has the same qualifications as what the beef council does now but...and it also is for a five-year period. Really, the council or the qualified entity, whoever it might be, does have to report back

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Transcriber's Office  
FLOOR DEBATE

March 29, 2005      LB 150

to the Department of Agriculture. The Department of Agriculture really will be the managing group, but then they contract with somebody to do the day-to-day work. Also it talks about the five years, and also the bylaws have to include something that pertains to the open meetings law. And I think we did not have that in the original because the council right now does have in their bylaws that their meetings are all open to the public, that anyone could come and even make a presentation to the board by getting on the agenda. So we think it's very important that the meetings are open to everyone, that everything is above board, so we do support this and then I like it better this way where the...one of the qualifications that the Department of Agriculture requires of this beef entity, or this entity, is that it would be required to have open meetings laws, and it says that would be substantially equivalent to Open Meetings Act so it does not make it a private entity that has to apply to the act but there will be equivalent requirements of the Open Meetings Act. And then the last change, it talks a little bit about research. It just clarifies some things in there about the...may carry out any research activities for purposes consistent with the purpose of it act. So it just clarifies it a little bit, the research, because we did say the research has to be done by a qualified research institute like the University of Nebraska, and preferably the University of Nebraska, and also then refer...or takes away the reference to the beef council. So I am in support of the total amendment. I think it makes it better, and I thank Senator Beutler for his input in working together. We did pull it off just to try to work it out on the...off the floor, and that's what Senator Brashear has asked us to do, and I ask you to support this amendment.

SENATOR CUDABACK: Thank you, Senator Kremer. (Visitors announced.) On with discussion. Senator Beutler, there are no further lights on, so you're recognized to close. He waives closing. The question before the body is adoption of the Beutler amendment, AM0817, to LB 150. All in favor of the motion vote aye; opposed, nay. The question before the body is the Beutler amendment, AM0817, to LB 150. Have you all voted on the question who care to? Record please, Mr. Clerk.

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

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

March 29, 2005      LB 150

Senator Beutler's amendment.

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

CLERK:      Senator Chambers would move to amend with AM0967.  
(Legislative Journal page 1013.)

SENATOR CUDABACK:      Senator Chambers, you're recognized to open on AM0967 to LB 150.

SENATOR CHAMBERS:      Thank you.      Mr. President and members of the Legislature, this is what I would call a "conscience amendment" on my part.      It's based on principle.      I do not like the mandatory checkoff.      Even if the U.S. Supreme Court were to rule that an involuntary checkoff is constitutional, I would still be opposed to it.      All such an opinion by the court would mean is that a state could implement such a program as that, not that it is mandated to do so.      In the case of the mushrooms, the toadstools, the whatever else you want to call those little growths that some people eat at their own peril, there could not be a mandatory checkoff because it violated the rights of people who did not like what the money was being spent for.      You have a right to associate with whom you please.      Under the first amendment, you have a right to free speech.      Whenever any entity, especially under the authority granted by the state, will impinge on your right to freedom of speech and association, that action by the state which creates that set of circumstances violates the U.S. Constitution.      There is a case pending before the U.S. Supreme Court now, relative to the beef checkoff.      This thing was done originally by the federal government.      The cattlemen, not "cattlepersons" because that term would embrace all people who raise cattle, "the cattlemen" is a designation of a specific group or constituency.      They were able to mount enough pressure on the federal government through their lobbying to have a mandatory beef checkoff put in place.      Others may disagree with the way I've characterized how the beef checkoff came into existence.      In Nebraska, there was a reading of the writing on the wall.      In view of an earlier decision by the U.S. Supreme Court striking down a mandatory checkoff that dealt with a different industry, it is likely and it may be

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Transcriber's Office  
FLOOR DEBATE

March 29, 2005      LB 150

anticipated that the U.S. Supreme Court will rule the same way with reference to the beef checkoff which is mandatory. In anticipation of that, the cattlemen want the Nebraska Legislature to put in place what amounts to a mandatory beef checkoff. If you read the last page or the last two pages of the green copy of the bill, you will see where two contingencies are mentioned. One of them relates to the possible decision that will be reached by the U.S. Supreme Court in the case that I've touched on briefly. Why do I say that LB 150 would impose a mandatory beef checkoff? Because whenever...let me start that sentence differently. Regardless of whether a producer wants to contribute this amount of money or not, the money is taken against the will of the producer. Those who push this bill feel that they can make this bitter pill easier to swallow by allowing the producer who does not want to contribute the money to seek a refund. That should not be. What this amendment does that I'm offering is to say that when a producer comes to the sale barn to sell his or her critters, there will be a person at that barn who will accept this fee from everybody willing to contribute it voluntarily. Nothing could be fairer than that. In other areas of the law, the court has ruled that in order for an act to be deemed voluntary, there can be no coercion, no pressure of any kind, not physical, psychological, not direct or indirect. We're not just talking about pressure brought to bear on a producer, we're talking about the confiscation of the producer's money against the producer's will, and that should not be done. Have I ever produced cattle? No. Have I ever ridden the back of a bull in a rodeo? Of course not. I would not inflict such pain and torture on a bull. Some people don't know why those animals jump like they do. They don't look at the ropes and the straps around that animal. Have I consumed products that can be described or put under the term "beef"? Yes. As a matter of fact, if cattle knew how much over my lifetime I have consumed, they would just sit still so that I would not become suspicious, and if I got close enough, inside their pen or outside of it, they would stampede and trample me into the ground. But they don't know. My amendment would say that at the point of sale the producer decides whether to give the contribution or not. That is the only way this checkoff can be voluntary. It also points out that if an out-of-state buyer makes a purchase at a sale barn and the critters were raised,

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Transcriber's Office  
FLOOR DEBATE

March 29, 2005      LB 150

fed or maintained in Nebraska immediately prior to the sale, the sale will be deemed to have taken place in Nebraska unless there has been a reciprocal agreement entered into by the Department of Agriculture that would cover this set of circumstances. If you have any questions, I'm prepared to answer them. How much time do I have, Mr. President?

SENATOR CUDABACK: About 2.5 minutes, Senator.

SENATOR CHAMBERS: Thank you. I will tell you how the bill got off General File without me being opposed to it. Again, I don't favor the mandatory checkoff. Senator Kremer did not attempt to mislead me. I was not at the committee meeting when the bill was advanced. He was under the impression that opposition to this proposal that exists in LB 150 had evaporated in view of the time that would elapse between taking a producer's money and granting a refund. The opposition continues to exist. The reason at that point I did not fight the bill is because I did not want to substitute my judgment for those producers who are going to have to give up this checkoff money, even though it was not voluntary. I'm not substituting my judgment now. There are producers who don't want this. They don't want the state letting this private outfit go into their pocket and take the money, and then put them through various problems to get their own money returned to them. That's how the bill got where it is. But now, brothers and sisters, I'm going to ride this critter and this critter is not going to survive without my amendment. That's my intent. I don't know whether Senator Kremer has got 33 votes, but we're going to have an opportunity to see how well he can manage the floor and persuade 32 others to join him in taking, against the producer's will, money out of his or her pocket for this private outfit to laud what they are doing, and working sometimes against the interests of the producers who were forced to give this money. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. You've heard the opening on AM0967. Open for discussion, Senator Kremer, followed by Senators Stuthman, Wehrbein, and Senator Chambers. Senator Kremer.

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

March 29, 2005      LB 150

SENATOR KREMER: Thank you, Mr. President, members of the body. Let me give you just a little bit of background. We introduced this bill last year. It was about two down on the agenda when we adjourned. We had interim studies the year before that, and we had...we looked at really all checkoffs: corn, soybean, wheat, beef, pork, whatever, just to get people's ideas on what needs to be done. It was overwhelmingly support of checkoffs. Checkoffs are money that is...comes from the producers themselves to promote our agriculture products, whatever they might be. Many...most of the other checkoffs, there's no refund at all. It's all mandatory. The wheat checkoff is mandatory. They want it left that way. They can even use it for lobbying. Many of them can't. The beef checkoff was instigated in about 1988, something like that, I could be off a year or so. It started out with a referendum and I think the referendum passed by about 79 percent. So it was a decision of beef producers. I remember at that time if you even had one head of livestock, of beef, like a 4-H calf, you could come and vote on that. So it was not big producers. It was not numbers of animals. It was the producer themselves, not like somebody that fed 10,000 head could have 10,000 votes. The beef council now is a private entity. We do not want it to be a public entity for-profit. It has to meet all the qualifications that make it qualify for that, and that was in place on the national level. They are elected by producers. In order to get to be nominated, you have to go around and get 100 signatures of producers to be nominated to be voted on. Then the board is voted on by the producers themselves. The money is all producer money. The livestock industry is about a \$6 billion industry in Nebraska. We provide about 20 percent of the beef for the nation. We need to promote our products. You can see what happens when Japan closes their borders to us. A lot of money, at least from the corn checkoff money, goes toward the beef export federation, which tries to develop markets throughout the world. We...the "Beef, It's What's for Dinner" is one of the most recognizable slogans that we have. The safety of beef; we'd done lots of research with this money on E. coli, and I noticed just the other day where E. coli incidents have dropped I think about 80 percent of what they were at one time. They've dropped down 80 percent, so there's just a lot fewer than what there was. Chris Calkins from the University of Nebraska has done a lot of research on

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

March 29, 2005      LB 150

cuts of meat. He's taken cheaper cuts and made it...found out some muscles that would make a prime quality beef meal. The...what's the name of the...this flatiron steak, I think is one that's very popular. That's made it so it's people that are able to buy this at a cheaper price. It's also made it a better price for our beef. It's something that needs to be here. And to have this opted out at the point of sale, we...the original bill said that you had to apply for your refund within a month, then the refund would not be made until quarterly, just to make less paperwork. And then we realized that there were some that felt like that was too long. They did not want somebody using their money for that time, so we even, before the hearing this year, came in with the amendment to make it so that you could get your refund within one month. The...a couple groups, the livestock marketing association, Senator Cap Dierks,...

SENATOR CUDABACK: One minute.

SENATOR KREMER: ...came in and testified, and he said he was going to be against the bill. When we found that we had made it available that they could get their refund within a month then he talked about how important that the checkoff is. And many of the opposing groups even say the checkoff is very important; that we need this money by producers to promote our product. It's not anybody else. It's not LB 775 money. The livestock industry really gets hardly any incentives from anything else other than our own. There's been some research done of where the support is, and I think the last I saw was...it was several months ago, maybe a year ago that the research was done, showed a 73 percent support of the checkoff money. It's something that we have to do. If we opt out at the point of sale, we've got some information here from Louisiana that tried that and they said all the misconduct and the misuse of it. We've made this bill so that you can...they take a dollar, but you can ask for 50 cents back, you can ask for a quarter back, you can ask for 75 cents back, you can ask for all of it back. So every time you'd sell cattle...and it's not just the sale barn that sells them. There's a lot of private sales are made. The Brand Committee collects that. All the checkoffs are done at the slaughterhouses, too. You would have to somehow tell them how much you wanted to checkoff, and all the paperwork and the

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

March 29, 2005 LB 150

misconduct that could come from that is something...

SENATOR CUDABACK: Time, Senator Kremer.

SENATOR KREMER: ...that we just can't do. Thank you.

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

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. Realistically, in my opinion, Senator Chambers' amendment where we'll have an individual that sells their livestock at a marketplace, packing plant or wherever, they would just sign a certificate stating, you know, they do not want their checkoff dollars removed from their check. I think...and I have been very close to the pork association. Years and years ago they started with a voluntary checkoff just like what the beef producers are planning right now where the money was sent in, you could submit a letter stating that you wanted your money back within a certain period of time. I think if...with Senator Chambers' amendment, where the individuals can, at the point of sale, when they get their check or when they check in their livestock, they can...they'll have to ask them, do you want your checkoff taken off? They'll sign a sheet and say, no, I want to keep all the dollars that I've got coming to me. If this would happen, we just as well scrap the whole program because I don't think there's going to be any dollars, you know, collected for beef promotion. No one is going to be out there working for the producers and, realistically, the ones that the beef promotion, research, and education work for are the smaller producers. People don't realize that, but they work very hard for the smaller producers. But in the conversation that I've had with a lot of people, it's the smaller producers that, you know, want those checkoff dollars at home. They want to keep them. They want every dollar they got coming to them. But yet, we must realize that the promotion and education is for beef. Beef, it's what's for dinner. That's for everyone. I think in the future, in the long run, if this program isn't continued, if it is ruled against the national checkoff and we don't have a state program in place, I think the whole program is down the tube. What's going to happen in the future then? Large corporations, like Tyson Foods, Cargill, they're going to promote their

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

March 29, 2005      LB 150

product. They're going to have their supply of cattle. They're going to sell their product and they're going to benefit from the profits. They may not have room to slaughter a small producer's product, the guys that have just maybe a couple hundred head in the feed yard. They may never be able to market them. Yes, they will be able to market them whenever the larger packing plants decide that they want to take them in or don't have enough cattle of their own or people that they have contracts with. So I think this is something that we've got to be very careful as to what we're really trying to do. And if we get to the point where we have it where it's taken off before, if we're...if it's never taken off, people that have, you know, cattle going to the barn and they want all of their dollars and they're not going to contribute a penny towards advertisement, research, and development, you know, then I think we're in real trouble. I think...I think we need to look, you know, what are the benefits of these small dollars that are taken out of the check. Who's going to pay for the research, the development and the advertising of the product that we raise? I think there's one thing that we need to also remember, that...

SENATOR CUDABACK: One minute.

SENATOR STUTHMAN: ...that we, we as livestock producers, our best friend needs to be the one that slaughters the animal and the retailer that sells the animal, that sells the cut. We don't do it as beef producers. So I think we need to take a real close look at this. I think the voluntary part of it, you know, the way it is planned in this bill, the original bill, Senator Kremer's bill that would, you know, have the money checked off, if you request a refund within a certain period of time and you would receive...then you would receive the refund, I think that's the only way that it will realistically work. But if we have it taken off before the point of sale we just as well scrap the whole program and just drop everything. So, with that, I'll return the balance of my time back to the Chair. Thank you.

SENATOR CUDABACK: Thank you, Senator Stuthman. Further discussion? Senator Wehrbein, followed by Senators Chambers, Loudon, Hudkins, and Kremer. Senator Wehrbein.

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

March 29, 2005      LB 150

SENATOR WEHRBEIN:      Thank you, Mr. President.      Members of the Unicameral, I rise to support...or strongly oppose, strongly oppose Senator Chambers' bill (sic) and amendment. It's very frustrating, as an independent...as independent as the beef producers are...actually, we're like farmers, beef producers...going our separate ways, it's very difficult to get us all united. The beef checkoff has worked very successfully over the many years, in my mind, to promote beef. And, in fact, we enjoy a strong market today based on what was done five and ten years ago when beef consumption was really declining. And I know many of you who are not directly involved in this, you're wondering, why should I have to vote on the checkoff for the beef industry when I'm not directly involved, and there's only a few? But I think it's like a lot of things that we're doing here. Majority...I believe it's an accurate statement to say the majority of the beef industry is supportive of a checkoff. And it's been interesting to me. I had a phone call from Dillon, Montana, this morning. Several of you have had calls from around the state, perhaps around the country, many of them come in...have come in and said, we don't want this, we want Senator Chambers' bill, but we still support the checkoff. And it's very interesting to me how you can say, we don't like the way you're doing it, but we want...we still think the checkoff is a good idea, but we want it to reflect simply our ideas. And it appears to me that we need to consider that this, in a majority...in a democracy, the republic that we're in, the democracy we're in is the majority rules. And even though I recognize there's a minority out there that doesn't want the mandatory checkoff, we have given to that, it's not mandatory, it's with a refund, so this is a compromise, as is presented in Senator Kremer's original bill. You're not going to get everybody agreeable on everything. This is, I think, a recognized fact. But there are some fire walls, if you will, in the way the money is distributed for promotion and for research and all the other things that we faced the last few years particularly. It's...we have...the members that are on this, in this case, Nebraska Beef Council, are elected. They're elected by district, so everyone has a chance. So it isn't that there's not representation. There is representation on how this is done, and if you look at it, once again, not everyone agrees how

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

March 29, 2005

LB 150

things will be done, but we have a mechanism in place that assures that. I have a brochure here that tells all the many things that have been done...many may have that, maybe you don't...talking about the research, talking about the response to BSE, talking about the response to E. coli, talking about the response to, Senator Kremer mentioned, the flatiron steak that was developed in research. I won't go into all the details, but I did judge a culinary contest just two weeks ago tasting products, all...and I had a very interesting time doing that. We're promoting those with chefs, we're...I was on a worldwide...on an overseas venture, like many of you have been, to promote beef in foreign countries, particularly the Far East. Those are all done also by Nebraska Beef Council. I don't want to leave the impression that they sent me, but they did...they are working in the European community, they're working in the Far East with chefs, with the public, with consumers over there, promoting this product. I ask you how that's going to get done if we don't voluntarily do some things and support the industry ourselves. And it doesn't make any difference whether it's corn or wheat or soybeans or beef or pork. This is an opportunity for us to pool our resources. How much can each one of us do individually?

SENATOR CUDABACK: One minute.

SENATOR WEHRBEIN: Not very much. But when we band together and use our dollars collectively and do it with a majority vote that we agree on what is to be promoted, I can't help but think that it's...we're all better off for it, particularly the industry. And so doing...going Senator Chambers' route with the amendment is simply going to...when the people see, well, he's not doing it, I'm not doing it. Take it to everyday life. When somebody is getting away with something or not doing their support, say, well, why should I work so hard if everybody else is starting to slack? Why should I work so hard if they're pulling their money out? And that's what's going to happen. This is not a restrictive policy, in terms...a 30-day is a compromise Senator Kremer worked out. You get your money back by 15 days after that. And it seems like when you...if you really believe in the good of the industry, and most of them say they do,...

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

March 29, 2005      LB 150

SENATOR CUDABACK:    Time, Senator.

SENATOR WEHRBEIN:    ...then this is not onerous.    Thank you.

SENATOR CUDABACK:    Thank you, Senator Wehrbein.    Senator Chambers, you're recognized on AM0967.

SENATOR CHAMBERS:    Mr. President, members of the Legislature, look at my complexion and you'll see a man and...whose ancestors have been denied the benefits of democracy, so we understand what those concepts are. And I find it ironic that a man in my situation has to talk to people of your complexion and your political persuasion, which generally is conservative, about democracy. When has democracy ever been a concept which entitled the majority to decide to take something from the minority which they had no right to take? What is being asked for in LB 150 is to let some paternalistic individuals decide what, in their mind, is best for people who don't want to give their money to advertising and propaganda programs. So these paternalists, who know better than these people who are producing, know what's in their best interests, the paternalists will say, well, you don't know what's in your best interests; we do, and since there are more of us than you, we're going to do what's in your best interests, whether you want to or not, whether it turns out to be in your best interest or not. That is antidemocratic. The majority doesn't rule in every instance. They didn't even rule when there was a Revolutionary War in this country. When they break down those who favored breaking away from England, about one-third favored breaking away, about one-third was opposed, and about one-third were just in the middle without having made up their mind. So that revolution did not occur because a majority of the people on this continent wanted to break away from England. Senator Wehrbein is arguing that if you just deprive somebody of their right to their own property for 30 days, that's all right. I'm sure that what Senator Janssen would like to do in his grocery store is have somebody come in and plop down a \$20 bill and buy \$18.25 worth of groceries, and Senator Janssen tells them, well, I've got some papers here and you fill them out and next month you can come and get your change; you got \$1.75 coming; you're not going to get it right now; I know what's best; if I can take this

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

March 29, 2005      LB 150

money from you and every other customer who comes in here, I can get a pool of money which will make it possible for me to buy larger quantities of these products and ultimately the price will come down for you, so it's in your best interest that I keep your money, because I know what's best for the use of your money than you know. Brothers and sisters, friends, enemies, neutrals, we're not talking about a tax here levied by the government. If the government levies a tax, the money goes into the General Fund. This money goes for the propaganda machine of a specific group of producers who are interested in getting as much profit as they can. There are people who contribute money through this checkoff who do not agree with the approach of those who are taking their money against their money against their will and spending it against their will in a way that the ones who've contributed it feel is against their interests. The U.S. Supreme Court said, when it came to bar association dues, dues can be charged, but they have to prorate those dues to eliminate the amount that might go for lobbying, political activities, and expressions of speech with which the members giving dues don't agree. You cannot compel somebody to give their money to support a form of speech which they are opposed to, and that's what you're asking for here. You conservatives, why is it that somebody like me has to stand on this floor and remind you of your conservative roots? As a conservative, you are not in favor of depriving people of their property, depriving them of their money, then saying, but we're going to only deprive you of it for 30 days, then you can get it back; I know what's best for you; let me take your money against your will, not as a tax,...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...but for a private propaganda machine. Goebbels would have been happy to have had something like this to get his money. If you don't know who Goebbels was, check it out. This is totally inappropriate. My amendment gives people the opportunity to decide if they're going to voluntarily give their money. How are you going to take their money against their will and say it's voluntary? That is crazy. But I'm going to fight this tooth and nail. Up with democracy; down with tyranny. Whether it be national socialism, whether it be

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

March 29, 2005 LB 150

fascism or any of the other "isms," I speak for democracy. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Louden, on the Chambers amendment to LB 150.

SENATOR LOUDEN: Thank you, Mr. President and members of the body. The way I observe Senator Chambers' amendment and, of course, the underlying bill with the amendment from the committee on it, with Senator Chambers' amendment, when you sell your cattle, why, you give consent to pay the fee. If you don't give consent, you don't pay the fee. With the other committee amendment, when you sell your cattle, why, they deduct a fee and if you wish to have it back you...they'll give it back to you by the 15th of the following month. Those are two alternatives. The other alternative is, if you don't want to pay the fee, don't sell your cattle. That's an alternative too. You can trade them, do whatever you want. If you want to promote beef, then somewhere along the line I imagine you're going to have to have someone...you're going to have to pay somebody some money for promotion. I've been in the cattle business probably longer than anybody in here today. I started out when I was quite young. I've been in it over 50 years. I can remember when we had a state checkoff and it was voluntarily. I think it was 50 cents. A quarter of it went for research in Nebraska and the other quarter went to a national organization at that time called the meat board, which didn't do much, but usually advertised how good the pork producers were, pork or something else. It promoted all meats at that time. Along in the eighties, as Senator Kremer has mentioned, the federal...we had a federal checkoff we voted in. Everybody that had cattle got to vote for it. I had kids that were seven or eight years old. They got to vote for it. I questioned at the time the way that was instigated, but at that time we were getting beat to death by other organizations and other food chains. I remember Long John Silver was bragging how much their fish was better than beef and how much cheaper they were. Black & Decker tools were comparing their price to a steak, that how much cheaper their Black & Decker tools were according to the price of a beef steak. We were getting beaten all over the place on how we were...how bad beef was for us. We had heart people out telling

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

March 29, 2005      LB 150

us it was going to kill you if it ate it all. My mom has lived on it all of her life and she's 102, so I know it wasn't quite that bad. Along we came with the beef checkoff and we got into some research. University here was the one that invented the flatiron steak. I think Skeeter Barnes or somebody downtown here was one of the first ones that started selling flatiron steaks. That was a steak that was cut out of a cheaper article of the meat. It come off of the shoulder. This was the research. A lot of the research has been done on some of the medical needs out...that can be used for beef. Your Gummi Bears you eat, those are made out of beef floating around at times. There's different parts that your Jell-O and all that comes from beef. So we have to have some research in there, so the question is, is how are we going to pay for it? Whether we use Senator Chambers' idea and everybody is going to decide whether or not they want to pay, sort of like going to church. When they pass the plate around, you get to decide whether you want to put any in it or not. You can see how churches operate. Some of them do quite well. If they can sell their message, they do quite well; if they can't, why, they probably don't get near the money involved that they would like to have. I think the committee amendment isn't all that bad. If you want your money back, you got 15 days or up to 45 days that you can probably get it back.

SENATOR CUDABACK: One minute.

SENATOR LOUDEN: You can file and then by the 15th of the following month you can get it back. Somewhere along the line, if you're going to have a beef business, you going to have to promote the...promote the product. With our promotion, we've done quite well. Right now, the United States is the largest consumer of meat in the world. Right now, we're producing more meat with 95 million head of cattle than we were with 120 million a few years back because of the research and the genetics that went into cattle. So it isn't been all that bad. And I realize that this is something where you call it a tax or what you call it, whatever you want to call it, but I want to remind Senator Chambers and anyone else that we have three alternatives here. We have Senator Chambers' bill (sic), we have the committee bill, and also the person that owns the

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

March 29, 2005      LB 150

cattle don't have to sell them if they don't want to pay the checkoff. Thank you.

SENATOR CUDABACK: Thank you, Senator Louden. (Visitors introduced.) On with discussion. Senator Hudkins.

SENATOR HUDKINS: Thank you, Mr. President and members of the body. Everybody gets benefit from this checkoff. The producers do. The consumers do because they have the increased knowledge. They have been the beneficiaries of more cuts of meat, research. What does the consumer want? They want a lean, nutritious, wholesome product, and that's what they're getting. Without the research, without the promotion and without the development, we wouldn't probably have the demand for beef that we do. I support the checkoff. Senator Chambers said, or somebody did, I don't know who it was, somebody said, well, I support the checkoff but I don't want to contribute my money. Well, if you say I support the checkoff but I don't want to contribute, then, no, you don't support the checkoff. You're being greedy. We do have a mandatory checkoff. But if you put in the required papers, paperwork, you do get that money back. So, in effect, it is a voluntary checkoff. We recently sold cattle at Columbus. In fact, it was Saturday. We received...and they were going to check the records. They thought that we had received and all-time high for those cattle: 600-pound animals, almost \$1.50 a pound. Now, it's going to show up in the marketplace, yes, of course it will. But if you take off our expenses, you know, the insurance, the feed at the yard, the commission, all of those other things, we very, very gladly paid that \$1 a head checkoff because \$1 back in payment for \$750, to me, that's a pretty good investment. Senator Chambers said that Senator Janssen would like to have people pay more money and then get a refund back. That's not the same thing. When people go to a grocery store, they are buying a product. They take it home and they put it in their refrigerator or in their cupboards. A \$1 checkoff per animal is paying for research, development, and promotion. It is an investment in the future. I believe that we have a couple of bills, I think Senator Redfield is the sponsor of them, where it has to do with unions. If you are working in a union shop but, yet, you are not a member of the union and you want to take advantage of...there's

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

March 29, 2005      LB 150, 297, 436, 500A, 554A  
                         LR 12, 66

a grievance or something, and you want to take advantage of using the union attorneys to represent you, then you have to pay for that service. It's the same thing with the beef checkoff. Everybody gains benefit. You, even though you don't sell animals and pay the checkoff, you pay them and get the refund back. You are still getting the benefit from that checkoff--the research, the promotion, and the development. We've heard a couple of senators this morning talk about the flatiron steak. The flatiron, and I am a former, a long, long time ago, meat identification team winner at the American Royal show in Kansas City. We never heard of the flatiron steak at that point, but now with the research, paid for by the money from the checkoff, there are new cuts. The flatiron steak is one of them. I asked Senator Janssen what is, at the butcher shop, what is the cost of a flatiron steak going to be? He said about...

SENATOR CUDABACK: One minute.

SENATOR JANSSEN: ...\$4.59. That flatiron steak is taken from the chuck. That's in the front shoulder of a beef animal. If you would buy a chuck roast, that's \$3.25. There is \$1.34 difference just because of the increased research and development. It was said the producers are wanting as much profit as they can possibly get. Now, tell me, what is wrong with that? The people that grow the products are contributing and promoting, they're contributing to and promoting their own products, so I definitely will be opposing Senator Chambers' amendment. Thank you, Mr. President.

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

CLERK: Mr. President, new A bills. (Read LB 554A and LB 500A by title for the first time.) Amendments to be printed: Senator Friend to LR 12CA, Senator Smith to LR 12CA. Your Committee on Business and Labor, chaired by Senator Cunningham, reports LB 297 to General File with amendments, and LB 436 to General File with amendments; those reports signed by Senator Cunningham. And a new resolution, LR 66, by Senator Stuhr. (Legislative Journal pages 1014-1016.)

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

March 29, 2005      LB 150

Mr. President, I have a priority motion. Senator Pahls would move to recess until 1:30 p.m.

SENATOR CUDABACK:      Heard the motion to recess till 1:30 p.m. All in favor say aye. Opposed, nay. We are recessed.

RECESS

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK:      Good afternoon. Welcome to the George W. Norris Legislative Chamber. Senators, our afternoon session is about to reconvene. Please check in. Convene, reconvene, rather. Record please, Mr. Clerk.

ASSISTANT CLERK:      There is a quorum present, Mr. President.

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

ASSISTANT CLERK:      Not at this time.

SENATOR CUDABACK:      I would like to make an announcement. (Visitors introduced.) Mr. Clerk, where we when we left off for lunch?

ASSISTANT CLERK:      Mr. President, prior to recess, the Legislature was considering LB 150. At that time, we had considered an amendment by Senator Beutler, which was adopted. We are now considering a Chambers amendment, AM0967. (Legislative Journal pages 1013-1014.)

SENATOR CUDABACK:      On with discussion of the Chambers amendment, AM0967, to LB 150. Senator Kremer, followed by Senators Erdman, Baker, Chambers, and Stuthman. Senator Kremer.

SENATOR KREMER:      Thank you, Mr. President, members of the body. I kind of, the last time I spoke, talked a little bit about the

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

March 29, 2005      LB 150

interim studies we had and the efforts that we did to try to come together with something that was...that would work and it would address the problem with the Supreme Court decision, whatever it might be, being a mandatory and that no refund, thinking it would violate the First Amendment. I'd just like to make a few other comments. The beef promotion now is a generic promotion. If we would get anything away from a generic, then you'd start promoting different brands or something like that. We'd have all kinds of problems. Some of the people have said that they don't like generic, that they would like to promote their own product, and actually that happened with, as Senator Chambers mentioned, the mushroom checkoff. It was a large mushroom producer that did not want to promote for anybody else. He wanted to use his money to promote for just himself, and they brought the lawsuit and won it. So that kind of really leaves the small people out in the cold, so...and anybody that is getting a premium for some kind of a product that they have, whether it's a value-added or they...maybe it's a grass-fed beef or something like that, if they're getting a premium, I would much rather have a premium on cattle that are worth 80 cents a hundred or 90 cents a hundred, against some that are 50 cents a hundred. If you raise the bar, a premium is on top of that. So really, everyone benefits. It doesn't make any difference who it is. The large producer contributes more. If they benefit more, they contribute more on the mandatory. We've getting some several calls, people saying we need to leave it mandatory, and I think that's best because you come up with the...those that are...that are free riders. Somebody that doesn't want to pay it, doesn't pay it, but he still benefits from it. The...actually, Senator Chambers' amendment maximizes the free rider problem because then you're going to have fewer people that are contributing and then it just degenerates from there. We have some information here from Indiana. They have a corn checkoff that they tried to do that, that you opt in. That's what Senator Chambers' amendment really does, is that you opt in, not opt out. So you have to sign something that says, I want my checkoff or my cattle to participate in the checkoff. Indiana have that and it deteriorated. It started out not too bad, but as more people saw people that were free riders, they said, I'm not going to carry this all myself, so they all started opting out. And it got down to where they're only

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

March 29, 2005      LB 150

collecting 1.5 percent of their checkoff, and it should be about several million. They have about 929 million bushels of corn in Indiana and would collect about \$4.6 million, and the way that is with opting out or opting in, they're only collecting about \$65,000 to \$75,000. If we...this would happen with the beef checkoff, instead of collecting \$7.5 million to \$8 million, to \$9 million, we would be collecting just a portion of that, about \$300 and...\$137, if you use that same percentage. Then it's not worth to anybody anything. And I think Senator Stuthman even mentioned this. If we would have it people could...had to opt in, then we just as well do away with the bill. And if we do that, then we just as well...then we'll do away with corn checkoff, with the wheat checkoff, with the soybean checkoff. And all these checkoffs are producers' money that's really promoting the economic development in the whole state and the economic viability of the whole state. When you take industry, like agriculture, and you have the corn and soybeans and all the promotion that they do, plus the research and the education, if we do away with all that money, then where is it going to come from? We're going to be hurting our whole state, not just the beef industry.

SENATOR CUDABACK: One minute.

SENATOR KPEMER: Okay. The...we did see some other information that I can't remember, Maryland or some university did some study on what kind of return that we get from the checkoff, and they estimated that the producer themselves got about a 2 percent increase in their...in their...in the profits or the sales of the livestock, and at 2 percent, a steer that's ready to be slaughtered is worth about \$1,200, and if you think 2 percent of that, that's \$24. That shows a \$1 investment gets a \$24 return. That money doesn't...I mean, it might go in the producer's pocket, but that's spent right in our small towns and our...and really adds to the whole economy. And if you...you always hear that 7...that...

SENATOR CUDABACK: Time, Senator Kremer.

SENATOR KREMER: Thank you.

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

March 29, 2005      LB 150

SENATOR CUDABACK: Thank you, Senator Kremer. (Visitors introduced.) On with discussion. Senator Erdman, followed by Senator Baker and others.

SENATOR ERDMAN: Thank you, Mr. President. Members of the Legislature, I rise in opposition to Senator Chambers' amendment. And I find some irony in this, and that is, Senator Chambers' amendment is an opt-in provision. There was an organization awhile back that tried to come up with a voluntary checkoff program, and their program was designed to be similar to what LB 150 was, and that was a program in which there was a mandatory fee collected, but a refund provision. When they found out that there wasn't going to be a willing partner in that effort, they were told that they had to do an opt-in provision. And so some of the people that are on the opposite side of this proposal, who are in favor of Senator Chambers' amendment, were actually the same people that drew up this similar idea years ago. When they found out that it was going to have to be an opt-in provision, they abandoned it as well, and they said it won't work. So here we are with a similar proposal, which those who would be opposing this piece of legislation based on an original intent that they originally came up with, they're actually saying that this is what they would prefer, knowing full well that it would eliminate the possibility of this program being effective. Little bit of irony, or maybe it's a planned effort. Senator Chambers had some fantastic comments earlier this morning about, up with democracy, and how that would be a great opportunity for us to be able to refund different things that we didn't agree with, or at least that's how I...how I took it. There have been some interesting developments in the U.S. Supreme Court in regards to the national beef checkoff case. One of the justices said that every time we pay general taxes, we're supporting government speech that we may not agree with. Absolutely, I can name a number of things, and probably so can you, of things maybe that this government or that the federal government has done that we wouldn't agree with, or maybe they have taken a position on behalf of an administration that we wouldn't agree with, yet we're still compelled to pay those taxes. This is different. This is a different setup, this is a different system. But at the same time, if we continue down that logic that Senator

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

March 29, 2005      LB 150

Chambers has offered us, we could opt out of things, or other things that we may or may not agree with. That's something that we have tried to avoid in this legislative process in regards to levying taxation. So I think it's interesting to hear these discussions in opposition. I would like to ask Senator Kremer some questions, if he would yield.

SENATOR CUDABACK: Senator Chambers (sic), would you yield to a question?

SENATOR CHAMBERS: Yes, I will.

SENATOR ERDMAN: Senator Chambers.

SENATOR CHAMBERS: Yes.

SENATOR ERDMAN: Was that an accurate description of your argument this morning?

SENATOR CHAMBERS: No.

SENATOR ERDMAN: Not at all?

SENATOR CHAMBERS: Well, you said a lot of different things, so if you'd break it down...

SENATOR ERDMAN: The part about opting out. Excuse me.

SENATOR CHAMBERS: Oh, yes. Okay, let me tell you what...you mean what does my amendment do?

SENATOR ERDMAN: No. The comments you made earlier about, up with democracy, that passionate speech that Senator Friend has urged us.

SENATOR CHAMBERS: Okay. When you have a private outfit such as this that we're talking about, people who do not want to contribute to it should not be compelled by the government to contribute. This is not a general tax to support the general government in discharging its duties. It's a specific, discrete group of profit makers and takers who want to compel others to

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

March 29, 2005      LB 150

contribute to what they're doing when some of those others are opposed to it because what is being done goes against their interests. I tried to sum it up as quickly as I could.

SENATOR ERDMAN:      Would that...would...and I appreciate that. Would that...would you have that same position on all checkoffs?

SENATOR CHAMBERS:      On what checkoffs?

SENATOR ERDMAN:      On all other checkoffs, whether it be a corn checkoff, a wheat checkoff.

SENATOR CHAMBERS:      Well, Senator Erdman, following the wise practice of courts, things are handled on a case-by-case basis because not all cases are exactly the same. But if it is exactly situated as this one is, I would take the same position.

SENATOR ERDMAN:      Okay. Thank you. If I could ask Senator Kremer a question. Is he available?

SENATOR CUDABACK:      Senator Kremer, are you available?

SENATOR KREMER:      Yes.

SENATOR ERDMAN:      Senator Kremer, on the underlying bill with LB 150, the process would allow an individual to request a refund that would be refunded within that month that they requested that. Is that correct?

SENATOR KREMER:      Yes. They would make the request.

SENATOR CUDABACK:      One minute.

SENATOR KREMER:      Then it would be paid to them within 15 days of the request, which would be the end of the month.

SENATOR ERDMAN:      And in a situation, say, that an individual sold their livestock through a marketing association or a sale barn, that facility would make that payment on that checkoff at what time? What's the time frame that they would have to make that payment?

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

March 29, 2005      LB 150

SENATOR KREMER:            Okay.            Say the livestock marketing association...

SENATOR ERDMAN:    Right.

SENATOR KREMER:    ...or a sale barn, they do not have to turn in the money they collected until the 15th day of the month following when it was collected. So it would be identical to the day that they had to send out the refund, really.

SENATOR ERDMAN:    So essentially what you're saying is that, under the provision of the bill now, the way that it's drafted, that in the event that that individual would request the refund, the refund that they would be getting would not have ever gone...or realistically would not have gone into the actual checkoff program.

SENATOR KREMER:    That's correct, because it would get to there on the 15th, and have to be paid out on the 15th.

SENATOR ERDMAN:    Okay. Thank you. Thank you, Mr. President.

SENATOR CUDABACK:    Thank you, Senator Erdman.    (Visitors introduced.) Mr. Clerk, a motion?

ASSISTANT CLERK:    Mr. President, Senator Chambers would move to amend AM0967 with FA131.    (Legislative Journal page 1016.)

SENATOR CUDABACK:    Senator Chambers, to open on your amendment, FA131.

SENATOR CHAMBERS:    Thank you. Mr. President, members of the Legislature, I do declare my intentions in advance on most occasions, and I did it on this bill. I intend to talk forever and ever, plus one day. But this amendment goes along with what is being done in the original amendment in that it's going to correct some language in the existing law. In line 22, after the word "any," line 22 in my amendment, this is the language that would be added to my amendment to correct existing language in the current law. On page 12 of the green copy, in line 14,

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

March 29, 2005      LB 150

strike the word "or" and insert the word "nor." When you're having this construction of using...I won't say what they're called, but these two words, "either, or," "neither, nor," you don't mix them and say "either, nor," "neither, or." So the present construction of the language is "neither, or." It should be "neither, nor," so that's what I want to correct in that regard. In line 18, again on page 12 of the existing language, you have the word "proper." It would be more appropriate to use the word "appropriate." So I would strike "proper" and insert "appropriate." These changes do not alter the meaning of the existing law. They have no bearing whatsoever on the amendment that I have placed before you. But any motion or amendment gives us the opportunity to discuss my amendment and the underlying approach of the bill. I would like to ask Senator Kremer a question or two.

SENATOR CUDABACK: Senator Kremer, would you yield?

SENATOR KREMER: Yes, I will.

SENATOR CHAMBERS: Senator Kremer, under the existing law, how much per head is the checkoff taking?

SENATOR KREMER: Are you talking about the existing federal law?

SENATOR CHAMBERS: Yes.

SENATOR KREMER: One dollar per head.

SENATOR CHAMBERS: Now, Senator Kremer, how much of that \$1 stays in Nebraska, and how much goes to the national organization?

SENATOR KREMER: Fifty cents stays in Nebraska; fifty cents goes to the federation, which is a group of states that all work together. It doesn't do a lot of good to promote everything in Nebraska. We need to promote in the world around and New York and Los Angeles and everywhere else. So even some of the 50 cents I think is probably pooled with some other states' monies.

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

March 29, 2005      LB 150

SENATOR CHAMBERS:    Is it true, Senator Kremer, that it was decided that an additional 20 cents should leave Nebraska, so that a total of 70 cents out of each \$1 paid per head in Nebraska leaves Nebraska?

SENATOR KREMER:    Oh, okay. I think it, just what I said, that some of the 50 cents is also pooled with other states, and so I think around 70 cents does go out at this time now to promote beef in foreign countries, as well as around the United States, because many states really do not have a beef industry.

SENATOR CHAMBERS:    Does the checkoff in Nebraska produce about \$10 million a year?

SENATOR KREMER:    Well, I think maybe around \$9 million, and we're anticipating, with the refunds, that it would maybe bring in \$7.5.

SENATOR CHAMBERS:    I'm talking about right now, where they're...

SENATOR KREMER:    (Inaudible).

SENATOR CHAMBERS:    ...where \$1 is being taken out.

SENATOR KREMER:    That's correct, somewhere around \$9 million.

SENATOR CHAMBERS:    Why not \$10 million?

SENATOR KREMER:    Well, I'd rather not (inaudible).

SENATOR CHAMBERS:    When we're saying "about," it could be about \$10 million just as easily as it could be about \$9 million, couldn't it?

SENATOR KREMER:    Yeah, that's fine.

SENATOR CHAMBERS:    Okay. So \$7 million out of the \$10 million is going outside of Nebraska to benefit other areas of the state...of the country. Is that true? In other words, it's taking up slack in other areas where there is no cattle industry, as you said?

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

March 29, 2005      LB 150

SENATOR KREMER: Well, the money goes out to where the consumers are, and we benefit from that. As I mentioned that about 2 percent return on your...2 percent of the total sale of the animal is increased because of that and the research that's been done. It's around \$24. So we in Nebraska return about \$24 for every \$1 spent.

SENATOR CHAMBERS: Senator Kremer, we know that there are blank, blank-blank, and statistics.

SENATOR KREMER: That's true.

SENATOR CHAMBERS: Okay, so let's go to something else. There is a board called the Cattlemen's Beef Board, which is nominated by the U.S. Secretary of Agriculture. Is that true, the members of that Cattlemen's Beef Board?

SENATOR KREMER: I understand the nominees are appointed by the Secretary of Agriculture.

SENATOR CHAMBERS: And if the federal court strikes down the mandatory beef checkoff, that Cattlemen's Beef Board would cease to exist. Isn't that true?

SENATOR KREMER: That's true, unless they would...unless they would declare only a portion of the law being...violating the First Amendment. Because it seems like they have stood up under the...held up the research and the education somewhat, so we really don't know what will happen to that. But I guess, hopefully, they would have another organization that would meet all the requirements in the...and adhere to the problems that the courts decided that we could do it uniformly with all states. And so...but they would be struck down, I'm sure.

SENATOR CHAMBERS: Senator Kremer, when I was a younger person and in school, a word they gave us which was Greek was "eureka," meaning, I have found it, or I understand. You just caused a eureka moment. Neither you, nor I, nor anybody else at this point, can say with certitude what the U.S. Supreme Court is going to decide. Would you agree with that?

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

March 29, 2005      LB 150

SENATOR KREMER: Yes, I would agree with that.

SENATOR CHAMBERS: Why then are we pushing a piece of legislation now which could fly in the face of a U.S. Supreme Court decision, or which would not even be necessary? What is the hurry?

SENATOR KREMER: Okay, I don't think this will fly in the face of the Supreme Court decision. The problem is, is that it could be like before anything else was being able to get organized or something, we could have two years or so that we would have no money for promotion to open up foreign markets; that there would be a gap. This is to...so that we kind of have a seamless program that could go on that would meet the requirements of what...if the constitution...if they...if the Supreme Court decides it's unconstitutional. So we feel like it's important it's ongoing. If everything goes away and it's start up again from scratch, it would be very difficult and we would lose a lot of...a lot of promotion and research and education.

SENATOR CHAMBERS: Senator Kremer, you know what the National Cattlemen's Beef Association is, don't you?

SENATOR KREMER: Yes, I do.

SENATOR CHAMBERS: Now, do they have the contract to make use of these checkoff funds to decide what programs are to be funded and what are the uses to be made of this money?

SENATOR KREMER: You know, I don't think they have an exclusive contract. I think they're used some time, but they are...they are required to keep a fire wall that it could not be used for lobbying, for a lot of things. And I did have the report from the auditors for about five years in a row that said they looked at that and that they were in accord with all the requirements; that it's not money that's spent on their own program. It's not (inaudible).

SENATOR CHAMBERS: Okay. What is the source of funds that keeps that NCBA operational? Aside from the beef checkoff money, what

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

March 29, 2005      LB 150

source of funding does NCBA have? None, does it?

SENATOR KREMER: Well, there are membership dues for the Cattlemen's Association, and any lobbying or anything that's done with...for membership dues, which is voluntarily. But then when you...then they do contract sometimes to do some research for them. But they are...they are required to keep that isolated and there's a fire wall between that. Now, I suppose there's some people that don't...

SENATOR CUDABACK: One minute.

SENATOR KREMER: ...feel it's effective, but that's what...

SENATOR CHAMBERS: Okay. Where does the money for staffing, rent, operational overhead come from?

SENATOR KREMER: Well, I know the National Cattlemen's Association, that all comes from the membership. But I cannot tell you whether...I'm sure that, just like the Beef Council, that they do have some expenses that are associated with the research or with the promotion that would be...I can't tell you the...

SENATOR CHAMBERS: And some of the checkoff money goes to operational expenses, overhead and staffing and buildings. Isn't that true?

SENATOR KREMER: It...I can't tell you for sure what...how much or anything.

SENATOR CHAMBERS: Okay. My time is...

SENATOR KREMER: But I know the Cattlemen's Association is all from membership.

SENATOR CHAMBERS: My time is up, so I won't pursue it at this time. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. You've heard the opening on FA131 to AM0967 to LB 150. Open for discussion.

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

March 29, 2005      LB 150

Senator Baker.

SENATOR BAKER: Thank you, President Cudaback and members. I'm going to go back to the foundation of what we're discussing here. I'm a small producer. I don't wear a great big hat because I don't have very many cattle, like Senator Louden may have. I don't know how many he has, but he's got a big hat. I wear a little bitty hat. I'm one of those small independent producers that depends on the beef checkoff to help me market my cattle. I'm not a Tyson. I'm not a Hudson Foods. They have their own brands. They have their own promotional agenda. I don't have that, as a small producer. I depend on the checkoff that I pay, \$1 a head, to help me market my product. I find it very interesting that the messenger in this particular issue here on AM0967, Senator Chambers...and I see Senator Chambers is having a conversation with Senator Combs. I'd like to ask Senator Chambers a question, just...just to get some background here, some foundation laid on what we're doing here.

SENATOR CUDABACK: Senator Chambers.

SENATOR CHAMBERS: Sure.

SENATOR BAKER: Senator Chambers, do you own some cattle or...I haven't checked disclosure. You have a herd of cattle somewhere or have you ever been out on the farm and ranch?

SENATOR CHAMBERS: Well, in accord with my Fifth Amendment right under the constitution not to answer any question that might tend to incriminate me, I could refuse to answer that question; however, I will answer it because it's you. What was the question now? Whether I owned cattle?

SENATOR BAKER: Well, what your practical experience with raising cattle might be.

SENATOR CHAMBERS: Oh, I have no practical experience with raising cattle, but I have with raising Cain, even though I've never been on a farm.

SENATOR BAKER: Well, I'd encourage you to come out with one of

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Transcriber's Office  
FLOOR DEBATE

March 29, 2005      LB 150

us that produces cattle and show you how dependent we are upon the checkoff to help us market those cattle. I don't have very many cows and I can't...I can't, quite honestly, I can't buy an ad in the World-Herald or Lincoln Journal or a national magazine to help me promote my cattle. I have to depend on that \$1 checkoff. And I would encourage you to think about the people that apparently have enlisted your...for help to stop this checkoff when they're the very ones that need it the most. I'm one of them. Without this program, I can't...I can't mount an advertising campaign with my few head of cows. Would you agree with that?

SENATOR CHAMBERS: But my amendment does not stop you from contributing at all. Let the willing. As your President said about those in Iraq, let it be a coalition of the willing.

SENATOR BAKER: Well, that's the point. The bill, the only thing we're quibbling about here is whether you get...can check...or you can opt out at the point of sale. It'd be a bookkeeping nightmare. This is an option and I think we're quibbling over minor details here. I think, first place, you're not going to see very many people opt out. I don't know what they're telling you out in the lobby, but I don't think you'll see...the large producers aren't going to opt out, and I'm a small producer and I'm certainly not going to opt out, because without this help I can't market my cattle.

SENATOR CHAMBERS: Well,...

SENATOR BAKER: I just...I don't have the wherewithal to do it.

SENATOR CHAMBERS: Senator Baker, if I'm going to weigh on the one side bookkeeping inconvenience and on the other a right of the citizens in this country not to have their property taken from them, I come down on the side of the citizens and I'm not worried about the bookkeeping inconvenience. But you know, I think, that the ones who would object the most to what I'm talking about would be the packers, because they are the ones to whom most of these cattle will be sold, and the packers are the ones who would be objecting. Isn't that true?

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

March 29, 2005      LB 150

SENATOR BAKER: I was asking the questions, but I don't think that would be true, Senator Chambers. I think they've set up to handle this. They're doing it now. This would be no change other than they... I would say that they would have to entail a little additional help at the packer's site if people requested the refund, but me go about what I was going to say. I want to... I'm repeating a bit of what I started with opening. The small producers are the ones that benefit the most from this checkoff. For the life of me, I don't know how they've convinced Senator Chambers, the small producers, this is bad. I'm a small producer.

SENATOR CUDABACK: One minute.

SENATOR BAKER: I can't, for the life of me, understand why anyone would want to opt out of this. This is my marketing tool. This helps me. Beef, it's what's for dinner. It helps me get a better price out of my cattle. And, for the life of me, Tysons and IBPs and so on, they're not going to...they're not worried about the \$1 checkoff to market. They have their own products out there. So my point is, the small producer out there, and I've heard from some of my constituents today, a couple small producers, say, I don't want to do this. And when you explain to them that it's an option and it might not be all that bad, they can say, well, I don't oppose a checkoff, I just don't want to have to file the paperwork to get my money back. But they're talking out of both sides of their mouth when they say, I don't oppose a checkoff but, yet, I want my money back. So I don't have...they don't lend much credibility to me as far as making a case when they make that kind of a statement. So, with that, I return the last of my time to the Chair, and certainly support the underlying bill, LB 150, without amendments. Thank you.

SENATOR CUDABACK: Thank you, Senator Baker. On with discussion of FA131. Senator Chambers.

SENATOR CHAMBERS: Yes.

SENATOR CUDABACK: Senator Chambers, you're on.

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

March 29, 2005      LB 150

SENATOR CHAMBERS:      Thank you.      Mr. President, members of the Legislature, I would like to ask Senator Kremer a question.

SENATOR CUDABACK:      Senator Kremer, would you yield?

SENATOR KREMER:      Yes.

SENATOR CHAMBERS:      Senator Kremer, under LB 150, without my amendment, if a person wants to get a refund, would that person be refunded the total amount that was taken from him or her, or 95 percent of it?

SENATOR KREMER:      It depends on what he asks for. He would get 100 percent of what he asks for. Because you could ask for, if you do not want to contribute \$1, you could ask for 50 cents back, but you would get 100 percent back of everything that you asked for.

SENATOR CHAMBERS:      Senator Kremer, under the bill, LB 150, is there any provision where the packers will derive any percentage because of the collecting they will do of this money?

SENATOR KREMER:      We did make it available to retain 5 percent, just like when the sales tax in a grocery or anywhere else gets to keep some of it. So the livestock marketing association, which were the ones that do administer...collect the checkoffs, would get something, the Brand Committee would, and the packer would. It doesn't say they will definitely get it, but they could if they would ask for it. Whether they would or not...I would hope that the packers would not ask for it.

SENATOR CHAMBERS:      Senator Kremer, are packers in business to make money?

SENATOR KREMER:      I am sure they are.

SENATOR CHAMBERS:      Do these companies have investors?

SENATOR KREMER:      Yes, they do.

SENATOR CHAMBERS:      Do you think the investors would tell these,

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

March 29, 2005      LB 150

the people who manage these companies, you can get 5 percent of \$10 million and don't take it?

SENATOR KREMER: Well, they would not get 5 percent, because there's a lot of other people that collect the checkoff besides them, so they would...

SENATOR CHAMBERS: Well, what do they get 5 percent of?

SENATOR KREMER: Well, it would be 5 percent of whatever they collected. But there's a lot of...the person that sells the feeder cattle has \$1. So every time that they're sold, there's \$1, so that the livestock marketing, the Brand Committee.

SENATOR CHAMBERS: So...

SENATOR KREMER: Private sales also would be...some is just sent in voluntarily. If I had made a private transaction with Senator Wehrbein and bought his cattle, then he would voluntarily send it in the way it is now.

SENATOR CHAMBERS: Okay.

SENATOR KREMER: And so everybody that would collect it...

SENATOR CHAMBERS: Can...would you be willing to change the bill so that the packers get nothing out of this, this extorted money from the independent producers? Or would that make the packers turn against this bill?

SENATOR KREMER: Oh, I don't...I don't think it would, but then I don't know how you start picking out some that do and some that don't. It's pretty...

SENATOR CHAMBERS: Well, we just do it. We do that in the Legislature all the time. We give tax exemptions, whereas others pay taxes. So we can just do it by saying the packers won't get anything. We can do that, can't we?

SENATOR KREMER: Okay.

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

March 29, 2005      LB 150

SENATOR CHAMBERS: Why wouldn't you want to do that?

SENATOR KREMER: Well,...

SENATOR CHAMBERS: Do you think it would be unfair to the packers?

SENATOR KREMER: No, I don't necessarily think it would be unfair. We're just trying to make it...

SENATOR CHAMBERS: So then why don't we do it?

SENATOR KREMER: ...consistent with anybody that does the bookwork and does some of the work for us.

SENATOR CHAMBERS: Well, they're not doing work for the state. None of this money goes to the state. So when you said work being done for us, you don't mean the state and its citizens, do you?

SENATOR KREMER: Well, I think the citizens or the...benefit some, but then...

SENATOR CHAMBERS: I would like a direct answer...

SENATOR KREMER: ...(inaudible) goes to the producer.

SENATOR CHAMBERS: ...if you can give it.

SENATOR KREMER: Okay.

SENATOR CHAMBERS: This money is not going to the state. Is that true?

SENATOR KREMER: That's true.

SENATOR CHAMBERS: So when the money is collected and you say they're doing work for us, you don't mean the citizens.

SENATOR KREMER: No, I'm thinking of producers.

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

March 29, 2005      LB 150

SENATOR CHAMBERS: Okay. Senator, are you aware that there are some independent cattle producer groups growing up and that some state groups have left the National Cattlemen's Beef Association, some of the states--California, South Dakota, Montana, Wyoming, New Mexico, and Colorado? And Kansas is thinking of setting up their own operation.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: And a lot of cattle are produced in these states. Are you aware, I will ask this question, that there are state groups that don't like what the National Cattlemen's Association is doing?

SENATOR KREMER: Yes, I am aware of it.

SENATOR CHAMBERS: And that they don't approve?

SENATOR KREMER: Yes.

SENATOR CHAMBERS: But if you have the mandatory checkoff, getting away from your bill, that money goes right to that national association, doesn't it?

SENATOR KREMER: Not if you ask for a refund your money does not go there.

SENATOR CHAMBERS: So under the existing law right now, a person can get a refund. Is that true?

SENATOR KREMER: Are you talking about LB 150?

SENATOR CHAMBERS: No. Under the way things are now.

SENATOR KREMER: No, they do not get a refund now,...

SENATOR CHAMBERS: Right.

SENATOR KREMER: ...but it doesn't go directly to the NCBA.

SENATOR CHAMBERS: But they get a part of that automatically.

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

March 29, 2005      LB 150

SENATOR KREMER:      They contract and do some of the promotion, yes.

SENATOR CHAMBERS:    And that's all I'll...

SENATOR KREMER:      Not automatically, I don't think.

SENATOR CHAMBERS:    That's all I'll ask you at this point, Senator Kremer, because I don't...

SENATOR CUDABACK:    Time, Senator.

SENATOR CHAMBERS:    ...want us to be in the middle of something. Thank you, Mr. President.

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

SENATOR STUTHMAN:    Thank you, Mr. President and members of the body. The thing that really concerns me, you know, with this, with this bill, with the amendment that Senator Chambers has on there of, you know, having to...having to give permission to take the money out, I think that's going to be a major downfall of the program. And if that...if that does pass, if that amendment passes, we ought to just drop the whole thing. But, realistically, you know, smaller producers that are out there, I know they're in...they would like to keep all the dollars to themselves but, in my opinion, they don't look at the big picture. There's a lot of cow-calf producers out there that have 25, 50, maybe 100 cows. They sell those 80 calves a year. They spend \$80 to promote beef. If they want to do it on their own, they're more than welcome to do that, but I don't think for \$80 a year they're going to get very many dollars' worth of research, promotion, or advertisement. But if you take, you know, all of the producers and can combine the dollars, and I don't know what the beef checkoff is for total dollars, but the total dollars there, then you can leverage and do some advertising; then you can do some research projects. We can't...we can't individually do it alone. I probably contribute maybe \$1,000 a year to the beef checkoff, but \$1,000

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

March 29, 2005 LB 150

wouldn't buy me very much time on the radio, maybe a few minutes once in a great while for advertising my product. And then if I want to advertise my product, I have to have my own packing plant, my own labeled product that comes from my feed yard. It can't be done. Well, I guess I shouldn't say it can't be done. It could be done, but it will be at a lot greater expense than the \$1 per head. I kind of look at it as, we got a legislative body here, we've got 49 of us senators; together we can accomplish something. But if each one of us senators would stay in our local district where we were elected, stayed there, had our little private office there and tried to get things legislated for the state, just as an individual, to try to accomplish something, I don't think we'd get very much done, and what we'd get done probably wouldn't be right. But we are here, combined effort, you know, to try to get something done. I think this bill here is in anticipation of what the federal government is going to rule, whether it is...can continue or not. Maybe it will never happen. Maybe the federal program will continue. Hopefully, it will. But the thing that really concerns me, and I appreciate Senator Kremer and that group thinking ahead, if it is terminated on the national level, then there's a program to take its place. Do some of the cattle producers, like Deb Fischer, with her 400 calves, \$400 contribution, if they would never see an ad again that would promote beef but they would see ads that would promote Tyson beef, but her cattle will never get to the Tysons because they won't buy them. They don't care about Senator Fischer's cattle. They don't care. They've got enough of their own.

SENATOR CUDABACK: One minute.

SENATOR STUTHMAN: So I think this is a real opportunity for people to combine their efforts with a financial impact that can work together to accomplish the ultimate goal of the beef industry. Like I said, hopefully, it won't have to take place, but we need to have something in place so that it can happen. I just...I just really think that what we're trying to accomplish here to maybe...what we're anticipating is, we want to save the small producer. But I think we're eliminating them from the industry quicker than saving them. I've seen this in the pork industry. I've seen it time and time again. What we think is

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

March 29, 2005      LB 150

the best for just myself and not worry about anybody else...

SENATOR CUDABACK: Time.

SENATOR STUTHMAN: Thank you.

SENATOR CUDABACK: Thank you, Senator Stuthman. On with discussion of FA131. Senator Burling.

SENATOR BURLING: Thank you, Mr. President, members of the body. I'm not going to talk very long, but I want to lend my support to LB 150 and my opposition to AM0967. Advertising pays. Have anybody in this room seen a decrease in advertising? Are billboards coming down? When you watch television, is there less advertising? When you read the newspaper, do you see less advertising? No. We see more advertising in front of us all the time, because advertising pays. Every beef producer in the state qualifies and benefits from this checkoff program, even though they might ask for a refund. And as has already been said, the smallest producers benefit proportionately from this more than the large producers do. Beef checkoff program has been working well. Beef is before us every day. Either we see it or we hear it talked about before us, and it does help to sell our product. This is an economic development issue. Every person in this room should have a vested interest in this because of what the livestock economy has to contribute to the state's overall economy. As already been said, if we're not going to fund this program the way LB 150 lays out, then we just as well forget the whole thing. I don't always agree with how my tax money is spent, and I'm not even allowed to apply for a refund. And I think the people, the committee, that spends these checkoff dollars do very well, will do very well, in spite of the refund provision, because they'll have an idea, after awhile, how many will apply for refund and they'll be able to budget their program accordingly. So I believe that the refund provision is fair, a fair compromise. The board that administers the dollars represent the feeders, the majority of the feeders, at least the ones that leave their money in there and don't apply for a refund. And that's kind of the way we do it here. We represent the people that elect us. It's a representative form of government, democracy at its best, and I

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

March 29, 2005      LB 150

think that this beef checkoff program can work very well the way LB 150 lays out. And so thank you very much. I turn...return the rest of my time to the Chair.

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

SENATOR FRIEND: Thank you, Mr. President. Members of the Legislature, I haven't heard a whole lot of city slickers weigh in on this. There's probably a good reason for that. I was...it looks like Senator Kremer is busy right now, and I don't need to ask him a question. I'd like to ask Senator Chambers a question, if he would yield.

SENATOR CHAMBERS: Yes, I will.

SENATOR CUDABACK: Senator Chambers.

SENATOR FRIEND: I actually had some...Senator Chambers, I actually had some...what I thought are legitimate questions about this bill, but I'm going to ask you a question that I think you may be able to answer that isn't related to that amendment, which I don't like, (laugh) AM0967, which I don't like, and I like the bill. But do you know who Sir Arthur Wellesley is, or was?

SENATOR CHAMBERS: I didn't understand. What did you ask me?

SENATOR FRIEND: Do you...(laugh) do you know who Sir Arthur Wellesley was?

SENATOR CHAMBERS: Sir Arthur Wellesley? Never heard of him.

SENATOR FRIEND: Really? That was the Duke of Wellington.

SENATOR CHAMBERS: Well, why didn't you tell him...why didn't you give him a name that I'm familiar with?

SENATOR FRIEND: See, yeah, you're familiar with that. See, Senator Kremer is still a little bit busy so I'll...maybe I'll address this later. But Napoleon has returned, and here's the funny part of it. Napoleon has got an M.O., okay? There's a

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

March 29, 2005 LB 150

modus operandi. There was a modus operandi for the real Napoleon, and the ones that we run into in here, and that is that you fight with overwhelming power. You absolutely take no prisoners and you do it with 350,000-400,000 people, and you totally decimate. Then you turn around and you pacify the people that you decimate, and then you hurry back to Paris and hope everything is okay. Now, Wellesley said, before he was given the moniker of the Duke of Wellington, he said...about Napoleon, he said, we starved him out, we showed him we wouldn't let him fight a battle except under disadvantages. If you do fight, we shall destroy you; if you do not fight, we shall in time destroy you. Now, is Senator Kremer...no, Senator Chambers, if we were here till 11:59 tonight, I mean, I'd be happy to bring you a sandwich and a...do you drink Mountain Dew?

SENATOR CHAMBERS: I take no nourishment or nutrients when I'm on the battlefield, Senator.

SENATOR FRIEND: Well, what I would say is that I think the questioning and the idea behind a bill like this goes back to some of the things we were talking about earlier in the session, and that is, there's passion, there's idea of...almost an idea of will. Where is this bill going to go? I don't know, but I guess I'd be happy to bring you a sandwich and a Mountain Dew, because if Senator Kremer is willing to...I'll bring him one, too. Matter of fact...well, I better ask my wife before I promise to buy 49 sandwiches and drinks until 11:59. (Laughter) So let me get on my cell phone. I'll come back. I'll ask Senator Kremer some legitimate questions and then we'll have at it. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Friend. Senator Louden, followed by Senator Chambers, on the Chambers amendment.

SENATOR LOUDEN: Well, thank you, Mr. President and members of the body. I nearly forgot what I was going to say after we got to talk about Napoleon and Mountain Dew, and I'm sure Senator Langemeier would be interested in the Mountain Dew also. So anyway, when we get back to the checkoff deal, what you want to remember, this is something that producers themselves have done over the years. They've always been the ones that led in the

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

March 29, 2005      LB 150

checkoff deal. This is the reason we have a market today in the beef industry. This is the reason that when there was a BSE cow found in the United States that the Americans and the universities in Iowa, in those areas, in Nebraska were on the leading edge of doing the research on it, and this was the reason that consumption didn't decrease in the United States, was because of the checkoff, and by using the checkoff dollars we were able to bring the correct wording to the public. Years ago, when we didn't have something like that, we were at the mercy of whoever wanted to take us down the road, whether it be the packers or the grocer people or just environmentalists or animal rights people. There's another instance here where we have to have some type of resource to come across in strong measures against these animal rights individuals. There's the things that have been done in packinghouses to help with the animal rights people and that they've agreed to. One thing you want to remember, that this Supreme Court case wasn't brought about by producers. It was brought about by the livestock marketing association, which are people that sell the cattle. So this is something where the producers have never really been dissatisfied with it, that I've ever heard of. There's no doubt some that are, but at the same time, if they remember back what the price of cattle were before we had some of the checkoff, and when you remember when the old lady used to always say, where's the beef, and that sort of thing, those were the days before we had checkoffs. Now that we have the research going and some of the work that's been done in with our research money, our promotion has been considerably greater. We have Fifth Avenue people, I guess, that are building advertisements on national television and in other places. So it does help to have a checkoff of some sort. I don't see where there's that much difference. Like I've said before, Senator Chambers' amendment, you have to have the paper signed that you want to donate the money or have it taken out of your sales. The committee amendment has it where you have the money deducted and, if you want it back within a short period of time, you can get it back. If you're going to make this thing work, I think that's the way it should be. Up to now, most generally most of the producers that I've every contacted with have been in favor of a checkoff. Even some of the people that were here today that were wanting it changed agreed that we have to have the checkoff. They were

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

March 29, 2005      LB 150

just concerned on how to make it work. I think with the way the committee amendment came out, I think that's probably about as good a job as can be done. They have 15 days to...or they have to have their money by the 15th of the following month. It isn't like that money is going to be tied up for any length of time, because some of that money won't be put into the fund until the end of the month. Because, actually, the people that get to use that money as long as anybody would be the people that are selling that money. Because I haven't seen in there how quick they have to turn that money in. Do they get to keep it for a month, or do they get to keep it till the end of the month, or where it is? So those people that are in charge of those custodial accounts perhaps get more use of that money than actually...

SENATOR CUDABACK: One minute.

SENATOR LOUDEN: ...the Beef Board. I think...I think we need to get on with this business here. I think we need some type of a checkoff and I think the one that the committee has brought forward is probably the one that would do us as much good as anything, and I really would like to see that one brought forward, and that's the one I think I'll support. Thank you.

SENATOR CUDABACK: Thank you, Senator Louden. Mr. Clerk, a motion?

ASSISTANT CLERK: Mr. President, I do have a priority motion. Senator Chambers would move to bracket the bill until May 15.

SENATOR CUDABACK: Senator...Senator Chambers. Is that...is there any objection to the bracket motion to a date certain? Any objection? If not, so ordered. Is that...Senator, did you wish to be recognized, Senator Kremer?

SENATOR KREMER: Yes, I object to the bracket.

SENATOR CUDABACK: It is so ordered. Senator Kremer, are you objecting to the bracket motion?

SENATOR KREMER: Yes, I am.

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

March 29, 2005 LB 150

SENATOR CUDABACK: Then, Senator Chambers, you're recognized to open--we'll get this straight yet--to open on your bracket motion.

SENATOR CHAMBERS: Thank you. Mr. President, if anybody watched "The Ten Commandments" or whatever that biblical movie was, when a statement was made by Pharaoh or a top-ranking person, there would be scribes there and this individual would say, so let it be written, so let it be done. When the question was put over and over, is there objection, and then the Chair said it is so ordered, that meant the bill is bracketed. But then, on further consideration, the Chair overruled itself and said there's an objection, so I'm going to let that stand. But if I miss a vote, I'm going to insist that the Chair back up for my sake because I was not attentive, I didn't pay attention, and even though the Chair ruled, I don't want that ruling to stand. Now, if that's the way we're going to conduct business, fine, but I want it conducted that way toward all of us. And I don't want the Chair, whoever is in it, to tell me, Senator Chambers, the Chair has spoken. So if a vote is called, I'm going to offer an amendment. And if the Chair says it's too late, the vote was called, I'm going to say, uh-uh, because I didn't have my amendment ready and you said that it was ordered that a bill was bracketed, then you changed your mind when somebody didn't pay attention and didn't get in on time. I'm saying this to show you all what happens when you do favors to certain people on this floor. Now, I can survive. I can survive anything any one of you or any group of you will do, but I want to call your attention to it and the public's attention to what is done, at the time it is done, because I will make reference to it again in the future. I don't expect to be treated like everybody else is treated. There are certain attitudes toward people of my complexion in this society, and it can't be escaped by the people who make up the majority group here. So there are certain boons and favors that are granted to their kind, but I know that. I know what kind of legislative assembly I'm a part of. I can look around here and be reminded of the makeup of the majority of those in this Legislature. But I just want to let you know that I'm aware of what is being done to me when it is being done. Now to the motion. Mr. President, friends all,

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

March 29, 2005      LB 150

(laughter) this is a motion to bracket this bill until May 15. Right now the Legislature is being asked to fly blind. There is a matter pending before the U.S. Supreme Court which bears directly on what LB 150 attempts to address. If a person were trained in the law, if a person were trained in accounting, if a person were trained in logic, if a person just had common sense, he or she would want to know what the factors are that will have a bearing on the ultimate decision. If those factors are not currently available but will be made available, wise people will wait until those factors have, in fact, become available. There are big producers and those who speak for big producers supporting LB 150, and you'll hear them invariably say, well, this is for the sake of the little producers. And the little producers just don't know what's in their best interests, but those who represent the big producers know. Why are the big producers behind this bill and in favor of it? Why do people keep invoking the big producers? They, on the one hand, say the big producers don't need this because they do their own advertising. Now, when I see on television an advertisement for beef, do you think I care whether it's Tyson or B...IBP, whatever that is? I don't even know the names of these big companies, but they're out there, I assure you. They're everywhere. When Senator Hudkins and others were talking about certain cuts of meat and the lean cuts and the lean preferences that people have when it comes to beef, that does not come from the checkoff. That is a market-driven attitude. There are dieticians, there are doctors, even some people in the national Department of Agriculture who will talk about healthful eating. There are companies which talk about healthful eating. Every time the public gets on a new tear behind some particular dietary fad, there are companies which will immediately try to accommodate that new market. So it is not because this beef checkoff money was being spent that the public wants leaner meat. And those who are saying that know they're not accurately reflecting reality. Senator Hudkins is not here, but Senator Baker is, so I'd like to ask Senator Baker...no. Let me ask Senator Louden a question, one of the big hats. Senator Louden, I'd like to ask you a question.

SENATOR CUDABACK: Senator Louden.

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

March 29, 2005      LB 150

SENATOR LOUDEN:    Yes.

SENATOR CHAMBERS:    First of all, I want to ask you...I'm going to give you one of these SAT questions. On this boat there was a mathematician, there was a doctor, there was a lawyer, and there was a preacher. Which one wore the biggest hat, the doctor, the lawyer, the mathematician, or the preacher? Which one wore the biggest hat?

SENATOR LOUDEN:    I imagine the lawyer. He probably had the biggest head.

SENATOR CHAMBERS:    You gave it the last part. (Laughter) The last part was right--whichever one had the biggest head. Now, Senator Louden, others talked about big hats and, because of the amount of cattle production you are responsible for, I'm referring to you as a big hat. Senator Louden, why is it that you favor this checkoff?

SENATOR LOUDEN:    Oh, I guess because I've...as many years as I've ranched, I've ranched when we didn't have a checkoff and I knew how we got beat up by different businesses across the whole spectrum of meat industry and health industry.

SENATOR CHAMBERS:    Okay. I'll buy that. What is the maximum that you can be required to pay by way of the checkoff?

SENATOR LOUDEN:    Well, a dollar per head every time that critter is sold.

SENATOR CHAMBERS:    Now, Senator Louden, as a big hat, you do appreciate the value of the programs that are implemented as a result of the checkoff. Is that true?

SENATOR LOUDEN:    You mean the research and the...

SENATOR CHAMBERS:    And promotion, advertising, propogandizing, however you want to call it.

SENATOR LOUDEN:    Well, I'd call it promotion. I don't know if it's propaganda or not. I'd call it promotion.

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Transcriber's Office  
FLOOR DEBATE

March 29, 2005      LB 150

SENATOR CHAMBERS: Okay. Now...

SENATOR LOUDEN: If they're competitors, we talk about propaganda.

SENATOR CHAMBERS: Now, Senator Louden, how many times have you contributed more than \$1 per head when you were dealing with the checkoff?

SENATOR LOUDEN: You mean per animal?

SENATOR CHAMBERS: Yes.

SENATOR LOUDEN: Usually we only sell our cattle once. We don't...we raise them and we sell them to someone else.

SENATOR CHAMBERS: But you can contribute more than \$1, if you choose, to the checkoff, can't you?

SENATOR LOUDEN: Oh, I suppose you can...yeah, you can, you can put...you can will your entire operation to them if you want to.

SENATOR CHAMBERS: I'm not talking about willing after you croak. I meant while you're alive, kicking, and out here scuffling to make as much money as you can.

SENATOR LOUDEN: No, we've always paid just...paid the checkoff.

SENATOR CHAMBERS: You can only pay \$1? And if you offered to pay more they would refuse it?

SENATOR LOUDEN: That I don't know. I think that would go into a different setup when you do that, and I'm not familiar with how that's done.

SENATOR CHAMBERS: Now, what this amendment does, this motion, Senator, is to bracket this bill until May 15 to give time for the court to act, and we can see what, if anything, would be appropriate for the Legislature to do under the circumstances. It's clear that I'm opposed to the checkoff, but let's say that

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

March 29, 2005      LB 150

the court does not wipe all of it out, or it does.      We don't know for sure.      What is wrong with waiting?

SENATOR LOUDEN:      Senator, I agree with your amendment.

SENATOR CHAMBERS:      Oh.

SENATOR LOUDEN:      I don't know whether we need to wait...

SENATOR CUDABACK:      One minute.

SENATOR LOUDEN:      ...until May 15, but I think it's...I don't think it's that bad of a idea to wait awhile.

SENATOR CHAMBERS:      Oh, then I don't even have any more questions for you.      Thank you, Senator Louden.      I should have just asked that in the first place.      What I will do then is see what the general mood of the body is before I have more to say on the motion to bracket.      Thank you, Mr. President.

SENATOR CUDABACK:      Thank you, Senator Chambers.      You've heard the opening on the motion to bracket.      Senator Chambers, your light is next.      Senator Chambers, did you wish to speak?

SENATOR CHAMBERS:      Are there any other lights on?

SENATOR CUDABACK:      There are.      Senator Janssen.

SENATOR CHAMBERS:      Then I'm going to put mine off and then turn it back on so I can speak with Senator Kremer.

SENATOR CUDABACK:      Senator Janssen.

SENATOR JANSSEN:      Thank you, Senator Cudaback.      Members of the Legislature, over the lunch hour I called some of the livestock producers in my district, asked them the question about the checkoff, and they felt as though...now, this wasn't the majority, this was a few that I had talked to, they felt as though this was a very good tool that has helped promote beef.      And I think that they have had some very catchy commercials on TV and radio.      Actually, they are attention getters.      Someone

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

March 29, 2005      LB 150

who is promoting them did a very, very good job. Senator Louden raises a lot of cattle. Could I ask Senator Louden a couple questions, Senator Cudaback?

SENATOR CUDABACK: Senator Louden, would you respond to a question from Senator Janssen?

SENATOR LOUDEN: Yes.

SENATOR JANSSEN: Senator Louden, I realize that you have a very large, in my estimation anyway, cow-calf operation in the western part of the state. Now I don't know whether we have ever discussed this or not, but do you...do you feed your cattle out, or do you just sell the calves and yearlings?

SENATOR LOUDEN: We run the calves over and sell them as yearlings.

SENATOR JANSSEN: I see. So when...if you were...if you sold, say, 100 head of yearlings to one of your neighbors to finish them out, is there a checkoff charged at that time?

SENATOR LOUDEN: Yes, and in the western end of the state it's a lot more so because they have to be brand inspected. We're in a brand area there and every time they're brand inspected...or sold, why, they're brand inspected and you pay your checkoff then.

SENATOR JANSSEN: So who collects that, then? The...

SENATOR LOUDEN: Well, the...it's been the brand inspectors when you sell out in the country at home. If you sell them to an auction barn, then it's the auction barn that collects it.

SENATOR JANSSEN: Then where do those...say there's \$1 a head. Where does that \$1 go with that animal then?

SENATOR LOUDEN: I suppose that \$1, as far as I know, goes to your, what, your Nebraska Beef Council, is where it's...

SENATOR JANSSEN: Okay. All right.

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

March 29, 2005 LB 150

SENATOR LOUDEN: ...and that's who I think we make the check out to, when we make the checks out, is to the Nebraska Beef Council.

SENATOR JANSSEN: So now if that feeder keeps that yearling for six months or whatever it is to get it up to 1,100-1,200 pounds, then he markets that to a packer. Is there a checkoff assessed at that point in time also?

SENATOR LOUDEN: Yes, when he sells that animal, it's another \$1 checkoff.

SENATOR JANSSEN: All right. Say if he got that animal up to 800 pounds, which isn't finished, and decided, well, you know, I don't have room for this many; I'm going to sell those unfinished cattle to someone else to finish them out. Is there a checkoff assessed then?

SENATOR LOUDEN: Right.

SENATOR JANSSEN: I know this doesn't happen very often, but actually there could be three times that that checkoff would be assessed. Is that correct?

SENATOR LOUDEN: Usually there is, because anybody that sells calves, a lot of times they market them to someone that...a feed yard operation or something like that, so right there. And then it goes into the...whether they go to the packer or whether they're traded again. But that's my understanding. Every time those cattle are traded, there's...you have to pay check off and your brand inspection.

SENATOR JANSSEN: Uh-huh. Well, that...there are a lot of your colleagues, then, that do sell the calves, 400-pound calves, so on, to someone else, and they run them in their stocks and don't finish them, but then they turn them again before that animal is marketed.

SENATOR CUDABACK: One minute.

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

March 29, 2005      LB 150

SENATOR JANSSEN: Is that correct?

SENATOR LOUDEN: Yeah, there would be...yeah, there would be a checkoff each time.

SENATOR JANSSEN: You think that could happen. All right. Well, you know, I'm going to listen to the debate, but unless I hear differently from some of the feeders in my district, I'm going to support the bill, the underlying bill. So, unless that happens, that's where I stand. Thank you, Senator Louden. Thank you, Senator Cudaback.

SENATOR CUDABACK: Thank you, Senator Janssen. Senator Chambers, did you wish to be recognized? You may speak, if you care to.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, if this motion does not go, I'm prepared to stay here however long it takes to defeat this bill because of its undemocratic plan to take people's money against their will. This Legislature is full of people who, when they're campaigning, now I find, have been telling lies to the public. Is "lie" a strong word? I don't think so. Conservatives are the ones who are not in favor of taking people's money against their will. They don't want the government intruding and imposing burdens grievous to be borne on one group to benefit another private group, and that's what this bill does. I'm behaving like a conservative today. But doesn't it show that those are chameleon terms? They're applied for convenience by those who will benefit from their application. You don't hear these people jumping up here saying, I'm a conservative, I'm a fiscal conservative; I don't believe in the government intruding; I don't believe in the government stepping into business, taking money from people and giving it over to another group which is private. This cannot be compared to taxation. And either those on the floor who have done that don't understand it, or they're being disingenuous. They know we're not talking about a tax here. I was just talking to Senator Kremer. When you have \$1 per head, that person with one cow pays as much per unit as the one that has 50,000. Well, then those who support this bill say, but the one who has 50,000 pays

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

March 29, 2005      LB 150

\$50,000. That person may be able to cough up \$50,000 easier than this person than cough up \$1, those who have never been stressed because of a small amount of income which doesn't cover their needs and, therefore, anything subtracted from what they have puts a hurting on them. Those who've not been in that set of circumstances are always talking about spending surplus or discretionary income which is not going to affect whether they eat or have heat or medical care or even recreational opportunities. But somebody has to be concerned about that, and I am. And if Jack, whose mother had one little cow--I'm talking about Jack who went up the beanstalk--one little cow, and Jack took it to town and, instead of getting money, traded it for some magic beans, but Jack's mother has to pay as much on her one cow as the richest person in the kingdom, that's not right. That is not fair. But what is worst about it is the fact that it takes people's money against their will, then purports that this is done voluntarily. It is not voluntary. And obviously, the program is not good if you have to trick and extort money from people. So you can do what you will with this motion. I have to spend my time here anyway. But Senator Friend needs to know that when the dinner bell rings and when the trough is spread, these senators are not going to stay here till midnight on a bill like this they don't even care about. Why, when 4:00 comes here, stomachs are going to be growling and overruling anything you want to do. Wellington? Perish the thought. He should remember how Napoleon got whipped when he invaded...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...Russia, and then he wouldn't compare me to Napoleon. And Napoleon wasn't the only one who made a mistake of trying to invade Russia. People know how to fight and wage a battle on their own territory, their own terrain. They know what it takes for an army to survive. And if an army is far from its source of supply and it cannot get enough by foraging off the land, it will starve. And if the winter comes, the heavy mechanized equipment gets bogged down in the mud and suddenly its effectiveness has been nullified. You cannot invade Russia on the ground and whip Russia, Senator Friend. Do what you will with this motion. But before you do the wrong thing, think about postponing action on this bill till we know

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

March 29, 2005      LB 150

what the court is going to do. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator McDonald.

SENATOR McDONALD: Mr. President, members of the body, I haven't been a part of this debate. I waver back and forth. I get people on both sides that support it and those that do not support it. I just got off the phone with some of my sale barns in my district, and they do not support LB 150. And I don't think it makes any difference whether you support this bill or you do not support this bill. I don't think that the bracket is unreasonable. That will give us plenty of time to make the decision that we need to make at the appropriate time, when the federal courts have made their decision. So, in order to continue the process here on the floor, many of us still have bills up, many of them need extensive debate, let's bracket this bill, move ahead. We'll know at the right time what we need to do with this bill. So I do support Senator Chambers to bracket the bill. Thank you.

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

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. I do not have a problem with the bracket motion, except that fact that, you know, how much more are we going to know from the federal level by May 15 as to whether that ruling is going to be upheld, is that going to be changed? And maybe I could ask Senator Kremer that, or...I don't know. Could I ask Senator Kremer a question or two?

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

SENATOR KREMER: Yes. You'll have to repeat the question. I'm sorry, I didn't hear it.

SENATOR STUTHMAN: Senator Kremer, is there going to be anything done on the federal level between now and February...I mean, not February, May 15?

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

March 29, 2005

LB 150

SENATOR KREMER: We really don't know. There are dates that they can make a decision. One of those dates was last week, and they didn't. I think March 22...I'm not just sure what they are. I don't have it in front of me right now. But there are other dates, probably once a month, where there are a couple days where they would decide. So it could happen next month. It could happen next June. It could happen July. We don't know. And if it's too late, then we lose everything where we're at now, so that's the problem. We would like to get something on the books now.

SENATOR STUTHMAN: Yes, that is a concern of mine also, you know, so that if we want to have something in place, you know, to take up and to keep the ball rolling as far as, you know, the research projects, the advertising projects, the promotion projects, those, I mean, there needs to be some time for this program to be enacted for it to get into place. Maybe the May 15, if we can make a decision at that time, I would be willing to agree with that. But if we're going to come into the same problem that we have on May 15, you know, then I don't know what the reason is, you know, for waiting, except the fact that maybe we can give the opportunity to some of the senators as far as their bills are concerned and discuss them. But I have a real concern that on May 15 we're not going to have any more information than we have today, unless Senator Chambers knows that there's possibility of some information coming up. Maybe I could refer that question to him, if he would respond, please.

SENATOR CUDABACK: Senator Chambers, would you respond?

SENATOR CHAMBERS: Yes, I will.

SENATOR STUTHMAN: And now you're going to see the Arnie and Ernie performance right now. Do you see anything coming up, you know, before May 15, that would make a decision that would be relevant to the possibility of either passing or killing this one?

SENATOR CHAMBERS: Well, the court would say that the issue is ripe for a decision. The court could hand down a decision. It

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

March 29, 2005      LB 150

could strike down the current mandatory checkoff. It could, as a corollary, say, and no money may be taken involuntarily from any producer for the purposes laid out, the promotion. I call it the propaganda. So even what is being proposed in this bill could be struck down, but I don't actually know for sure.

SENATOR STUTHMAN: So, in other words, you know, there would be the possibility that the federal government could rule, the Supreme Court could rule that what we're discussing today, you know, would have no future; that all, you know, mandatory checkoffs or voluntary checkoffs would have any bearing on anything, and we may have to go to, you know, if people want to contribute. I would also like to just talk a little bit about the conversation that was with Senator Loudon before, you know, the possibility of, you know, contributing more dollars. Yes, cattle...

SENATOR CUDABACK: One minute.

SENATOR STUTHMAN: ...cattle producers can contribute more dollars, but those in-addition dollars would go towards the lobbying effect of the Cattlemen's Association. The promotional dollars, the \$1 checkoff, you know, would be utilized for the promotion, advertising, research. But the other additional dollars, which are not mandatory, which would be just contributed by Senator Loudon, if he wants to send in another \$1,000, those dollars would go into the lobbying effect of the National Cattlemen's Association. So I just wanted to kind of clarify that. You know, people can contribute. They can contribute as much as they want to. But, you know, that dollars does not go in the pool. That is under the jurisdiction of the program. Thank you.

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

SENATOR CHAMBERS: Mr. President, members of the Legislature, I'd like to ask Senator Stuthman a question.

SENATOR CUDABACK: Senator Stuthman.

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

March 29, 2005 LB 150

SENATOR STUTHMAN: Yes.

SENATOR CHAMBERS: And for the sake of the record, Senator Stuthman is the Arnie of the Ernie and Arnie show.

SENATOR STUTHMAN: Thank you.

SENATOR CHAMBERS: Senator Stuthman, is there a rule or regulation of the federal government which will not allow a person to earmark money in addition to the \$1 per head for the promotion, advertising, and research that this checkoff program deals with? What I'm asking for, in other words, what makes you feel that a person cannot contribute more than \$1 per head to that program?

SENATOR STUTHMAN: The reason I feel this way and I think this way is because I'm very familiar with the pork checkoff. The pork checkoff is only a little bit different than the beef checkoff. The pork checkoff, the mandatory portion of it, those cannot be utilized for lobbying.

SENATOR CHAMBERS: That's true. But if a person gives more to that program...what I think you're off the track on is that no more than that maximum can be taken from a person for this program. It puts a cap on what can be taken against the person's will. But if the person volunteers to give more, I don't think that cap would prevent that money from going to that program.

SENATOR STUTHMAN: Senator Chambers, I think you are correct there that if the individual that wants to contribute more dollars would identify where those dollars are to go, to promotion or to advertising, they would be utilized in that fashion.

SENATOR CHAMBERS: Thank you.

SENATOR STUTHMAN: So you are correct there.

SENATOR CHAMBERS: Okay. Thank...and I was correct earlier, but maybe I wasn't clear in the way I expressed it. I see Senator

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Transcriber's Office  
FLOOR DEBATE

March 29, 2005      LB 150

Hudkins back now. I'd like to ask Senator Hudkins a question.

SENATOR CUDABACK: Senator Hudkins, would you yield?

SENATOR HUDKINS: Yes.

SENATOR CHAMBERS: Senator Hudkins, have you or has anybody you know of contributed more than that \$1 per head and earmarked it for this splendid program of promotion, advertising, and research?

SENATOR HUDKINS: We have not, because we don't want that extra money to be used for lobbying for something that we don't necessarily agree with.

SENATOR CHAMBERS: No, you can earmark it for that program.

SENATOR HUDKINS: Well, okay, then to answer your question, we have not. Do I know of anybody who has? They may have, but I don't know that.

SENATOR CHAMBERS: Thank you, Senator Hudkins. And that was not designed to be a trick question. It's just to show that people are going to do no more than what they're required to do, despite how great and wonderful they say this program is. But they know there are more small producers than there are large ones, and they know that they want these small producers to be compelled to ante up that money, and they're also hoping that some of them will not go through the trouble entailed in seeking the refund. So they're counting on that, and I believe budgets are built on the assumption that a certain percentage of these people who would be entitled to a refund, if they want it, will not seek it, and that money will be absorbed. But I'm going back to the main point of this whole approach that I'm taking. You conservatives want to take people's money against their will and put it into a private operation, into a propoganda machine. That's what you conservatives want this government to do. How many of you are socialists in here? Not "sociable." How many of you are socialists? Raise your hand. I don't see any hand raised, not one. That's for the record. How many of you are communists in here, from the standpoint of an economic, not a

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

March 29, 2005      LB 150

political, system? How many communists...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...are there? I don't see any. I'm not going to ask how many of you believe in democracy, because you would say, well, I just spell it a little differently and pronounce it differently. The way I pronounce, it would be "demockery." That's what we have here, a mockery of democracy. You are compelling people in what you call the Middle East to implement democracy. You, you're going to lecture and tell other people about democracy, and you on this floor are implementing one of the most undemocratic seizures of people's money as can be imagined. And you're going to tell the rest of the world how to conduct their affairs? That's why America is hated. The hypocrisy, the pontificating, the elevating itself to a position of self-righteousness and one of allegedly knowing more about everything than everybody in the world, but when it comes to practicing what you preach, it is breached more in this country than anywhere else.

SENATOR CUDABACK: Time, Senator.

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

SENATOR CUDABACK: It is, Senator.

SENATOR CHAMBERS: I understand.

SENATOR CUDABACK: Senator Louden.

SENATOR LOUDEN: Thank you, Mr. President and members of the body. I think, after listening to Senator Chambers, perhaps we're getting a little bit away from the idea of the beef checkoff. This is for promotion of a product that's raised by a portion of the people in Nebraska and other parts of the United States. It's one of the biggest industries in Nebraska, and somebody has to promote it. I haven't seen a lot of other people around...at least the beer industry usually doesn't promote it too much, unless you see them having a barbecue or

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

March 29, 2005      LB 150

something like that. But you want to remember, in this beef checkoff, you are allowed to get your money back. If I go and pay my property taxes down at the county, there's nothing in there that says whether or not I can get it back. I haven't seen it, anyway. And usually somebody decides how much it is that they're going to take, and it's taken, and I have no recourse. It's paid anyway, whether it's supporting the schools or what. So it isn't any...it isn't anything that's unconstitutional that I can see, or something that hasn't already been done. This is...we're talking about whether or not we want to have a promotion for one of the major products in Nebraska. It's something like a \$11 billion business and...that...and a lot of it goes for exporting overseas. There's all kinds of research places that you can donate money to. Pretty near all organizations have places that if you want to donate money for research or whatever, it can be done there. You don't have to give it to the checkoff program and run it through the Nebraska Beef Council just to have your money do something worthwhile. The university has foundations for research. Most all of your trade organizations have foundation places for research and promotion. There are several different cattle organizations nowadays going out. Your Nebraska Beef is one of them, I think. Nearly all of your cattle organizations, whether it's Red Angus or certified Hereford beef, you've seen that promotion on newspapers and the billboards. There's a grocery store here in town that's advertising nothing but certified Hereford beef. These are all promotions that are outside of the Nebraska Beef Council, and they're all something that's very well and good. It helps move this product. And if you want to have a viable Nebraska, this is a product that has to be moved in Nebraska in order to make it what it was. Omaha wouldn't be where they are today if it wasn't for the cattle industry. Shipping the thousands of head in there every week for nearly 100 years is what started the town to start with. So beef and promotion in cattle and livestock has to be something that's promoted in this area, whether you're going to start working on tourism. But right now your pork producers and your beef producers have ways of promoting their market, and I think this is something we should consider. And I think when we start talking about whether you're taking somebody's money and it's against their will or not, there's mechanisms for them to get it

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

March 29, 2005      LB 150

back and that's more than I can say for my property tax or my state sales tax or any of that. So, with that, I return the rest of my time to the Chair. Thank you.

SENATOR CUDABACK: Thank you, Senator Louden. Senator Combs.

SENATOR COMBS: Thank you, Mr. President and members of the body. I'm addressing the bracket motion. I've been kind of busy talking to both sides all day today and trying to decide what's the right thing to do. I tend to be a bit of a libertarian. Senator Chambers talked about communists and socialists. Well, I think libertarians, he didn't mention them, but I tend to be that, so I do have somewhat of a philosophical problem with taking people's money in the fashion that we've been discussing. I won't rehash it. However, I also recognize the value of the beef checkoff program and I am afraid that if it was optional that it would go away and die forever. But in addressing the bracket motion, I do want to make it clear I do agree with the bracket. Why? There is a Supreme Court case that is pending right now and a decision that is going to decide whether or not this bill even needs to exist. So why should we waste any more time debating it if that court case is going to be decided? I think May 15 is very reasonable. It's not like you're trying to kill it by putting it up in June, June 3 or something. I mean, that's...it's not a slap in the face like that. It really is an honest bracket that says, we've got plenty of time. The court has time to decide what's going on. We've got time to get the result of that. Then we still have several weeks to get something done, whatever we need to do on the bill. So I am in favor of the bracket motion, and I thank Senator Chambers for bringing it, and I truly hope that he and Senator Kremer can work something out. Thank you.

SENATOR CUDABACK: Thank you, Senator Combs. Senator Chambers, you're recognized to close on your bracket motion.

SENATOR CHAMBERS: Mr. President, members of the Legislature, the first rule of wisdom in the Legislature, as well as other places: First, do no harm. If you accept this bracket motion, everything stays right where it is today, exactly as it is today. Senator Stuthman was asking, what will we know May 15

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

March 29, 2005      LB 150

that we don't know now? I'm sure we're going to know a lot more about a lot of things. And I believe we will know more on this specific issue by that time. But if we don't, then you still can come back and try to steamroll over me and defeat the amendment that I have pending, and then get 33 votes to shut me up on this bill. Now, what difference does it make to me how you lose the bill? Doesn't make me any difference. If the court comes down and says that the mandatory checkoff is constitutional, I'm still opposed to the mandatory checkoff. It's a matter of principle. Whenever you have the big shots and the little shots supposedly in cahoots, the little shots are being dragged along, and what the big shots want is what's going to be done. And remember, I've been in this Legislature 35 years. I have sat on that Ag Committee, and I have been the one to turn aside these large, multinational corporations' lobbyists when they come to try to make fools out of the members of the Nebraska Legislature's Agricultural Committee, because they think everybody on that committee is a rube, until they run afoul of me. They misjudge me. Here's this old man, wearing a sweatshirt, with a beard and gray hair, and from the city. What can he know about Archer Daniels Midland, or any of these big packing operations, or how they lobby, who their lobbyists are, which persons in Washington they try to put the screws to? Well, I happen to be able to read. I understand things. But I am the one who has turned them aside. And I know, when I see the footprints and the fingerprints, who is pushing a particular program. This program is not being pushed by what we might call small, independent producers. So if you vote down the motion to bracket, where does that leave us? It leaves me with 53 minutes to fill up, unless you're going to try to invoke cloture in the Speaker's absence, without having the number of hours of debate that there should be. So let's say you go ahead and do that. Who do you think sets the agenda? You don't set the agenda. Your bill won't surface again, because you will have gone against the tradition, because you had the numbers. You will have a bill moved off Select File, and it will never be seen or heard from again. How smart is that? Maybe you need to be taught a lesson. So I'm going to give you a chance to teach me one. And in the process, you'll learn a bigger one. Vote down the motion to bracket, and we'll get back on my amendment. But what we're talking about, remember, is an amendment to my

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Transcriber's Office  
FLOOR DEBATE

March 29, 2005      LB 150

amendment. And if you reject that, I'm going to move to reconsider it. And that will keep us from even getting to my main amendment. And then I will offer additional amendments to my amendment. And contrary to what...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...Senator Friend might think, on this day, I can easily go to 11:59 p.m. I do not care. I've done it before; I can do it again. I will have my colleagues in awe. They'll be sitting there, knowing how tired and exhausted and wasted they are, and wondering when I'm going to run out of gas. And I won't. When the Eveready bunny runs out, I jut keep walking on past him. So think about what you want to do. Mr. President, I will ask for a call of the house, and then I'll start with a machine vote.

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

ASSISTANT CLERK:      19 ayes, 0 nays    to    go    under    call,  
Mr. President.

SENATOR CUDABACK: The house is under call. All unauthorized personnel please leave the floor. Unexcused senators, report to the Chamber. The house is under call. The house is under call. All unexcused senators please report to the Chamber. Senator Janssen, would you check in, please. Thank you. Senator Byars, Senator Langemeier, Senator Johnson, Senator Landis, Senator Kruse, Senator Synowiecki, and Senator Thompson. Senator Byars. All members are present or accounted for. Machine vote has been requested. The question is, shall LB 150 be bracketed until May 15, 1905 (sic). All in favor...or, 2005, rather. All in favor vote aye; opposed, nay. Have you all voted who care to? Record vote has been requested. Have you all voted who care to? Record please, Mr. Clerk.

ASSISTANT CLERK:      (Record vote read, Legislative Journal  
page 1017.) The vote is 13 ayes, 31 nays on the motion to  
bracket, Mr. President.

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Transcriber's Office  
FLOOR DEBATE

March 29, 2005      LB 150

SENATOR CUDABACK: The motion was not successful, and I do raise the call. We're back to consideration of FA131, amendment to AM0967 to LB 150. Further discussion? Senator Chambers, you're recognized on FA131. Senator Chambers, yes.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, Senator Kremer and I from time to time are still trying to talk about what we're going to do. So I am not ignoring the Chair, but I'm not always aware that my name has been called. The amendment that is before us right now is an amendment to my amendment. And that amendment would...if you look on your gadget, on page 12, in the green copy of the bill, line 14, on page 12, we would strike the word "or" and insert the word "nor." In line 18, on page 12 of the green copy, we would strike the word "proper" and insert "appropriate." And I'm going to do a little mentoring here today. By offering an amendment that deals with two words, I really get an opportunity to offer three amendments. The first amendment attempts to deal with both of the words together as a package. If that is rejected and not added to my amendment, I will then move to strike just the word "or" and insert "nor." That's the second opportunity. If that is accepted or not, I will then take the word "proper," strike it, and insert "appropriate." And that will give me three amendments dealing with two words. And my main aim is to just take time. This bill, LB 150, is antidemocratic. I have mentioned the difference between what is being done with this bill, and a tax. Senator Loudon has not paid attention. I want him to take that big hat off his head, because the band must be too tight. It's restricting the flow of blood, and he's not able to think. Now, if anybody knows the difference between an assessment such as this and a tax on property, it's Senator Loudon. His first name means "The King." How would he get to be king? Oh, that's right, the kingship is hereditary. And how...and Solomon once said, how do we know whether the one who follows us will be a wise person or an unwise person? So "The King" Loudon needs a bit of a refresher course. Senator Loudon, when property taxes are assessed, that tax is not voluntary. You must pay it. You're not going to be offered the opportunity to get it back. But that tax that they take from you is not a borrowing from you to give to Senator

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

March 29, 2005      LB 150

Synowiecki so he can do something with his property; then next month, you can come and get it back. That's not the way property taxes work. You pay yours. Senator Synowiecki pays his. Warren Buffett pays his. Some other friends of the assessors don't pay theirs. But that's politics. When it comes to this assessment, it's like an unwilling taking of a person's money, which might be called an unwilling loan. You take this person's money, because it's convenient for somebody else. And that, supposedly, is the justification. Who is the one for whom it is convenient? The one who collects this assessment. That person does not want to have to deal with a situation, such as my amendment brings into existence, where the contribution is truly voluntary. There are forces which tell us that to allow...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...the donation to be truly voluntary is too inconvenient. So democracy goes by the boards because it is convenient to do that. I wish we had the balconies full of young people in their civics classes, so they could watch these senators trample over democracy. You won't talk about doing these things when schoolkids are here. You won't talk about this when you go out and talk to people in your districts. No, you don't talk about that. You mislead them and you tell fibs. You pretend that you believe in democracy, but you don't. And I'm here to remind you. So in order to do that, I've got to use repetition. And I'm going to be repeating, like water continually dropping on a stone. As soft as the water is, how hard as the stone is, eventually the stone is going to give, the stone is going to wear away. The Grand Canyon was cut by the Colorado River. Now, we can stay on this bill and have our Grand Canyon. That vote that you put up there, and all those red lights,...

SENATOR CUDABACK: Time.

SENATOR CHAMBERS: ...only provoke me. Thank you, Mr. President. Was that my third time?

SENATOR CUDABACK: It was your third time, Senator.

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

March 29, 2005      LB 150

SENATOR CHAMBERS:    Okay.    Thank you.

SENATOR CUDABACK:    Senator Louden.

SENATOR LOUDEN:      Thank you, Mr. President and members of the body. I guess when you deal with barbers, you always got to put up with about a certain amount of abuse, because that's usually where the gossip always starts. I think as our...I think Senator Chambers is the one that mentioned that it was something like a tax that...and be taking the money, and that sort of thing. So that was where I came about as a comparison. This checkoff deal isn't something that you're taking their money away from them and they're going to starve to death. If they don't feel like they owe it, they got a matter of a short period of time they can get it back. It isn't something that is going to change the world, I guess, if you take somebody's money from them and use it for promotion and they're not exactly agreeable to how it is. I don't know if you can always get two farmers to agree on where to set a corner post. But this is a tax where...whether you want to call it a tax or a checkoff or whatever you want to call it, but this is something that promotes an industry in Nebraska that Nebraska has to do well with. Senator Chambers' Omaha wouldn't be there, like I mentioned, if it wasn't for the livestock industry, to start with. There's a lot of things that wouldn't have happened in here in Nebraska if we hadn't have had it. The railroads and the whole works all depended on livestock trade and the work that...in the early days, that brought it to where it is now. This is promotion that has to be done. It's a new kind of world we're in. We have to promote our product overseas. We're competing against Australia, New Zealand, and now we'll be competing against the Canadian, because the beef packers have went up there and increased their packing ability in Canada, so we'll be competing against them. So this is something, we have to have promotion. Whether you're talking about tourism or whatever kind of business you have, if you don't promote your business, nobody else will. And with our...any of our agencies that work in Nebraska usually have some type of promotion, whether it's Game and Parks, or who, promoting their licenses and their wildlife, whatever it is they try to get to bring

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

March 29, 2005 LB 150

people into the country. The beef industry isn't any different. They need some kind of a tool so that they can promote it. Nebraska is one of the leaders in the beef industry, so Nebraska is going to have to be a leader to promote it. If that Supreme Court strikes down the checkoff program as we know it, Nebraska will probably come up with something that will take the place of it. We had something that took the place of it before there was a federal mandated checkoff, and we can certainly do it again. Before, when we had it, it was a...worked the same way. If you didn't want it, you'd get your money back. It wasn't until the later years that...when the national was mandated, that it was harder to get your money back. There was many people that took them to court over it. And of course, it was a national mandated checkoff, and people were dissatisfied the way it was handled. They were dissatisfied with some of the associations that got into the operation of the fund and deciding how to spend the money. So consequently, this is what we come down to. As I've stated before, the people that have challenged the thing in court weren't producers. They were the people that were selling the cattle. So we have to think about that. And this is something that I think we have to promote. Somewhere along the line, we're going to need a checkoff program in Nebraska, and you're going to have to decide how you want to do it. But when Senator Chambers says it's got to be plum axed because it's unconstitutional, I don't agree with that. And I think we need something to promote it. The next thing, are you going to do away with the tax on...in motels and...

SENATOR CUDABACK: One minute.

SENATOR LOUDEN: ...hotels? So we'll have to decide whether, is that an unfair tax, and will somebody be able to challenge that? So, there's all kinds of promotions out there, and this is just one of many. Thank you.

SENATOR CUDABACK: Further discussion on FA131? Senator Chambers, there are no further lights on. You're recognized to close.

SENATOR CHAMBERS: Thank you, Mr. President, friends all. This amendment is an amendment to mine. This that I'm asking to be

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

March 29, 2005 LB 150

done does not add anything to the bill yet. It would correct some language in the existing law. Because when bills were drafted in the old days, there was not much concern taken with grammar or syntax, s-y-n-t-a-x. As things come to our attention, some of us will attempt to make corrections in the existing law. So that's what this amendment that is before you will do. If you adopt it, fine. But if you're going to reject the amendment to which it is being added, nothing of consequence will have been done, but my purpose will have been served--taking time, time, time. And I intend to continue doing that. And since we're dealing with the issue of democracy, I have plenty that I can talk about. I can talk about the fact that people who came to this country as colonists were given the opportunity to hang in England or come to a penal colony on this side of the world. Australia was also a penal colony. And there is a peculiar similarity between the attitudes of the white people in America and those white people in Australia. The indigenous people are treated with contempt, are slaughtered, have no human or political rights. Same thing in this country. In fact, I will be able to explain how Benjamin Franklin and others were so upset with England for continuing to send boatloads of criminals to this country that they said they would send a crate of rattlesnakes to England to demonstrate what was being done to the colonies. No sooner had they managed to incorporate one group of these thuggish people into the society, but England would send additional boatloads. So the mothers of the fathers of this country were often prostitutes. They came from prisons in Scotland, England, Germany, Ireland. But there were some people who chose to hang in England rather than come to this country. So we will get through that difficult colonial period. We can talk about the Articles of Confederation. We can talk about the Revolutionary War. We can talk about the people who gouged the army in the same way that Halliburton is gouging the troops in Iraq. How George Washington, when his soldiers didn't have adequate clothing, when some, if the story is true, had to bind their feet with rags to try to stay warm in that Valley Forge winter, when they ran out of provisions, ...there were farmers, the ones who are romanticized, saw the opportunity to gouge, and they charged unconscionable prices, and the goods they turned over to the army often were spoiled and not anything that could be consumed

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

March 29, 2005      LB 38, 47, 82, 121, 132, 150, 256A, 361, 588

by a human being. They don't teach you all this in school, but it's in your history books. You can read from diaries, journals, and observations of people who were there, the bitterness that they felt. We will talk about Shays' Rebellion, Daniel Shays, who brought some people down to Washington because they felt that they were being unfairly treated. And what they had was not really a rebellion.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: But it frightened a lot of people. Before getting there, though, I would want to talk about the War of 1812, and the Battle of New Orleans particularly. So there is a great deal that I can talk about in the context of how democracy came to be, the purported philosophy of this country. My amendment, though, is much less ambitious than the underlying large amendment that you all don't like. It merely makes grammatical corrections. So that is what I'm offering to you. And Mr. President, thank you.

SENATOR CUDABACK: You've heard the closing on FA131. The question before the body is, shall FA131 be adopted to AM0967 to LB 150? All in favor vote aye; opposed, nay. Have you all voted on the question who wish to? Record please, Mr. Clerk.

ASSISTANT CLERK: 30 ayes, 0 nays on the adoption of the amendment to the amendment, Mr. President.

SENATOR CUDABACK: The motion was successful. FA131 has been adopted. Mr. Clerk, items for the record.

ASSISTANT CLERK: Mr. President, a series of items. New bill, LB 256A, offered by Senator Price. (Read LB 256A by title for the first time.) Amendment to be printed to LB 47 by Senator Don Pederson; to LB 38 by Senator Raikes; to LB 588 by Senator Smith; an amendment to LB 588 by Senator Beutler; amendment to LB 361 by Senator Beutler; amendment to LB 82 by Senator Beutler. A series of name adds: Senator Redfield to LB 121; Senator Mines to LB 132. (Legislative Journal pages 1018-1029.)

Finally, Mr. President, a priority motion. Senator Don Pederson

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

March 29, 2005

would move to adjourn until 9:00 a.m. on Wednesday, March 31, 2005.

SENATOR CUDABACK: You've heard the motion to adjourn until March 30, 2005, at 9:00 a.m. All in favor of the motion say aye. And opposed, nay. Been a request for a machine vote on the adjournment. All in favor of adjourning until March 30, 2005, 9:00 a.m., all vote yes; all opposed, nay. Have you all voted who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: 16 ayes, 11 nays on the motion to adjourn, Mr. President.

SENATOR CUDABACK: We are adjourned until tomorrow morning at 9:00 a.m.

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