

APRIL 1, 2005

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

April 1, 2005 LB 39

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Good morning. Welcome to the George W. Norris Legislative Chamber. Our acting chaplain this morning is Senator Kruse.

SENATOR KRUSE: (Prayer offered.)

SENATOR CUDABACK: Thank you, Senator Kruse, for doing that for us. Senator Kruse represents the 13th District. I call the fifty-fourth 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: Any corrections for the Journal?

CLERK: I have no corrections, Mr. President.

SENATOR CUDABACK: Any messages, reports, or announcements?

CLERK: One item, Mr. President, the report of registered lobbyists for this week, to be inserted in the Journal. And that's the only item that I have. (Legislative Journal page 1059.)

SENATOR CUDABACK: Thank you, Mr. Clerk. We now go to Final Reading. Members, please read the rules as they apply to today's Final Reading. All members please take their seats. We are on Final Reading. Members, please return to your seats, please. Members, please return to your chairs. We're on Final Reading. Mr. Clerk, LB 39.

CLERK: (Read LB 39 on Final Reading.)

SENATOR CUDABACK: All provisions of law relative to procedure having been complied with, the question is, shall LB 39 pass? All in favor vote aye; those opposed, nay. Have you all...record please, Mr. Clerk.

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

April 1, 2005 LB 39, 121, 131, 144

CLERK: (Record vote read, Legislative Journal page 1060.)
38 ayes, 0 nays, 3 present not voting, 8 excused and not voting,
Mr. President.

SENATOR CUDABACK: LB 39 passes. Mr. Clerk, LB 121.

CLERK: (Read LB 121 on Final Reading.)

SENATOR CUDABACK: All provisions of law relative to procedure
having been complied with, the question is, shall LB 121 pass?
All in favor vote aye; those opposed, nay. Have you all voted
who care to? Record please, Mr. Clerk.

CLERK: (Record vote read, Legislative Journal page 1061.)
40 ayes, 0 nays, 1 present not voting, 8 excused and not voting,
Mr. President.

SENATOR CUDABACK: LB 121 passes. Mr. Clerk, LB 131.

CLERK: (Read LB 131 on Final Reading.)

SENATOR CUDABACK: All provisions of law relative to procedure
having been complied with, the question is, shall LB 131 pass?
All in favor of the motion vote aye; those opposed vote nay.
Have you all voted who care to? Record please, Mr. Clerk.

CLERK: (Record vote read, Legislative Journal pages 1061-1062.)
41 ayes, 0 nays, 8 excused and not voting, Mr. President.

SENATOR CUDABACK: LB 131 passes. Mr. Clerk, LB 144.

CLERK: (Read LB 144 on Final Reading.)

SENATOR CUDABACK: All provisions of law relative to procedure
having been complied with, the question is, shall LB 144 pass?
All in favor of the motion vote aye; those opposed to the motion
vote nay. Record please, Mr. Clerk.

CLERK: (Record vote read, Legislative Journal page 1062.)
42 ayes, 0 nays, 7 excused and not voting, Mr. President.

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

April 1, 2005 LB 144, 234, 299, 352, 485

SENATOR CUDABACK: LB 144 passes. Mr. Clerk, LB 234.

CLERK: (Read LB 234 on Final Reading.)

SENATOR CUDABACK: All provisions of law relative to procedure having been complied with, the question is, shall LB 234 pass? All in favor vote aye; opposed, nay. Record please, Mr. Clerk.

CLERK: (Record vote read, Legislative Journal page 1063.)
42 ayes, 0 nays, 7 excused and not voting, Mr. President.

SENATOR CUDABACK: LB 234 passes. Mr. Clerk, LB 299E.

CLERK: (Read LB 299 on Final Reading.)

SENATOR CUDABACK: All provisions of law relative to procedure having been complied with, the question is, shall LB 299 pass with the emergency clause attached? All in favor vote aye; those opposed, nay. Have you all voted who care to? Record please, Mr. Clerk.

CLERK: (Record vote read, Legislative Journal pages 1063-1064.)
42 ayes, 0 nays, 7 excused and not voting, Mr. President.

SENATOR CUDABACK: LB 299E passes with the emergency clause attached. Mr. Clerk, LB 352.

CLERK: (Read LB 352 on Final Reading.)

SENATOR CUDABACK: All provisions of law relative to procedure having been complied with, the question is, shall LB 352 pass? All in favor vote aye; those opposed, nay. Have you all voted on the question who care to? Record please, Mr. Clerk.

CLERK: (Record vote read, Legislative Journal page 1064.)
43 ayes, 0 nays, 6 excused and not voting, Mr. President.

SENATOR CUDABACK: LB 352 passes. Mr. Clerk, LB 485.

ASSISTANT CLERK: (Read LB 485 on Final Reading.)

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

April 1, 2005 LB 485, 492, 516, 668

SENATOR CUDABACK: All provisions of law relative to procedure having been complied with, the question is, shall LB 485 pass? All in favor of the motion vote aye; those opposed, nay. Have you all voted on the question who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1064-1065.) The vote is 42 ayes, 0 nays, 1 present and not voting, 6 excused and not voting, Mr. President.

SENATOR CUDABACK: LB 485 passes. Mr. Clerk, LB 492.

ASSISTANT CLERK: (Read LB 492 on Final Reading.)

SENATOR CUDABACK: All provisions of law relative to procedure having been complied with, the question is, shall LB 492 pass? All in favor of the motion vote aye; those opposed to the motion vote nay. Have you all voted on the question who care to? Have you all voted who wish to? Record please, Mr. Clerk.

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1065-1066.) The vote is 42 ayes, 0 nays, 1 present and not voting, 6 excused and not voting, Mr. President.

SENATOR CUDABACK: LB 492 passes. LB 516, Mr. Clerk.

ASSISTANT CLERK: (Read LB 516 on Final Reading.)

SENATOR CUDABACK: All provisions of law relative to procedure having been complied with, the question is, shall LB 516 pass? All in favor vote aye; those opposed, nay. Record please, Mr. Clerk.

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1066.) The vote is 44 ayes, 0 nays, 5 excused and not voting, Mr. President.

SENATOR CUDABACK: LB 516 passes. (Visitors introduced.) On with Final Reading. Mr. Clerk, LB 668.

ASSISTANT CLERK: (Read LB 668 on Final Reading.)

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

April 1, 2005 LB 668, 675, 684, 684A

SENATOR CUDABACK: All provisions of law relative to procedure having been complied with, the question is, shall LB 668 pass? All in favor vote aye; those opposed, nay. Have you all...record please, Mr. Clerk.

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1067.) The vote is 44 ayes, 0 nays, 5 excused and not voting.

SENATOR CUDABACK: LB 668 passes. Mr. Clerk, LB 684.

ASSISTANT CLERK: (Read LB 684 on Final Reading.)

SENATOR CUDABACK: All provisions of law relative to procedure having been complied with, the question is, shall LB 684 pass? All in favor vote aye; those opposed to the motion vote nay. Have you all voted who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1067-1068.) The vote is 45 ayes, 0 nays, 4 excused and not voting.

SENATOR CUDABACK: Excuse me, Mr. Clerk. LB 684 passes. Mr. Clerk, LB 684AE.

ASSISTANT CLERK: (Read LB 684A on Final Reading.)

SENATOR CUDABACK: All provisions of law relative to procedure having been complied with, the question is, shall LB 684AE pass with the emergency clause attached? All in favor vote aye; those opposed, nay. Record please, Mr. Clerk.

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1068.) The vote is 45 ayes, 0 nays, 4 excused and not voting, Mr. President.

SENATOR CUDABACK: LB 684AE passes with the emergency clause attached. We will now go to regular Final Reading. And as before, bills with motions to return to Select File will be passed over. Ready, Mr. Clerk? LB 675.

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

April 1, 2005 LB 205, 335, 675, 675A

ASSISTANT CLERK: (Read LB 675 on Final Reading.)

SENATOR CUDABACK: Sorry, Mr. Clerk. All provisions of law relative to procedure having been complied with, the question is, shall LB 675 pass? All in favor vote aye; those opposed, nay. Have you all voted who wish to? It's not safe to breathe up here. Record please, Mr. Clerk.

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1069.) The vote is 46 ayes, 0 nays, 3 excused and not voting, Mr. President.

SENATOR CUDABACK: LB 675 passes. Mr. Clerk, LB 675A.

ASSISTANT CLERK: (Read LB 675A on Final Reading.)

SENATOR CUDABACK: All provisions of law relative to procedure having been complied with, the question is, shall LB 675A pass? All in favor of the motion vote aye; those opposed to the motion vote nay. Have you all voted who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1069-1070.) The vote is 46 ayes, 0 nays, 3 excused and not voting, Mr. President.

SENATOR CUDABACK: LB 675A passes. Mr. Clerk, LB 205.

ASSISTANT CLERK: (Read LB 205 on Final Reading.)

SENATOR CUDABACK: All provisions of law relative to procedure having been complied with, the question is, shall LB 205 pass? All in favor of the motion vote aye; those opposed, nay. Have you all voted who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1070.) The vote is 45 ayes, 0 nays, 1 present and not voting, 3 excused and not voting, Mr. President.

SENATOR CUDABACK: LB 205 passes. Mr. Clerk, LB 335. First

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

April 1, 2005 LB 335, 570

motion.

ASSISTANT CLERK: Mr. President, the first motion is, pursuant to Rule 6, Section 8, whether the Legislature would approve the dispensing of the reading at large of LB 335.

SENATOR CUDABACK: All in favor of dispensing with the reading vote aye; those opposed, nay. Record please, Mr. Clerk.

ASSISTANT CLERK: 39 ayes, 3 nays on the motion to dispense with the reading, Mr. President.

SENATOR CUDABACK: The motion was successful. Mr. Clerk, read the title, please.

ASSISTANT CLERK: (Read title of LB 335.)

SENATOR CUDABACK: All provisions of law relative to procedure having been complied with, the question is, shall LB 335 pass? All in favor vote aye; those opposed, nay. Record please, Mr. Clerk.

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1071.) The vote is 47 ayes, 0 nays, 2 excused and not voting, Mr. President.

SENATOR CUDABACK: LB 335 passes. Mr. Clerk, LB 570. Madam Clerk, the first motion.

ASSISTANT CLERK: Mr. President, the first motion I have is to suspend the at-large reading.

SENATOR CUDABACK: All in favor of dispensing with the at-large reading vote aye; those opposed, nay. Record please, Madam Clerk.

ASSISTANT CLERK: 40 ayes, 3 nays to suspend the at-large reading, Mr. President.

SENATOR CUDABACK: The at-large reading is dispensed with. Madam Clerk, please read the title, please.

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

April 1, 2005 LB 217, 242, 570

ASSISTANT CLERK: (Read title of LB 570.)

SENATOR CUDABACK: All provisions of law relative to procedure having been complied with, the question is, shall LB 570 pass? All in favor of the motion vote aye; those opposed to the motion vote nay. Have you all voted on the question who care to? Record please, Madam Clerk.

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1072.) The vote is 48 ayes, 0 nays, 1 excused and not voting, Mr. President.

SENATOR CUDABACK: LB 570 passes. Madam Clerk, we now go to LB 217.

ASSISTANT CLERK: (Read LB 217 on Final Reading.)

SENATOR CUDABACK: All provisions relative to procedure having been complied with, the question is, shall LB 217 pass? All in favor vote aye; those opposed, nay. Have you all voted who care to? Have you all voted who care to? Record please, Madam Clerk.

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1073.) The vote is 47 ayes, 0 nays, 1 present and not voting, 1 excused and not voting, Mr. President.

SENATOR CUDABACK: LB 217 passes. (Visitors introduced.) (LB 242.) Madam Clerk, first motion, please.

ASSISTANT CLERK: Mr. President, the first motion I have is to dispense with the at-large reading.

SENATOR CUDABACK: All in favor of dispensing with the at-large reading vote aye; those opposed, nay. We're voting on dispensing with the at-large reading of LB 242. Have you all voted who care to? Record please, Madam Clerk.

ASSISTANT CLERK: 38 ayes, 3 nays to dispense with the at-large reading, Mr. President.

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

April 1, 2005 LB 242, 268, 439

SENATOR CUDABACK: Madam Clerk, please read the title of LB 242.

ASSISTANT CLERK: (Read title of LB 242.)

SENATOR CUDABACK: All provisions of law relative to procedure having been complied with, the question is, shall LB 242 pass? All in favor of the motion vote aye; those opposed to the motion vote nay. Record please, Madam Clerk.

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1074.) The vote is 48 ayes, 0 nays, 1 excused and not voting, Mr. President.

SENATOR CUDABACK: LB 242 passes. Madam Clerk, LB 268.

ASSISTANT CLERK: (Read LB 268 on Final Reading.)

SENATOR CUDABACK: All provisions of law relative to procedure having been complied with, the question is, shall LB 268 pass? All in favor vote aye; those opposed to the motion vote nay. Record please, Madam Clerk.

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1074-1075.) 48 ayes, 0 nays, 1 excused and not voting, Mr. President.

SENATOR CUDABACK: LB 268 passes. Madam Clerk, last bill, LB 439E.

ASSISTANT CLERK: (Read LB 439 on Final Reading.)

SENATOR CUDABACK: All provisions relative to procedure having been complied with, the question is, shall LB 439E pass with the emergency clause attached? All in favor of the motion vote aye; those opposed to the motion vote nay. Have you all voted who care to? Have you all voted who care to? Record please, Madam Clerk.

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1075-1076.) 48 ayes, 0 nays, 1 excused and not voting,

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

April 1, 2005 LB 439
 LR 2

Mr. President.

SENATOR CUDABACK: LB 439E passes with the emergency clause attached. That completes Final Reading. We will now go to General File, 2005 Speaker priority bills. Mr. Clerk, LR 2CA.

CLERK: Mr. President, LR 2CA, introduced by Senator Landis, is a resolution proposed to Article XIII, Section 2, of the Nebraska Constitution. Resolution was introduced on January 6 of this year, at that time referred to the Urban Affairs Committee for public hearing. At this time I have no amendments pending to the resolution, Mr. President.

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Landis, to open on LR 2CA.

SENATOR LANDIS: Thank you, Senator Cudaback, members of the Legislature. This was on the schedule for yesterday. I was in a meeting with the executive branch, and the Speaker was kind enough to reschedule today when that meeting did not break up in time to allow us to take up this measure. For those of us who have been around for about four years or longer, this bill will look a little familiar. We've done this before. It did get out of committee when Paul Hartnett introduced and, in fact, it was passed a couple of years ago and is back because, in the staging of taking a constitutional amendment to the people, you want some time to prepare the parties who are most interested, as well as establish an educational campaign. So this is the first of a two-year campaign to try to achieve the success that's envisioned by LR 2CA. Let me compare two methods by which a nonprofit organization could move into an expanded building that they would need for their...let's say, the Salvation Army or the Red Cross. One of the things that they can do is they can go to a bank and get a mortgage. It will be a 20-year mortgage. It will have a 7 percent rate. They'll pay interest for, of 7 percent, for 20 years on the \$2 million for the building. In fact, that's the way it's done now, for the most part. However, in many, many other states, there is an alternative that is available that we do not have available in this state, and that is for the city that houses the Salvation Army or the Red Cross to issue a revenue bond, not a general obligation bond. It

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

April 1, 2005 LR 2

doesn't run against the city's credit. The city has no obligation to repay against the taxpayer. But the city issues a bond, the bond is used for the paying for the building. The nonprofit moves in and pays rent and then, by paying the rent, the bond is paid off. These bonds are tax-exempt, meaning that if you buy these bonds, when you receive interest on your investment, that interest is not charged tax. For a bill...for a project to have federal tax-exempt designation, it requires a state law saying that it's tax-exempt as well, which is one of the things this does. What's the difference between those two methodologies as far as the nonprofit is concerned? Well, in the event you were able to use the revenue bonds that were created by the city or the county, the interest that would be charged on the bonds wouldn't be the 7 percent of the marketplace. It would be 5 percent. What's the difference of a 2 percent reduction in interest over 20 years? The difference is about \$600,000. As a matter of fact, that's exactly what happened in Lincoln where the Lincoln Action Program, a nonprofit corporation, who could not make use of this technique because it's unavailable to them, used a different technique to get to the same location. They were able to use the industrial revenue bonds, which you already allow in this state and we allow them for profit-making organizations, but the revenue bonds, in that case for the Lincoln Action Program, were tax-exempt because it was in a blighted substandard area. The difference for the Lincoln Action Program, by being able to use a tax-exempt bond currently under industrial revenue bond blighted and substandard area, which happened to be West O here in Lincoln, was that they saved \$500,000. And you know what, the Lincoln Action Program can use that \$500,000 for a very good purpose. In fact, this is one of the best organizations in Lincoln for putting poor people and making a transition between their status as welfare receivers and people with jobs who winnow themselves off welfare and on to private employment. So that \$500,000 over 20 years represents a rather good deal of services that they could exist...that they could extend to the community which otherwise they would have to pay to a financial institution to pay off a mortgage because the mortgage would have a higher percentage of interest than a tax-exempt bond. This Legislature passed this idea two years ago unanimously. It happened to be like 38 and then 11 not voting. It did go to the

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

April 1, 2005 LR 2

public. It did go without any campaign effort whatsoever, and it lost. I want to acknowledge that. However, there was no concerted effort by the nonprofit organizations or anybody else who is interested in using this piece put together the kind of educational program that makes for a successful constitutional amendment. Having been approached by the Nebraska Bankers Association, among others--one of the reasons is banks buy bonds of local organizations--but approached also by Lincoln Goodwill and other nonprofits, I said, look, I'll introduce the bill but it has had a chance to go before the public. It will take the organization of folks who are concerned and care about this issue to make clear to the public why it would be a good thing to do this. I've received that assurance. Here's my plan. My plan is, if we can move this bill to Select File, to leave it there this year, to use the intervening time between now and next year to organize the kind of coalition that could justify taking this back to the public with the kind of resources available to persuade the public that, in fact, it's a good idea. This idea exists in many, many other states. It's rare for us not have...it's uncommon for a state not to have this available. Understand that there's an exception to this language. You can't use this for a church, can't use this for a church school. The project can't use eminent domain. You can't take property away from people to do this. But it is a revenue bond. It authorizes it by cities and counties, and it authorizes that the bonds that are used for this kind of purpose, because they're issued by the city or the county, they are themselves tax-exempt. When they're tax-exempt from state taxes, this will also trigger the designation for being tax-exempt from the federal statutes as well. It will extend to nonreligious, nonprofits, the opportunity to use tax-exempt financing. That tax-exempt financing, over the normal life of a mortgage, will produce a differential that in the case of a \$2 million bond would be roughly about \$600,000 in savings to the nonprofit. I'll be happy to answer any questions. I can't imagine that this won't foster some amount of questions and the like, and I'll do my best to respond to the questions that you have. Thank you.

SENATOR CUDABACK: Thank you, Senator Landis. You've heard the opening on LR 2CA. Open for discussion on that motion. Senator

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

April 1, 2005 LR 2

Mines, followed by Senator Chambers.

SENATOR MINES: Thank you, Mr. President. I...and philosophically, I guess, I agree with this, but I...if Senator Landis could respond to several questions, please.

SENATOR CUDABACK: Senator Landis, would you respond?

SENATOR MINES: Senator, this...refresh me because I don't recall this bill before. This went before the voters...

SENATOR LANDIS: Uh-huh.

SENATOR MINES: ...in 2002?

SENATOR LANDIS: 2002. I think that's right.

SENATOR MINES: All right. Essentially the same bill?

SENATOR LANDIS: Essentially the same bill.

SENATOR MINES: Essentially the same bill. And in your opinion, the reason that it was not approved was lack of information?

SENATOR LANDIS: Well, I think any time you talk about a public entity being able to issue bonds,...

SENATOR MINES: Yes.

SENATOR LANDIS: ...the public starts with a no. Without a concerted to overcome that no,...

SENATOR MINES: Uh-huh.

SENATOR LANDIS: ...it loses.

SENATOR MINES: Yes.

SENATOR LANDIS: And there was not a concerted effort by interested parties to persuade the public that it was a good idea.

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

April 1, 2005 LR 2

SENATOR MINES: Okay. That's fair.

SENATOR LANDIS: What happened was it came down to newspapers taking their endorsement positions and voter guides, and that was the sum total of all of the information that the public had. My guess is, is that's why they voted no.

SENATOR MINES: Okay. Secondly, the guarantor of the bond would be the municipality or the county. Would not. Who is the guarantor?

SENATOR LANDIS: The guarantor is not the taxpayer in that a revenue bond lives or dies by the revenue stream that is created, in this case, rent.

SENATOR MINES: That's right.

SENATOR LANDIS: And in the event it fails, the bondholder looks to the conduit revenue source. For example, if you have an industrial revenue bond in this state...

SENATOR MINES: Right.

SENATOR LANDIS: ...issued by a community on behalf of a company,...

SENATOR MINES: Uh-huh.

SENATOR LANDIS: ...the failure of that bond will mean they will go after the industry that's located at that location. A conduit revenue bond, the people who ultimately become responsible are the people who are enjoying the use of the facility, if you will. They will be the guarantor.

SENATOR MINES: But in this instance, if it's a not-for-profit and let's just say the rent...revenue stream from rent or whatever it might be fails. The not-for-profit is the first step in that recovery stream?

SENATOR LANDIS: That's right, and if not you...

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

April 1, 2005 LR 2

SENATOR MINES: And if they aren't...

SENATOR LANDIS: ...what you do is you sell the property.

SENATOR MINES: And if the not-for-profit has no assets, there is no second step to the municipality or county?

SENATOR LANDIS: That's right. There is no mis...there is no step to the taxpayer. There is no step to their General Fund. Now it's possible that you could sell the building.

SENATOR MINES: Yes, you could.

SENATOR LANDIS: And it's possible that a bondholder can take a bath.

SENATOR MINES: Yes, you could.

SENATOR LANDIS: Because this bond is not subject to the credit, full faith credit of the taxpayer, the bondholder has risk.

SENATOR MINES: Yes.

SENATOR LANDIS: In this case, the city cannot be forced over their objection to pay should the bond fail. What would happen is you'd simply say, look, go after the lessee. If that doesn't work, bondholders, here's the building; sell it.

SENATOR MINES: So the local public entity is the conduit through which...they're a mechanism; that's all they are.

SENATOR LANDIS: That's right. It's absolutely a conduit and it is not a bag-holder.

SENATOR MINES: Thank you. Mr. President, thank you.

SENATOR CUDABACK: Are you through, Senator Mines? Thank you. Senator Chambers, followed by Senator Beutler.

SENATOR CHAMBERS: Mr. President and members of the Legislature,

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

April 1, 2005 LR 2

I am opposed to this, but there might can be some maneuvering that will lessen my opposition. However, I do want to call Senator Landis' attention to one specific area right now that jumps out at me. On page 3, beginning in line 12, we have this language: "The acquiring, owning, developing and leasing or financing of such property shall be deemed for a public purpose, but the governmental subdivision shall not have the right to acquire such property by condemnation." Based on Senator Landis' explanation, his intent is that the subdivision cannot come and take somebody else's property and turn it over for this particular purpose. But the way it's written, it means that this property cannot be obtained by way of condemnation. So let's say that a project is put here. Then a greater public purpose develops. That property cannot be taken by condemnation, based on the way the language reads. So I would like to put some language in that would say something to the effect, in line 15 after the word "property," "for the purposes specified in this subsection." Then it would say, "but the governmental subdivision shall not have the right to acquire such property, for the purposes specified in this subsection, by condemnation." Then, if at a future date it would be in the public interest to take that property, maybe it's blocking the building of a road or a school or something, where there would be a legitimate public purpose that transcends the purpose being served by this project...I want in the record clearly what I'm saying, then Senator Landis is going to address it...that property then could be obtained by condemnation based on the laws governing condemnation in other instances. And I'd like Senator Landis' response to that.

SENATOR CUDABACK: Senator Landis, would you respond?

SENATOR LANDIS: Senator Chambers, you divine my intention accurately. It is not my desire to have the property taken by condemnation for this purpose. To the extent that an appropriately drafted amendment would be forthcoming, I would accept that on its face. My goal is to make sure that we don't use the coercive power of government to take property from one person and give it to another. That's not the role of government.

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

April 1, 2005 LR 2

SENATOR CHAMBERS: So what I'm going to do, Mr. President, is put on the desk a proposed amendment so that there will be the opportunity to see if this is appropriately drafted in Senator Landis' opinion, because I want to make it clear that at this point my aim is not, through subterfuge, to derail this proposal. I don't like the thrust of it, and that may not come as a surprise to Senator Landis. And in my view, although he almost took my thunder, this is a bankers' bill. The banks don't care who or what the nonprofit entity is. They want to get those bonds. They want to get...they want to derive what profit they can. So it's their interest that we're serving here, primarily. This becomes the cash cow which these financial entities will milk.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: As long as the cow has enough nutrients to produce milk, the bankers are interested in the cow. But other than getting that milk, they have no interest whatsoever. So there is not altruism in this proposal, although some altruistic results may incidentally occur. But since maybe there is more that needs to be said in that regard, I will stop for now and see what responses other people may have, if any.

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

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, I'm very much in favor of those kinds of things that enhance and encourage a public-private relationship on construction projects and projects related to nonprofits. I just would like to ask Senator Landis three different questions, and they're all sort of related.

SENATOR CUDABACK: Senator Landis, would...

SENATOR BEUTLER: And they all have to do with one thing, Senator Landis, and that is what the prerogative of the Legislature will be in the event that this passes, or when it passes, in terms of fashioning the parameters of certain items here. And the three items I want to talk about start with the

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

April 1, 2005 LR 2

word "primarily" on line 25 of page 2. And that's the provision, for those of you who don't have your bill open, that indicates that the Legislature may authorize the acquisition of real estate or personal property, and then it says, "other than property used or to be used primarily for sectarian education or study or as a place for devotional activities or religious worship." First of all, if Senator Landis would yield,...

SENATOR CUDABACK: Senator Landis, would you yield to question from Senator Beutler? Senator Landis, would you...thank you.

SENATOR LANDIS: Senator Beutler, I'm sorry. I was just chatting with Senator Byars for a moment. I think your question is what's the Legislature's role in the interpretation of that piece. Is that right?

SENATOR BEUTLER: Yeah, but before you answer that, let me ask you for just a kind of statement of intent. The word "primarily" comes before "for sectarian education or study" and I assume it would...it is intended to be a modifier also to the language "a place for devotional activities or religious worship."

SENATOR LANDIS: I'm going to answer yes, and then I'm going to think about it.

SENATOR BEUTLER: Okay. Let's assume for the moment that the answer is yes to both places. Then, if this passes, will the Legislature...or do we need any additional language, or can the Legislature on the face of it interpret by statute what it is that "primarily" will mean?

SENATOR LANDIS: I think the better way of saying it is this. The Legislature does not have the power to authorize this mechanism in the circumstance in which the property was primarily used for sectarian instruction or study or devotional activity; that the people have not given us the power through this amendment to authorize in that circumstance; so that I think there would be a constitutional issue if, for example, we said, you know what, the Legislature hereby authorizes projects in the event 60 percent...no more than 60 percent of the

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

April 1, 2005 LR 2

operation of the facility was for a religious purpose; something that would be, on its face, I think would not be primarily. Okay? It would be...it would fall on the face. We would not have the power to create a mechanism to not honor the use of that word. Now, to the extent that we don't subvert that definition, fly in the face of it, I think we would be authorized to, in fact, do rules and establish practices for determining what would be less than primary use. However, we wouldn't,...

SENATOR CUDABACK: One minute.

SENATOR LANDIS: ...I think, have total power and couldn't subvert the meaning of this language.

SENATOR BEUTLER: Okay. In other places in this amendment, you have this phrase that I really like a lot which says "as determined by law" and you have it made applicable to other sections here, but not to the section that deals with the question of whether...the question of a primary use. Would you see any use to...or would it be valuable to insert that "as determined by law" phrase and make it applicable to that section, to make it more clear that the Legislature can determine...

SENATOR LANDIS: No. I'll tell you why. What I don't want is I don't want this Legislature being able to take this language and interpret it so far that, in fact, you could subvert it. If we make this promise that the primary purpose can't be religious, then a Legis...if we said it can be religious...primarily it can't be religious as determined by law, we could come back, I think, and subvert that definition. I think this is an arrangement between the people and us, in which they say to us, look, we'll let you do this but don't use this. What we're not going to do is buy churches.

SENATOR CUDABACK: Time. I'm sorry, Senator Landis, but time is up, Senator Beutler. Senator Stuthman. I'm sorry. Senator Stuthman, there is a motion on the desk. Mr. Clerk, please.

CLERK: Senator, I apologize. Senator Chambers would move to

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

April 1, 2005 LR 2

amend with FA139. (Legislative Journal page 1076.)

SENATOR CUDABACK: Senator.

SENATOR CHAMBERS: Thank you, Mr. Clerk. Mr. President, members of the Legislature and friends all, the reason I use members of the Legislature and friends all, not all members are friends necessarily, but for those who are willing to accept that designation, I so address you this morning. Senator Jeanne Combs, my alter ego, this is a "no-fanger." Mr. President, this is what I was talking to Senator Landis about earlier, to try to ensure that nothing is put into this proposal to inadvertently take from a political subdivision the power to obtain by eminent domain property which is occupied by a project of the kind envisioned in this proposal. When the north freeway was cutting through my community, churches were taken, a school was taken, and they have done that already. So I do not want this kind of project, which is primarily a moneymaker for the financial institutions, to create a type of sanctified property which came into being by way of a boon not available to others, so that they are immune from the possibility of eminent domain being exercised to carry out a higher public good. We all know that there cannot be any taking of property without due process of law, due compensation. It cannot be done in a way that seems unfairly to confiscate from a person property which is not being used for legitimate public purpose. When entities having the power of public domain attempt to exercise that power, a resisting or unwilling property owner does have recourse to the courts. Sometimes the property owner prevails; sometimes not. Under the language of this proposal, as it stands, the political subdivision never could obtain this property by eminent domain. So if you turn to your gadget, you can insert this language, these few words where they would fall in the proposal. On page 3, in line 15, after the word "property" you would insert "for the purposes specified in this subsection." And that would cause the language to read thusly: "The acquiring, owning, developing, and leasing or financing of such property shall be deemed for a public purpose, but the governmental subdivision shall not have the right to acquire such property for the purposes specified in this subsection by condemnation." It means just what Senator Landis declared his purpose to be. In

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

April 1, 2005 LR 2

order to get land for this project, the subdivision cannot use its power of eminent domain to take it. If it's stopped there, I wouldn't have any problem. But my language is designed to qualify that to make it clear that this is not a blanket exemption from the power of eminent domain which the public...the political subdivision would have under all other circumstances. If you look on your gadget, you'll see I have another amendment that I'm offering. It's up there, and it touches the area that Senator Beutler talked about. On page 2, in line 25, my amendment would say strike the word "primarily." And after the word "for," put "any." Then you could not have a project which was used for any sectarian study or as a place for devotional activities and so forth. That would make it clear that there's going to be no entanglement between the state and these private operations, many of which have found stratagems for circumventing the rule of separating church and state. My good friend Senator Brashear, the "Silver Fox," has helped some religious entities navigate around that by saying the state can give money to students who, in turn, will give it to a religious school. And that circumvents the requirement that the state not give aid to these private and parochial schools or the religious ones. So they can find a way around it and they will, and some have probably plotted and calculated how they're going to do it already, and that might be why they wanted the word "primarily" there. That means when you say "primarily" that there can be some sectarian instruction, there can be that kind of study. It can be a place for some devotional activities. There can be some religious worship. I don't think there should be any of it. And any of those operations that are going to undertake a project, just let them go out and beg and hustle money like religious outfits always do. But the provision that is before us right now, the amendment that is under discussion, is the one that relates to the question of condemnation. If you have any questions to put to me relative to that, I will answer them to the best of my ability. And if I can't answer them with the collective knowledge on this floor relative to the subject of condemnation, I'm sure we can get any question adequately answered. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. You've heard the opening on FA139 by Senator Chambers to LR 2CA. Open for

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

April 1, 2005 LR 2

discussion. Senator Stuthman. I apologize for interrupting last time.

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I'm realistically not going to speak on Senator Chambers' amendment. I'm speaking basically on what I am trying to figure out the real issue that we're dealing with here, and I've got some questions and concerns about it. What I understand what we're trying to do is for a nonprofit enterprise so that a government community can issue bonds for this. One thing that I'm concerned about also is that the property that they're going to be taking or utilizing, the valuation of that property, you know, is not going to be on the valuation of the tax rolls again, how is that going to be addressed? Are more people going to have to pay a little bit more just because of that property is not on the tax rolls? But that is not a major issue. What if, in the duration of the bond, if it's a 10-year bond or a 20-year bond, this nonprofit thing doesn't work out in half of the time frame of the bond? Who is responsible for that last half or the portion of the bond that is left? It says it will not become an obligation, a general obligation, but maybe I could...I would like to ask Senator Landis a question that really is pertaining to that subject.

SENATOR CUDABACK: Senator Landis, would you respond?

SENATOR LANDIS: Yes.

SENATOR STUTHMAN: Senator Landis, I know you've been listening attentively as to what my concerns are. Who, in your experience, would be responsible for half of the bonding left if the nonprofit organization went defunct?

SENATOR LANDIS: You go, first, to the nonprofit, but I think your hypothetical says they're defunct. Secondly, you would liquidate the resource and pay off the bondholders.

SENATOR STUTHMAN: If there wasn't enough money to pay off the bondholders,...

SENATOR LANDIS: That's what the bondholders...that's right.

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

April 1, 2005 LR 2

That's one of the reasons the bondholders charge the interest that they do. There is no guarantee for the bondholders. These are not guaranteed instruments. So the end result is the gamble that the bondholder makes that the bond will be upheld. It is rather like you buying a corporate bond. The bond, you know, promises that it will do something, but if it doesn't, you are at risk. That's...there's a big difference between a guaranteed instrument like a T-bill or something, a general obligation bond by the city, and a revenue bond. And the answer is the bondholder takes risk. The city does not.

SENATOR STUTHMAN: Okay. Then, when these bonds are issued, there is a rating on those bonds also as to, you know, what the anticipated return would be on it, and that, you know, it would be fairly well guaranteed that, you know, that they will get the return. But the way I understand it from Senator Landis is that, you know, if it went defunct and there was 25 percent left to pay on the bonds, that would be the responsibility of the individuals that had put money into the bond program. And that is the way I understand it is right. Okay. Thank you, and I'll return the balance of my time to the Chair.

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

SENATOR LANDIS: I just rise to say that I accept the Chambers amendment. He, in fact, is accurate in his description of my intent. It is that you not take this property for this purpose. And if we want to proceed to a vote on that one and get on to the next amendment, that would be fine with me. I think it clarifies a circumstance and I have no objection to the amendment. In fact, I'll be voting for it.

SENATOR CUDABACK: Okay. Thank you, Senator Landis. Senator Chambers.

SENATOR CHAMBERS: If I heard correctly, Mr. President, Senator Landis is in agreement with the amendment, or he's willing to accept it, so I won't belabor it. I'm not at this point in all-out effort to stop the bill. I think there needs to be more discussion, more fleshing out of exactly what is here. But I

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

April 1, 2005

LR 2

will tell you one thing, and I will say it again. This is a cash cow for the bankers. Why do you think they would support something like this? Do you think that bankers are altruistic? Why, most bankers, if a farmer is coming to get a loan and says, I want to borrow a dime, the banker says, if you got 11 cents collateral, I will lend you a dime. And they're quick to come and foreclose when it's to their benefit. But banks don't like to be in the real estate business. They don't want to be a holder of used farm equipment and implements. So they encourage, and they've done this...I was here and I was trying to help the farmers see it. They were encouraging them to borrow and borrow and plant from fence post to fence post, and just keep leveraging and buying and buying land if you could. So it's like buying a piece of land and, instead of adding to it in a straight-up vertical fashion, you had less collateral of your own. The first piece would be place. The next piece kind of overlapped the first one and was partly hanging out over it. The third piece was hanging out a bit over the second piece, the fourth piece hanging out a bit over the fifth...over the one preceding it, and pretty soon you had such a slanted, heavy weight that it collapsed of its own weight. Not enough collateral, this loan is classified, put some more collateral in it. I don't have any more. Then you know what I got to do, because I'm going to have some examiners in here; I got to foreclose. Well, why are you going to do that to me? Now, Farmer Brown, you understand the world of finances. You understand the role of the bank. Then poor Farmer Brown says, but when you were encouraging me to borrow this money, we sat down together and we had doughnuts and coffee, friendly conversation; you smiled. To take a play on a little rhyme I wrote the other day, you were "Banker Jekyll." And then the little banker shrinks as Mr. Hyde did, because Mr. Hyde was very small; "Heh, heh, heh, well, now I'm Mr. Hyde." And he's going to take his property and sell it, and some farmers help cannibalize their brothers and sisters. Instead of recognizing that they were all in the same boat together, that they were all in a mere holding action, because farmers one, two, three, four, five, six, seven, eight, nine were similarly situated to farmer ten, so why would the hammer fall on Farmer Ten but not on all the other nine who were similarly situated? Because they were in holding actions. The bank didn't want all that land with

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

April 1, 2005 LR 2

nobody doing anything with it, it going to seed. And some farmers were so happy to get their brother farmer or sister farmer's equipment at a cut rate that they'd go to the auctions and buy. If nobody attended an auction, nothing could be sold. But at any rate, I say that to say this. Bankers are Mr. Edward Hyde. They're not the friendly, smiling Dr. Jekyll. And anything they come with should cause some suspicion on our part. If a commodity ordinarily generates taxes, then something is going...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...to be done to keep that from happening. Then once again, fewer people pay taxes and those who are already flush don't pay. And we're supposed to do this under the umbrella of helping nonprofits. You think a banker is interested in helping anybody more than the bank is helped? When they used to give you a little blanket or a tea kettle for putting some money in the bank, you think they ever were going to go into debt by giving you a tea kettle and a blanket? No, that was a little hook with which they caught you and rooked in another sucker. Right now, as I said, I'm not in a full court press, but I have grave concerns about this bill. But on the chance it may pass, I'm going to do a little tweaking here and there. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. (Visitors introduced.) Senator Chambers, there are no lights on. He waives closing. The question before the body is adoption of FA139. All in favor vote aye; those opposed, nay. Voting on adoption of the Chambers amendment, FA139, to LR 2CA. Have you all voted on the question who care to? Voting on the Chambers amendment, FA139. Record please, Mr. Clerk.

CLERK: 25 ayes, 0 nays, Mr. President on the adoption of Senator Chambers' amendment.

SENATOR CUDABACK: The Chambers amendment has been adopted.

CLERK: Senator Chambers would move to amend with FA140, Mr. President. (Legislative Journal page 1076.)

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

April 1, 2005 LR 2

SENATOR CUDABACK: Senator Chambers, you're recognized to open on FA140.

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, since this is a bankers' bill, they couldn't care less about religion, devotional services and whatnot unless the bank is the one being worshipped and you're swearing your devotion to the banker. But first of all, I have a bone to pick with Senator Landis. I'd like to ask him a question.

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

SENATOR CHAMBERS: Now, Senator Landis, please don't say that, Senator, you know the answer and I won't give it. Senator Landis, are you yet the Chairperson of the Revenue Committee?

SENATOR LANDIS: I am yet the Chairman of the Revenue Committee. I have not been impeached yet.

SENATOR CHAMBERS: Senator Landis, I always thought you were opposed to carrying concealed weapons.

SENATOR LANDIS: I have been.

SENATOR CHAMBERS: I read in the Omaha World-Herald this morning that the Revenue Committee advanced the concealed carry weapon. What in the world are you doing?

SENATOR LANDIS: Let me tell you how it...how that worked.

SENATOR CHAMBERS: Okay, please.

SENATOR LANDIS: We concealed the concealed carry bill secretly. Now Pat doesn't know about this. It's tucked away in a special file drawer. We had a little vote on that on a secret Exec Session, and we concealed everything we did. I don't know how they got...how they got to the bottom of it. They caught us, I guess, and apparently it's out here 6 to 2. I don't know how

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

April 1, 2005

LR 2

that happened.

SENATOR CHAMBERS: Well done, Senator Landis. You've restored yourself to my confidence. Thank you. I couldn't figure that out, and I'm still not sure that I understand, but it sounded like he said something that I liked. Now we come to this amendment. You know, storytelling is really helpful because it engages people's mind. The first method of education was through storytelling. When the cave people gathered around a fire of a chilly autumn night, roasting meat and sometimes each other, they were regaled by stories being told. So even on the floor when we can put something in the context of a story or tale, it catches people's interest. I think there was more interest when Senator Landis was telling that tale than there has been on any aspect of this bill. But now I have to go back to the dryness of the bill itself. Senator Beutler raised an issue which I put an amendment on the desk for. On page 2, in line 25, I would strike the word "primarily." I would then, after the word "for," insert "any." Then the active language would say, and this is the property which is excluded from being used for these purposes, "other than property used or to be used for any sectarian instruction or study or as a place for devotional activities or religious worship." The current status of affairs under the Nebraska Constitution prohibits the state giving money or aid to these religious outfits. You will notice that those wily bankers in crafting this language started out in line 21 by saying "notwithstanding any other provision in this constitution." "Notwithstanding any other provision," that will take away from that blanket separation between church and state as far as state aid. This removes that. It erodes it, it eats into it. Because a court looking at this would rule correctly that the Legislature knew about the prohibition of state aid to these religious outfits, and with that knowledge decided to erode that categorical position and dilute it. And contrary to what Senator Landis has said, the Legislature may authorize any county to acquire, lease and do these other things other than for property used or to be used primarily for. The Legislature is going to determine what that means. The counties and other political subdivisions cannot act on this language because it is not self-executing. The mere acceptance by the public of this language as a part of the constitution does not authorize these

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

April 1, 2005 LR 2

counties, cities, villages and whatnot to do anything. That awaits the pleasure of the Legislature. If the Legislature enacted enabling or authorizing legislation to put at the disposal of the counties the power to do what this part of the constitution, if it were adopted, would allow, the word "primarily" is going to be a part of that. And words are defined in legislation, especially a word such as this. The Legislature will have the power to define it. It is going to inform any legislation that this body attempts to enact. Then counties, cities and these other entities will make a determination as to whether or not a sectarian use, which is involved, is the primary use. So you say we're going to build a building that has 20 rooms; 3 of them are going to be used for religious purposes. The primary purpose and use of the facility is not religious. But that part of it which is being used for religious is exclusively used for religion or other sectarian purposes. If this amendment is adopted, all that it will do is take away any possibility that the power of the state can be bent to the purpose of a religious organization or operation or outfit. Leave the status quo in that regard as it is now. My amendment should be adopted. Then we can focus on whether or not we should kowtow to the bankers. And while you're giving away all types of goodies to business through bills that will come out of the Revenue Committee or A bill, which will have many abominable parts to it, why should we amend the constitution to benefit the bankers? These supposed nonprofit operations can beg up on whatever money they need. And if they can't beg it up, beg up on it, it means the public is not supportive of what they're doing. So if the public is not supportive, why should those political entities which represent the public stand behind the issuing of some bonds which will make money for the bankers? And people will say, as is always argued when we talk about revenue bonds, if whatever the project is doesn't generate enough money to retire the bonds, then the project folds or collapses. Let's say that you have such a project and it does not produce revenue or any wherewithal to pay off, what becomes of that building or whatever was put there? Does it stand idle? Could it be a part of a scheme that somebody who looks way down the line, as Creighton did when it managed to get that old former veterans' home to use for its dormitories, a structure it never...

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

April 1, 2005 LB 39, 121, 131, 144, 205, 217, 234, 242
 268, 299, 335, 352, 439, 485, 492, 516, 570
 668, 675, 675A, 684, 684A
 LR 2

SPEAKER BRASHEAR PRESIDING

SPEAKER BRASHEAR: One minute.

SENATOR CHAMBERS: ...could have gotten federal money to build? Could it be that some wily person would say, we're going to work with you to put together this project so you can get these bonds issued, knowing that the project is going to fold, then somebody is going to steal that land for a song? The building is already there, the land has been acquired. Everything is there for the taking--cherry-picking. This is not as innocuous and innocent as it might appear, but I think my amendment is clear. I don't know whether you will accept it, but that is what is before you, and I hope you will agree to adopt it. Thank you, Mr. President.

SPEAKER BRASHEAR: Thank you, Senator Chambers. Members, before we proceed, while the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LB 39, LB 121, LB 131, LB 144, LB 234, LB 299E, LB 352, LB 485, LB 492, LB 516, LB 668, LB 684, LB 684AE, LB 675, LB 675A, LB 205, LB 335, LB 570, LB 217, LB 242, LB 268, and LB 439E. Thank you. Senator Landis, to the amendment.

SENATOR LANDIS: Thank you, Mr. Speaker, members of the Legislature. I don't think Senator Chambers and myself have a fundamental difference here, although I think we do have a practical difference in this situation. Senator Chambers, I wonder, I'm just going to speculate out loud and I'm not going to put this in the form of a question, but I wonder if you have noticed, along with myself, that public schools now have an obligation, when they make their building available to student organizations, that if the student organization happens to be religious, we now have to allow that religious organization to be able to use the school property. That's my understanding of the current law, and I don't think...I wonder if you would acknowledge that that's the current state of the law. Once you allow a student organization to exist and use the school property, you may not discriminate against a religious-based student organization in the use of a public facility. I think

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

April 1, 2005 LR 2

that's an accurate statement, is it not? (Laugh)

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Senator Chambers.

SENATOR CHAMBERS: I would say, generally...

SENATOR LANDIS: Generally, that's right.

SENATOR CHAMBERS: ...and for our purposes I can buy it.

SENATOR LANDIS: Yeah. And that kind of thing has occurred because, in fact, there is...we're very hard-pressed to create an absolute wall. What the court was saying there was, look, you could create a wall that said nobody can use the facility, but once you could use the facility, you couldn't pick and choose between them. That's where we are now with respect to this wall between church and state. And I got to say, even the public schools couldn't meet the standard that Senator Chambers is suggesting in this case because there winds up being in the use of our public schools some religious activity. And the reason is, it's omnipresent in our culture. Let me give you an example of why I think "primarily" is the appropriate word, but "any" is too far. Bryan Memorial Hospital here in this state, I got to tell you I had reason to be at Bryan Memorial Hospital this last month. My father-in-law passed away; spent two weeks. And I will tell you that there is a nondenominational chapel in Bryan Memorial Hospital. It represents perhaps 1 percent or less of the floor space, but if Bryan Memorial Hospital was a project, I think Senator Chambers would say, you know, the existence of that very modest, tiny nondenominational chapel would mean that we couldn't use this mechanism for them. And while there's a place in which that grows significant that we agree, at the point that the word is "any," I think it overstates it. The Lincoln community theater, a 501(c)(3), built a facility. They produce shows Tuesday through Saturday, but there was a period of time in...when they were first opened that on Sunday morning they leased the theater out for a devotional service to a church that didn't have a church. My guess is that they did that for a period of about two years over

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

April 1, 2005

LR 2

a 20-year mortgage. Under the rule that Senator Chambers is suggesting, that would disqualify this project completely from the use of this mechanism, when I think it would be fair to say the overwhelming use of the facility was, in fact, totally nonsectarian.

SENATOR CUDABACK: One minute.

SENATOR LANDIS: It was a cultural exchange. It was nonprofit. It was a gift to the community without regard to religious intent. In other words, I think "primarily" is a fair word to use. I think it reflects reality. I think "any" goes too far. And this is one place where I think Senator Chambers and I, even though I think our general interests are aligned, we do not agree in this case, and I'm going to vote no on this amendment.

SENATOR CUDABACK: Thank you, Senator Landis. Further discussion on the Chambers amendment, FA140? Senator Redfield.

SENATOR REDFIELD: Thank you, Mr. President, members of the body. I am not going to support the amendment that is before you, and the reason I'm not going to is because a nonprofit is a nonprofit. And I don't believe it is the job of government to discriminate between them. Let me give you an example. We have stores in the state that are run by the Salvation Army for the benefit of our citizens who can go and purchase goods and clothing, items that they may need, at very substantially discounted prices. We also have stores that are operated by the Goodwill. Under the amendment that is before us, if in fact the Salvation Army were to use a room in that facility for any kind of these activities, even on nonoperating store hours, they would not, in fact, be able to use this kind of bonding. And I will tell you, I'm not going to support the bill. I did not support the bill before when it was before us, and the reason I didn't support the bill is because I felt that it was not the function of government to erode the tax base by picking entities that we would give this kind of tax incentive for. Because, in fact, when you purchase these bonds now, we are benefiting from the tax income that is derived from the interest gained. When you create a government bond, you have now created a nontaxable entity which does erode our tax base.

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

April 1, 2005 LR 2

Senator Landis has stood before and said, as the Chair of the committee, the Revenue Committee, it is his responsibility to protect the tax base. And I do believe we need to do that. I don't believe it's the government's role to get involved in discriminating between different entities in our state, but I do believe that the amendment that is before us would further that discrimination between even entities that provide the same service to the citizenry. So I am not going to support the amendment, but I am not going to support the bill. Thank you.

SENATOR CUDABACK: Thank you, Senator Redfield. Senator Chambers, on your amendment.

SENATOR CHAMBERS: Mr. President and members of the Legislature, my mind is boggled--concern for eroding the tax base, but not concerned about eroding one of the fundamental principles of the federal government and this state government. You are eroding the separation between the state and religion. This language starts out, as I pointed out before, notwithstanding any other provision in the constitution. Why did they put that in? Because they want to undermine an existing provision in the constitution. I wish other people on this floor cared about the constitution to the extent that I do. What does "primarily" mean? Fifty-one percent. Forty-nine percent can be religion and it's all right. Here's what you have to understand. You are not creating a public entity. You are not creating a public facility open to everybody. Senator Landis' example of the public schools falls on its face because the public schools belong to everybody, not a particular entity. When they talk about a nonprofit, they don't mean somebody is not making a profit. There are people who work there. They make a living. There are salaries paid. The value of their holdings may increase. So profit is a misnomer, to my way of thinking. They do get financial benefits not available to others. And they can choose not to hire certain people if they want to because those people don't comply with their religious dogmas. And you want me to let the constitution be eroded so that these churches can discriminate. These church-based businesses can discriminate. And you mean to tell me you think, as wily, as tricky as they are in finding ways to evade the existing law, that they would not play havoc with this word "primarily"? They wouldn't know

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

April 1, 2005

LB 2

how to let 51 percent of it be for whatever they say the good thing is that's nonsectarian, and then have 49 percent of it sectarian? You think they don't know how to do that? They do it all the time. The constitution is a bulwark and a protection against that. Look how many things are being forced by these religious wackos. They corrupted the presidency, and again in that Schiavo case. It shows what these religious zealots and extremists can force the government to do. Congress forsook its responsibility, and you think this Legislature is stronger than Congress, as weak as the people are in here? And you're going to give up that barrier of protection? At least the President wasn't able to change the wording in the U.S. Constitution. Congress could not change the wording. They simply chose to ignore it. And it reached such a point that the last judge to rule on this case chastised the President and Congress by saying how they overstepped their bounds. They ignored the principles of separation of government. And through sheer political power--I'm now speaking on my behalf, not even paraphrasing the judge--sheer political might, cold, naked, political pandering, they created a spectacle which to this day is being condemned in Europe. I know people in America don't care what the Europeans think, unless they go to Europe to travel, then they show their worship of anything European. So here you have a Legislature prepared...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...to undermine, deliberately, the existing constitutional standard, notwithstanding any other provision of the constitution. Why did they put that in there? So that these religious outfits can get that direct state aid, and don't tell me they won't get it. I had to fight years to get rid of a program that this Legislature maintained that made scholarship aid available only to students who went to private and religious schools. I had to fight it. These senators are not going to stand up for anything like that. They don't have the fire in their belly, they don't have the strength in their backbone. But, brothers and sisters, I'm going to fight for it. And if this amendment is not adopted, it's going to make the rest of my fight against this bill even easier. And I'm prepared to take it on because I can see that the constitution is in danger, and

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

April 1, 2005

LR 2

I'm going to protect it to the extent that I can. And if it means that I have to give my last breath at 11:59 p.m.,...

SENATOR CUDABACK: Time, Senator.

SENATOR CHAMBERS: ...I'll be there to do it. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Beutler, on the Chambers amendment.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, there are a number of interesting questions here and also questions that are important. And I think I would argue further with Senator Landis with respect to the Legislature's ability to regulate by structure, with respect to this question of "primarily." And it is for the reason that has been illustrated this morning, that there are two extremes to that. The one extreme is Senator Landis' example of Bryan where maybe only a small percentage of it is used for religious purposes. The other example that Senator Chambers gives is something that's 49 percent sectarian but is getting the benefit of tax-free bonds to finance the whole thing. I think you have to remember, and this is a concept that's not easy to appreciate, but there is, in fact, a cost to government and to the taxpayer in allowing this to happen. And that cost is basically this. If you flood the municipal bond market with additional bonds that are essentially for nonprofits but are issued by political subdivisions, if you flood that market with a lot of additional available bonds, it's a free market and it's supply and demand. And the more bonds that are available, the worse...the lower...the more unfavorable is the overall interest rate that applies to all municipal offerings, so that your storm sewer offering is not going to get as favorable an interest rate if the market is loaded with bonds and there are many more bonds than there are buyers of the bonds. So the price is affected, or can be affected. And therein lies the subsidy to the nonprofits that you make when you do something like that. Now that's not to say you shouldn't do it. I indicated earlier I think...I like the idea of public-private partnerships. But I think that you can see that there are many situations that can

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

April 1, 2005 LR 2

come up here where the word "primarily" you might want to think about, but you're not going to be able to think about if that's in the constitution and if the barrier is there that says the Legislature can really not do much here. I would argue for a broader parameter. It's interesting that the argument is made that the Legislature shouldn't be able to regulate, whereby under this amendment the city or the county or the person who issues these bonds, they can pick and choose. Ah, and therein lies another difficulty. Right? When the city and the counties start to pick and choose among these nonprofits, well, I hate to think of the abortion question and some of the things that can come up, because most of those organizations on both sides are nonprofits also. There are also cult groups out there. Now maybe that problem is solved by the city or the county being able to choose not to deal with them and to deal with more established religions...

SENATOR CUDABACK: One minute.

SENATOR BEUTLER: ...or more mainstream groups. But the point is this. If they can pick and choose and give dimensions to the thing, is that how we want to regulate it? Or shouldn't the state have some sort of role in this also, given the broad parameters illustrated by the prior conversations between Senator Landis and Senator Chambers? And, Senator Landis, I would leave you with one question, if you could answer on your time. When the tax assessor goes out and looks at a place like Bryan Hospital, which is part taxable...well, no, I guess that wouldn't fit because they're totally nontaxable, whatever the reason. But let's say another situation where part of the operation was taxable but part of it was nonprofit. How do they distinguish the situation?

SENATOR CUDABACK: Time, Senator Beutler.

SENATOR BEUTLER: I mean, I assume they don't allow it all to be nontaxable. But I think that would be instructive.

SENATOR CUDABACK: Thank you, Senator Beutler. Senator Chambers, on FA140.

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

April 1, 2005

LR 2

SENATOR CHAMBERS: Mr. President, one of these days I'm going to share a letter that I got from one of the Nebraska Supreme Court judges about how valuable it is to pay attention to what I say on the floor and look at the legislative history. I'm not saying that for egotistical purposes. Some people may pay attention, and I think when we ravage the constitution, it's important. Obviously, my colleagues don't. But I want to vindicate my judgment and separate myself from the herd. There are plenty of times on the 4th of July and every other formally patriotic periods when everybody will say the right thing, but they do not respect the constitution. Article I, Section 4, of the Constitution of Nebraska says, in pertinent part: "All persons have a natural and inalienable right to worship Almighty God according to the dictates of their own consciences. No person shall be compelled to attend, erect or support any place of worship against his consent, and no preference shall be given by law to any religious society, nor shall any interference with the rights of conscience be permitted." And some of the case notes below: The Legislature cannot authorize donations by public corporations for religious purposes. That's United Community Services v. Omaha National Bank, 162 Neb. 786. Use of state funds to support a school maintained by religious denomination is in violation of this section, State v. Taylor, 122 Neb. 454. Reading in public schools of passages from the Bible, singing of hymns and offering prayer in accordance with the doctrines of sectarian churches is forbidden by the constitution, State v. Scheve, 65 Neb. 853. When Senator Landis talked about the public schools, they do not allow any of that activity during class time. This is after-school activities. That's why I said generally what he said may be correct. But again, you're dealing with a public building, a public school, and it should be open and available to the public. The erosion of constitutional rights and protections will start at the edges, then the nibbling occurs and it continues to move inward. Then you get to the heart of the document, to its core. And you might have a monumental system failure, and the body dies, which is what's going to happen to the poor Pope with the way they're doing him, another terrible public spectacle. When these individuals and organizations invite the whole world into the interworkings of their operations and show how they treat their leader, they invite

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

April 1, 2005 LR 2

comment from everybody who observes that. And it is pathetic and reprehensible what they're doing to keep the Pope alive. You all don't realize that that is one of the most political organizations that has ever existed and it has been political throughout its existence. I'm talking about the Vatican and the church. If you read the history, you know it. If you go by emotions, you get angry. However, you have to keep the figurehead alive long enough for the political squabbles to be worked out so a consensus can be reached, so that there won't be a fragmentation when the political symbolic head dies. When everything has been put in place,...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...and the cardinals have started to assemble--I have a different type of bird I would label them--then you know that the end is nigh and they can't keep him alive much longer. There will be a massive system or organ failure, and that's what they will attribute his death to. Watch and see. You all have no more regard for the constitution than some of these organizations have for people whom they will exploit. It is unconstitutional currently to do what Senator Landis' bill wants to do and that's why they say "notwithstanding any other provision." They're talking about the provision that I just read to you. They're going to undermine it and you're going to help. Thank you, Mr. President.

SENATOR CHAMBERS: Thank you, Senator Chambers. Further discussion on FA140? Senator Landis, followed by Senator Beutler.

SENATOR LANDIS: Thank you, Mr. Speaker, members of the Legislature. I use the example of the public schools not because it's direct analogy. Senator Chambers misheard me or didn't understand the point that I was making. It is not a direct analogy. It is an example of, however, the fact that in a relatively complex web of situations, even an institution that we want to keep as free from sectarian influence as possible, and is the kind of institution that was meant to be protected by the wall of church and state, itself is available to sectarian

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

April 1, 2005

LR 2

use, which is why the standard of "any" is a little high, is a little too high. But I would acknowledge, it is not a direct application. For Senator Beutler's purposes, my reading of the operation of the language would be that by saying "primarily," the Legislature could be harder than that. We could...they could raise the standard, but they couldn't lower the standard below "primarily" and we wouldn't have the authority. And it would not be entrusted to us to make a definition which could undermine "primarily." Constitutionally, we wouldn't have the authority to be able to undermine the definition, but we could be tougher, which is I think the side of the scale that he wants to be on. I don't understand the fight. However, perhaps language along this line would be a little better. What if we were to say, instead of "primarily," "not used for more than incidental," "not used for more than incidental"? I think that covers the chapel in Bryan Memorial Hospital. I think it covers the situation in which there was a brief period of time in which, once a week for an hour, the Community Playhouse allowed an organization to do that. "Not used for more than incidental" I think would try to achieve, certainly higher than "primarily," but not as high as "any." Having a minister walk through, drop on one knee, genuflect and offer a prayer shouldn't stop the existence of the status of the tax-free bond. By the way, it's important to acknowledge that there is a difference between protecting the tax base here. This is not the property tax base. This is not the property tax base. What it is, is the income tax base. And if you are somebody who is out looking for tax-free bonds, you're going to find them. You'll find them lots of places. If you're out trying to shield income, you've got plenty of instruments to do this. My guess is that we're not going to see a big increase in tax-free investing because of this because those people are out in the marketplace. They're going to do it one way or the other. And it will influence, but I think very passingly, the income tax base, because it does create an instrument which is tax-free for the income taxpayer. However, if you are that sophisticated, there are plenty of these instruments that you can find to do it. With respect to the constitutional provisions in the "notwithstanding," it's true that Senator Chambers is accurate with respect to that one; however, there's another subsequent reason to use this language that doesn't have to do with what...the sections that Senator

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

April 1, 2005 LR 2

Chambers have. There are provisions creating religious rights and the ability to exercise your religious freedom; the ability to not be discriminated against...

SENATOR CUDABACK: One minute.

SENATOR LANDIS: ...on the basis of religion. To make sure that we're not running afoul of those provisions, the "notwithstanding" language has that effect. It allows us to say, look, to the extent that we're distinguishing religious use from other uses, it's constitutionally acceptable to do that in this case. So there is a second reason, other than the one that Senator Chambers is suggesting, as to why the using of the "notwithstanding other provisions of the constitution" would make sense. In fact, we are distinguishing between religious purposes and all others, and we're saying you don't get income tax-free revenue bonds for religious purposes. The "notwithstanding" is to say, in essence, to those who would say, wait a second, the Legislature is discriminating against religion, we should have equal access; this provision would say...

SENATOR CUDABACK: Time, Senator Landis.

SENATOR LANDIS: ...no, this is a legitimate distinction, the public knew that. And that's a purpose that would be legitimate. And by the way, it would, I think, be consistent with what Senator Chambers' ultimate goal is anyway.

SENATOR CUDABACK: Thank you, Senator Landis. (Visitors introduced.) On with discussion of the Chambers amendment. Senator Beutler.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature; Senator Landis, one more question on a part of the bill that's at the top of page 3. In that part of the bill, when you finish talking about the authorization for the cities and the counties to lease this property to be used by these institutions, it says that they'll be used only by nonprofit enterprises as determined by law. And my question is a question of your intent. Are you intending that "as determined by law" means a determination as

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

April 1, 2005 LR 2

to whether they're nonprofit or not, or a determination as to whether a particular nonprofit will be an eligible nonprofit enterprise?

SENATOR CUDABACK: Senator Landis, would you respond?

SENATOR LANDIS: With respect to that application, I think, Senator Beutler, the answer that I'm going to give you off the top of my head and I'll reflect on a little bit later is this. That is whether or not it's a nonprofit or not, like a 501(c)(3). You have to establish to the satisfaction of the IRS that you are nonprofit. Failure to make profit is very much different than being a recognized nonprofit entity. And what this says is, look, you need to have a legally recognized nonprofit status. It's not simply that you didn't make any money.

SENATOR BEUTLER: Okay. But there are different kinds of nonprofits, even as recognized by the federal government.

SENATOR LANDIS: Right.

SENATOR BEUTLER: Are you intending to speak to 501(c)(3)s here,...

SENATOR LANDIS: There are other legitimate nonprofits that are...

SENATOR BEUTLER: ...or is this a broader category than...

SENATOR LANDIS: ...no. There are other legitimate nonprofits besides 501(c)(3)s.

SENATOR BEUTLER: Private foundations that are controlled by a small group of people, would those be nonprofits that would qualify under this?

SENATOR LANDIS: I can tell you that there are other nonprofits besides 501(c)(3)s, but I'm not very familiar with their distinctions. There's a 501(c)(1), there's a 501(c)(4).

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

April 1, 2005 LB 28
 LR 2

SENATOR BEUTLER: But if they qualify as a nonprofit under Nebraska's Nonprofit Corporation Act, then you intend them to be the beneficiaries of this. Is that...is that the determination by law that is required here, that they be Nebraska nonprofit corporations? Or is there...or can the Legislature make additional statutory requirements with regard to which categories of nonprofits can be the beneficiaries of this law? Like, for example, I think in LB 28 were...I think was processed through your committee, that that's the tax credit for...Senator Connealy's tax credit for nonprofits, state income tax. I don't believe that that allowed all types of nonprofits to benefit, but was rather limited to certain categories and had certain qualifiers. Would this law be designed to deal with basically that kind of range of nonprofit and can the Legislature determine that?

SENATOR LANDIS: I think actually the answer to both is yes. And the answer is it has to be a nonprofit that's recognized at law so that it's not just...it doesn't get to step forward and say, look, I'm not making profit, therefore I qualify. Then, from among those nonprofits that are existing by law, off the top of my head, I think the Legislature would have the ability to pick and choose from among them as to which categories they wanted to extend to the cities and counties that they could do this practice with. However, they couldn't authorize, no matter what, the use...

SENATOR CUDABACK: One minute.

SENATOR LANDIS: ...of this mechanism for something that is primarily religious or sectarian.

SENATOR BEUTLER: Okay. That helps a lot. Thank you very much.

SENATOR CUDABACK: Thank you, Senator Beutler. Senator Chambers, would you like to close on FA140?

SENATOR CHAMBERS: Mr. President, in the interest of being collegial and as I look around the room I see "Captain Lunch-hunter" much in evidence here, I'm going to withdraw that proposed amendment.

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

April 1, 2005 LR 2

SENATOR CUDABACK: FA140 is withdrawn.

CLERK: Mr. President, I do have a priority motion. Senator Beutler would move to bracket LR 2CA until June 1 of 2005.

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

SENATOR BEUTLER: Mr. Clerk, members of the Legislature, I've given this matter a lot of thought and collaborated with Senator Chambers on this to some extent. And there are just some things that have to be done and this is one of them. So what Senator Chambers and I are saying to you, Senator Landis, is "April Fool." (Laughter) We withdraw the motion.

SENATOR CUDABACK: It is withdrawn. Senator Landis. Is there further debate, advancement of LR 2CA? Senator Landis, your light is the only light on, so you're recognized either to speak or to close.

SENATOR LANDIS: Yes. Let me say that I would be interested...

SENATOR CUDABACK: Are you closing, Senator Landis?

SENATOR LANDIS: I am closing, yes.

SENATOR CUDABACK: Thank you.

SENATOR LANDIS: Let me say to both Senators Beutler and Senator Chambers that I'm...I'll be walking with a limp because one leg is now longer than the other, having been pulled by your April Fool's joke. But I would consider using the word "not used for more than incidental" to narrow the scope, to minimize. I don't want 51 percent either, and I would consider on Select File making that amendment. I would ask for the advancement of LR 2CA at this point and I would entertain appropriate language to modify, but not undo, the goal of this bill. Thank you.

SENATOR CUDABACK: Thank you, Senator Landis. You've heard the closing on advancement of LR 2CA. The question before the body is, shall LR 2CA advance to E & R Initial? All in favor of the

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

April 1, 2005 LB 39, 121, 131, 144, 161, 205, 217, 234
 242, 268, 299, 335, 352, 361, 389, 401, 439
 454, 480, 485, 492, 516, 551, 570, 577, 645
 668, 675, 675A, 684, 684A, 689, 689A, 753
 LR 2, 71, 72

motion vote aye; those opposed, nay. The question before the body is advancement of LR 2CA to E & R Initial. Have you all voted on the question who wish to? Have you all voted who care to? Record please, Mr. Clerk.

CLERK: 27 ayes, 4 nays, Mr. President, on the advancement of LR 2CA.

SENATOR CUDABACK: The motion is successful. LR 2CA does advance. Items for the record, please, Mr. Clerk.

CLERK: Mr. President, your Committee on Judiciary, chaired by Senator Bourne, reports LB 454 to General File with committee amendments attached; that signed by Senator Bourne, as Chair. Mr. President, your Committee on Enrollment and Review reports LB 361, LB 401, LB 753, LB 161, and LB 551 to Select File, some of which have Enrollment and Review amendments attached. Amendments to be printed: LB 689 by Senator Raikes; Senator Raikes, LB 689A; Senator Thompson, LB 480; Senator Brashear, LB 645.

Mr. President, bills read on Final Reading were presented to the Governor at 11:25 a.m. (Re: LB 39, LB 121, LB 131, LB 144, LB 234, LB 299, LB 352, LB 485, LB 492, LB 516, LB 668, LB 684, LB 684A, LB 675, LB 675A, LB 205, LB 335, LB 570, LB 217, LB 242, LB 268, LB 439.) New resolutions: LR 71 by Senator Schrock, LR 72 by Senator Howard; both will be laid over. I have explanation of vote from Senator McDonald (LB 299, LB 352, LB 485, LB 492, LB 516, and LB 668). And Senator Kremer would like to add his name to LB 389; Senator Howard to LB 577. (Legislative Journal pages 1076-1082.)

Mr. President, I have a priority motion. Senator Engel would move to adjourn until Monday morning, April 4, at 10:00 a.m.

SENATOR CUDABACK: The motion to adjourn until Monday morning, April 4, 10:00 a.m. All in favor of the motion say aye. Opposed to the motion say nay. We are adjourned. Members, have a nice weekend.

Proofed by: J. Hurlbut