

MAY 12, 2005

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LB 90A

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Good morning. Welcome to the George W. Norris Legislative Chamber. Our acting chaplain this morning is Senator Wehrbein, who represents the 2nd District. Senator Wehrbein.

SENATOR WEHRBEIN: (Prayer offered.)

SENATOR CUDABACK: Thank you, Senator Wehrbein, for doing that for us. We appreciate it. I call this seventy-eighth day of the 99th Legislature, First Session, to order. Senators, please record your presence. Record please, Mr. Clerk.

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

SENATOR CUDABACK: Are there any corrections for the Journal?

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

SENATOR CUDABACK: Reports, messages, or announcements?

CLERK: I have a report...received a report from the Department of Roads, the Board of Public Roads Classifications and Standards. It will be on file in the Clerk's Office, available for member review. And the report of registered lobbyists, to be inserted in the Journal for this week, Mr. President. That's all that I have. (Legislative Journal pages 1505-1506.)

SENATOR CUDABACK: Thank you, Mr. Clerk. Speaker Brashear, you are recognized to speak.

SPEAKER BRASHEAR: Thank you, Mr. President, members of the body. Thank you again to each and every one of you for yesterday. It was an extremely hard day. Everybody contributed. I appreciate it. I was going to start talking last night; I forgot my line. You know, we get tired. I was going to say something about, what was that about a kinder, gentler session? But, never mind. I think we can do something good today. I'd like to hold out a carrot. If you will look at your agenda, if we get through LB 90A and have gotten our bills

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on...the budget bills back from the Bill Drafters so that we can comply with our 80 day rule...if we get through LB 90A, I think we ought to quit. I think we ought to be able to do that. Thank you.

SENATOR CUDABACK: Thank you very much, Mr. Speaker. We now go to the first agenda item, Legislative Confirmation reports. Mr. Clerk.

CLERK: Mr. President, the first confirmation report I have is from the Business and Labor Committee, involving the appointment of Jeffrey Orr to the Commission of Industrial Relations. (Legislative Journal page 1455.)

SENATOR CUDABACK: Senator Cunningham, Chairman of the committee, you're recognized to open on the first report.

SENATOR CUNNINGHAM: Thank you, Senator Cudaback, and members. As stated, this appointment is for Jeffrey Orr for the Commission of Industrial Relations. Jeffrey Orr of Kearney is seeking reappointment to the Commission of Industrial Relations. His term will be effective June 9, 2005, through June 9, 2011. Mr. Orr has served on the commission since 1998, and previously, he was a member from 1978 through '93. He has served three terms as the presiding judge on the commission. Mr. Orr is a graduate of the University of Nebraska, College of Law, and has been a practicing attorney in Kearney for over 30 years. I would ask that you reappoint Jeffrey Orr to the Commission of Industrial Relations.

SENATOR CUDABACK: Thank you, Chairman Cunningham. Open for discussion on the confirmation report, Business and Labor Committee. Senator Cunningham, there are no lights on. You're...Senator Cunningham waives closing. The question before the body is the adoption of the confirmation report offered by the Business and Labor Committee. All in favor vote aye; those opposed vote nay. We're voting on the confirmation report offered by the Business and Labor Committee. Have you all voted on the report who wish to? Record please, Mr. Clerk.

CLERK: (Record vote, Legislative Journal page 1506.) 27 ayes,

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0 nays, Mr. President, on the adoption of the Business and Labor confirmation report.

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

CLERK: The second report, Business and Labor, involving the appointment of Charles Cole to the Boiler Safety Code Advisory Board. (Legislative Journal page 1455.)

SENATOR CUDABACK: Senator Cunningham, you are recognized to open on your second report.

SENATOR CUNNINGHAM: Thank you, Senator Cudaback, and members. Charles Cole of Otoe is seeking appointment to the Boiler Safety Code Advisory Board. Mr. Cole is a new appointee to the board, and his term is effective April 18, 2005 through January 1, 2008. Mr. Cole first began working with boilers while serving in the Navy, and he now has nearly 20 years of experience in the boiler industry. He owns and operates Control Temp, Inc., in Omaha. Mr. Cole is enthusiastic about joining the board and excited to work with other professionals in this industry. I ask you to confirm Charles Cole to the Boiler Safety Code Advisory Board.

SENATOR CUDABACK: Thank you, Chairman Cunningham. You've heard the opening on the second report, offered by the Business and Labor Committee. Open for discussion on that report. Seeing no lights on, Senator Cunningham, you're recognized to close. Senator Cunningham waives closing. The question before the body is the adoption of the confirmation report offered by the Business and Labor Committee. All in favor of the report vote aye; those opposed vote nay. The issue before the body is the confirmation report by Business and Labor. Have you all voted on the report who care to? Record please, Mr. Clerk.

CLERK: (Record vote, Legislative Journal pages 1506-1507.) 29 ayes, 0 nays, Mr. President, on the adoption of the confirmation report.

SENATOR CUDABACK: The confirmation report has been adopted.

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Mr. Clerk, the next report, by the Judiciary Committee.

CLERK: The Judiciary Committee, Mr. President, reports on the appointment of Robert Houston, Correctional Services. (Legislative Journal page 1455.)

SENATOR CUDABACK: Chairman of the committee, Senator Bourne, you're recognized to open on confirmation report.

SENATOR BOURNE: Thank you, Mr. President, members. The Judiciary Committee heard the nomination of Robert Houston, as director of the Department of Corrections. Mr. Houston has been in corrections and in the Nebraska Corrections system, not as a member, but as an administrator, for the last 28-and-a-half years. We had a good hearing. There were...it was extensive. It was one of the longest hearings, confirmation hearings that I've been a participant in. There was some good dialogue, some good discussion. The Judiciary Committee forwarded his nomination to you unanimously. I would urge your confirmation of Mr. Houston.

SENATOR CUDABACK: Thank you, Senator Bourne. You're heard the opening on the confirmation report for the Judiciary Committee. Open for discussion on that motion. Senator Dwite Pedersen.

SENATOR Dw. PEDERSEN: Thank you, Mr. President, members of the Legislature. I want to tell you how impressed I have been this year with the system, the most I have been impressed in the 13 years, when it comes to appointments. As you might remember, Mr. Houston was appointed by the Governor about three months ago. And there's been a lot of behind the scenes talk and actions since then, before we come to the hearing that the Judiciary had the other day on Mr. Houston. It proves to me, and I hope it brings to our minds in this Legislature, that we don't have to rubber stamp everything that the Governor sends to us. We are a separate and individual part of the government, which I know you all understand. But sometimes we go through confirmations, just bang, bang, bang. This hearing brought the Judiciary Committee face to face with Mr. Houston, and a few of us had met with him before then, and we had some very good dialogue and some very good understanding of what the

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Legislature, and specifically the Judiciary Committee, in this case, would like to see come out of the Department of Corrections. It was good, and I think it's very important that we all get involved in these types of hearings, when these positions are so important, and especially when these areas spend so great amounts of our money. I now, and have for the last month, endorsed Mr. Houston for this position, and I look forward to working with him in this position. I encourage you to confirm him, also. Thank you.

SENATOR CUDABACK: Thank you, Senator Dwite Pedersen. Further discussion on the confirmation report. Senator Chambers.

SENATOR CHAMBERS: Mr. President, members on the Legislature. I want to say some things on the record, because I had gone on the record, in the newspaper, in opposition to Mr. Houston being appointed. My opposition at that time was based on the method or the process by which the Governor arrived at selecting this gentleman. He and I had a discussion in my office prior to the hearing before the Judiciary Committee, and I had let him know that despite everything that I had said publicly, I would support his appointment. And I think, in view of the fact that he has experienced such scrutiny--and he had a chance to hear from various members of the Judiciary Committee the areas of concern that we have--it may in the long run be better that he is the one who will wind up with the appointment, because he knows he is coming in without being the matinee idol. Some of you are too young to know what that is, but if you need somebody to explain it to you, talk to one of the elder members. He is not the matinee idol, with everybody's support, and therefore, a type of arrogance that might make him feel he is untouchable, he can do no wrong, and he'll do whatever he pleases. I do not think Mr. Houston is unfamiliar with the rules and regulations--not just those in the books, I'm talking about--that would govern a properly run correctional program. I received what I feel was an assurance that he intends to comply with the laws that relate to the department and will have his underlings do the same, especially when it comes to cooperating with the Ombudsman in obtaining information and access to prisoners, and all of the things which, in the statutes that already are on the books, say that the Ombudsman should have. I

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want Mr. Houston to know, if I didn't make it clear during the hearing, that if he does his job properly, he will not have a better friend, a stronger supporter, than myself. When a person is trying to do a job, that person is entitled to assistance, so I'm not one who would push a person in the water, then say, now you sink or swim. But if he doesn't deliver as he promised, if he doesn't, he would rather face the wrath of an angry God. I wanted that pregnant pause so that that could sink in. I'm going to support his nomination, or his appointment, with my vote, but I wanted to say on the record, since I had expressed opposition on the record, that I am intending to support him, not only with this vote, but as he enters upon his duties and tries to carry them out in the way that he promised. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Further discussion on the confirmation report for the Judiciary Committee. Seeing no lights on...Senator Bourne waives closing. The question before the body is, shall the confirmation report offered by the Judiciary Committee be adopted? All in favor vote aye; those opposed vote nay. Voting on the confirmation report by the Judiciary Committee. Have you all voted on the report who care to? Record please, Mr. Clerk.

CLERK: (Record vote, Legislative Journal pages 1507-1508.) 31 ayes, 0 nays, Mr. President, on the adoption of the confirmation report.

SENATOR CUDABACK: Confirmation report has been adopted. We now go to Select File, budget bills. As you know, LB 425 has advanced. Mr. Clerk, LB 426.

CLERK: Mr. President, LB 426, Select File. Senator Flood, I have Enrollment and Review amendments, first of all. (AM7097, Legislative Journal page 1432.)

SENATOR CUDABACK: Senator Flood, for a motion.

SENATOR FLOOD: Mr. President, I move the adoption of the E & R amendments to LB 426.

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SENATOR CUDABACK: You've heard the motion to adopt the E & R amendments to LB 426. All in favor say aye. Opposed, nay. They are adopted.

CLERK: The next amendment, Mr. President. Senator McDonald. Senator, I have a note that you'd like to withdraw AM1363.

SENATOR CUDABACK: It is withdrawn.

CLERK: Mr. President, the next amendment I have, Senator Jensen, AM1531. Senator, I have a note that you'd like to withdraw AM1531.

SENATOR CUDABACK: It is withdrawn also.

CLERK: The next amendment, Mr. President, Senator Don Pederson, AM1484. (Legislative Journal page 1459.)

SENATOR CUDABACK: Senator Pederson, to open on AM1484 to LB 426.

SENATOR D. PEDERSON: Thank you, Mr. President. Members of the Legislature, first of all, before I start on this amendment, I would like to thank each of you for the participation and the discussion concerning LB 425. I think it was all meaningful and I think that this is what makes this a good body, is the fact that we have the opportunity to speak and to express our feelings, and then after we act finally, then we can go forward as a united state in doing the business of the state. And I just want to thank you for your patience and your attention to a very, very long day yesterday. So here we are, less than 12 hours from when we last saw each other's smiling face. So here we are now with AM1484, which is a purely technical amendment. It's...and I'll just briefly describe to you what that amendment does. The first portion strikes the original Section 1 of the bill and replaces it with a new Section 1 intended to formally codify provisions relating to the Nebraska Capital Construction Fund. The next portion adds a new Section 9, 15, 16, and 17 to the bill, and authorize lapsing the balances of the federal rebate cash fund, the local monitoring committee cash fund, the Low-Level Radioactive Waste Cash Fund, and community improvement

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cash funds to the General Fund. These funds were associated with the low-level radioactive waste program in the Department of Environmental Quality, and will no longer be required because the program has been closed and eliminated the agency's budget. And finally, it adds a new Section 13 to the bill to harmonize Section 72-1005, the State Building Fund provision, with the Nebraska Capital Construction Fund provision in Section 1. As I say, these are purely technical matters to clarify the record, and I would urge your adoption of these amendments to clean up the bill. Thank you.

SENATOR CUDABACK: Thank you, Senator Pederson. You've heard the opening on AM1484. Open for discussion on that motion. Senator Pederson, there are no lights on. Senator Pederson waives closing. The question before the body is adoption of AM1484. All in favor vote aye; those opposed, nay. Voting on adoption of the Pederson amendment, AM1484, to LB 426. Have you all voted who wish to? Record please, Mr. Clerk.

CLERK: 29 ayes, 0 nays, Mr. President, on the adoption of Senator Pederson's amendment.

SENATOR CUDABACK: The amendment has been adopted.

CLERK: Senator Beutler would move to amend, AM1507. (Legislative Journal page 1494.)

SENATOR CUDABACK: Senator Beutler, to open on AM1507 to LB 426.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, this is just the second half of the...I call it a technical bill, but it's a little bit different than that. It relates to the MIRF transition. You remember that you approved an amendment on LB 425 that allowed the cities to take their cut in the MIRF fund and not in the state aid fund, because they have more flexibility in the state aid fund. And so this is simply the other half of that amendment that we have to have in LB 426 because of the change in the MIRF statutes language. And so I would ask your approval of this final portion of the LB 425 amendment. Thank you.

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SENATOR CUDABACK: Thank you, Senator Beutler. You've heard the opening on AM1507. Open for discussion. Senator Beutler, there are no lights on. Senator Beutler waives closing. The question before the body is adoption of AM1507, offered by Senator Beutler to LB 426. All in favor vote aye; opposed, nay. Have you all voted on the Beutler amendment who care to? Record please, Mr. Clerk.

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

SENATOR CUDABACK: The Beutler amendment has been adopted. Mr. Clerk.

CLERK: Mr. President, Senator Chambers would to amend, AM1574. (Legislative Journal page 1498.)

SENATOR CUDABACK: Senator Chambers, to open on AM1574 to LB 426.

SENATOR CHAMBERS: Mr. President, members of the Legislature, if you pull this up on your gadget you will see the precise wording of this amendment. The issue surrounding this amendment was discussed the other day, and during that time I pointed out that I had gotten an amendment drafted to LB 548 which dealt with these four entities, as I call them. And I'm going to read the language of the amendment, then explain it further. "The University of Nebraska and postsecondary educational institutions having colleges of medicine in Nebraska and their affiliated research hospitals in Nebraska, as a condition of receiving any funds appropriated or transferred from the Nebraska Health Care Cash Fund, shall not discriminate against any person on the basis of sexual orientation." This amendment was adopted to LB 548, but LB 548 will not come before us because some other language that was needed had been put into the appropriations bill, LB 425. Because this provision had been adopted in a forthright, straight up vote, there are those on the floor who feel that it should continue to be a position that had been adopted by the Legislature and not erased as a result of the activities surrounding LB 548. This is a rewrite of the amendment that I had gotten adopted to LB 548. That

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amendment was much broader. It would have covered every entity whatsoever that received any money out of this tobacco fund. That would have been closer to what I would like to see ultimately done, but that is not what I had discussed. That is not what I had represented the intent of the amendment to do. So I worked with Senator Jensen's staff member to narrow it so that the language, not just what was discussed on the floor but the language itself, would make it clear that it applies only to these four entities. That would be the University of Nebraska; Creighton; Boys Town, that research facility; and the University of Nebraska Medical Center. During the debate on General File, those four had not expressed opposition, even suggesting that they followed such a policy now. But there was no assurance, there was nothing in writing, and the body adopted that amendment. This one that you see before you is the narrowed version that I would have used to amend LB 548, had it been before us. There has been considerable discussion off the floor about the matters that I had talked about the other day. Senator Jensen had offered an amendment to this bill, LB 426, which would have taken the remainder of LB 548 and put it into this bill, so that he would thereby have everything that LB 548 contained. The part that was put into the appropriations bill that would have carried my proviso, but which was not carried when it went into the appropriations bill, plus the other matters that did not go into the appropriations bill. I had told Senator Jensen that if this language is adopted I would not object to him offering the other amendment, which he withdrew earlier today. This is simply a reaffirmation of what the Legislature had done. Senator Kruse had said on the floor, as he said to me, that he was instrumental in putting that material that had been in LB 548 related to this tobacco fund money into the appropriations bill. Now you should be given an idea of what it is that I'm talking about in terms of this money. Without going into all the cutting and other things that have happened, the Legislature felt that these four entities were entitled to a combined amount of two point something million dollars, I keep saying \$2 million but it's around that figure, to bring that amount that was going to be dedicated to them up to what the Legislature had originally said. I think the amount currently is \$50 million. This that we've been talking about would bring that to \$52 million. By putting that amount in the

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appropriations bill, it would be available for the next two budgeted years. LB 426, on the other hand, amends the statutory language which would make that increase permanent. LB 548 would have done the same thing. My amendment was attached to that. So I'm asking that it be attached to LB 426 so that it restores matters to the position they were in prior to the changes and other things that took place surrounding LB 548. I've tried to explain everything this time, so if you have any questions on any of it you can put them to me. If there are any technical questions related to the budgeting process that I cannot answer, I will pass them on to somebody else. But that is all that I think I need to say at this point, except...well, I'll just wait and see how things pan out. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. You've heard the opening on AM1574, offered by Senator Chambers. Mr. Clerk, motion on the desk, please.

CLERK: Mr. President, Senator Foley would move to amend Senator Chambers' amendment. (FA268, Legislative Journal page 1508.)

SENATOR CUDABACK: Senator Foley, you're recognized to open on your amendment.

SENATOR FOLEY: Thank you, Mr. President, members. When the Legislature worked on the tobacco settlement legislation a few years ago, we offered...there was some language included in that bill regarding restrictions on the use of those funds, and I'm having my staff pull that up for me now so I can take a look at precisely what we said in terms of those restrictions. It may very well be that the amendment that I've offered here at this moment is not necessary because I know that we already have some restrictions in the law. So it could very well be that this amendment will go away pretty quickly, but I want to check on that first. Earlier this year, before the Judiciary Committee, we heard a number of bills on topics associated with biomedical ethics, the cloning bills and so forth. There was a bill by Senator Smith that would have prohibited all forms of human cloning. There was a bill by Senator Johnson that would have prohibited certain forms of cloning but permitted other forms of human cloning. I had a bill that would have restricted the use

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of state funds for destruction of human embryos. Anyway, there was a number of those bills and it was a long hearing, and the university brought in quite a parade of witnesses, testifiers, and their testimony was really starkly different from what the university had brought to the committee just 12 months or so earlier, because the bills that we were debating that day or considering that day were very similar, if not identical, to bills that had been offered in the previous biennium. And in the previous biennium, when the university came in, essentially what they said, if I can summarize in just a very few words, they said, look, we're not doing any of that kind of stuff, therefore, we don't have a position on those bills. That's what they said back then. But when they came in this year their story was quite different. They said, we're not doing that stuff, but we want to do that stuff; that's where we want to go. So they were no longer neutral on those bills. And I raised some questions at that time about how they could have such a radical change, what I perceived to be a radical change, in their position. Had the Board of Regents taken some action that I wasn't aware of? And, no, no one claimed that the board had acted on this or spoken on it. But there was not a doubt in anyone's mind in that room that day that the university's position had changed quite substantially, and I'm concerned about that, because I'm concerned about where the university is trying to go on some of these issues. And I think it's entirely appropriate for the Legislature to draw a bright line. After all, we fund, through our appropriations process, a very large percentage of the university budget and we ought to have some say about how those funds are spent. And I don't have any qualms whatsoever about trying to draw a bright line and send the university a message, this is where you can go, this is where you can't go. I think that's fully within our prerogative as state legislators. And we did draw a line of sorts a few years ago, and we're reviewing that now to see whether or not that line is...needs to be revised in any way, and that's what this amendment is all about. And as I stated at the outset, maybe the amendment isn't needed. Maybe we've already covered that in our existing language. And if that's the case, I'll pull it, and we can get on with a discussion of the main amendment that Senator Chambers has offered us which, as you know, I oppose. That's what the amendment is about. That's why

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I offered it. Thank you, Mr. President, members.

SENATOR CUDABACK: Thank you, Senator Foley. You've heard the opening on FA268. Senator Brashear.

SPEAKER BRASHEAR: Thank you, Mr. President, members of the body. I...Senator Foley has indicated that his amendment may go away, so I'm not going to spend a lot of time on it. I rise in favor of the Chambers amendment, unamended, in the form that Senator Chambers has presented it, and I want to tell you what my perspective is. We...and Senator Chambers had said some of this, but I was a part of what I call a facilitation and accommodation yesterday morning, that could even be understatement, in which we were dealing with matters that from time to time arise on the floor in terms of conflict and differences and differences in process, procedure, and technique. I approach this in a fairly straightforward fashion. What this amendment does is to make better that which the majority will of the body was expressed upon in LB 548. Senator Chambers and Senator Jensen and those who work with them had worked together in good faith to make the amendment as good as it could be. The amendment in its application to the four entities which will receive the benefit of the money was acceptable to them and was an articulation of what is their existing policy. Senator Jensen...Senator Chambers wanted his victory in his having persuaded you in majority. Senator Jensen wanted, from a process and procedure standpoint, to be rid of LB 548 and to not use it. If I'm...if I'm saying anything wrong, people will correct me. The place we decided to resolve all of this rather than yesterday in the kind of moment of conflict was on LB 426, and this is the amendment. This is the amendment that has had the benefit of debate and consultative time and work and effort. And so I rise in opposition to altering it in any way and I would urge the adoption of the Chambers amendment as a good faith correct facilitation of the progress of the body with regard to this matter. Thank you very much for your time and attention.

SENATOR CUDABACK: Thank you, Senator Brashear. On with discussion. Senator Bourne, followed by Senator Friend. Senator Bourne waives. Senator Friend. Senator Friend waives.

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Senator Foley.

SENATOR FOLEY: Thank you again, Mr. President, members. I have conferred with the legal counsel to the Health Committee and my own staff has pulled up some language that is in statute, and my recollection is correct. We did have some language in there on these questions. And I couldn't at the time, early this morning, I couldn't remember exactly how we had phrased that. But now, having reviewed that language and recognizing what is already in statute on these subjects, at least as it relates to the Health Care Cash Fund, which is the tobacco settlement money, I think we're fine. There are some continuing issues with other funds that the university receives, but at least as it relates to that particular fund, which is what this amendment is about, we've already got some language in statute. So, as I indicated earlier, that amendment can be pulled, Mr. President. You can withdraw the amendment, Mr. President.

SENATOR CUDABACK: It is withdrawn. Thank you, Senator Foley. Back to discussion of the Chambers amendment, AM1574. Senator Friend.

SENATOR FRIEND: Thank you, Mr. President. Members of the Legislature, good morning. The three years here, I guess this doesn't seem that strange to me, Senator Chambers' amendment, AM1574. Unorthodox? Maybe a little bit, but not strange. There is a difference. Judiciary Committee, like I pointed out yesterday for a brief moment, virtually 25 percent of the bills that are introduced go through the Judiciary Committee. How many of them actually come out? I couldn't tell you. I didn't do the research. How many of them actually get discussed in an Executive Session format? I don't know, haven't done that research either, but I...my own kind of off-the-cuff, educated guess, not many. Well, a form of Senator Chambers' amendment had been discussed and voted on, and it didn't come out of committee. There were a lot of...couple bills that I had that didn't. Some got discussed and didn't come out of committee, got voted down; some will never get discussed. I'm okay with that. Let me say, in fairness to Senator Chambers, he told us, to the person, to our faces, this issue is not going away. That's to his credit and that's why I don't find this strange.

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That's why I expect it. That's why I knew it was coming. He told every one of us this issue wasn't going away, and it's here. And you know what? In a weird way I'm fine with that, but in another way I would almost point out that doesn't necessarily make it right, not in my own personal view, or that it doesn't necessarily mean that we have to agree with it as a body. For me, it's a little bit inconsistent. The only consistent part was Senator Chambers telling us all to our faces that this was coming again. I appreciate that. What I know, though, when I can look in the mirror is that I'm going to vote no on it. I voted no in committee. I'm going to be consistent. I'm going to vote no again. I've talked to Senator Chambers, I've talked to other committee members about my philosophy and some of the thing. We could have debated longer. I would imagine we could have sat in an Executive Session and debated quite extensively about philosophy, ideology, how we feel about this issue. We can continue this debate out here if you'd like, and I guess what I'd say is I'm fine with that. But I also don't think that we necessarily had enough of that debate in the committee. But much like Speaker Brashear last night, when we revisited the transfer of \$15 million out of a Cash Reserve, he voted yes the first time, he knew what he was doing; and he voted yes the second time. I voted no the first time, I knew what I was doing; I voted no the second time. And guess what? I voted no the first time in committee on this; I'm seeing it again and I'm voting no again. Thank you, Mr. President.

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

SENATOR FOLEY: Thank you, Mr. President. We worked till 10:00 last night and we all hit the road and went home. I was driving home. I flipped on the radio and there was Elton John belting out "Good-bye, Norma Jean." I love that song. I cranked it up. I love that song. (Laugh) I enjoyed it. And what a great gift Elton John is to the world of music and entertainment. I absolutely enjoy his music. He's a talent, wonderful talent. What a great gift he is. Elton John, I'm told, I've read, is homosexual. I'm not outing him on the floor of the Nebraska Legislature. I think this is public knowledge. I think you can pick that up in any tabloid or whatever. I think he'd tell you that. I think I've read somewhere that in England, where he

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lives, he's in a same-sex marriage or something equivalent to that, and I think that's unfortunate, but I'm not here today to condemn him in any way. But I'm also not afraid to stand up and say, you know, homosexual conduct is wrong. It's okay to think that it's wrong. It's okay to say that it's wrong. I think what this amendment is all about is not discrimination at the University of Nebraska, because I don't think it's happening. I think what this amendment is all about is trying to advance someone's agenda, and the agenda is to win public acceptance of homosexual conduct. I think that's the end game here, and I object to that and I'm not going to be a party to that. I don't think that's what the Nebraska people want of us. I don't think they accept that lifestyle. And to the extent that we offer legislation that tries to advance that agenda, I'm going to vote no, as I have repeatedly and will continue to do so. And I'm not going to have somebody stand and try to beat me up as some kind of a gay-basher because I vote no on these kinds of things. That's nonsense. I'm not a gay-basher. I don't engage in that kind of conduct or speech. We hear a lot of hate speech on this floor, but you don't hear it from me. We don't need this amendment. We don't need that agenda. I urge you to vote no on AM1574. Thank you.

SENATOR CUDABACK: Thank you, Senator Foley. (Visitors introduced.) On with discussion of the Chambers amendment. Senator Dwite Pedersen.

SENATOR Dw. PEDERSEN: Thank you, Mr. President, members of the Legislature. I'll make this very short. I've been in the counseling business and profession for many, many years, and one statement I want you to all ponder, and I tell you it's the honest-to-God truth, I have met a lot of homosexuals who have never been involved in any homosexual behavior. Do you want to shut them out, too, because of their voice and because of their dress? Thank you.

SENATOR CUDABACK: Thank you, Senator Pedersen. Senator Aguilar, followed by Senators Combs and Kruse.

SENATOR AGUILAR: Thank you, Mr. President and members. I'm going to rise in support of the Chambers amendment and I want to

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talk about the issue from a different perspective. This is not about anybody's agenda. It's about discrimination. And it always amazes me that people who have never experienced discrimination refuse to believe that it actually exists. Well, I will tell you it does exist. It's alive and well in Nebraska, and discrimination of all kinds exists and we need to do everything we can to make sure that it doesn't go on. And I applaud Senator Chambers for bringing this forward. If he would like any more time, he may have the rest of mine. Thank you, Mr. President.

SENATOR CUDABACK: Senator Chambers says he does not need it at this moment. Senator Combs.

SENATOR COMBS: Thank you, Mr. President and members of the Legislature. Well, it's time for the fat lady to sing again and I'll keep it brief; same song, different key. I still believe that there are many, many other morbidly obese people who are discriminated against because of their appearance. They are made fun of, they are mocked, they are denied jobs, they are denied opportunities, and they are denied even proper accommodations in public settings. People in wheelchairs are more accommodated than morbidly obese folks. So, like Senator Friend, I remember my vote the first time around and I know that, as being morbidly obese myself, I could not legislate anybody's attitude toward me. It would be nice, I suppose, to have a law that says that people are not supposed to discriminate against me because I'm fat, but I saw the looks of the people when they looked at me and I know the opportunities that I missed because of how I looked, and the things that people assumed about me that were not true. Any legislation that this Legislature could have crafted back when I was that size would not have changed the stares, the looks, and the unfair treatment that I received. I still submit to you that there are thousands more of those people who deserve some protection that are not receiving it, and I just don't believe that with only 17 other states recognizing this, on the federal level...on the federal level it's not been recognized, and 17 states do, I don't see that as a mandate, certainly. But again, I think we need to focus on our personal attitudes and cleaning those up and I don't believe that we can do that through

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legislation specifically. A lot more morbidly obese people have lost opportunities and certainly been denied their rights because of their appearance. Thank you.

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

SENATOR KRUSE: Mr. President and members, thank you. I stand to say amen to Senator Pedersen. This vote I would hope has nothing to do with homosexual conduct, which has been mentioned on the floor by Senator Foley. I hope we don't vote on that. I don't want to vote on that. I don't want to vote on heterosexual conduct either. I recognize that there are persons who are victims of prejudice because of the way they look, or their voice, or whatever. Most of the gay persons I know, and I don't know a great number, most of them are married, have children. They're still gay and they're still recognized by gay and treated as gay. So conduct is not what we're talking about. Appearance, prejudice against appearance, is always there. I remember that when I was a young man, starting to look around at who might be good to date, I was told clearly by several members of my community that I was never to date a blonde. And this was not just some simple little thing. They went into complete detail as to the lifestyle which blondes choose, and beginning with refusing to learn to cook, and all of the other things that were important to my small community if you are choosing a wife. This is an undependable person and you can tell by the color of her hair. As soon as I got to college, I started dating a blonde, for reasons you can all analyze, but I was kind of quiet about it at home. The end of this story is that God gets to you for these things. I reconsidered, not (laugh) with my own community's advice in mind, but I married a young woman whose hair was black. And guess what. It's now white, so she's a blonde, and God took care of me. I think we need to look at this with some humor, but also with some recognition that in the real world we look at people in different ways. And in this particular case we've got a group that's clearly discriminated against, clearly discriminated against as a group for the way they look. We need...and I find public policy, businesspeople and so on, say this is...this is our policy, this is our public policy. I think it's time to say it in a clear way, and we can do that here. Thank you.

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SENATOR CUDABACK: Thank you, Senator Kruse. Further discussion on the Chambers amendment? Senator Chambers, there are no more lights on. You're recognized to close on AM1574.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I appreciate the comments that were made this morning. The primary focus that I'm offering today is to return everything to status quo ante, meaning before the difficulties that arose surrounding the way LB 548 was handled. The vote that adopted my version of this amendment was straight up, forthright, and by a majority of the members. What I am proposing to do here today, and Senator Brashear touched on the process that brought us to where we are today, is to return that set of circumstances to where they were. I just told Senator Jensen that if my language is adopted, that will not be the completed story of LB 548. There are remaining provisions which were contained in that bill. They were put into an amendment which Senator Jensen had offered to this bill, LB 426. Because of the controversy, he withdrew that amendment. I told him that since I'm trying to put everything back where it was, when my language, as I expect it to be, is adopted, he should then reoffer the amendment that he withdrew. And once that has been done we will be where we were at the outstart. I hope that is what will be done once again. What we are voting today to do is to reaffirm what the Legislature did a few days ago. I hope you may have noticed that I've steered clear of discussing any of the underlying attitudes and so forth, because those positions had been stated by me and I think very clearly. This that I'm doing today doesn't go into all of that and doesn't need to. Mr. President, I'm going to ask for a call of the house and I will accept a machine vote.

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

CLERK: 23 ayes, 0 nays, Mr. President, to place the house under call.

SENATOR CUDABACK: The house is under call. All unauthorized

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personnel please leave the floor. Unexcused senators report to the Chamber. The house is under call. The house is under call. Senator Janssen, would you please check in? Thank you. Senator Cornett, Senator Johnson, Senator...Senator Stuthman, please check in. Senator Baker. Senator Cornett. Senator Stuthman, the house is under call. Please check in. All members are present or accounted for. Senator Chambers requested a machine vote. All in favor of adoption of AM1574 vote aye; those opposed vote nay. Voting on adoption of the Chambers amendment, AM1574, to LB 426. Have you all voted on the issue who care to? Record please, Mr. Clerk.

CLERK: 25 ayes, 11 nays, Mr. President, on the adoption of the amendment.

SENATOR CUDABACK: The Chambers amendment has been adopted. I do raise the call.

CLERK: Mr. President, the next amendment I have, Senator Byars, but, Senator, I have a note you want to withdraw.

SENATOR CUDABACK: Senator Byars, the amendment is withdrawn.

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

SENATOR CUDABACK: Senator Flood, for a motion.

SENATOR FLOOD: Mr. President, I move the advancement of LB 426 to E & R for engrossing.

SENATOR CUDABACK: Heard the motion. Open for discussion. No discussion. Who requested a board vote? A board vote has been requested. There are no lights on. Senator Beutler.

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

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

CLERK: 28 ayes, 0 nays to place the house under call,

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Mr. President.

SENATOR CUDABACK: The house is under call. Unauthorized personnel please leave the floor. Unexcused senators report to the Chamber. The house is under call. Senator Price, would you check in, please? Thank you. Senator Wehrbein, you as well. Thank you. Senator Beutler, did you ask for a roll call vote, Senator Beutler? All members are present or accounted for. All in favor of advancement of LB 406...LB 426, rather, to E & R Engrossing vote aye; those opposed vote nay. Have you all voted on advancement of LB 426 who care to? Record please, Mr. Clerk.

CLERK: 37 ayes, 5 nays, Mr. President, on the advancement of LB 426.

SENATOR CUDABACK: LB 426 advances. I do raise the call. We now go to LB 427.

CLERK: Mr. President, LB 427. The first item, Senator Flood, I do have Enrollment and Review amendments. (AM7096, Legislative Journal page 1432.)

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

SENATOR FLOOD: Mr. President, I move the adoption of the E & R amendments to LB 427.

SENATOR CUDABACK: You've heard the motion to adopt the E & R amendments to LB 427. All in favor say aye. Opposed, nay. They are adopted.

CLERK: Senator Pederson would move to amend with AM1475. (Legislative Journal page 1459.)

SENATOR CUDABACK: Senator Pederson, you're recognized to open on AM1475.

SENATOR D. PEDERSON: Thank you, Mr. President. Members of the Legislature, this particular amendment provides the process to carry out what we voted on last night. The purpose of this amendment is to fund \$15 million of job training appropriated in

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LB 425, the main budget bill, with money from the Cash Reserve at a one-time transfer to an existing cash fund used for job training. Section 1 amends the statute regarding the Job Training Cash Fund to specify under what conditions and at what time the original transfer is to be reversed. In other words, at certain times unspent and unobligated portions of the \$15 million are to be returned to the Cash Reserve Fund no later than July 10, 2008. Section 2 of the amendment directs the transfer of the \$15 million from the Cash Reserve to the Job Training Fund. With that, I submit this amendment. Thank you.

SENATOR CUDABACK: Thank you, Senator Pederson. You've heard the opening on AM1475. Open for discussion. Senator Pederson...I'm sorry. Senator Bourne.

SENATOR BOURNE: Thank you, Mr. President, members. I could not resist making a comment on what we did last night, and maybe this is rehashing some things that probably we should leave alone, and I probably won't make many friends by saying what I'm going to say now, but I want to tell you how disturbed I am by what we did last night and this training fund. And I got to be honest with you, a training fund is something that I support, but I oppose what we did last night for two reasons, and I didn't sleep much last night because I was thinking about this. The first reason that I oppose this, what we did last night, is because we put \$15 million of hard-earned taxpayer money into a fund that was created back in the early nineties. We heard testimony on the floor in the eleventh hour, when this amendment came up, that we're going to create a world-class, state-of-the-art training program, and I got to tell you, as I think about it, that's nonsense. We created a program by which we funded \$15 million. We put \$15 million into an archaic set of statutes that isn't, in my opinion, going to do a heck of a lot, and that kind of bothers me. Do you think for one second that the type of business that we want to attract to the state of Nebraska in the year 2005 is the same as those businesses that we wanted to attract in the early nineties? No, we did the easy thing last night at the eleventh hour, at the last minute, and I'm still upset about it. We had a bill that was introduced regarding training that I signed onto, I supported. But we put the money into an archaic set of statutes that there probably

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isn't one of us in here that knows exactly what it does. We wanted to put in a state-of-the-art job training program, and I think we failed. Sure, we transferred some money in the eleventh hour, but we put it into a job training program that was created over ten years ago. I think that's nonsense. The second reason I oppose this is because I think it lacks, what I would say, integrity. This thing was rammed down our throats in the eleventh hour. I talked to many members of the Appropriations Committee. They weren't even aware this was coming. I certainly wasn't aware it was coming, even though I do support the training. What we did last night lacked integrity. I think this was one of our darkest hours here in the Legislature because, you know what, if you don't have integrity you have nothing. I have never been so disappointed in what we did as I was last night. To have this rammed down our throats at the eleventh hour is absolutely wrong. You know, one of the senators, Senator Beutler had a question. He tried to...he tried to file an amendment when we first discussed this and he missed the boat, so he filed the amendment later in the evening. One person talked and the question was called. That is not how we should be running this process. You know why that question was called? Because that person could call it. That's wrong. That's wrong. We wasted, in my opinion, \$15 million of taxpayer money on an archaic job training program. But worse, worse, it was done with what I feel was a lack of integrity. We have no integrity, we have nothing, and we threw that in the trash last night as far as I'm concerned.

SENATOR CUDABACK: Thank you, Senator Bourne. (Visitors introduced.) Further discussion on the Pederson amendment? There are no lights on, Senator Pederson. Did you wish to close?

SENATOR D. PEDERSON: Thank you, Mr. President. I would just like to say that I'm sorry that Senator Bourne feels the way that he does. I know that the question was called. I didn't call the question, but somebody called the question, and later you decided not to call the question. We debated for another hour about the subject. This is not spending money at this point. What we have done is set money aside, and if that money in fact is not appropriately used, it comes back. It's not

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money that we are spending. I think that had been a misperception of several people. What we did, we budgeted for it. If it's used, and we hope it is used, then it's there. If it's not used, it comes back. It has never left our control. And the Department of Economic Development has pledged to further implement any of the concerns that Senator Beutler was talking about last night within the existing statute to, if you might call it, apparently there's concern about how it's implemented. It hasn't really been implemented very much. You know, we haven't been spending very much money in this area. So if we need to make some changes, certainly the capacity is there to make the change. I think the onus is on the Governor and the Department of Economic Development to prudently use this, and I think that they will, and I...we've spent a long time talking about this subject. In order to carry out what we did last night, we have to provide for the transfer of funds and how it can come back. So with that, I urge you to adopt this amendment. Thank you.

SENATOR CUDABACK: Thank you, Senator Pederson. You've heard the closing on AM1475 to LB 427. All in favor of the amendment vote aye; those opposed, nay. Voting on adoption of Pederson amendment, AM1475. Have you all voted on the question who care to? Senator Pederson, for what purpose do you rise?

SENATOR D. PEDERSON: I request a call of the house and a roll call vote.

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

CLERK: 29 ayes, 1 nay, Mr. President, to place the house under call.

SENATOR CUDABACK: The house is under call. All unexcused senators please report to the Chamber. Unauthorized personnel please leave the floor. The house is under call. Senator...Senator Landis, would you please check in? Thank you. Senator Brown. Senator Raikes, would you please check in? Senator Chambers and Senator Howard. Senator Raikes, could you

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check in, please? Thank you. Senator Howard. Senator Brown. Senator Chambers as well. All members are present or accounted for. There's been a request for a roll call vote. Mr. Clerk, please call the roll on the question of AM1475.

CLERK: (Roll call vote taken, Legislative Journal pages 1509-1510.) 25 ayes, 15 nays, Mr. President, on the amendment.

SENATOR CUDABACK: The amendment has been adopted. I do raise the call. Mr. Clerk, anything else?

CLERK: Mr. President, the next amendment I have is by Senator Landis. Senator, AM1582. (Legislative Journal page 1510.)

SENATOR CUDABACK: Senator Landis, to open on your amendment to LB 427.

SENATOR LANDIS: Thank you, Mr. Speaker, members of the Legislature. I understand and can read the street. You're tired of this subject. I will make it as brief as I can, but I will take it to a vote. I've passed out to you an amendment. I want to read it to you because I want to see if it captures a fair description of where the body would be on the issue of sexual orientation in the relationship of the state of Nebraska as an employer to its employees, to our employees. Here's what it says: The state of Nebraska declares that when it is acting as an employer sexual orientation is irrelevant in personnel matters and shall not be a criteria in determining just cause for hiring, firing, promotion, demotion, and other personnel matters covered by its employment contracts with its employees or other employee-employer relationships. And, by the way, the reason that there's that last difference is because we have contracts with most of our employer...employees, but not all of our employees. Not all of them are in a labor-management context, and although they are employees, not independent contractors, there is no labor-management contract. In those contracts we lay out the personnel rules by which somebody can be disciplined, somebody can be fired, somebody can be demoted, somebody can be rified. I'm not using the word "discrimination." I'm using the word "irrelevant" and I'm

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saying that it is not a criteria that can be used in that evaluation. I wonder if that isn't a fair description of what most of us would think? Look, I'm...even for those who don't want to pick up the mantle on the discrimination issue, I think they'd say, look, it's just not on the radar. Oddly enough, the idea for this came to me from a conversation with Phil Erdman. Phil said to me the other day, said, wait a second, you know, I don't think being gay would be part of a just cause; I don't you could get somebody fired for that. And I thought to myself, you know, while I think that might be true, we never say it anyplace. We never say what would be or would not be just cause for this. Being lazy, being insubordinate, not doing your job well, being unskilled, being rude to the public--just cause. Calling attention, you know, to yourself; not doing your job? Absolutely. This, however, is a factor that's simply irrelevant. It's not a factor to take into account. The failure of our employees or their virtues are measured in some other level than this. It's their productivity. It's their willingness to be helpful. It's their going the extra mile or their failure to do any of those things. This is simply irrelevant. And for that reason, rather than to put it in terms of discrimination or nondiscrimination, I want to read to you again what this says. The state of Nebraska declares that when it is acting as an employer...in other words, we're not speaking about anybody in the private sector of anybody else, just ourselves. And, by the way, we are the managers of state government. We're the ones who get to declare our policy. And speaking only for our employees, when it's acting as an employer, sexual orientation is irrelevant in personnel matters. Well, what I assume is that we're not going to ask on a questionnaire. Now, we would all, I think everybody in this body, would say, you know what, it shouldn't be on a personnel hiring form. I think we'd all say that, wouldn't we? That's what I'm saying here. You're right. Then let's just say that out loud. It shouldn't be on a personnel application: Are you straight? Are you gay? Shouldn't be there. Sexual orientation is irrelevant in personnel matters and shall not be a criteria in determining just cause for hiring, firing, promotion, demotion, and other personnel matters covered by its employment contracts with its employees or other employee-employer relationships. Understand, it's where the Nebraska state

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government is an employer and this is being extended to our employees, and what we're saying is, we will judge you on your performance, your hiring, your firing, on other terms than this. Thank you.

SENATOR CUDABACK: Thank you, Senator Landis. You've heard the opening on AM1582, offered by Senator Landis. Open for discussion on that motion. Senator Foley, followed by Senators Chambers, Beutler, and Jensen.

SENATOR FOLEY: Thank you, Mr. President, members. This, this amendment, takes us far beyond where we just were on the previous amendment on this general subject. Senator Chambers' amendment affected, what, two or three institutions of higher learning. This...this is the next leap. This cuts across all of state government. Sexual orientation, what does that mean? We've had bills before us in Judiciary Committee where the prime sponsor offering the bill attempted to define for us what they meant by that term. They no longer do that. They drop the definition. They just say sexual orientation; well, you know what we mean. Well, do we? What does it mean? What of the person who is sexually inclined toward children? I'm not gay-bashing. This...it may be a heterosexual person who has attractions to children. I know your response, Senator Landis. You say, that's a crime already, don't worry about it; it's on the books, on the statute, don't worry about it. I'm not talking about actions in this instance. I'm talking about a person's inclinations, their temptations, their tendencies. What if a person is...has tendencies in that direction? Wouldn't a prudent manager say to that person, you know, maybe this particular job that involves care of children, maybe this particular job isn't the right job for you? Wouldn't that be prudent? There's a lot of other considerations that need to be considered and they haven't been considered. I don't think we ought to adopt this amendment. I think we ought to think through this issue more deeply and consider the ramifications of it, and the breadth of it. I urge a no vote on AM1582. Thank you.

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

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SENATOR CHAMBERS: Mr. President, members of the Legislature, no institution in this society, other than the Catholic Church, has faced bankruptcy because of the number of child molestation cases, all committed by Catholic priests, some bishops and some archbishops. Should we say that because it is rampant, spread throughout the church all over the country, not localized, where archbishops, cardinals have participated in transferring these known pedophiles, not inclined but who have committed acts of pedophilia, to other dioceses throughout the country without notifying the parish members that we're saving a ravening wolf among your lambs, should we presume and draw the conclusion that since the Catholic Church is so accommodating to pedophilia that any priest, any deacon, any acolyte, anybody connected with any of the ceremonial activities of the church can be assumed to be a pedophile and it's better to err on the side of safety? Oh, you're a Catholic priest, you're a seminarian, well, maybe you're not the person for this job because the people in your line of work have an established history of pedophilia, endorsement, condonation of pedophilia by the highest ranking officials in the church. Pope Paul II came forth with too little too late and only under intense pressure. Cardinal Joseph Ratzinger, now known as Pope Benedict XVI, was trying to hush up grown men who came forth and mentioned that, I forget the name of this place in the Vatican, but they train Americans to be Catholic priests for America, the pedophilia that was going on there and Ratzinger wanted to hush it up. So these men went public because they had been involved and told what had happened. The problem has surfaced in Australia, Scotland, England, wherever Catholic priests, bishops, and archbishops gather, but Senator Foley has never seen me come forth with a bill to say, presume that because somebody is a Catholic priest, he should not be allowed to speak to the Legislature in the morning when they have their ceremonies. Senator Foley is one, based on his religious orientation, and there are others of that orientation, who may not engage in actual discrimination, but orientation is such that it makes them suspect. Senator Landis' language is very discrete, very well crafted to state simply that when it comes to Nebraska as an employer considering a person in any employer-employee relationship, sexual orientation is a nonexistent factor. I'm in support of Senator Landis' amendment, and the term "sexual orientation" is understood by

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companies in the Fortune 500, congresspersons, the courts throughout the country, schools, and whatnot. Senator Foley might be the only one in the country...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...who would acknowledge that he doesn't know what the term sexual orientation means. But he has made clear his opposition to treating people who are what he calls homosexual like human beings. I feel like an abolitionist in this struggle, and my...what I want to abolish is the unreasoning fear, hatred, and loathing directed toward so many of my brothers and sisters of every race, nationality, sex, and any other derivation. It needs to be abolished and I'm going to be the number-one abolitionist, and I say that with great pride and no apology. And I think I'm behaving more like Jesus than some other people,...

SENATOR CUDABACK: Time, Senator.

SENATOR CHAMBERS: ...because he never said anything about gay or lesbian people. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. On with discussion of the Landis amendment. Senator Beutler, followed by Senator Jensen and others.

SENATOR BEUTLER: Senator Cudaback, I would like to support the Landis amendment. Usually, my tendency is to argue things broadly and conceptually and as matters of principle, but once in awhile I think it is...it is very important to argue things from the specific example. I have many gay people in my district and they are all, as far as I know them, very significant contributors to the community. I wanted to speak a little bit about one person, though, because I think she illustrates several things. First of all, from a purely economic point of view, it is important that we not have a brain drain of these people because they don't feel welcome in our communities. This particular person that I'm thinking of is a grant writer, and she brings in money from foundations across the United States. She is, in my opinion, the very best grant

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writer in the city of Lincoln, and she is an example of an economically potent individual who is helping our community, and we don't want to develop some sort of hostile environment where people like this don't feel welcome and move off to Chicago or other...or other cities and help them bring in the grant money to that city instead of bringing it in to us. And if you multiply this situation many times over, it is a very, very important factor. Secondly, this person has established a family relationship that is as stable as any heterosexual relationship. She and her partner have been together for many, many years and they have adopted a Native...a little Native American boy who otherwise would be in foster care. And if you knew him, you would know he's a little boy like any other little boy, and he's being raised very well with all of the values that you and I have. And if this society promoted institutions that reinforced long-term relationships in this group as we do with other groups, I think you would see this kind of relationship multiplied over, and over, and over again, and it would be roughly equivalent to what we otherwise know. Thirdly, this person is an example of contributing to the community. She has been elected to high political office in Lincoln. The community knew of her sexual orientation. She's now going to be giving loads and loads of time to the development of community interest. I don't know how there can be a better example to you of why we need to start thinking about treating this group of people better. And I can't think of a better example of why Senator Landis' amendment, which goes only to job discrimination and deals only with the public sector, I think she is a very, very fine example of why we need...

SENATOR CUDABACK: One minute.

SENATOR BEUTLER: ...a rule of tolerance at this point in time, for a whole variety of reasons. Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. Senator Jensen, followed by Senator Foley.

SENATOR JENSEN: Thank you, Mr. President, members of the Legislature. Senator Landis, would you respond to a question, please? And I want to find out...

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SENATOR CUDABACK: Senator Landis.

SENATOR LANDIS: Yes.

SENATOR JENSEN: ...for my own information, when you say personnel matters covered by employment contracts with its employees or other employee...employer-employee relationships, the state of Nebraska, of course, has many, many contracts with other individuals.

SENATOR LANDIS: Right.

SENATOR JENSEN: This would not cover those...

SENATOR LANDIS: It would not.

SENATOR JENSEN: ...contracts...

SENATOR LANDIS: That's right.

SENATOR JENSEN: ...outside of...

SENATOR LANDIS: That's right. For example, we hire independent contractors who do business with us. Doesn't cover them. They're not our employee. They're an independent contractor. I will tell you that the language I drafted stopped at employment contracts, period. Joanne Pepperl came down and said, that's true, but we are also an employer to employee. I mean they are our employee, but there aren't contracts. So that last phrase is not meant to open it up to people who are not our employees. It means only our employees who are not otherwise...not otherwise covered by a labor management contract, and there are some.

SENATOR JENSEN: Thank you. I have been in business for myself for over 40 years and I don't know how many people I have hired and terminated, way up in the hundreds, I'm sure. As an employer, one of the risks that you always have when you terminate anyone for any reason is certainly the risk or the thought of, am I going to be challenged somehow on this

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termination? Now, some of the people I've hired, some of the people I've terminated, I have no idea whether they were straight, whether they were homosexual, whatever that might be, and I never have terminated anyone because of sexual orientation. I never ask and I don't really want to know. And so that's always been my policy, but, still, there is always that concern, and I hear this from many of my peers who are also in business for themselves, is always that concern. Now, this is pertaining to the state of Nebraska. I will not vote for this amendment, and I told Senator Landis that I would not. I also told Senator Chambers that I would not vote for his amendment. I will vote for the bill if it's adopted. But I do feel, and I also read the article that Senator Beutler passed out on the "Study finds different sexual response in the brain." I do know of two individuals personally who came out of the homosexual lifestyle. I don't know what was in their brain, but they were certainly homosexual. Didn't know it at the time. They told me later. So I don't know whether it's immutable or not, but I do feel that even the federal government does not have, I don't believe, a clause on sexual orientation. They have antidiscrimination clauses, but not based on sexual orientation. And so, for the state of Nebraska to go there at this point in time, I'm not ready to do that. Like I said, the employees that I've had, I really don't know whether they were, whether they weren't, but it always...

SENATOR CUDABACK: One minute.

SENATOR JENSEN: ...is concerning that any time you do this there is that additional risk of a lawsuit of somebody saying, well, you fired me because; no, I didn't. But that's always there. And so I, at this present time, are not ready to adopt this language. That's where I am. I'll return the rest of my time back to the Chair. Thank you.

SENATOR CUDABACK: Thank you, Senator Jensen. Senator Foley, followed by Senator Kruse.

SENATOR FOLEY: Thank you, Mr. President, members. Well, Senator Chambers is going to go where he always goes when he runs out of argument. He's going to pull out the Catholic

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Church and start whipping it around again. It's is favorite whipping boy. I've heard it for five years now that I've been here. You know, you flip through your morning newspaper, as I do, and you see an article that may be derogatory to the Catholic Church, and I say to myself, you know, I bet we're going to hear about that on the floor today. And, sure enough, there it is a few hours later, Senator Chambers is talking about it. He loves doing that. He loves doing that. And I feel sorry for him that he has that kind of a hatred toward the Catholic Church. I don't know what to do about it; nothing I can do about it, I suppose. But it's there, it's obvious. Heard it for years, and years, and years. But it is so disingenuous to try to paint the problem, pedophilia, as the Catholic Church problem. Are there some bad apples who've gotten into positions in the...you bet there have been, and the church is struggling to deal with that. But that problem is so pervasive throughout our culture, throughout all of our institutions. School systems, hospitals, day cares, you name it, it's everywhere and every employer needs to be mindful of that because they've got problems, too, and they're struggling to deal with it. I think Senator Jensen is right. I think this...I think the language that Senator Landis has offered us is a lawyer's dream come true. I think this creates a cause of action that disgruntled employees will use against the state if they feel they've been wronged in some way. This is not wise policy. This is a huge leap in policy that has not been properly thought through. We should not do this. I urge you to vote no on AM1582. Thank you.

SENATOR CUDABACK: Thank you, Senator Foley. Senator Kruse, followed by Senator Friend.

SENATOR KRUSE: Mr. President and members, thank you. I support the amendment by Senator Landis. I commend him on the language and moving past some points that have been barriers for us in our conversation. This is an emotional issue, a hot flash thing, and we need to get past that and, in some ways, just set it aside as irrelevant. I certainly affirm Senator Foley's comments about the Catholic Church. That has been hugely overblown in the public. I am well acquainted with a number of those situations and I can guarantee you that it is totally out

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of proportion and does not honor those who have dealt with their sexual orientation in very effective, proper, appropriate ways, both in his church and my church. And I would have a friendly word for Senator Foley in terms of his comments earlier about, do you have a right to evaluate a person in terms of a specific job. Clearly, you do. Clearly, you do. There are a variety of jobs that we have available. At one time, I was heavily involved in the process of hiring and disciplining pastors in our church. It was not fun. I remember going to the door of my house where a fellow was standing there, keeping his appointment with me. I had a very small church out in Senator Fischer's wide-open spaces. Pretty hard to find somebody for there. He was a volunteer. He was smiling like Alfred E. Neuman, which bothered me a little bit, in a black suit, a white shirt, a thin black tie. I can still see him there. My eyes went down his figure and at the bottom of it were white tennis shoes and I thought (laugh) if I were in that particular town I would be embarrassed to introduce him as my new pastor to my Baptist neighbor. Could I do that? Now, if he had said, I am a homosexual, that clearly would have affected the equation. Unless you jump to something that is in relation to this, if he had said to me, I am a heterosexual, that clearly would have affected the equation. The last person you want to hire or approve as a pastor in the church is somebody who declares that they're a heterosexual. That is as red a flag as there is. So those considerations, what a person says about themselves, definitely has to be taken into effect...into account, and we have to evaluate where is the appropriate place to put this person. The person I have in mind here, I still see him in my mind, but I'm not going to tell you what my decision was, standing at the door of my house that day. I support the amendment. Thank you.

SENATOR CUDABACK: Thank you, Senator Kruse. Senator Friend, followed by Senator Chambers.

SENATOR FRIEND: Thank you, Mr. President. Members of the Legislature, a couple of years ago I made...I made a point on the floor and I believe it was in relationship to embryonic stem cell research. I believe that was the issue that we were discussing. Almost 200 year ago, over situations relating to

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such an institution as slavery, 1865 ostensibly ended a pattern of slavery in this country to a degree. Now, 200 years later we can step back and say we did that. We...people owned other people and used them for their personal gain and their economic gain. Well, Senator Chambers considers himself an abolitionist. I believe that our society is more complicated now than it's ever been, and 200 years ago it will be even more complicated...or 200 years from now it will be even more complicated. And my feeling is, and part of my philosophy is, 200 years from now somebody is going to say, in a society 200 years ago you used to eliminate fetuses? You used to eliminate human life? We as a society used to eliminate human life? That's my philosophy. That's my personal feeling. That's what I see out on the horizon. He considers himself an abolitionist; I do, too. That's why I'm out here, to preach against stuff like that. This particular amendment, and I'm going to tie all this together, issues like this are important. They're important 100 years from now. They're important 200 years from now. And the confusing part about an amendment like this is the following: There's sexual orientation, which I think we've established to a certain degree is not necessarily defined in our statutes, but there's also behavior out there, and often the two things being separate, often the two things, the two issues, being linked. I own a business. I've got two employees. They're both single, unmarried, and they proceed to have an affair. The affair, for one degree...for one reason or another, forces an effect, drives an effect on the workplace--the morale, the function, implementation of things--at least that's my determination as a boss, as a manager, that that environment and what they're putting into that environment could be destructive. The manager, me, whoever, fires both of those individuals. Now, it could be...it could be construed as a firing for particular behavior, but if sexual orientation is not perfectly defined and we don't slice through this convoluted...what I would deem a somewhat convoluted measure, lawyers are slick, some more slick than others. If I got fired by a manager, I'm single, and all I really think is that I got fired for doing what my sexual orientation tells me to do, to carry on with that heterosexual affair in that office place, the manager be...

SENATOR CUDABACK: One minute.

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SENATOR FRIEND: ...I'm going to say be damned. Can I say that on the record? The manager be damned. Thank you. I said it.

SENATOR CUDABACK: You're welcome.

SENATOR FRIEND: I am driving my behavior based on my sexual orientation. Separate the two? Like I said, lawyers are slick, some more slick than others. If I'm one of those people, I'm going and I'm saying I got fired, I got fired and I want retribution. Now, will all this happen? Some of you are out there saying, no, that's not going to happen; wrong, wrong, wrong. Well, let me tell you something. That's the confusion. That was the confusion in committee. I raised it with Senator Chambers. We were discussing it. We were arguing it.

SENATOR CUDABACK: Time, Senator.

SENATOR FRIEND: Thank you, Mr. President.

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

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

SENATOR CUDABACK: Senator Jensen, would you respond to a question from Senator Chambers?

SENATOR JENSEN: Yes.

SENATOR CHAMBERS: Senator Jensen, do you believe religion is a voluntary choice by a person?

SENATOR JENSEN: Yes.

SENATOR CHAMBERS: Are you aware that the state prohibits discrimination in employment based on religion?

SENATOR JENSEN: Yes.

SENATOR CHAMBERS: Senator Friend talked about being...if, in

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his hypothetical, a single person. Now we know that inappropriate conduct on the job can get anybody fired with no regard given to sexual orientation or anything else. You agree?

SENATOR JENSEN: Yes, I agree.

SENATOR CHAMBERS: Are you aware that the law right now prohibits employment discrimination based on marital status?

SENATOR JENSEN: Yes.

SENATOR CHAMBERS: That would also mean...that would mean whether you chose to be married or not married, wouldn't it?

SENATOR JENSEN: Yes.

SENATOR CHAMBERS: Okay. When we talk about sexual orientation, do you think the courts, after all these years and the litigation that has occurred, will have an understanding of what that term means if a case is presented to it?

SENATOR JENSEN: I do, yes.

SENATOR CHAMBERS: So do I, and I knew you did. Now, here's what I'm going to ask you, dealing specifically with Senator Landis' amendment. Should sexual orientation be a criterion considered by the state when it comes to employer-employee relations?

SENATOR JENSEN: I don't know why it has to be there.

SENATOR CHAMBERS: No, that's not what I'm asking you.

SENATOR JENSEN: Yes.

SENATOR CHAMBERS: Should it be a criterion?

SENATOR JENSEN: Should it be a criteria?

SENATOR CHAMBERS: Yes.

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SENATOR JENSEN: No.

SENATOR CHAMBERS: And if something is not to be a criterion, that simply means it's irrelevant to the decision that's to be made, doesn't it? It's not going to have a bearing one way or the other. They can't...the record won't pick up your nodding in agreement. So, for the record, would you give an answer, please?

SENATOR JENSEN: (Laugh) I...

SENATOR CHAMBERS: The chuckle was not an answer.

SENATOR JENSEN: ...I don't believe so.

SENATOR CHAMBERS: Say it again.

SENATOR JENSEN: I don't believe so, no.

SENATOR CHAMBERS: Now, if it's irrelevant, what more is Senator Landis' amendment saying, what more is his amendment saying than what you just said to me in response to the questions?

SENATOR JENSEN: Well, certainly it is in writing, it is establishing that there is a...

SENATOR CHAMBERS: It's putting in writing what you and I agree on orally in our discussion, correct?

SENATOR JENSEN: That is correct.

SENATOR CHAMBERS: Thank you, Senator Jensen. Members of the Legislature, if we can state it on the floor, if we can agree on the floor that that should not be a criterion, that it's irrelevant, why cannot we give that message to all of these employer persons so that they know what the policy of the state of Nebraska is? This drafting by Senator Landis is far more precise than the one I had offered the other day to the budget bill. I cannot fathom why people will stand on the floor and say, I don't believe in discrimination against gay and lesbian people, I don't think it should be there. It reminds me of

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a...how much time do I have, Mr. President?

SENATOR CUDABACK: About 1, 32.

SENATOR CHAMBERS: I'm not going to have time to say it all, so I'll just give the intro. Some years ago, the Lutheran Church made a documentary in which I played a part. It was nominated for an Oscar. It came in second to a documentary called Anderson's Platoon (sic). It was editorialized in LIFE magazine, written up in newspapers all over the country, and without seeming immodest, I was the one singled out as the element that made the documentary, and LIFE pointed out, LIFE magazine, that the commercial networks missed it by not showing that documentary. I'm going to touch on something said in that documentary the next time I'm recognized. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. On with discussion of the Landis amendment, AM1582, to LB 427. Senator Erdman.

SENATOR ERDMAN: Thank you, Mr. President, members of the Legislature. I want to thank Senator Landis for giving me more credit than I thought I had earned, but we have discussed it and he refreshed my memory on the conversation that we did have. Members of the Legislature, I find this interesting, and maybe I shouldn't, because last year I sat where Senator Friend did and right in front of me sat a colleague of all of ours and a good friend of mine, Senator Maxwell, and one of the things that we always accuse Senator Maxwell of is, well, what good is a committee process, just bring it out here on the floor; you want to rewrite the state aid formula, just do it on the floor; you want to do this, just do it on the floor. So there's no reason for hearing process. Yesterday afternoon we put Senator Schimek's, or part of her priority bill in the budget. We tried to put part of Senator McDonald's bill in the budget. We put part of Senator Engel's bill in the budget. All these are priority bills. There's no process, so let's do it. If we're going to do it, let's do it. Senator Foley, get your bill out here on whatever you want. Senator Friend, get your bill out here on police chases. Senator Smith should get his bill out

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here on cloning. There is a reason we do things, and there is a reason we don't. Now to the issue at hand; a couple days ago we had a debate on LB 117. Senator Chambers ridiculed Senator Bourne because the word "counter" was not defined in the bill. The word "counter" was not defined in the bill. How can you understand what the word "counter" is? And Senator Chambers and Senator Jensen have just gone back and forth discussing an understanding that the courts would have on the definition or the term that's within this amendment. They seem to understand it and it's because the general population would understand it and the courts have accepted the idea as part of their basis for making decisions, and they have adopted policies and procedures as well. But here we are and somebody says, well, we don't know what the definition is, and it's okay to not define this one, but we can ridicule other members of the Legislature for not defining their words. Fair game, just like we don't need a committee process. Again, just like yesterday, I'm grasping to understand how we're going to govern. And I understand completely, just like I did yesterday, how we govern. It's by 25 votes. The rules mean jack-squat. We can do whatever we want to; 25 votes, we can do what we want, unless there is certain opposition, and certain opposition that is stiff and strong and is unrelenting. And to Senator Chambers' credit, he should get the Academy Award that he was denied under his documentary. Members of the Legislature, this is not a protection as in the other areas. State statute is clear. We are talking you cannot discriminate based on race, you cannot discriminate based on gender, you cannot discriminate based on marital status. Those are specific protections. This isn't a protection. This is an exemption that is undefined. Now, if it is so well-defined, if the courts have defined it, put it in here. Or, better yet, put it in LB 759, gut LB 13, and bring it on the floor and let's do this right. Let's quit nibbling around the edges. Let's quit saying the budget is our new playground, because at the end of the day, at the end of the day when we look back on this process that all of us are proud to be a part of and every Speaker and every senior member that I've ever heard talks about how fair our process is and how every bill gets a hearing and how there is a method to the madness that we do, you have invalidated every one of those speeches I have ever heard from any member who has been a Speaker or senior

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leader in this body.

SENATOR CUDABACK: One minute.

SENATOR ERDMAN: I'm going to vote against the Landis amendment. And honestly, Senator Landis, it is irrelevant, it flat out is, but the example that I gave, Senator Landis, is just as applicable to this situation as any other. You are making it an issue. You are making it an issue by saying, if I may read from Senator Landis' quotes from two years ago, we should discriminate against the lazy, the irresponsible, the inept, the people who won't take responsibility for themselves or others, who can't be trusted with responsibility in the work force...workplace, excuse me. Absolutely. That should be the standard. But Senator Jensen is right, you will give individuals the opportunity to use other reasons to get out of those reasons that they should be fired. And we should do this correctly. We should do it properly. And if we're going to ruin the process or we're going to gut bills, get Senator Chambers' bill that he can't get out of committee, get it up here on the floor on Senator Landis' bill,...

SENATOR CUDABACK: Time, Senator.

SENATOR ERDMAN: ...that he wants to gut, and let's do it the right way and let's have the discussion. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Erdman. Senator Kremer, followed by Senator Redfield and others.

SENATOR KREMER: Thank you, Mr. President and members of the body. It's real easy to sit here and not put your light on and listen to the debate, but I guess I had to give my two cents. I can't...I'm not an orator like Senator Friend or Senator Erdman, but I think it's just inappropriate that we put this wording in one of our budget bills. And I guess what prompted me to speak more than anything is it seems like if we vote against something like this then we are accused of being...promoting discrimination, and I think that is...that is just far wrong. It's exactly opposite of what it really is. Because I don't

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think we should discriminate either, but I think it's inappropriate when we start putting the wording like this in, in this bill, that it should...a certain something should be irrelevant. Then where do you stop? I think we ought to have something here should be irrelevant to discriminate against somebody that might be short and ugly or overweight or...no, I was talking about me...or gray hair, or with a beard, or whatever. You know, it just seems like it's kind of silly to start putting this in here. You know what we should put as much emphasis on, I think, is promoting good families where a father and a mother and a safe place to grow up, grow children. You know, and my heart goes out to many, many mothers that have...that have probably been abused and end up being the sole provider of her children, but those poor kids are the ones that suffer, that don't have a dad and the mother has to work and try to be a mom and work and everything else. And how, when we talk about early childhood development and child abuse and everything like that, it seems like we should try to promote as much as anything a good healthy family than as the effort that we put in to try to...to try to say that we can't discriminate against somebody that I don't believe we're discriminating against. But I think it's irrelevant to put something like this in a budget bill. I do not want to discriminate against and I don't want to be accused of, because I vote no on this, that I will. We voted yes on the last bill. That's okay. It was even with some institutions that already had in their policy that they would not discriminate. So I don't think it was necessary there, but it is there and that's fine. But I think I have to vote no on this. Thank you, Mr. President.

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

SENATOR REDFIELD: Thank you, Senator Cudaback, members of the body. I don't believe it's a secret that I have been disturbed by the process of bringing bills that were not passed through their regular process into the budget and throwing them in and passing them by just putting the language or the money there. So I would say that Senator Erdman had a very valid issue with this amendment. Having said that, I'm going to thank Senator Landis because I think you're really trying to find some language and middle ground that can address the concerns that

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all of us have, on both sides of every issue, and I think that the truth of the matter is it shouldn't be relevant in a hiring situation in most cases. Now there are some cases where I think it does matter. I don't want to hire a heterosexual male for a job that would put him into a locker room with young university women. And contrary to the fact that there's a commercial out there on television with a woman in the men's locker room, I wouldn't want to hire a woman who is heterosexual or otherwise and put her in the men's locker room. I think there are some employment situations where I think that orientation may matter. But one of the things that I cringe at when Senator Chambers brings the amendment, he talks about, in pretty plain language terms, where government should keep its nose out of, and yet we keep trying to put our nose in. And when we've had the amendments that have been here, I have not voted, mainly because I don't want to, as an employer, have to ask that question. I don't want to have to ask someone what their orientation is. I don't want to ask them who they're living with or not living with. I don't want to have to ask that in order to protect myself in an employment situation. But, Senator Landis, I think you're honestly trying here and I think that this is getting at the heart of the matter that it is irrelevant in most situations whether in fact their orientation is heterosexual or homosexual, and it shouldn't be a just cause, and I would be one that feels that we have placed things in protection in our laws that probably don't even need to be there anymore. I understand religion at one time was there to protect Jewish people. I don't believe I've seen a case for years and years where someone has been fired because they were Jewish. And so that prohibition against any kind of discrimination based on religion is probably not necessary or relevant in our statutes anymore. But I'm going to give any seconds I have left to Senator Landis, so that he could address, because he has legal training and I don't, what kind of just cause this might give to someone who was fired and it had nothing to do with their orientation but could they use this and come back and say, well, you fired me just because I'm a female, when that might not have had anything to do with the firing. And I'd ask him if he could address whether this would become a just cause for someone to coming back and challenging, and also whether in fact there would be protections for those job descriptions that may place them...

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SENATOR CUDABACK: One minute.

SENATOR REDFIELD: ...in places where they would not or should not be. And I would give the remainder of my time to Senator Landis.

SENATOR CUDABACK: Senator Mines. Senator Landis, I'm sorry.

SENATOR LANDIS: Thank you.

SENATOR CUDABACK: I misheard.

SENATOR LANDIS: I think the issue that was raised, that you raised, about whether it was an appropriate qualification or not is answered by the question of gender, not orientation. I don't know about you, but as a father, I don't want a man with either sexual orientation being the locker room attendant to my daughter as she's a student. It would...it's not orientation. It's gender. Imagine a place where orientation makes a difference. I don't think so. I think it's going to be in a matter of privacy in which there may be a place where a man is the right person to do the job, or a woman might be the right person to do the job, but not their sexual orientation. It is their gender. So in the example that you gave, I don't...I would not ask the question.

SENATOR CUDABACK: Time, Senator Landis. Thank you, Senator Landis and Senator Redfield. Further discussion? Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, Senator Redfield asked some good questions and Senator Landis was well on the way of properly addressing them. But we all know there are males who coach female teams; there are females who coach male teams. Even at the pro level there are female reporters in male locker rooms and they cannot be kept out. And at the pro level, the owners, as they're called, of these teams, general managers and coaches tell these players, when the females come here you treat them properly and you answer their questions. There are female guards in male prisons, and they

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observe males in the nude when they're going to take their showers. These things are already happening. It shows that many people on the floor don't even know what is happening in the real world, but they're so hidebound and dogmatic that they give examples and hypotheticals which fail because those things are taking place right now. We know that anybody who is going to be fired and doesn't want to be will allege any reason that he or she can think of as to why the firing should not occur and why it is unjust. People on this floor act like judges are absolute idiots. Just because Senator Foley and Senator Erdman say they need a definition in the statute, if they read cases they would see that judges and courts have been dealing with the question of sexual orientation for I don't know how long, in how many contexts. Senator Erdman, being young, has not learned how to distinguish when I'm being sarcastic and when I'm being serious, when I'm being frivolous, when I'm being profound. When I mentioned the word "counter" not being defined, I was being sarcastic. I said one who counts could be a counter. Now, who in the world took that seriously? Who thought that I meant that could be alleged or raised in court as a challenge to the bill? Senator Erdman has to understand that though I'm, in general, a very serious person, sometimes there is levity that I will engage in. Sometimes I will even inject humor. So, from now on, if it's one of those touch and go areas, I'll say, for young senator Senator Erdman, joke. Senator Redfield very sincerely feels that some antidiscrimination provisions are no longer necessary. She has never experienced discrimination. Nobody would tell Senator Redfield, you're fired because you're a Jew, because she's not a Jew. Before she should make that statement, if she has any Jewish friends or acquaintances or she can go to the rabbi in Omaha and ask the Jews who are affected, do you think now that there's no discrimination against Jews in employment so we can do away with those protections? You go to the people who experience these discriminations, as Senator Aguilar pointed out this morning, and they will explain to you that the discrimination is there. How can somebody on this floor say there's no discrimination against black people when not one of them would ever face discrimination because he or she is black? Then you know what they'll say when you put them in that corner? Well, I'd not discriminate. First of all, I don't know it's true. But if that is true, it doesn't apply to you.

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It applies to those who engage in the prohibited conduct. There are people on this floor who will be...who will never be prepared to protect certain groups from discrimination; I am always ready. Senator Combs talked about certain things being said and done and denied to people because of their being grossly obese. There are some things we know that people in that physical condition cannot do, and that would not be considered unfair discrimination. Fat people,...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...in the old days, were conditioned to pretend it's true that it's the greatest of folly to say fat folk are not jolly. But now they leave out the "not" and they say, 'tis the greatest of folly to say fat folk are jolly. This society is so cruel, they force people to speak against their own best interests. They force people to hide who and what they are because they know there are attitudes like those on the floor exemplified by my colleagues who never have faced a problem because of who or what they are. So they stand up here and say, well, I don't think this ought to be in the budget bill. But if it's something they want, they will try to move mountains to get it there. Senator Erdman, as young as he is, probably has never faced a problem in his life, so I can understand his naivete, but Senator Kremer is up on the trail where I am and he knows better and he knows that the law has a responsibility...

SENATOR CUDABACK: Time, Senator Chambers.

SENATOR CHAMBERS: ...to those who are...oh, you said time?

SENATOR CUDABACK: I did, Senator.

SENATOR CHAMBERS: Thank you, Mr. President.

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

SENATOR SMITH: Thank you, Mr. President and members. I rise in

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opposition to the Landis amendment, and I think back about my first year in the Legislature when Senator Chambers made a motion to kill a bill that was actually an empty bill, but he used the phrase, I don't want there to be any mischief relating to the bill of what might happen down the process. And I know that this is not the deal that Senator Landis and Chambers had with exchanging some contents of a bill and mixing and matching and maybe doing mischievous things with, Senator Chambers. Nonetheless, I wish that we could have a clause relating to nondiscrimination based on relevance to a job. But to try to pick here and try to pick there I think is troublesome. And, you know, I think back when I was growing up, and kids are mean. Kids are a lot meaner than adults oftentimes, but there are mean adults, too, in addition to Senator Chambers. But where do you draw the line of government involvement? How far should the government go? I know we've seen bullying bills. I would love to pass legislation that makes people be nice. That's not possible. That's not practical. And I hope that we can stick to the budget at hand, advance LB 427 without AM1582. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Smith. Senator Mines.

SENATOR MINES: Question.

SENATOR CUDABACK: The question has been called. Do I see five hands? I do see five hands. The question before the body is, shall debate cease on the Landis amendment, AM1582? All in favor vote aye; those opposed vote nay. We're voting on ceasing debate on AM1582, offered by Senator Landis to LB 427. Have you all voted who care to? Voting on ceasing debate. Have you all voted? Have you all voted who care to? Senator Mines, for what purpose do you rise?

SENATOR MINES: Call the house, Mr. President.

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

CLERK: 24 ayes, 4 nays to place the house under call,

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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. Senator Jensen, would you check in, please? Senator Byars, please. Senators Cornett, Stuhr, Brown, and Raikes. Senator Redfield, please. Senator Louden. Senator...Senator Synowiecki. Senator Cornett. Senator Brown. Senator Stuhr. Senator Louden. The house is under call. Please report to the Chamber and check in. Senator Stuhr. Senator Louden, Senator Synowiecki. Senator Stuhr. Senator Mines, did you...were you allowing call-ins, or did you...call-ins are allowed on the question, motion to call the question, ceasing...

CLERK: Senator Erdman voting...changing from yes to no. Senator Landis voting yes. Senator Brown voting yes. Senator Brashear voting yes. Senator Howard voting yes. Senator Louden voting yes. Senator Byars,...

SENATOR CUDABACK: Record please, Mr. Clerk.

CLERK: 25 ayes, 4 nays, Mr. President, on the...

SENATOR CUDABACK: The motion was successful. Debate does cease. Senator Landis, you're recognized to close on AM1582 to LB 427.

SENATOR LANDIS: Hard to get back to the issue, but I'll do my best in the limited time that we have. Sexual orientation is a term well-enough defined and well-enough understood by the courts that we know that. Seventeen states have done this, hundreds of companies have and, of course, it does not countenance pedophilia or actions like that. It is not the same thing. Orientation is not that topic, it's...and it's...and we know better than that. With respect to affairs in the office, which Senator Friend brought up, this has nothing to do with Friend...with affairs in the office. It doesn't countenance them. It would violate the normal practices of policies against amorous contact between employees. Numerous rule...we have the power to write those rules and they are not undermined here, so

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that if there is in fact some kind of conduct in the workplace that is violative of policies, it would fall without regard to the sexual orientation. If there were affairs of either kind, they would violate policy and they would be punished in a neutral fashion, not on the basis of orientation, but because affairs in the office are wrong. No matter what kind they are, they're all wrong; not half of them, not the other, all of them are wrong. With respect to lawyers suing, you know what, the lawyers that are smart have enough reasons to sue already. You can't stop them and this isn't (laugh)...this is not a gateway to some new set of lawsuits in that if you have a disgruntled employee who's committed to trying to fight their failure, they're...they've already got a standard or basis to do that, and they will be in court and you're not going to avoid it. What happens is it does give remedy for somebody who has in fact, I think, been wronged in this way. With respect to who should or should not be in the locker room in the example that Senator Redfield gave, the answer lies in gender, not orientation. And in any kind of behavior that is inappropriate, any kind of sexual behavior that's inappropriate, it's inappropriate without regard to orientation. It's because a teacher flirts with a child. That is wrong, and it doesn't make any kind of orientation difference. It's not saved because it's straight flirting, and condemnable because it's gay flirting. It's wrong because a teacher flirts with a child. It is not orientation; it's gender and power in those cases. Could we simply read the language? And my own copy got taken away. Here's what I want you to do. If this does not reflect your beliefs, vote against this. If this is a fair characterization of what we should do and how we should behave, vote for it, because this is only about us. We're not doing this for anybody else. This is us as the state government with our employees. This is us as the boss, this is who's speaking, and for nobody else. But as a boss, the state of Nebraska declares that when it is acting as an employer, not as an independent contractor but only as employer...foster care parents are not employees. It doesn't cover the foster care parents. They're not employees; they're independent contractors. For our employees, sexual orientation is irrelevant in personnel matters and shall not be a criteria in determining just cause for hiring, firing, promotion, demotion, and other personnel matters covered by its

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employment contracts with its employees or other employee-employer relationships. By the way, NAPE/AFSCME is out in the lobby and they support this amendment. Employees support it. The people who work for us support this amendment, generally speaking, in their organized form. Look, if I've overstated it, if you don't believe that, if you think that orientation should be on our forms in which we ask people whether they're gay or straight before we'll give them a job, or we should fire them because they are gay, or we should only hire because they're straight, or the reverse, don't vote for it. If it's relevant, don't vote for it. But here's what I hear people saying--you know what, it just doesn't matter. So I'm not using words like "discrimination." I'm not using words like "protection." I'm saying it's irrelevant and as a criteria it shouldn't be in our personnel decisions.

SENATOR CUDABACK: One minute.

SENATOR LANDIS: If you can't say this, vote against it. But if this is a fair reflection of what you think as to how we should behave, I would ask you to vote for this. I'd...the house is under call, is that right?

SENATOR CUDABACK: Yes, we are, Senator Landis.

SENATOR LANDIS: House is now under call. Thank you. A board vote would be satisfactory to begin the process.

SENATOR CUDABACK: Thank you, Senator Landis. You've heard the closing on the Landis amendment, AM1582, to LB 427. The question before the body is, shall that amendment be adopted?

SENATOR CHAMBERS: (Microphone malfunction)...check in.

SENATOR CUDABACK: Members, please check in. Been a request to check in. All members are present or accounted for. Board vote has been requested. All vote yes for the measure; against, nay if you're against the measure. Voting on the Landis amendment, AM1582. The question before the body is the Landis amendment, AM1582, to LB 427. Have you all voted who care to? Have you all voted who wish to? Senator Landis, are you rising for a

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purpose?

SENATOR LANDIS: I am. I'd ask for a roll call vote in regular order.

SENATOR CUDABACK: There's been a request for a roll call vote on the question. Mr. Clerk, please call the roll.

CLERK: (Roll call vote taken, Legislative Journal pages 1510-1511.) 24 ayes, 15 nays, Mr. President, on the amendment.

SENATOR CUDABACK: The amendment is not adopted, and I do raise the call.

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

SENATOR CUDABACK: Senator Flood, for a motion.

SENATOR FLOOD: Mr. President, I move the advancement of LB 427 to E & R for engrossing.

SENATOR CUDABACK: Heard the motion to advance LB 427 to E & R for engrossing. Discussion? Seeing no lights on, all in favor of the advancement vote...say aye. Opposed, nay. LB 427 is advanced. We now go to LB 614. Mr. Clerk, please.

CLERK: LB 614, Senator. First of all, I have Enrollment and Review amendments. (AM7095, Legislative Journal page 1432.)

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

SENATOR FLOOD: Mr. President, I move the adoption of the E & R amendments to LB 614.

SENATOR CUDABACK: There's been a motion by Senator Flood to adopt E & R to LB 614. All in favor say aye; all opposed, nay. The E & R amendments are adopted.

CLERK: Mr. President, Senator Schimek would move to bracket the bill until June 3, 2005. (Legislative Journal page 1469.)

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SENATOR CUDABACK: Senator Schimek, you are recognized to open.

SENATOR SCHIMEK: Yes, thank you, Mr. President and members. I stand before you to ask for the bracket motion, and I know you're all going to be very disappointed that this may not turn into a long, prolonged discussion this morning. I came up here armed with all sorts of information to help the cause. And actually, I think the discussion of this bill a little bit further would have been good, because I suspect that many of us are not as knowledgeable about the collective bargaining process as we should be. And in fact, I bet that not many of us know that collective bargaining can actually override state statute, and I could give you many examples. I bet not many of us know, either, that the director of personnel is limited by the terms and conditions for employment of the collective bargaining agreement. We're not going to have to have that discussion this morning, and the reason that we're not is that Senator Pahls has entered into an agreement with some folks, and I believe he is going to be supporting this bracket motion, as well. And so I would simply ask you to support this. If things can't be worked out, they...then we can always come back at a later time and do something with it. But Senator Pahls, I would like to give you the rest of my time, or as much as you need.

SENATOR CUDABACK: Senator Pahls.

SENATOR PAHLS: Thank you. Members of the body, I would like to put this bill to bed, but not to sleep. The last day or so I've spoken to representatives from the administration, from the state electrical board, the bargaining unit, and industry. And I think we've come to some resolution on this. We are going to meet this summer and see if we can't find and solve this issue. This, again, has come up a number of times, and we're going to try to resolve it. The reason why I don't want to put it to sleep, because I may need to wake it up if we can't come to solve those issues this summer. So I hope you will give a green light to this bracket. Thank you.

SENATOR CUDABACK: Thank you, Senator Pahls. Senator Schimek, are you asking for unanimous consent to bracket?

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LB 614, 683

SENATOR SCHIMEK: That would be marvelous, thank you.

SENATOR CUDABACK: And objections to the motion to bracket? Seeing none, so ordered. We will pass over the LB 614A. We now go to Select File, 2005 senator priority bills. Mr. Clerk, LB 683 when you get time.

CLERK: LB 683, Mr. President, excuse me. I have no E & Rs. Senator Chambers would move to amend with AM1461. (Legislative Journal page 1388.)

SENATOR CUDABACK: Senator Chambers, you're recognized to open on AM1461 to LB 683.

SENATOR CHAMBERS: Mr. President, members of the Legislature, when we were discussing this bill, which relates to increasing the salaries for constitutional officers, there was considerable discussion about the fact that the bill that came out of committee had placed the salary levels too low. I've always felt that way, but I was having difficulty, as we were discussing the bill, arriving at a basis for raising those salaries to a given level. The answer came to me when Senator Stuhr was discussing the bill, and she supports it and she felt the salaries were low. And what she did was to look at the sheet we had been given which compared the salaries for those equivalent offices in the region of which Nebraska is made a part. When she read off the average salaries, I felt there would be the answer. We are not nearly as generous as would be those at the top. We would not be as tightfisted as those at the bottom, and Nebraska brings down the average a great deal. This would be an amount that is not unreasonable. The Governor has already said he'll veto the bill. The Governors always veto these bills, always; and, as Senator Schimek pointed out, we override them. We cannot increase or lower the salary of anybody during that person's term of office. If we pass the bill as it is, it might be an amount which could have been deemed appropriate four years ago...and I think it was too low then...we would not be able to raise those salaries again, the Legislature would not be able to raise those salaries again until four years down the road to deal with the next crop who

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would come into office. It is easy for me to vote for and push for and offer bills for increases in the salaries for those offices even though I have had battles with practically every person who has ever occupied one of those offices. That is to be expected. The governmental structure in this country and at the state level is designed to create a tension, a tension between and among the various branches of government. It is designed to make them keep an eye on each other, to watch each other and try to hold each other in check, to create such differences between them that it will be a rare day when all three of them would combine to do something that is hurtful to the public in a substantial way. At least one of them or somebody in one of those branches is going to say, hold up, and exercise that responsibility to provide the check and balance, or be what they refer to in other countries as the loyal opposition. So by our increasing these salaries, we are not impinging on the differences that exist between and among the branches. We are not going to say that as a Legislature, with the power to set these salaries, we are going to let those salaries be unnaturally, unreasonably low, to express dissatisfaction and displeasure with a particular individual who might be in that office. The way we exercise oversight when it comes to dealing with money matters is to do it through the budgeting process, and that is done by Congress. It is done where they have a parliamentary system, even where they have a dictatorship. You reward friends; you punish enemies. What my amendment will do, and if you bring it up on your gadget you will see the amounts, and they constitute the average salary for these positions in this region. Since we're going to have to confront a veto anyway, we should go ahead and put in a reasonable...put a reasonable salary in place. We will pass it, the Governor will veto it, we will override, and the system will have functioned in the way it always has. Whether that is the best way is irrelevant. Whether it is the desirable way is equally irrelevant. That has been the realism of this system when it comes to raising the salaries for these offices. I've given my rationale, but if you want me to go in more detail you can question me at length and in detail. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. You've heard

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the opening on the Chambers amendment, AM1461, to LB 683. Open for discussion on that motion. Senator Louden.

SENATOR LOUDEN: Thank you, Mr. President and members of the body. I am always a firm believer in paying people for what they're worth, and there's some of these folks that work quite hard, so I'm sure their salaries, salary schedules need to be increased more often than what we have. May I ask Senator Chambers some questions, if he would, please?

SENATOR CUDABACK: Senator Chambers.

SENATOR CHAMBERS: Yes.

SENATOR LOUDEN: Senator Chambers, you said this is the average salaries for people in the area. Now, my understanding is none of these will go into effect until these people are reelected again or until new people are elected to the office.

SENATOR CHAMBERS: Right. It would take place when a new term of office occurs. It would not apply to anybody currently in office.

SENATOR LOUDEN: But if the same people were reelected, why, it would be when the new term of office starts, correct?

SENATOR CHAMBERS: Yes, that's correct.

SENATOR LOUDEN: Yeah. Now, have you calculated how much money a year this would increase? I mean, what kind of a sum are we talking about here for the whole...the whole bundle, I guess you might say?

SENATOR CHAMBERS: Senator Louden, I had, but because it states the amounts, anybody could write them down and make a quick calculation, and somebody may have done that already. In fact, Senator Schimek might be able to answer your question.

SENATOR LOUDEN: Okay. That was mostly what I was concerned. If it's a...if it's a huge amount of money or if...most of these are a few thousand dollars increase and that's on a yearly

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salary and so I presume it isn't a big amount. In the meantime, I'll calculate it out. And thank you, Senator Chambers. And thank you, Senator Cudaback.

SENATOR CUDABACK: Thank you, Senator Louden. Senator Schimek, followed by Senator Stuhr.

SENATOR SCHIMEK: Yes, thank you, Mr. President and members. I am not opposed to the Chambers amendment. I am not opposed necessarily to any figure that we can agree on. I do believe that the salaries need to be increased and I think setting them at midpoint for the Midwest region is not a bad strategy. I had originally asked Senator Chambers why the disparity in the different salaries, and he suggested that because that was where those averages fell. But I did write down the salaries based on the Chambers amendment. The Governor would be \$114,000, and that would be a 90...or a \$29,000 increase over what we have now. The Lieutenant Governor would be \$78,000. That would be an \$18,000 increase. Secretary of State, \$84,000; a \$19,000 increase. State Auditor, \$91,000, which is a \$31,000 increase. Ninety-eight thousand dollars for the Attorney General. That's a \$23,000 increase. Eighty-seven thousand dollars, which is a \$27,000 increase, for State Treasurer. And Public Service Commission is \$75,000, which is a \$25,000 increase. It...those are pretty big jumps, but I think the reason that they're pretty big jumps is that we are so low on the salary schedule. Now, again, I personally think that we would be justified in doing this, but I think that we need to get a sense of what the body thinks about it, and I think Senator Chambers agrees with that. So, with that, I would...I would ask that you look carefully at these figures. Thank you.

SENATOR CUDABACK: Thank you, Senator Schimek. Senator Stuhr, followed by Senator Foley.

SENATOR STUHR: Thank you, Mr. President and members of the body. I do rise in support of Senator Chambers' amendment. We're looking at a total of \$172,000, and actually if...I wanted to point out that it would be a year before those new people would take office, which would be in 2007, and then it would be another four years before any adjustments could be made. So we

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are really talking about five years. And I think if, you know, looking at that, that this is certainly not out of line. I do agree with Senator Schimek that we are at the very low stage right now and all we are trying to do is just to bring it to the average of those Midwestern states that include Nebraska. With that, I give the rest of my time back to the Chair. Thank you.

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

SENATOR FOLEY: Thank you, Mr. President, member. I'm going to echo somewhat of what Senator Stuhr just offered to us. We need to bear in mind we cannot raise the salaries of these constitutional officers while they're in office. So if this bill passes, it kicks in, in 2007, and you can't raise it again till the year 2011. So we're covering a long span of time here. I think that's one more reason to support the amendment and the bill. Thank you.

SENATOR CUDABACK: Thank you, Senator Foley. Senator Chambers, there are no further lights on, so the Chair recognizes you to close on AM1461.

SENATOR CHAMBERS: Mr. President, members of the Legislature, when you consider the rationale given by everybody, I think the amendment will be adopted, so I will not speak further on it. And I will accept a machine vote before I see whether it's necessary to ask for anything else.

SENATOR CUDABACK: Thank you, Senator Chambers. You've heard the closing on AM1461. The question before the body is, shall AM1461 be adopted to LB 683? All in favor vote aye; those opposed vote nay. Voting on adoption of the Chambers amendment, AM1461. Have you all voted who care to? Have you all voted on the question who care to? Record please, Mr. Clerk.

CLERK: 25 ayes, 2 nays, Mr. President, on the adoption of Senator Chambers' amendment.

SENATOR CUDABACK: The amendment has been adopted.

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

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Mr. President.

SENATOR CUDABACK: Senator Chambers, would you like to advance the bill to E & R for engrossing?

SENATOR CHAMBERS: Oh, yes. I would move that LB 683 be advanced to E & R for engrossing.

SENATOR CUDABACK: The question before the body is advancement of LB 683 to E & R for engrossing. All in favor of the motion say aye. Opposed to the motion, nay. It is advanced.
Mr. Clerk, LB 683A.

CLERK: Mr. President, LB 683A, I have no E & Rs. Senator Schimek would move to amend the bill. (AM1571, Legislative Journal page 1511.)

SENATOR CUDABACK: Senator Schimek, you are recognized to open.

SENATOR SCHIMEK: Yes, thank you, Mr. President and members. The amendment to the A bill reflects the amendment that was just adopted on the bill, and it comes, if Senator Stuhr's and my calculations are correct, to about, altogether, a \$172,000 increase for the entire year. Now the first year would be half of that, and then you have to figure in some benefits, too, have to be figured into that A bill. So that is the amendment. It reflects the Chambers amendment. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Schimek. You're heard the opening on AM1571. Open for discussion. Senator Redfield.

SENATOR REDFIELD: Thank you, Senator Cudaback, members of the body. I hope that the body takes time to discuss this while we're on the A bill, because there was not, in fact, a great deal of discussion when we adopted the previous bill, or advanced it. I think that I have heard a lot from constituents. I put out a newsletter and talked about the fact that I was going to vote for the raises, and that I was hoping that the Governor would sign it and not put us through the mechanics of a "pretend" exercise. I think that the office is certainly worthy of its hire. I think that we also have to look at

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proportionality within the wage structure in the state of Nebraska. And the average wage of the people here, I think, is something you have to take off in bites, and I believe that by adopting the Chambers amendment, we've taken on too big of a bite, and I hope that there will be more discussion about that. Because if you're going to have to come back here and get 33 votes to override...30 votes, that's right, 30 votes to override the Governor's veto, you better make sure you have them, or he'll have no raise, and that would impact a number of other people who I believe would be innocent to the mechanics of how that might operate. So I hope that there will be discussion, and we'll talk about whether, in fact, we want to go this far. Thank you.

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

SENATOR CHAMBERS: Mr. President, members of the Legislature, I offered to answer any questions that anybody put to me. Nobody called the question. There was the opportunity for as much debate as anybody wanted. Not only do I not call the question, I don't vote in favor of calling the question. But if I'm offering a proposal and there's nobody who wants to discuss it, I'm not going to prolong the discussion, just so that we can talk about it for a certain period of time. If I was opposed to something, the contrary would be the case. If I had something to say, whether I'm opposed to it or just want information, I would speak up. It is not the fault of those who are in favor of this proposal that people didn't want to discuss it. I think Senator Redfield may have been in the Chamber, and maybe she wasn't. I don't know what else to say on the bill, this A bill, other than what I said on the underlying bill, but I will say again: I'm prepared to answer any questions. Senator Redfield mentioned the number of votes it takes to override. If we believe that these salaries ought to be increased, we would have that number. Do you know why we didn't have a greater number of votes? I didn't ask for a call of the house. Not everybody who is present was here. If there had been a call of the house, I'm sure there would have been more votes than the number that showed on the board. We will ask for a call of the house on the A bill, where we're appropriating money, and I think we will get

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enough votes to constitute sufficient to override. I don't have anything personal to gain by trying to raise these salaries. Do you know why our employees are a little better off now than they were when I came here? Because I wanted to jack those salaries up, and the Exec Board didn't want to do it, so they created a three-person subcommittee, comprising me. But we put it in the context of a subcommittee. When other employees were getting maybe 3 percent or 4 percent, we worked together to give the employees an 11 percent increase. If you looked at the percentage, you'd grab your forehead and say, wow. But then when you looked at the base amount that you were increasing, you'd say, how could these people have worked for so long for so little? They needed jobs, and we shouldn't have been requiring people to come to us to work, because it was the lowest-paying job, and they couldn't get anything else, so they came to the Legislature. I still am the one who tries to push for better salaries and benefits for our employees. I could be said to have an interest in that, because I'm trying to push for something to improve the branch where I work. These other people don't mean anything to me. Before I leave state government, I would like to see the offices, the positions, commanding a salary that is at least the average of what states in this region are paying. What other yardstick do we have? How are we going to value the worth of a Governor? If you like somebody, you say, give him a lot; if you don't like him, cut their wages if you can.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: That is not the approach that I take. This bill that was advanced has a reasonable, rational basis for the increase it contains. The A bill will fund that rational, reasonable decision. We should not be motivated by fear into not doing what we believe we ought to do. It's within our power to override the Governor, as we have always done. We should make it worthwhile. As somebody pointed out, by the time--I think it was Senator Louden--by the time these salaries kick in, and after the people have been in that term of office, inflation and other factors may bring us back down, as far as the actual worth of it, below where we are now, in terms of dollars. The dollar number will remain the same, but the value of dollars

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will diminish. So, I'm going to...

SENATOR CUDABACK: Time, Senator Chambers.

SENATOR CHAMBERS: ...stick with what we've done, and I hope others will do the same. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Erdman, followed by Senator Wehrbein.

SENATOR ERDMAN: Thank you, Mr. President, members of the Legislature. I just figured out why Senator Chambers...why he offered the amendment on LB 683. He's running for Governor. (Laughter) No, that's not it. He's looking forward to those debates, I might add. Look, I honestly could care less what other states are paying. Senator Chambers has used that argument in the past on other issues. I'm here there...I'm here now. Who cares? What do we think we should pay the chief executive officer of the state of Nebraska? Is it \$60,000? Is it \$80,000? Is it \$98,000? What's the number? Put it in the bill and let's vote for it, and you know how, Senator Redfield, you get that passed? You get the Governor to sign it, because the Governor will be responsible for others, just like he is on other pieces of legislation, and just like we are. And so whether it's this Governor, future Governors, past Governors, I...this game has to stop. We as legislators have to vote to put it on the ballot, to ask ourselves...ask the public to give us pay raise. So at some point I'm thinking, why do we keep doing everybody else's dirty work, when they won't do it for themselves and say, you're right, this is good for the office. It doesn't necessarily affect me personally. It's the right thing to do. Thirty votes are not...that's what should happen. But you're right. We might need to look and see how many we do have, and if we're overstepping our bounds, we need to make sure that the votes are there. But I don't care what Iowa pays; I don't care what South Dakota pays; I don't care what California pays, or what their Governor doesn't take because he's got millions on his own. It does not matter. What should we pay? Let's vote for that, let's send it to the Governor, let's see what he does, and then when it comes back here--because he's probably going to veto it--let's do what we need to do. Thank

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you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Erdman. Senator Wehrbein.

SENATOR WEHRBEIN: Thank you, Mr. President, members. More on my, I guess, is an explanation of the vote. We had a discussion in the Government Affairs Committee about the salaries, and we did discuss it. I thought we had some rationale in what we did. It's not a big issue with me, in terms of what the body wants to do, or what Senator Chambers wants to do. I have a problem with what is going on in the world today, the United States today, if you will, with executive salaries, a board setting salaries, hybrid...where we've had, between corporate boards, they set each other's salaries. It's kind of a general thought about that, where we're getting into millions. We're joining that crowd because other states are raising their salaries. I don't know whether \$114,000 versus \$100,000 is right, or whether it's not. I just feel that we're getting our salaries plenty high to attract good candidates. Serving in constitutional offices and a lot of these things, even the things that we're doing, it is not only about money. It's about service to our state and to our country, or whatever you want to say. We also have good, good perks. Our health insurance, many of those things, I guess, the constitutional officers get those. It isn't that bad of a job. I just...I don't care so much of what the rest does. I'm not going to vote for the bill, and I won't vote for the override, under the present circumstances, if this goes through. It's not a threat, it's just my personal opinion. If the rest of you think they're underfunded, that's...or at this point, that's fine. I just...I guess I felt compelled to explain my vote. I didn't talk about it. It's just that I think we're riding a fairly high rail that is not necessary at this point. A hundred thousand dollars a year is not bad money for most of us. I'd rather give more on the lower end. I have long railed, by the way, against the two-level society that we're headed toward--the rich get richer, the poor stay poor. And I would rather, by and large, have more on the lower levels of work get more money, and I don't know...I don't think executives need all the money that they are earning, in many cases. If you're an owner of the company, it's a little different, but those where you're working for a corporation and continually raise their

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salaries to the point of greed, is bothersome to me. That is not reflected here, I acknowledge. It's two different things. But on the other hand, if we raise our salaries excessively, I think it does reflect on what our philosophy is. But it's only my own opinion. I have not urged anybody else to follow that; it's just my own opinion. Thank you.

SPEAKER BRASHEAR PRESIDING

SPEAKER BRASHEAR: Thank you, Senator Wehrbein. Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, I'm a pragmatist also, but there is a bit of idealism mixed in there. I'd like to ask Senator Wehrbein a question or two.

SENATOR WEHRBEIN: Yes.

SENATOR CHAMBERS: Senator Wehrbein...

SPEAKER BRASHEAR: I'm sorry. Senator Wehrbein, will you yield?

SENATOR WEHRBEIN: Yes.

SENATOR CHAMBERS: Senator Wehrbein, if we paid no salary at all, do you think there would be plenty of people running to be...running for Governor?

SENATOR WEHRBEIN: There would be some, yes.

SENATOR CHAMBERS: If we paid nothing in the way of a salary for these other offices, do you think there would be people who would run for them?

SENATOR WEHRBEIN: Yes.

SENATOR CHAMBERS: Thank you. Members of the Legislature, we could lower these salaries and people would run. I'm talking about the dignity that attaches to the office. I mentioned that I've always thought we underpaid these people. If you looked at the salary figures I would offer, you would fall over in a dead

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faint. So you know what I said? Instead of offering what I think we ought to, I would accept the average, and that lowers the amount that I think they should have. Let's not talk about what other states are paying. Talk about what chief executive officers get within this state, and what people who have jobs in county and city government, and especially Omaha, get. There's a board in Omaha where the people are not even elected, and they get over...some guy gets over \$100,000 salary, and then bonuses on top of that. If you look throughout this economy that Senator Wehrbein was discussing generally, you'll find many people with far less responsibility than these individuals, commanding far more by way of salary. We're not trying to buy people to run for these offices; we're trying to annex to the office a salary that tells the public what we think the office is about, and what the work done there is worth. There have been executives paid exorbitantly salaries, and when they were hired, they were not hired with the intent that they should defraud, that they should steal, that they should cook the books. It just happens that people made bad decisions. We're going to have people in those offices whom everybody might feel, once they're there, ought not to have been elected, but the people put them there. That still does not mean the salary that is attached to that office should be lowered because you've got a scoundrel or a fool. That is going to happen. It happens every place that people do work, whether paid work or volunteer work. I do not think a salary of \$114,000 is too much for the governor of a state, even a state like Nebraska. Senator Erdman is absolutely right when he says that on other bills I will say I don't care what other states are doing. Usually, it's one of those bills where it's trying to do something that makes no sense, and the argument for it is what other states do. My argument for this salary increase is that we're not offering enough, and I know how much I would want to offer, which is not going to be even considered. So I said, perhaps, if you look at the average that these offices command, you will see a rationale, different from mine, but it's a rationale. Mine would put us higher than these amounts. And it is reasonable, when we're looking at something like compensation, to consider what happens in other states. They have peer groups, and they're called other things, when they try to determine what a reasonable wage is for a police officer, for people at the

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university, even in corporations,...

SPEAKER BRASHEAR: One minute.

SENATOR CHAMBERS: ...so that is not unusual in this area. We're not talking about a social philosophy here. We're talking about dollars and cents. Maybe some of you all don't think these offices should have any dignity. Or maybe you think there's so much dignity to having a badge and a title that the person being asked to do the work should not be paid for it, should consider it such an honor that it will be done for nothing. We complain about the amount that we get. I think our salary is woefully low, but you still have people running for the office. We're the ones who argue that if you offered a salary which would allow those who otherwise can't afford to be here to run for the office, then a higher salary can be justified on that basis. Judges die and retire, but there are always more people seeking the job than the job available. Yet those who are judges and those who support judges, as I do, say the salary...

SPEAKER BRASHEAR: Time.

SENATOR CHAMBERS: ...should be increased. Thank you, Mr. President.

SPEAKER BRASHEAR: Thank you, Senator Chambers. (Visitors introduced.) Senator Brown.

SENATOR BROWN: Mr. President, members. I have a couple issues that I would like to discuss about this. First of all, the Government Committee spent a certain amount of time arriving at some rationale for the numbers that were in the original bill. Everything is subjective. Our rationale, I'm sure, was subjective. But we spent time looking at averages, looking at differences in whether positions in other states were part-time. And we arrived at the original numbers. And I prefer our approach, just because I know how much time went into the decisions. And they reflected, somewhat, a perspective vis-a-vis other states. The other, the other concern that I have is that people have to understand the dynamic here. And so

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I'm very concerned that we have enough votes to override the veto, because there will be a veto on this. What...and we need to do it now, because what we do not want to have happen is what happened, not the last time when we overrode the Governor's veto, but the time before that, when we were supposed to get the opportunity to override the Governor's veto, and it was not returned to us in sufficient time. And so we missed a cycle when we should have been raising the salaries. So we are doing this a little quicker than we would normally. We normally have an eight-year period before we raise salaries on the constitutional officers. We're doing it a little quicker because we missed a cycle. So we did need to get back, both timewise and amountwise, to a better level, I believe, vis-a-vis the other states, and the responsibilities of the office. And there is no way that I can disagree that the chief officer of the state of Nebraska doesn't deserve what Senator Chambers is proposing. I'm being a pragmatist about this, and we need to make a move. We need to make a move now to bring us back into some semblance of compliance, because what we were able to do...what should have been done was thwarted, and what we were able to do, we just...we need to...we took baby steps, and so we need to do it now. And I don't want to jeopardize our ability to get the votes to override, and I believe that the Government Committee did the work that needed to be done in the original bill. Thank you.

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Thank you, Senator Brown. Senator Schimek, followed by Senator Erdman. Senator Schimek waives her opportunity. Senator Erdman waives his opportunity. Senator Schimek? Senator Brown? Senator Brown, you're recognized. There are no lights on, now. Senator...now, Senator Brown, did you wish to talk?

SENATOR BROWN: Thank you, Mr. President. I'm not sure that I wanted to talk, but I will talk for a while, because I think that maybe Senator Schimek needs to have...to finish a conversation. Oh, okay. Then I will yield my time to Senator Schimek, so that she can tell us about the conversation.

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SENATOR CUDABACK: Senator Schimek.

SENATOR SCHIMEK: Well, thank you, Mr. President and members. I don't want to prolong this discussion. On the other hand, I do want this bill to eventually pass and become law, and I do need your input into it. So that's why...I didn't necessarily want us to quit quite yet. I do want to point out a couple of things to you, and those in the handouts that I passed out. Now one of them is a news clip from Madison, Wisconsin, and it talks about the pay raise that lawmakers are going to be getting, going from the current \$45,569 to \$47,713. But the one I really wanted to point out to you was the governor's salary, which is being proposed--I should say it's a proposal--that it moves from its present \$131,768 to \$137,092. And the AG's office is very high in comparison to ours, too. It's presently \$127,868; they're talking about moving it to \$133,000. The other three that are listed there are very much more comparable, or in line with where we are, I would say, but especially for the Governor and Attorney General, they've got those pretty high. In Iowa, our next door neighbor, is...has a bill that would raise the governor's pay from \$107,000 a year to \$130,000 a year, so those are two comparable Midwestern states. I think they both have a larger population than we do. So I'm not sure that I think Senator Chambers' proposal is way out of line. I think what I will want to do when the time comes is, I think I will ask for a call of the house so we can get a read on how people are feeling about this, and take a vote. We are only on Select File, and so if there need to be adjustments, we can make them. But I kind of want to go ahead and proceed and take those votes. I think Senator Brown brought up some really good discussion points, and we did talk about this quite a while in committee, and wanted to do the right thing. We also wanted to do the thing that we thought the body would accept. So it's now rather up to the body. So with that, Mr. President, I don't know if Senator Brown wants any of her time back or not? No. I will conclude.

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

SENATOR ERDMAN: (Inaudible.)

SENATOR CUDABACK: The question has been called. Do I see five

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hands? I do see five hands. The question before the body is, shall debate cease on AM1571, offered by Senator Schimek. All in favor vote aye; opposed, nay. Voting on ceasing debate. Have you all voted on the question? Record please.

CLERK: 26 ayes, 1 nay, to cease debate.

SENATOR CUDABACK: Debate does cease. Senator Schimek, you're recognized to close on your amendment, AM1571.

SENATOR SCHIMEK: Yes, thank you, Mr. President, members. This is the A bill. The amendment to the A bill reflects the Chambers' amendment, and the actual fiscal, revised fiscal note hasn't been officially filed yet, but I did get a copy of the unofficial one. And this is unofficial, I want to make that really clear. But when you look at the salaries, you also have to look at benefits, and those do increase somewhat alongside. So the total fiscal note on this, for the first year, would be \$155,386, because it's only for a half year. And then the second year, and from thereafter, it would be \$310,771 a year. That's in comparison to the fiscal note on the underlying bill, at \$143,000. So I thought you should have that and know exactly what those...what you're voting on here. With that, I would ask for a call of the house, Mr. President, and a board vote would suffice, at first.

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

CLERK: 32 ayes, 1 nay, Mr. President, to place the house under call.

SENATOR CUDABACK: The house is under call. All unauthorized personnel please leave the floor. Unexcused senators report to the Chamber. The house is under call. Senator Flood, would you check in, please? Senator Landis, Senator Louden, Senator Synowiecki, Senator Thompson, Senator Beutler. Senator Landis, the house is under call. Senator Thompson. Senator Thompson, please report to the Chambers. The house is under call. And Senator Landis. Senator Thompson. Senator Thompson? All

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members are present or accounted for. A board vote has been requested. The question before the body is, shall AM1571 be adopted to LB 683A? All in favor vote aye; opposed vote nay. Voting on adoption of the Schimek amendment, AM1571. Have you all voted on the amendment who care to? Voting on adoption of the Schimek amendment, AM1571. Have you all voted who care to? Record please, Mr. Clerk.

CLERK: 29 ayes, 3 nays, Mr. President, on the adoption of the amendment.

SENATOR CUDABACK: The Schimek amendment has been adopted.

CLERK: I have nothing further on the bill.

SENATOR CUDABACK: Senator Flood, for a motion.

SENATOR FLOOD: Mr. President, I move the advancement of LB 683A to E & R for engrossing.

SENATOR CUDABACK: You're heard the motion to advance LB 683A to E & R for engrossing. Discussion. Senator Redfield.

SENATOR REDFIELD: Thank you, Senator Cudaback, members of the body. I believe you've spoken on what you want to do, but I do want to bring your attention to the article that Senator Schimek distributed, talking about the raise that they are doing for Governor Jim Doyle, or at least that seat. But in the article they also say that they are looking at raising the minimum wage from \$5.15 to \$6.50. Now they haven't done that yet, but they're talking about it. And that's all I was talking about, is proportionality. When we look at what we're paying our employees in the state system, what our average citizens are making, I think that we have to bear in mind some kind of proportionality. Thank you.

SENATOR CUDABACK: Thank you, Senator Redfield. I do raise the call. Further discussion. Seeing none, the question...Senator Chambers. Senator Chambers waives. The question before the body is, shall LB 683 advance to E & R Initial? All in favor say aye; opposed, nay. It does advance. We now go to General

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File, appropriations bill. Mr. Clerk, LB 90A.

CLERK: LB 90A, by Senator Wehrbein. (Read title.) I do have amendments to the bill, Mr. President.

SENATOR CUDABACK: Senator Wehrbein, to open on the bill.

SENATOR WEHRBEIN: Thank you, Mr. President, members. This is the LB 90 that we passed day before yesterday. This is the A bill that goes with it. I'll read briefly what is in the present A bill, as we drafted it following our actions on Tuesday. There's \$150,000 General Funds Department of Economic Development in both '05 and '06, and '06-07, to provide funding for the Rural Development Commission. This appropriation would provide ongoing funding for the commission, its staff. Number two, there would be \$850,000 in General Funds to both '05-06 and '06-07 for Agriculture Opportunities and Value-added Partnerships Act. All funding would be earmarked as state aid. And third, there would be \$250,000 in General Funds in both '05-06 and '06-07 for the Building Entrepreneurial Communities Act, that is, LB 273. Again, all funding would be marked as state aid. That is simply it,...

SENATOR CUDABACK: Thank you, Senator Wehrbein.

SENATOR WEHRBEIN: ...the A bill following what we did in LB 90.

SENATOR CUDABACK: Mr. Clerk, amendment.

CLERK: Mr. President, the first amendment, Senator Chambers, AM1528. (Legislative Journal page 1459.)

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

SENATOR CHAMBERS: My fellow Americans, I come before you today with a heavy heart. What I have to do really rubs me the wrong way. This amendment was going to add \$750,000 in General Fund money to this program. I had done all that I could to have this program killed. I had even prevailed--at least partly it was my doing--on the ones who supported this bill to take \$1 million

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out of the green copy of the bill as a targeted amount, then reduce the A bill to \$250,000. I had hoped that by reducing that...the amount to that low level, it would show that the bill creates a program which doesn't have enough money to have a realistic chance of success, and the body would kill it. The bill never surfaced to come before us again on its own. It became a part of a package, LB 90, which was to give a pittance to the rural people, I discover, to get them to agree to LB 312, which gave away the store, the bank, and some people's firstborn. I didn't learn all of this until the other day. A deal had been struck where this pittance was all that would be asked for. Were it left to me, I would leave this amendment, this offer, on the board, and see what the body felt like doing. But as has been my practice, when those whose welfare is at stake want to do something a certain way, and it has no impact on me or the constituency that I represent directly, I will grit my teeth and let them have it their own imprudent way. In a sense, it does impact my constituency, because I'm concerned about all of the people who are impoverished, who have no real voice. And once again, their interests have to be sacrificed to hold together a deal to give millions of dollars to the big business people. And Senator Landis made it crystal clear the other day that a part of the deal is that this program get no more than \$250,000, that if they want more money for it they've got to take some money from those other items in LB 90, the pittance, by comparison, given to the rural people, and they have to swallow it. They have to have somebody point the finger in their face--they're grown people--and say, you can do it, but you're going to have to do it my way or no way. You'll get nothing. And the rural people folded. They crumbled. And they will never get anything from this Legislature, because they will not stand. And it's not my responsibility to give backbone to people who have none. But since I was the one who crippled the program, I made it clear that since the body was going to do it, it ought to have an air of respectability about it. I don't like the program. But it's something the Legislature is going to do. You watched last night as 15 million more dollars were given to the big business people, and you rural people won't stand up for \$750,000? And I'm supposed to be your enemy. I want to help you. But I'm wrong to be paternalistic and say that I know better than you do what's best for the people you

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represent. Your people are used to being given peanuts. You're used to having crumbs, you're used to having the leavings, and you're used to picking through the manure of the big interests to see if you can find a bit of undigested food, and you eat that. You know what I'm telling you that you eat, don't you? But I don't use that kind of language. I have to prettify it and sanitize it. This is not of any personal interest to me. I take interest in it because I have a concern for the welfare of people who cannot help themselves. And now I'm not talking about the senators on this floor who feel they've got to take low and crumble, but the people they are supposed to represent. But if I'm a state senator, don't I represent them, too? Are not they my constituents? Didn't John Donne say, no person is an island? We all are our brother's and our sister's keeper. I'm not just concerned about people who are gay and lesbian. That was the issue we were discussing before. Now we're discussing your kind of people, your people. And you have been put in a position where you've got to watch. How did you all feel when you watched that \$15 million given, when the business people aren't even ready to use it? You anticipate what they might want, and you give them \$15 million. Now, let's say that I'm the Devil incarnate. Or, so I won't make the Devil angry--because the Devil may be as jealous as a demon as God is jealous as a god--I am the Devil's emissary incarnate. I've been the worst nightmare of the rural people, and I come bearing gifts, and they tell me, uh-uh, we don't want it, because we made a deal with the Devil himself, and the Devil himself told us, you rural people eat peanuts now as you've always eaten it, and you're going to eat some more manure. And to show you how you're lacking and you're nothing, while you get nothing, we're going to give the better people \$15 million. And it doesn't have to go through argument on General File. It comes on Select File, the eleventh hour. And the rural people eat manure, turn their back on their people, and say, okay, because if we don't swallow this manure, you might take the \$250,000 you gave us. What was my rationale? The maximum amount that is available under this little program--it was LB 273, I believe, whatever the number of the bill was--is \$75,000. Even if a fool got that much, that is not a great amount of money that's going to hurt the state. Maybe it's a pipe dream idea, but it might work also. We're not talking about huge amounts of money that can be

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squandered by just any and everybody. An amendment was added which said that when a county and a city collaborate, they must match dollar for dollar the amount that they get in one of these grants. The only way they're going to get a grant is if they're serious and think they have something that will work, and they're willing to put themselves behind it by putting money into the pot. And that will build in some of the accountability that is not written into any of these programs by way of statutory language. So what you're going to say is, we're going to restrict this to the number of grants divided into \$250,000, and that's all that we think of our rural brothers and sisters. I'm the enemy, and I think that when we put a program together, there ought to be an air of respectability. Senator Landis thought that I was doing this to try to bring some kind of division between rural and urban people. And I think that makes no sense whatsoever. How is \$750,000 going to do that? But apparently that's true, because the other people in the conversation--and I won't say who they were--seemed to agree. And I couldn't figure how in the world a hundreds of millions of dollar deal is hanging on \$750,000 that you're not going to give the rural people.

SPEAKER BRASHEAR PRESIDING

SPEAKER BRASHEAR: One minute.

SENATOR CHAMBERS: How? And then you gave Senator Landis' side \$15 million more. And he's in here with Cabela's trying to get all kind of other incentives from the state. But the rural people, nada, zero, nothing. I'm going to pull this. But before I do, I'm going to see if anybody else wants to comment. Because I ought not to have said everything I say, then foreclose anybody responding to it on the issue where I made my comments. Thank you, Mr. President.

SPEAKER BRASHEAR: Thank you, Senator Chambers. Further speaking to AM1528? Senator Chambers, you're recognized to close.

SENATOR CHAMBERS: Mr. President, silence gives consent. I am disappointed. This will mean nothing to the direct interests

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that I have. It means something to the rural people, but they know they've got to take low once again. I've said this before. There was an industrialist named Armand Hammer, and he could go places in the world where American diplomats could not go. When the Cold War was at its most frigid, he was welcome in Russia. And he'd fly his private jet in. He could go anywhere in the world. He paid his employees very high salaries. And he said he did it for two reasons. The first was to let people know that the job they got was important and they were going to be paid for it, but if they didn't do it, there were plenty of people lined up to take that job. That's the first one, the high salary. His other one: If you pay peanuts, you get monkeys. Now, my rural colleagues, where do you fit on the scale of being? Are you a self-respecting Homo sapiens? Or are you an Armand Hammer-characterized monkey. You eat peanuts. You know how you catch a monkey? You take a jar with a long neck that's narrow, and you put peanuts in the jar. Because the monkey likes peanuts, and the monkey can put an open hand into that jar, through the neck, and take the peanut. And the monkey gets the peanut, and he won't open his fist to release the peanut, and he's caught in the jar. Because the peanut blinds him to the fact that he has lost his freedom. He gave his freedom up for a peanut. My colleagues from the rural area, I'm not going to directly call anybody a monkey. But I'll say human beings sometimes make monkeys out of themselves. There was a song The Coasters sang about this monkey who had been taught how to gamble and guzzle beer. And there was a line in the song. The fellow who had the monkey was called Red, and fell out with him. And the monkey got upset, and he got Red's gun, and was chasing Red, Senator Combs, and Red was a licensed carrier. But the monkey got the gun. They said, run, Red, run, the monkey's got your gun, and he's aiming it at your head. Run, Red, run, the monkey's got your gun, and he's going to shoot you dead. Then the monkey told Red, Red, you made a monkey out of monkey out of me; now I'm going to make a man out of...no, Red, you made a man out of me; now I'm going to make a monkey out of you. He taught this monkey everything, then the monkey turned the table and he's going to make the man into the monkey. I'm not going to call anybody that. I'm using analogies. But if anything I said on this floor is incorrect, may the God that you all worship and the one you invoke every day strike...

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SPEAKER BRASHEAR: One minute.

SENATOR CHAMBERS: ...me dead right this instant, if he exists. (Choke) Gotcha. Now, I'm not going to turn it the other way and say, if I've told the truth, strike dead all of those who fit the characterization that my words gave, because that's not a decision for me to make. Mr. President. Mr. President.

SPEAKER BRASHEAR: Yes, Senator Chambers.

SENATOR CHAMBERS: With a heavy heart, and the feelings of defeat, frustration, and oppression of the spirit resting upon me like the weight of the world, I humbly, apologetically, shamefully,...

SPEAKER BRASHEAR: Time. (Laughter)

SENATOR CHAMBERS: ...withdraw that amendment.

SPEAKER BRASHEAR: It is withdrawn. Mr. Clerk.

CLERK: Senator Wehrbein would move to amend, AM1586. (Legislative Journal page 1487.)

SENATOR WEHRBEIN: Mr. President, members...

SPEAKER BRASHEAR: Senator Wehrbein, to open.

SENATOR WEHRBEIN: Mr. President, members of the body, this is strictly a technical enhancement, I guess, or clarification of the bill. The State Treasurer shall transfer \$2.5 million from the General Fund to the Ethanol Production Incentive Fund on or before June 30, 2006, or on such date as directed by the budget administrator. And it goes on to do that for 2007. It clarifies the transfer in this A bill, so that it is more technically correct, if you may.

SPEAKER BRASHEAR: Thank you, Senator Wehrbein. You've heard the opening on AM1586. Further speaking to the amendment? Further speaking to the amendment? Senator Wehrbein, to close.

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Senator Wehrbein waives closing. The question before the house is the adoption of AM1586 by Senator Wehrbein. All those in favor please signify by voting yes; those opposed, nay. Mr. Clerk.

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

SPEAKER BRASHEAR: Senator Wehrbein's amendment is adopted.

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

SPEAKER BRASHEAR: Senator Flood.

SENATOR FLOOD: Mr. President, I move the advancement of LB 90A to E & R for engrossing.

SPEAKER BRASHEAR: Senator Wehrbein, the Chair is in error. Would you please close with regard to advancement to E & R?

SENATOR WEHRBEIN: Mr. President, I will waive closing.

SPEAKER BRASHEAR: Senator Chambers.

SENATOR CHAMBERS: Thank you, Mr. President. I'm going to make an offer to my rural colleagues. If you all, at any point along the way, can get some backbone, get your feet under you, and look at what they gave away with that \$15 million, and decide you want to do something, I will offer the amendment again, and I'll fight tooth and nail for it. And I believe our colleagues will support us. I believe they will support us, because \$750,000 is not a lot of money. When you're talking about funding an entire program for the whole state for \$1 million, can anybody call that spendthrift? And here's what else will apply. Should there not be a utilization of all that money, it cannot be spent any way other than what the program strictures say. The money remains there. If it is decided to keep the program, it can be used to fund next year. So what is there to lose? You know what, we are supposed to be colleagues. We should not be comfortable watching a segment of our colleagues treated consistently and repeatedly the way our rural colleagues

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are treated. It bothers me obviously more than it bothers them. But I'm a part of the Legislature. I've been here longer than anybody else. Maybe that's why I think in terms that are a little broader than my colleagues. I'm sure people on this floor wouldn't have concern about my constituents that I have for everybody else. But you're fortunate that my standards are not other people's standards. I'm unfortunate that my standards are not theirs. But fair is fair. Fifteen million dollars you gave. You going to make your rural colleagues continue to grovel and crawl, eat peanuts and feces? That's what your colleagues are worth to you? Some writer was lamenting, in the "Bibble," what happened with Jesus when he was purchased for 30 pieces of silver. And that writer said, this is the price they valued him at. We're not even giving our colleagues, by comparison, 30 pieces of silver. What have they done to you all that you would watch them treated so poorly by those who are the handpersons and bearers of water for these big business interests, who can pop their finger and get anything, and you anticipate what they might need and you give them that? That's what we call Uncle Toms, in our community. You all would think a person is a Tom when you say, jump, and the person says, how far? That's a Tom. All they have to do is say is say jump. You all are bigger Toms than that. Ain't no Tom like a white Tom. You know what kind of Toms you all are? You anticipate, and you jump first, and you say, boss, is this far enough? That's worse than a black Uncle Tom. And to black people, an Uncle Tom is the worst thing you can be. You all anticipated what your masters are going to want, and you jump first, and ask, boss, is this far enough? You ought to be ashamed of yourself. But go ahead and do it. But if you're going to do that much for those who don't care a nickel for you, why won't you do it...

SPEAKER BRASHEAR: One minute.

SENATOR CHAMBERS: ...for your rural colleagues who are in here and support you on so many things? And if they did have sense enough to coalesce and stand against some of what you're after, if I can stop as much as I can, imagine what they can do and what they can force you to give to them to be fair. But they know you're fragmented. They know you're fearful.

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Mr. President, I'm not going to make you say time. I'm going to turn off...I'm going to stop, and then continue when I'm recognized again. Thank you.

SPEAKER BRASHEAR: Thank you, Senator Chambers. Senator Chambers, you're recognized.

SENATOR CHAMBERS: Mr. President, members of the Legislature, I'm going to get my pound of flesh this afternoon. Because when we finish here, you get to go home. You can eat, you fill your belly, and that ought to make you feel good. You ought to feel a sense of euphoria, because you're going to get to eat. Well, I'm going to make you eat something else first. But I'm not going to make you eat manure. I'm going to try to put something in you that will stir up that pride that you once knew when you were younger, that notion that you had which made you believe that things were possible to be done, and you didn't think that because it hadn't been done it could never be done. What you thought, when you grew up, what you would be, the kind of man you would be, the kind of woman you would be. And now, here you sit in office. You are lawmakers. You have colleagues, and you let them get walked on. The business people tell you, this deal is cut, and you're going to live with it. Then they come in--was the 15...I'd like to ask Senator Don Pederson a question, before I go too far talking about what I don't know.

SPEAKER BRASHEAR: Senator Don Pederson, will you yield?

SENATOR D. PEDERSON: I will.

SENATOR CHAMBERS: Senator Don Pederson, was that \$15 million a part of the deal that linked together LB 312 and LB 90?

SENATOR D. PEDERSON: Probably it was more appropriate in LB 312, as far as I would be concerned, because it was a portion of the economic development package. And the way...

SENATOR CHAMBERS: Was...?

SENATOR D. PEDERSON: I'm sorry. Go ahead.

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SENATOR CHAMBERS: Well, why wasn't that put into LB 312?

SENATOR D. PEDERSON: I don't know.

SENATOR CHAMBERS: Did it become something that those who got LB 312 felt they could also wrest from the Legislature?

SENATOR D. PEDERSON: I think that the idea of the job training was that element where you pass the incentives, and you have businesses that are potentially going to be here in the state--and I hope they are--that this is a fund that is available. It's not spent. It's available, in the event that they do a whole lot better job of using job training than they have in the past. But it's available to help people who don't know how to do those particular jobs to be trained to do those jobs, so that it completes the package.

SENATOR CHAMBERS: Something like LB 273, which was to give small grants to help people who may not know how to put together business ideas and develop leadership to do that in the rural area, only on a much smaller basis in the rural area than for the big shots. Is that a fair analogy?

SENATOR D. PEDERSON: I don't know that it is comparative in that sense, because this is...if you pass an economic development plan that brings in new businesses, then you have to have something to offer those businesses to implement the completion of the plan.

SENATOR CHAMBERS: Okay. I got it. So we train their serfs and their slaves for them, and then turn them over, well-trained and broken to the harness, ready to put the saddle on and let people get astride them and ride. Now, does all of that money, the millions in LB 312, the pittance, by comparison, in LB 90, and the \$15 million in, not participatory democracy, but anticipatory Tomism, that \$15 million anticipatory Tomism dollars, all hang together because I'm not going to try to get \$750,000, and if I should get it, all of that comes tumbling down? Is that your understanding of the deal?

SENATOR D. PEDERSON: My understanding of the deal is that there

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are many opportunities that will be made available through LB 312 that will bring businesses to other parts of the state, aside from the big businesses.

SENATOR CHAMBERS: But here's my question. If I would go on with my amendment to put \$750,000...

SPEAKER BRASHEAR: One minute.

SENATOR CHAMBERS: ...into that rural program to bring it up to \$1 million, you mean to tell me this house of cards would come down? LB 312 would go by the boards, and LB 90 would be killed? Is that your understanding?

SENATOR D. PEDERSON: I was not in on the...on that portion of the discussion. But there are a number of elements of LB 312 that will inure to the benefit of all the segments of this state.

SENATOR CHAMBERS: If I could persuade my colleagues to accept an amendment to add \$750,000 to the program I'm interested in, would that make you vote against LB 90?

SENATOR D. PEDERSON: I don't base on speculation, Senator Chambers. I'd have to evaluate.

SENATOR CHAMBERS: Thank you. Like they evaluated \$15 million. You see how they can get the \$15 million, but they got to proceed with such caution when we're talking about \$750,000? Proceed with caution. I'm going to turn my light on one more time.

SPEAKER BRASHEAR: Time. Thank you, Senator Chambers. Senator Chambers, you're recognized.

SENATOR CHAMBERS: Thank you, Mr. President, members of the Legislature. I have to fight my rural colleagues to try to help them. More than \$750,000 is at stake here. You need to stand up and stop these people from pointing their finger. I saw a finger pointed in their face, just like this, with the expression that I'm giving. I want you all to see it. People

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don't point their finger at my face, because they might come back minus a finger. You all let them treat you that way. Let the one who did it stand up and say I'm a liar. Let the others who were in the conversation stand up and say I'm a liar. The money should be there, and I want to get it. But I haven't had a rural person stand up and support what I'm saying. I cannot proceed. I made it clear on that day how upset I was. And I thought I could anger them so much that they'd stand up and say, Ernie, let's go. But they didn't. I'm getting my pound of flesh. I'm venting. I'm making it clear. But I did say that when my rural colleagues decided that that's the way it would be, that would be the way it would be with me. I shouldn't have even talked to them. I should have just run on with it, and made them stand up and say on this floor, we're against it, and explain why they're against it. That's what frustrates me. Nobody will speak. Do I blame the...what do they call it, the maven for the big business? No. You know what upsets me about him? He's so effective. That's what I resent. If he was a stumblebum, I'd feel sorry for him. But he won. So what becomes of this day? Senator Combs, if I were a licensed carrier of one of those weapons of death, I might would go down to my office and get my pistol and go out in the courtyard and shoot somebody. (Laugh) You thought I was going to say shoot myself, didn't you? Nothing affects me that much. I'm not going to bother with LB 90A, and I'll tell you why I'm not. Nobody is going to come to me from the rural...what can I call them, the rural cabal, and tell me, Ernie, we've made up our minds that we made a mistake in judgment, and there has been a change in circumstances, and now our mind has changed and we want to go forward with it. And all that could happen, the worst that could happen, is that I would offer the amendment, and we would not get enough votes to adopt it. And if that happened, I would accept that. But I will never know whether my colleagues would agree to give this money or not. Because I said I'm going to try to work with other people, I cannot...

SPEAKER BRASHEAR: One minute.

SENATOR CHAMBERS: ...break ranks with them and say, forget what you want, it's going to be my way. I won't do that. But it's hard. And there's at least one man in this room who knows how

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difficult that is for me. It's extremely difficult, and you know it, don't you? (Laugh) I'm helpless. I can't do anything except be frustrated. So now that my third time is up, I have done. Thank you, Mr. President.

SPEAKER BRASHEAR: Thank you, Senator Chambers. Senator Louden.

SENATOR LOUDEN: Thank you, Mr. Speaker and members of the body. I pushed my light on for two reasons. One of them was, since Senator Chambers is on a roll, I thought he might still have a little bit of residual that needed to happen for him. So I will give him the rest of my time afterwards. (Laugh) The other reason was that I'm still somewhat dismayed at, I think, 15 million bucks? Good Lord. We put that out. And Senator Erdman had an amendment on there to, what, \$1.5 million or so, \$3 million over two years, to help our rural counties, most of our rural counties, which was county aid, and got nearly, what, 19 or 20 votes, or whatever it was he got for that. There was quite a little bit of support for that. And that was something that would certainly be better than some pie in the sky economic aid or some training for someone in the future or something like that. But that was hard-earned cash that would go out and help our rural counties. When they talk about poverty counties, and you mention some of the small counties in the Sandhills and some of the areas like that, this was hard-earned cash that would do some good out there. It would probably have a little bit of effect on property tax, would lower it some. But anyway, it would give these counties a chance to do some things that they probably hadn't been able to do, probably improve some roadways, and that sort of thing. So I really...I agree with Senator Chambers. I think we needed to get more. I'm surprised that some of my other colleagues didn't push forward this aid to the counties like there was, especially after our \$15 million giveaway for training that we don't know where it's going to happen. Some of the senators talked about training people for some of the jobs that are be coming on. And Good Lord, we have community colleges, we got a medical facilities in Omaha that are probably world-class. I'm wondering what \$15 million worth of training is going to do. Are we going to do more brain surgeons or rocket scientists? What kind of training are we talking about? It certainly isn't anything...it must be

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something far greater than what our community colleges can do. Community colleges in Scottsbluff, the one...Western Community College has very good programs that train people for businesses now. So there's a lot of that in place. So I...look like, to me, instead of the whole \$15 million, why, \$13.5 million for training and \$1.5 million to help some of our most rural counties out here would certainly be in line. So if Senator Chambers has anything left that's floating around that he would like to say, why, I'll certainly give my time to him. And thank you, Mr. Speaker.

SPEAKER BRASHEAR: Thank you, Senator Louden. Senator Chambers declines. Further speaking to the advancement? Senator Wehrbein, to close. Senator Wehrbein waives closing. Members, the question before the body is the advancement to E & R Initial of LB 90A. All those in favor signify by voting yea; those opposed, nay. Thank you. Have you all voted? Mr. Clerk, please record.

CLERK: 30 ayes, 0 nays, Mr. President, on the advancement of LB 90A.

SPEAKER BRASHEAR: LB 90A is advanced. Members, while the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR 97. Mr. Clerk.

CLERK: Mr. President, your Committee on Enrollment and Review reports they've examined and engrossed LB 425, and find the same correctly engrossed; LB 426, LB 427, all correctly engrossed. Enrollment and Review reports LB 312 to Select File with Enrollment and Review amendments; and LB 90 to Select File with E & R amendments attached. Senator McDonald offers LB 332A. (Read LB 332A by title for the first time.) Confirmation reports from the Government, Military and Veterans Affairs Committee; those signed by Senator Schimek. Senator Stuhr, an amendment to be printed to LR 12CA; Senator Jensen, to LR 12CA. Mr. President, that's all that I have, other than a priority motion. (Legislative Journal pages 1512-1517.)

Mr. President, Senator Jensen would move to adjourn until Tuesday morning, May 17, at 10:00 a.m.

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SPEAKER BRASHEAR: Members, the motion is to adjourn. All those in favor, signify by saying aye. Those opposed, nay. The ayes have it. We are adjourned. Thank you, all. Travel safely.

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