

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
April 13, 2007

[LB73 LB194 LB343 LB351 LB369 LB463 LB565 LB588 LB701 LR75]

PRESIDENT SHEEHY PRESIDING []

PRESIDENT SHEEHY: Good morning, ladies and gentlemen, and welcome to the George W. Norris Legislative Chamber for the sixty-third day of the One Hundredth Legislature, First Session. Our chaplain for today is Pastor Greg Volzke, from Christ Lutheran Church, in Juniata, Nebraska, Senator Burling's district. Would you all please rise. []

PASTOR VOLZKE: (Prayer offered.) []

PRESIDENT SHEEHY: Thank you, Pastor Volzke. I call to order the sixty-third day of the One Hundredth Legislature, First Session. Senators, please record your presence. Please record, Mr. Clerk. []

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

PRESIDENT SHEEHY: Corrections for the Journal? []

CLERK: I have no corrections. []

PRESIDENT SHEEHY: Messages, reports, or announcements? []

CLERK: Mr. President, Health and Human Services Committee reports LB369 to General File with committee amendments attached, that signed by Senator Johnson, as Chair. Senator Wallman would offer LR75, Mr. President. That will be laid over. Two amendments to be printed to LB701, by Senator Flood. The report of registered lobbyists for this week, Mr. President. And a series of reports received in the Clerk's Office, acknowledging receipt thereof. Those reports will be available for member review. And that's all that I have, Mr. President. (Legislative Journal pages 1175-1177.) [LB369 LR75 LB701]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We'll move to first item under General File, committee first priority bills. []

CLERK: Mr. President, LB463, the first bill this morning, was introduced by Senator Johnson. (Read title.) The bill was introduced on January 17 of this year, at that time referred to the Health and Human Services Committee, advanced to General File. I do have committee amendments. (AM302, Legislative Journal page 515.) [LB463]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Johnson, you're recognized to open on LB463. [LB463]

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SENATOR JOHNSON: Mr. President and members of the body, if I could have your attention this morning, this is what many might call a mundane bill, but it is also an extremely important bill, because it deals with the licensure and regulation of 39 of our professions and occupations. So it is extremely important. There have been literally hundreds of people, if not thousands, that have been working on this bill, and this is the culmination of their efforts. A few weeks back, we had the reorganization bill, which was passed through this body. That was the largest bill, to my knowledge, that has ever been passed in the Legislature. I have a copy of that with me, and this is what that bill physically looked like. The bill today, I believe, is some 50 to 70 pages longer than the other bill. Well, what is in LB463? It's the recodification of the Uniform Licensing Law, commonly known as the ULL. The ULL is the body of law that deals with the licensure and regulation of healthcare professions and occupations. It is 1,053 pages in length, and covers 39 different professions and occupations. There is also a small technical amendment submitted by the committee to this bill. There were six opponents at the public hearing. Three of the opponents expressed concern about how disciplinary processes are currently outlined and applied to healthcare professionals. I will talk more about this later in my remarks. The other three opponents were concerned about some technical changes made for the uniformity in the bill. Two were concerned about revisions of the Board of Nursing made in the bill, and one opponent, representing EMS providers, was also concerned about changes in the bill to make the periods of licensure renewal more uniform amongst all professions. Virtually all of the professional boards and the State Board of Health communicated their support for this bill. No boards appeared in opposition. The bill was advanced by the Health Committee unanimously, with all members present and voting. The committee has made this bill its first committee priority bill, because of its size and its scope of recodification that the bill encompasses. LB463 is primarily technical and nonsubstantive in nature. It is so large in size because the large body of statutes that had to be reorganized and updated in the bill, not because of any large number of major changes that were made. The bill comes out of a multiyear process, starting with the passage of LB183 in 1997. Since then, Health and Human Services System and numerous stakeholders have been engaged in an effort called the Nebraska Credentialing Reform 2000. This substantively revises and rewrites the state statutes for the licensure and regulation of healthcare professionals and healthcare facilities and services. Comprehensive legislation relating to the licensure and regulation of healthcare facilities and services was adopted in the year 2000 with the passage of LB819. LB1021 in 2002 established the uniform continuing education provisions. LB242, a year later, changed credentialing fee provisions for healthcare professions and occupations. Let's get back to where we are now. LB463 completes the job of recodifying the ULL. The bill adopts the Uniform Credentialing Act, or the UCA. The bill includes all healthcare professions and occupations credentialed by the Nebraska Health and Human Services System, within the purview of this new act. The bill puts all of the statutory provisions pertaining uniformly to all regulated professions and occupations in one place, and puts provisions relating to each

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particular profession, occupation, or business, in its own separate place in the statutes. The bill deletes some obsolete provisions, and outright repeals several sections. I think this is the important part of the bill. The bill does not change existing requirements for obtaining a credential, nor does it change the scope of practice of any of these regulated professions or occupations. I will repeat that. The bill does not change existing requirements for obtaining a credential, nor does it change the scope of practice for any regulated profession or occupation. Here is another important part. The bill becomes operative on December 1, 2008. The bill tries to clarify provisions relating to: one, requirements necessary to initially obtain, renew, or reinstate a credential, or to voluntarily surrender this credential; acts and behaviors which constitute grounds for discipline against a credential; three, processes all filing a complaint for alleged violation of act and activities subsequent to such filing, including investigations, confidentiality, and the process of imposing disciplinary action; and four, the types of disciplinary action that might be imposed. The bill eliminates the requirements that the department issue multiple notices to persons who fail to renew their credential, and eliminates the requirement that the department issue revocations for failure to renew these credentials, and standardizes the circumstances for which the continuing competency requirements may be waived. LB463... [LB463]

PRESIDENT SHEEHY: One minute. [LB463]

SENATOR JOHNSON: ...expands the definition of the unprofessional conduct to include disclosing the confidential information, failure to comply with federal, state, and municipal law pertaining to its application of that profession, and disruptive behavior. The bill--and this is important--eliminates letters of concern, makes revocation of credentialing permanent, with no opportunity for reinstatement, and clarifies provisions relating to the voluntary surrender of this credential. Personnel in the Bill Drafters Office, particularly Marcia McClurg, and I might say Jeff Santema, have put in an extraordinary amount of time and effort in on this project, and they should be thanked for their efforts. Is my time about up, Mr. President? [LB463]

PRESIDENT SHEEHY: Time, Senator. [LB463]

SENATOR JOHNSON: Thank you. [LB463]

PRESIDENT SHEEHY: Thank you, Senator Johnson. You've heard the opening to LB463. We will now move to the next item, the committee amendment from Health and Human Services, AM302. Senator Johnson. [LB463]

SENATOR JOHNSON: Let me take just a brief minute, Mr. President, to talk about the amendment, because it is very short, and then I want to go back to my opening remarks about the bill itself, because it has a very pertinent section. AM302 to LB463 is a committee amendment that makes technical changes in the bill. The only substantial

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change is, to the amendment, is that it reinstates the existing law that allows persons to apply for reinstatement of the revoked credential two years after the revocation. The bill, LB463, made it so that they could not reapply for their license if it was revoked. Now, if I might get back just a minute to the bill, and this is the important part that I wanted to address. First of all, it's my hope that LB463 will not be used as a vehicle to address other licensure issues at this time. There will be ample time in the next session to go through this process. This bill does not go into effect until the 1st of December, 2008. Now, LB463 is the culmination of years of effort by many people with many meetings. It has gone through an unusual amount of scrutiny by all of these organizations. Here is the next important part. LB463 is a first step. There is more work to be done. Senator Pahls brought us LB194 this past...earlier in this session, to address concerns about the current disciplinary process for healthcare professions and occupations. The Health Committee will be specifically looking at this issue and other issues in the interim. I have been in conversations with our Speaker, and have pledged to him that we will work with him over the interim to address these particular concerns raised by, in particular, by two of his constituents who appeared in opposition to this bill. I want to make it clear that these concerns are about the current law, not LB463. With this, Mr. President, I would ask for the advancement of the amendment. And go back to the amendment, the...it just reinstates the existing law that allows persons to apply for their revoked credential two years after the date of the revocation. It goes back to the original law. With that, Mr. President, I conclude my remarks. [LB463 LB194]

PRESIDENT SHEEHY: Thank you, Senator Johnson. You've heard the opening to the committee amendment, AM302. The floor is now open for discussion. Senator Ashford, followed by Senator Schimek, and Senator Pahls. Senator Ashford. [LB463]

SENATOR ASHFORD: (Microphone malfunction)...Senator Johnson a question? [LB463]

PRESIDENT SHEEHY: Senator Johnson, would you yield for a question? [LB463]

SENATOR ASHFORD: And I... [LB463]

SENATOR JOHNSON: Yes, sir. [LB463]

SENATOR ASHFORD: How many pages is this bill? [LB463]

SENATOR JOHNSON: One thousand and fifty-three. I think it's the largest bill ever before this body. [LB463]

SENATOR ASHFORD: Well, and how many pages was that Health and Human Services bill? [LB463]

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SENATOR JOHNSON: I think it was just under 1,000. [LB463]

SENATOR ASHFORD: (Laugh) You know, Senator Johnson, how do you get a job where you get to introduce...there's no way we're going to...where you can offer two bills of 1,000 pages. That's a great job. [LB463]

SENATOR JOHNSON: I must say that I carried both of them up here this morning, and my back was starting to bother me a bit when I got here. [LB463]

SENATOR ASHFORD: (Laugh) That's the job I want, Mr. President. I want a job where I can have a bill of 1,000 pages that would...that's not at all controversial. (Laugh) Anyway, thank you, Senator Johnson,... [LB463]

SENATOR JOHNSON: You bet. [LB463]

SENATOR ASHFORD: ...for your... [LB463]

PRESIDENT SHEEHY: Senator Schimek. [LB463]

SENATOR SCHIMEK: Yes, thank you, Mr. President and members. First of all, I rise to congratulate the Health Committee and those...I'm sure there were many, many people involved in this effort. And I remember doing this with election law back in the mid-nineties, and it was a struggle. That got more politicized than I'm sure this was. But I really wanted to say thank you, and to your staff, and to everybody who was involved in it, because I know what a huge, huge thing this is, even though most of us are never going to read this bill, because we're going to trust you have told us exactly what it is. And it's really a reorganization. That's what it is. But there were some people who came in, in opposition to the bill. And you may have said something about that, Senator Johnson. And if not, or even if you did, would you repeat what you said? [LB463]

PRESIDENT SHEEHY: Senator Johnson, would you yield to a question? [LB463]

SENATOR JOHNSON: Yes. There were six opponents, and two of them, as I recall, were LPNs, and it was a question there as far as the distribution of the representation across the state, with so many people being in each congressional district, and things like that. It was more about the uniformity aspect than anything else. There was also an EMT question, and again, that went back to licensure uniformity. And really, the only real opposition is...and if you look in what we have passed out, you will see it addressed, as far as, at the top of the page, it says, letters of concern. And there was a court case where this was brought up. Interestingly enough, Dr. Schaefer, who now would be in charge of this, has told me personally that she never subscribed to the letters of concern, and never signed one of these and sent it out, because the letter of concern, whereas it may be interpreted by some as being, well, you know, be careful, or

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more careful the next time, other people might interpret it as a letter of censure. [LB463]

SENATOR SCHIMEK: I see. So you feel pretty comfortable that in spite of those...that the opposition is not out there anymore? [LB463]

SENATOR JOHNSON: Well, they...no. I think that there is the aspect that we absolutely need to address, and that goes back to Senator Pahls' bill, LB194, which was discussed at the same time. And we really do need to have an interim study, and we'll have ample time, since this does not go into effect till a year from December 1. [LB463 LB194]

SENATOR SCHIMEK: Okay. [LB463]

SENATOR JOHNSON: So, we plan on that interim study to address this issue. [LB463]

SENATOR SCHIMEK: Thank you, Senator Johnson. And I would like to say that I think it is necessary every so often to go back and take a look at the way the statutes are organized, because over time they tend to get amended, and it doesn't flow well, and it's not organized so that people can necessarily find what they need. So I think it is necessary in all the different areas. I'll also say that it would be indeed a remarkable thing... [LB463]

PRESIDENT SHEEHY: One minute. [LB463]

SENATOR SCHIMEK: ...if we never had to go back and make any changes in this, because when you have a 463-page bill, there just can be a few items that are overlooked. And I would anticipate that. I don't think it's a big deal. But I think that, job well done. Thank you. [LB463]

PRESIDENT SHEEHY: Thank you, Senator Schimek. Senator Pahls. [LB463]

SENATOR PAHLS: Good morning, Mr. President, members of the body. I do want to thank Senator Johnson. Dealing with some of the concerns of LB194, as he implied that this is a complicated area and needs further study, and he plans to do that. So I do support his work, and I thank him for his efforts. Thank you. [LB463 LB194]

PRESIDENT SHEEHY: Thank you, Senator Pahls. Further discussion on committee amendment AM302? Seeing none, Senator Johnson, you're recognized to close. [LB463]

SENATOR JOHNSON: Thank you. Again, all that is in this amendment to this 1,053-page effort is to put back into statute what is presently there regarding the revocation of the license, so that the person, after two years, would be able to reapply for licensure that has been revoked. With that, I ask for your support of AM302. [LB463]

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PRESIDENT SHEEHY: Thank you, Senator Johnson. You've heard the closing to the committee amendment, AM302. The question before the body is, shall AM302 be adopted? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB463]

ASSISTANT CLERK: 34 ayes, 0 nays on the adoption of committee amendments, Mr. President. [LB463]

PRESIDENT SHEEHY: AM302 is adopted. We will now move back to floor discussion on LB463. Senator Chambers. [LB463]

SENATOR CHAMBERS: Thank you, Mr. President. I'd like to ask Senator Johnson a question. [LB463]

PRESIDENT SHEEHY: Senator Johnson, would you yield for a question? [LB463]

SENATOR JOHNSON: Yes, sir. [LB463]

SENATOR CHAMBERS: Senator Johnson, you mentioned that a great amount of work had been done on this bill, and you mentioned that there are 10 hundred...I meant, there are 1,000...how many pages did you say? [LB463]

SENATOR JOHNSON: A thousand fifty-three, I believe, Senator. [LB463]

SENATOR CHAMBERS: And there are over 1,300 sections? [LB463]

SENATOR JOHNSON: It's an amazing number. We tried compiling that on the handout, to show how extensive it is. [LB463]

SENATOR CHAMBERS: And Senator Schimek said nobody is probably going to read it all, I think, and we'll trust you, right? [LB463]

SENATOR JOHNSON: And I have not read it all, sir, but the...I think, in defense of that, Jeff Santema, believe it or not, has read it all, and so I rely on him, as do most people. [LB463]

SENATOR CHAMBERS: Senator Johnson, who was elected, you or Mr. Santema? [LB463]

SENATOR JOHNSON: I was. [LB463]

SENATOR CHAMBERS: And who has the responsibility to discharge the duties of the

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position which you hold? [LB463]

SENATOR JOHNSON: I do. [LB463]

SENATOR CHAMBERS: Would one of those duties be to read the bill that you report out and recommend that we accept on your say-so? [LB463]

SENATOR JOHNSON: I wouldn't say that exactly. I'd say that it was my duty to find extremely competent people to go through that and...rather than reading all of the bill itself. [LB463]

SENATOR CHAMBERS: So it's like a joke that said, there was a story going around, and one of the gossips told the sexton, and the sexton tolled the bell. When the sexton was told, it was t-o-l-d; when he tolled the bell, it was t-o-l-l-e-d. I like plays on words. So what we're doing is having information that was given to you by another person, then in turn given by you to us, and we're to accept what you represent to us that this bill says. Is that an accurate reflection of what we're doing this morning? [LB463]

SENATOR JOHNSON: No, Senator, I don't think it would be quite accurate, because one of the things that we've had is that all of these various entities that are licensed... [LB463]

SENATOR CHAMBERS: That's not what I'm asking you. You're going by what you were told by your competent staff member. Is that correct? [LB463]

SENATOR JOHNSON: Not only my competent staff members, but by all of these groups that have been meeting over the years. [LB463]

SENATOR CHAMBERS: So we have double or triple or quadruple hearsay. But in effect, you are telling us what others told you is in the bill. Is that accurate? [LB463]

SENATOR JOHNSON: I think you could state it that way if you chose. [LB463]

SENATOR CHAMBERS: And you said this is an important bill? [LB463]

SENATOR JOHNSON: Yes, sir. [LB463]

SENATOR CHAMBERS: Do we have an obligation, do you think, to read it, or just to trust you? [LB463]

SENATOR JOHNSON: I don't think that you need to trust me. I think we need to trust all of the people in these various professions working with various staffs to come to a common agreement. And... [LB463]

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SENATOR CHAMBERS: But we don't know what they said, do we? [LB463]

SENATOR JOHNSON: Well, I guess... [LB463]

SENATOR CHAMBERS: That's all I'll ask you. [LB463]

SENATOR JOHNSON: Sure. Certainly. [LB463]

SENATOR CHAMBERS: Mr. President, pursuant to Rule 6, Section 3(a), this is what you find: The Clerk of the Legislature shall read the number and the title of the bill and the name of the principal introducer as it comes up for consideration on General File. A bill will not be read section by section unless requested by a member of the Legislature. Sub (b): Each section shall be open to amendment. I'm invoking this rule, and requesting that the Clerk begin to read this bill section by section,... [LB463]

PRESIDENT SHEEHY: One minute. [LB463]

SENATOR CHAMBERS: ...with each one being open to amendment. And I'd like a ruling from the Chair as to whether that is in order. [LB463]

PRESIDENT SHEEHY: The request is in order, shall be allowed. [LB463]

SENATOR CHAMBERS: Thank you, Mr. President. [LB463]

PRESIDENT SHEEHY: Mr. Clerk, would you prepare to begin reading LB463, beginning with the first section. [LB463]

CLERK: (Read Section 1 of LB463.) [LB463]

PRESIDENT SHEEHY: That is the conclusion of the first section of the act. Any discussion? Senator Pahls, do you wish to discuss Section 1? Senator Pahls? Senator Nelson. [LB463]

SENATOR NELSON: Thank you, Mr. President, members of the body. If Senator Johnson is available, I would like to ask him a question which relates in some aspects to Section 1. [LB463]

PRESIDENT SHEEHY: Senator Johnson, would you yield to a question? [LB463]

SENATOR JOHNSON: Yes, I'll try. [LB463]

SENATOR NELSON: Senator Johnson, of course, this is an extremely long bill and, for

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some of us, it hit our desk for the first time this morning, so we have not had an opportunity to read through it. And apparently, we're going to hear a great deal of the bill, section by section. I have letters in my file of concern from some people regarding disciplinary things. And I think I heard you say that that was what this bill addressed, in large part, the handling of disciplinary actions? Would that be correct? [LB463]

SENATOR JOHNSON: No, Senator, I wouldn't say that's quite correct. What the overall bill does is to...and I think I used the term, it doesn't change the scope or practice, etcetera, of the various professions. What we were referring to is this; is that there is a section that deals with the investigation of alleged malfeasance of the professional and the disciplinary investigation, the disciplinary measures, and so on. And there was the court case about the letters of concern. This, to us, was the only ongoing area that needed intense scrutiny. And the intent was--and I've had conversations with several people, but particularly Speaker Flood--that this would be covered in the interim with studies in this particular area. [LB463]

SENATOR NELSON: Okay. Do you happen to recall the number of the section that deals with these disciplinary procedures? [LB463]

SENATOR JOHNSON: No, I don't have that right in front of me. What I do know is Senator Flood...or Senator Pahls' bill, which was LB194, which called this into question. [LB463 LB194]

SENATOR NELSON: But in this section, then, does this provide that disciplinary action will be uniformly applied in every situation to all the various health persons being licensed or censured or disciplined? [LB463]

SENATOR JOHNSON: I think that is the case. And of course, there's really two sides of this, Senator, and that is, perhaps the most important is not the protections just to the professional; I would think that perhaps trumping that is the protection of the public. [LB463]

SENATOR NELSON: Well, certainly. Well, fine, that answers my questions. And I think these things are going to be further addressed, then, during the interim, if I understand you correctly. [LB463]

SENATOR JOHNSON: That is definitely our intent. [LB463]

SENATOR NELSON: Okay. Thank you, Senator Johnson. Thank you, Mr. President. [LB463]

PRESIDENT SHEEHY: Thank you, Senator Nelson. Senator Rogert. [LB463]

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SENATOR ROBERT: Thank you, Mr. President. Would Senator Johnson yield to a couple of questions, please? [LB463]

PRESIDENT SHEEHY: Senator Johnson, would you yield for a question? [LB463]

SENATOR JOHNSON: Yes, sir. [LB463]

SENATOR ROBERT: Thank you. This is in regard to a couple of the opposing testimonies that were during committee. The Health Care Association testified that they had some problems with a little of the language, and I wondered if...what your thoughts on their concerns were. They mentioned, on page 580, lines 15 to 18, there's a requirement, eliminated by the provision, that the Board of Health attempt to ensure representation for accurate care...acute care, long-term care, and community-based care. Their view says that "attempt to ensure" is synonymous with "do not have to ensure." What are your thoughts on that? [LB463]

SENATOR JOHNSON: Well, this is what I attempted to address when we were...went through the bill originally, in that I believe that these were LPNs, or licensed practical nurses, and that this dealt more with the representation. I think there were also questions of these being equally distributed in the three congressional districts, although, if I recall correctly, that there were five people, and since there's three congressional districts you can't quite do it. But I think that these people were generally satisfied, and that this was certainly important, but somewhat of a technical nature, as well. [LB463]

SENATOR ROBERT: Okay. Also, they... [LB463]

SENATOR JOHNSON: And I might say that their organization, I believe, had no...that these were individuals, rather than a nursing organization, that had these objections. [LB463]

SENATOR ROBERT: Okay. Thank you. I get one more question. They did also suggest that the committee strike a few words, specifically "disruptive behavior," from the definition of professional misconduct. An example in this bill of unprofessional conduct is provided on page 107, subsection (14), and it reads: disruptive behavior, whether verbal or physical, which interferes with consumer care, or could reasonably be expected to interfere with such care. They...their thoughts were that particularly the "reasonably be expected to interfere" terminology is overly vague. Do you have any...? [LB463]

SENATOR JOHNSON: Well, and I must confess to you that we talked about that very term, and felt that this, as I understand it, is a relatively common term and so it was left in. But it was...I can tell you that we did talk about this. And, you know, this, I guess, is

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one that we don't feel very strongly about, that might be taken out of the bill. But it seemed to cover a general area that is often present in things like this. So that's the best I can do in answering that. [LB463]

SENATOR ROBERT: Okay. Thank you, Senator Johnson. Thank you, Mr. President. [LB463]

PRESIDENT SHEEHY: Thank you, Senator Rogert. Senator Hansen, followed by Senator Chambers. Senator Hansen. [LB463]

SENATOR HANSEN: Thank you, Mr. President, members of the body. Senator Johnson did have a handout, and it's a three-page handout, but the front page is what I'd like to talk about a little bit. Senator Nelson asked about the disciplinary process. That...it's Section 75 through Section 139. This is an extremely long bill. I tried to read it, Senator Chambers. (Laugh) This is freshman penance on the HHS Committee, to get two bills like this in one year, I think. But we...with the help of Senator Johnson and the 31-page index that we were handed out in committee, there are places...if you have people...EMS folks came to us with a scope of practice change. They were on the opposite side of the first responders. This is what this bill, LB463, does. LB463 will be a point in time. Next year, I assume that we will be talking to many other groups that have read LB463 in their particular section. They will come to us next year, I predict--and I've talked to Dr. Schaefer about it, and HHS--that they will come and they will want their scope of practice tweaked just a little bit. But LB463, as it stands right now, is a point in time, and...that everyone can get...look up their scope of practice now, and their licensure as it stands now, which is good to have in every community. I took a copy of LB463, put it in a binder, put the one-page definitions, or the index to it, put it in a school in the middle of North Platte, which is the county seat of Lincoln County, which is my district. So anyone...and I've tried to make that public, that anyone who is interested in their licensure changes or exactly what their license says, that they know where to go, that they have one place in my district that they can go and look at their license. This is a bill that is extremely long. It's not extremely difficult. If you have an interest in any license that is permitted out there, you can go to LB463 and look at it. I think it's a research bill that people can look at. But I thank Senator Johnson for bringing that to the discussion today, and I suggest that we go ahead and move this on, and we use it as a research bill. Thank you, Mr. President. [LB463]

PRESIDENT SHEEHY: Thank you, Senator Hansen. Senator Chambers. [LB463]

SENATOR CHAMBERS: Mr. President, members of the Legislature, I'm going to ask Senator Johnson a softball question first. Senator Johnson, would you turn to page 13 of the bill? [LB463]

PRESIDENT SHEEHY: Senator Johnson, would you yield for a question? [LB463]

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SENATOR JOHNSON: Yes, sir. Hang on for one second, Senator, and I'll see what I can do. [LB463]

SENATOR CHAMBERS: Oh, you can do it if you try. [LB463]

SENATOR JOHNSON: Oh, I'm sure I can, too. Thirteen? [LB463]

SENATOR CHAMBERS: Yes. [LB463]

SENATOR JOHNSON: Yes, sir. [LB463]

SENATOR CHAMBERS: In line...beginning in line 21, it tells where the Revisor of Statutes is going to place these various provisions, and they will be in Chapter 38, in the order listed in this bill. Is that correct? [LB463]

SENATOR JOHNSON: That's what it says, sir. [LB463]

SENATOR CHAMBERS: Okay. And there must be someplace else, because it's a different subject, where the Water Well Standards and Contractors' Practice Act would be placed, correct? [LB463]

SENATOR JOHNSON: Yes. I would...and what I understand is that this is a reordering--I'm sorry, I can't quite see you, Senator--but the...that these are now scattered about, might be the best term, and then to try and get these in logical order, is my understanding. [LB463]

SENATOR CHAMBERS: Okay. So this is done now to create a grouping of these provisions which currently does not exist in statute, more or less? [LB463]

SENATOR JOHNSON: It's my understanding that over the years--and I think this actually started in 1927--and with all the different laws and so on that have been passed, that they're here, there, and everywhere, I guess might be the best way of putting it. [LB463]

SENATOR CHAMBERS: Okay. Thank you. That's all I would have on that. Thank you, Mr. President. [LB463]

PRESIDENT SHEEHY: Thank you, Senator Chambers. Further questions, discussion, on Section 1? Seeing none, Mr. Clerk, we're ready to proceed with Section 2. [LB463]

CLERK: (Read Section 2 of LB463.) [LB463]

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PRESIDENT SHEEHY: Thank you, Mr. Clerk. Questions on Section 2? Senator Chambers. [LB463]

SENATOR CHAMBERS: Senator Johnson, on page 15, starting in line 23: It is the intent of the Legislature to not impose any requirement beyond those in effect immediately prior to the operative date of this section on school districts, educational service units, and so forth. Does that mean that a different rule is in place with reference to every other entity that is affected by this bill, so that things can be added after the effective date of this act which are not mentioned in this act? [LB463]

PRESIDENT SHEEHY: Senator Johnson, would you yield to a question? [LB463]

SENATOR JOHNSON: Yes. Senator Chambers, one of the groups that...in talking about whether I'd actually read this bill or not, we certainly did have different groups that came around to my office to discuss various parts of this. One of them was a school district that was concerned about how this might affect nurses in their school, and how they might be changed by this. What I asked them to do is to allow the bill...this bill to be enacted, because, as we talked earlier, we will have more than a year--in fact, almost a year and a half--for various studies and bills to correct the concerns about this school district regarding their nurses. So that's the best I can answer it, I think, but... [LB463]

SENATOR CHAMBERS: Okay. Between the time that this bill before us would be enacted and the time that it would take effect, additional laws could be put in place that would affect these nurses located in these facilities. Is that correct? [LB463]

SENATOR JOHNSON: Yes, sir. I think... [LB463]

SENATOR CHAMBERS: And whatever is done in those laws would apply. [LB463]

SENATOR JOHNSON: This, as...I think the best way of looking at it is this is our starting point, and then...so that we reorganize where we're at, and then it is the starting point to where we might go from here. And you know, there will always be need or desire for change of the law. [LB463]

SENATOR CHAMBERS: But here's what doesn't make sense, and maybe I misunderstood you. What is the earliest date that anything in this bill will take effect? [LB463]

SENATOR JOHNSON: This bill goes into effect on December 1, 2008. [LB463]

SENATOR CHAMBERS: Which is next year. [LB463]

SENATOR JOHNSON: Yes, sir. [LB463]

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SENATOR CHAMBERS: So why do we need this language that is put here? This language cannot stop the Legislature from enacting different legislation or even repealing this bill next session. Is that true? [LB463]

SENATOR JOHNSON: That would be true. And we could have another bill next week that would have an effect on this, I would think, sir. [LB463]

SENATOR CHAMBERS: So what sense does this make? Why is this language necessary? I'm going to read it again: It is the intent of the Legislature to not impose any requirements beyond those in effect immediately prior to the operative date of this section on school districts and so forth. Well, nothing in this bill has effect on any entity prior to the effective date of the bill. Isn't that true? [LB463]

SENATOR JOHNSON: That would be correct. [LB463]

SENATOR CHAMBERS: So what are these people worried about, and why is this language here? [LB463]

SENATOR JOHNSON: Sir, I cannot give you... [LB463]

PRESIDENT SHEEHY: One minute. [LB463]

SENATOR JOHNSON: ...any other answer than what we've talked about. [LB463]

SENATOR CHAMBERS: If I would strike it, it wouldn't hurt the bill or anything else, would it? [LB463]

SENATOR JOHNSON: At first glance, no. [LB463]

SENATOR CHAMBERS: Okay, and I'm not going to do it right now, but these are some of the things that I'm being made aware of as we proceed in this fashion. [LB463]

SENATOR JOHNSON: Certainly. [LB463]

SENATOR CHAMBERS: And that is all the questioning I would have on this provision, this section, although at a later time I may come back to deal with this. Thank you, Mr. President. [LB463]

PRESIDENT SHEEHY: Thank you, Senator Chambers. Senator Chambers, that was your third time. [LB463]

SENATOR CHAMBERS: On the bill, right? [LB463]

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PRESIDENT SHEEHY: Correct, on...under the time, we are on discussion of advancing LB463. Each member is allowed up to three times. Each section is not a separate question. [LB463]

SENATOR CHAMBERS: Gotcha. Thank you. [LB463]

PRESIDENT SHEEHY: Thank you, Senator Chambers. Senator Rogert. [LB463]

SENATOR ROBERT: Thank you, Mr. President. I yield my time to Senator Chambers. [LB463]

PRESIDENT SHEEHY: Senator Chambers. [LB463]

SENATOR CHAMBERS: Thank you, Senator Rogert. This is done partly to give everybody a chance to look at the bill, come to an understanding of what it is we're dealing with. And I ask questions when I don't know the answer to what I read. And when I see unnecessary language, I think it should be removed. So in the time that Senator Rogert has given me,...Mr. President? Mr. President, even though I'm not speaking, I want the time to run, and I'm going to take this opportunity to draft an amendment, because we will be off this section before I would have a chance to do so. I will continue, Mr. President. Members of the Legislature, I'm going to go ahead and have the amendment drafted, and I'm going to explain why again. If you start in line 19 of page 15, it says: "The Legislature recognizes the need for regulation of persons and businesses providing health and health-related services and environmental services. It is the intent of the Legislature to provide for such regulation through the Uniform Credentialing Act." That's enough. Then here comes the superfluous language that really has no meaning, and this is what I'm having stricken: It is the intent of the Legislature to not impose any requirements beyond those in effect immediately prior to the operative date of this section on school districts, educational service units, and so forth. First of all, we cannot bind the Legislature next year not to enact new regulations, if that's what this...if that's the purpose of this language. We cannot bind the Legislature and prevent ourselves from imposing new regulations. If that is not the intent, then all it's saying is that this bill will take effect on the effective date of the bill. Anything in this bill that has a bearing on the individuals affected under this language that I want to strike, those regulations will take effect on the effective date of the bill. And if they're not in the bill, they're not going to take effect. But if they are in the bill, they are going to take effect. So why are you going to say nothing in this bill shall take effect on this category of persons before the effective date of the bill, when you don't say that about every other entity that is affected? Senator Johnson, do you see what I'm saying, whether you agree with it or not? If Senator Johnson would yield to a question? [LB463]

PRESIDENT SHEEHY: Senator Johnson, would you yield? [LB463]

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SENATOR JOHNSON: Certainly. [LB463]

SENATOR CHAMBERS: Senator Johnson,... [LB463]

PRESIDENT SHEEHY: One minute. [LB463]

SENATOR CHAMBERS: ...have you been able to follow what I have been saying about this language? [LB463]

SENATOR JOHNSON: I've been trying diligently. [LB463]

SENATOR CHAMBERS: Okay, but it's not clear to you? [LB463]

SENATOR JOHNSON: Well,... [LB463]

SENATOR CHAMBERS: If it's not clear, then when my amendment comes up, I'll be able to discuss it in more detail, because I'm offering a motion to strike it. It serves no purpose whatsoever. And when the amendment is prepared and is offered, you and others who may agree with this language, because your committee agreed to put it in here or leave it here, can explain to me how the language means something other than what I take it to mean. And I'm basing my understanding on what it means from the plain, ordinary usage of these words. So, is my time up on this, Mr. President? [LB463]

PRESIDENT SHEEHY: Time, Senator. [LB463]

SENATOR CHAMBERS: Thank you. [LB463]

PRESIDENT SHEEHY: (Visitors introduced.) Mr. Clerk, you have an amendment filed at your desk? [LB463]

CLERK: Senator Chambers would move to amend this section, Mr. President. (FA69, Legislative Journal page 1178.) [LB463]

PRESIDENT SHEEHY: Senator Chambers, you're recognized to open on FA69. [LB463]

SENATOR CHAMBERS: Thank you. Mr. President, I have to do everything. See, I'm...since I have the Clerk doing this extra work, I think I should do my part as we go through these sections. But I may not have the time on each one to proffer, as they would say under the law, an amendment. But I'm going to try to stay caught up if I can. This is the language that is being stricken. You will find it beginning in line 23 on page 15, and it will continue through lines 1 through 3 on page 16. And for the sake of the

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record, I'm going to read the language that I'm striking, and I'm not replacing it with anything: "It is the intent of the Legislature to not impose any requirements beyond those in effect immediately prior to the operative date of this section on school districts, educational service units, or other public or private educational institutions or entities serving prekindergarten through 12th grade students." I would like to ask Senator Johnson a question or two, if he will yield, Mr. President. [LB463]

PRESIDENT SHEEHY: Senator Johnson, would you yield to questions? [LB463]

SENATOR JOHNSON: Certainly. [LB463]

SENATOR CHAMBERS: Senator Johnson, who came to you with this language, because you said some groups were concerned and they wanted this language in the bill? [LB463]

SENATOR JOHNSON: I think that might be an oversimplification, Senator. And by the way, I've turned on my light so that you can have my time, too, as...if necessary. But at any rate, no, I think what we have here is the cumulative opinions of all of these 39 different groups working over the years with...to come to this, and then... [LB463]

SENATOR CHAMBERS: But what I'm speaking of is with specific reference to the language that I want to strike. These different educational entities, did they have a delegation come to you, or did they designate somebody... [LB463]

SENATOR JOHNSON: No, I'm sure that the language itself was worked out, in each of these instances, with the staff of HHS and so on, being the staff for these different entities, would be the way I would think it would be done. [LB463]

SENATOR CHAMBERS: Okay. Now going to the language that I'm looking at,... [LB463]

SENATOR JOHNSON: Okay. And you're going back to page 15, sir? [LB463]

SENATOR CHAMBERS: Yes. Under this bill, the only thing that will take effect when this bill reaches its effective date of December of next year, or 2008, will be what is in this bill. Is that correct? [LB463]

SENATOR JOHNSON: That would be...what was in this bill would go into effect December 1 of 2008. [LB463]

SENATOR CHAMBERS: Right. [LB463]

SENATOR JOHNSON: And of course, as we've talked, why, there would be the ability

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of any of the senators to bring forth legislation in the interim that then would be effective. [LB463]

SENATOR CHAMBERS: And you would agree, I believe, that one Legislature cannot bind a future Legislature. Do you agree? [LB463]

SENATOR JOHNSON: That's always been my understanding. [LB463]

SENATOR CHAMBERS: So, it being acknowledged that we can impose additional requirements that go beyond what's contained in this bill, we can do that, what is the significance of this language? Because it can't stop us from doing that, and nothing other than what's in this bill is going to have an impact on these people. Or is there something in this bill that says certain things with reference to this category of persons will take effect after December whatever it is? And even if that's the case, the effective date of that section will determine what in this bill will affect them. In other words, this language makes no sense to me. I understand what it's saying, but it's unnecessary and serves no purpose. So if it's stricken...let me ask the question this way. If this language is stricken, how will it hurt the bill? [LB463]

SENATOR JOHNSON: Senator Chambers, as I mentioned when we first began this conversation, my first impression is that I can't see where it will. And I...after thinking about this, I can't think of any reason, to this point, to think differently than that. [LB463]

SENATOR CHAMBERS: Okay. Thank you, Mister...I meant, Senator Johnson. Mr. President, what I'm going to do then, if there are no lights on and people are not going to ask questions, is just wrap this up. Are there any lights on? [LB463]

PRESIDENT SHEEHY: Yes, we have five. [LB463]

SENATOR CHAMBERS: Okay, then they may want to ask me questions, so I will listen to those questions and answer them. Thank you, Mr. President. [LB463]

PRESIDENT SHEEHY: Thank you, Senator Chambers. Senator Howard, followed by Senator Langemeier, Senator Johnson, Senator Pirsch, and Stuthman. Senator Howard. [LB463]

SENATOR HOWARD: Thank you, Mr. President, members of the body. I would like to give my time to Senator Chambers. [LB463]

PRESIDENT SHEEHY: Senator Chambers. [LB463]

SENATOR CHAMBERS: This is one time--thank you, Senator Howard--I don't need any additional time. In other words, I've shot my wad on what I can say on this. But I'm

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prepared to answer the questions of anybody who might want additional clarification from me. So I don't need additional time, but thank you very much. [LB463]

PRESIDENT SHEEHY: Senator Johnson. [LB463]

SENATOR JOHNSON: Yes, sir, Mr. President. [LB463]

PRESIDENT SHEEHY: Did you wish to...you were next in the queue to speak. [LB463]

SENATOR JOHNSON: Oh, I'm sorry. Well, what I turned on my light for, as I indicated earlier, that if Senator Chambers and I needed to continue the conversation, I'd be happy to. Let me just say this; is that I did double-check and this is...was put into this because of the school board that did come to us with their concerns with their nurses and so on. So it was as I had remembered the conversation. [LB463]

PRESIDENT SHEEHY: Thank you, Senator Johnson. Senator Stuthman. [LB463]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I would like to engage in a little conversation with Senator Chambers, if I may. [LB463]

PRESIDENT SHEEHY: Senator Chambers, would you yield to a question? [LB463]

SENATOR CHAMBERS: Yes, I will. [LB463]

SENATOR STUTHMAN: Senator Chambers, reading this part of it, what you're trying to delete, "It is the intent of the Legislature not to impose any requirements beyond those in effect," explain to me what you think "beyond those in effect" means. [LB463]

SENATOR CHAMBERS: It means that there are requirements contained in this bill that will impact the people that this language deals with. This language is saying, nothing other than what is in this bill will affect that group on the effective date of this act. And that's going to be the case anyway. Only what is in this bill will have an effect on them. [LB463]

SENATOR STUTHMAN: Thank you, Senator Chambers. It is my feeling that this "beyond those in effect," the regulations that are beyond those that are in effect--and I go back to "health and health-related services and environmental services"--those that are already in effect right now, that we're under the regulations, the jurisdictions, the licensure of those health-related issues that the schools, ESU, service units, and public or private educational institutions, those issues that are in effect right now is what I think that means, "beyond those in effect." Those that we're dealing with right now in these schools, with ESUs, service units, the health issues that they are abiding by, those are the ones that are in effect. Yes, Senator Chambers, would you comment on this,

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please? [LB463]

SENATOR CHAMBERS: Yes. Senator Stuthman, unless there is language in this bill that strikes whatever it is you're talking about, those things remain in effect. If there is language which does...if there is a provision that does strike existing requirements such as you're talking about, that striking will not occur until the effective date of this act. Nothing that is contained in this bill will have any effect in law until the effective date of this act. If there are provisions in this law that we're passing would strike some existing provisions, that striking will not take effect until the effective date of this act. If there are provisions you're thinking about, and this bill does not strike them, then they remain in effect. The language is unnecessary, totally. [LB463]

SENATOR STUTHMAN: So then, Senator Chambers, any existing regulations that are in existence, it's immaterial, you know, as to when the effect...I mean, when this effective date goes, unless, as you stated, that they are stricken, you know, with this effective date, those procedures and regulations will continue on. Is that correct? [LB463]

SENATOR CHAMBERS: Right. And if I understood Senator Johnson, he was saying that this is more or less--and I don't want to misrepresent, and he can speak for himself--I don't know if he used the word "reorganization," but substantive issues, he had said he'd prefer not be addressed with this bill, such as changing the requirements for somebody to be licensed,... [LB463]

PRESIDENT SHEEHY: One minute. [LB463]

SENATOR CHAMBERS: ...or along that line. So if the bill is doing what he said this does, then the language has no impact, no value, because we're not altering what the duties and requirements are to get these credentials. [LB463]

SENATOR STUTHMAN: Thank you, Senator Chambers. I just feel that there is a good possibility that this language isn't needed, and I'll agree with Senator Chambers, because what it's stating, in my opinion, is that this bill does not want to impose any requirements prior to the operative dates, which they really can't anyway, in my opinion. Would you state that would be correct, Senator Chambers? [LB463]

SENATOR CHAMBERS: That's correct. [LB463]

SENATOR STUTHMAN: Okay, thank you. Those are all the comments that I have, and I want to thank Senator Chambers. [LB463]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. Further discussion on FA69? Seeing none, Senator Chambers, you're recognized...Senator Kopplin. [LB463]

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SENATOR KOPPLIN: Thank you, Mr. Speaker, members of the body. May I ask Senator Johnson a question, please? [LB463]

PRESIDENT SHEEHY: Senator Johnson, would you yield? [LB463]

SENATOR JOHNSON: Yes, sir. [LB463]

SENATOR KOPPLIN: I'm not on your committee, and I wasn't in these discussions. And I had read that language earlier, and I wonder if it doesn't refer to, many of these are school employees, such as speech pathologists and so on, that are operating under one set of certification from the state department. Does this bill increase the requirements to get those certifications? [LB463]

SENATOR JOHNSON: No. It's my understanding that, universally throughout the bill, that there is no change in the scope of practice. And I think that is specifically mentioned, and I mentioned it here in my opening remarks, that that is not the intent. It's really...I guess the best way to...for me to describe it is we're...the house has had so many additions to it that now we're going back and building a new house, but with the same, you know, requirements, rather than having the bedroom off the kitchen, or something like that. [LB463]

SENATOR KOPPLIN: So those present employees would continue with their present certification, and so on? [LB463]

SENATOR JOHNSON: That's...I believe there's no intent throughout the bill to change any scope of practice. [LB463]

SENATOR KOPPLIN: Okay. Thank you very much. [LB463]

PRESIDENT SHEEHY: Thank you, Senator Kopplin. Senator Chambers, no one else requesting to speak. You're recognized to close. Senator Chambers waives closing. The question before the body is, shall FA69 be adopted to LB463? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB463]

CLERK: 26 ayes, 0 nays, Mr. President, on adoption of Senator Chambers' amendment. [LB463]

PRESIDENT SHEEHY: FA69 is adopted. Further discussion on Section 2? Seeing none, Mr. Clerk, begin with Section 3. [LB463]

CLERK: (Read Section 3 of LB463.) [LB463]

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PRESIDENT SHEEHY: Questions on Section 3? Seeing none, Mr. Clerk, Section 4. [LB463]

CLERK: (Read Section 4 of LB463.) [LB463]

PRESIDENT SHEEHY: Questions on Section 4? Senator Chambers, you've spoken your three times on the advancement. Senator Stuthman. [LB463]

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. I would like to...I have another question that I would like to ask Senator Chambers, if I may. [LB463]

PRESIDENT SHEEHY: Senator Chambers, would you yield? [LB463]

SENATOR CHAMBERS: Yes, I will. [LB463]

SENATOR STUTHMAN: And I apologize for thinking slowly and not asking the questions correct. But I want to go back to that Section 2 again, and now that we've stricken that language out of there that the Legislature's intent is not to impose any requirements on educational service units or service providers, now can we introduce...can the legislative body introduce a bill next session and have the emergency clause on that something could take an effect before this bill is enacted, and...? [LB463]

SENATOR CHAMBERS: Sure,...oh. Yes, and we could do that even with this language. This language that was stricken cannot prohibit the Legislature from doing anything. In fact, while working on this bill, despite what Senator Johnson requested of us, we could put into this bill additional requirements. So since that language that we struck could not affect what the Legislature can do, it was superfluous and had no legal effect whatsoever. But it could give some people who don't understand the legislative process the impression that with that language there, it means the Legislature cannot act on any of these issues until after the effective date of this act, which would be totally false. [LB463]

SENATOR STUTHMAN: Okay, thank you, Senator Chambers. That explains it to me as to what we can do in the next legislative session, then, as far as any type of regulations that we could impose on it. So I want to thank Senator Chambers for that, and I'll give the balance of my time to Senator Chambers. [LB463]

SENATOR LANGEMEIER PRESIDING [LB463]

SENATOR LANGEMEIER: Three minutes, Senator Chambers. [LB463]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I'm

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going to have difficulty with what I'm going to do, so I may have to just throw up some garbage motions, as I will call them. But I'd like to ask Senator Johnson a question... [LB463]

SENATOR LANGEMEIER: Senator Johnson, would you yield to a question? [LB463]

SENATOR CHAMBERS: ...on Section 4. [LB463]

SENATOR JOHNSON: Yes, sir. [LB463]

SENATOR CHAMBERS: Senator Johnson, on page 16, in Section 4, beginning in line 12, it says that all rules and regulations adopted prior to the operative date of this section...then, to paraphrase the rest of it, will remain in effect after the effective date, insofar as they don't conflict with what's in this law. Is that the way you understand it? [LB463]

SENATOR JOHNSON: Well, let me read it again, sir. [LB463]

SENATOR CHAMBERS: Okay. [LB463]

SENATOR JOHNSON: Afraid that the speaker was able to read much faster than I. I was trying to keep up. All right, I'll try and go on with you from here, Senator. [LB463]

SENATOR CHAMBERS: Okay, here's what I'm getting to. When we get to line 16, it says, these rules and regulations that will remain in effect will do so until revised, amended, repealed, or nullified pursuant to law. Before a rule or regulation is valid, it has to be promulgated, adopted, and filed with the Secretary of State, and those rules and regulations have to be available to the public upon request. Well, this language would keep in effect those rules, as filed with the Secretary of State. But those rules, as filed with the Secretary of State, may not be accurate, because some parts of them may conflict with this law,... [LB463]

SENATOR LANGEMEIER: One minute. [LB463]

SENATOR CHAMBERS: ...but that won't show up in the regulations and rules that are filed. So the public can be misled if the language of this bill remains intact. I think you should say that if...first of all, you should have somebody determine which rules and regulations conflict with this act. Then there should be a requirement that those rules and regulations be updated, so that the part which conflicts and no longer is in effect will not be on file with the Secretary of State in a rule and regulation which people would be entitled to believe would be valid. And somebody else is going to give me time, so I'll be able to go a little more deeply into that. Thank you, Senator Johnson. [LB463]

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SENATOR LANGEMEIER: Thank you, Senator Chambers. (Doctor of the day introduced.) Senator Schimek, you're recognized. [LB463]

SENATOR SCHIMEK: Thank you, Mr. President. Senator Chambers, may I ask you a question? [LB463]

SENATOR LANGEMEIER: Senator Chambers, would you yield to a question? [LB463]

SENATOR CHAMBERS: Yes, I will. [LB463]

SENATOR SCHIMEK: You're not a mind reader, are you, Senator Chambers? [LB463]

SENATOR CHAMBERS: Well, I don't want to tell everything, but occasionally I can pick up vibrations. [LB463]

SENATOR SCHIMEK: (Laugh) To which senator were you referring when you said somebody was going to give you time? [LB463]

SENATOR CHAMBERS: Whoever the hat fits is the one to whom I was referring. [LB463]

SENATOR SCHIMEK: (Laugh) I'd like to give my time to Senator Chambers. [LB463]

SENATOR LANGEMEIER: Thank you. Four, thirty. [LB463]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Schimek. Members of the Legislature, let me try to give an analogy, since I have a little more time, so that what I'm saying is clear. Let's say that a rule or regulation that is currently on file with the Secretary of State is valid, and it has ten provisions; when this credentialing act takes effect, the last four of those provisions are in conflict, so they no longer remain in effect. But if you as a member of the public would ask the Secretary of State for a copy of rule or regulation, whatever it is that we're talking with, you will see all ten of those points, and you'd be entitled, as a member of the public, to rely on this copy that you get as being an accurate reflection of a rule or regulation that is in effect. So what I think should be done--and language should be crafted to do that--is to say that a determination must be made by somebody as to which portions of rules and regulations may be in conflict with this statute and, therefore, no longer in effect; then require that an amendment be filed in the Secretary of State's Office that will accompany that existing rule or regulation which will say that parts 7, 8, 9, 10 are no longer in effect; or simply have the agency repromulgate, adopt, and file its rules and regulations, as they would do. It makes no sense to me to have this kind of language, when it can mislead the public. Who is going to determine...is Senator Johnson here? I don't see him. Oh, okay. We can't see each other, because sometimes a person intervenes. Senator

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Johnson, I'd like to ask you a question. [LB463]

SENATOR LANGEMEIER: Senator Johnson, would you yield to a question? [LB463]

SENATOR JOHNSON: Yes, sir. [LB463]

SENATOR CHAMBERS: Senator Johnson, who is the one responsible for determining which parts of rules and regulations that currently exist are in conflict with this law when it takes effect? On whom is that responsibility placed? Under the law, nobody, is it? [LB463]

SENATOR JOHNSON: I was going to say, if there is a person, I don't know who it is. [LB463]

SENATOR CHAMBERS: And the law does not specify who will make a determination of which existing rules and regulations conflict with this law. Would you agree? [LB463]

SENATOR JOHNSON: That would seem reasonable. [LB463]

SENATOR CHAMBERS: Would it make sense, since the public is entitled to rely on what is filed with the Secretary of State, they're entitled to rely on the accuracy of those documents, if nobody is assigned the duty of finding where a conflict exists, then the public is entitled to believe that that entire rule or regulation is valid, even if half of it... [LB463]

SENATOR LANGEMEIER: One minute. [LB463]

SENATOR CHAMBERS: ...conflicts with the law? Wouldn't you have to agree with that? [LB463]

SENATOR JOHNSON: Well, yes and no. I think, Senator, one of the things, of course, is...and as you've mentioned in here on several occasions, is that the 49 of us here are the ones that determine what are the laws in the state of Nebraska. Now, whether it's here or on the federal level, certainly, the rules and regulations that then come about are in effect, so. [LB463]

SENATOR LANGEMEIER: Time. Mr. Clerk, do you have a motion? [LB463]

CLERK: Mr. President, Senator Chambers would move to amend this...Section 4 of the...of LB463. (FA70, Legislative Journal page 1178.) [LB463]

SENATOR LANGEMEIER: Senator Chambers, you're recognized to open on your motion. [LB463]

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SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, Section 4 contains three subsections. My motion is to strike all of Section 4, to strike all of Section 4. Since my amendment is an amendment to the bill itself, my amendment can itself be amended. So if there's a portion of Section 4 which somebody thinks should be spared, a person could amend my amendment. And I might wind up having to do it. But I want to continue this discussion, and I'm not going to do it by way of question and answer with Senator Johnson because, being practical and fair, I doubt that anybody would read and analyze all of these sections. I didn't get the agenda until this morning. I take seriously what it is that I do. When people talk about how hard I work, I tell them, but I'm paid to do what I do. I'm not paid well, but I'm paid to do what I do. And when I enter an agreement and I promise to provide a service in exchange for money or compensation, then I'm going to perform that service the best that I can. When I was a barber, I was very good at what I did. There were three barbershops in the same block. One guy on the far end of the block said his barbers cut hair better than anybody in the world. The guy next to him said his barbers cut hair better than anybody in the universe. The shop where I work said we cut hair better than anybody on this block. (Laughter) So this work is painstaking, it's meticulous, but it's necessary to be done. Language may, at first blush, seem to be suitable and acceptable. I understand the principle that is being sought here, but I don't think that the language is acceptable, and you all may disagree with me. But I'm going to look at subsection (1), which is what I was discussing. Any rule--and I'm paraphrasing--any rule that was properly adopted prior to the enactment of this law will remain in effect after this law takes effect, except any portions of that rule which conflict with this law. There is nothing in this bill, there is nothing when it becomes law which says who is to make a determination that there's a conflict between the regulation, or any part of it, and this law. So if the responsibility is placed on nobody, by law, there's nobody who can be responsible for doing this. So it becomes a portion of law that is unenforceable and, therefore, of no value. They either ought to say any rule or regulation properly adopted before the enactment of this law remains in effect, period. But if they are aware that some existing rules and regulations may conflict with the law, they should either place a requirement on the Attorney General's Office, on whoever the director of the agency affected is to study the law as it impacts on their rules and regulations, determine any conflicts that exist and, if they're unsure, get an Attorney General's Opinion. And once it is established, by whatever means, that a conflict exists, either require the scrapping of that rule and regulation and adopt one which conforms to the law, or require that an amendment to that rule or regulation be formulated and attached to every copy of that rule or regulation which exists in the hands of the state. And if any member of the public or anybody else requests a copy of that rule or regulation, it should be accompanied by that amendment. But since that could be cumbersome, why not require a reevaluation of rules and regulations that were adopted prior to the enactment of this bill? Any rules and regulations found to be in compliance will stand unless the agency amends them in the way that the law says. But forget about amending them. They stand. Any rule or regulation which is in conflict is

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nullified by the law, and a rule or regulation to replace it would have to be promulgated, adopted, and filed by that agency, in accordance with the law. And they'd find those requirements in the Administrative Procedure Act. But they know how to do that. If you agree with what I'm saying then you will adopt my amendment. But there are other parts of Section 4 that are implicated. I didn't have the time to go through each one of these subdivisions and see which might be all right, but if you go to subsection (2) it says, all licenses, certificates, registrations, permits, and so forth, or other forms of approval issued prior to the operative date of this section, in accordance with the uniform licensing law or other statutes amended or repealed by this legislative bill. In other words, any of these items which were legally adopted at the time they were adopted will remain valid unless revoked or their effectiveness is otherwise terminated pursuant to law. What law? They mean that an additional law has to be enacted to invalidate something that has been made invalid by this law. Here's what they're saying. This law, by its terms, may make something that exists invalid. But that's not going to be done by this law. The Legislature must pass another law to do that. Or, if they mean pursuant to law, is there some other law existing right now which would make it invalid? Why cannot this be simplified and simply say what is meant to be said? But I'll tell you what, you all don't have to adopt my amendment, but I'm making a record to show that there are problems with this bill. And when these chickens come home to roost, don't shake your head and cluck cluck like chickens and say, oh, what a terrible thing. Senator Johnson pointed out that we're the legislators. We're the ones who enact the laws. We should take care in how we enact these laws. And even though this is a thick bill and there are other things people want to get to--I've got a bill farther down dealing with mixed martial arts regulation, that has nothing to do with this bill--we should deal with this bill and get it right. I don't know if Senator Johnson is sitting over there now or not because...oh, I'd like to ask Senator Johnson a question or two. And how much time do I have, Mr. President? [LB463]

SENATOR LANGEMEIER: One minute. Senator Johnson, would you yield to a question? [LB463]

SENATOR JOHNSON: Yes, sir. [LB463]

SENATOR CHAMBERS: Senator Johnson, I know you've been busy probably explaining the bill and talking it to others. Have you been able to follow any of what I've been saying with reference to this issue? [LB463]

SENATOR JOHNSON: Well, I've tried to, sir, but not on this most recent part. [LB463]

SENATOR CHAMBERS: Okay, but you know that under this term...the terms of this law there is nobody assigned the duty of determining if a conflict exists, is there? [LB463]

SENATOR JOHNSON: I think that would be true of all laws, would it not? [LB463]

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SENATOR CHAMBERS: We're talking about this law. [LB463]

SENATOR JOHNSON: Yes. [LB463]

SENATOR CHAMBERS: Because I haven't seen any law written like this one before where you say something that was done before the law remains legal except where it conflicts with this law. [LB463]

SENATOR JOHNSON: Well, sir... [LB463]

SENATOR CHAMBERS: When we're going to change something in an existing law, we strike that language when we enact a new law. We're not striking any rule or regulation here. We're saying let them all stand unless they conflict, but there's nobody who makes that determination. Are you aware that rules and regulations have to be filed with... [LB463]

SENATOR LANGEMEIER: Time. [LB463]

SENATOR CHAMBERS: ...the Secretary of State? Oh, you said time? [LB463]

SENATOR LANGEMEIER: Time. [LB463]

SENATOR CHAMBERS: Thank you, Mr. President. [LB463]

SENATOR LANGEMEIER: Thank you, Senator Chambers and Senator Stuthman. We had a number of lights on previous to this amendment. We'll just go through those. Senator Aguilar, you're recognized. [LB463]

SENATOR AGUILAR: Thank you, Mr. President, members. I'd yield my time to Senator Chambers. [LB463]

SENATOR LANGEMEIER: Senator Chambers. [LB463]

SENATOR CHAMBERS: Thank you, Senator Aguilar. And those of you who grow impatient, I can only ask questions of the introducer of the bill, and if the introducer doesn't have answers, somebody else raise their hand if they can answer and I'll call on that person. Senator Johnson, these are not designed to be trick or embarrassing questions. Will you accept what I say as being valid, that these rules and regulations are filed...must be filed with some agency of government and that the public can have access to those rules or regulations? [LB463]

SENATOR LANGEMEIER: Senator Johnson, would you yield to the question? [LB463]

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SENATOR JOHNSON: Yes. I would think that that would be the case and our counsel here said that, by and large, that these rules and regulations do go by the Attorney General's Office, so... [LB463]

SENATOR CHAMBERS: Right. In order to be adopted in the first instance, right, they must go through the Attorney General's Office and the Governor's Office. So I'm getting past that point to where we are with a rule or regulation that was properly adopted and it's in place right now. So that rule or regulation is adopted now. Did your counsel point out to you that these rules must be filed with the Secretary of State's Office? [LB463]

SENATOR JOHNSON: Well, you did earlier, sir, and he didn't... [LB463]

SENATOR CHAMBERS: Okay. Well, do you accept that, in other words? [LB463]

SENATOR JOHNSON: ...I mean he did not... [LB463]

SENATOR CHAMBERS: Okay. And they're also... [LB463]

SENATOR JOHNSON: ...go counter to that. [LB463]

SENATOR CHAMBERS: ...to be made available to the public upon request, and I don't know if you have to pay a fee or something, but the point is they have to be available to the public. [LB463]

SENATOR JOHNSON: That would seem very reasonable. [LB463]

SENATOR CHAMBERS: Now what this law is saying, that any of those rules and regulations which do not conflict with this law, even though they were enacted before this law takes effect, will remain legal. Do you agree with that? [LB463]

SENATOR JOHNSON: Well, the intent, as we talked earlier, Senator, is that there is no change of scope of practice and this type of procedure, so that that would seem to be the case, that you wouldn't...since those are meant to remain intact and that this is just, you know, a reorganization, might not be quite the right word,... [LB463]

SENATOR CHAMBERS: But I follow you. [LB463]

SENATOR JOHNSON: ...but that's the intent. [LB463]

SENATOR CHAMBERS: Okay. However, there's another proviso in this language I'm discussing. Those parts will remain in effect that do not conflict with this law. Is that what this language says, in subsection (1) of Section 4 on page 16? If you go to line

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16,... [LB463]

SENATOR JOHNSON: On... [LB463]

SENATOR CHAMBERS: ..."to the extent not in conflict with the act." [LB463]

SENATOR JOHNSON: Senator, what page and what line again? [LB463]

SENATOR CHAMBERS: Okay, page 16. [LB463]

SENATOR JOHNSON: Yes. [LB463]

SENATOR CHAMBERS: Section 4, and subsection (1) begins in line 12. [LB463]

SENATOR JOHNSON: Yes, sir. [LB463]

SENATOR CHAMBERS: Any of those rules and regulations will remain effective "to the extent not in conflict with the act until revised, amended, repealed, or nullified pursuant to law." Now if they are in conflict but they're not revised, then they remain effective even if in conflict with the law. Is that correct, based on the language we have here? [LB463]

SENATOR JOHNSON: I... [LB463]

SENATOR LANGEMEIER: One minute. [LB463]

SENATOR JOHNSON: I'm just not sure that I can answer that, Senator. [LB463]

SENATOR CHAMBERS: Okay. Members of the Legislature, I have one minute left, but I've got to keep going over this. I want the record clear. Apparently my explanation or my questions are not clear. I didn't put any language in this bill. I want to understand it. Obviously, a rule or regulation that conflicts with a law cannot trump the law. Otherwise, you're allowing some other entity to have more power than the Legislature. But we're the only ones, under the constitution, who can legislate. If we want a rule or regulation to overcome what we enact into law, we have to enact that rule or regulation into law and within its body... [LB463]

SENATOR LANGEMEIER: Time. [LB463]

SENATOR CHAMBERS: Thank you, Mr. President. [LB463]

SENATOR LANGEMEIER: Thank you, Senator Chambers. Senator Rogert, you're recognized. [LB463]

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SENATOR ROBERT: Thank you, Mr. President. Would Senator Johnson yield, please? [LB463]

SENATOR LANGEMEIER: Senator Johnson, would you yield to a question? [LB463]

SENATOR JOHNSON: Yes, sir. [LB463]

SENATOR ROBERT: Senator, I'm getting a little bit ahead of the ball game here, but if you had your green copy there, I would refer you to page 31. [LB463]

SENATOR JOHNSON: I believe I'm in the right place, page 31. [LB463]

SENATOR ROBERT: Okay. I'll read here for a second. It says, "No individual," this is as amended, "No individual shall be issued a credential under the Uniform Credentialing Act until he or she has furnished satisfactory evidence to the department that he or she is of good character and has attained the age of 19 years except as otherwise specifically provided by statute, rule, or regulation." Can you expand on that just a little for me in two areas: What...who would decide that this person would be of good character, what that might mean; and what an example would be where somebody would get a credential and not be 19, as stated here, as provided by statute, rule, or regulation? [LB463]

SENATOR JOHNSON: Yeah, sir, I think that there was one instance where the 19 rule did not apply, and I forget exactly what it was, but there was one person or one credentialing where that did not make sense to have it in. I cannot tell you what instance it was, but I do remember that there was one like that. The other part, as I understand it, is just more normal language that would be in there. And you can argue those kind of things, I guess, ad infinitum or maybe even ad nauseam, but so I don't know... [LB463]

SENATOR ROBERT: Okay. [LB463]

SENATOR JOHNSON: ...really how to go beyond that. [LB463]

SENATOR ROBERT: No, that's fine. Is there...I assume that there's a board under the Credentialing Act that approves those credentials. [LB463]

SENATOR JOHNSON: Yes, there are boards for each one of these. If you'll notice, there's even boards for, and I shouldn't say "even" boards for plumbers and so on, but there most certainly is. In fact, they were very helpful with a bill earlier in the session. So, yes, each of these, and they have specified who can be on the board, and perhaps nurses might be a better group because there are many different kinds of nurses. But then they also are under the Board of Health, which again has many different

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professions represented on there for equality, including members of the public. [LB463]

SENATOR ROBERT: Thank you, Senator. I'll yield the rest of my time to Senator Chambers, please. [LB463]

SENATOR LANGEMEIER: Minute, fifty. [LB463]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Robert. Members of the Legislature, this is some of the most confusing language that I have come across in a long time, and that's not to say people were not putting this together in good faith. But you cannot just go by the sound of the words when you read them. You have to look at the legal effect of these words. And I'm going to keep repeating what I'm talking about because there's nobody I can question as to what was meant by this language, because the Chairman is unsure. So since there's nobody I can question, I've got to make as clear a record as I can. And by the way, do you notice how many people are gone from the Chamber? If they have a bill then they're up here and they want everybody to be here. This is not my bill. I might have... [LB463]

SENATOR LANGEMEIER: One minute. [LB463]

SENATOR CHAMBERS: ...fewer bills than most of the senators. Did you say time, Mr. President? [LB463]

SENATOR LANGEMEIER: One minute. [LB463]

SENATOR CHAMBERS: Oh, thank you. We all have a responsibility and I'm going to assume mine, and I know you all will probably automatically vote against what I offer here because you don't understand it, but you're taking it all on faith. But I don't want to look like a jackass so I'm going to make the record. And if what I'm saying is not correct, correct me. If you have a different understanding, tell me what it is and improve my education. What they ought to do, really, with this is require the agency to review its rules and regulations. Here's where I'm frustrated. This bill is not going to take effect until December of 2008. Every agency can look at what's in this bill relative... [LB463]

SENATOR LANGEMEIER: Time. [LB463]

SENATOR CHAMBERS: ...to their agency and get their rules and regulations into conformance, into conformance with... [LB463]

SENATOR LANGEMEIER: Time. [LB463]

SENATOR CHAMBERS: Oh. Thank you, Mr. President. [LB463]

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SENATOR LANGEMEIER: Thank you, Senator Chambers. Senator Pirsch, you're recognized. Oh, excuse me. Mr. Clerk, for a motion. [LB463]

ASSISTANT CLERK: Mr. President, I do have an amendment. Senator Schimek would move to amend the Chambers amendment with FA71. (Legislative Journal page 1178.) [LB463]

SENATOR LANGEMEIER: Senator Schimek, you are recognized to open on your amendment. [LB463]

SENATOR SCHIMEK: Thank you, Mr. President and members. I'd like to say that I think Senator Chambers, as usual, has taught us in his own way this morning. First of all, for those people who are new and didn't really...hadn't really experienced Rule 6, whatever it was, it was probably a surprise that we could actually take up time reading an entire bill, and actually that's the way we used to do every bill, for those of you who don't know that. We did read every single...well, it's maybe questionable whether we read every single line of every single bill, but that was what the Clerk was instructed to do. The other thing that Senator Chambers has, I think, gotten through, to me at least, this morning is that you can never be too careful about bills and it is good to take some time. I think this section is particularly troublesome in the way it's written and I have offered an amendment to narrow the scope of the Chambers amendment to simply the first subsection, which is the section about rules and regulations, and perhaps give us all a little bit more time to discuss that, and then to discuss the licensure, and then to discuss the judicial proceedings. But before I go into any more about Section 4, I would like to talk to Senator Johnson, on the mike, if I might. Senator Johnson. [LB463]

SENATOR LANGEMEIER: Senator Johnson, would you yield to a question? [LB463]

SENATOR JOHNSON: Yes, ma'am. And, yes, sir. [LB463]

SENATOR SCHIMEK: Thank you, Senator Johnson. I guess I need to know the underlying reason why this language is in here, and maybe you've already stated, but I don't know how you can have a rule in effect that's not based on statutory language. Maybe I don't understand the rule-making process well enough, but it seems to me that Senator Chambers has hit on something here, and I'm not sure the same thing applies to Section 2 or 3, but would you give me a little bit more on how the committee and all these agencies thought that this whole process would proceed? [LB463]

SENATOR JOHNSON: Well, I'll...excuse me. [LB463]

SENATOR SCHIMEK: Yes, I think he recognized you. [LB463]

SENATOR JOHNSON: Okay. Well, all right. At any rate, you know, I think, you know, I

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tried going through this at the start, but maybe not well enough. And, Senator Schimek, as I understand it, and this is obviously, as we pointed out to start with, this started many years ago,... [LB463]

SENATOR SCHIMEK: Right, I understood that. And I understood... [LB463]

SENATOR JOHNSON: ...seven to ten years ago. [LB463]

SENATOR SCHIMEK: ...that lots of people were involved in this. I guess what I'm more interested in is the next step. And I know you've talked about that a little bit. Would you...once this bill would pass, it's not into effect till 2008, December of 2008, what happens between now and December of 2008, I guess is what I'm asking? [LB463]

SENATOR JOHNSON: Well, since this doesn't go into effect, it would seem logical to me that the laws that are presently in effect will continue... [LB463]

SENATOR SCHIMEK: Right. [LB463]

SENATOR JOHNSON: ...until that point in time. And as I understand this whole process is this, is that, again, starting back in 1927 with the laws that have passed then, and then as things have changed over the years we have different sections (inaudible). [LB463]

SENATOR SCHIMEK: I understand all that, Senator Johnson. I guess I'm not asking the question right. Why do we need Section 1 in here? If there's more work to be done, can it not be done before this bill goes into effect, or could we not delay this bill until next year so that those additional kinds of provisions can take...can be implemented? Or do you see this as a process that's going to last years? [LB463]

SENATOR JOHNSON: Well, it already has lasted years. [LB463]

SENATOR SCHIMEK: I know. [LB463]

SENATOR JOHNSON: And I think that's the danger, is that somewhere here we have to come up with a base from which to work with. Otherwise... [LB463]

SENATOR SCHIMEK: And this is it, in your opinion. [LB463]

SENATOR JOHNSON: And this is the work of 39 different groups that have come to this base or starting point and, you know, I guess far be it from me, with all the work of these very good people putting it together, to say, oh, you go on back to work and we'll do this; you work for another year or two or another three years and then come back to us. And then we'll do the same thing and we'll have the same argument. [LB463]

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SENATOR SCHIMEK: I think you're missing my point, Senator Johnson. I'm supportive of this bill. I think it needs to be done. I said that in the very beginning. What I'm trying to figure out is why is this language in here. I don't get it. [LB463]

SENATOR JOHNSON: Well, I am not an attorney and... [LB463]

SENATOR SCHIMEK: It's very confusing. An ordinary member of the public certainly couldn't make it out, and once... [LB463]

SENATOR JOHNSON: Well, would we... [LB463]

SENATOR SCHIMEK: ...a new law is in effect, don't the rules and regulations then have to apply to that law? [LB463]

SENATOR JOHNSON: I'm sorry, Senator Schimek. (Laugh) You've got me confused a little bit. [LB463]

SENATOR SCHIMEK: Well, the present rules and regulations that are in effect will last until, I would think, until 2008 under the old statutory framework. [LB463]

SENATOR JOHNSON: And that's the intent, yeah, December 1, yes. [LB463]

SENATOR SCHIMEK: And then in December of 2008, when the law switches, then I think there needs to be a rewrite of the rules, maybe not a rewrite, but certainly each agency needs to bring the rules in conformance with the new law. [LB463]

SENATOR JOHNSON: And that may well be the case. But as we stated earlier that what we have here is that there is no intent to changing the scope of practice and these type... [LB463]

SENATOR SCHIMEK: Right. [LB463]

SENATOR JOHNSON: ...of things, so to say that they need the entire rewrite, to me, doesn't really make sense. [LB463]

SENATOR SCHIMEK: I corrected myself. I said maybe not a rewrite, but maybe you need to bring them in conformance with the new language. But maybe there won't be that much that will need to be done to them. I don't know. [LB463]

SENATOR JOHNSON: I suspect in some areas there might be and in others they may, you know, may have been written within this last year. So maybe they are up to date. [LB463]

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SENATOR SCHIMEK: So why do we even need to address that in Section 1 here?
[LB463]

SENATOR JOHNSON: Well, I guess the question is, as I understand it, that...and I again I go back to the fact that I'm not an attorney, haven't been to law school like the good Senator Chambers and so on, and so I have to rely on my counsel that I value very, very much. [LB463]

SENATOR SCHIMEK: Well, I if I could get your counsel to the microphone, Senator Johnson, I would, but I can't do that. [LB463]

SENATOR JOHNSON: Yeah. [LB463]

SENATOR SCHIMEK: But even Senator Chambers, with his law training, finds this language confusing and I'm wondering if we would be best just to eliminate it and then I guess I'm willing to listen. I'm not trying to do anything to hurt this bill. [LB463]

SENATOR JOHNSON: Yeah. [LB463]

SENATOR SCHIMEK: I think we need it and I think, by and large, you have done good work on it, even though I made the confession up front that I have not read the entire bill. And like Senator Chambers, I didn't know until 7:00 last night that this was even going to be on the agenda. [LB463]

SENATOR JOHNSON: And that's about the time that I found out. [LB463]

SENATOR SCHIMEK: That's probably not a good way to do business. Probably there should have been a little bit more notice than that. [LB463]

SENATOR JOHNSON: Well, we can argue that, but you know we've had it, at least I have had it in front of me, and we have had numerous meetings about this. So I don't think that we need to put any blame on the schedule, from my standpoint anyhow.
[LB463]

SENATOR SCHIMEK: I'm not suggesting blame for anybody. [LB463]

SENATOR LANGEMEIER: One minute. [LB463]

SENATOR SCHIMEK: I'm just suggesting that when you have a brand new item come up on the agenda it might be good for it to be a ways down so that people start anticipating it. I don't think there was any anticipation of this here this morning. [LB463]

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SENATOR JOHNSON: Yeah. (Inaudible.) [LB463]

SENATOR SCHIMEK: I'm not...certainly not saying anything negative about the agenda. I didn't mean that at all. So thank you, Senator Johnson. [LB463]

SENATOR JOHNSON: Yeah. Thank you. [LB463]

SENATOR SCHIMEK: Senator Chambers, I don't know if you would like to use any more of my time, but I, too, am having trouble interpreting exactly what this language does and I hope that you've had a little bit of time to look over the next two sections and to maybe draw some conclusions for yourself about those next two sections. But if you'd like the rest of my time. I don't know how much there is. [LB463]

SENATOR LANGEMEIER: Ten seconds. [LB463]

SENATOR SCHIMEK: Ten seconds? Sorry, Senator Chambers. [LB463]

SENATOR LANGEMEIER: Thank you, Senator Schimek. You have heard the opening on FA71 to FA70. The floor is now open for discussion and we had a number of lights on, so we'll proceed through those. We had Pirsch, Schimek, Chambers, and Nelson. Senator Pirsch, you're recognized. [LB463]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I was just wondering if Senator Schimek would yield to a quick question. [LB463]

SENATOR LANGEMEIER: Senator Schimek, would you yield to a question from Senator Pirsch? [LB463]

SENATOR SCHIMEK: Yes. [LB463]

SENATOR PIRSCH: And I thank you for that. I was just wondering if the particular section that you were referencing earlier as to being unclear at this point, was that Section 1 or was it...did that also include Section 2 or... [LB463]

SENATOR SCHIMEK: Subsection you mean? [LB463]

SENATOR PIRSCH: Yeah. [LB463]

SENATOR SCHIMEK: Yeah, subsection (1) is what the amendment to the amendment does. It narrows it to that particular subsection. [LB463]

SENATOR PIRSCH: Very good. Thank you for answering. I'll yield the balance of my time to Senator Chambers, if he'd like that. [LB463]

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PRESIDENT SHEEHY PRESIDING [LB463]

PRESIDENT SHEEHY: Senator Chambers. [LB463]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Pirsch. Members of the Legislature, it's good that Senator Schimek narrowed the amendment to deal with subsection (1) of Section 4. I'm going to read this language: "All rules and regulations adopted prior to the operative date of this section," which that date would be December of next year, December of 2008, "under the Uniform Licensing Law or other statutes amended or repealed by this legislative bill." That means that even though this section that this bill itself, meaning this huge monstrosity, may repeal or modify other sections of law under which those rules or regulations were adopted, even if that happens those rules and regulations will remain in effect, "under the Uniform Credentialing Act to the extent not in conflict with the act." "To the extent not in conflict," let me pause there. Senator Johnson admits that nobody determines that a conflict exists, so the rules on file now in the Secretary of State's Office may not be completely in harmony with this act. So let me make it simple. Let me say that the entire rule is in conflict with this law. That means the whole rule has no effect whatsoever. But if you go to the Secretary of State's Office after the effective date of this act and ask for the rules related to this particular entity, you get that rule. But the rule is not in effect because this law says it's in effect only if it doesn't conflict with this act. Who knows whether it conflicts or not? That's not the Secretary of State's job. It's not the job of the Attorney General. It's not the job of anybody. You all talk about children in school not paying attention. You all are grown. You may not have been an adult as long as I have been, but you are as grown as I am. You have as much responsibility as I have to legislate, probably more, because this is not my system. This is a system of, by, and for white people. And people don't like to hear me say that, but who are all the directors? Who are all the mid-level people with the authority? We all know the answer to those questions, but you all don't care. You know why? Because the law doesn't apply when you all are involved. [LB463]

PRESIDENT SHEEHY: One minute. [LB463]

SENATOR CHAMBERS: All you have to do is say, I want to do this, and it's done. You said time? One minute? All right. [LB463]

PRESIDENT SHEEHY: One minute, Senator. [LB463]

SENATOR CHAMBERS: I have said over and over and over if there's a problem with legislation which is before us, why do we sit like knots on logs instead of dealing with it to correct it? Now if somebody on this floor can show me where in this law there's an identification of who is to determine if there's a conflict between an existing rule and

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regulation and this act, let that person stand up and show me. I didn't draft this language; you all did, whoever you are, and it doesn't make sense. It's impractical. It doesn't alert the public as to what the status of rules and regulations are. But you don't care, so why should I? Because I'm... [LB463]

PRESIDENT SHEEHY: Time, Senator. [LB463]

SENATOR CHAMBERS: ...naive. Thank you, Mr. President. [LB463]

PRESIDENT SHEEHY: Senator Schimek, followed by Senator Chambers, Senator Nelson, and others. Senator Schimek. [LB463]

SENATOR SCHIMEK: Thank you, Mr. President and members. I have had the opportunity to go out into the Rotunda and speak with a member of the Policy Research Office and I think maybe I'm getting a clearer understanding about what this language does, Senator Chambers, and I'm going to try to relay what I was told. And I think maybe it's okay now, but I want to relay it to you and to other members of the body. If I understand it right, all this...well, first of all, this is Bill Drafters' language and it's been used in other pieces of legislation before, and what it does, as I understand it, it allows the time between the bill's effective date and the time between the actual adoption, promulgation and adoption of the rules, until that can be effective, it allows people to operate under the old rules. Now because this bill will be passing...I mean, I'm assuming it will pass this year, and it doesn't go into effect actually until the very end of December of 1st of January, 2009, there will be the opportunity for all of these rules to be examined and for the department to be making some revisions, if necessary, and some of these revisions are simply titles in agencies or whatever that a certain program will be under. And so they may be...they may not be very substantive kinds of rule changes, but they will have to be made. And so the language is necessary to allow for that time gap between actual effective date and actual adoption of the rules. And, Senator Chambers, I've tried to put it as succinctly as I can, but I would yield the rest of my time to you if you would like to follow up in any way. [LB463]

PRESIDENT SHEEHY: Senator Chambers, about 2 minutes, 30 seconds. [LB463]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Schimek. I'm going to have to talk to those people so they can explain it to me, not that you were not clear, but even if they said what you said there's a different and better way to say it. Just because it's been said this way in the past doesn't mean it's the best and clearest and most effective way to say it. If I understood what you said they told you, is that they're looking at a period of time between when this bill takes effect, which would be 90 days after the session... [LB463]

SENATOR SCHIMEK: No, in this case it's the end of 2008. [LB463]

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SENATOR CHAMBERS: No, but here's what I mean. This bill...okay, so then it doesn't take...no part of it takes effect until 2008. [LB463]

SENATOR SCHIMEK: Yeah, it's either the last day of December of 2008 or the first day...it becomes effective January 1 of 2009. [LB463]

SENATOR CHAMBERS: But this bill still becomes law 90 days after we're out of session,... [LB463]

SENATOR SCHIMEK: Well, that's true. [LB463]

SENATOR CHAMBERS: ...and its terms will say when the effective date is. [LB463]

SENATOR SCHIMEK: That's true, yes. [LB463]

SENATOR CHAMBERS: Okay. So they're looking at a period between 90 days after we're out of session and December of 2008, and they told you, if I understood correctly, that they have rules in place and during that period they're going to change those rules to comply with what will be in this bill. [LB463]

SENATOR SCHIMEK: They're going to be looking at... [LB463]

PRESIDENT SHEEHY: One minute. [LB463]

SENATOR SCHIMEK: ...the changes that need to be made, and then after the law actually becomes effective, then at that point they are empowered to do hearings and do all of that kind of thing and it has to be run by the AG and Governor, and I'm not sure at what point all that happens. But until those rules are actually then in effect, there's a time lag. And there always is a time lag. But they'll get a head start on this time lag because they've got all this time before the end of 2008. [LB463]

SENATOR CHAMBERS: Did they say who assumes the responsibility for determining conflicts between rules and regulations that are going to have to be changed and the act, the provisions of the act? [LB463]

SENATOR SCHIMEK: I would...no, they didn't, Senator, but I would presume, again, it would be the people who do the licensing and so forth that's covered by the bill; that they will be the ones that will be promulgating those rules. [LB463]

SENATOR CHAMBERS: We could put all that into statute. [LB463]

PRESIDENT SHEEHY: Time, Senator. [LB463]

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SENATOR CHAMBERS: Oh, thank you, Mr. President. [LB463]

PRESIDENT SHEEHY: Senator Chambers, followed by Senator Nelson, Senator Friend, and Senator Pirsch. Senator Chambers. [LB463]

SENATOR CHAMBERS: Thank you, Mr. President. Senator Schimek, and I'm not making you the advocate or the spokesperson for whoever you talked to, but to try to get clearer what at least was said by you. [LB463]

PRESIDENT SHEEHY: Senator Schimek, would you yield? [LB463]

SENATOR SCHIMEK: Thank you, Mr. President. Yes, Senator, and I don't have the same kind of knowledge that the people back there do about how all this process works, but I have...I feel more comfortable with the language now and understand at least why it was put in, and I tried to explain that as much as I could to the body. [LB463]

SENATOR CHAMBERS: So what do they say about the language that says, in line 16, "to the extent not in conflict with the act"? Did they say that there are provisions of their rules and regulations which will be...their existing rules and regulations which will be out of conformance with the act and those provisions will not be legal? [LB463]

SENATOR SCHIMEK: That...they did not say that explicitly, but that would be my assumption, Senator. [LB463]

SENATOR CHAMBERS: And that's what the language would indicate here. [LB463]

SENATOR SCHIMEK: Right. [LB463]

SENATOR CHAMBERS: Okay. [LB463]

SENATOR SCHIMEK: Right. [LB463]

SENATOR CHAMBERS: Those rules and regulations, whatever they happen to be, would remain effective, the parts that are not in conflict, until revised, amended, repealed, or nullified pursuant to law. Do they mean the existing law which would be found in the Administrative Procedure Act, or some law that by its terms would nullify whatever rules or regulations they have adopted? [LB463]

SENATOR SCHIMEK: Senator, I'm sorry, you lost me on that. I was...my mind was going in a couple of different directions. [LB463]

SENATOR SCHIMEK: Okay. Okay, page 16. [LB463]

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SENATOR SCHIMEK: Yes, I've got it. [LB463]

SENATOR CHAMBERS: In line 16. [LB463]

SENATOR SCHIMEK: Right. [LB463]

SENATOR CHAMBERS: We've agreed that the provisions of any rules or regulations that are in conflict with this act will not be considered valid, correct? [LB463]

SENATOR SCHIMEK: That is the way I read it. [LB463]

SENATOR CHAMBERS: Okay, me too. Then, after that, we say that these parts that are valid, I guess, will remain in effect until revised, amended, repealed, or nullified pursuant to law. [LB463]

SENATOR SCHIMEK: That would be my understanding. [LB463]

SENATOR CHAMBERS: Then it seems to me what they're saying, since we're dealing in this language with the rules that are not in conflict, that they're going to have to revise, amend, repeal, or nullify them. But if they're already in effect, why will any of these things have to be done to them if they're in compliance with the law? [LB463]

SENATOR SCHIMEK: Well, there probably wouldn't have to be anything done to them, but they have to look at all of the existing rules and regs to make sure that the new ones would be. [LB463]

SENATOR CHAMBERS: But look at this. [LB463]

SENATOR SCHIMEK: Yes. [LB463]

SENATOR CHAMBERS: They're in effect only until, which means either they're revised, amended, repealed, or nullified. If none of those things are done, they are not in effect. They're in effect only until these things are done. But at this point we're talking about the provisions that are not in conflict. [LB463]

SENATOR SCHIMEK: I think...I can't dispute what you just said, Senator. [LB463]

SENATOR CHAMBERS: And I'm going, remember, by what I'm reading. [LB463]

SENATOR SCHIMEK: And in...yeah, I can't...I can't dispute what you just said. [LB463]

SENATOR CHAMBERS: Okay, that's all I will ask you, because I think I'm on my time.

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Okay. [LB463]

PRESIDENT SHEEHY: About one minute. [LB463]

SENATOR CHAMBERS: Okay, because I didn't want to steal yours, Senator Schimek. Members of the Legislature, I want it clear what we're doing. [LB463]

PRESIDENT SHEEHY: One minute. [LB463]

SENATOR CHAMBERS: Reformulate this language and say what they mean to say. They don't have to say it in a few words if by just using a few words it's not clear what they mean. This language says that the rules and regulations, and I'm paraphrasing, that are not in conflict with this law will remain in effect until they're revised, amended, repealed, or nullified. But if they're in conformance and not in conflict, you don't have to revise them, you don't have to amend them, you don't have to repeal them or nullify them. But if you nullify them, then how do they remain in effect? I didn't write the bill. Thank you, Mr. President. [LB463]

PRESIDENT SHEEHY: Thank you, Senator Chambers. (Visitors introduced.) Senator Nelson, followed by Senator Pirsch and Senator Chambers. Senator Nelson. [LB463]

SENATOR NELSON: Thank you, Mr. President and members of the body. I have a question for Senator Schimek,... [LB463]

PRESIDENT SHEEHY: Senator Schimek, would you yield to a question? [LB463]

SENATOR NELSON: ...or either Senator Schimek or Senator Johnson. [LB463]

SENATOR SCHIMEK: Yes, I would. [LB463]

SENATOR NELSON: Senator Schimek. [LB463]

SENATOR SCHIMEK: Yes. [LB463]

SENATOR NELSON: All right. I appreciate your amendment and I am supportive of it, and I'm also supportive of Senator Chambers here. But with regard to the line 15 under Section 4, they refer the Uniform Credentialing Act, whereas previously on line 2 it's Uniform Licensing Law. Now is one of those superior to the other? Do you...are you familiar with that? Is it one in the same thing or does... [LB463]

SENATOR SCHIMEK: Senator, before you use too much of your own time, I would prefer that you would ask Senator Johnson that question. [LB463]

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SENATOR NELSON: All right. Let... [LB463]

SENATOR SCHIMEK: Because that is more of a subject matter... [LB463]

SENATOR NELSON: I understand. Let me address that to Senator Johnson, if he will yield. [LB463]

PRESIDENT SHEEHY: Senator Johnson, would you yield? [LB463]

SENATOR JOHNSON: Yes, sir. [LB463]

SENATOR NELSON: I'm on Section 4, Senator, and just wanted some clarification. [LB463]

SENATOR JOHNSON: On what page, sir? Okay. Okay. [LB463]

SENATOR NELSON: We're talking about Uniform Licensing Law and then also the Uniform Credentialing Act. Is one of those underneath the other, a section, do you know, or is it one and the same thing? [LB463]

SENATOR JOHNSON: Okay. The Uniform Licensing Law is what we now have in effect. That's the so-called ULL. And what this is, is an encompassing or totally encompassing act, as I see it, which goes through all of the different things that I mentioned in my opening statement. [LB463]

SENATOR NELSON: But on 15, it says "shall continue to be effective under the Uniform Credentialing Act." And I'm just wondering if that's a different animal there. [LB463]

SENATOR JOHNSON: Right. Okay. Well, here's what we have, is that all of these rules and regulations, and we've been going over these with Mr. Santema and so on, and what it is, is that under the ULL that is now in existence that they develop rules and regulations for this. Now again, as we mention in our opening statement, we said that there...a change in scope of practice and this type of thing is minimal and that so that if there's minimal changes or no changes in the scope of practice of all these different groups of professions, etcetera, then why would you need to change the rules and regulations. And that's... [LB463]

SENATOR NELSON: Yes. Yeah, you know, I'm supportive of that and I'm supportive of the (inaudible). [LB463]

SENATOR JOHNSON: Okay. Then I'm sorry, sir, that I'm not... [LB463]

SENATOR NELSON: Well, that's all right. Thank you, Senator. [LB463]

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SENATOR JOHNSON: You bet. Thank you. [LB463]

SENATOR NELSON: I'd like to use the rest of my time to support what Senator Chambers is...have been addressing here and I agree with Senator Chambers on this and I'd like to address a question to Senator Chambers, if I may. [LB463]

PRESIDENT SHEEHY: Senator Chambers, would you yield? [LB463]

SENATOR CHAMBERS: Yes, I will. [LB463]

SENATOR NELSON: Senator, as you know, I'm Senator Nelson, not to be confused with Senator Carlson. (Laugh) [LB463]

SENATOR CHAMBERS: I know. (Laugh) Okay. [LB463]

SENATOR NELSON: So all right. I've just said that I agree with the way you're reading...and what Senator Schimek said clarified a things a little bit and so now I have to stand back. But it would seem to me that the wording there from...in line 16 and 17 really could just be eliminated, and all we'd be left with is the statement that this is going to be... [LB463]

PRESIDENT SHEEHY: One minute. [LB463]

SENATOR NELSON: ...these are going to remain in effect until the operative date of December 1. So...and maybe that would be extraneous. Maybe, as you're saying, it might not have to be there at all. But with regard to Senator Schimek's amendment, if you read, and I would like to say it seems to me that this is here to apply to the agencies themselves as during the course of the next year they revise and adopt different rules that they can see are going to be in conformance with this act. With regard to number (2), that looks to me like, when it speaks in 23 there, in line 23, "unless revoked or their effectiveness is otherwise terminated," there again it seems to me that's referring to the various agencies, that they have the ability under law to revoke certain things and that that would be acceptable. So perhaps we'll see or address that a little later here, section...subsections (2) and (3). But... [LB463]

PRESIDENT SHEEHY: Time, Senator. [LB463]

SENATOR NELSON: Thank you. [LB463]

PRESIDENT SHEEHY: Senator Pirsch. [LB463]

SENATOR PIRSCH: Mr. President, members of the body, thank you very much. I'm

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going to...seems as though Senator Nelson's line of inquiry was cut off and if he would so desire, I'll yield the balance of my time to Senator Nelson to finish. [LB463]

PRESIDENT SHEEHY: Senator Nelson. [LB463]

SENATOR NELSON: Thank you, Senator Pirsch. There again, my comment is that perhaps, although we may look at subsections (2) and (3), it seems to me that they are in order and should remain in the statute so that probably the only thing, if we're going to strike, would be Section 4. And my point is that perhaps we could leave the first four lines in there just as assurance to the general public that things are going to remain in effect and there are not going to be any changes in the law until it does become operative, unless of course action is taken by the Legislature next year after study by the various agencies or input from them as to what changes should be made. Thank you, Mr. President. And I will give the rest of my time to Senator Pirsch, if he cares to use it. [LB463]

PRESIDENT SHEEHY: Senator Pirsch, about 3, 40. [LB463]

SENATOR PIRSCH: Thank you. I'll yield the balance of my time actually to Senator Chambers, should he desire to address that. Thank you. [LB463]

PRESIDENT SHEEHY: Senator Chambers, would you wish to respond? [LB463]

SENATOR CHAMBERS: How much time? [LB463]

PRESIDENT SHEEHY: Three, thirty, and then you're next in the queue to speak. [LB463]

SENATOR CHAMBERS: Thank you, Mr. President, and thanks to the generous Senator Pirsch this morning. Members of the Legislature, if the questions that I'm raising are responded to in the way that Senator Schimek suggested to us, why don't those people craft language to say what it is that this is supposed to mean? If it means that existing rules and regulations that they have will remain in effect until December 2008, that's what's going to happen anyway. The parts...here's what throws in the confusion or starts the confusion, where they say the rules and regulations not in conflict with this act. They cannot be in conflict with this act in a legal sense until the operative date of these provisions, which would be December 2008, so by operation of this act no rule or regulation is going to be affected at all until December of 2008 at the earliest. If what we're being told is intended by this language, is to allow rules and regulations to stay in effect until 2008 if they don't conflict with what's in this act, that doesn't make sense. There is nothing operative in this act until December 2008, so there's nothing for those rules and regulations to conflict with. If somebody said, look, in line 18 on page 16 is a conflict with your rules and regulations, then you tell them, well, that line doesn't

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become law until December of 2008 and since it's not December of 2008 yet it's as though that line does not exist for purposes of the law. Nothing that...let me try from a different angle. [LB463]

PRESIDENT SHEEHY: One minute. [LB463]

SENATOR CHAMBERS: A cow metamorphosis into a horse, and the cow will become a horse December 2008. The cow is not a horse until December 2008. Until December 2008, the cow remains a cow and there is no horse. A rule or regulation is valid no matter what this law we're talking about says, until December 2008 and a possible conflict occurs. And when that conflict occurs, then that rule or regulation which is in conflict automatically is of no force and effect, because a rule cannot take priority over a statute. They need to find language to say what it is they're talking about, and I don't think it's clear. [LB463]

PRESIDENT SHEEHY: Time, Senator, but your time now may continue. [LB463]

SENATOR CHAMBERS: Thank you, Mr. President. With what Senator Schimek said, listening to Senator Nelson, I think we're getting a sensing that they want to say that for the transition from what is now until 2008, December, nothing is going to change. Well, until December of 2008, nothing is going to change anyway. Even those things that this bill will change are not going to be changed until December 2008 because until that date comes nothing in this bill takes effect. It will not nullify a rule or regulation. It will not change a name. It will not do any of those things. I don't even know whether or not the reorganization in the statute books of these various entities will be done; namely, that they'll all be in Chapter 38 in the sequential order that they're listed in this bill. Maybe that is done as soon as we reach 90 days after the session, but not having had a chance to examine this bill I don't even know if that is to be done prior to December 2008. I'm going to have to be told more than what I've been told before I can be convinced that this language is necessary or serves any purpose. What the language is saying, if there are rules and regulations legally adopted before December of 2008, if they were legally adopted, they remain in effect if they're not in conflict with this law. They won't come in conflict with the law until December 2008, based on what I think I understood Senator Schimek to say. So they will not be revising and adopting any rules or regulations until after December 2008, even though they may be going through a rewriting and revising process so when that date comes and this bill takes effect they'll be ready to put those things on the table. But it still doesn't hang together. I think they would be able to read the provisions in this bill, even before December 2008, and determine what is existing in their rules or regulations that will be out of compliance. Why don't they draft a rule or regulation that complies with what is in this bill and state that they will have an effective date of December 2008; do something so that there's not a gap? But they're the experts. Since we're not going to finish this today, maybe somebody can write up in clear uncomplicated English that somebody such as myself,

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who was educated at OPS and whose intellect has been stunted by lead, because I grew up in a community where there was lead, so that somebody in my situation can understand what it is they mean and what it is they're trying to do. [LB463]

PRESIDENT SHEEHY: One minute. [LB463]

SENATOR CHAMBERS: And if they can write language that will explain it to me and make it clear, then why don't they just put it in the statute and make it clear for everybody? This language is not just for the agencies. It has to be for the public so that the public and even the media can help exercise some oversight and see if the agencies are complying with the law. If there are codes and secret signs and messages being given in this language, in other words, if we're dealing with runes, r-u-n-e-s, and we're not supposed to understand it, members of the Legislature or the public, then let them have a key someplace so we can go get that and look at it and compare what they're doing to what this rune says they're supposed to be doing, or these runes. Other than that, I'm still kind of adrift. [LB463]

PRESIDENT SHEEHY: Thank you, Senator Chambers. Senator Langemeier, followed by Senator Erdman, Senator Pirsch. [LB463]

SENATOR LANGEMEIER: Mr. President, members of the body, I'm going to try and give a little example of what this section is trying to portray. As this law goes into effect on December of '08, there's a number of licenses out there and I'm just going to pick one for an example from statute--an athletic trainer. They get their license renewed in May of each year. So as they get their licensed renewed May of '08 and this new piece of legislation goes into effect on December of '08, there could be conflicts with...when they got their license renewed in May of '08 the continuing ed hours may have only been 12 and when this goes into effect in December of '08 they may now be 20. So what it's trying to do is say, okay, on December 31 all the new rules are affecting you except those that conflict, and a conflict would be a continuing ed. You got your license with 12. We're not saying on December of '08 you automatically have to go get some more hours because your license is no good because the law is now 20 hours of continuing ed. That's a conflict. So you fall under the old continuing ed rules until May of '09, when it's your time to renew. So that's a conflict. The other rules may be well enforced on December of 2008. It's just you're going to have a few, like your...like, for an example, is your continuing ed, that's a conflict. So you only needed the hours to get your initial license. The rules change on that day to more hours. You don't have to get the new ones until next year. And so that would give you a little example of what they're trying to cover in the potential transition of this particular act. So with that, I would thank you, Mr. President. [LB463]

PRESIDENT SHEEHY: Thank you, Senator Langemeier. Senator Erdman. [LB463]

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SENATOR ERDMAN: Mr. President and members of the Legislature, I also want to rise and share, as it's been explained to me, is my understanding. The rules and regs that we have in place for all these credentialed individuals have been arrived at over a lengthy period of time. The reason why I believe, and Senator Langemeier is correct in his understanding, at least as I understand it as well, what we don't want to do is we don't want to say on December 1 of 2008 all those rules and regs go away. Because, as Senator Johnson has pointed out, we're not expanding scope of work; we're codifying. And in that codification there may be times and dates, as Senator Langemeier pointed out, that have been changed in the obligation of renewals of your licensure. And so from the standpoint of why this language is here, as I understand it, is so that we don't void all of those rules and regs to this point. If you go down the path of saying that you have to have statute to set rules and regs, you're right. But if you use that same logic to turn around and say that the department should preemptively begin the rule and regulation process to make sure that you have something in place effective December 1, 2008, you still have the same problem. They have no authority to do that. Because if your argument is rules and regs can't supersede statute, then how can they go through a process of rules and regs to have something in place before they're authorized to do it under law? When we pass a bill, and maybe Senator Fischer, from her priority bill, I believe, her first year regarding the Legislature's opportunity to review rules and regs can share this, but when you pass a law, from that point you give that agency or that entity the opportunity to pass rules and regs in carrying out that law starting that date forward. The statute is the basis; the rules and regs are the details. So I'm confused, I guess, at this point to the comment made earlier that, well, the department can just go out and go ahead and write rules and regs on this law that isn't operative until December 1 of 2008. They can get prepared. They can begin the process. It may shorten the time frame, but it's my understanding that they'll still have to have the hearing process after the effective date. And the reason why we don't want to say that all rules and regs have to be start...have to start over is case in point with Senator Langemeier's example. There are technicalities that may need to be changed in the rules and regs based on the time lines, but what we don't need to do is throw out all of those rules and regs and make them start over December 1 of 2008. This is a substantial rewrite of our credentialing law, of our licensure act. It is 1,053 pages long. In accomplishing what is outlined in those pages you recognize the number of entities, the number of licenses, and the number of organizations that will be affected, and what is being proposed, and if the language needs to be massaged and clarified I think that's appropriate, but what is being proposed is how you get from point A to point B. And I'm afraid that if we go down the path of striking out subsection (1) of Section 4 we make that path between A and B extremely long and possibly extremely costly and we go back and we refight some of those things that have already been settled into the past. I also understand that there are discussions going on to make sure that clarity is being provided so that as a point going forward from here, with any potential amendment, that people have that understanding that we can all come to that discussion with a common understanding to determine what needs to be in the law to accomplish what I believe is

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an appropriate time line between A and B. Thank you, Mr. President. [LB463]

PRESIDENT SHEEHY: Thank you, Senator Erdman. Senator Friend. [LB463]

SENATOR FRIEND: Thank you, Mr. President, pardon me, and members of the Legislature. I'm going to...I'm going to be a little abstract here because what we saw happen this morning, virtually right out of the gate, I had never seen happen before. Okay? Doesn't mean it can't happen, but that's what you get when you get a senior member with 38 year...however many years he has in this Legislature doing what he does, and anybody else with that type of experience, that's what they can do and that's what they will do. And I brought up on several occasions, and I don't mean to do this to irk anybody and I don't mean to do it to sound preachy either, but I think that this is interesting and it's an interesting time to bring it into the discussion. Do you remember the idea, obviously, that I've thrown out there about how unique our form of legislative government is? And some of the discussion that I've added to that debate is that because of the uniqueness of our form of legislative government it also creates unique problems for us. The differences between a unicameral and a bicameral are so significant in the way that they conduct business. One of the key differences is the way our rules deal with the legislative form of government that we have. Nobody else in the nation has the rules that we have because they don't have what we have. One of the things that Senator Chambers did this morning, and I think it's a lesson for me--I've been here...this is my fifth year here but it's a lesson for me; I don't mean to deviate, but again I think this is important--is using the rules of a Unicameral Legislature to do a job that a Unicameral Legislature wasn't created to do and that is to create a deliberate form of legislative government that George Norris and the folks just didn't anticipate would be a problem, or lack thereof. They didn't think it would be a problem. I don't believe that. Folks outside this body tell us move on, move on; you've dealt with the death penalty twice, you've dealt with all these other things, recreational liability, okay, you've done that; how come it took you eight hours to get this across the finish line? How come it took you eight hours to get something across the finish line that you got 42 votes on? We were saying it in here--Mike, cloture this bill. Guys, we only have four hours in; sit back, relax, wait if you don't want to get involved. What...here's what's happened here today, and I haven't witnessed all of it, but here's what's happened. Senator Johnson has analyzed the situation. He didn't think that he was going to end up being forced into that necessarily, but it ended up happening. Out of absolute necessity, he's been forced into that. Senator Schimek has done investigation. In two hours, she's done work and investigation that she might not have thought that she was going to end up having to do when she started the day today on this particular bill. Senator Pirsch has done investigation. I've heard him talk about it this morning. Senator Langemeier has done his own investigation. [LB463]

PRESIDENT SHEEHY: One minute. [LB463]

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SENATOR FRIEND: Senator Erdman just got done, as a member of the Health and Human Services Committee, Senator Erdman just got done adding valuable information about what Section 4 does. We're only on Section 4 of how many sections? To compensate for the lack of what...to compensate for what we don't have, I don't even know if this was his intent, I really don't, I didn't ask him about it. Senator Chambers walked up to me earlier, said there's nobody in here, there's nobody listening. I mean he was almost kind of depressed. I think he really feels like...I don't think he's wasting time here necessarily. I think he felt like this was a legitimate argument or a legitimate thing that he wanted to do. People are creatures of habit. We see this...we see the world fly outside right by us and we come in here every morning and we go, how come this isn't flying. It's not meant to, folks. [LB463]

PRESIDENT SHEEHY: Time, Senator. [LB463]

SENATOR FRIEND: Thank you, Mr. President. [LB463]

PRESIDENT SHEEHY: Senator Erdman, followed by Senator Langemeier, and Senator Pirsch. Senator Erdman. [LB463]

SENATOR ERDMAN: Mr. President, I would yield my time to Senator Friend. [LB463]

PRESIDENT SHEEHY: Senator Friend. [LB463]

SENATOR FRIEND: So now where are we at? Now Mike Friend is up on the floor wasting time, right? The peanut gallery weighs in. There's a point here. When I go to my constituents and I go to the people at work and they say, can't you...can't you cloture him, make Ernie shut up...right? Have we all heard that? You go door to door: Why can't you guys make him shut up? Well, you know what, I'm going to say something pretty strange right now and I believe it. You know this whole session I haven't called the question. I haven't voted, when somebody has asked to call the question, to do it, because I think what I've learned, maybe not much, but I think what I have learned out of all the study that I've done and all of the things that people have forced on me in this Legislature, what you guys have forced on me, is that we're not meant to do the type of things that I can go do when I go back to the bank. I need something resolved quickly. We get four people together. It's not a task force. It's not a committee. We...somebody...my boss tells me to do something; I get the people together and we go do it. That's not what this place is meant...that's not the way this place was meant to operate. And so we're here at 11:45 waiting for "Captain Lunch-hunter" and we're trying to figure out why Senator Chambers forced the Clerk into a situation where they're going to read an 1,100-page bill. My point is this. I don't think you have to think about it and try to figure that out. I think what all of us can do is go through the Rule Book and instead of like some buffoon like me saying, you know what, I can go home and read this, let me put an adjournment motion up so I can get out of here right now and go do

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something else. That's not what the people elected us to do. They said, Friend, go down there and deal with Senator Chambers; go down there and deal with Senator Carlson and Wallman and Fulton and Hansen and everybody that's out in front of me and the names that I can see. That's what they said. They said, don't adjourn and leave; we're paying you good money to go down there and do your job the way we designed it to be done. The people have designed it this way. The rules are designed by us. We're representatives of the people. And it's not some big jerk around. I could go on and talk about unicameral/bicameral. I'm not going to do that. You guys don't want me to do that. So the fact of the matter is there's functionality here. I'm going to promote and admit that I love a Unicameral Legislature and I don't think for the rest of the time that I'm here, and I don't know how long it will be, that I will try to promote the division of a Unicameral anymore. And do you know why? It's because I think I can take that Rule Book, too, and I think even if Senator Chambers wasn't here, or Senator Pahls or Senator Flood or any of them, and I can do the same thing that a bicameral was created to do based on my... [LB463]

PRESIDENT SHEEHY: One minute. [LB463]

SENATOR FRIEND: ...based on my skills as a legislator. And if I can't do that, it's because I'm ignorant, or lazy, or I have no desire, or a little bit of all three of those things. The point is I do have a desire. I think this is a deliberate process. I don't know that I would be in a situation where I would force the reading of 1,100 pages of this bill in the long run, but the point is I think that there's some purpose here. Mr. President, that's all I had. Thanks a lot. [LB463]

PRESIDENT SHEEHY: Thank you, Senator Friend. Senator Langemeier. [LB463]

SENATOR LANGEMEIER: Mr. President, members of the body, as we struggle to use some time here, just in the current statute, I want to talk a little bit, you have all these different people. You have, in February of the year, you have funeral directors; March, you have dentists; April, veterinarians; and so on and so forth and they're staggered throughout our statute. And I talked a little bit about that conflict and using continuing ed as the conflict, to be very brief and minor in the discussion. Who enforces that? Senator Chambers had asked that earlier, is who determines that conflict. Well, each of these groups, and I didn't name them all, have boards, and those boards take in applications, they review applications and make sure all the necessary requirements are met. And those boards would determine that conflict. And I would also like to agree with Senator Erdman, is it's tough to write rules and regs until this is passed and the effective date of December 2008. And for those of you that are new that are sitting around, as we're getting a Rule Book lesson here today, and I want to commend Senator Chambers for that, what comes next? Once we dispense with FA71, FA70, we're back to the reading of this 1,200-page bill. Call the question and that would take us right back to LB463. That's the next step in this. I wouldn't advise it, nor would I vote for it, but that is how the

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procedurally, if you read the Rule Book, how it goes on. And so with that we give you some examples of what kind of conflicts are out there we have to prepare for and how we're going to deal with them over time. With that, thank you, Mr. President. [LB463]

PRESIDENT SHEEHY: Thank you, Senator Langemeier. Senator Erdman. [LB463]

SENATOR ERDMAN: Mr. President and members of the Legislature, to give you a road map, it is my understanding that we will not be voting on this, this morning, so those of you following along can plan accordingly. A couple things that I think need to be pointed out: one is the fact that we need to know what's in these laws that we're going to pass. I think that's...I think that point is well taken on all members of the Legislature. I think it's an exercise in the obvious this morning with the request made by Senator Chambers to have each section read, section by section. We need to understand it. If you truly wanted to understand it, you'd probably have to sit down over the past 16 years and visit with the folks that have been a part of this process since LB193 was passed then to get to the understanding of why this is being done the way that it is. I think that is time-consuming but I think it's a healthy part of this process. We heard about that in the committee. We heard about the process of how do we get from A to B, as I mentioned earlier. There were things that are in this bill that some people don't like as far as the time lines, but it's designed to bring all licensure under a uniform and...standard. There were other things that were brought before the committee that are in regards to the authority that the department has in accountability, as I'll call it, and the committee decided to make a change in one of the provisions regarding when you can lose your license. If you have the opportunity to apply for that license again, under the bill that was presented to us, you did not have that right to get your license back, once you lost it, for the rest of your life. The committee said that what's proven to us. We analyzed that and we sent out the bill with the existing law as it is and said it's up to the department to make the case that that needs to be there. Today we stand here, and the department and the Chair of the committee are trying to make the case that this language that's currently before us in Section 4 needs to be in here, and I concur with that analysis, based on my understanding. I will tell you, just as an observation, not intended to provoke a response, but I will tell you that we've had more discussion on the contents of LB463 than we did the bill yesterday. We had a great philosophical debate yesterday. Intent, what do we intend this to do? What do we think this will do? But when it came down to the practical application of what was in the amendment yesterday nobody would stand on the floor and say specifics. We're getting to the specifics of this bill, section by section: Section 1, Section 2, Section 3, and now we're on Section 4. You could probably make a request to the Clerk, after we get done with these two amendments, to read a different section out of order. It doesn't say in the rules that they have to be read sequentially. You could ask him to read Section 60 and then come back and pick up the missing ones that we missed off, and the Clerk is smiling because he doesn't want to do that, and I don't think he should, although we have threatened that he should read the bills on Final Reading, which would require him to read them

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sequentially. But this process is designed to allow us to have a thoughtful consideration of the bills before us. Is it harder to have a thoughtful consideration of a bill that's 1,053 pages long than an amendment that's 25 pages long? Yeah. But do we know more about what's in this bill than we do the bill that we voted on yesterday? Yeah, we do. And that bill came up on the agenda at the exact same timing that this bill was put on the agenda--the night before. The only notice people had was that the agenda came out upon adjournment and it was on the agenda first thing in the morning. This bill was advanced from the committee long ago. Any bill that sits on General File and any bill that's been prioritized has the opportunity to be scheduled. It doesn't matter when that happens. [LB463]

PRESIDENT SHEEHY: One minute. [LB463]

SENATOR ERDMAN: It's up to the discretion of the Speaker, if you read the rules, and at times under the concurrence of the Executive Board. So I think we need to be clear about what is going on here. I think this is an exercise in the rules and I think that point is well taken. An hour ago, when there were no amendments filed to LB463, any member of this body could have simply called the question on LB463 and we would have advanced the bill. Because the motion to read it section by section didn't divide the bill, and the responsibility of the Clerk reading it section by section is a procedural process and within that process the bill was not divided, so cloture would have been unnecessary. I mean if the body, in keeping with Senator Friend's comments, was truly concerned about moving on, somebody that was concerned about that could have spoke up and said we're going to do that. That might have been an atomic option as opposed to a nuclear option, but it was an option that you had. The responsible option that I think we've engaged in today... [LB463]

PRESIDENT SHEEHY: Time, Senator. [LB463]

SENATOR ERDMAN: ...is we've understood what's in the bill and I hope we will continue to do that when we reconvene. Thank you, Mr. President. [LB463]

PRESIDENT SHEEHY: Thank you, Senator Erdman. (Visitors introduced.) Senator Langemeier. [LB463]

SENATOR LANGEMEIER: Thank you, Mr. President. I'd yield my time to Senator Johnson. [LB463]

PRESIDENT SHEEHY: Senator Johnson. [LB463]

SENATOR JOHNSON: Thank you, Senator Langemeier. Mr. President, this is a huge bill. It is a very important bill. One of the things that we need to accomplish is that we need to finish building the house and then we can always remodel when we're finished.

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That's basically what the intent of this bill is, is that we come to a solid structure where we take the various parts and rework them so that it becomes a usable instrument for all of the various professions in the state of Nebraska. The intent of this bill is not to change any of the codification from the standpoint of the scope of practice. What we do need to do is to put this in, I might use the term, a modernized way so that it will be a more usable instrument for not only the people of Nebraska but all of the professions involved. When Senator Chambers started with the discussion this morning, I went over and visited with him at that point in time and I said, you know, Senator Chambers, one of the things that I've learned to respect with you is that you do make almost every bill in here better, and I think that's what we are accomplishing here this morning. We've had very fruitful negotiations and discussions with Senator Chambers here as the morning has gone on and I think what the time to do here is today is that we have reached the time when ordinarily we stop for the weekend and so, with that, let me reassure the body, as well as those listening and watching in, that this is an important discussion and that in the interim we will...that is, the interim of the next several days, that we will all be working together and hopefully will come to a satisfactory conclusion. So with that, Mr. President, I yield the rest of my time. Thank you. [LB463]

PRESIDENT SHEEHY: Thank you, Senator Johnson. Mr. Clerk, do you have messages, reports, announcements? [LB463]

CLERK: I do, Mr. President. I have a re-reference of a gubernatorial appointee to Health and Human Services Committee for confirmation hearing. Amendments to be printed: Senator Langemeier to LB343; Senator Lathrop, LB588; Senator Raikes, LB73; Senator Synowiecki, LB351. Senator Mines would like to add his name to LB565 as cointroducer. Education Committee will meet upon adjournment today in Room 1126; the Education Committee will meet upon adjournment in 1126. (Legislative Journal pages 1178-1180.) [LB343 LB588 LB73 LB351 LB565]

And I have a priority motion, Mr. President. Speaker Flood would move to adjourn until Monday morning, April 16, at 10:00 a.m. []

PRESIDENT SHEEHY: We have a motion for the body to adjourn until Monday, April 16, 2007, at 10:00 a.m. All those in favor say aye. Opposed, nay. We're adjourned. []