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Floor Debate  
February 26, 2008

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[LB39 LB395 LB395A LB534 LB593 LB606 LB700 LB720 LB721 LB727 LB756 LB766  
LB786 LB799 LB800 LB802 LB844 LB855 LB878 LB889 LB898 LB911 LB912 LB920  
LB1003 LB1014 LB1019 LB1045 LB1049 LB1059 LB1061 LB1092 LB1096 LB1132  
LB1145 LB1162 LR233CA LR249 LR250]

SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: Good morning, ladies and gentlemen, and welcome to the George W. Norris Legislative Chamber for this, the thirty-first day of the One Hundredth Legislature, Second Session. Our chaplain for today is Pastor Donella Silveira, Immanuel Lutheran Church, Chadron, Nebraska, Senator Louden's district. Please rise.

PASTOR SILVEIRA: (Prayer offered.)

SENATOR LANGEMEIER: Thank you. I call to order the thirty-first day of the One Hundredth Legislature, Second Session. Senators, please record your presence. Mr. Clerk, please record.

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

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Are there any corrections for the Journal?

CLERK: I have no corrections, Mr. President.

SENATOR LANGEMEIER: Thank you. Are there any messages, reports, or announcements?

CLERK: Mr. President, your Committee on Enrollment and Review reports they have examined and engrossed LB898 and recommend that it be correctly engrossed. Banking Committee, chaired by Senator Pahls, reports LB920 to General File. Those are the only items I have, Mr. President. (Legislative Journal page 695.) [LB898 LB920]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. We will now proceed to the first item on the agenda, legislative confirmation reports. Mr. Clerk.

CLERK: Mr. President, the Natural Resources Committee, chaired by Senator Louden, reports on the appointment of Lon Keim to the Environmental Quality Council. (Legislative Journal page 666.)

SENATOR LANGEMEIER: Senator Louden, as Chair of the Natural Resources Committee, you are recognized to open on the committee report.

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SENATOR LOUDEN: Thank you, Mr. President and members of the body. The Natural Resources Committee conducted a confirmation hearing on February 21, 2008, for Dr. Lon Keim, a new appointee to the 17-member Environmental Quality Council. Mr. Keim appeared before the committee for his confirmation hearing. Dr. Keim is from Omaha and is a physician representative on the council. He earned a pharmacy degree and a doctor of medicine degree from the Medical College of Virginia. In addition to having a private practice specializing in pulmonary medicine, Dr. Keim is a medical director of the baromedicine unit at the University of Nebraska Medical Center, is an assistant professor of internal medicine at University of Nebraska Medical Center, and Douglas County Hospital's medical director of respiratory care. Dr. Keim is a member of the American College of Physicians, American Lung Association, National Association of Medical Directors of Respiratory Care, the American College of Hyperbaric Medicine, and the Undersea and Hyperbaric Medical Society. The committee recommended approval of Dr. Lon Keim to the Environmental Quality Council with seven members voting for and one member absent. With that, I would ask for your confirmation of Dr. Lon Keim.

SENATOR LANGEMEIER: Thank you, Senator Louden. You've heard the opening on the confirmation report. The floor is now open for discussion. Seeing no lights on, Senator Louden is recognized to close. He waives closing. The question before the body is, shall the confirmation report offered by the Natural Resources Committee be adopted? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk.

CLERK: (Record vote, Legislative Journal page 696.) 26 ayes, 0 nays, Mr. President, on adoption of the confirmation report.

SENATOR LANGEMEIER: The report is adopted. Mr. Clerk.

CLERK: Mr. President, I now have a report from the Judiciary Committee, chaired by Senator Ashford, involving the appointment of Esther Casmer to the Nebraska Board of Parole. (Legislative Journal page 673.)

SENATOR LANGEMEIER: Senator Ashford, as Chair of the Judiciary Committee, you are recognized to open on your confirmation report.

SENATOR ASHFORD: Thank you, Mr. President and members. The Judiciary Committee voted unanimously to advance the appointment of Esther Casmer to the Parole Board, and we're very pleased to do so. Ms. Casmer was first appointed to the Nebraska Board of Parole in September of 1995 and has served as a member of that board since that date. During her tenure, she has served as the vice chair of the Board of Parole and is currently serving as chair, a position she has held since 2005. Before being appointed to the Nebraska Board of Parole, Ms. Casmer enjoyed a career of 20

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years with the Nebraska Department of Correctional Services. She worked at several of the department's facilities, including the Nebraska State Penitentiary, the Diagnostic and Evaluation Center, and the Community Corrections Center of Lincoln. Her responsibilities included work in the law library as well as assisting inmates in adapting to the prison environment. She was promoted to unit case manager at the Community Corrections Center in Lincoln. Among her many duties as unit case manager, Ms. Casmer developed treatment plans for the inmates, including counseling sessions. She was responsible for the yearly performance reports of subordinate staff as well as for planning the work activity for both inmates and staff. Ms. Casmer also assisted inmates in formulating their parole plans. Ms. Casmer has drawn on this valuable experience while serving on the Nebraska Board of Parole. As a member, Ms. Casmer helps to determine the release dates of offenders based upon such factors as the type of offense, the length of sentence, the mitigating and aggravating factors of the crime, as well as recommendations by the presiding judge and prosecutor. The behavior of the offender while incarcerated is also considered, as is any input by victims. Members, this is an incredibly critical job in these days and times, and I highly recommend that the Legislature confirm Ms. Casmer as a member of the Nebraska Board of Parole. Thank you, Mr. President.

SENATOR LANGEMEIER: Thank you, Senator Ashford. You have heard the opening on the confirmation report offered by the Judiciary Committee. The floor is now open for discussion. Senator Pedersen, you are recognized.

SENATOR PEDERSEN: Thank you, Mr. President, members of the Legislature. It's not often we get a person of Ms. Casmer's training, education, and commitment to serve on these boards. Ms. Casmer came up through the ranks. She worked in Corrections for years and is a parole officer...Parole Board member for years and this is her second appointment as being the chairman of the Parole Board. She serves us well. She serves the people from Corrections well. She's fair, consistent, compassionate, and firm, which is very needed in all four areas and she more than fulfills them. Please give her your vote, which I know you will. Thanks.

SENATOR LANGEMEIER: Thank you, Senator Pedersen. Seeing no other lights on, Senator Ashford, you're recognized to close. Senator Ashford waives closing. The question before the body is, shall the confirmation report offered by the Judiciary Committee be adopted? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk.

CLERK: (Record vote, Legislative Journal pages 696-697.) 38 ayes, 0 nays, Mr. President, on adoption of the confirmation report.

SENATOR LANGEMEIER: The confirmation report is adopted. (Visitors introduced.) Mr. Clerk, next item on the agenda, LR233CA. [LR233CA]

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CLERK: Mr. President, I have a motion from Senator Christensen. He would move to withdraw LR233CA. [LR233CA]

SENATOR LANGEMEIER: Senator Christensen, you are recognized on your motion to withdraw. [LR233CA]

SENATOR CHRISTENSEN: Thank you, Mr. President, and thank you, fellow senators. I'd just like to lift this bill. I'd like to concentrate on some other bills that I think are more important to me in this session. So I'm just asking for your support to lift it. [LR233CA]

SENATOR LANGEMEIER: Thank you, Senator Christensen. You have heard the opening on the motion to withdraw LR233CA. The floor is now open for discussion. Senator Schimek, you are recognized. [LR233CA]

SENATOR SCHIMEK: Thank you, Mr. President and members. I rise in opposition to the motion to withdraw, and I do it because of the process and not because of the issue involved. Senator Christensen, I don't care for your bill at all. But that bill, if I am not incorrect, is scheduled for this afternoon. Tomorrow? Okay, it's scheduled for tomorrow. Our rules say, and I'm looking at Rule 3, Section 13, the last sentence of that rule says "No bill or resolution having been set for public hearing shall be withdrawn nor the hearing canceled within seven calendar days of the date set for said public hearing." There is a reason that we have seven days' notice for a public hearing, so that people will have adequate notice. The papers all said this morning that this resolution...or gave the impression that this resolution had been withdrawn. It hasn't been withdrawn. It has to be...come before the Legislature today to withdraw it. And the only way we can do this, in my humble opinion, is to suspend the rules. And we can suspend the rules with 30 votes of this body. It's okay to withdraw a bill or a resolution, if you do it before that seven-day period. Once that seven-day period begins, then I think it's improper for us to do so. And I think that it doesn't leave a very good taste in the public's mouth if we do this. I'm making an issue of this, this morning because I think some of us might do it without being aware of that particular rule, and I think the rules are important to follow. I've heard Senator Chambers say on many occasions that he thinks the rules are silly in some ways but he follows the rules. I would seriously and strenuously resist a motion to overturn our rules so that this resolution could be withdrawn. Thank you. [LR233CA]

SENATOR LANGEMEIER: Thank you, Senator Schimek. Senator Chambers, you are recognized. [LR233CA]

SENATOR CHAMBERS: Mr. President, members of the Legislature, and to my dear, dear colleague, Senator Schimek, this motion can be voted on. Just before noon there will be a motion to suspend the rules to cancel the hearing. This is not the first time a hearing has been cancelled. It's certainly not the first time that a proposition has been

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withdrawn. I don't like Senator Christensen's proposal, and I made it clear and the media made my view clear. And let me, since it has become an issue, make a comment or two. There are people who want to exploit the Legislature, convert it into a forum from which they can derive propaganda to be used around the country. There's a fellow named Ward Connerly, a black man--and that's why we say, as black people, black is not hue, it's point of view--and he is very traitorous, not just to black people but to all those groups that have been discriminated against. He is on the payroll or receives large amounts of money from contractors and others who are opposed to any provision that would open opportunities to females and minority group members. He is a shill and he wants to use the Legislature as a place to obtain propaganda to be used in his national effort. They will have every chance that they want to go around the state of Nebraska and spread the notion that minority group members and females ought not have the opportunities that currently are available. At the university there was a scholarship established by a black man in Omaha who died, and he left about \$150,000 to start a minority scholarship. I had gotten, down through the years, over a million dollars to add to that scholarship fund. It is not available just to minority students. Poor students of all races, those who qualify have gotten scholarships. When they have these dinners--which I never attend, by the way--and my name is on that scholarship, I don't go to those kinds of functions, they always have a mixture of students. The word is "diverse." These programs are to be undercut, are to be abolished. They do not hurt anybody. They are an attempt by a society that has been wronged for so long to make at least a nodding gesture towards rectification of these wrongs that had been done. I am one of those who talk very frankly to Senator Christensen. And I told him that politics is a game where you play hardball, that if he is so disregarding of the people that I'm concerned about, then I'm going to show him that that's a two-way street, and I will be equally disregarding of those about whom he cares. Now I don't think that's a threat. That is a statement of fact that occurs in legislative assemblies all over the country. And how many of you have not heard me say that? If you do this, then I'm going to do that. And I will continue to do it. If he is so naive that he does not understand the dynamics of the Legislature, it's my job as the senior member and the one, Senator Harms, on his last legs, but I'm not limping, to teach him and others as much as I can about the realities of legislative dynamics. The news media--whether radio, television, or print--feel that if you go into too many things nuanced, if you talk about the dynamics in the Legislature... [LR233CA]

SENATOR LANGEMEIER: One minute. [LR233CA]

SENATOR CHAMBERS: ...and of the Legislature, you will lose the public so they do not go into any of those factors that lead us to take certain decisions. And when the public does not know the developmental discussions and actions that result in a decision, they are entitled to be confused, to be misinformed, to be uninformed, because the ones they rely on are not doing their job. I have my light on and I'm not going to speak three times, I don't intend to, but at least one more time. Thank you, Mr. President. [LR233CA]

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SENATOR LANGEMEIER: Thank you, Senator Chambers. You are recognized.  
[LR233CA]

SENATOR CHAMBERS: Mr. President, members of the Legislature, there is nothing mysterious about this. There is nothing nefarious about this. That hearing was designed to be turned into a carnival. It was designed to present Nebraska in a light that I have criticized Nebraska for being in, but I've never contributed to presenting it in that light. That's why I spoke against that Pat Thomas the other day and I emphasized the image the state would have if a person like that were placed on a commission representing the state. Now if somebody managed to bring that hearing off and you had these people trotting in from California and other places showing and stating that Nebraska is an easy state...as a matter of fact, I think it was Senator Schimek who handed around a document that was highlighted by comments of this Ward Connerly that Nebraska is easy. His comment helped us to pass LB39 and helped us to override it. So in a sense, unintentionally, he helped get something done in this Legislature. If there is anything I can ever do to uphold the integrity and the dignity of the Legislature, I will do it. When outsiders--and by that, I mean nonlegislators--assume certain privileges and prerogatives, if we allow them to do that the fault is ours. But to the extent that one person can help prevent that from happening, I intend to. Since Senator Schimek is raising her issues on the basis of the process, I want to just sum it up again. This motion is in order at any time. The withdrawal of a proposition is available any time. Senator Schimek withdrew a confinement feeding bill because as it turned out more things were connected with that than the lobbyists had made clear. Senator Christensen had told me that there are things the lobbyists did not make clear to him about this. Be all that as it may, we should vote to allow Senator Christensen to withdraw this resolution. Before we adjourn today, a rule suspension will be voted on to cancel the hearing. That is the way we operate. People have made rule suspension motions innumerable times while I've been here, and practically every rule in the book at some time or other has been suspended in order to facilitate activities the Legislature felt needed to be engaged in. So if you have any questions of me about anything that I've said, the process or the underlying item, I'm prepared to respond to them. Thank you, Mr. President. [LR233CA LB39]

SENATOR LANGEMEIER: Thank you, Senator Chambers. Speaker Flood, for an announcement. [LR233CA]

SPEAKER FLOOD: Mr. President, Mr. Clerk, I do have a motion on the desk that I would ask be considered in conjunction with our motion to withdraw that's been filed by Senator Christensen. At your convenience, would you let me know when I may open on the same? [LR233CA]

SENATOR LANGEMEIER: Mr. Clerk, for a motion. [LR233CA]

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CLERK: Mr. President, Speaker Flood would move to suspend Rule 3, Section 13 to permit cancellation of the public hearing on LR233CA for Wednesday, February 27, by the Judiciary Committee. [LR233CA]

SENATOR LANGEMEIER: Thank you. Senator Flood, you are recognized to open on your motion to suspend the rules. [LR233CA]

SPEAKER FLOOD: Thank you, Senator Langemeier, Mr. President, and members and Mr. Clerk. I rise today to put forward a motion to suspend the rules, specifically Rule 3, Section 13 that does require that a bill not be withdrawn prior to seven days of the hearing. This is an unusual situation. It's one that Senator Christensen feels strongly about. It's a matter that we'll take up shortly with regard to his motion to withdraw. I would ask for your support of the rules suspension, it does take 30 votes, so that we do this properly. And I'd like to credit Senator Schimek with her efforts and her attention to procedure. That is so important, as rules do govern our work in the Legislature. With that, I would give the balance of my time on this opening to Senator Schimek. Thank you. [LR233CA]

SENATOR LANGEMEIER: Senator Schimek, you are recognized with nine minutes. [LR233CA]

SENATOR SCHIMEK: Thank you, Speaker Flood and Mr. President. I'm glad that the motion to suspend the rules is up there because I think that's the only way that this could be handled. The rule says that no bill or resolution having been set for public hearing shall be withdrawn, nor the hearing cancelled, within seven calendar days. So I think that in order to withdraw this resolution you have to have a motion to suspend the rules. And so I thank Speaker Flood for doing that, and I would say that it takes a three-fifths vote to suspend the rules, so that means it would take 30 votes to suspend the rules. And then once you've suspended the rules, then you can vote on withdrawing the resolution. Again, I have no problem with somebody withdrawing a bill or a resolution. As Senator Chambers said, I did that earlier this year. I think it's the first time in my life, Senator Chambers, that I've ever withdrawn a bill, but I did it. And I think there are times when that becomes necessary. But within seven days of a hearing, I think you ought to think long and hard about it. At any rate, thank you, Senator Flood, for introducing the motion to suspend. [LR233CA]

SENATOR LANGEMEIER: Thank you, Senator Schimek and Senator Flood. Senator Schimek, your light is one. She waives her time. Senator Stuthman, you are recognized. [LR233CA]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. First of all, I want to thank Senator Schimek for her knowledge and expertise on this. I think this

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is one of the things that we're going to have to realize, with term limits going to be going into effect next year, of the issues that we will be dealing with. On the surface it sounds like this might be the right thing to do. But you know, we do have rules that are governing this body, and I think we have got to, as legislators, in the future when those people are gone next year, that we have to be very accountable to the rules that guide the legislative body. So I really appreciate the fact that historical knowledge that we have with these senior senators, I really appreciate that. Thank you. [LR233CA]

SENATOR LANGEMEIER: Thank you, Senator Stuthman. Seeing no other lights on, Senator Flood is recognized to close. He waives closing. The motion before the body is to suspend the rules for the motion to withdraw. This does require 30 votes. All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LR233CA]

CLERK: 40 ayes, 1 nay, Mr. President, on the motion to suspend the rules. [LR233CA]

SENATOR LANGEMEIER: The rules have been suspended. We return now to the discussion on the motion to withdraw. Seeing no lights on, Senator Christensen, you're recognized to close. Senator Christensen waives closing. The motion is, shall LR233CA be withdrawn? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LR233CA]

CLERK: 41 ayes, 1 nay, Mr. President, on the motion to withdraw the resolution. [LR233CA]

SENATOR LANGEMEIER: LR233CA is withdrawn. Items for the record? [LR233CA]

CLERK: Mr. President, new resolutions: Senator Stuthman offers LR249, congratulating the Howells High School bowling team; Senator Stuthman offers LR250, congratulating the Howells High School wrestling team. And I have notice of cancellation of hearing by the Judiciary Committee. And that's all that I had, Mr. President. (Legislative Journal pages 697-698.) [LR249 LR250]

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SPEAKER FLOOD: Thank you, Mr. Clerk. Proceeding on the agenda, General File 2008 senator priority bills, Raikes division, LB606. [LB606]

CLERK: Mr. President, LB606 was a bill originally introduced by Senator Ashford. (Read title.) The bill was introduced in January of last year, at that time referred to the Judiciary Committee. The bill was advanced to General File. I do have Judiciary Committee amendments pending, Mr. President. (AM1884, Legislative Journal page 654.) [LB606]

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SPEAKER FLOOD: Senator Ashford, you're recognized to open on LB606. [LB606]

SENATOR ASHFORD: Thank you, Mr. Speaker and members. First of all, I would like to thank Senator Langemeier for prioritizing LB606. LB606 as originally introduced in the Judiciary Committee was a bill dealing with mediation. The language of LB606 is now in LB1014 and LB606 now deals with what had been for several years the contentious issue of stem cell research, embryonic stem cell research in the state of Nebraska. And I am very proud of the work of our committee and of many other people on this...members on this floor who have worked with us in the past several months to carve out a compromise on an issue which was one that when we first started working on it was an issue that I would not have put a whole lot on the success of those negotiations. But I can tell you that I believe we've come to a place here that will be positive for our state in many ways. We recognize in the amendments to LB606 the sanctity of life and the concerns raised by groups who supported LB700, and in that regard I want to thank Senator Christensen for bringing LB700 and bringing the issue of the sanctity of life to the issue of research and raising that issue with us. I want to give special thanks to Senator Engel. Senator Engel is a friend of mine. I've known Senator Engel for many, many years and served with him in my first terms in the Legislature. And early on in the session and prior to the session--actually last year--I had conversations with Senator Engel. And he told, he said, you know, Brad, this is an important issue to me. This is an important issue to me. And he said, I think we can get this resolved, and I'd like you to go see if you can do that. And I told him I would try to do that. And obviously this issue has had many maturations. It was in the committee last year, out, back in. We had several hearings, or one big hearing this fall, last fall, and then now we have LB606 today. I'd like to thank Senator Lathrop for his tenacity, his willingness to work on this issue for several months. It really started out several months ago when I asked Senator Lathrop if he would accompany me over to Creighton University in the medical center to talk about medical ethics as it was viewed by a Catholic teaching hospital. And we started those discussions and we had discussions with the med center. And after those discussions were over and during the time those discussions took place, we started talking to the supporters of LB700, and we talked to those who opposed LB700. And Senator Lathrop was in the vanguard of those discussions, going back and forth, as I like to say, like Dag Hammarskjold, and then I forgot that most people don't remember who Dag Hammarskjold was, but in the early 1950s or late 1950s when he solved the crisis in the Congo. And as one of Senator Lathrop's admirers mentioned in the paper the other day and on e-mails that he deserves a Nobel Peace Prize for his efforts, and I think he does deserve that. And I want to thank Speaker Flood for his willingness to work with us in this matter. And I want to thank my colleague, Senator Schimek, who is an opponent of LB700, was an opponent of LB700, and had many discussions with me about her concerns that research continue in the state of Nebraska. There are so many people here to thank that I hesitate to start naming names as I have, because everyone has played a role, a

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positive role in this effort. And I think in the end of the day, and hopefully we can get support for LB606 and move it across, this is a matter that has been resolved inside this body. We've had help from persons outside who are concerned and we've sought their help, but this is a resolution of a contentious issue that has been with us for eight years or nine years, and issues like this were with us when I was in the Legislature before. I think it shows to the people of the state that this body, the 49 of us, can grapple with issues that are very emotive, deal with ethics, morality, and the future of our state and come up with resolutions ourselves in a manner that we can be proud of. Let me just briefly tell you what LB606 has become. The issue of embryonic stem cell research centers on whether or not, in our view, whether or not the state of Nebraska should expend public money to destroy an embryo, whether or not that embryo is used for reproductive cloning or whether or not that embryo would be used for research. After looking at this issue for quite a while, we felt that the case had been made by the proponents of LB700 and by others that the issue of sanctity of life must be considered when we talk about research and that we can, in fact, talk about sanctity of life and encourage research. So this bill says that public funds shall not be used to destroy an embryo, period. It shall not be used to destroy an embryo. Public facilities shall not be used to destroy an embryo, public money shall not be used to destroy an embryo. And I think that's an important piece of public policy because it's saying to our citizens and to the state of Nebraska and to the world that we hold the values of life very, very high in our values system. And that's what this bill does. The bill also does something else, which I think is very positive. In fact, it was the first piece that Senator Lathrop and I worked on early on, and that was the idea of alternative research in the area of embryonic research or embryonic-like research. There is no question that embryonic-like stem cells do promise, hold great promise to our future as a nation and as a people. So the idea that there are other means of producing embryonic-like stem cells that can be used in research without destroying an embryo was key to where we were going. And the idea of creating a research fund--which is in this bill, which has not been talked about much in the press or at all--to look into alternative means of research in embryonic-like state stem cells is very, very important and forward-looking and very much at the head of the curve of states around this nation. We're taking a contentious issue dealing with the value issues and the morality issues and then saying, to a step further, we're not just going to stand by and just declare a state policy and not do anything about it; we're going to move forward. We're going to move forward with alternative research that will someday, I can bet, will cause and be part of breakthroughs in the area of curing diseases that we all want to cure, like diabetes and whatever other diseases and heart disease and lung disease. And some of the great work that the University of Nebraska has done and is doing today will continue, and it will continue along the lines of this bill. And I'm just so very proud of it, that we can sit here today, and as the Chairman of the committee, to see, to sit back and watch the work that was done by so many members of this body to make this happen. And I thank you all for it. And again, I just hearken back to the challenge Senator Engel, my friend back there, said to me two years ago, a year and a half ago. Oh, you can get this thing

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done, he told me. And I didn't know, but thank goodness I had a lot of help and I had a lot of support from Senator Engel throughout this time and I'm blessed to have him as a friend. And with that, Mr. Speaker, I would urge that we move this bill across, vote in favor of it, and get on with making good public policy. Thank you. [LB606 LB1014 LB700]

SPEAKER FLOOD: Thank you, Senator Ashford. Mr. Clerk. [LB606]

ASSISTANT CLERK: Mr. President, there are amendments from the Judiciary Committee. [LB606]

SPEAKER FLOOD: Senator Ashford, you are recognized to open on AM1884. [LB606]

SENATOR ASHFORD: Thank you, Mr. Speaker. And I'm going to give my time, if it's all right, to Senator Lathrop to talk about a little more in detail the amendments, if I might. [LB606]

SPEAKER FLOOD: Senator Lathrop, Senator Ashford is yielding you 9:47. [LB606]

SENATOR LATHROP: Thank you. And thank you, Senator Ashford. I appreciate the opportunity to speak early on in the process. I do want to reiterate with this opportunity a couple of things that Senator Ashford said, and take you back to the work of the Judiciary Committee. Last year when LB700 was introduced, we held a hearing. And our Chairman set that hearing up on a contentious issue and gave both sides an opportunity to be heard. And it was my first introduction to the science as well as the ethical concerns of many Nebraskans. Over the interim we had another hearing, a very, very good hearing, on a broader subject. Rather than limiting that hearing to simply cloning, the hearing was broader than that--a credit to Senator Ashford--broader than that, and dealt with embryonic stem cell research, which is a broad subject that includes cloning or somatic cell nuclear transfer. And what we heard at that hearing, it was maybe one of the most fascinating things I've seen since I've been down here. We had people who came before us with all kinds of the worst diseases known to man--Parkinson's, MS--and they said there's things going on at the research and don't take away our hope. And they said to us, we want the research to continue. And we listened to the scientists that do research at the med center--good men, good women trying to find lifesaving cures--who said, let us proceed in the direction that medicine and science takes us. And we also heard from people in those hearings, we also heard from people in those hearings who had moral concerns with the direction this research was taking. People...good people, good Nebraskans who mean at the very core of their being that an embryo created in a lab through IVF or through somatic cell nuclear transfer is a human being, entitled to protection, entitled to be regarded as any other human being, and therein was the dilemma. Senator Ashford and I spent a good deal of time over the interim, a good deal of time since the beginning of the session struggling

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with the middle ground. Where is the middle ground when you have people who believe that an embryo, several cells created in a lab, are entitled to the protections of any other human being, and the science community looking for lifesaving cures? And the solution is LB606. LB606 encourages the university to do research in the area of nonembryonic stem cell research, but it also sets parameters and limitations on the research that can be done at the university. And those limitations are very simply no state funds and no state facilities can be used for research that destroys an embryo, and the university--I shouldn't say the university--no state funds and no state facilities can be used to create an embryo through somatic cell nuclear transfer. These two concerns addressed the heartfelt concerns of those who have religious and moral concerns about stem cell research. The process involved talking to the university, the process involved talking to the pro-LB700 groups and trying to find a solution. The biggest difficulty in that process was earning their trust, developing trust that we were not trying to set somebody up but trying to find a solution. And I appreciate those people at the University of Nebraska Medical Center that worked with me, those at the university that worked with me and trusted the process. And I likewise want to express my appreciation to those groups like Nebraskans For Life, Nebraskans For Ethical Research, the Family Council, Family First. Those folks came into this process with a good measure of distrust and trusted the process and participated in it to the point where we have LB606 and our Judiciary Committee amendment, AM1884. I think this is a good day for the Legislature, it's a good day for research, and it's a good day for people who have these concerns. I'd ask your support for the amendment and for the bill. Thank you. [LB606 LB700]

SENATOR HUDKINS: Mr. President, point of order. [LB606]

SPEAKER FLOOD: Senator Hudkins, we will get to your point of order in just a moment. (Visitors introduced.) Senator Hudkins, you are recognized for a point of order. [LB606]

SENATOR HUDKINS: Thank you, Mr. President and members of the body. I would challenge the germaneness of this amendment. [LB606]

SPEAKER FLOOD: Thank you, Senator Hudkins. The record shall so reflect that Senator Hudkins has challenged the germaneness of AM1884. It is the Chair's ruling, consistent...together with the implicit intent of Rule 3, Section 12, that AM1884 is germane and such ruling is consistent with prior rulings of the Nebraska Legislature dating back to 1995 and most recently during the 2007 Legislative Session. It is the Chair's ruling that AM1884 is germane. Senator Hudkins, would you like to be recognized? [LB606]

SENATOR HUDKINS: Yes, thank you. I would challenge the Chair on that ruling. [LB606]

SPEAKER FLOOD: Senator Hudkins has chosen to challenge the Chair. The following

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process will be employed in resolving Senator Hudkins' challenge to the Chair: Senator Hudkins will be allowed to open... [LB606]

SENATOR HUDKINS: Thank you, Mr. President. [LB606]

SPEAKER FLOOD: One moment, Senator Hudkins. You will receive ten minutes. Each member may speak only once. We do have five lights on at this time. If you do not wish to participate in the challenge of the Chair, you should turn your light off at this time. Otherwise, the order shall be Senator Schimek, Hudkins, Engel, and Harms. You will have an opportunity to press your light again in the event that the Chair is sustained. Senator Hudkins, you may now open. Thank you for your patience. [LB606]

SENATOR HUDKINS: Thank you, Mr. President and members of the body. Thank you for your attention to this. I want you to be aware of one of our rules, or rather, lack of rules. This bill originally started out, LB606, as a court referral to mediation or other alternative dispute resolution. Now it is talking about stem cell research, which is just about as far apart as you could get. And as the Speaker indicated, this has been slowly changing since 1994 or 1995, where a committee amendment would take the place of the original bill. We all have committee bills that have been named as shell bills. They have been kept around just in case they were needed for something else. But it really started in 1994 or 1995, and I think this particular bill is probably the culmination. And I'm not saying that the bill is bad. I'm just wanting you to be aware of what you're doing. If you want a committee to introduce an amendment on whatever bill they have and you want that to happen, that's fine. The Rules Committee, when we met earlier this session, we attempted to put forth a proposed change to the rules that would not allow this. That was not approved by the committee. So evidently this body wants to take one bill which is advertised as one thing and then when it actually is discussed is totally different. And if you would look at Rule 7, Section 3(d), "No motion, proposition, or subject, different from that under consideration, shall be admitted under color of amendment. Any amendment that is not germane is out of order. Germane amendments relate only to details of the specific subject of the bill and must be in a natural and logical sequence to the subject matter of the original proposal. A nongermane amendment includes one that relates to a substantially different subject." A senator over in this area, and I'm not sure which one it was, thanked Senator Schimek for calling our attention to the rules on pulling a bill and then cancelling the hearing. I was not aware that that hearing was tomorrow or I probably should have brought that up. But thanks to Senator Schimek for doing that. Senator Stuthman it was that said he appreciated the knowledge and the experience of the senators that have been here longer. So with another quite large group of us leaving this year, you're going to lose even more experience on the rules and how they have been interpreted in the past. So what I'm telling you is, if you want to do this, that's fine. But I want you to be aware that what you're doing is a little different than it had been done originally. But again, if you want this type of thing where a committee amendment completely guts a bill and puts in

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a completely different subject, then that's up to you. As Chair of the Rules Committee, I felt it was my responsibility to bring that to your attention. Thank you, Mr. President. [LB606]

SPEAKER FLOOD: Thank you, Senator Hudkins. Senator Hudkins, your light is next. Okay, she waives that. Senator Chambers, you are recognized, followed by Senator Lathrop. [LB606]

SENATOR CHAMBERS: Mr. President, members of the Legislature, committees, whether they're the Health Committee, the Ag Committee, in this case the Judiciary Committee, will create what are known as Christmas tree bills. Any number of bills will be put together into a single bill, and that single bill into which all these others have been collapsed will have a one-line description which does not even touch on all of the items contained in the bills which will be collapsed into that one Christmas tree bill. Committees are the ground floor, in a manner of speaking, of getting the legislative system to function. That committee hears any number of bills which are introduced individually, and some of those that will be put into the Christmas tree bill could not be added to any one of these bills by way of an amendment on the floor because indeed it could be considered not germane. So in order to allow the committee to do its work to assist the Legislature in doing its work, any committee amendment is germane. When committees do this and I agree with their Christmas tree, I agree. If I disagree, I attack parts of the tree but I don't raise the germaneness issue. My view of germaneness is like that of the Nebraska Supreme Court, not our rules. I feel that anything is germane, as far as my challenging it or not, which would be considered germane by the Nebraska Supreme Court. In other words, it does not introduce a second entirely different subject. If we on the floor or by committee would introduce as an amendment and it be adopted by the rest of the Legislature which puts in a second subject, that would be struck down by the Nebraska Supreme Court. What is being done here by the Judiciary Committee is not in violation of the rules. When you have a general rule that declares any committee amendment to be germane, that takes priority over any other rule that talks about how we on the floor will amend individual bills. So we're really looking at two different animals here. This that we're doing is not new, it's not different. I think it is appropriate. And by the way, on the subject itself, I don't think the committee amendment does as much as I would like to see it do. But I'll discuss that when the bill and the amendments that may be offered will be available for discussion. But at this point, the Chair should not be overruled, in my opinion. The issue and its resolution are both clear-cut. And that's all I would have to say. Thank you, Mr. President. [LB606]

SPEAKER FLOOD: Thank you, Senator Chambers. Senator Lathrop. [LB606]

SENATOR LATHROP: Thank you, Mr. President and colleagues. Just briefly, we have, of course, our rules that govern our conduct here. But when our rules do not specifically address the situation, then we are left at precedence, which is what have we done the

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last time this came up? And it is very clear the precedence of this body is that amendments made by the committee are germane. The challenge should be overruled and the decision of the Chair supported. Thank you. [LB606]

SPEAKER FLOOD: Thank you, Senator Lathrop. Senator Louden, you're recognized. [LB606]

SENATOR LOUDEN: Thank you, Mr. Speaker and members of the body. I agree with Senator Hudkins, and I somewhat have a problem with the way this is being done. For one thing, I'm wondering if the amendment has had any kind of a hearing because the hearing on LB606 was held in January of 2007, and that had to do with mediation with the court system and disputes, has to do with the court system. And I think there were about, oh, three people who were proponents for it were lobbyists. Now my question is, with this LB606 and it was...or this AM1884 amended into LB606, the way it was done in the committee that I chair, we had to go ahead and introduce that as another bill so we could have a hearing on the subject. And also, we also had a hearing on even the amendment to one of the bills. That bill will be coming up later on. But we went ahead and had a hearing on the amendment. And I'm wondering why the Judiciary Committee didn't do something like that. I'm surprised with the amount of people on the Judiciary Committee with expertise and the time spent in the Legislature that they did something like this. They should have went ahead, to my observation, and had a hearing someplace. Nowhere can you find that this amendment, AM1884 which becomes the bill, has had any kind of a public hearing. If it did have a public hearing, it would probably have been under another bill. I don't know where LB700 went to once upon a time, but that was some of the type of information was along that line, if I remember correctly. So I think that this has to be recommitted to the committee and they either have their hearing or do their job correctly rather than trying to push this out like this. I don't think this is, what would you say, the nice way to go about it. Sure, you might be able to do it and get the votes and make it work. But it isn't the way that we try to conduct business around here. So I agree with Senator Hudkins, and I think that there's a better way of doing this, and I think it should be pursued that way. Thank you, Mr. Speaker. [LB606 LB700]

SPEAKER FLOOD: Thank you, Senator Louden. Senator Schimek, you're recognized. [LB606]

SENATOR SCHIMEK: Yes, thank you, Mr. President and members. I rise in defense of the Judiciary Committee. Senator Louden, we've had, we've had many hearings on this issue. We had a bill introduced several years ago. We had an interim study hearing this summer, which you heard about, which was a very excellent hearing. Everybody got to participate who wanted to. We had another...well, we had a hearing on the bill last year. I mean, this is not a new issue that we were addressing. What we did, or what I should say certain members of the committee did, was take all the information from those

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hearings and work with people on both sides of the issue to come to some kind of a compromise. If they had come up with some totally new issue that had not been through the process before, as this one has, then I'd agree with you. But I think that they...I think the committee did their work. I think the discussion has been had many times. And what the committee did with this amendment, I think, was appropriate. So I don't know if Senator Hudkins plans to pursue her motion to overrule the Chair, but I would sustain the Chair on this one. Thank you. [LB606]

SPEAKER FLOOD: Thank you, Senator Schimek. Senator Christensen, followed by...actually, Senator Louden, you're not allowed to speak again. You may only speak once. Senator Christensen, you are recognized. [LB606]

SENATOR CHRISTENSEN: Thank you, Mr. President, fellow senators. I just thought I'd mention to the body, you know, we had the original bill, LB700, that we talked on the cloning. And then we had an interim study that threw in this stem cell with it along with the cloning and stuff that tied them issues together that clearly relate the amendment to the original bill. I just wanted to clarify that. Thank you. [LB606 LB700]

SPEAKER FLOOD: Thank you, Senator Christensen. There are no other lights on. Senator Hudkins, you are recognized to close on your motion to overrule the Chair. [LB606]

SENATOR HUDKINS: Thank you, Mr. President. And I must tell everyone that I misspoke earlier. I said that the Rules Committee had a proposal to do one thing. No, it wasn't that thing at all; it was the extreme opposite. What we wanted to do was to put into our rules a rule that would say that any committee amendments are germane, and the committee did not want to do that. So here we are again, still relying on unwritten precedent. May I ask Senator Chambers a question? [LB606]

SPEAKER FLOOD: Senator Chambers, will you yield to a question from Senator Hudkins? [LB606]

SENATOR CHAMBERS: Yes, I will. [LB606]

SENATOR HUDKINS: Thank you, Senator Chambers. Would you--and I know how you feel about the rules--but would you like to see a rule that says that any committee amendments are germane, rather than relying on precedence? [LB606]

SENATOR CHAMBERS: Not being evasive, Senator Hudkins, there are a number of approaches we take because of precedent rather than putting it into a rule. So with this, I'm satisfied with the precedent, and I've never even thought about offering a rule to do it. So... [LB606]

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SENATOR HUDKINS: All right, thank you. [LB606]

SENATOR CHAMBERS: Okay. [LB606]

SENATOR HUDKINS: You're leaving, too, so your experience will be gone as well. Senator Flood, Speaker Flood cited as his reason to say that this is germane Rule 3, Section 12, and it says "Committees shall consider and report without unnecessary delay all bills and resolutions referred to them. Committees shall be authorized to combine and to correlate the provisions of different bills and resolutions referred to them" and so forth. But they still later on in our rules say that they must be germane. So...and again, I'm not saying that this is a bad amendment. In fact, I told Senator Ashford that I would most likely be supporting it. But I just want you to...make you aware of what you're doing. If you don't want it written in the rules and you want to continue to rely on precedence, that's fine. I'll be gone next year, you'll have a new Rules Chairman, you'll have all kinds of new people here. But I just want to make you aware of what you're doing or not doing according to our rules. Thank you, Mr. President. [LB606]

SPEAKER FLOOD: Thank you, Senator Hudkins. You've heard the closing on Senator Hudkins' motion to overrule the Chair. The question before the body is, should the Chair be overruled? This motion takes 24 votes, given the number of people present and accounted for in the Chamber at this time. All those in favor of overruling the Chair vote yea; all those opposed to overruling the Chair vote nay. Mr. Clerk, please record. [LB606]

CLERK: 2 ayes, 30 nays, Mr. President, on the motion to overrule the Chair. [LB606]

SPEAKER FLOOD: The Chair's ruling has been sustained. We now continue to discussion on AM1884 to LB606. Senator Schimek, followed by Senator Harms. You are recognized. [LB606]

SENATOR SCHIMEK: Yes, thank you, Mr. President and members. I rise to get answers to a couple of questions. And if you looked at the committee statement, you'll see that I was the only person on the committee not voting to advance the amendment. And part of my concern was I had not had time to look at the amendment, and I didn't really know what was in it, and we hadn't had time to discuss it. So I told Senator Lathrop earlier that I would like to talk to him about it. But Senator Lathrop, I think maybe I'm just going to try to ask you some of these questions on the mike so that we can get it into the record. [LB606]

SENATOR LANGEMEIER PRESIDING [LB606]

SENATOR LANGEMEIER: Senator Lathrop, would you yield? [LB606]

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SENATOR LATHROP: Yes, I will. [LB606]

SENATOR SCHIMEK: Okay. Thank you, Senator Lathrop. First of all, it's my understanding after having read this amendment that this amendment does not apply to private entities at all. Is that correct? [LB606]

SENATOR LATHROP: That's true. The object of the limitation is in Section 6 and that applies, and it's a limitation on state facilities and state funds. [LB606]

SENATOR SCHIMEK: Okay. Because I know that at one point in time that was, I think, part of the discussion, or at least part of the media discussion. The second question I have is clarifying, and it's in Section 3 and it's on the very last line of page 1. It talks about the chief medical officer as designated by Section 81-3115. And that...my understanding is that is the person who is the director of Public Health for HHS. Is that correct, who's also the chief medical officer? [LB606]

SENATOR LATHROP: That would be my understanding. [LB606]

SENATOR SCHIMEK: Okay. Then there's an appointment process, and I don't have any problem with that appointment process, but by my count there will eventually be six members of this committee. And I'm assuming that was deliberate so that you could have balance, equal balance on the committee. [LB606]

SENATOR LATHROP: Yes. [LB606]

SENATOR SCHIMEK: And that won't cause a problem at all, you don't think, as far as being able to arrive at a consensus? Maybe they should have you on this committee, Senator Lathrop, but it wouldn't even be a valid question. [LB606]

SENATOR LATHROP: Well, I expect that there be consensus. But perhaps I should defer to Senator Ashford, because the commission was a piece that he was more intimately involved in than was I. [LB606]

SENATOR SCHIMEK: Senator Ashford, might I ask you to address that question, if you heard it? And if I could get somebody to turn on the mike. Thank you. [LB606]

SENATOR AGUILAR PRESIDING [LB606]

SENATOR AGUILAR: Senator Ashford, would you respond? [LB606]

SENATOR ASHFORD: Yes, Mr. President. [LB606]

SENATOR SCHIMEK: Senator Ashford, did you hear the question? [LB606]

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SENATOR ASHFORD: Yes, I understood the question. [LB606]

SENATOR SCHIMEK: Okay. [LB606]

SENATOR ASHFORD: And there was a bit of discussion about that issue, Senator Schimek, you're right. The thought was to form the committee with...it really came from both Creighton and UNMC, the idea of having six members to build consensus within that group rather than have a one-vote victor, that kind of thing, was to build consensus amongst the six members. But also the idea of bringing outside members is very similar to the grant process that goes on in the medical research field anyway and to bring experts in stem cell research into the process was important. And so there was some thought that went into that and, yes, we did consider having it be an odd number but felt that if this research is important enough, there would be consensus amongst the six members. [LB606]

SENATOR SCHIMEK: Okay, I appreciate that. Now maybe you could answer the next couple of questions, too, because they have to do with the research component of it. And there is...actually, three questions. The first one has to do with the grant process itself. It's my understanding that generally when we have grants that are offered to... [LB606]

SENATOR AGUILAR: One minute. [LB606]

SENATOR SCHIMEK: ...state institutions through a state entity, that there's some kind of a peer review process. And that would be part of this? [LB606]

SENATOR ASHFORD: There is a peer review process within the institution, Senator. But again, the idea of bringing these four members from the outside is to replicate to some degree, even though it's a different function, it's to replicate the idea of bringing peer groups from...peer experts from outside to review these grant applications. [LB606]

SENATOR AGUILAR: Time. [LB606]

SENATOR SCHIMEK: Okay. Thank you, Senator Ashford. [LB606]

SENATOR AGUILAR: Thank you, Senator Ashford and Senator Schimek. (Visitors introduced.) On with discussion, Senator Harms, you are next and you are recognized. [LB606]

SENATOR HARMS: Thank you, Mr. President. Senator Ashford, would you yield? [LB606]

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SENATOR AGUILAR: Senator Ashford, would you yield to a question? [LB606]

SENATOR ASHFORD: Yes, Mr. President. [LB606]

SENATOR HARMS: Senator Ashford, in Section 1...actually, Section 3, excuse me, letter A in the white copy... [LB606]

SENATOR ASHFORD: Just a second. Section where? [LB606]

SENATOR HARMS: It'd be Section 3, page 1... [LB606]

SENATOR ASHFORD: Yes. [LB606]

SENATOR HARMS: Okay. A, under Section 3. [LB606]

SENATOR ASHFORD: Yes. [LB606]

SENATOR HARMS: The concern that I have here in regard to nominating three scientists from out of the state, I don't have a problem with that part of it. But what I do have a problem with is I'd like to know what kind of criteria you're going to use to choose those individuals. My concern is that we have a tendency in higher education and research to draw upon people who are alike. And if you're truly going to do research, you need to have people who have different backgrounds, different ideas, different thoughts in order to drive the research in total honesty and openness. So it would be easy for me on one side of it to pick my friends to push an agenda that I want that, quite frankly, may not be good for Nebraska or for the study. And so I would like to make sure that we--and maybe when it gets on Select File--that we address this issue. [LB606]

SENATOR ASHFORD: Thank you, Senator Harms. And that's a great point. And what you have in front of you in Section 3, it was our effort to get at your point, and that was why...and that same concern was raised throughout these discussions. If we don't bring in outside experts, you're going to get the buddy system. And so that's why we did that. But certainly we're open to thinking about that. I think it's a point that was raised in our discussions as well, Senator Harms. [LB606]

SENATOR HARMS: Well, you can still have the buddy system by out of state. These people all are interlocked. And so I want to make sure, though, that we have the criteria established of how you're going to do it. And quite frankly, you ought to go through some type of interview process, particularly if we're going to be paying them. [LB606]

SENATOR ASHFORD: Right. [LB606]

SENATOR HARMS: And I'd like to see that dealt with on Select File. The other one that

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I have is on page 3, actually starts on page 2, Section 4, line 26. Are you with me?  
[LB606]

SENATOR ASHFORD: Yes. [LB606]

SENATOR HARMS: Okay. We talk about here that we're going to do an annual report in regard to the grants and so forth. But it's three years before the Legislature has any understanding about where we spent our money and what kind of research we're actually doing. [LB606]

SENATOR ASHFORD: Right. [LB606]

SENATOR HARMS: And I would like to make sure that we find that out in the front end... [LB606]

SENATOR ASHFORD: Okay. [LB606]

SENATOR HARMS: ...not at the back end, so we have a much better understanding that our research dollars are in line with what this legislation has been created for and that we're moving in the right direction. Because then it ties back to that committee. [LB606]

SENATOR ASHFORD: Right. [LB606]

SENATOR HARMS: And so I would like to make sure that we can at least understand when that report comes forward what they are doing, what they are dealing with ahead of time and not after the study. [LB606]

SENATOR ASHFORD: And I absolutely have no problem with that, Senator Harms. And the three years was the three year...most of these grants are three-year grants traditionally in academia and that's what the three years came from. But I get your point. [LB606]

SENATOR HARMS: I don't have a problem with the three years. I just want it identified for us that this is the research they're going to deal with. [LB606]

SENATOR ASHFORD: Okay. [LB606]

SENATOR HARMS: That's all I'm after. [LB606]

SENATOR ASHFORD: That's a good suggestion, Senator Harms. [LB606]

SENATOR HARMS: And I would surely hope we could do that on Select File. [LB606]

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SENATOR ASHFORD: That's a good suggestion. [LB606]

SENATOR HARMS: Well, thank you, Senator Ashford. Thank you, Mr. President. [LB606]

SENATOR AGUILAR: Thank you, Senator Harms and Senator Ashford. Next up to speak on the amendment is Senator Engel. You are up and you're recognized. [LB606]

SENATOR ENGEL: Mr. President, members of the body, I do support LB606. And I think this proves that reasonable people dealing with other reasonable people can come to a common conclusion. But it takes the right people, it takes the right person to bring them together. And I'd like to commend, again, Senator Lathrop and Senator Ashford and others for the excellent job they've done, their patience and working with the other groups that used to be...this was a very contentious issue for many years, and they've come to a common conclusion that's going to be good for everybody in the whole state of Nebraska. So with that, we can put this to rest and go on, get on with other things that we have to get done. The universities can go on with their research, and I totally support research because it's so necessary. But this will be taken out of the formula. So this just proves that our system, our Unicameral system does work if people will work together. So thank you, and I'd like to turn the rest of my time over to Senator Lathrop or Senator Ashford, if either one of them want any time. [LB606]

SENATOR AGUILAR: Senator Ashford, you have 3:50. [LB606]

SENATOR ASHFORD: Senator Engel, I don't want to take up much time, but I want to thank you for your points. And really, I will never forget our relationship and your challenge to me to make this happen. And with all your years of service, if this is even anywhere near a little gift to you really for challenging me and staying with us on this matter, I'm hopeful that that will at least be a small gift--not enough of a gift, but a small one anyway. Thank you. [LB606]

SENATOR AGUILAR: Thank you, Senator Engel and Senator Ashford. Next up is Senator Fulton. You are recognized. [LB606]

SENATOR FULTON: Thank you, Mr. President. I'd like to publicly thank Senators Lathrop and Ashford for the work on this bill, remarkable work. I'm just echoing what other people have said, that I wouldn't have believed it had I not seen it. Would Senator Lathrop yield to a question? [LB606]

SENATOR AGUILAR: Senator Lathrop, would you yield? [LB606]

SENATOR LATHROP: Yes, I would. [LB606]

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SENATOR FULTON: Thank you, Senator Lathrop. I'm going to ask a couple questions, if we can, to get some...to build some record of clarification with regard to this AM1884 and the corresponding bill to which it will be amended, LB606. In testimony before the Judiciary Committee last year, Dr. Turpen from UNMC claimed that because somatic cell nuclear transfer does not involve fertilization and does not produce a genetically distinct individual, that it would therefore, quote, is not creating a new human life, it is not producing a new human embryo, and it is scientifically inaccurate to assert that it is, end quote. Given Dr. Turpen's rationale, is it possible with the definition of human embryo in this bill that a university researcher could conduct somatic cell nuclear transfer and simply claim that the resulting organism was not a human embryo or a human organism? [LB606]

SENATOR LATHROP: A great question, and the question I think illustrates where we started this process at, which is we couldn't even agree on what an embryo was and what an embryo wasn't. But I can tell you that the definition of a human embryo is...would not permit that kind of an interpretation, and that is...that definition is with the agreement of the university. I don't see this as somebody trying to have some wiggle room in a definition that will permit something that we expressly prohibit in Section 6. [LB606]

SENATOR FULTON: Okay. So it's fair to say the product of somatic cell nuclear transfer is a human embryo then? [LB606]

SENATOR LATHROP: It is according to the definition in this bill. [LB606]

SENATOR FULTON: Okay. Secondly and lastly, since this bill does not define what constitutes a state facility, and that's cited in Section 6, is it your intention that this item would include any and all buildings under the purview of the University of Nebraska and, more specifically, UNMC, even if private funds were used to build such buildings? [LB606]

SENATOR LATHROP: Very good question, and it's certainly something that we dealt with during the negotiation process. And the issue is whether or not we try to define what a public facility is or just let common sense prevail. And we opted for the latter. But I also, during the process, secured the assurance of the Med Center that if a building is built--for example, one of the Durham research towers which is done with all or primarily private funds--it is a university facility and would come under the purview of this amendment. [LB606]

SENATOR FULTON: Very good. Thank you, Senator Lathrop. Thank you, Mr. President. [LB606]

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SENATOR AGUILAR: Thank you, Senator Fulton and Senator Lathrop. Next up is Senator Schimek. You are recognized. [LB606]

SENATOR SCHIMEK: Yes, thank you, Mr. President and members. Senator Ashford, if we could, I'd like to continue the discussion just a little bit. But before I ask my first question, I would like to say to Senator Harms's question that it does say that these appointments by the chief medical officer have to be approved by the Legislature. So there will be an opportunity for this body to participate in that discussion as well, and I think that's probably positive. And the other thing about it is, if we have a chief medical officer who might have strong viewpoints one way or the other on this issue, the only thing he or she can do is take those nominations that are given by each institution and select members from it. So I think there's some safeguards there. Senator Ashford, back to the peer review thing. You did acknowledge that there would be some kind of a peer review. And the reason I'm asking that question is because I remember some legislative debate about the way some tobacco funds were allocated for research. And what it became was simply a division between institutions without really looking at the research that was going to be done. There was some automatic kind of formulas used, I believe. Would that be your intention on this particular... [LB606]

SENATOR ASHFORD: That's a good question...I'm sorry. [LB606]

SENATOR AGUILAR: Senator Ashford, would you respond? [LB606]

SENATOR ASHFORD: Yes. That would be...that is a good question, and the answer is no, that would not be our intent. First of all, there's peer review within the two institutions that would make application for the grants. And those peer reviews are there. The peer review process is in place. But the way we set up the...again, and I don't want to be redundant, but the way we set up the process and the use of the tobacco money for these purposes was to make certain that this money was not paid out on automatic pilot but was, in fact, paid out pursuant to specific grant applications that did go through a peer review process within the institutions prior to the grant being applied for. That's our intent. [LB606]

SENATOR SCHIMEK: And I appreciate that, and I notice it says later in the bill that no single institution or researcher shall receive more than 70 percent. [LB606]

SENATOR ASHFORD: Right. And the idea is to try...and that's an excellent question. And the intent there...as I indicated, Senator Lathrop and I had discussions with both Creighton Medical Center and UNMC--many discussions, actually--about this issue. And the idea is to have them work, if possible, in collaboration on issues involving stem cell research and that that language is intended to kind of address...get them to start collaborating on this issue. [LB606]

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SENATOR SCHIMEK: I appreciate that. Now two more questions, if I can get them in. One has to do with the new funding, this \$500,000, and that comes out of the tobacco settlement fund? [LB606]

SENATOR ASHFORD: Yes. [LB606]

SENATOR SCHIMEK: And is this a new appropriation? [LB606]

SENATOR ASHFORD: This...I don't think it's an appropriation, technically. [LB606]

SENATOR SCHIMEK: A new... [LB606]

SENATOR ASHFORD: Well, it's a new \$500,000. The fund, I believe...Liz is here, but \$52 million, I believe...\$55 million is spent now. This would add \$500,000 to that and Liz Hruska has charted this out through 2015 and there's very little impact. I think it's a \$5 million impact over, what would it be, 7 years or 8 years, on the overall fund. There is over... [LB606]

SENATOR AGUILAR: One minute. [LB606]

SENATOR ASHFORD: ...\$463 million in the fund, Senator Schimek. So Liz has indicated that this is self-sustaining and does not dramatically or significantly impact the tobacco fund. [LB606]

SENATOR SCHIMEK: And I understand that, and I appreciate that. We were so careful about how we were going to use these tobacco settlement funds, and I just want people to be aware that we're doing something new here. And I think it's appropriate because it goes to a health issue, although I think a lot of this money was...some of this money should be diverted to tobacco use prevention and we're not doing enough in that respect. But I think this is appropriate because it's going for a health issue. My last question has to do with the agreement, apparently, to leave this issue alone next year. Is there such an agreement? [LB606]

SENATOR ASHFORD: Yes. [LB606]

SENATOR SCHIMEK: And how long does that agreement stand? [LB606]

SENATOR AGUILAR: Time. (Laughter) Mr. Clerk, do you have an amendment on the desk? [LB606]

CLERK: Mr. President, Senator Pahls would move to amend the committee amendments with AM2052. (Legislative Journal pages 699-700.) [LB606]

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SENATOR AGUILAR: Senator Pahls, you're recognized to open on your amendment. [LB606]

SENATOR PAHLS: Thank you, Mr. President and members of the body. In no way do I want to stand in the way of this bill. I just have a couple things I would like to bring forth to the body. After watching this bill as it moved from one side to the other side into the middle, I noticed that through some of the compromising of it I saw some of the things that are in a bill that I have yet to be heard. So I just want to talk a little bit about that. This amendment, AM2052, establishes an additional way of avoiding the ethical dilemmas of embryonic stem cell research. Under LB1003, which is in the Health Committee, the University of Nebraska would begin research on cord blood. Under this amendment, the med center is directed to develop an accredited laboratory to develop research on postnatal tissue and fluid in its research on stem cells. This amendment transfers an additional \$500,000 from the healthcare fund which is part of the tobacco settlement fund to create and maintain this lab. It is my understanding that \$500,000 comes from the overall interest that has been collected over the larger cash fund. That is a similar aspect of both bills. I'm trying to show you that we do have some similarities. Postnatal tissue and fluid is derived from cord blood. It is collected from the placenta of a mother after the birth of an infant. It does not affect the birth of the baby in any way. Normally the blood is discarded. If we capture it, cord blood can be used to develop stem cells for medical research. The hearing on my bill, LB1003, is not until Thursday of this week, which is tomorrow, the last day of hearings. Now I plan to pull this amendment, but I wanted to give you a heads-up that there is a very viable alternative for research in this area that is available. I may be reporting back on Select File after the hearing on LB1003. To me it is unfortunate that the hearing on my bill was scheduled so late relative to this bill coming up on General File. I do see some similarities. I do support this bill. But I just...I'm sort of doing a little bit of marketing for my bill tomorrow afternoon because I do see it has merit. And I respectfully withdraw my amendment. [LB606 LB1003]

SENATOR AGUILAR: It is withdrawn. We are back to consideration of AM1884. Next on the list is Senator Carlson. You are recognized. [LB606]

SENATOR CARLSON: Mr. President and members of the Legislature, much of the testimony this morning has been kind of a mutual admiration society, and I'm going to contribute a little bit to that. I appreciate the work and the emphasis Senator Christensen gave in the beginning of this. Certainly appreciate what Senator Lathrop has done, what Senator Ashford has done, what the Judiciary Committee has done in their work. Appreciate people like Senator Engel, who has strong beliefs about this area and some accomplishments that should be made, and so his discussion and others have contributed. I know that this has been a difficult area for our institutions of higher education to deal with, but I appreciate their cooperation, and then many other groups that came forward and were a part of this process. And it all is very important in the end

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product. I'm going to take a prerogative of reading a couple of sections from the amendment itself, because those that listen in or watch in, many times they don't have anything in front of them, and I think some things in here are very important for their support of this bill. In Section 2(2), "Human embryo means the developing human organism from the time of fertilization until the end of the eighth week of gestation and includes an embryo or developing human organism created by somatic cell nuclear transfer." And then (3): "Somatic cell nuclear transfer means a technique in which the nucleus of an oocyte is replaced with the nucleus of a somatic cell." And then I'd like to refer to page 3, Section 6, specifically, "No state facilities, no state funds, fees, or charges, and no investment income on state funds shall be used to destroy human embryos for the purpose of research. In no case shall state facilities, state funds, fees, or charges, or investment income on state funds be used to create a human embryo or somatic cell nuclear transfer for any purpose." I appreciate the intent of this bill. I think it's the right direction to go, and I fully support AM1884. Thank you. [LB606]

SENATOR AGUILAR: Thank you, Senator Carlson. Senator Chambers, you are next and you are recognized. [LB606]

SENATOR CHAMBERS: Mr. President, members of the Legislature, there has been a lot of work done on this issue, and the bill does not go nearly as far as I would like to see it go. But when you have something as complex scientifically, as contentious politically, and a product such as this can be produced, it's not for me to derail it or hinder it in any way. It might be an example that can be followed when some of us no longer are here--let there be the applause, and I won't be offended--to show the process by which some of these very difficult issues may be addressed and even solved. One thing I really appreciate, and it prevents me from even taking a lot of time to discuss the bill one way or the other, Senator Carlson touched on it, but his approach was for a reason different from mine. On page 1 in line 8 it says, "Human embryo means the developing human organism." I accept that. They go on to say, "from the time of fertilization until the end of the eighth week of gestation." If they had put that politically loaded, religion-tinged notion of unborn human being, I would have been disturbed and had seen the need to do something about that, because we are attempting to be as objective as possible, not freighting these definitions with anything that in and of itself can distract attention from what is being attempted. Now Senator Pahls had offered an amendment, part of which I had found somewhat appalling, but when he withdrew his amendment, it's not even necessary for me to mention those aspects of his amendment. I would like to ask Senator Ashford a question, if I may. [LB606]

SENATOR AGUILAR: Senator Ashford, would you yield to a question? [LB606]

SENATOR ASHFORD: Yes, Mr. President. [LB606]

SENATOR CHAMBERS: I think the "Bible" said, and Senator Carlson can correct me if

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I'm mistaken, young men shall see visions and old men shall dream dreams, or old men shall see visions, and young men shall dream dreams--one or the other. Now he's not quite sure. Senator Ashford, when did you come to a realization that this effort that was undertaken with Senator Lathrop, might have a realistic chance of acceptance, if you can pinpoint? [LB606]

SENATOR ASHFORD: I think it was maybe a month ago, Senator Chambers, when it appeared to me that groups on either side of LB700 were actually agreed on a great deal of more than what they thought they did, I think, and that we could protect the sanctity of life and at the same time do research in a way that was consistent with each other. And it was about a month ago, I suppose, in time, and then your vote, of course, for the bill was also important. [LB606 LB700]

SENATOR CHAMBERS: And you may not be aware of it, but I think from what I've said I've made you aware of the fact that I would like to have seen the bill go further than it goes. [LB606]

SENATOR ASHFORD: Right. [LB606]

SENATOR CHAMBERS: Did I attempt at any time to inject myself in the proceedings to make the bill go in the direction that I would like to have seen it go, or did I... [LB606]

SENATOR AGUILAR: One minute. [LB606]

SENATOR CHAMBERS: ...let that process that you and Senator Lathrop were masterfully constructing play itself out? [LB606]

SENATOR ASHFORD: Senator Chambers, we talked to you about this bill, and you indicated that you thought you could support it, and I don't recall exactly when that was, but it was prior to the vote. And no, you did not try to change the bill. [LB606]

SENATOR CHAMBERS: Thank you, Senator Ashford. Members of the Legislature, Senator Lathrop, you and Senator Ashford, and others who work with you, have put me in a box, which I don't mind being in. But if you had not reached the result that you did, I would feel no obligation of any kind to just leave this alone. I hope that this does become law, but I do have a caveat--agreements which are based on a handshake or an oral accord I think are not worth the paper they are not written on. I do not think this is the end of this issue. [LB606]

SENATOR AGUILAR: Time. [LB606]

SENATOR CHAMBERS: Thank you, Mr. President. [LB606]

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SENATOR AGUILAR: Thank you, Senator Chambers and Senator Ashford. Senator Christensen, you are next and you are recognized. Senator Christensen, you are recognized. [LB606]

SENATOR CHRISTENSEN: Thank you, Mr. President, fellow senators. First I'd like to just thank you...send some thank you's out to Senator Lathrop, Senator Ashford, for their hard work on this issue. I appreciate their work in molding something that's agreeable with people. The Judiciary Committee played a key role getting this out, and also Senator Flood for his work with keeping the groups together here. Would Senator Ashford yield to a question? [LB606]

SENATOR AGUILAR: Senator Ashford, would you respond? [LB606]

SENATOR ASHFORD: Yes. [LB606]

SENATOR CHRISTENSEN: Senator, would you clarify this grant? Is this a \$500,000 grant that people just have to match, or will there be a million dollars into this fund that has to be placed in? [LB606]

SENATOR ASHFORD: It's a matching grant; \$500,000 would have to be matched by private dollars, Senator Christensen. [LB606]

SENATOR CHRISTENSEN: So will that have to be put in by the university? So we've got \$500,000 tobacco, and then \$500,000 from the university, and then it's disbursed, or do they just bring in \$100,000 and ask for \$100,000 matching? How does that work? [LB606]

SENATOR ASHFORD: Yeah, it's up to \$500,000, and it's not the university. It would be private funding that would be matched with public funds, up to \$500,000. So it could be as much as a million dollars a year, \$500,000 of which would come out of the tobacco settlement money. [LB606]

SENATOR CHRISTENSEN: Okay. One more question. Let's say we got a private lab comes into the state, which we don't have now, and they start doing embryonic research, destruction of life in a embryo, would they be eligible for these matching funds on nonembryonic research? [LB606]

SENATOR ASHFORD: No. [LB606]

SENATOR CHRISTENSEN: Thank you. [LB606]

SENATOR AGUILAR: Thank you, Senator Christensen and Senator Ashford. Continuing debate on AM1884, Senator Lathrop, you are next and you are recognized.

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[LB606]

SENATOR LATHROP: Thank you, Mr. President and colleagues. Again, wanted to take an opportunity to explain one thing in the process. To bring the parties together, the last step of bringing the parties together involved an agreement, and some of you may be aware of that. It is an agreement, not that it has been signed off on literally, where we've asked anybody to put their signature to this agreement, but with Senator Flood's help, we have a commitment from those involved, and I'm going to read the agreement so that we are aware of the agreement, the understanding of this body with respect to the interest groups, and how we got to the place that we're at today. And the agreement is as follows: LB606 is a bill currently being considered by the Judiciary Committee as an alternative to LB700, which proposes to ban SCNT in Nebraska. LB606, as amended by AM1884, is the product of negotiations which have involved the Nebraska Catholic Conference, Family First, Nebraska Right to Life, Nebraska Coalition for Ethical Research, and the Nebraska Family Council, as well as the Nebraskans for Research and the University of Nebraska. Those involved in the process acknowledge that LB606 represents a resolution of the public policy considerations attendant with embryonic stem cell research, as well as SCNT. While LB606 prohibits the use of state funds and facilities to destroy an embryo for research or to create an embryo through SCNT for any purpose, LB606 allows for continued embryonic stem cell research subject to the policies of the University of Nebraska and federal laws, rules, and regulations. Those involved in the process of drafting AM1884 acknowledge they will not encourage the introduction of nor support legislation, the subject matter of which is embryonic stem cell research or SCNT, unless one of the conditions listed below occur. The senators participating in the mediation of this agreement, Senator Brad Ashford, Senator Steve Lathrop, and Senator Mike Flood, acknowledge they will not encourage the introduction of nor support legislation, the subject matter of which is embryonic stem cell research or SCNT and will oppose such legislation if introduced, unless any one of the following conditions listed below occur. And those conditions are as follows: 1) private sector activity in Nebraska which destroys an embryo for research or creates an embryo through SCNT for any purpose; 2) research that is undertaken in this state which presents ethical considerations not contemplated by the parties at this time, or 3) if the prohibition against the use of state funds or facilities found in Section 6 is violated. All parties acknowledge that LB606 is a significant milestone and is the result of the willingness of the participants to appreciate the interests and concerns of one another. And that is the agreement of those that have participated in this process. Thank you.  
[LB606 LB700]

SENATOR AGUILAR: Thank you, Senator Lathrop. Senator Schimek, you're next.  
[LB606]

SENATOR SCHIMEK: Thank you, Mr. President and members. Senator Lathrop, thank you very much for that detailed explanation, because that was my last question on this

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issue. If I could, may I ask you...I didn't...is that just for the forthcoming session?  
[LB606]

SENATOR AGUILAR: Senator Lathrop, would you yield? [LB606]

SENATOR LATHROP: No. The agreement does not have a time line to it, other than any one of the three conditions which may occur would essentially make the introduction of legislation on the subject of embryonic stem cell research or SCNT fair game, so to speak. [LB606]

SENATOR SCHIMEK: The only one that I would have a question about is number two on that list. That condition is, in a sense, a little ambiguous. Do you...can you think of any kind of situation on which the agreement could be set aside and something under category two could be addressed or attempted to be addressed? [LB606]

SENATOR LATHROP: Thank you for the question, Senator Schimek. And the reality is that when we started this process of trying to forge an agreement, I can't tell you how far embryonic stem cell research has come in a year. The concern by those involved was this: We don't know where this is going to go, and we don't know what new ethical considerations may occur, and so the folks who might have some problems with future endeavors in this subject or in this research wanted to leave the door open. But what it doesn't mean is, every time they have a breakthrough in embryonic stem cell research that there's now an ethical consideration not contemplated by the parties. We contemplated nearly every known consideration during the course of this agreement. We talked about and specifically considered the fact that a new president of the United States and a Congress may expand the NIH lines. That's certainly something that we contemplated. In fact, we had drafts of this amendment that included or specifically addressed that and chose or elected in the end to take them out. So it would not be an expansion of the NIH lines, but I just...I can't contemplate it today, which is exactly, I guess, the point. [LB606]

SENATOR SCHIMEK: And I... [LB606]

SENATOR LATHROP: But if it's something new, some new kind of research that presents a new type of ethical consideration, it would be covered by number two.  
[LB606]

SENATOR SCHIMEK: I see. And we did not give this committee any authority or direction to involve itself in that kind of a situation, whether to study it or to make recommendations back to the Legislature or anything like that? [LB606]

SENATOR LATHROP: No. That's not the function of that committee, nor is the grant money to be used, other than for nonembryonic stem cell research. [LB606]

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SENATOR SCHIMEK: I appreciate that, and I thank you very much. And I have...I must add my voice to this. I'm not terribly overly excited about this bill, but I think that you who worked on this bill have done everything humanly possible to bring it to fruition. I know that at one point you thought that there was agreement, and then there was--let's call it a hesitation on the part of some parties. And so you went back to the drawing board. I know you spent countless hours and unimaginable amounts of time on this, and I would like to add my voice to the chorus saying thank you. You did a very good job. And hopefully, that will put this issue to bed for some time to come. Thank you very much. [LB606]

SENATOR AGUILAR: Thank you, Senator Schimek and Senator Lathrop. Senator Schimek, that was your third time. Senator Kruse, you are next and recognized. [LB606]

SENATOR KRUSE: Thank you, Mr. President and colleagues. I stand, too, to commend those who have worked on this. It is a remarkable moment, and I would plead that we would come to a new time of cooperation, to reduce abortions. It is a great frustration in my last year here that we've been working on that all the time and have not had the cooperation to reduce abortions, a huge problem within our nation. I'm so old--and some of you figured out yesterday how old--I am so old that I can remember how some of these words and phrases changed. I remember when life began at birth, and the Catholic Church had baptism tied in very quickly with that. Then there was the backup by the church to say, well, a viable pregnancy; in other words, the fetus could survive outside the womb--a lot of anxiety about what to do about the baptism at that point. Then it was backed up to quickening, when the fetus could speak on...or kick on its own, not speak. Then we went back to a time when we were pretty sure there wouldn't be a miscarriage, and that has already been defined here--an embryo eight weeks in and so on. That's the beginning of life. Then that was changed again, mostly by the church, but by cooperators, to be conception. Well, now we are told it's an embryo, and pardon me, we are taking abortion language and abortion concepts and dealing with the situation where there's not a pregnancy. We have twisted and misused these words, and that works against our communication. It is one of the factors that really keeps us from talking with each other, because an embryo that is not attached to the uterus is not a pregnancy. We even have some of these embryos that are not fertilized, and some will talk about...I read in the paper a couple weeks ago by a promoter, saying that this embryo, this unfertilized embryo even, is a human being. Well, hello! Words have meaning and if we aren't going to use a meaning for them that makes sense, we are not going to be able to communicate. I would hope that we could get to the point where we would recognize the language that each other can use. In my first year here I put out a challenge, because I feel so strongly about reducing abortions that I welcome anybody cooperating on it, that we could come together in a cooperation plan. I guess I was naive. Only one group came forward and offered to reduce abortions. That was Planned Parenthood. And that chased off other people who said, well, they don't really believe

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that. Well, they do believe that. I've had them into my church to deal with the youth group, where they have taught the youth group in one of the most effective things I've ever seen, about the point of abstinence and showing how abstinence is superior to any other method that might be considered. They were good, but what I heard about it on the outside was, well, that couldn't have happened, because we've made up stories about them that are not true. I was there. It was true every time. They are there to reduce abortions. So there is one partner in it. [LB606]

SENATOR AGUILAR: One minute. [LB606]

SENATOR KRUSE: Where can we get the other partners? How can we be the partners to reduce this huge problem that we have? I plead with us as individuals, as senators, as citizens, that we find ways to talk to each other, to use the words that communicate, and to challenge a national problem. I thank you. [LB606]

SENATOR AGUILAR: Thank you, Senator Kruse. Next up is Senator Flood, and you are recognized. [LB606]

SPEAKER FLOOD: Thank you, Mr. President and members. I want to start by saying in October, if you would have told me this kind of a compromise was possible, I would have questioned your reasoning. But I saw two senators, together with an entire committee, grapple with these very difficult issues regarding the sanctity of life and the ethical consideration and the goals and designs of research. And I just want to take a moment and say, and I know it's been said before, but Chairman of the Judiciary Committee, Senator Brad Ashford, and Vice Chair and very capable Senator from Omaha, Senator Steve Lathrop, worked this, night and day, not always in easy discussions. And also to their credit, they worked with some people that I think had the passion and conviction of the issue at hand. You've got groups that are out in the lobby today representing the pro-life interests. You've got the university. Both have very understandable goals--research to save lives; on the other end the sanctity of life and the mission of the pro-life groups. And these two senators lived in that world for three, two months--two or three months. And to their credit, we have what has grown into this compromise. I'm not going to say much more, other than Senator Lathrop reiterated verbatim the understanding that was agreed upon in my office with several others, and the university and the pro-life groups and the senators here. And I am acknowledging its validity and agreeing that that's part of what I have represented to those that are at the table, and I want to make clear it's not a contract. We don't do contracts in the Legislature. Nobody signed anything. There's no quid pro quo. There's no...I say quid pro quo. There's no term; there's nothing like that. But we do have an understanding that was reduced to paper for the benefit of the parties, and that's what I am acknowledging today. There is no written contract with signed signatures and all that. So with that, I just want to once again say thank you to the legislators that were involved, and thank you, Mr. President. [LB606]

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SENATOR AGUILAR: Thank you, Speaker Flood. Senator Chambers, you are next and recognized. [LB606]

SENATOR CHAMBERS: Mr. President, members of the Legislature, there's a song--some of the lyrics go: You've got to give a little, take a little, and let your poor heart break a little. That's the story of, that's the glory of love. You've got to win a little, lose a little, and even have the blues a little. That's what I've got. I've got the blues. Senator Kruse touched on some of the things that I'm not going to go into, except to say one thing: Words do have a meaning, and based on some of the positions taken by people with reference to this research, a virgin birth is possible because there is no fertilization, no intervention of a second parent, yet they argue that this would constitute a human being, and there you have a virgin birth. And I think that is preposterous. But it shows the lengths that people will go to, and I had to get that out. I'm not going to go any deeper into it. But my conscience would not have let me rest, had I not. Senator Lathrop pointed out that this bill is a significant milestone, and I'm glad he said milestone rather than millstone. I think that part number two in the agreement, as it's called, would be known as an escape clause, an escape hatch, or a loophole. Everybody can still reach a subjective conclusion that would allow the whole thing to go by the boards. What would have made me feel more comfortable with that so-called agreement is if the devil had had something to do with it, because the devil does make you sign, and the devil makes you sign with your blood, and the devil explains every term very carefully to you to make sure that you understand every aspect of it. And if it seems that you're too eager, the devil will stop you and say, wait a minute. Once you sign this, that's it. There's no backing away. You need to understand all of it and then we'll explain it and say, now that you know, and now that you know what the consequences are, do you want to sign? And the person says, I want to sign. Then he just kind of (laughing) chuckles, because he knew he had you in the first place. I don't think that agreement means anything. I'm not going to support the bill because of that agreement or with the expectation that it binds anybody. If the church changes its position, the Catholic Conference backs out. If the church changes its position, most of those other organizations back out also. So what it's really saying is, as long as this does not conflict with anything that the church teaches now or will teach in the future, we go along with it, because the church agrees. It is difficult for me to support this bill, but I've made deals with the devil, as I've expressed it on this floor before. And although I did not make such an explicit deal, I'm going to support the bill. I will not be here after this session to fight against a proposal to ban stem cell research period. If I were here, if I were going to be here, I would not support this bill. My intent would be to fight as I have fought every time a provision was offered or a proposal made... [LB606]

SENATOR AGUILAR: One minute. [LB606]

SENATOR CHAMBERS: ...to ban stem cell research in any regard, and I think I could

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win, as long as I'm here, because I am one of those who will tie one piece of legislation to other pieces of legislation. I am one who will and has brought the Legislature to a halt, and I would do it, because I don't view morality as other people do whose morality, as they call it, is based on religion. Mine is based on personal conviction, and that's why I will stick by it, even if I'm alone. How many times have I spoken, Mr. President?  
[LB606]

SENATOR AGUILAR: This is your second time, Senator. [LB606]

SENATOR CHAMBERS: I'll speak one more time, but I'll stop for now. Thank you.  
[LB606]

SENATOR AGUILAR: Thank you, Senator Chambers. Next up is Senator Carlson.  
[LB606]

SENATOR CARLSON: Mr. President and members of the Legislature, in discussion this morning I want to bring up a point that this legislation has understanding with it, has the word of various people that some things are going to happen or not going to happen in the next year or two years. Intent is involved, and that intent needs to be honored, and certainly I hope that it will. And I bring that up because I'll be referring to that in another bill that we're going to be debating here before very long. But I want to address Senator Chambers a little bit. He brought up some things out of the Good Book this morning. The Good Book is full of promises, and Senator Chambers, one of these promises says that your daughters will prophesy, your young men will see visions, your old men will dream dreams. And every promise that's in the book is preceded by condition. The condition is that God says I will pour out my Spirit on all people, and I think the Spirit has been prevalent in the Chamber this morning. The Spirit has been working on you, the Spirit has been working on me and other members of this body, and It has helped keep it a congenial discussion, and I appreciate that. And I think that you probably even appreciate that, but thank you for listening. [LB606]

SENATOR AGUILAR: Thank you, Senator Carlson. Senator Chambers, you are next and recognized. [LB606]

SENATOR CHAMBERS: Mr. President, members of the Legislature, it has been difficult for me to serve in this Legislature. It has been difficult for me to ever be civil. You know why? Because I'm always hearing people making statements that seem to be based on a principle of right and wrong. But I've watched that principle be based on a sliding scale, depending on the issue and the groups either for or against a matter. I'm going to tell you all something that's weighing on my mind right now, and the people in this Chamber will not understand why I'm so offended, but at some point as I gather more documentation, I'm going to bring it to you. They opened a new school in Omaha and called it Liberty, on St. Mary's, because it's supposed to have something to do with

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diversity. A young black kid Friday asked his teacher to go to the rest room three times and she refused. He urinated on himself, and she laughed and sent him to the nurse, who put him in a girl's clothing for the rest of the day. And the underpants were so tight they cut into his body. That little boy is in therapy right now, and that's what these white people do to our children, and you all stand on this floor and talk about education and doing what's right and wrong. You're concerned about an embryo, you're concerned about a fetus, you're concerned about an unborn child, and there are real, live children suffering, and you all don't care. Senator Howard had a bill before, I think, the Judiciary Committee on bullying. Senator Ashford had a bill talking about truancy. And I wanted to focus on the fact that some children and their parents don't want them in that school because of what happens at the hands of teachers and administrators. Nobody could stand on this floor and tell me that a white child or anybody's child was denied the right to go to the rest room, and I just sit there like a knot on a log. I would be busy finding out how, and I would get involved, and I am involved. At North High a young girl was assaulted by a person several times. OPS investigated and found nothing wrong. The mother took the child to the police department, and the child was not allowed to call her mother at North High, which you all praise, those of you from Omaha. A police report was taken and turned over to the juvenile authorities. Then somebody told the perpetrator to file a charge against her, after all she'd been through. And a charge was not filed, but the mother was contacted and said, bring your child in for an assessment to see if we're going to file charges. The corruption of the system--that boy is related to somebody, and somebody at North High or the central administration of OPS is telling him what to do, and they're corrupting the juvenile system and it's being done. And do you all care? Heavens, no! Do I care? You better believe it. It's hard for me to be civil here, but I am civil. You all don't know what's going on in my mind when I listen to what you all talk about, and know that it's going no further than the end of your face. In other words, when it passes through your mouth, it means nothing. But these things bother me, and I do care about children, and I believe what Jesus said and I wish I had the power to do it. Woe to him that offends one of these, my little ones. That's as far as I will go. But I agree with this, although I wouldn't do it: It were better for him that a millstone were hung about his neck and he be drowned in the sea. Do you all care about children? [LB606]

SENATOR AGUILAR: One minute. [LB606]

SENATOR CHAMBERS: No! We talk about all these education bills, and the children are being destroyed in the schools right now. And when I tell you all why we black people need some local control, you jump up here and say, that's segregation--and the schools are segregated now--because you want white people to continue to control our children and destroy them. Suppose it was your child? What would it do to a little boy, to wear a girl's clothes in school? Do you all care? Heavens, no! But I do, and I'm going to talk about these things, whether you like it or not. It has nothing to do with my attitude toward this bill. I'm going to support it, but it's difficult for a number of reasons, and I

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wanted that clear. Thank you, Mr. President. [LB606]

SENATOR AGUILAR: Thank you, Senator Chambers. And as you know, that was your third time. Senator Langemeier, you are next and you are recognized. [LB606]

SENATOR LANGEMEIER: Mr. President and members of the body, I have prioritized LB606. I feel strongly about this issue. I haven't spoke yet, till the end, and hopefully I think I'm the last light. I think we've had great discussion. I wanted to hear the discussion out on the floor. I think everyone should go home and tell your constituents on days that they're not so proud of us, as we get e-mails saying, what are you guys going down there, I think this, with AM1884, this sends a message to the people of our constituents that the senators down here do care about real issues and do know how to work on real issues and not just have these battles on the floor. I think this is how this process was designed. We've had a lot of great thanks, and I want to thank everybody that was involved in this, their hard work and their dedication outside the scenes, and to get two sides together that, when I ran for office, I thought there would never be a way to get this done. I figured one side would have to be run over and come to a conclusion. I want to commend the body; I want to commend everyone. I'd ask for your support of AM1884. Thank you. [LB606]

SENATOR AGUILAR: Thank you, Senator Langemeier. Senator Ashford, there are no other lights on. You're recognized to close on the committee amendments. [LB606]

SENATOR ASHFORD: Thank you, and thank you for the discussion. Senator Stuthman just a few minutes ago told me that his first year in the body, the bill on cloning, banning this sort of procedure, was his priority bill. And here we are, this is Senator Stuthman's last year, unfortunately, in this body--two more years after this. But it may be his last year. (Laughter) But I want to thank...Senator Stuthman, you didn't know that was going to happen, did you? But...I thought this was it, Senator Stuthman. No, two more...gosh! I take that back. I thought it was over. I don't know what more to say. Thanks, Senator Langemeier, and I want to thank...acknowledge my committee: Senator Lathrop, Senator Chambers, Senator Schimek, Senator McDonald, Senator Pedersen, Senator McGill, and Senator Pirsch for their efforts and their support. And just in conclusion I would say this: that this body and this state does have an interest in discussing the issues of life and sanctity of life and the interest of the state in protecting that life at the very end of life and at the very beginning of life. And we've had a good debate about that issue, and we're not afraid to discuss that issue, and we're not afraid to discuss difficult issues in this body and come to resolution. I think it's a great day for us, and I thank everyone for their help. And I certainly urge the adoption of AM1884 and the advancement of LB606. [LB606]

SENATOR AGUILAR: Thank you, Senator Ashford. You've heard the closing on committee amendments. The question is, shall the committee amendment to LB606 be

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adopted? All those in favor vote aye; and those opposed vote nay. Have you all voted that care to? Record, Mr. Clerk. [LB606]

CLERK: 43 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB606]

SENATOR AGUILAR: The amendment is adopted. Discussion on the advancement of LB606? Senator Kruse, you're recognized. [LB606]

SENATOR KRUSE: Thank you, Mr. President and colleagues. I support the bill and affirm again what we've been saying--don't need to repeat that. I have an opportunity here to correct Senator Chambers on a theological matter. I don't have that opportunity very often, and I do want to take it before it passes. He said earlier that when we're talking about embryo in this way we're talking about a virgin birth. Well, not really. When we're talking about embryo in this way, we're talking about a birth without a pregnancy, and even Jesus wasn't that good. So without getting into the debate of virgin birth, which neither one of us would find a very interesting discussion, I would affirm that when we use these terms, we have to use them with meaning. Another word that we've been tossing around here and abusing, to my mind, is the word "destroy," and everybody, you know, is doing it. But you cannot destroy something and save part of it. You're doing one or the other. We're taking life from an embryo and that is...harvesting life from it; therefore, you're not destroying the life that's there. Again, precision in using our language is going to help us to cooperate and to get further down the road. And my bottom-line purpose is that we find ways to cooperate to reduce abortions. Thank you. [LB606]

SENATOR AGUILAR: Thank you, Senator Kruse. There are no other lights on. Senator Ashford, you're recognized...Senator Ashford waives closing. We're now ready to vote on the advancement of LB606. All those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB606]

CLERK: 45 ayes, 0 nays, Mr. President, on the advancement of LB606. [LB606]

SENATOR AGUILAR: The bill advances. Items, Mr. Clerk? [LB606]

CLERK: I do, Mr. President, thank you. I have an amendment to be printed: Senator Preister, to LB1049. Banking Committee reports LB1045 to General File, with amendments; Transportation Committee reports LB911 and LB1092 to General File, with amendments; Natural Resources Committee reports LB593, LB727, LB1145, and LB1162 to General File, and LB802 and LB1061 as indefinitely postponed. Communication from the Governor. (Read re: LB395 and LB395A.) An announcement, Mr. President: Banking Committee will meet in Exec Session in the south balcony now--Banking, south balcony immediately. That's all that I had, Mr. President.

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(Legislative Journal pages 701-704.) [LB1049 LB1045 LB911 LB1092 LB593 LB727 LB1145 LB1162 LB802 LB1061 LB395 LB395A]

SENATOR AGUILAR: We now return to General File. Senator Karpisek, you are recognized to open on...

SENATOR KARPISEK: Thank you, Mr. President.

SENATOR AGUILAR: Excuse me, Senator Karpisek. You may go ahead.

SENATOR KARPISEK: Thank you, Mr. President, members of the body. I'm introducing LB844 today, which deals with the penalties associated with the possession of marijuana. Currently, anyone possessing less than one ounce of marijuana on the first offense is charged with an infraction and a \$100 fine and may be ordered to attend a drug course on drug use and abuse by the judge. Less than one ounce of marijuana second offense will be guilty of a Class IV misdemeanor and be fined \$200, may be imprisoned, to not exceed five days. Less than one ounce third offense and all subsequent offenses will be guilty of a Class IIIA misdemeanor, be fined \$300, and be imprisoned, not to exceed seven days. My reasoning for introducing LB844 is that I feel we are sending our youth and the general public the wrong message. I have structured LB844 in a way that possession of one ounce or less of marijuana would carry the same penalty as our minor in possession of alcohol law. MIP is a Class III misdemeanor carrying a sentence of up to a \$500 fine and/or 90 days in jail. I feel that we are sending the message that marijuana is less dangerous than alcohol, since the penalty is so much less. To add to my belief that we are sending the wrong message, possession of tobacco by a minor is charged with a Class V misdemeanor with a maximum of \$100 fine and no minimum. I feel that the penalty also, for more than one ounce to a pound of marijuana of a Class IIIA misdemeanor is far too lenient. LB844 would change the penalty to a Class II misdemeanor, carrying a penalty of up to six months in jail or a \$1,000 fine, or both. LB844 would also increase the possession of drug paraphernalia from receiving an infraction to a Class IIIA misdemeanor, again with a maximum sentence of seven days imprisonment or a \$500 fine, or both. Although some may feel that marijuana is safe and has no consequences, today's marijuana is not the same as it was in the seventies, when this law was enacted. THC is the main psychoactive substance found in the cannabis plant. These levels in marijuana have increased from 6 percent to 13 percent in the past two decades, which is far higher than the 1 percent potency levels of marijuana in the seventies. Marijuana has also been proven to be a gateway drug to the use of other illegal drugs such as meth, heroin, cocaine. Studies show that very few young people use other illegal drugs without first using marijuana. There are many, many studies that include how powerful marijuana is in 2008 compared to 1978 and its designation as a gateway drug, how marijuana is associated with crime, violence, and that it is addictive and poses significant health consequences, and what kids' perceptions are of its use. I personally feel that marijuana is at least as

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dangerous of a drug as alcohol, especially to our youth, but in Nebraska it is not treated that way by our laws. LB844 would make minors in possession of alcohol or less than one ounce of marijuana face the same penalties as for the stiffer penalty for one ounce to one pound of marijuana. Current law increases the penalty from less than an ounce, LB844 increases it. For the people over 21 that are in possession of marijuana, I feel it is still an illegal drug, and the higher penalties are meant to be a deterrent to its use. Thank you, Mr. President. [LB844]

SENATOR AGUILAR: There are committee amendments. Mr. Clerk. [LB844]

CLERK: Judiciary Committee offers AM1784, Mr. President. (Legislative Journal page 644.) [LB844]

SENATOR AGUILAR: Senator Ashford, you are recognized to open on AM1784. [LB844]

SENATOR ASHFORD: Thank you, Mr. President. Thank you, Senator Karpisek. The committee amendments address a couple of points that were discussed in the committee involving whether or not possession of marijuana of less than an ounce is an infraction or some other violation, more serious violation, and also that the issue of possession of drug paraphernalia would be...whether it would be classified as an infraction or a more serious crime. The committee believed and the committee amendments provide that we would leave the current penalty for possession of an ounce or less of marijuana as an infraction, but would increase the fine from \$100 to \$300 for a first offense. The second offense of possession of less than an ounce would be classified as a Class IV misdemeanor, with a fine increased from \$200 to \$400. And the third and all subsequent offenses would remain a Class IIIA misdemeanor, but the fine would increase from \$300 to \$500. On the issue of paraphernalia, possession of drug paraphernalia would remain an infraction and the fine would be \$100 for possession of drug paraphernalia as an infraction. The bill...the amendments do change...changes the penalty for possession of more than one ounce but not more than one pound of marijuana under the original bill, from a Class II misdemeanor, and replaces it with a Class III misdemeanor, and that would mean that in the bill the penalty would be six months or \$1,000, or both. Under the committee amendments the penalty would be three months or \$500, or both. Finally, the committee amendments would leave in the bill the ability for a judge to send a person to...convicted of an illegal substance offense...it would leave that in the bill, to make certain that the authority of drug courts and other related courts would be...that authority would be sustained in the committee amendments. Mr. President, in summary...Madam President, in summary, the committee amendments recognize the intent, I believe, of Senator Karpisek's efforts here to underline the potential seriousness, certainly, of some of these, what have been considered relatively minor infractions of the law. But at the same time we...and recognize also Senator Karpisek's concern about these kinds of drugs being gatekeeper

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drugs leading to other more serious offenses. And I think Senator Karpisek made a good case for that. At the same time, I believe that the...I'm correct in stating that the committee was reticent to, in some of these minor offenses, to move beyond the infraction stage, albeit the fact that we did increase the penalties for those infractions. So with that, Madam President, I would urge the adoption of AM1784. [LB844]

SENATOR McDONALD PRESIDING

SENATOR McDONALD: Thank you, Senator Ashford, on opening on the committee amendments. Mr. Clerk. [LB844]

CLERK: Madam President, Senator Chambers would move to amend the committee amendments. (FA182, Legislative Journal page 705.) [LB844]

SENATOR McDONALD: Senator Chambers. [LB844]

SENATOR CHAMBERS: Thank you. Madam President, members of the Legislature, I'll state my intention at the beginning. I'm going to try to dismantle this bill, point by point, because I don't think it ought to be passed into law. Much work over a period of years was done on the issue of marijuana. The first step was to decriminalize it. People had said if that were done, all the children would be on marijuana, they'd be smoking it in school, and all the usual scare tactics. And none of that happened. Senator Karpisek was not able to show any outbreak of the use of marijuana among young people. None of that! He looked at what some people were telling him about the punishment attached to certain alcohol offenses and was told they don't mirror what happens if there's marijuana. So because something is happening in Room A in a house, you should change what's happening in Room B, without showing that there should be any change in what's happening in Room B. In order that you will understand my amendment, on page 6, what Senator Karpisek's bill does under the committee amendments is to take from the judge the discretion as to whether or not a person would be required to attend a course that relates to what happens if you abuse drugs. They're taking away the judge's discretion by striking this language: if the judge determines that attending such course is in the best interests of the individual defendant. If it's not in the best interests, why mandate it in the statute? It doesn't make sense. But since I know that I'm going to have a long eight hours on this bill, I'm going to not try to say everything that I find wrong with the bill at my initial presentation. I will take it an amendment at a time. If you think that the discretion that the judge has under the law right now, when we come to these minor infractions to determine that it's suitable for Defendant A to take a course, but not Defendant B, then why take away the judge's discretion? This is what happens when you don't have a rational basis for changing the law. No study was undertaken. No facts were presented to show that we needed to up these penalties. Nothing was shown as to why we should take away the judge's discretion. But something that will interest my good friend, Senator Wightman, is that whereas we take away the judge's

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discretion on page 6 and at least one other page in the bill, by the time we get to page 9, Senator Wightman, we say that the judge shall assign this person to this course. That goes along with page 6. But on page 8, between page 6, where you take away the judge's discretion, and page 9 where you take away the judge's discretion, if you look at page 8 at line 10, you come back to say, if a judge determines that attending the course is in the best interests...so I would like to ask my good friend, Senator Wightman, a question. [LB844]

SENATOR McDONALD: Senator Wightman, would you yield to Senator Chambers? [LB844]

SENATOR WIGHTMAN: I will. [LB844]

SENATOR CHAMBERS: Senator Wightman, do you know of any place else in the statute where we make a duty that the judge is to exercise both discretionary and mandatory simultaneously? [LB844]

SENATOR WIGHTMAN: I'm unaware of any such situation. As a matter of fact, I had that marked, that there is no discretion on the first...on page 6, and then later there is shown to be discretion in the judge, or it grants the judge discretion. [LB844]

SENATOR CHAMBERS: Thank you. That's all I wanted to ask my good friend, Senator Wightman, and we'll still good friends, and he's still a good lawyer, not just because he agrees with me, but he had picked up on that, too. When you read these bills, which you all don't...I know you all get mad when I say that, don't you? Don't you get angry when I say you don't read these amendments? But you don't! What are you going to do when I'm not here? You're going to put something on the books to tell a judge, you must do this, but at the same time, you don't have to do it. Or take it the other way: Judge, you don't have to do this, but on the other hand, you must do it. If you all had read it, you would see the contradiction, but I'm going to dismantle this bill, and I'm going to take it step by painful step. It will not be painful for me. I've trod this ground many times, but some of you all have not. So just gird up the loins of your mind, settle back, turn your mind off, put your brains on sleep while the eyes stay open, and just pretend that you're listening. But I'm going to compile a record. There is no need to do what this bill is talking about doing. I don't smoke, I don't imbibe alcohol, and that's stated to make it clear that...oh, and I don't use marijuana or any other narcotic. The strongest medication I take is aspirin, and I usually argue with myself for a long time before I even take that, because I'm wondering am I weakening myself by giving in to taking aspirin because I have a headache. That's what I go through. So if it's going to take me that much agonizing to take an aspirin, it should be clear that I'm not going to be engaging in these other things. Marijuana does serve a medicinal purpose, also. There are things related to marijuana that do not pertain to alcohol. Since alcohol is legal, it is advertised everywhere. It's advertised on television, on the radio, billboards, football games--every

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kind of athletic event. So you have the children being presented with this alluring substance, and they see adults engaging in it all the time, too. The same can be said about tobacco products. You see them advertised hither, thither, and yonder, and you see people who are to be respected smoking, chewing, spitting. A child might be watching a baseball game, and the pitcher has a great big wad in his jaw, and if the camera doesn't get off in time, they'll go to the dugout and you'll see some athlete with a paper cup, skeeting a long, thin, slimy something-or-other into that cup. You don't see marijuana advertised in that manner, and it shouldn't be. No drug should be, whether legal or otherwise. You'll see where Dr. Jarvik has just been banned from advertising Lipitor. It's hard to turn on television without seeing some pharmaceutical advertisement telling you that you need this to get through the day. And then, whereas they're very energetic and enthusiastic when they're telling you you ought to use this product, the voice drops into a conversational, almost dismissive tone when they say, of course it may give you headaches, bloodshot eyes, impotency, heart palpitations, liver trouble, and maybe a bit of diabetes, combined with gout. And you don't even pick that up. They know what they're doing. So we're going to make a federal offense, as a manner of speaking, out of marijuana, and it's going to be very difficult for you... [LB844]

SENATOR McDONALD: One minute. [LB844]

SENATOR CHAMBERS: ...to do it, because I intend to fight this bill tooth and nail. No reasonable basis has been shown for doing this--none. Now you might ask me, if there's a difference between the penalty for alcohol and marijuana, what ought to be done? My time is up, so I won't offer that answer at this point. Thank you, Madam President. [LB844]

SENATOR McDONALD: Thank you, Senator Chambers. Senator Karpisek, followed by Kopplin, Harms, and Chambers. Senator Karpisek. [LB844]

SENATOR KARPISEK: Thank you, Madam President. As Senator Chambers has pointed out, there are some inconsistencies, but the reasoning for this was to try to take it away from...not away from the judge, but to also include alcohol in those sections, not just the drugs. So as it says shall be assigned to attend a drug course, as you read on farther it says, "if a judge determines that attending such a course is in the best interest of the individual defendant," which on page 9 as we read, and assigned to attend a drug course as prescribed in Section 29-433. Now, Senator, I do see that 29-433 was stricken from there, and I did not catch that, and I could live with taking the "shall" out also and put in "may." That was not the intent, to take it away from the judge; in fact, it was quite opposite, was to make it so the judge could do it on alcohol as well as drug charges. As Senator Ashford said, this bill the way I have it drafted now, changes none of the jail time. It just increases the penalty dollarwise. I have to disagree with the senior member, to say that there is no reason behind this bill, as talking to many minors they know that it only takes...you only get a \$100 fine for having less than an ounce of

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marijuana. But they can get up to a \$500 fine and 90 days in jail for having alcohol. I feel that alcohol and marijuana are at least equal drugs in my eyes. Again, Senator Chambers and I may not see that the same, but I do. Through these hearings we have determined that alcohol and marijuana are both gateway drugs. I just think that it is very off base to have the marijuana be so much less of a fine. They're both drugs, they're both illegal to minors. Marijuana is illegal to everyone, not just minors. Again, I think we are sending the wrong message, not only to the youth, but everyone. Hundred dollar fine? Well heck, I can get more than that speeding, so it must not be too bad to smoke some marijuana. And I know that Senator Chambers worked on this bill years ago--didn't know that until after I filed it. I think that this gets at some of our problems that we have with meth and other drugs that are harsher. Again, I am just trying to draw the equation between alcohol and marijuana use. I don't think that it is only weed. I don't think that it is only pot. I think it's marijuana and it's an illegal substance--that is what has brought the bill. I would much rather have kept the bill in green form, in green copy, but I couldn't have gotten it on the floor. I hope to work through some of the technical difficulties that Senator Chambers has, but I think what is at the bottom of it, I know, is that he doesn't want to impose any harsher fines. [LB844]

SENATOR McDONALD: One minute. [LB844]

SENATOR KARPISEK: Thank you, Madam President. [LB844]

SENATOR McDONALD: Thank you, Senator Karpisek. Senator Kopplin. [LB844]

SENATOR KOPPLIN: Thank you, Madam President, members of the body. I take this opportunity to talk about, a little bit about problems associated with alcohol and marijuana. First of all, I don't think they have to be equal penalties. My concerns are this: It's alcohol that is the drug of choice for young people. It reaches epidemic proportions. Parents who would sit with their children and say you must never partake in any drug use or marijuana use will turn around and allow or provide alcohol at home parties for young people. It happens a great deal. Young college students may experiment with marijuana and so on, but alcohol is the drug of their choice. I don't see these penalties...in fact, it doesn't bother me one way or another whether we make penalties the same or not, but I think we're missing out on a couple of other things. And whether it's marijuana or alcohol, we're looking at the penalties of what we're going to do to you kids if you have this. What we're not looking at is, what are we going to do to your parents and those that gave it to you in the first place? That has some room for improvement as far as penalties and so on. I don't see marijuana and alcohol...they're both illegal for young people, and I believe they should be illegal for young people, but I don't see the problem with marijuana being nearly what it is with alcohol and young people in this country, and that's what we need to deal with. Thank you. [LB844]

SENATOR McDONALD: Thank you, Senator Kopplin. Senator Harms, you are next.

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[LB844]

SENATOR HARMS: Thank you, Madam President and committee members. Senator Chambers, would you yield? [LB844]

SENATOR McDONALD: Senator Chambers, would you yield to Senator Harms? [LB844]

SENATOR CHAMBERS: Yes, I will. [LB844]

SENATOR HARMS: Thank you, Senator Chambers. Would you agree that marijuana is dangerous, bad for your health? [LB844]

SENATOR CHAMBERS: I didn't get the last part of it. You said do I think it's dangerous? [LB844]

SENATOR HARMS: Yeah, I'm asking...would you... [LB844]

SENATOR CHAMBERS: I don't think marijuana inherently is dangerous. [LB844]

SENATOR HARMS: Okay, thank you. Do you believe that alcohol is a gateway to other drugs? [LB844]

SENATOR CHAMBERS: Well, some people...not necessarily. I'm just giving... [LB844]

SENATOR HARMS: Okay,... [LB844]

SENATOR CHAMBERS: I'm not trying to be evasive. [LB844]

SENATOR HARMS: Uh-huh. I understand that. [LB844]

SENATOR CHAMBERS: Some people just stick with alcohol and don't go beyond it. [LB844]

SENATOR HARMS: Have you talked recently to any drug counselors that deal with youth in regard to alcohol and drugs? [LB844]

SENATOR CHAMBERS: I've talked to some people who are opposed to young people and they invariably say that alcohol and marijuana are gateways, if that's what you're reaching for. [LB844]

SENATOR HARMS: Well, thank you very much. [LB844]

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SENATOR CHAMBERS: Okay. [LB844]

SENATOR HARMS: I just want to bring to your attention that probably two years ago, Nebraska was number one in the nation in underage drinking. Also, at that very same time, the University of Nebraska was number one in the nation in binge drinking. And if we agree that alcohol is truly the gateway to all other drugs, it's time to address this issue. I've taken the time this summer to visit with drug counselors, and I have also taken the time to visit with judges about this very issue that Senator Karpisek is addressing. And what they have said is that marijuana today is very dangerous because it's stronger and it's better produced, and what is happening is that the dealers are now lacing that with cocaine, and they're lacing that with meth. And so what we're finding, because of the fact that the penalties are less with the use of marijuana, the choice for young people is to go to marijuana because they don't have to worry so much about the penalty. And so what is happening, not only do we have an increase according to the counselors who deal with these kids and deal with the parents, and the judges are saying today we have an increase in the use of cocaine and meth, because the simple fact is, that's what's happening. Marijuana is much stronger than it ever has been historically, and the drug dealers have found a way to deal with that issue. So whatever we determine here is appropriate, I believe these laws need to be strengthened, because quite frankly, we're destroying the minds of our youth. We are the gatekeepers of the standards. We are the gatekeepers that simply say to youth, this is not acceptable. We agree that it is dangerous, it is harmful, it will lead you to other stronger drugs--to cocaine and other things. Folks, I think it's wrong. What's wrong with this picture? So I want to ask you really to have an open mind as we address this issue, because I think it's critical to what happens to our young people. Thank you, Madam President. [LB844]

SENATOR McDONALD: Thank you, Senator Harms. Senator Chambers. [LB844]

SENATOR CHAMBERS: Madam President, members of the Legislature, I'd like to call on the expertise of former prosecutor, Senator Pirsch. [LB844]

SENATOR McDONALD: Senator Pirsch, would you yield to Senator Chambers?  
[LB844]

SENATOR PIRSCH: I would. [LB844]

SENATOR CHAMBERS: Senator Pirsch, Senator Harms mentioned that sometimes now marijuana is laced with cocaine or meth. If a person has marijuana laced with meth, would you charge that person with a marijuana offense or a methamphetamine offense?  
[LB844]

SENATOR PIRSCH: Well, usually...I guess it's a complex question, because a lot of

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times people don't know they're ingesting anything other than marijuana until they have reactions that are not in accordance with that. But if law enforcement had detectable traces of meth within marijuana and could prove that, then they could be charged with possession of methamphetamine. But it would have to be more than just a residue type of portion. [LB844]

SENATOR CHAMBERS: So we're not in a situation where people who are going to use meth or cocaine can mix it with marijuana and say, well, this is just marijuana and get away with a marijuana offense? [LB844]

SENATOR PIRSCH: Right. If there's detectable amounts of methamphetamine present, then they can charge possession of methamphetamine, which would be a felony. [LB844]

SENATOR CHAMBERS: Thank you, Senator Pirsch. Members of the Legislature, that again is why we need to be nuanced in our thinking. Now there is a substance known as a date rape drug. I don't know what the chemical makeup of it is, but if a person puts that in somebody's drink, I don't know if that person is charged with giving alcohol inappropriately. Here's the point that I'm getting to. There are substances that can be mixed with others, but if you mix this date drug with alcohol, that does not cause the alcohol to cease being alcohol. You could not put this substance in alcohol and say, well, I think I ought to be charged with just this particular substance, which is not illegal to have, rather than providing alcohol to a minor, because my intent was to get this to them and not the alcohol. All of these comments that are being made to justify this bill indicate that not much thought has been given to it. It is almost a cliché to mention anything you don't like young people doing, to say it's a gateway to this or a gateway to that. Some of these high-brow Catholics, such as Senator Fulton, will say that if you allow health clinics in a high school that's a gateway to promiscuity and abortion. They don't like that. Everything is a gateway. I don't see it that way, and as a lawmaker, and as Senator Harms correctly said, a gatekeeper, I'm going to try to keep some of this ill-considered legislation out. It could be argued that no matter what the penalty is, it's justified if the aim is to prevent somebody from using, selling, possessing, distributing a forbidden substance. I don't agree with that. The Supreme Court pointed out in a case that the Legislature can make the consumption of one drop of alcohol an offense--one drop! The Supreme Court said that could be done, but it could not take a shot glass full of alcohol, count the number of drops of alcohol and multiply the number of offenses, so that somebody can be given an indefinite term of imprisonment. In other words, there is... [LB844]

SENATOR McDONALD: One minute. [LB844]

SENATOR CHAMBERS: ...rationality, there is sense which must come into play when we're affixing punishments. When the Eighth Amendment to the Constitution was being

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argued in Congress, everybody admitted that a legislature can make any conduct criminal that it chooses, but you have to be concerned when they start to annex penalties. And because legislators are not always rational, you need something in the constitution to limit the kind of punishment they can prescribe for a certain crime. Thank you, Madam President. [LB844]

SENATOR McDONALD: Thank you, Senator Chambers. Senator Kruse. [LB844]

SENATOR KRUSE: Thank you, Madam President and members. Well, Senator Chambers has given us some free time here, and I certainly want to take advantage of it. I wouldn't normally speak to my enjoyment of moments on the floor, but I'm certainly enjoying a situation in which that great libertarian, Senator Karpisek, is seeking to go after the rights of these persons who can do, really, anything they please and all of that. To be more serious, I affirm what Senator Karpisek has done here, in getting some discussion on a serious issue. The use of marijuana is a serious issue, it's a dangerous issue, and persons do not understand that. However, I have a lot of difficulty in saying that this is a greater problem than the teen use of alcohol. I hope several saw on the news last night that three businesses in Omaha this week sold two teenagers, deliberately sold alcohol to them. They knew it was a teenager, they knew what they were doing, and they will not have any serious penalty. That...they won't have nearly as serious a penalty as some teenager smoking some pot. They won't go to jail for one day. They may pay a bit of a fine. They will not have their license suspended. One of these persons has been...one of these bars has been found negligent in all except three investigations out of the last nine--six times--and yet we don't seem to object to that, and the suggestion is that this is in line with the way that we deal with alcohol. Well, it's not the way that we deal with it. Certainly, those who sell alcohol to teenagers have a very lenient public body called the Liquor Control Commission. Thank you. [LB844]

SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: Thank you, Senator Kruse. Senator Chambers, you are recognized. [LB844]

SENATOR CHAMBERS: Mr. President, members of the Legislature, it would seem that I'm a prude. I don't do this, I don't do that, I don't do the other--my life is boring, boring, boring. But I'm here as a member of the Legislature, not to impose my standards on anybody. I've not offered a bill to prohibit the consumption of alcohol, even though that's what I would like to see in a society. I've not offered a bill to prohibit the smoking or chewing or other utilization of tobacco products, although that's another thing I'd like to see. When you look at the hundreds of thousands, literally, of people who die from tobacco products each year, then you look at the untold thousands of people who are killed as a result of people driving while drunk and injured seriously, and property damage, anybody looking at a society that allows those substances to be legal,

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advertised and sold would say, that society is insane. But the ones who hawk these products have a lot of money and political clout, so unlike my colleagues who want to make things that their church will say are sins, convert them into crimes under the law, I don't do that. I live my life the way I want to; you live your life the way you want to. But when you bring a bill that is to be converted into law, and that law will impact on people in a way that I think is inappropriate, even when they're doing that of which I disapprove, my disapproval has nothing to do with my position on that issue. I think this is an unwise way of legislating penalties. There is no correlation of any kind shown between the penalty that is to be increased here and any genuine penological standard or goal to be reached. Numbers were taken out of the air or out of the hat and they said, we'll just put this in here. We got to put some numbers--put these numbers. The Legislature can whip me on this. All you need are Senator Karpisek's vote and 32 of the rest of you. When you get tired of me talking on this bill and we've been on it eight hours, Senator Karpisek can try to get the rest of you to foolishly go along with him and invoke cloture. And if you do,...poor Senator Christensen, referred to earlier as Senator "Christian"--not by me but by the Chair--poor Senator "Christian" going to say, wow, I got off lucky! Look how he's threatening all these people. If you invoke cloture, I will punish the Legislature for doing it. How many times have I said that? That's a threat? To him it is. And you know, brothers and sisters, a cardinal principle of psychology: If a person apprehends something as being real, it is real to that person and its consequences. If he thinks there's an ogre under his bed when he turns off the lights at night, he's not going to turn off the lights at night, because that ogre is under there, as far as he's concerned. And if the light burns out before he can turn it back on, he swears he hears that ogre with that guttural breathing about to come from under that bed and launch himself on top of Senator "Christian" and do whatever ogres do to people. But while I'm on that subject of getting in and out of bed, Muhammad Ali used to say he was so fast that he could hit a light switch and be in bed before the room got dark. Anybody can do it, and I've told you how you do it--anybody can do it! Analyze it! [LB844]

SENATOR LANGEMEIER: One minute. [LB844]

SENATOR CHAMBERS: Move your bed next to the light switch, get in bed, hit the light switch, and before the room is dark, you're in bed. These things are not hard to do. Magicians are masters of illusion and distraction. When we come to legislation, sometimes those things come into play inadvertently, and I don't want them to inadvertently be done. I don't want this bill to be an exercise in illusion. I don't want it to be an exercise in misdirection. I want to focus on the fact that it is not good legislating, it is not a sound course for us to take, and I'm going to spend eight hours trying to persuade the rest of you,... [LB844]

SENATOR LANGEMEIER: Time. [LB844]

SENATOR CHAMBERS: ...or beat Senator Karpisek into submission. Thank you, Mr.

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President. [LB844]

SENATOR LANGEMEIER: Thank you, Senator Chambers. Senator Wallman, you're recognized. [LB844]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. I would like to ask Senator Pirsch a question. [LB844]

SENATOR LANGEMEIER: Senator Pirsch, would you yield? [LB844]

SENATOR PIRSCH: I would. [LB844]

SENATOR WALLMAN: Would you say it's possible, if you have too much marijuana, to be driving under the influence of marijuana? [LB844]

SENATOR PIRSCH: Yes. It is possible to be driving under the influence of marijuana. [LB844]

SENATOR WALLMAN: And what is the penalty for that? [LB844]

SENATOR PIRSCH: It's actually the...it's the same statute that is utilized for the drunk driving. It's...the name of the statute should more appropriately be driving under the influence of alcohol or controlled substance, so... [LB844]

SENATOR WALLMAN: Thank you, Senator Pirsch. And here's, I think, where we're going. We punish the people who abuse alcohol worse than we do drugs, and I hate to put more, you know, rules and regulations on children, as much as anybody. And...but are we pushing from one, you know, controlled substance to another? Alcohol is an addictive substance, and having a relative who was an alcoholic, we all know how that can be. And so...but I think Senator Karpisek is trying to even the playing field here, as we said about the smoking ban. I heard level the playing field. I've heard that over and over. Did we level the playing field? Not to some small businesses, we didn't. So I thank Russ for submitting this bill, and we'll see where it goes. Thank you, Mr. President. [LB844]

SENATOR LANGEMEIER: Thank you, Senator Wallman. Mr. Clerk, items for the record. [LB844]

CLERK: Mr. President, Natural Resources Committee, chaired by Senator Loudon, reports LB534, LB799, LB800, LB1059, LB1132 as indefinitely postponed. Government Committee, chaired by Senator Aguilar, reports LB720, LB721, LB878, LB889 to General File, with amendments. Enrollment & Review reports LB766, LB855, LB756, and LB912 to Select File, some which have Enrollment and Review amendments

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pending. Senator Friend would like to print an amendment to LB1096, Senator Chambers to LB844. I have some name adds, Mr. President: Senator Lathrop to LB606; Senators Avery, White, Ashford, Preister, Lathrop, McGill to LB786; and Senator Lathrop would like to withdraw his name from LB1019. Announcement: Education Committee will meet in Executive Session today upon adjournment in Room 1023--Education Committee, Room 1023. (Legislative Journal pages 705-710.) [LB844 LB534 LB799 LB800 LB1059 LB1132 LB720 LB721 LB878 LB889 LB766 LB855 LB756 LB912 LB1096 LB606 LB786 LB1019]

I do have a priority motion. Senator Friend would move to adjourn until Wednesday morning, February 27, at 9:00 a.m.

SENATOR LANGEMEIER: You have heard the motion to adjourn until Wednesday, February 27, at 9:00 a.m. All those in favor say aye. All those opposed say nay. The ayes have it. We are adjourned.