

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

Floor Debate
May 01, 2013

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PRESIDENT HEIDEMANN PRESIDING

PRESIDENT HEIDEMANN: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the seventieth day of the One Hundred Third Legislature, First Session. Our chaplain for today is Senator Harms. Please rise.

SENATOR HARMS: (Prayer offered.)

PRESIDENT HEIDEMANN: Thank you, Senator Harms. I call to order the seventieth day of the One Hundred Third Legislature, First Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

PRESIDENT HEIDEMANN: Thank you, Mr. Clerk. Are there any corrections for the Journal?

CLERK: I have no corrections, Mr. President.

PRESIDENT HEIDEMANN: Thank you. Are there any messages, reports, or announcements?

CLERK: I have a communication from the Governor with respect to an appointment to the Motor Vehicle Industry Licensing Board. That will be referred to Reference Committee for referral to standing committee for a confirmation hearing. That's all that I have, Mr. President. (Legislative Journal pages 1191-92.)

PRESIDENT HEIDEMANN: While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR156, LR157, LR158, LR159, and LR160. Mr. Clerk, first item. [LR156 LR157 LR158 LR159 LR160]

CLERK: Mr. President, the first bill on General File: Senator Dubas, LB93A. (Read title.) [LB93A]

PRESIDENT HEIDEMANN: Senator Dubas, you are recognized to open on LB93A. [LB93A]

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SENATOR DUBAS: Thank you very much, Mr. Lieutenant Governor. And good morning, colleagues. LB93A is the appropriations bill for the implementation of the veteran driver license bill and the accompanying registry that the Department of Veterans Affairs would like to begin to compile, to help them as they work to serve the veterans of our state. You know, the fiscal note is pretty self-explanatory. I will be having some further visits with the Department of Veterans Affairs. I know we're all being asked to find ways to reduce our fiscal notes or find savings in any way. And so I will, between General and Select, have a visit with the department to see if there are some things that we can do to further reduce this fiscal note. And I'd appreciate the support and advancement of LB93A. [LB93A]

PRESIDENT HEIDEMANN: Seeing no one wishing to talk, Senator Dubas, you are recognized to close on LB93A. Senator Dubas waives. The question is the advancement of LB93A to E&R Initial. All in favor vote aye; all opposed vote nay. Mr. Clerk, please record. [LB93A]

CLERK: 26 ayes, 0 nays, Mr. President, on the advancement of LB93A. [LB93A]

PRESIDENT HEIDEMANN: LB93A does advance. We will pass over LB23A and continue on to LB553A. [LB93A LB553A]

CLERK: LB553A, Senator Murante, I have no amendments to the bill, Senator. [LB553A]

PRESIDENT HEIDEMANN: Senator Murante for a motion. [LB553A]

SENATOR MURANTE: Mr. President, I move to advance LB553A to E&R for engrossing. [LB553A]

PRESIDENT HEIDEMANN: All in favor say aye. All opposed say nay. The bill is advanced. Mr. Clerk, next item. [LB553A]

CLERK: Mr. President, LB410 on General File. The bill was originally introduced by Senator Sullivan. (Read title.) The bill was introduced on January 22, referred to the Education Committee, advanced to General File. I do have Education Committee amendments pending, Mr. President. (AM882, Legislative Journal page 932.) [LB410]

PRESIDENT HEIDEMANN: Thank you, Mr. Clerk. Senator Sullivan, you are recognized to open on LB410. [LB410]

SENATOR SULLIVAN: Thank you, Mr. President. And good morning, colleagues. And I hope you'll settle in for just a little bit because this is the annual technical bill from the

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Education Committee. It is a committee priority bill. And as I said, it's the annual technical bill for preschool-through-high school education. There are many changes that, simply, revise some reporting deadlines, allows clarification, in some cases eliminates obsolete language, and then, simply harmonizes provisions with other laws. It is technical in nature. But I would like to, for the next few minutes, point out some more substantive provisions of LB410. First of all, it would require school districts to admit children who turn five between August 1 and October 15, who meet current eligibility requirements. It's currently up to the school board to decide whether or not to admit children in this age group who: attended kindergarten in another jurisdiction; anticipates relocation to another jurisdiction that would allow admission; or has demonstrated their capability to carry the work of kindergarten through a recognized assessment procedure approved by the board. Another provision allows students who move from February 1 or whose district merges after February 1 to apply for option enrollment without being released from the resident district for the following school year. Currently, the students have to apply within 30 days of the move or merger. A third provision is it clarifies that the enrollment option program does not relieve parents of compulsory attendance obligations, particularly while waiting for acceptance of an application. A fourth provision: It requires districts to charge fees sufficient to cover the cost for transporting option students. But I will tell you that there is a committee amendment that will be coming that removes this change. Another provision: It eliminates the requirement for the department to reimburse school districts for transportation expenses for option students who qualify for free lunches. I should note that the Legislature has not provided funding, nor has the department made any reimbursements, for students that qualify for free lunches since 2001-2002 school year. School districts continue to either reimburse parents or provide transportation for students who qualify for free lunches. Option students with disabilities also continue to receive transportation, which is partially reimbursed to the school district through special education funds. Another provision of LB410 clarifies that an allowance paid to the parents may not substitute for transportation for open enrollment students who qualify for free or reduced-price lunches. A seventh provision of LB410 modifies reporting requirements related to student absences. It modifies that in that it reduces the frequency of reporting from monthly to quarterly and removes nonpublic schools from the requirement. By way of background, currently, schools are required to report the number and reasons for long-term suspensions, expulsions and excessive absenteeism, referrals to the county attorney for excessive absenteeism, and contacts with law enforcement officials other than school resource officers. The revised provisions would also require reporting regarding individual student information on attendance. The new data system allows more accurate tracking of the information and, thus, I believe it better serves students. Another provision...and I will preface this by saying this is something that, although it gets a little confusing, we're going to change this in the committee amendment. Currently, under LB410, we would add tuition paid and transportation fees paid to other districts into what we call the GFOE, General Fund operating expenditures, for purposes of calculating TEEOSA. However, we've

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discovered that, if we were do this, we would add approximately \$13.7 million to TEEOSA for fiscal year 2013-14, an additional \$17.5 million for '14-15. So we will be removing this with the committee amendment. A ninth provision of this technical bill is it eliminates an exception to spending limitations for payments for transfer of land. This is a budget exception that has not been used, so, thus, we are eliminating it. Another one allows programs funded by the Early Childhood Education Endowment Cash Fund to continue serving at-risk children who turn three, continue to serve them until the end of the program year. The current language limits participation in those programs to children who are not yet three. So it just, simply, says, if you turn three midway, you can finish out the program year. Another provision: We are replacing the terms "mentally retarded" with "intellectually disabled" and "behaviorally disordered" with "emotionally disturbed." This is in line with new federal terminology. And if you recall, in our discussion of LB23 last week, there are similar changes being made in that legislation on a more broad basis. Another provision: We're clarifying that the final deadline for distance education equipment reimbursement applications is July 1, 2013, and that the final reimbursements will be made in fiscal year 2013-14. Now I want to mention that this is in no way changing what the current circumstances are. It just, simply, identifies in statute what we really mean. A third...another provision is that we simplify the definition of private postsecondary career schools and increase the required fund balance for the Tuition Recovery Cash Fund. By way of explanation, the Tuition Recovery Cash Fund is used to reimburse tuition to students who are harmed by a private postsecondary career school ceasing operations without refunding tuition. And lastly, LB410 authorizes the use of the prior year annual financial report for the calculation of TEEOSA when the report is not filed by the deadline. The commissioner may direct the withholding of state aid and property taxes. But the data is necessary to complete the calculation process for other districts. Colleagues, that, in essence, are the details of LB410. I encourage your adoption of this legislation. [LB410 LB23]

PRESIDENT HEIDEMANN: Thank you, Senator Sullivan. (Doctor of the day introduced.) As the Clerk stated, there are amendments from the Education Committee. Senator Sullivan, as Chair of the committee, you are recognized to open on the amendment. [LB410]

SENATOR SULLIVAN: Thank you, Mr. President. And as I said in my opening on LB410, there are some technical details, some corrections on drafting errors, date changes that need to be made in this legislation. And that, essentially, is what we're doing with this committee amendment. First of all, it removes changes to requirements for option enrollment transportation agreements. Excuse me. In the green copy, the removal of an exclusion would cause option enrollment transportation agreements to include a fee sufficient to pay the additional costs of such transportation. The inclusion of this change in the green copy was simply an unintentional drafting error. The other one had to do with the inclusion of certain things in the GFOE. We are...in the green copy, tuition paid and transportation paid to other districts would be included in the

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definition of GFOE. But as I said, this causes a significant increase in the fiscal note for TEEOSA to the tune of \$13.7 million for 2013-14 and \$17.5 million for 2014-15. So with this committee amendment, we are removing those changes to the definition of GFOE for transportation, tuition paid, and transportation paid to other districts. The third component has to do with updates to references of the federal Family Educational Rights and Privacy Act, better known to us as FERPA. In the green copy, the references are updated to include the provisions as they existed on December 13, 2010. In the committee amendment, the references are updated to include the provisions as they existed this year, February 1, 2013. In current statute the references include the provisions as they existed on January 1, 2003. So those are the components of the committee amendment and, again, I urge the adoption of AM882. [LB410]

PRESIDENT HEIDEMANN: Thank you, Senator Sullivan. Is anybody wishing to speak on AM882? Seeing none, Senator Sullivan to close. Senator Sullivan waives closing. The question is, shall the committee amendment to LB410 be adopted? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB410]

CLERK: 29 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB410]

PRESIDENT HEIDEMANN: The amendment is adopted. [LB410]

CLERK: Mr. President, Senator Sullivan would move to amend with AM1167. (Legislative Journal page 1165.) [LB410]

PRESIDENT HEIDEMANN: Senator Sullivan, you are recognized to open on AM1167. [LB410]

SENATOR SULLIVAN: Thank you, Mr. President. Excuse me. I've got this amendment and another one that will follow because of information that was brought to us with some particular circumstances and also from the Department of Education that, again, address some technical natures but also improve some of the thing...details that we are...that we currently have in LB410. The first one has to do with the Center for Student Leadership and Extended Learning Act. Some of you may remember--and it was my first year here in the Legislature--that I cosponsored a piece of legislation that created that act. And what essentially it did was, sort of, solidified the...from the perspective of the Department of Education, the financial support and administration of career student organizations. Those organizations, I know that many of us are very familiar with them, FFA, FCLA, DECA, and all of our discussion of late about the importance of preparing children and students for the work force of tomorrow. These career student...career education organizations take on, I think, heightened importance. And as I said, with the passage of that act in 2009, that really put the administration of those organizations through the Department of Education on more solid footing. It was brought to our

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attention by the...and I should say...back up. I say, too, that the department has a long history, certainly, way back, much before 2009, of administering these and supervising and sponsoring and supporting these student organizations. So it's nothing new. But in the whole course of limited resources of...sometimes, some of these things get shuffled and don't receive as much priority. That being said, the department came to us and said, okay, we have information on the books, in statute, that gives us direction on how to administer these programs and how to support them and supervise them. But when to...when that Center for Student Leadership and Extended Learning Act was enacted in 2009, in some respects, those two statutes are not necessarily in conflict but somewhat redundant. So what this amendment does: It provides for the outright repeal of Sections 79-297 through 79-2,100, which pertains to the Department of Education's administration of career education student organizations. In effect, the department says, these sections are obsolete because of the passage of that Center for Student Leadership and Extended Learning Act in 2009. The current section that refers to that says--and that is Section 79-775--requires the Center for Student Leadership and Extended Learning within the department to, and I quote, provide ongoing financial and administrative support for state leadership and administration of Nebraska career education student organizations. The provisions of Section 79-297 through 79-2,100 can be accounted for within this language, thus, eliminating the need for these sections. That's the background of why we are asking for the outright appeal (sic) of those certain sections. And I ask for support of AM1167. [LB410]

PRESIDENT HEIDEMANN: Thank you, Senator Sullivan. Is anyone wishing to talk on AM1167? Senator Kolowski, you are recognized. [LB410]

SENATOR KOLOWSKI: Thank you, Mr. President. Good morning, fellow senators. I stand in support of this AM1167. As explained by Senator Sullivan, it's...as a high school principal in my past, all those alphabet soups you heard this morning, from the DECAs, FBLA, VICA...also, there is an FEA--that's Future Educators Association--that is important to let this body know about because it's new to the scene in these...in this category of student activities. And it's a very powerful one for recruitment of teachers for our future. And I would move...I would suggest and ask for your green light on this amendment and thank Senator Sullivan for her bringing this forward. Thank you. [LB410]

PRESIDENT HEIDEMANN: Thank you, Senator Kolowski. Is anyone else wishing to speak on AM1167? Seeing none, Senator Sullivan to close. Senator Sullivan waives closing. The question is, shall AM1167 pass? All those in favor vote aye; all those opposed vote nay. Have you all voted who wished? Mr. Clerk, please record. [LB410]

CLERK: 30 ayes, 0 nays, Mr. President, on adoption of Senator Sullivan's amendment. [LB410]

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PRESIDENT HEIDEMANN: The amendment advances. [LB410]

CLERK: Senator Sullivan would move to amend with AM1205. (Legislative Journal page 1189.) [LB410]

PRESIDENT HEIDEMANN: Senator Sullivan to open on your amendment. [LB410]

SENATOR SULLIVAN: Thank you, Mr. President. As I said, this was also an additional request idea that came to us that fits into the technical nature of LB410. It has to do though with option enrollment. In the broad sense, I think, it's important to just, kind of, think about what option enrollment does or allows. And in its broadest sense, it really allows a student to access educational opportunities that best suit them--maybe not necessarily where they live but where they think they can best achieve those opportunities by, perhaps, moving to another district. That being said, we do have in statute certain parameters of...within which that needs to take place. We are currently making some changes in that respect with AM1205. Currently, students are only allowed to use one...to use option enrollment more than once if the student relocates to a different resident school district, the option school district merges with another school district, the option school district is a Class I district, the option would allow the student to continue current enrollment in a school district, or the option would allow the student to enroll in a school district in which the student was previously enrolled as a resident student. Currently, the exceptions provide additional options only if the option meeting the exception criteria occurs after another option has been exercised. Now the amendment would not count options pursuant to an exception toward the one-option limit regardless of the order of events. In other words, if you use one of these exceptions, it does not count against their one option. The amendment would also add an exception for students who have completed either the grades offered in the school building originally intended in the option school district or the grades immediately preceding the lowest grade offered in the school building for which a new option is sought. The amendment would also allow a waiver of the deadlines and release requirements for students whose option qualifications for 2013-14 change due to the legislation. That, in essence, is AM1205. And I appreciate your support of this. Thank you, Mr. President. [LB410]

PRESIDENT HEIDEMANN: Thank you, Senator Sullivan. Is there any discussion on AM1205? Seeing none, Senator Sullivan to close. Senator Sullivan waives. The question is, shall the amendment to LB410 be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to vote? Mr. Clerk, please record. [LB410]

CLERK: 26 ayes, 0 nays, Mr. President, on the adoption of Senator Sullivan's amendment. [LB410]

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PRESIDENT HEIDEMANN: The amendment is adopted. [LB410]

CLERK: I have nothing further on the bill, Mr. President. [LB410]

PRESIDENT HEIDEMANN: We continue on with discussion on LB410. Senator Gloor, you are recognized. [LB410]

SENATOR GLOOR: Thank you, Mr. President. Good morning, members. I wonder if Senator Sullivan would yield to a question or two. [LB410]

PRESIDENT HEIDEMANN: Senator Sullivan, will you yield? [LB410]

SENATOR SULLIVAN: Yes, I would. [LB410]

SENATOR GLOOR: Thank you, Senator Sullivan, for the summary sheets. These are very helpful. And I've picked out a couple that I think might be worth, at least, having on the record by way of explanation. I'm talking about these...the particular summary sheet now on the bill itself, LB410, provision marked number 2 here, students who move after February 1 or whose district merges after February 1 have to apply for the open option versus what currently is in place, students having to apply within 30 days of a move or merger. Could you explain to me, please, on number 2, the reasons for that, what it means. And then I would take a look at number 7, which has to do with reporting requirements for absenteeism. Since we've, excuse me, had a lot of discussion as relates to our youth delinquency problems, this clearly has been an issue that we've talked about in the body. And I'd be interested in your explanation on number 7 and the reasons behind that. And with that, I'd yield the rest of my time to Senator Sullivan to answer those two questions. [LB410]

PRESIDENT HEIDEMANN: Senator Sullivan, 3 minutes and 33 seconds. [LB410]

SENATOR SULLIVAN: Thank you, Senator Gloor. First of all, in response to your concern about number 2, allowing students who move after February 1 or whose district merges after February 1, I think that has to do with just, simply, clarifying the dates. And we cleaned that up in the last amendment that I introduced, so it's just a date clarification. And you're right about number 7. We have spent quite a bit of time in the last several sessions talking about how to deal with truancy and excessive absenteeism. And I think, again, this just, sort of, clarifies, makes it a little easier to track the reporting process and makes it a little easier to...for districts to determine what they, in fact, should report and who they should report to. So again, I think it's...it doesn't change the intent. It doesn't change, really, the process. But it just makes it a little more manageable for districts and that's, simply, what we're trying to do. [LB410]

PRESIDENT HEIDEMANN: Thank you, Senator Sullivan and Senator Gloor. Senator

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Nelson, you are recognized. [LB410]

SENATOR GLOOR: Thank you, Mr. President, members of the body. I have a question for Senator Sullivan if she will yield. [LB410]

PRESIDENT HEIDEMANN: Senator Sullivan, will you yield? [LB410]

SENATOR SULLIVAN: Yes, I will. [LB410]

SENATOR NELSON: Thank you, Senator Sullivan. This is on the summary sheet for LB410, item 13 on the reverse side. I just, as a matter of interest, I'm a little curious about the Tuition Recovery Cash Fund,... [LB410]

SENATOR SULLIVAN: Um-hum. [LB410]

SENATOR NELSON: ...what that's supposed to cover, if you know. And when we're talking about...well, what does...what is the fund established for? And it appears if...for instance, there would be a refund of tuition here if a private school ceases operations. Could you explain that just a little bit, the purpose of the fund and what it amounts to and...? [LB410]

SENATOR SULLIVAN: Okay, well, just as I indicated, the purpose of it is, in the event that a private postsecondary career school goes out of business, ceases operation, without refunding tuition, then this fund helps reimburse that, basically, unused tuition for the students. Now if you go to the...if you were...would refer to the fiscal note, about the second to the last paragraph, that gives you a little bit of background as far as how that...how we get money into the cash...that Tuition Recovery Cash Fund and how it accumulates over time. Let's see. The current law requires the fund to be maintained at a minimum of \$150,000 to a maximum of \$300,000. The balance in the fund was, as of the end of this...January 31, 2013, was \$281,000, approximately. And the fund increases on each month based on interest received. So current law provides for the State Board of Education to use funds received in excess of the maximum to provide grants and scholarships for students attending private postsecondary schools. But the real meat of it is retained there in the event that some student would be stung, so to speak, by an institution going out of business and their not being able to complete their education there. [LB410]

SENATOR NELSON: All right. Thank you for that. I should have noted that on the fiscal note. I didn't think to look there. So I appreciate the explanation. Thank you, Senator. [LB410]

SENATOR SULLIVAN: Yes. [LB410]

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SENATOR NELSON: Thank you. [LB410]

PRESIDENT HEIDEMANN: Thank you, Senator Nelson. Is anyone else wishing to discuss LB410? Seeing none, Senator Sullivan, you are recognized to close on advancement of LB410. [LB410]

SENATOR SULLIVAN: Thank you, Mr. President. I appreciate not only the support of the amendments that we've approved but also the questions that were asked. These technical bills, sort of, cause one's eyes to glaze over. But they are important because, as I said at the onset, they clarify details within the statutes, they eliminate some obsolete language, and they basically help our statutes function more effectively and, in turn, help school districts that have to meet the standards of these statutes be able to operate more effectively. So I appreciate your advancement of LB410. Thank you. [LB410]

PRESIDENT HEIDEMANN: Thank you, Senator Sullivan. The question is advancement of LB410 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all of you voted? Record, Mr. Clerk. [LB410]

CLERK: 33 ayes, 0 nays, Mr. President, on the advancement of LB410. [LB410]

PRESIDENT HEIDEMANN: LB410 does advance. Speaker Adams for an announcement. [LB410]

SPEAKER ADAMS: Thank you, Mr. President. Members, I hope that I have your attention. And if you're not here on the floor right now, I hope that your offices will be listening, your staff. We are, as you see at the top of the agenda, at the 70th day. And we still have work to do. We've been productive but we have work to do. And what I'd like to do is to offer some slight changes in our scheduling process and see how this works. I want to maintain productivity and I want to maintain quality of argument while we're here on the floor. If you'll notice the agenda for today, at 5:00, we are switching over to Final Reading. We have a lot of bills on Final Reading, not just all those consent calendar bills but others. So we are going to begin at 5:00 today on Final Reading. However, originally, this was planned to be late night. We will go until about 6:30, and there won't be any food. And we'll end it for tonight. Now the next thing that we will do tomorrow: We will come back to...I haven't decided what bills we'll come back to tomorrow, but we plan to work through the noon hour tomorrow. But we will end the day on Final Reading, whatever we don't finish today plus some other Final Reading that needs to appear before we go home tomorrow. Next week the focus of the week will be the budget. Now there certainly may be other bills that we're going to have to deal with. But that will be the focus of the week. And if you recall, several weeks ago I proposed that, beginning with the budget, plan for late night, every night. Next week...I want to suggest something. Next week, I think, what we ought to do is to plan for 6:30 every

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night and no food. We work through until 6:30. Now I do want to add to that. I do withhold the right, if we're in the middle of something and it's 6:30, to move beyond that in time. We're here to get the people's work done. And I know we all have things we need to do. I get that. Last night, prior to 5:00, we had 17 people checked out. And we all have reasons, I understand that, and many of them very valid. But we have 20 working days left. We have work to do. There's a necessity for quality of deliberation and debate. And we need everybody here as best we possibly can. And I am hoping that, maybe, if we're going to...we'll experiment next week. If we're leaving at 6:30, maybe that also increases our focus, understanding that if we need to go late, we will go late to get the people's work done. But there won't be any food next week. We'll plan to go to 6:00 or 6:30. If we need to go beyond that, we will. And we'll try that for next week and for tonight. And if there are questions that you have or that your staff has, I'll certainly be willing to try to answer those things or my office will. Thank you, Mr. President.

PRESIDENT HEIDEMANN: Thank you, Speaker Adams. We now return to LB23A, Mr. Clerk. [LB23A]

CLERK: Mr. President, LB23A on Select File, no E&Rs. Senator Hadley, I have AM1212 with a note you wish to withdraw that amendment, Senator. [LB23A]

SENATOR HADLEY: Correct. [LB23A]

CLERK: Mr. President, Senator Hadley would move to amend with AM1225. (Legislative Journal page 1193.) [LB23A]

PRESIDENT HEIDEMANN: Senator Hadley to open on AM1225. [LB23A]

SENATOR HADLEY: Mr. President, members of the body, you remember you...we passed LB23 on Select File, and we made some changes to get some money to the General Fund to get the fiscal note done. And this is the trailing A bill. And it basically has to do with cash funds and federal funds. I would ask for your green vote on LB23A. [LB23A LB23]

PRESIDENT HEIDEMANN: Thank you, Senator Hadley. Is anybody wishing to discuss on LB23A? The question is, shall the amendment to LB23A adopt? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB23A]

CLERK: 33 ayes, 0 nays on adoption of Senator Hadley's amendment, Mr. President. [LB23A]

PRESIDENT HEIDEMANN: The amendment is adopted. [LB23A]

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CLERK: Senator Murante, I have nothing further on the bill, Senator. [LB23A]

PRESIDENT HEIDEMANN: Senator Murante for a motion. [LB23A]

SENATOR MURANTE: Mr. President, I move to advance LB23A to E&R for engrossing. [LB23A]

PRESIDENT HEIDEMANN: LB...all those in favor vote...say aye. All those opposed vote...say nay. LB23A does advance. Mr. Clerk. [LB23A]

CLERK: Mr. President, reverting back to General File, LB545, a bill by Senator Dubas, relating to Public Service Commission. It changes appeal procedures. Introduced in January, referred to Transportation and Telecommunications. Bill was advanced to General File, has been discussed on General File on April 22. At that time, committee amendments were considered and adopted. I now have an amendment to the bill from Senator Dubas, Mr. President. (AM1209, Legislative Journal page 1189.) [LB545]

PRESIDENT HEIDEMANN: Senator Dubas, would you like to refresh on LB545? [LB545]

SENATOR DUBAS: I certainly will. And I appreciate the discussion that we had on the initial introduction of this bill and the amendment. The amendment becomes the bill. This bill is the results of several years of work among varied interested stakeholders and the Public Service Commission. You know, for the lay person, it is very hard for us to grasp what the court proceedings entail and how the legislative...or how the legal process works. And so it's been my...I appreciated the questions that were raised. They were very appropriate and legitimate policy questions. And I've worked very hard, between the last time we discussed this bill and now to try to get some of those questions answered. LB545 just makes changes to the appeals process for orders of the Public Service Commission with the hope that it will create efficiencies in how judicial resources are used. Because the Public Service Commission is a quasi-judicial body, multiple steps of review aren't always necessary, and relitigation of the issues increases cost. And I really want to emphasize this point: The costs are fully borne by the ratepayers. The ratepayers pay for everything associated costwise with these types of appeals. And so I certainly don't want to do anything that jeopardizes due process. But by the same token, if there are ways we can bring efficiencies into the process so that we can reduce or minimize those costs to the average consumers, I think that's a good thing. So as I said, this is the results of a considerable amount of work over the last several years. I do have the amendment that addresses some of the concerns that were raised in the initial discussion on LB545. And as I introduce that amendment, I will go further into the explanation of the bill. [LB545]

PRESIDENT HEIDEMANN: Thank you, Senator Dubas. Mr. Clerk. [LB545]

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CLERK: Mr. President, Senator Dubas would move to amend the bill with AM1209. (Legislative Journal page 1189.) [LB545]

SENATOR DUBAS: Thank you very much, Mr. Lieutenant Governor. AM1209 is the result of some questions that were raised during discussion on the initial introduction of LB545. It deals with the standard of review for the court processes...for the court process. And if we are moving to not using the district court and going straight to the Court of Appeals, this amendment will require that standard of review to be de novo. And my understanding of that term means that the court would go back and look at the case from the very beginning, looking at everything, taking everything into consideration. There may be some attorneys on the floor who can give you a better explanation of that. But this amendment is a result of some of the concerns that were raised on LB545. [LB545]

PRESIDENT HEIDEMANN: Thank you, Senator Dubas. Those wishing to speak on the amendment are: Senator Schumacher, Senator Burke Harr, Lautenbaugh, and Pirsch. Senator Schumacher, you are recognized. [LB545]

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. This bill is kind of interesting because the regulator and what appears to be the regulatee seem to be all for it. Now it's a pretty rare bird when a regulatee wants less rights and is worried about fees and expenses that supposedly get passed onto the consumer. And that's what's wrong in this picture. There is another party that was not testifying, that is not in support, that probably doesn't even realize what's going on or that they could be impacted. And that is the public, the consumers, can't be worried about some minor court cost on an appeal action. And I think, as we will find out later, the number of appeals out of the court or out of the Public Service Commission are reasonably limited. So what we are seeing is an effort to up the ante against an appeal where the public might be involved to take it to a more expensive Court of Appeals, to try to limit the access and make the Public Service Commission not only judge and jury but, in some cases, also Legislature. What are some of the things where the public might be concerned about? Well, rate setting. Gee, if the regulator agrees to a rate increase, that's wonderful. They both can agree to that. Consumer gets stuck, particularly if you start looking at how...what happens with the rate increase. Rate increases go into the pocket of the regulated party. That regulated party, if you look at the public accountability statistics, pays lots of money to lobbyists and to campaigns who turn around and elect the Public Service Commission. So there's every incentive for it to be a great, good party there and nobody really want to appeal and, if there is, kind of short-circuit it through an expensive appeal. There's also a big difference here because, at the district court, the district court is a trier of fact. They're used to looking at evidence, interpreting the evidence, and applying the law. And if it is complex enough where they say, gee, I don't understand this, they have got the right under district court

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rules to call in a referee or a guy or gal named a "special master" to basically sort through things and help the judge make a decision because that's what district courts do. They look at the facts and they look at the law and they make a decision. Appeals Courts don't do that, nor are they equipped. They are not authorized, to the best of my knowledge--and I had the Court Administrator's Office check and I believe that the information is right--to have a special master or a referee to sort through any complicated information. What we are attempting to do with this legislation is to short-circuit the normal judicial process in position for every other regulatory agency. If it's good for the Public Service Commission, this short-circuiting, then why isn't it good for the Department of Environmental Control (sic)? Why isn't good for the Department of Revenue? Why even have the APA? And those are less susceptible to the political money moving back and around than the Public Service Commission is. The Public Service Commission can set, my friend, the Universal Service Fund, now set at the highest in the nation, at 6.95 percent,... [LB545]

PRESIDENT HEIDEMANN: One minute. [LB545]

SENATOR SCHUMACHER: ...has perfect ability to do it. They could double it if they want. Why not make it hard for the public, if they ever got the money and organization to take on lawyers from 40 phone companies, to make the Public Service Commission justify that before the district court? There is a lot of authority and a huge amount of money that the Public Service Commission controls in the Universal Service Fund, in rate setting, in all of these issues. And if you can make it a happy little family event, you do. But let's not forget about the consumer and the taxpayer who is kind of pushed out of this process and having their rights and access more and more limited. If you ever want to see something interesting, go visit a Public Service Commission hearing. Go visit those things of the Universal Service Fund where they advertise once in the paper and then declare a \$60 million a year assessment on your phone bills. That happy little pact needs the intervention of a district judge. [LB545]

PRESIDENT HEIDEMANN: Time. Thank you, Senator Schumacher. (Visitors introduced.) Senator Burke Harr, you are recognized. [LB545]

SENATOR HARR: Thank you, Mr. Lieutenant Governor, members of the body. I want to thank Senator Dubas for bringing this amendment. I had a lot of issues with the bill as it was originally brought that I aired my grievances on. My original issue was we currently go...the Public Service Commission goes under the APA, which is the Administrative Procedure Act. They are now asking themselves to be treated differently than everybody else, every other agency. Now they can make an argument, and I'll see what it is in a second. But I had a little worry that they wanted to completely bypass the district court and, at the same time, they wanted to...the district court had a higher level of appeal, meaning the judge could look at more, the appellate judge who is, at this point, a district court judge, and wanted this higher level, which made it harder to

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overturn, so that it made it...them much more powerful. And they didn't really provide a public policy reason at the time. I didn't hear it the other night. I had some concerns. They have since, to their credit...we sat down with them the next day, and I want to thank them for sitting down. And when I talked to them I said, if you want to eliminate a level of appeal, you've got to at least have the same standard of review. To their credit, after introducing a less-than-authentic, I'll say nicely, amendment, they did finally agree to introducing an amendment, which is AM1209. So I want to thank them for doing that. And I think, at the end of the day, even though this does bypass them and treat them differently than every other agency, I want to...I think I'm going to be okay with this bill. But I do want to ask Senator Dubas, if I may, some questions. [LB545]

PRESIDENT HEIDEMANN: Senator Dubas, will you yield? [LB545]

SENATOR DUBAS: Yes, I will. [LB545]

SENATOR BURKE: Thank you. And thank you, Senator Dubas, again, for all your hard work on this and for bringing everyone together. Your work on this has been very good. My question though is why--and this is for the record--do we treat the Public Service Commission different than every other agency? Why should we? [LB545]

SENATOR DUBAS: Well, the Public Service Commission is different than a lot of other agencies in the fact that it's set up as a quasi-judicial form. And so it does deal with a lot of hearings and fact finding and those types of things. So they have some powers and authorities that other agencies don't necessarily have. [LB545]

SENATOR HARR: I guess now I am confused though. And I think I'm okay with this but, again, I'm confused that...they're quasi-judicial, you're saying? Okay. [LB545]

SENATOR DUBAS: The way that...yes, the way that they're set up. [LB545]

SENATOR HARR: So how does that differ from the other agencies who are fact finders, your alcohol, your Department of Insurance? [LB545]

SENATOR DUBAS: They are constitutional officers. They're elected,... [LB545]

SENATOR HARR: Okay. [LB545]

SENATOR DUBAS: ...where the others are appointees. [LB545]

SENATOR HARR: Okay, and that's where I thought you were going to go. And, yes, I agree with you that they are constitutional. But if you look, we, the body, decide--and I agree that they're constitutional--how they operate. And that's what we do with the other agencies. So you're saying the reason we should treat the Public Service Commission

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differently is because they're constitutional. I guess my question to you then is, why have we been treating them the same before? [LB545]

SENATOR DUBAS: Why we've been doing this process as it's set up right now? [LB545]

SENATOR HARR: Yeah, how...why have we been treating them the same as every other code agency before and now we're saying they're not? What has changed? Or why did we agree earlier, if you know? [LB545]

SENATOR DUBAS: In 2003, there were changes made, looking for uniformity, looking for a standard process. [LB545]

PRESIDENT HEIDEMANN: One minute. [LB545]

SENATOR DUBAS: There was a considerable amount of discussion at that time. Is this the right way to go? Over the course of time, since 2003...and at that time, natural gas was not a part of the Public Service Commission's...what they looked at, as far as rate setting. Since natural gas came in, that's brought some different issues that the Public Service Commission has had to deal with. But at that time, again, looking for uniformity, it has appeared, over this course of time, that this process isn't bringing that uniformity, that type of efficiencies...those types of efficiencies that they were looking for in 2003. [LB545]

SENATOR HARR: Okay, well, thank you. And just quickly, I just want to say that the purpose of the courts is not for efficiency. It is to interpret the statute. Thank you. [LB545]

PRESIDENT HEIDEMANN: Thank you, Senator Harr. Senator Dubas, you are recognized. [LB545]

SENATOR DUBAS: Thank you. Again, colleagues, this is...it's a good policy discussion. I think Senator Harr made that point very well. We, as the Legislature, do set that direction and where we need to go. As we've looked at what other states have put in place, while it's not always an entirely apples-to-apples comparison, the other states do have a two-step process. So whether it's the regulatory agency, then it goes to district court, Supreme Court, or whether it goes to appellate court and Supreme Court, the point being that it's a two-step process. This is not about cutting out the consumer. In fact, there's a public advocate that is a part of the process that is there to represent the consumers' interests. As I stated with Senator Harr, when this was put in place in 2003--and we've gone back and read those transcripts--there was a great deal of discussion about is this the right way to go. And at that time is when natural gas came under the jurisdiction of the Public Service Commission. Those types of hearings and

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rate setting are extremely complex. A lot goes in to making those decisions. And over the course of time, they...the way the system is set up has not proved to deliver what they thought would be delivered at the time as far as efficiencies. You know, and for some...and maybe that's not what we need to be doing. I think...excuse me. I'll back up. We do need to be efficient. But we also need to make sure that everybody is being represented, all the interests are being represented in the manner that they should be. And this didn't come...this bill didn't just come up without an extreme amount of time and effort and concern. You know, the natural gas people, especially, had concerns about going this direction. So these discussions have been taking place over the last two to three years about is this the way to go, if it is, why. For some, the ratepayers' concerns and saving money for the ratepayers might not be an issue. But I think for many of us, when we know that the ratepayers are paying all of the costs for this, as long as we are not circumventing due process, we're making sure everybody has their day in court, so to speak, if we are able to make sure that those ratepayers are not paying more than what need be, that is an important issue. The Public Service Commission is constitutionally created. We have something similar through our TERC process. No witnesses are actually involved in these hearings. It's only attorneys, so the courts are looking at a great deal of evidence that are being presented by the Public Service Commission. It's my understanding, in looking at the number of cases that have been appealed, that these would not overwhelm the courts. The appellate court does have staff. They have a three-judge panel. I think there are just a lot of things that, over the course of time, we've seen that the way the process is set up now is not working the way they had initially thought it would work by going this direction. We'll create a system that will take the ratepayers...and I think that's first and foremost. We need to be considering the ratepayers here into consideration, ensuring that there is due process, ensuring that things work the way that they're supposed to work, and move forward under that scenario. I've tried to take all of the questions and concerns that were raised in our initial discussion on LB545 into consideration. As we did the amendment, I think the standard of review was a very... [LB545]

PRESIDENT HEIDEMANN: One minute. [LB545]

SENATOR DUBAS: Thank you, Mr. Lieutenant Governor. I think the standard of review was a very legitimate question, again, ensuring and supporting that due process concern. And so we have introduced that amendment for the body to consider. I'd be happy to entertain any other questions or concerns or get any additional information for you as we move forward. Thank you. [LB545]

PRESIDENT HEIDEMANN: Thank you, Senator Dubas. Senator Avery, you are recognized. [LB545]

SENATOR AVERY: Thank you, Mr. President. Boy, let me give you a little bit of history on my relationship with the Public Service Commission. One of my first bills when I

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came to this Legislature in 2007 was a bill to stop the Public Service Commission from taking campaign contributions from the industries they regulate. If you look at the filings of the industry and the Public Service Commissioners, you will see that about 90 percent of their campaign cash comes from these industries that are supporting this bill. This is exactly the problem I was trying to prevent, where the Public Service Commission serves the industry and not the public. If you look at the name of the Public Service Commission, it has "Public" in its title. But does it serve the public or does it serve the industry? When 90 percent of your campaign cash is coming from the industry you are supposed to be regulating, it raises questions in my mind about: Are they regulating? If they are regulating, are they regulating on behalf of the ratepayers and the public or are they serving the interests of the industry? This is the very problem I was afraid was going to happen. And that is why I offered that bill. The Government Committee at that time didn't like it very much. In fact, the Chair, in the Executive Session, started out with the discussion by saying, I hate this bill. Well, it's not a...it was not a bad bill because it sought to do something that's in the public interest, not the private interest. So the question is, how independent is the Public Service Commission? And you take that to this bill and you have to ask the question, is it in the public interest for us to be short-circuiting a process that's in place to protect the public? The answer is no. This is a bad bill and you should look at it carefully and vote no. Thank you, Mr. President. [LB545]

PRESIDENT HEIDEMANN: Thank you, Senator Avery. Senator Chambers, you are recognized. [LB545]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I had not paid much attention to this bill as far as the specifics. I had listened to some of the debate with one ear while focusing both of my eyes on other bills that I was working on. But the reason I came upstairs: I was following the debate carefully this time. I listened to Senator Schumacher. I agree with everything that he said. I remember the bill that Senator Avery had offered. And that's what I was going to talk about, how it is that the Legislature opposed restricting campaign contributions to the Public Service Commission that could be made by those who were in the industry to be regulated. My whole attitude toward this bill has changed. This bill is not in the public interest, in my view. But I'd like to ask Senator Dubas a question. [LB545]

PRESIDENT HEIDEMANN: Senator Dubas, will you yield? [LB545]

SENATOR DUBAS: Yes, I will. [LB545]

SENATOR CHAMBERS: Senator Dubas, were you aware of that bill that Senator Avery is talking about, which was strongly opposed, which would limit what these regulated industry people could contribute to the campaigns of members of the Public Service Commission? [LB545]

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SENATOR DUBAS: I do remember something about it, yes. [LB545]

SENATOR CHAMBERS: Would you support such a bill? [LB545]

SENATOR DUBAS: I'd certainly want to look into it further to make sure that I was understanding it completely. [LB545]

SENATOR CHAMBERS: Do you see the problem that Senator Avery discussed as being a genuine problem or is it... [LB545]

SENATOR DUBAS: I do see that there is legitimate concerns with that, as with any other elected office that is taking money from people who may...who are campaigning for office who are taking money from people who may be perceived to be in their pockets. [LB545]

SENATOR CHAMBERS: But we're talking about an agency which is the last stop on the road to perdition to protect the ratepayers from winding up in perdition. Now what did the people on the Public Service Commission say was hurtful about the present method of handling these matters? What did the members of the commission say was contrary to the public interest by retaining the present system? [LB545]

SENATOR DUBAS: The fact that it was extending the amount of time that was being spent on these cases and the ratepayers are the ones who are paying for all of the costs related to these court proceedings. [LB545]

SENATOR CHAMBERS: And how much time did they say one of these proceedings would take, on the average? [LB545]

SENATOR DUBAS: On the average, it would appear that, if we go the direction that LB545 would go, it could potentially cut that time in half or a little less. One of the cases, in particular, that I looked at dealt with a grain warehouse. I believe that took about 15 or 16 months. And it was thought that, if we had this process in place, it would have taken seven to eight months. [LB545]

SENATOR CHAMBERS: Thank you. I'm not going to ask you legal-type questions. I want to ask Senator Burke Harr a question because he is a lawyer and now he likes the bill. [LB545]

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SENATOR KRIST: Senator Harr, will you yield? [LB545]

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SENATOR HARR: Yes. [LB545]

SENATOR CHAMBERS: Senator Harr, the Legislature can designate the types of cases which should be expedited, isn't that true? [LB545]

SENATOR HARR: Yes, it is. [LB545]

SENATOR CHAMBERS: And we could say these types of matters will be expedited. And that would be the law and it would have to be followed, isn't that true? [LB545]

SENATOR HARR: That is correct. [LB545]

SENATOR CHAMBERS: With that being said, what has been brought to your attention that is contrary to the public interest in the current system? And I don't want to hear this about money because we're talking about much more money that could impact the ratepayers than what would be paid in a legal proceeding. [LB545]

SENATOR HARR: Well, you're exactly right. Matter of fact, the money doesn't carry any water with me--sorry--either because there is no fiscal note savings on this. So the money is a red herring. What carried water with me is that there is still a de novo on the record review so that there is full and complete review. [LB545]

SENATOR KRIST: One minute. [LB545]

SENATOR CHAMBERS: What is wrong though with keeping the present system? [LB545]

SENATOR HARR: Personally, I don't see anything wrong with the current system. I think this might be an improvement in the fact that you have ratepayers out there...because what happens right now is there is a...when they file the rate change, after 90 days, whatever they file goes into effect automatically. And then, once the process is over, if, all of a sudden, the courts say the new rate is lower, then they have to go and find all those individuals who may have moved, may have died, whatever. So I kind of see an importance of shortening that period because it's easier to get the money back to the consumers who... [LB545]

SENATOR CHAMBERS: Because my time is up, I will stop here. [LB545]

SENATOR HARR: Okay. [LB545]

SENATOR CHAMBERS: But I've got my light on. Thank you, Mr. President. [LB545]

SENATOR KRIST: Thank you, Senator Chambers and Senator Harr. (Visitors

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introduced.) Returning to debate, Senator Burke Harr, you are recognized. [LB545]

SENATOR HARR: Thank you, Mr. President. I will follow where I left off. I don't really see a public policy reason to treat this agency differently other than what I started to say--and that's why I hit my light--is, if a natural gas company...and, really, let's talk. The Public Service Commission does more than just natural gas rates. However, this only applies to natural gas, what I'm going to talk about. And that is...and I'm a little out of my comfort zone. But as I have been told by people outside the glass, it is 90 days out after you apply for a rate increase. Whatever you apply for becomes the rate, and then there is a hearing. And depending on where that hearing...if the PSC comes back and says...let's say they...the only thing I know is gallons. I know that's not how it's measured, but I'm going to use that as an example. Let's say it's...and I'll use petroleum unleaded gas as my price point even though, again, I know that's incorrect. Let's say they...I...they want to raise the rate from \$3.50 to \$3.75 a gallon. After 90 days, it's raised to \$3.75, and then it goes through the process. If, at the end of that process, PSC, and through all the appeals, says, it should be \$3.65, you've got that \$0.10 difference, now that natural gas company has to go and find that ratepayer. And in the meantime, that ratepayer is overpaying. And that's a concern for me. So what I see is...and again, the purpose of the courts is not to be efficient. So that argument of efficiency doesn't carry water for me. The purpose of the courts is to interpret the law and to make sure that the quasi-judicial--in this case, PSC--has made the right finding. So I wanted to keep a high standard of review, which is that de novo on the record. We then eliminate the clearly erroneous, which is a lower level and harder to overturn. So what I've said was, fine, if you want to eliminate a level, we're going to keep the highest burden because I want that money to get back to that consumer as quickly as possible, in the shortest period, while still ensuring justice is served. So that's why I'm okay, in the natural gas realm, of shortening that period. I have problems, maybe, in some other areas. I keep hearing that natural gas rates is a very sophisticated part of the law. I've heard that over and over again. Senator Dubas says that. And, I guess, my issue is, why don't we just do a carve out for natural gas and say the APA applies to everyone else? Especially if you are someone who doesn't go in front of the PSC on a regular basis, it would make more sense for me to use, or it would seem to make more sense to use the law that every other code agency or every code agency uses. So that's how I can come around with being okay with AM1209. That's how I justify it. But that is my reasoning. And I am amenable to other amendments on this. But I do think AM1209 does prevent...create a proper balance between getting the ratepayer their money back, if there is an incorrect rate charge, and ensuring justice. And with that, I'd yield the remainder of my time to Senator Chambers. [LB545]

SENATOR KRIST: Senator Chambers, 1 minute 30 seconds. [LB545]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Harr. I would like to ask you another question. Did you indicate that, when one of these industries

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requests a rate increase, that increase goes into effect immediately? [LB545]

SENATOR HARR: That is how I understand it, yes. [LB545]

SENATOR CHAMBERS: Now we can change that, can't we? [LB545]

SENATOR HARR: We could change that, yes. [LB545]

SENATOR CHAMBERS: So there are many things we can do, before we reach the point where we are now, to address any issue that the Public Service Commission and those who control the Public Service Commission, which are the regulated industries... [LB545]

SENATOR KRIST: One minute. [LB545]

SENATOR CHAMBERS: We can deal with everything they would raise without this bill, couldn't we? [LB545]

SENATOR HARR: We could, yes. [LB545]

SENATOR CHAMBERS: Now...and I'm not saying it would be easy. [LB545]

SENATOR HARR: Yeah. [LB545]

SENATOR CHAMBERS: It doesn't have to be easy. But here's what I'm looking at. Well, there's not enough time. So thank you, Mr. President. [LB545]

SENATOR KRIST: Senator Chambers, you're next in the queue. There's 30 seconds left and then you're up, if you'd like to continue. [LB545]

SENATOR CHAMBERS: Thank you. So before I continue with Senator Harr, I'll make a couple of comments. I've had experience with the Public Service Commission. I've had experience with Sprint telephone company. They put a block on my telephone so that I could not receive long-distance calls, my office phone. Public Service Commission, I guess, eventually, they got involved. But it's because I held on with bulldog-like tenacity. And I pursued them and asked, why didn't you notify me that there could have been somebody from another city within Nebraska with a serious problem who needed to reach me and they couldn't reach me? You know how I found out there was a block? Because a person in Omaha knows me and got a message saying that that phone number is not authorized to receive long-distance calls. This person thought I had done something inappropriate. So I contacted Sprint. Maybe I contacted the Public Service Commission. But at any rate, the first statement was that their fraud group had had problems with that number so that's what happened. I wanted to know when did this,

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whatever it was, happen--several years ago. It had nothing to do with me. I said, well, I've had this number for as long as I've been in the Legislature, and nothing fraudulent or smelling of fraud had ever been associated with me, so what is the problem? Then they wanted to say, well, the number was recently assigned to me, which was also a lie because I had had it the whole time I was in the Legislature. Then it came down to some kind of technological glitch where information was inappropriately put in their computer system, and I had to take it all the way to a hearing before the Public Service Commission. And you know who grilled all these representatives who came from Kansas City for Sprint? I did. I did and I won. And you know what happened? They found out that over 1,000 people had similar blocks on their phones. And you all don't believe me, so I'm going to find the articles and show you all the kind of work I have had to do because these agencies don't do their work. And you all swallow what they tell you, hook, line, and sinker. But somebody like me does the work. I do the work. And I have not been persuaded by anything I've heard that this change needs to be made. Now I will ask Senator Harr a question. [LB545]

SENATOR KRIST: Senator Harr, will you yield? [LB545]

SENATOR HARR: Yes. [LB545]

SENATOR CHAMBERS: Senator Harr, since you're my colleague and I'm dealing with you, I will modulate my voice. (Laughter) Senator Harr, would you agree that the system, as exists right now, could not be said to be broken? [LB545]

SENATOR HARR: I am not familiar with the PSC well enough to give an opinion, is what I would say. [LB545]

SENATOR CHAMBERS: Here's what I'm talking about: The system that we're talking about changing,.. [LB545]

SENATOR HARR: Oh, the APA? [LB545]

SENATOR CHAMBERS: ...that aspect that this bill would cover. [LB545]

SENATOR HARR: Yeah. [LB545]

SENATOR CHAMBERS: That system is not broken, is it? [LB545]

SENATOR HARR: Not to the best of my knowledge but, again, I don't deal in that area. [LB545]

SENATOR CHAMBERS: And what do they say, if it ain't broke? [LB545]

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SENATOR HARR: Don't fix it? [LB545]

SENATOR CHAMBERS: Thank you. Members of the Legislature, I think this bill, from what I've heard, has been languishing and coming back and going away. I haven't done the research on that aspect of it. But I do believe in making the court system available to the public. There is nothing in the constitution that says, the courts shall be open to every agency, to every corporation, to every special interest group. But it says, every man, and it should have said "woman." But that term "man" embraces the female side also. The people are the ones for whom the courts exist. This bill does not take into consideration the people. It takes into consideration a corrupt sheriff and Jesse James. And then the corrupt sheriff will say, well, if you don't like the way I deal with Jesse, go to court and you'll get a jury trial. [LB545]

SENATOR KRIST: One minute. [LB545]

SENATOR CHAMBERS: I'll say, well, who is on the jury? Well, the Dalton brothers. Well, who is the prosecutor? Frank James. So I've got to deal with Frank James prosecuting his brother Jesse James and the jury comprises the Dalton brothers. They're all in it together. This is not a good bill. This is not in the public interest. And there can be as much legalese as anybody chooses thrown into the mix. I have not heard anything that shows me where the public benefits. How many of you all get contributions from these regulated industries? Maybe some of you do because you've gone the way they want you to. But there is no way that 90 percent of political contributions should come from a regulated industry. [LB545]

SENATOR KRIST: Time, Senator. [LB545]

SENATOR CHAMBERS: Thank you, Mr. President. [LB545]

SENATOR KRIST: Thank you, Senator Chambers and Senator Harr. Stilling wishing to speak: Senator McGill, Avery, Nelson, Schumacher, and Chambers. Senator McGill, you're recognized. [LB545]

SENATOR MCGILL: Thank you, Senator Krist, members of the body. I just rise to briefly share I guess a few thoughts because with natural gas coming through Urban Affairs we've had a lot of discussions about how long this process is and if there is a repetitive nature to the process. I can tell you that these rate cases are taking a year, you know, between the litigation and how long it takes the PSC to process the case and it's costing over a million dollars. And I know some people don't feel that that's a reason not to oppose it, but it is...I'm just putting it out there that it is a very expensive process and there was a public advocate that really did have a very, well, combative, yeah, attitude for a long time as his job is to be, you know, in standing up for the people. There is a new public advocate, and yet...and so we have yet to see exactly what that person's

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new impact will be on the process and the length of time in the process. So that's something people should be aware of because I do think the process was too long and drawn out. There weren't massive changes being made in any of these processes, so I know we as a committee were interested in trying to find some ways to streamline repetitive nature without any changes being made to that final decision. And so I'm glad that we are having this full and fair debate on this bill to see if this is indeed one of the ways that we can streamline the process without having any true impact on what's practically happening in these cases. And with that, I'm going to yield some...the rest of my time to Senator Lautenbaugh who is going to talk a little more specifically about these stages. [LB545]

SENATOR KRIST: Senator Lautenbaugh, 3 minutes and 15 seconds. [LB545]

SENATOR LAUTENBAUGH: Thank you, Mr. President, and thank you, Senator McGill. And I do rise in support of this and I understand what we're trying to do here. And, understand, this is a very highly specialized area. That much is certain. And years ago it used to be the case that the Public Service Commission, I believe appeals from the Public Service Commission went straight to the Supreme Court. And so we added in a layer of review at the district court level. And concerns have come to light. I mean, I know some have said, well, it's kind of a rubber stamp. They just give deference to the commission. I don't know the answer to that or if that's correct. I haven't practiced in one of these cases, ever. But I do know the time involved in district court is onerous and often prohibitive for something like this, at least for an expeditious resolution. There is a constitutional challenge to a bill we passed in 2008 I believe, maybe 2009, I don't recall, that has been in the district court of Lancaster County, well, since then. It went up to the Supreme Court once and after about a seven- or eight-month hiatus came back down and said we don't have a final appealable order from you. And now it languishes on the district court docket. And I'm not saying it's the judge's fault. I'm not saying it's the Clerk's fault. I'm not saying it's the attorney's fault. It's everyone's fault and nobody's fault, but that's just how the system works. If you file a district court case, you can count on a couple of years to resolution. That's just the long and the short of it. That is how the system works. By...especially with the amendment on this, by providing for de novo review on the record by the Court of Appeals, you are looking at a much more expeditious decision, not one that is tilted either way. De novo on the record means exactly what it says. It'll be a thorough, clear, and much swifter review. And there is a value to finality and litigation, let me tell you and let me underline that point. There is a value to finality however the outcome comes out. [LB545]

SENATOR KRIST: One minute. [LB545]

SENATOR LAUTENBAUGH: Thank you, Mr. President. Being done is worth something to all of the litigants. And the current system and the current pace of district court does not provide for what I would call expeditious review of these things. And I don't think

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we're cutting out a layer. I don't think that just because we put in the district court that we had reached the level of perfection compared to the system where we had appeal direct to the Supreme Court, and by adding in just straight to the Court of Appeals now, I don't think we're shortchanging any kind of review. The Supreme Court still exists above the Court of Appeals. So I understand why this would be proposed. I understand the delays involved and the value for all parties involved in having it resolved whatever the issue may be. So I would urge you to support this and I will continue to do the same. Please support the amendment and the underlying bill. Thank you, Mr. President.
[LB545]

SENATOR KRIST: Thank you, Senator Lautenbaugh and Senator McGill. Senator Avery, you are recognized. [LB545]

SENATOR AVERY: Thank you, Mr. President. When I was last on the mike, I made the point about the amount of money that...or campaign cash that goes to the Public Service Commissioners from the industry. And so I had my staff do a little quick research. Just went on the Accountability and Disclosure Commission's Web site, randomly selected a couple of filings and here's what we found. Don't even know who the person is but it's a member of the A&D...a member of the PSC. There are 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 contributions; 9 of those 12 contributions come from the industry--9 of 12. In another filing, again, don't know who this is, four of five of the contributions come from the industry the commission is charged with regulating. This is not right, folks. Now I'm not saying that they don't have the right to raise money but I think when you see a pattern, and this is a longstanding pattern--and I could provide that evidence, I've got files on it down in the office--but when you see a long pattern of the Public Service Commission relying on the very industries they regulate to fund their campaigns, it should raise questions. And then when you see bills like this, this...if you look at the committee statement, this is an industry bill. And I know we hear a lot of talk here about, oh, it's just in the interest of the ratepayers. When you are streamlining and making more efficient a legal process that's designed to protect the public, that does not help the public. It probably helps the industry. In looking at the committee statement, you had one, two, three, four people testify for this all representing the industry or the Public Service Commission. All in support. Nobody opposed. Nobody appeared to vote neutral. That's the way they want it, folks. Keep it under the radar. Keep it quiet. Let's let our campaign contributions do its work, and then everybody will be happy, except the ratepayers, except the public. This is a bill that needs to be killed because it does not serve the public interest. It serves the interests of those industries that help get these people in office and keep them there. That is not the way we should be doing business in this state. So I urge you to vote no on this amendment and the bill. Thank you.
[LB545]

SENATOR KRIST: Thank you, Senator Avery. Mr. Clerk for some items. [LB545]

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CLERK: Thank you, Mr. President. Revenue Committee is holding an Executive Session now in 2022. The Revenue Committee in 2022. Enrollment and Review reports LB269A, LB299, LB306, LB517, LB517A, and LB553 as correctly engrossed. Enrollment and Review reports LB407, LB66, LB402 to Select File, some having Enrollment and Review amendments. And an amendment to LB568 by Senator Burke Harr to be printed. That's all that I have. Thank you, Mr. President. (Legislative Journal pages 1193-1199.) [LB269A LB299 LB306 LB517 LB517A LB553 LB407 LB66 LB402 LB568]

SENATOR KRIST: Thank you, Mr. Clerk. Senator Nelson, you are recognized. [LB545]

SENATOR NELSON: Thank you, Mr. President, members of the body. I want to stand in support of LB545 and also AM1209. I was troubled by the bill originally because the provision was that it would go up to the Court of Appeals and there would only be reviewed for arbitrary and capriciousness on the part of the Public Commission. That has changed now. The amendment is providing for a de novo review which is what the district court is doing right now. This is in the public interest. I mean, when the Public Service Commission holds their hearings, you can have witnesses and all sorts of things like that and the public can come in and testify on the rates and they can be heard. When it's appealed to district court it's on the record, and as a lawyer I think that's great. I can spend a lot of time, I can earn a lot of money doing briefs and everything, and then talking or speaking against opposing counsel there. And if I don't like the result of the district court, then I can go ahead and appeal to the Court of Appeals and we do the same thing all over again with another four or five, six, seven months of time and additional expense to the ratepayer. We don't need to do that. The district court is overworked and overburdened right now, and that's one of the reasons. It takes a lot of time to do these paper reviews, look at the briefs, question counsel. My understanding is that the Court of Appeals now is pretty well caught up on its docket. So it makes sense to me to do away with going directly to the district court. Let's go to the Court of Appeals. This issue has to be divorced from problems with the Public Service Commission itself. And with all respect to Senator Avery, that's a separate issue that we need to deal with separately. The decision of the Public Commission is...Public Service Commission is made and then it's looked at by another court. It doesn't have to be looked at by two appeals court. We can go directly to the Court of Appeals and do it that way. And I think the public interest is protected. They've had their say before the Public Service Commission and then everything is reviewed on the record, and I think it's much more likely that we'd get a reversal there on the record than we would if the court were just looking at arbitrary and capricious. So I do think that this is a good bill. I think it makes sense. It makes sense from a standpoint to the ratepayers. It's not spending a lot of additional time there. Probably makes sense to the industry saving them costs as well. I'll give the remainder of my time to Senator Lautenbaugh if he can use it. Thank you, Mr. President. [LB545]

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SENATOR KRIST: Senator Lautenbaugh, two minutes. [LB545]

SENATOR LAUTENBAUGH: Thank you, Mr. President. And I have some questions for Senator Avery that I'll...as he's working his way back, I'll speak slowly. Now he's moving along there pretty quickly. Senator Avery would you...I wonder if he'd yield. [LB545]

SENATOR KRIST: Senator Avery, will you yield? [LB545]

SENATOR AVERY: I will. I was walking slowly. [LB545]

SENATOR LAUTENBAUGH: (Laugh) That won't save you, Senator Avery. I believe you've used the phrase in the past, silence equals assent. Are you familiar with that? [LB545]

SENATOR AVERY: I don't ever recall saying that myself. [LB545]

SENATOR LAUTENBAUGH: Do you recall many hearings where members of the public fail to show up and testify? [LB545]

SENATOR AVERY: Do I recall in committee when people fail to show up and testify? [LB545]

SENATOR LAUTENBAUGH: Yes. [LB545]

SENATOR AVERY: Oh, yes. [LB545]

SENATOR LAUTENBAUGH: I mean, and I would submit to you that most of our bills have some effect on the public as we are the Legislature. Wouldn't you agree? [LB545]

SENATOR AVERY: Yes. We're here to do the public's business. [LB545]

SENATOR LAUTENBAUGH: Thank you, Senator Avery. Folks, I know that it is not an unusual circumstance in your committees or in my committees that... [LB545]

SENATOR KRIST: One minute. [LB545]

SENATOR LAUTENBAUGH: Thank you, Mr. President...the people who show up most often are the ones who are most directly affected by the issue. I don't see that as a way to condemn this bill or a reason to condemn this bill. We are still providing for a full and fair review of the Public Service Commission's decisions. We are just providing for de novo review on the record at the appellate court level rather than the district court. That is all. I understand how people of goodwill can differ as to whether or not this is proper, and I differ with the people who are opposed to this for that same reason. I think this

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constitutes full review. I'm not troubled by who testified in favor of this. I would be shocked if members of the public had shown up and said we feel differently on something like this. And I suppose to a certain extent you can infer that the silence does equal some sort of a lack of being troubled by this or you can just infer that it's not uncommon at all for the most frequent fliers to be people who are in the area most directly affected. [LB545]

SENATOR KRIST: Time, Senator. [LB545]

SENATOR LAUTENBAUGH: Thank you, Mr. President. [LB545]

SENATOR KRIST: Thank you, Senator Lautenbaugh and Senator Nelson. Senator Schumacher, you are recognized. [LB545]

SENATOR SCHUMACHER: Thank you, Mr. Chairman, members of the body. Would Senator Dubas yield to a question? [LB545]

SENATOR KRIST: Senator Dubas, will you yield? [LB545]

SENATOR DUBAS: Yes, I will. [LB545]

SENATOR SCHUMACHER: Senator Dubas, in the last year how many appeals were taken to the district court of Public Service Commission decisions? [LB545]

SENATOR DUBAS: I do have that chart. I don't have it with me at the moment. There's not a lot from my understanding. [LB545]

SENATOR SCHUMACHER: Would four be the correct number? [LB545]

SENATOR DUBAS: Yeah. I'm thinking, yeah, I knew it was less than ten. [LB545]

SENATOR SCHUMACHER: So this is over four appeals a year that we're making this special change for the Public Service Commission. Four appeals. Doesn't look like there's a wave of cost or anything else there. This is a bill by the regulated to deal with the regulator who is its political protege and to make sure that the public is not involved. This takes this hearing on the record and takes it to a court that does not have the power to even have a referee or a special master advisor talk to it about facts. Takes it away from that district court that has that power. Puts it in a court that isn't set up to deal with facts or to analyze facts or to bring a consultant referee master in to talk about facts. It's because we don't want to talk about facts. We just want the deal done. Let's just trace through one thing because I'm familiar with this one thing called a Universal Service Fund and how the deal is done. The Legislature back in 1997 was talked into a deal that the phone companies needed to keep 97 percent of the people connected to

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landlines, maybe it was 96 percent, but, whatever, it was really needed. And it was really needed that the big phone companies give the little phone companies something to keep that done. Okay. Well, once it passed, the big phone companies said you certainly are kidding, aren't you. We aren't supposed to take that out of our pocket. We're supposed to assess the public. So they have a little hearing. Every year they have this little hearing advertised in one little newspaper clip that says we're going to have a hearing on the Universal Service Fund. And they assessed at the initial hearing 6.95 percent, the highest in the nation. Well, at that particular time there was...they tried to assess it on interstate calls and intrastate. Well, the interstate people had big muscle in Omaha and they came in and said you're not touching us or we're moving across the river. So they backed off to just intrastate calls. And they have one guy usually testify at this hearing, and that's an employee of the Public Service Commission saying, yeah, we really need it. And you have a whole room full of industry people. And if you want to try to appeal that, well, you can do that if you like. And maybe you can find an attorney who'll take the case to the district court because there's more of them available than there are available taken to the appeals court, and you'll be immediately flocked with about 40 phone companies plopping down the biggest bucks they can for the best attorneys they can to make sure that you just get squashed, because we don't want access to the courts. We don't want this thing reviewed. The money, the control, the interrelationships there are incredible. And if you want proof, there was a bill that said, hey, let's look at this before the Transportation Committee raised about ten very legitimate issues. There was such a rush to kill that bill it'd make your head spin. There were more lobbyists swarming around those offices of people that it'd make your head spin, and it was killed promptly. [LB545]

SENATOR KRIST: One minute. [LB545]

SENATOR SCHUMACHER: There is...nothing is broken here. Four appeals are not too expensive when other agencies have dozens. The DEQ, I think maybe the number is in the hundreds of appeals. But at any rate, this is almost a minimum level of appeal, but it is an effort to absolutely try to foreclose this little club that controls hundreds of millions of dollars and even eliminate in the slightest way access of the people to maybe one day get enough schmuck to come on in and take this thing on at the district court level, and argue the facts and put the things into the record of the Public Service Commission level that a special master analyzing thing and advising a district judge would come up with a just decision on not only Universal Service Fund, but all of the other millions and millions of dollars of rates that the Public Service Commission is involved in. This is not needed. It is a in-house move in order to exclude the public, and it is backed by the people who want the public excluded. This... [LB545]

SENATOR KRIST: Time, Senator. [LB545]

SENATOR SCHUMACHER: Thank you. [LB545]

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SENATOR KRIST: Thank you, Senator Schumacher. (Visitors introduced.) Returning to debate. Senator Chambers, you are recognized. [LB545]

SENATOR CHAMBERS: Thank you, Mr. President, members of the Legislature. I would like to ask Senator Nelson a question. [LB545]

SENATOR KRIST: Senator Nelson, will you yield? [LB545]

SENATOR NELSON: Yes, I will. [LB545]

SENATOR CHAMBERS: Senator Nelson, you are a lawyer, is that correct? [LB545]

SENATOR NELSON: That's correct. [LB545]

SENATOR CHAMBERS: How long have you been a practicing attorney? [LB545]

SENATOR NELSON: I have been practicing since 1963. [LB545]

SENATOR CHAMBERS: Senator Nelson, have you ever brought a bill to the Legislature to increase the number of district court judges? [LB545]

SENATOR NELSON: No. [LB545]

SENATOR CHAMBERS: Senator Nelson, did you say when you just got through speaking that the district courts are inundated with cases, their dockets are overloaded? [LB545]

SENATOR NELSON: Words to that effect, yes, Senator. [LB545]

SENATOR CHAMBERS: So why have not you tried to do something about relieving that docket congestion instead of eliminating this level of action available to the public? Those are two questions. Let me ask you the first one. Why have not attempted to increase the number of district court judges to relieve their dockets to some extent? [LB545]

SENATOR NELSON: I think there are other ways, and the Supreme Court has tried to do that. There are some district courts that have additional time and the ability of the judge to go to other courts and hear cases to help those where the docket is overloaded. And I'm always... [LB545]

SENATOR CHAMBERS: Okay. [LB545]

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SENATOR NELSON: ...cautious about increasing the costs of an additional judge. [LB545]

SENATOR CHAMBERS: Senator Nelson, the Legislature can direct that certain types of matters be expedited when they go into the court system. Isn't that true? [LB545]

SENATOR NELSON: That's true. [LB545]

SENATOR CHAMBERS: We could require that these kinds of matters be expedited during any court proceeding, can't we? [LB545]

SENATOR NELSON: Well, I'm not sure what you mean by expedited there as far as (inaudible). [LB545]

SENATOR CHAMBERS: That they're given priority. [LB545]

SENATOR NELSON: Give prior... [LB545]

SENATOR CHAMBERS: And you could state...yes, and we could state what the priority would be. [LB545]

SENATOR NELSON: We probably could but I'm not sure we ever do that. [LB545]

SENATOR CHAMBERS: Thank you, Senator Nelson. The lawyers know what can be done and we don't have to do what's being attempted here. And I'm glad Senator Schumacher pointed out that there were four cases. Now that is hardly congesting the district court docket. And it is the big shots. And I'm going to show you all how hypocritical people in Nebraska are. I hear people running for office and saying we're not going to do like they do in Washington, D.C., we're going to change that. They're at the behest of the lobbyists. The lobbyists tell them to do this. The lobbyists tell them to do that. In Nebraska, that's not done. I'm going to take Nebraska values to Washington, D.C. And you see those Nebraska values in operation right here with the lobbyists right here who are pushing this bill through the Legislature, and they're going to do it not over my dead body because they might be able to arrange that, but they're going to do it over my strenuous opposition. Contrary to the way it may seem to people, I have not dug my heels in on many bills this session. And the ones that I have have been of consequence, and in two recent instances the bills had to be slowed down and reconsidered. One of them is being redrafted now because I stood on the floor yesterday and took all of that time, knowing people were irritated, to make people look at the kind of bill that was before us. I say that to let you know that I'm going to fight this bill and I'm going to force those who support it to explain to me, and everybody who'll listen, what this bill means. There are cross-references to sections. Since Senator Lautenbaugh supports the bill, he will be able to tell me what those sections say.

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[LB545]

SENATOR KRIST: One minute. [LB545]

SENATOR CHAMBERS: And I'm going to want to know why the cross sections are being made. But there is much in this bill that allows for amendments to be offered. Senator McGill talked about a full and fair debate. That hasn't occurred yet, but it's going to be full. I don't know how fair. But I'm not going to go away and this is not in the interest of the public. And when they cannot tell you a meritorious reason for doing this but talk about the docket of the district court and these other things, they're evading the real issue of what public interest is served by this particular bill. Thank you, Mr. President. Is that my third time? [LB545]

SENATOR KRIST: Yes, sir, it is. [LB545]

SENATOR CHAMBERS: Thank you. [LB545]

SENATOR KRIST: Thank you, Senator Chambers. (Visitors introduced.) Returning to debate. Senator Schumacher, you are recognized. Senator Lautenbaugh, you are recognized. [LB545]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. Just to be clear, I'll be happy to answer any questions. If there are sections that are cross-referencing or referenced in these...this proposed bill, I'll go read them and figure out why. As I stand here on the mike if you ask me right now what's the importance of Section 25-427, I wouldn't be able to tell you just because I have not looked at that. But I will if that's what it's going to take. Look, I don't want there to be any misunderstanding. No one is arguing that these cases are clogging up the district court docket. That's not the issue. The issue is is that the district court docket is clogged so that these cases don't move expeditiously. There aren't a lot of these cases. But, again, there is a value to actually having a resolution of a case. And so don't misunderstand. No one is saying that we should not have these cases because the court is getting it's docket clogged because of them. What we're saying is that the court's docket is already clogged so if these things are dumped on the Supreme Court...or, I'm sorry, the district court as they have been, there they will sit. And that is something that I'm very familiar with. Now I wish Senator Schumacher were here so I could ask him what the Universal Service Fund has to do with this or this whole theory about special masters and whatnot. Apparently there have never been any in these cases, but, by gosh, the district court has a right to have them and we should fight to the death to preserve that right or we should recognize that as a red herring and move on, which it is. You don't have to like the Public Service Commission. I don't like the Public Service Commission very much. Someone was just saying, well, maybe we should have a constitutional amendment to just make it one statewide person that's elected. I don't know. I shouldn't even be

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thinking out loud at the mike like this because I know what's going to happen next, but, you know, I won't be lonely all afternoon which is good. But that said, this is a good bill and I understand why we're doing it. The review at the district court level is de novo on the record. That means the record from the Public Service Commission is given to the judge, the judge looks at it and says, hey, is this the right call or not. Under this bill with the amendment, the review would be at the appellate court but still de novo on the record. The same review. And I heard Senator Schumacher argue that, well, the district...or the appellate court isn't able or used to reweighing the facts, that's not necessarily correct. There are factual determinations. Any time the standard is, was the trial court clearly wrong, the appellate court has to look and see the facts, are they clearly wrong. So it is just not correct to argue that the Court of Appeals is somehow out of its depth in reviewing facts or that it just doesn't happen. It happens all the time because whether you have a high threshold of deference to the lower court or a low threshold of deference to the lower court, it's different depending on the area of law. The facts still have to be reviewed. The record still has to be reviewed. So what we're doing with this, with the amendment, is providing the same rule, review that we have, except not at the district court level, just at the appellate court level, and there's still appeal to the Supreme Court if that doesn't give satisfaction to the parties, one of the parties. There's nothing to...nothing remarkable about this, folks. And I don't see how...I don't understand the argument that the public is better served by having this time-consuming district court roadblock in the way of getting a review of the decision. If the Public Service Commission is wrong, the Court of Appeals can say, look, here's the law, we looked at the facts, you're wrong. And they can do it more expeditiously than the district court. [LB545]

SENATOR KRIST: One minute. [LB545]

SENATOR LAUTENBAUGH: I don't see how the public is harmed by this. I don't see how the public benefits from delay. And I'm not shocked that the public didn't show up and testify on this because it does...first of all, it takes a long time to explain it, maybe people overlooked it. But there are groups that purport to represent the public. We've got Common Cause. They're frequent fliers in the Government Committee. They apparently missed this one or they concluded that this wasn't a big deal. I know we all don't hesitate to bash the lobby, but everyone has a lobbyist of some sort. There's someone purporting to speak for everyone. And they were fairly silent in opposition to this one because the review is still there. The public is not harmed by this. And I'll just have to disagree with the opposition. I'll go read the cross-reference sections to be prepared for Senator Chambers' questions on the next go-around. I guess we'll settle in because this is important and needs to be done. Thank you, Mr. President. [LB545]

SENATOR KRIST: Thank you, Senator Lautenbaugh. (Visitors introduced.) Seeing no one else in the queue, Senator Dubas, you are recognized to close on your amendment. [LB545]

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SENATOR DUBAS: Thank you very much, Mr. President. You know, I've been on the Transportation and Telecommunications Committee, going on my third year now. This issue came before the committee my first year on the committee. I believe it may have even come to them before then. So I had a baseline understanding of what the bill was attempting to do. Also recognizing that there were those who had concerns and issues with the bill and it was continued to be worked on. When this was brought to me, I came at this issue from the perspective of a layperson, a consumer. I was looking at this as how does this impact those who are paying the bill. That's, you know, I...not having that broad-based understanding of legal issues or how the court systems work or even, you know, necessarily the Public Service Commission's involvement, my questions were, number one, will this do anything to impede due process because I understand the importance of due process and number two, how does this impact the average person on the street on a daily basis. And when they're the ones that are footing the bill, they're the ones who are impacted. Again, I don't want to do anything that jeopardizes due process as I began to do my own research based on my own questions, not those brought by any lobbyist or any other special interest. It's just like if I'm going to present this bill on the floor, I need to be able to understand, looking at what other states have done, how it works, what works, what doesn't work. I became more comfortable with what this bill was attempting to do. It is a policy discussion and I think it's great that we are having this discussion, we are raising these questions because the Legislature does dictate the direction that these particular issues go. My understanding of in the past with appeals, the district court has almost always given deference to what the PSC has brought forward. There's been very few reversals. Also, it appears that in their reasoning, not a lot of reasoning has been given as far as their decision so there's not a lot to go from for future appeals. It's also my understanding that almost every case is then appealed to the Court of Appeals. So I believe AM1209 puts that de novo standard of review in place at the appellate court. I think that's very, very important as I understand how that works. So the appellate court is looking at this with fresh eyes from the beginning. They're taking everything into consideration. There is a public advocate who represents those consumers, who represents those consumer's interests. When I look at...you know, a lot has been talked about who came in and testified in support of the bill, when I look at who did not testify in opposition, you would think that attorneys would have some concerns because they are, you know, involved in these court processes. They represent these issues. They feel very strongly about due process and making sure nothing jeopardizes that due process. I also looked at judges didn't oppose LB545. The courts didn't opposed LB545. The public advocate whose job is to look out for the public's interest has not opposed similar legislation or this legislation in the past. So are these good questions that we're talking about on the floor today? Absolutely. These are public policy issues that need to be talked about. But, again, coming from my perspective as a layperson in how do I look at this, I don't believe due process is impeded. I believe this puts all those standard of reviews in place that need to be looked at. And, you know, we've thrown the word efficiency around a lot and maybe that's not

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necessarily... [LB545]

SENATOR KRIST: One minute. [LB545]

SENATOR DUBAS: Thank you, Mr. President...the right word to use because efficiencies tend to relate to a shortened amount of time which tend to relate to maybe some things that can be overlooked. And I don't think that that's...I don't believe that that's what this bill or amendment is doing is shortening that time frame so that important aspects of any case can be considered. I think when we're talking about efficiencies, it's in recognition of who's footing the bill, who's paying the costs. And we want to reduce redundancies, we want to make sure that the system remains efficient, due process is protected. I feel confident that that's what AM1209 and LB545 does. Thank you. Appreciate your support for AM1209. [LB545]

SENATOR KRIST: Thank you, Senator Dubas. You have heard the closing of AM1209 to LB545. The question is, shall the amendment be adopted? All those in favor vote aye; opposed, nay. Have all those voted that wish to? Record, Mr. Clerk. [LB545]

CLERK: 27 ayes, 2 nays, Mr. President, on the adoption of Senator Dubas' amendment. [LB545]

SENATOR KRIST: The amendment is adopted. Mr. Clerk. [LB545]

CLERK: Mr. President, I have a priority motion. Senator Chambers would move to reconsider the vote just taken with respect to AM1209. [LB545]

SENATOR KRIST: Senator Chambers, you're recognized to open. [LB545]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, this is not objection to that amendment that was just adopted. And I don't expect my motion to be accepted. But we may as well discuss it in this way instead of me having to take time to craft amendments which I will do to force discussion. I'm going to go back to what I was talking about in terms of what is always condemned by people in Nebraska that happens in Washington, D.C., and all this talk about values. Senator Lautenbaugh and others who mention that the public ordinarily wouldn't show up at a hearing for something like this are correct. It's anticipated, it's expected that that will be the case and that the field will be available just to the interests that are going to benefit from this, and the interests are the ones who are regulated. It's not in the interest of the Public Service Commission to do this. This is an industry bill, and the Public Service Commission got on board. When the public does not show up, there is an expectation that the senators in this body will be the protectors of the public. That's our job. There are many bills which have hearings at which the public is not present or represented by anybody, yet there are senators who will stand on the floor and argue that such a bill if it

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makes it to General File is not in the public interest. And you could go, if you're going to accept the arguments of those who support this bill, to the committee statement and say, well, nobody from the public showed up and objected to it so you're mistaken. You say it's in the interest of the public and they didn't say it. We know good and well that the public is not informed. If the public were not informed, I'm probably the only one who would be in office still. If the public were informed, I'm probably the only one who would be here because I don't pretend to be something that I'm not. I always show exactly what I am and I tell those who would be voting for me what you see is what you will get. But I read some of the campaign literature put out by people who are in this body now. And I look at what they write and I say, this is not the person who is in that...on the floor of that Legislature. And the ones putting that stuff out know it's not true, because if they stood up for the public in the way that they say they do, we would have a Medicaid proposal going through here right now, for example. You have people running around here talking about they're against abortion because of all the innocent fetuses that are murdered. But then when you talk about the children in esse, e-s-s-e, in being, an entirely different attitude arises. Now we have not fetuses. We don't have zygotes. We have full-fledged children and they need educational opportunity. They need mental health services. There needs to be competent, professional day care available. Well, you talk about all that it's going to cost then and all this nonsense that hypocrites talk about who say they're against abortion is shown to be just what it is. We talk about education. You don't educate a zygote. You don't educate a fetus. You don't educate an embryo. You educate children and children get left in the dust. You want to make sure the zygote becomes an embryo becomes a fetus. But when that which is in the womb passes through that birth canal and comes out into this world, all of the interest is gone. I have seen these so-called pro-life people go against Congress because they might be willing to allow a program to be funded in one of the so-called developing countries for birth control. And they say, no, that can't be done. That can't be done. The church doesn't like it. But if you say, all right, then we'll allow abortions to happen. Oh, no, we can't have any abortion. Oh, no, no. All right. Well, now we've got the children here that you wanted here and they are starving. They have distended bellies and every time you see them on television, flies are on them as though they were carrion, and they are too weak to even push the flies away. The starving babies and where are the so-called pro-life people then? Why don't they care about these human beings in the world when they say we're going to move heaven and earth to make sure there are no abortions and no population control? Where? It's hypocrisy. Now to bring it back to this. All of this hypocritical talk about Nebraska values and how it doesn't occur in Washington. And look at what is in action right now. If the system was so bad as it exists now, why didn't Senator Lautenbaugh who's had experience bring the bill some time ago? We're told this bill didn't just come up now. Well, the problem has been here. Senator Nelson didn't bring the bill before. But the lobbyist said, the lobbyist for the regulated industry, it's time. So now everybody jumps up and say it's time. And we have a bill which is eliminating the district court from this process. If you're going to say that to have a resolution of these kinds of matters takes a lot of time going through the district court,

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then why don't we take every kind of case that is complicated, that requires a lot of time to bypass the district court because of its presently congested docket and put it right into the Court of Appeals? Why don't we do that with all these cases? Why? Because that argument that's being given is specious. But they've got to think of something to say that will lull the nonlawyers and make you think that this is going to be the salvation of the ratepayers. But they don't talk about the ratepayers in terms of the increases in rates. You know when they talk about the ratepayer? Well, if you let them go to court through the district court, it's going to cost this much money. How come not one of them who supports the bill talks about the number of rate increases that have occurred and how the only way the public knows there's a rate increase is when they get a bill from one of these regulated industries which is going to bill them. They don't know why it costs more, they don't know what the process was, and they don't feel like there's anything they can do about it anyway other than pay it because if you don't pay it, whatever service is being presented will be cut off. We know that the public comprises suckers. We know that. And when I look at the way you all campaign, it shows that you all think they're suckers too. They don't pay attention. They don't read. They take everything you say as true. No, they don't. They become so cynical, so disillusioned that you will hear them say, all politicians are liars. They're not going to tell the truth. They're going to do what the lobbyists tell them to do. When you look at their commercials, they're paid for by these political action committees. And the people giving the money don't even want you to know who they are. So the public is totally disillusioned with the political process and the politicians who are active in it. And we have a situation before us today which shows that what is happening in Washington happens in Nebraska and every state. Wherever there's money to be made, there are people who determine how those who want to make the money are to be regulated. And there are those who'll give money to make sure that the people are elected who are going to let those who do the regulating who also get money from those who are to be regulated... [LB545]

SENATOR KRIST: One minute. [LB545]

SENATOR CHAMBERS: ...do what they want to do and not be challenged. Am I jousting with a windmill? Well, if Senator Lathrop, he made me think of this, if he has his way I'm going to have more high-tech windmills to joust with when his wind bill goes through. But I'll be out there jousting. And I'll continue to do it. And Senator Lautenbaugh is a practicing lawyer and he knows all these things and he understands it all, but he didn't bring a bill like this. It wasn't that pressing to him. It wasn't such a bad situation. Senator Nelson wasn't disturbed by these cases taking so long to be heard. It's not a committee bill from Senator McGill's committee since they have all this information and know that a million dollars is spent for one of these proceedings. But whenever... [LB545]

SENATOR KRIST: Time, Senator. [LB545]

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SENATOR CHAMBERS: ...it's a bill that the regulated industry wants, you have them popping up everywhere telling us why it's such a great bill and how much they know about what's going on, but they have never shared that information with us before. [LB545]

SENATOR KRIST: Time, Senator. [LB545]

SENATOR CHAMBERS: Thank you, Mr. President. [LB545]

SENATOR KRIST: Thank you, Senator Chambers. Senator Schumacher, you are recognized. [LB545]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. You know, I'm told that there's like \$50 million that is going to be available to somehow spend in the budget. And we have major newspapers sitting here. We've got television cameras on us. We've got all kinds of media watching how we're going to spend that money or if we're going to spend that money. We run things through public hearings which are published a week in advance. We make every effort to run things through three rounds of debate for public input. But that's not the way it works in Public Service Commission land. How many of you know or even care what's on the agenda of the next meeting of the Public Service Commission? When was the last time you read a newspaper article of what they did? Senator Chambers said, you get a bill and you pay it. A gas bill, a phone bill, you just pay it. Yet they deal with assessing every year \$50 million to \$60 million in assessments on your phone bill to dole out to keep 96 percent of Nebraskans attached to the local phone company wire line, something that Nebraskans are flocking away from as fast as they can flock to cellular service and alternative services. Verizon appeared at the hearing on whether or not we should look at the Public Service Commission thing and refocus that money or maybe reduce it. And they said, we don't want it. We don't need it. We're building cell towers, one right after another, and it's delivering the latest and greatest service. In fact, they just turned it up in Columbus the other day. Fifteen megabytes download on an IP-based system. That is what they call long-term evolution, will carry voice as well as it carries data. Blows everything away. Yet we're spending \$40-some million of that \$50 million or \$60 million a year to prop up the local telephone company who then graciously bills a big campaign fund and juices the lobby like you've never seen before and also juices political campaigns depending upon whether or not you're for or against them. And then we come in over four--four--appeals probably handled by inhouse lawyers and not costing the regulated party anything, we come in and we want to change the law creating a special situation for that regulated industry. Special from the farmers and the ranchers who have got to put up with the EPA or the DEQ. Special because of the muscle that is had there. If...when you say de novo on the record, that means all the court can look at is the record. And when it's a nonpublicized little side hearing in which the record is carefully constructed to look reasonable because everybody at the hearing, the Public

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Service Commission, and the gaggle of interested parties who are going to benefit from it, can construct the record, the poor judge system is just restricted to looking at the record. You know, maybe this hearing should not be de novo on the record. Maybe it should be de novo. So complete evidence can be presented by the appealing party to the district judge who is in a position if it's complicated refer it to a referee if the Court of Appeals is not equipped to do that. Maybe that's the next amendment for this. [LB545]

SENATOR KRIST: One minute. [LB545]

SENATOR SCHUMACHER: De novo rather than de novo on the record. So if this reconsideration motion fails, that would be a good idea. Make it de novo before the district judge and get it out of there completely. Thank you, Mr. President. [LB545]

SENATOR KRIST: Thank you, Senator Schumacher. Senator Chambers, you are recognized. [LB545]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, Senator Schumacher presented a very reasonable argument. Appellate courts will start their...you find it in what's called the syllabus, and that's where they list things that are not a part of the decision but it kind of gives you a road map of what is in the decision. It will give in a numbered manner the main points that are going to be resolved. And then if you look into the opinion itself, you'll see little numbers in brackets on some of the pages. And the bracket number is the same as the number that you see in the syllabus. And you'll see that particular matter discussed in the opinion in the bracketed number that you see in that syllabus to give you some guidance. Well, they start by saying the court's job is not to reweigh the evidence, it's not to rule on the credibility of witnesses. And it talks about all the things that it does not do. And it will not disturb an opinion unless there is a clear abuse of the judge's discretion. And to state in simple terms what that is, because of the way the judge exercise his or her discretion, there would be a miscarriage of justice if there were not a modification in the decision rendered by the trial judge. The trial judge's decision can be affirmed which means it stays the way it was rendered. It could be remanded or sent back to that court with directions or instructions which might relate to something that was not correctly handled by the trial judge but it doesn't result in a reversal or saying that it's reversed and it's over, a dismissal. There are any number of things that a appellate court could do. But one thing that the appellate court does not do is to retry the case. What Senator Schumacher mentioned by saying this is de novo or anew or again is that you're going to have that district court conduct a trial, the only real trial that occurs. What happens before any of these regulatory commissions is not a trial. It's a hearing. The trial is where the two contending sides present evidence, and the evidence which has significance is that which is admissible, probative, which means it has a bearing on how the case is going to be decided. It's not just words spoken. It will have an impact on the outcome of the case. It has to be relevant, and everybody knows what that word means, something

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very concrete that connects it to what's going forth. Anything offered to a court is evidence. The word evidence does not mean that it relates only to what is true or what is admissible. Anything presented is evidence, but only admissible evidence is supposed to be taken into consideration. But if there is inadmissible evidence offered and it's not objected to, then it goes into the record. If that inadmissible evidence would result in... [LB545]

SENATOR KRIST: One minute. [LB545]

SENATOR CHAMBERS: ...a miscarriage of justice, the appellate court on its own motion can recognize what it calls plain error. Even if neither side raises the issue, the court in trying to make sure that justice is served will bring that error to the floor...to the fore and deal with it. If it's serious enough, there could be a dismissal. But that could occur in the way that Senator Schumacher is talking about if we would have the district court handle the matter de novo. Thank you, Mr. President. [LB545]

SENATOR KRIST: Thank you, Senator Chambers. And, Senator Chambers, you are recognized. [LB545]

SENATOR CHAMBERS: Members of the Legislature, the amendment that was adopted uses the term de novo on the record. And as has been pointed out, the court looks at what is before it. Who creates a record? The people at the hearing. If there is somebody at the hearing, let's say a citizen, who doesn't know how to build a record, things that ought to be there for the court to review will not be there. There could be things not presented in the record which could lead to a different outcome if the matter were in the district court. Senator Schumacher pointed out that you might could find lawyers, competent lawyers, willing to take a case in the district court who will not take it if it's going to start out at the appellate court level. These are matters that some of us will be concerned about. Ultimately what those...let me speak for myself, ultimately what I'm looking at is what is in the best interest of the public. I do not believe that everything the Public Service Commission does is in the best interest of the public. I believe that in order to get those contributions from the regulated industries, they certainly are not people whom that regulated industry would feel is going to be a problem for them when they seek a rate increase or whatever other beneficial ruling from the commission may be to their advantage. We know there is no free lunch, although you all think you get a free meal when you go in there in the evening. But those people are given access to you and you know it. I doubt if there's anybody in here who would take a \$5,000 bribe from a lobbyist to vote a certain way. But no lobbyist here will ever offer that because the price is not that high. A meatloaf sandwich and a chicken dinner is the going rate. Many people will feel more obliged to be agreeable to a lobbyist if given a meatloaf sandwich and a chicken dinner than if offered a monetary bribe. Politicians are going to be influenced. There are people who will attempt to influence politicians. And in this instance, there are people who want the Public Service Commission to behave in a way

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that's beneficial to them. Money is behind everything that goes on in this society. Money is at the root of all of it. Not everybody involved in the process is going to get any of that money, but as "Deep Throat" said during Watergate in giving advice to these reporters who ultimately broke the whole thing, "Follow the money." And by following the money, not in the Watergate situation, they found out that the Vatican Bank was laundering money. Go where the money leads you and you'll see who's pulling the strings that control. You don't want the puppet; you want the puppeteer. [LB545]

SENATOR KRIST: One minute. [LB545]

SENATOR CHAMBERS: Charlie McCarthy did not utter a single word. Edgar Bergen's voice was the voice that you heard. The words that seem to come out of Charlie McCarthy's mouth were the words of Edgar Bergen. The puppet can do nothing other than what the puppeteer makes it do. And many politicians are puppets. The regulated industries want to convert the Public Service Commission into a confederacy or a band of puppets. This in and of itself would not be enough, but any step along that path is what they would like. Why do they want this bill? Because it benefits them. They don't do anything out of the goodness of their heart. It's going to benefit them. The public needs protection from them. That's why the constitution created a Public Service Commission. But as often happens when something comes into existence as time goes on... [LB545]

SENATOR KRIST: Time, Senator. [LB545]

SENATOR CHAMBERS: ...it doesn't do what it was designed to do. Thank you, Mr. President. [LB545]

SENATOR KRIST: Thank you, Senator Chambers. Seeing no one else in the queue, Senator Chambers, you're recognized to close. [LB545]

SENATOR CHAMBERS: Thank you. And, Mr. President, although there's no one else in this queue, I am far from through. What that amendment that was adopted shows is that with all of the smart people looking at this bill, all of those who are interested in the public who said they were, left out a critical element which when they thought the absence of that element would bring down the bill, they ran and flocked to say we'll put it in. They knew what they were excluding. They knew, but they thought nobody would pick up on it and that the Legislature in a supine, docile, bootlicking posture would go along with that program. Fortunately, there were others who discussed this bill during its early stages. I was not one of them that played much of a role in that. I listened to them. So when it became clear that this element becomes "that without which," you're not going to get a bill. They said, by God, we'll take it. And if they thought I was amenable, they'd contact me over the noonhour and say: Senator Chambers, what would it take to get you to agree to this bill? What changes would satisfy you? But they don't come to

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me like that because they know when they've got a bad bill that I'm not going to be persuaded to go along with it. So then what they will do is talk to enough senators to get 33 votes to shut me up. But now they've got Senator Schumacher also. Now I don't know how long Senator Schumacher can hold up because he's one of these youngsters, and youngsters sometimes run out of gas. But at any rate, there are points that he is making which will be in the record. And they should be in the record. I have a letter that I'm going to share with my colleagues because you all don't know the kind of relationship I have with some judges. But this man was considered one of the better minds on the Nebraska Supreme Court bench. His last name was Gerrard. He was recently appointed to be a federal district judge. And he and I used to talk--talk, not argue. You all can't believe that because you all don't talk to these judges, probably because you don't have anything to say that they want to hear. We have discussions on issues, not, Ernie, will you support a salary increase for the judges. And I'm going to share with you all a letter that he wrote to me. And I asked him what would he feel if I let people see this letter. He said, Senator, I'm like you. Anything I put my name to, the world can see it. So I'm going to let you all see that. And you can tear it up because I'm telling you what's in it, and you may not want to read it. And I'm going to give you the information that I said I would about my conflict with Sprint. And not one of you has ever stood up to company like that in the way that I did it and got the success I got, and I wasn't paid to do it. And I can show you other things which I think along the way I will because you don't know. You don't know me. Why should you? Why should you look at any record to see the kind of things that I've given my time to? [LB545]

SENATOR KRIST: One minute. [LB545]

SENATOR CHAMBERS: That's not your responsibility and you don't have that much interest. But when we have matters like this, I'm going to bring some of these things to your attention. This amendment, this motion that I offered, is not one that merits a vote. It was one of the things that I could put up to allow me some additional time to discuss without having to formulate an amendment. But I do have an amendment on the desk. And since Senator Dubas' meritorious amendment has been adopted and I have something else that will enable me to talk, I will now withdraw this motion, Mr. President. [LB545]

SENATOR KRIST: Thank you, Senator Chambers. Mr. Clerk. [LB545]

CLERK: Mr. President, Senator Chambers would move to amend the bill with FA70. (Legislative Journal page 1199.) [LB545]

SENATOR KRIST: Senator Chambers, you're recognized to open. [LB545]

SENATOR CHAMBERS: Thank you. Members of the Legislature, although you can call this up on your gadget, the record that is prepared relative to what we do by way of the

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transcription of our proceedings will not carry it. So on page 5 in lines 3 and 4, my proposed amendment would strike the new matter and reinstate the stricken matter. It would leave that language just as it is in the law right now. And here is what the language that's in the law says now, and it begins at line 27 on page 4, "Except as otherwise provided in this section or for rate orders provided for in Section 75-139, any appeal of a commission order shall not stay enforcement of such order unless otherwise ordered under (3) of Section 84-917." That's the current law. What is proposed by this committee amendment is to strike the words "under (3) of Section 84-917." And this is what they would put in that language's place by the commission or the Court of Appeals. So the order shall not stay enforcement of such order unless otherwise ordered by the commission or the Court of Appeals. Here's where I would ask Senator Lautenbaugh a question if he's on the floor. [LB545]

SENATOR KRIST: Senator Lautenbaugh, will you yield? [LB545]

SENATOR CHAMBERS: And I will speak slowly as he makes his way to his desk. And it shows how much I listen to him because I learned that from him this morning. [LB545]

SENATOR LAUTENBAUGH: Yes. [LB545]

SENATOR CHAMBERS: Senator Lautenbaugh, you may not need to go to the statute for this, but if you could look on pages 4 and 5 of the amendment, of the committee amendment because we're going to deal mostly with what's in the current law. [LB545]

SENATOR LAUTENBAUGH: I apologize, Senator, my gadget is shut off... [LB545]

SENATOR CHAMBERS: Oh, that's all right. [LB545]

SENATOR LAUTENBAUGH: ...so I cannot look at that page, but. [LB545]

SENATOR CHAMBERS: Okay. Oh, and you don't have a green book like I have. [LB545]

SENATOR LAUTENBAUGH: I do not. [LB545]

SENATOR CHAMBERS: Oh, thank you. Then I won't ask you these questions. Members of the Legislature, I will make an observation. There was...and we're going to be plenty of time so it doesn't matter. There's a song in which I'm not going to sing. It said: Little red river rowboat. But I've got to tell you the story first. There were some of these big shots that politicians try to cheese up to and they had a "yachit". That's what ordinary people call it because we've never been on one before but they call it a yacht. So they're on their "yachit" and they're having what would be a garden party if it were on land in the afternoon or a high-class ball if it was inside at night. And they were doing on

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the "yachit" what very important big shot people do. But then the engine stopped. They didn't have a sail. That "yachit" was lying dead in the water. But before that happened, there was a guy rowing along and they were laughing at him, and they threw things at him when he came close enough to it. Instead of doing like they say people in some European countries do, when they finish a drink they throw the glass into the fireplace and shatter it. Well, they were taking their glasses and throwing them at the guy in his rowboat. They would throw uneaten bits of food at him in his rowboat and he would dodge them. But then this principle in the universe known as retribution came into play, and the engines of the "yachit" stopped. And for all of the importance and money that these big shots had on their "yachit," they could not make that craft move at all. So the man in the little red rowboat pulled his rowboat close to the "yachit," Senator Coash, and a song was written about him. Little red river rowboat. Little red river rowboat. Ain't much better than no boat, but at least it will go when I row, row, row. At least it'll go when I row. And he rowed on to shore. So ordinary people don't have a lot going for themselves. Sometimes they only have somebody with a little red rowboat, metaphorically speaking, trying to hold off those in the "yachit" who got all of the power. I digress, Senator Coash. The other day I told Senator Coash I was going to have fun with his name. In my mind the way it works, I reorganize letters in people's names. I can't get many words out of Senator Bolz's name because she doesn't give me enough to work with. But if you look at my friend Senator Coash and you rearrange the letters in his name, he knows what it is, the word is chaos. Senator "Chaos." There it is! And some of the others of you whose names give me grist for my mill when I'm standing here looking around and you think my mind is idle. It's working and I'll show you the production of it someday. But for today I'm talking about the fact that I who am using one of these old-fashioned books--paper--and farther along than those of you all who know far more about a gadget than I will ever know. Louis Armstrong sang a song and he talked about all the wonderful things that happened. He talked about the children who will learn more than I will ever know. But my little red-covered book will give me information that you can't get from your gadget if the regulated industry that provides you the power does not send power to your gadget or for any other reason the gadget lets you down, my book is more reliable and dependable than your gadget. There is nothing that can stop me from reading this book unless those who send the power into the lights don't do so, but I can pick up the book and take it out by a window and read it. Without your gadget, you're helpless. But the issue that I wanted to ask about in my amendment is why and what is envisioned by allowing an order's enforcement to be stayed. I need to know what that order is and why the commission could stay it. It says: any appeal of a commission order shall not stay enforcement of such order unless otherwise ordered with the new language by the commission or the Court of Appeals. Why would not every order be stayed or why should any order be stayed? I would have to know the nature of these different kinds of orders and why some apparently can be stayed and others cannot. [LB545]

SENATOR KRIST: One minute. [LB545]

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SENATOR CHAMBERS: But when you introduce a subsection with the words, quote, except as otherwise provided in this section or for rate orders provided for in a different section, you've got to go to that other section to understand what's going on here. Nobody on this floor has done that. Even the one whose name is on this bill I bet has not done that. I know Senator Nelson hasn't done it. I know that Senator Lathrop hasn't done it. I haven't done it. So we have a bill, a very critical part of which cross-references another section which we have not read. And the only way I can be shown to be in error is for somebody to stand up and tell me they read it, then they can explain to me what it says and why we have this bunglesome language about orders except for such-and-such not being stayed by an appeal unless the commission orders it stayed. [LB545]

SENATOR KRIST: Time, Senator. [LB545]

SENATOR CHAMBERS: You said time? [LB545]

SENATOR KRIST: Yes, sir. [LB545]

SENATOR CHAMBERS: Thank you, Mr. President. [LB545]

SENATOR KRIST: Thank you, Senator Chambers. Senator Schumacher, you are recognized. [LB545]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. I was able to come up with a little more statistics on this pressing, urgent need to exempt the Public Service Commission and the agent or the businesses that they set fees and rates for from the onerous process of the Administrative Procedures Act which governs every other appeal from a regulatory agency but which is really needed here because it's special. Since 2008--2008--that's one, two, three, four, five years, there have been 18 appeals. Wow! That sounds like that the courts are just flooded with appeals and the ratepayers are just getting hooked with big legal fees something fierce. That's why we need to do this we're told. We're not told how many of these were handled by internal attorneys. We're not told about internal attorneys on the part of the commission or on the part of the regulatory agency. We're not told anything. It's just a bold assertion that, you know, appeals cost a lot of money and, therefore, we should short-circuit the entire process. What about the Department of Corrections? They've got bunches and bunches of appeals. Looks like they had more appeals in 2010 than the Public...in one year than the Public Service Commission had in five. Should we short-circuit them? Department of Revenue. They had, let's see, producer actions, 2012, 36. Should we short-circuit them, get them right into the Court of Appeals? Let's save some money on legal fees there on both sides. Department of Motor Vehicles. Looks like they had in 2011, 14. Let's short-circuit them, save a bunch more money there. The TERC board in 2012 had 15

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appeals, almost as much in one year as the Public Service Commission had. We short-circuit them? Why? Why are we here and may be here for eight hours and four more on Select over this other than insiders got together with the commission that regulates them and which they finance through the fees that the commission allows, other than that? Folks, I got faith in this body, and I think when somebody pulls and tries to pull a quick deal here, they deserve to know that we might just up the ante. And once we get done working with Senator Chambers' FA70, maybe we take the assumption that the guys on the appeals court are so much sharper and so much better equipped with complicated issues than the guys in the district court even though the district court is the only one equipped to deal with stuff on factual issues and equipped to deploy special masters and special referees to get to the bottom of factual issues. But maybe the guys and gals on the Court of Appeals really should be in charge, and in which case then an amendment that's going to be coming up that says if you are not a regulated party, if you're an ordinary Joe Citizen and you make an appeal from an action by the Public Service Commission, the very capable people... [LB545]

SENATOR KRIST: One minute. [LB545]

SENATOR SCHUMACHER: ...on the Court of Appeals will get to hear the whole thing fresh. De novo, not de novo on some record that was carefully stacked when nobody was really looking at a hearing that wasn't really advertised for which nobody really cared except maybe a few public interest people who wanted to do something. So maybe the appellate court should hear it de novo right from the start. Have witnesses come in, listen to all the data, sort through it, and make a decision. Doesn't make a lot of sense legally to bypass the district court, but, hey, that's what we want to do here because we want efficiency in the system. Maybe we should take it right to the Supreme Court. This is fixing something that isn't broken and instead of fixing it, the word might be used rigging something that is broken. [LB545]

SENATOR KRIST: Thank you, Senator Schumacher. Senator Avery, you are recognized. [LB545]

SENATOR AVERY: Thank you, Mr. President. I've listened carefully to Senator Schumacher and Senator Chambers and I can tell you that they're absolutely right. The system is not broken. And if you go back to 2003, in fact, the law was changed to put into statute the exact procedure in the appeals process that we are now seeking to change with LB545. I would like to engage Senator Dubas in a couple of questions if she would yield. [LB545]

SENATOR KRIST: Senator Dubas, will you yield? [LB545]

SENATOR DUBAS: Yes, I will. [LB545]

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SENATOR AVERY: Senator Dubas, you know that in 2003 the commission had the law changed. I think the bill was LB187 that redirected commission appeals to the...from the Court of Appeals to the district court under the APA. Is that correct? [LB545]

SENATOR DUBAS: Yes, they had the option, either. [LB545]

SENATOR AVERY: All right. Can you explain why that decision was made with LB187? [LB545]

SENATOR DUBAS: They just wanted to be able to pick one court. I think they were going again towards some understanding of uniformity. [LB545]

SENATOR AVERY: Uniformity. Uniformity in the appeal process? [LB545]

SENATOR DUBAS: So that they knew which court that they had to...which court they would go to, yes. [LB545]

SENATOR AVERY: But they know which court they go to. They go to the court of...the district court. That should never have been in question. And what I'm getting at is that it seems to me that in 2003, this Legislature was trying to fix something, fix the process to improve it. They weren't...this, it appears to me that LB187 was not an industry bill. LB187 was a bill to protect the public. Would you agree with that? [LB545]

SENATOR DUBAS: As we looked through that legislative history, it doesn't appear that there's anything that really justifies why the decision was made one way or another. There was a lot of question, which is the best way to go. And, again, at that time, that's when natural gas came under the jurisdiction of Public Service Commission. They weren't there before. And so those types of cases brought a different type of caseload or different type of case review into the process. And so since 2003 there's continued to be this discussion about is this the best way to go. [LB545]

SENATOR AVERY: And where has that discussion been taking place? In the industry within the PSC? [LB545]

SENATOR DUBAS: I believe it's been across the board with everyone. [LB545]

SENATOR AVERY: With ratepayers? [LB545]

SENATOR DUBAS: Through the public advocate the ratepayers are represented, yes. [LB545]

SENATOR AVERY: I have a feeling that this is exactly what I said it was my first time on the mike. This is an example of where the industry has an inside operation here. They

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know that most people are not paying attention to what the Public Service Commission is doing despite the extremely important regulatory role that the commission plays. And they know that they can manipulate the system and they have advocates on the commission, paid advocates, if you will, advocates on the commission taking care of their interests, not taking care of the public interest. And I'm afraid that this is something that we are about to approve and it is... [LB545]

SENATOR KRIST: One minute. [LB545]

SENATOR AVERY: ...going to come back to haunt us later. I'm concerned not only about the impact on the public interest. I'm concerned also that this might open the door for other agencies to come before us and to ask to be treated the same way. I think Senator Schumacher raised that point. Why should we have such a difficult time in this body identifying what's in the public interest versus what is in the private interest? Why is it that when we get an opportunity to do something to advance the public interest, we get weak-kneed? This should be clear. We can look around at what other states do and maybe learn something from it. Thirty-seven other states appoint their utility regulators because they recognize the potential conflicts when you have elections... [LB545]

SENATOR KRIST: Time, Senator. [LB545]

SENATOR AVERY: Thank you, Mr. President. [LB545]

SENATOR KRIST: Thank you, Senator Avery. Senator Chambers, you're recognized. [LB545]

SENATOR CHAMBERS: Thank you, Mr. President, members of the Legislature. In this part of the statute that I'm dealing with, it would be the committee amendment, there are four lines and some form of the word "order" appears four times: three times it's singular, one time it's plural. I did have time to look up one of the sections which is cross-referenced. This language says, "Except as otherwise provided in this section or for rate orders provided for in section 75-139...", and I looked that up. It has to do with posting a supersedeas bond and apparently you can get out of this restriction. But forgetting, that, "...any appeal of a commission order shall not stay enforcement of such order." So that means the order is put in place by the commission and somebody files an appeal. But that filing of the appeal will not stop the order from going into effect, then this language, "unless otherwise ordered under subsection (3) of section 84-917," which I didn't have time to look up. But with the new language it would say, "unless otherwise ordered by the commission or the Court of Appeals." So if an order is entered and an appeal is filed, the implementation of that order will not be stayed or stopped unless the commission orders it or the Court of Appeals. So right now the law allows for what I was discussing earlier with, I think, Senator Burke Harr that we could provide that no order would take effect until after there had been an appeal or some such discussion. But the

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point I was making then and I make now is that as the Legislature, we have the power to fix any problem that the regulators or the regulatees deem to exist in the law, and apparently none of those supposed problems were so pressing that they attempted, in a full-court press, to do anything. Why, at this point you have a lot of brand new people who are going to rely on what lobbyists tell them, who will not know of the travails that have occurred previously on these various issues. Some were not here when Senator Avery offered his bill, which I felt was a very good bill, that dealt with contributions from the regulated industries to those who are members of the Public Service Commission. If they are serving the public, why do they have to rely on the contributions of these regulated industries? Well, the commissioners, not wanting to deal with the reality, would say, well, you know, we're not a high-profile operation. And if they told the whole truth they'd say, that's the way we want it because the things that we do will not bear being exposed to the light of day. But at any rate, let them beg money from the public like everybody else does. [LB545]

SENATOR KRIST: One minute. [LB545]

SENATOR CHAMBERS: Judges cannot campaign. They cannot accept contributions. They stand for retention, not for election. If more people disliked that person than liked the person, there would be more votes not to retain than to retain, and the judge is out. The judge cannot campaign and beg money because the judge is to be impartial. The judge is to be objective. And to be impartial means not that you have an empty mind but you have a mind that's open and receptive to facts properly presented. A judge campaigning for office, and it has been found to be the problem in states where they run for office like anybody else, become the handmaidens and water boys of special interest groups who ante up a lot of money... [LB545]

SENATOR KRIST: Time, Senator. [LB545]

SENATOR CHAMBERS: ...and becomes their judge. Thank you, Mr. President. [LB545]

SENATOR KRIST: Thank you, Senator Chambers. Mr. Clerk. [LB545]

CLERK: Mr. President, I have an item. Senator Davis would offer LR169. (Legislative Journal pages 1199-1200.) [LR169]

And I have a priority motion. Senator Karpisek would move to recess the body until 1:30 p.m.

SENATOR KRIST: You have heard the motion. All those in favor, aye. One more time: All those in favor, aye. Thank you. Opposed, nay. Thank you. We are adjourned until 1:30 today...I'm sorry, we are in recess until 1:30 today.

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RECESS

SENATOR CARLSON PRESIDING

SENATOR CARLSON: Mr. Clerk, please record.

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

SENATOR CARLSON: Thank you, Mr. Clerk. Do you have any items for the record?

CLERK: I do. The Appropriations Committee, chaired by Senator Mello, reports LB196 to General File, LB194, LB195, LB197, LB198, LB199, and LB200 to General File with committee amendments attached. And that's all that I have, Mr. President. (Also, an amendment to be printed to LB199 by Senator Mello, Legislative Journal pages 1200-1206.) [LB196 LB194 LB195 LB197 LB198 LB199 LB200]

SENATOR CARLSON: Thank you, Mr. Clerk. We'll proceed to the first item on the agenda. Senator Mello, for what purpose do you rise?

SENATOR MELLO: Mr. President, I rise for a point of personal privilege.

SENATOR CARLSON: You're recognized.

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. Just moments ago the Appropriations Committee's final budget recommendations were reported to the floor on the seventieth day, as required, by Rule 8, Section 5. The committee's recommendations are comprised of seven bills, LB194 through LB200. Each of the committee's amendments are white copy amendments, so that the amendment becomes the bill. In addition, there will be two other amendments submitted by myself on behalf of the Appropriations Committee which will be offered as amendments to the committee amendments. These additional amendments are the result of late-breaking issues, the first of which was a higher revenue estimate from the Forecasting Board for the next two fiscal years. The amendment to LB199, the funds transfer bill, would transfer that amount, totaling \$53 million for the biennium, from the General Fund into the state's Cash Reserve Fund. The second amendment revises the TEEOSA total appropriation to reflect the compromise that has emerged on LB407. This amendment to the mainline budget bill, LB195, reduces the TEEOSA appropriation by approximately \$8.6 million, and allows those dollars to flow to the ending balance for the General Fund, thus, increasing the amount of money for A bills and tax expenditure bills for the floor. The two issues emerged late in our budget process to be included in the budget books, which have been distributed on your desks already. Thus, they're not reflected in the status in the budget book, nor are they in the committee amendments accompanying the bills reported today. Because these two amendments were acted

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upon by the Appropriations Committee, however, you will see those two changes affect the General Fund financial status when it is first attached to tomorrow's agenda. Thus, tomorrow's status will represent the Appropriations Committee recommendation. Copies of the budget book have already been distributed on the floor, and additional copies are available in the Legislative Fiscal Office. The budget book is also available on the Nebraska Legislature's Web site. I will be hosting a budget briefing with the Fiscal Office on Tuesday, May 7, in Room 1524, beginning at 9:00 a.m. to answer any questions that you may have about the budget or any issues in the budget book. In the meantime, I'd strongly encourage everyone to read through the budget book and please feel free, obviously, to visit with myself or other members of the committee or the Legislative Fiscal Office if you have any immediate questions. With that, thank you, Mr. President. [LB194 LB195 LB196 LB197 LB198 LB199 LB200 LB407]

SENATOR CARLSON: Thank you, Senator Mello. Members, we now return to debate on LB545 and the underlying amendment, FA70. Senator Dubas, you're recognized. (Legislative Journal page 1199.) [LB545]

SENATOR DUBAS: Thank you very much, Mr. President. And good afternoon, colleagues. I have been appreciative of the conversation we've been having so far on LB545 and look forward to some continued conversation this afternoon, because this is a policy debate and it's an important one. And we certainly do need to understand the consequences of any decisions we make, whether they be positive or negative on this. There were some things raised this morning, some points raised this morning that I'd like to come back and maybe further clarify or address for the record. One of the things that as I began to try to get a better understanding of this particular bill and what we are doing with it is looking at what do other states do, especially those states that surround us who may be dealing with things that are circumstances very similar to what our states do. And it appears that the majority of states like Colorado, Kansas, South Dakota, Wyoming, those again that surround us, while they might not do them exactly the way we are proposing in LB545, if you look at the number of steps, you know, for Nebraska, we have the Public Service Commission, then we have the district court, then we have the Court of Appeals, and then we have the Supreme Court. So we have, basically, a four-step process. Other states use a three-step process. So depending, you know, they might use a different court but they do have a shorter process, so to speak. You know, Colorado has their Public Utilities Commission. They use a de novo on the record review. Kansas uses the district court or the Court of Appeals, so there's a choice there but except for rate cases where the Court of Appeals has exclusive jurisdiction. South Dakota has their regulatory agency. Then it goes to the circuit court and then the Supreme Court. Wyoming has their regulatory agency, district court, Supreme Court. So again, you know, we're set up in somewhat different ways but yet I was looking at how many steps are there in the process, because my concern was with due process in making sure that we weren't short-circuiting that due process. This bill was not born of the industry. This bill was born out of other conversations that have

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taken place through different legislation that was introduced through, as Senator McGill talked about this morning, the Urban Affairs Committee, who deals a lot with natural gas issues. And the directions that they gave to the Public Service Commission are, are there a way that we can eliminate duplicative types of processes? Is there a way that we can find a way to find savings for our judicial resources, again always making sure that the system is responsive and that due process is upheld? And so the Public Service Commission has been working on this for several years at least, trying to find what is the best way to move forward. They, of course, have had interactions with the various industries because that's who's involved in these proceedings and these hearings, but it was driven by some directions that were given to the Public Service Commission to look for ways to make sure that the entire system works but that works in an efficient manner. Using that word "efficient," you know, it conjures up visions most of the time of how do you make things shorter or how do you...can you eliminate steps or what have you. But I think in this process we are looking at how to make this... [LB545]

SENATOR CARLSON: One minute. [LB545]

SENATOR DUBAS: Thank you, Mr. President,...how do we make the system responsive to especially our ratepayers, those consumers who are paying the price for what happens through these proceedings. And those ratepayers are represented through a public advocate so of course they aren't going to show up in person for these particular hearings. They don't have the expertise or knowledge. But I think through the understanding of the Legislature and these regulatory agencies, there has to be someone who does look out for the public interest and represents that public interest throughout the proceedings. So the public advocate is such...that such a position to look out for, for the public's interest, throughout this whole process. So, you know, some people have said that cost is not an issue here. I think when you're talking about it in what are the costs that come out of consumers' pockets, it does need to be an issue. It's a big...this is a big issue. [LB545]

SENATOR CARLSON: Time. [LB545]

SENATOR DUBAS: Thank you, Mr. President. [LB545]

SENATOR CARLSON: Thank you, Senator Dubas. (Visitors introduced.) Are there other senators wishing to speak? Senator Schumacher, you're recognized. [LB545]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. Would Senator Dubas yield to some questions? [LB545]

SENATOR CARLSON: Senator Dubas, would you yield? [LB545]

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SENATOR DUBAS: Yes, I will. [LB545]

SENATOR SCHUMACHER: Thank you, Senator Dubas. Senator Dubas, I think we had numbers before of somewhere in the neighborhood of four in a year for the last five years of appeals to the district court from Public Service Commission. Do you know how many of those appeals to the district court ended up being finalized in district court? In other words, how many went on to the Court of Appeals or the Supreme Court? [LB545]

SENATOR DUBAS: I don't know how many went to the Supreme Court, no. [LB545]

SENATOR SCHUMACHER: How many went on to the Court of Appeals? [LB545]

SENATOR DUBAS: Let's see, it looks like natural gas, number that were appealed to the appellate court were three. [LB545]

SENATOR SCHUMACHER: And the appellate court is the district court, in this case. Is that not true? [LB545]

SENATOR DUBAS: I'm not quite sure I understand your question. [LB545]

SENATOR SCHUMACHER: Appealed to the appellate court, that means in this case the district court is sitting as an appellate court. My question is, of the ones that were appealed to the district court, which is the appellate court, how many of those graduated up the line to the Court of Appeals? [LB545]

SENATOR DUBAS: Three. [LB545]

SENATOR SCHUMACHER: Three. Are you... [LB545]

SENATOR DUBAS: So they start...it looked like...the numbers that I have in front of me, there were eight that went to the district court and then three that went on to the appellate court. [LB545]

SENATOR SCHUMACHER: And how many beyond that? [LB545]

SENATOR DUBAS: I'm sorry, I can get that number for you but I don't have that on my information sheet. [LB545]

SENATOR SCHUMACHER: Okay. Thank you, Senator Dubas. We have an efficient mechanism now. We had three cases out of that group of cases that were not completely disposed of at the district court level, went on. Presumably, if they'd had started out at the appellate...at the Court of Appeals level, they would have been appealed to the Supreme Court. We are talking about a tiny, tiny number of cases, not a

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reason to undo the policy that we've already established for appeals from regulatory agencies. The reason for the Administrative Procedures Act is to have a uniform and knowledgeable method of appeal from the public agencies and the regulatory agencies. Why do you want to have something? Why don't you want to have a special little deal on appeals for everybody? Well, you know, lawyers need to be skilled in what they do to effectively represent somebody. And so by having a uniform set of appeal procedures you at least have some market in the bar and some available access to the court system by the common citizen in order to get into the court system. Now just imagine then what happens if we have a separate set of rules, a separate procedure, a separate way to know how to present the case or what's required by a particular judge for just these very few cases. How many lawyers are going to bother to learn that? How available are they going to be? And if they do bother to learn it, do you suppose they're going to resist the temptation when one of the regulated agencies comes to them and says, here, we'll give you a little retainer here just in case we need help on our issues? Suddenly, they've got a conflict of interest; can't take a case from the general public. Do you see what's happening when we create this special deal for this tiny number of cases for this one agency that deals with... [LB545]

SENATOR CARLSON: One minute. [LB545]

SENATOR SCHUMACHER: ...millions and millions of dollars? We're restricting access to the courts. We're restricting the ability of the public to challenge an issue. And to the extent that you do that, you embolden the regulatory body. You embolden those who have the campaign contributions and who have the leverage to just do what they darn well please because you pretty well insulated the system. Folks, there has not been a demonstrated need for any change here at this time. And this is simply a show of force in trying to strangle access to the courts and access to public accountability. This is not the way to conduct business, much less the way to spend 12 hours here. Thank you, Mr. President. [LB545]

SENATOR CARLSON: Thank you, Senator Schumacher. Senator Chambers, you're recognized. [LB545]

SENATOR CHAMBERS: Thank you. Mr. President, is this my third time? [LB545]

SENATOR CARLSON: This is your second. [LB545]

SENATOR CHAMBERS: Okay. I'm just trying to keep straight, because I have spoken several times and I don't want to create a difficult situation for anybody. Members of the Legislature, you've all heard the expression power corrupts, absolute power corrupts absolutely. You'd be shocked at the context in which that statement occurred. A lobbyist brought it to my attention. His name is Seamus (phonetic) Cavanaugh (phonetic). And he may be willing to discuss it with you at some time, and if you don't already know the

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story, it will cause perhaps as much surprise to you as it did to me. When you put power in the hands of human beings, there is a likelihood, not just a possibility, a likelihood that it's going to be abused if that power consists in requiring other people to do certain things by being bent to your will. When you have an agency which is to regulate very powerful entities whose only reason for existing is money, all of them believe in a green economy and the green is money, Senator Kintner. And some people don't realize but I'll reveal it now. There's a language called "Chambersese," and in "Chambersese," Kintner means green. So here we are dealing with some very, very powerful interests. Senator Dubas had mentioned what certain other states are doing in this area. I would suggest, not dealing with what Senator Dubas said any further, just using that as an intro, that you look at the power of these entities in states throughout the country. They virtually get their way. When the people who put together the constitution under which this state enacts laws did so, they created a Public Service Commission. I don't know if anybody has been around long enough to answer this question, but I will ask...I will ask Senator Wightman a question, if he will answer. [LB545]

SENATOR CARLSON: Senator Wightman, would you yield? [LB545]

SENATOR WIGHTMAN: I will. [LB545]

SENATOR CHAMBERS: Senator Wightman, did this commission used to be known as the Railway Commission? [LB545]

SENATOR WIGHTMAN: I believe that's right. [LB545]

SENATOR CHAMBERS: Was it created by the constitution, if you recall? [LB545]

SENATOR WIGHTMAN: I don't know how long ago that was but I don't recall it. [LB545]

SENATOR CHAMBERS: Thank you. I don't either. But, members of the Legislature, at whatever point this entity became known as the Public Service Commission. There are two words that are important, "Public" and "Service." Who is to be the beneficiary of the service which is to be performed by this commission? The first word tells you--"Public." The public is to be served. What we have before us today takes no competence... [LB545]

SENATOR CARLSON: One minute. [LB545]

SENATOR CHAMBERS: ...of the public. None of the arguments in support of this bill relate to what is beneficial to the public. The public is interested when it's necessary to deal with these entities that are regulated. The public is interested in receiving what they pay for through the rates that are set on these entities. They have to rely on the Public Service Commission to look out for their interests. And this bill indicates to me that that

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commission is looking the other direction. Thank you, Mr. President. [LB545]

SENATOR CARLSON: Thank you, Senator Chambers. (Visitors introduced.) Senators wishing to speak include Dubas, Chambers, and Schumacher. Senator Dubas, you're recognized. [LB545]

SENATOR DUBAS: Thank you very much, Mr. President. I'd like to continue with addressing some issues that were raised this morning during debate referencing the special treatment that this process is trying to put in place. We have other...TERC, the process through TERC goes to the Court of Appeals. Some of the decisions that are made by the Department of Natural Resources has a process different than what we're talking about through the Administrative Procedures Act. CIR has a different process, as well as Workmen's Comp Court. So this isn't...it appears, as we look at the way other entities do their business, we do have separate and distinct statutes that try to address specifically what those particular agencies deal with and how they go about dealing with them. There's been some questions raised as far as how objective the Public Service Commission really is and do they really...are they really there to serve the public or are they there to serve industry. You know, whether...I heard these exact same points made whether it's an elected official or whether it's an appointment person. There's always a certain amount of concern or question as to how objective is that person when they're making their decisions. As an elected official, they certainly have to respond to their constituents if they want to be reelected. They have to go out just as we do and defend or explain decisions that they make. If you're talking about someone who is appointed to a position, well, then of course you're immediately going to hear it's a political appointment; they represent that person that...or that party or that position that appointed them to that position. So really, are they being objective or are they just more or less carrying the same message that they're being told to make? Now there's positives and negatives. There's pluses and minuses. There's arguments that could be made on either side of the issue of having elected versus appointed officials. You know, my experience with the Public Service Commission has been one...they've always been very responsive to my questions. Do we blindly trust every agency, every person who is either elected to a position or is appointed to a position or works in a particular agency? Do we blindly trust them? No, we shouldn't blindly trust anyone. We were all given minds to use to think and discern and ask questions, and that's what we as a legislative body do, that's what our constituents do to us. That's what we should all do. We should want to understand, you know, why things happen the way they do and not just accept them at face value. And I hear that question being asked today: Why should we be...why should we just accept at face value what LB545 is trying to do? And that's why I appreciate the questions. These are important. These are policy decisions. But I think the arguments are there to support why LB545 would not take us down a wrong path. We've been on this path since 2003. There have been some concerns or questions as to is this really working the way we thought it would or do we need to come back and revisit it. It's not uncommon for us to come back and revisit legislation that's been

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introduced in the past or statutes that are currently in place. So you know, as I referenced the fact about should we blindly trust everybody, no. But by the same token, should we operate out of the concept of absolute mistrust; that we don't...that we have a complete suspicion of every action or inaction? We want honest, dedicated, caring people who want to serve the public interest to run for these offices... [LB545]

SENATOR CARLSON: One minute. [LB545]

SENATOR DUBAS: Thank you, Mr. President,...or to seek appointment to these offices. Is that true in every case? No, it's not. And it's because of those bad actors that, you know, everyone who is in an elected position probably gets...we all get lumped in together. And that's why it is so important for us to make sure that our actions reflect honesty and integrity and a willingness to understand the issues. I believe that's what we're trying to do here in the Legislature today, but I think the amount of mistrust and suspicion that's being cast upon the Public Service Commission and the way they do their business is, in my estimation, a little bit out of line and perhaps misguided. We all come from our experiences, our life experiences. So from my life experience and my interactions with the Public Service Commission, you know, I believe they're there to do what they're supposed to do in their elected position. [LB545]

SENATOR CARLSON: Time. [LB545]

SENATOR DUBAS: Thank you, Mr. President. [LB545]

SENATOR CARLSON: Thank you, Senator Dubas. Senator Chambers, you're recognized. [LB545]

SENATOR CHAMBERS: Mr. President, members of the Legislature, Senator Dubas always manages to say something that makes me think and remember something else. There was a fellow not too long ago who was in the news named Bernie Madoff. And his name fit him because he made off with the money of a lot of people. Now he took advantage of people whom, some will say, ought to have been taken advantage of. Being knowledgeable about finances, they should have known that the amount of return he told them they would receive on their money meant something was amiss. If that's what he was saying he could deliver on and they knew that in a properly functioning economic or financial system that is not going to happen, they knew or should have known something was up, other than the sky and the sun and clouds. But they jumped into it and then, when their greed resulted in losses, they wanted to go after him. And they were justified in doing so, I suppose, because he was a crook. And it takes a crook to catch a crook, but these were not crooks absolutely. They were potential crooks. All they were was greedy. When you come to what we're talking about here today, I don't want to say that this commission has a conscious intent to betray the trust that has been reposed in them by the public or the trust that the public should be able to repose in

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them. But in the law, when they talk about discrimination, there is the notion of discrimination as such. Then there's something else known as discriminatory effect or impact. How does this particular provision actually impact on people? Let's say that Bernie Madoff did not mean to be crooked and Senator Kolowski lost \$14 million. Does it make Senator Kolowski any difference whether Bernie Madoff intended for him to lose that money or not? The result is the same and the intention meant nothing. When you get a speeding ticket, there is no question asked, and the law does not require it, as to whether you intended to break that speed limit. The law was written in such a way that as soon as you exceeded that limit, you were in violation. Your intent, your knowledge meant nothing; you violated the law and you must pay the penalty. When we trust these people, it's done because they are dealing with what we don't know anything about. Most of us don't even know there is such a thing as a Public Service Commission. And if you told us there was such a thing, we would look at the words and apply our ordinary understanding of the words "service" and "public" and come up with something that would have nothing to do with an agency designed to regulate these various industries. But some of us do know what is supposed to be done here by the Public Service Commission. During all of the years since you would take an appeal directly to the... [LB545]

SENATOR CARLSON: One minute. [LB545]

SENATOR CHAMBERS: ...Supreme Court until today, I presume, we've had a system which is now to be changed. But there's no urgency. There's no emergency. And for myself, I haven't had the opportunity to thoroughly familiarize myself with this bill, so I'm going to take the time to do so and I'll do it by way of motions and offered amendments. Thank you, Mr. President. [LB545]

SENATOR CARLSON: Thank you, Senator Chambers. Senator Schumacher, you're recognized. [LB545]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. Ours is a job of legislating, of creating a system of governance. And when we look at systemic weaknesses as where there might be problems and try to address those, we are not criticizing the individuals involved and who run for the office or are appointed. We are not distrusting them. And any insinuation that that's what we're doing is simply wrong. We are creating a structure so that people can operate in an open and honest way and are not put into situations where their environment is constructed so that they do not represent the public interest. Now to the extent, and there's nobody that can claim otherwise, that Public Service Commissioners and other parties are financed in their campaigns by enormous contributions from the people that they regulate, that creates an environment, an environment to go along to get along. And many people in this room have experienced that environment. And even though they don't like it, they're still experiencing that environment. Turnover in that Public Service Commission, even

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though it's one of the better paying public jobs in the state, is extremely low. Why do you suppose that is? Because it takes money to run in a race that takes in a fifth of the state of Nebraska. And the easiest, quickest way to raise that money is to go to the people you regulate on friendly terms. There's no turnover. That's why when you go into the meetings there you can have a token public advocate with no budget for litigation or a very little one. You can do all that, but in the end it's kind of just system taking care of itself. And now we are disrupting an appeal system in which somebody who might feel they were taken advantage of or might feel that the oversight of the commission over the regulated agency wasn't sufficient, we are disincentivizing them from taking further action at a level where there are plenty of attorneys available and to a court system that has been equipped to deal with appeals at this level and has the tools of referees and special masters to help them understand complicated issues, and we're wiping that out. And we're making it an exclusive, limited procedure understood by fewer and fewer lawyers who then can easily be picked off with a retainer in order to get out of the picture, if they're any good at it, and before a court that has no ability to try the facts, never was set up to ability to try the facts. And we are so far telling them, well, you're supposed to try the facts on the record. And why? Why are we here debating this? Well, there was 4 cases or 18 cases over five years. Let's poll them on cases. And you know it probably cost somebody some money, even though we haven't heard any numbers or that it was by outside counsel even or that it'd been cheaper if they did it through the Court of Appeals. Why? Simply a process creating... [LB545]

SENATOR CARLSON: One minute. [LB545]

SENATOR SCHUMACHER: ...an environment that is not conducive to the public interest, simply a process where a tighter and tighter group, dealing with an extreme amount of money, wants it. And by gosh, they may well show that they can get cloture on this thing, because that is a lot of money with big campaign funds. We need to deal with creating an environment where everyone who is honest can remain honest and does not have to go along to get along. Why are we here debating this bill? Has anyone heard a compelling interest for the passage of this bill? [LB545]

SENATOR CARLSON: Time. Thank you, Senator Schumacher. There are no other senators wishing to speak. Senator Chambers, you're recognized to close on FA70. [LB545]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, when I'm going to go after a bill, I make it clear. And that's what I'm intending to do at this point with this bill. I'd like to ask, when he comes back, Senator Lautenbaugh a question. And it doesn't have to be on this particular proposal, but I will at some point. There are motions that I can offer, which I intend to. There are amendments which I could contrive just by saying strike this section, strike the next section, and on and on. And as we discuss each section, I bet the people who would stand up to object to my

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amendment could not explain the section, could not tell us what all is entailed in this bill or the procedures by which the commission operates. And I'll do it and I believe I can do it. And the Speaker has said at 5:00 we'll to go Final Reading, and it may be somebody's final resting place for all we know, because of that day and hour, Senator otherwise known as "Parson" Carlson, no man knoweth, under ordinary circumstances. Even when doctors try to predict that somebody is going to shuffle off this mortal coil within a certain number of weeks or months, sometimes Mother Nature steps in and says, you reckoned without me, and that person winds up getting up, in better health than had been the case for years. But I'll tell you this much. I know what I'm prepared to do on this bill and I know how to do it. Now Senator Lautenbaugh has suggested to you that there is a provision in the rules, and I handed out information to you to show you why that provision was put in the rules, that you can try to invoke cloture at any point. And that was put in to shut me up, and even after they put it in they couldn't shut me up. All they do is provoke me. When you have a system that has rules of any kind, even if they all work against me, I can play those rules and beat you, if that's what the game is going to boil down to. So if you invoke cloture and you get it, you've got a lot of cars on this train. But there's not a lot of time left and this bill I don't think is that important to everybody. But I'll find out, won't I? And we'll all find out whether I'm bluffing and I've been blowing smoke, and as soon as one of these situation comes up, I bow out or back out. This is one of those stormy-appearing days, the perfect environment to do what it is that I have in mind. The only one who could adequately describe the atmosphere and make people feel it from the words would be Edgar Allan Poe, and if you'd like to see what he can do with words read the first portion of his short story called The Fall of the House of Usher. Read it and savor the use of language that you find there. I cannot recreate that mood with words, but I'll tell you what, I bet I can wear a lot of people out today. [LB545]

SENATOR CARLSON: One minute. [LB545]

SENATOR CHAMBERS: On this time around, one minute, but there are many minutes left. And as I said in my poem about the horse flying, maybe I will die, maybe all of you will die, maybe the world will come to an end, or maybe the horse will be taught to fly. But I'm not going to rush. I've got plenty of time. And, Mr. President, I'm going to ask for a call of the house and a roll call vote. [LB545]

SENATOR CARLSON: There's been a request to place the house under call. The question is, shall the house go under call? All those in favor vote yea; all opposed vote nay. Record, Mr. Clerk. [LB545]

CLERK: 18 ayes, 0 nays to place the house under call. [LB545]

SENATOR CARLSON: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber please return to the Chamber and

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record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Mello, Senator Cook, Senator Nelson, Senator Larson, Senator Lautenbaugh, Senator Davis, the house is under call. Senators Mello, Cook, and Davis, the house is under call. Senator Cook, please return to the Chamber. The house is under call. All members are accounted for. Senator Chambers has requested a roll call vote. Mr. Clerk, please proceed. [LB545]

CLERK: (Roll call vote taken, Legislative Journal pages 1206-1207.) 4 ayes, 30 nays, Mr. President, on the amendment. [LB545]

SENATOR CARLSON: The amendment is not adopted. Mr. Clerk for an amendment. Raise the call. [LB545]

CLERK: Senator Schumacher would move to amend, Mr. President, with FA71. (Legislative Journal page 1207.) [LB545]

SENATOR CARLSON: Senator Schumacher, you're recognized to open on your amendment. [LB545]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. Let's retrace the history of this bill at this point. Over a small, small number of cases, this LB545 seeks to create a special set of appeal procedures that seem on the surface to want to limit the access to the courts. And that access to the courts was by putting review of Public Service Commission decisions under the Court of Appeals. And as originally laid out, the only thing the Court of Appeals could do is say, well, you know, is the action of the commission so arbitrary and capricious and so far out of line that they just got to be wrong, just no basis for it, arbitrary? Well, that's where it started. Then it backed off a little bit when they saw that that wasn't going to fly; that they couldn't insulate the process, the system that well. And it was, well, we will change it to de novo on the record. That's a Latin term that means try it anew but only use the paperwork of the record that was made in the lower tribunal. So the Appeals Court is confined to just using whatever record was made below and typed up for them to read. Now that record could be very simple, in fact maybe designed to be so simple that nobody can question it, particularly if you're in control of the forum, or it might be very, very complex. And we heard in the earlier arguments on this bill that if it was very, very complex, you know, the district judge just didn't have the steam in order to understand it and we better take it up to the next level where apparently the guys are...people are smarter or quicker or something. So then it was pointed out something that has not been responded to, that the district court is structured and designed and experienced in hearing facts, reviewing documents, determining facts in applying the law, something that the Appeals Court whose duty is to apply law but not particularly experts on finding the facts, and that the district court is armed with tools to find the facts in the case something is more technical than the district judge would to hear. And that's called a referee, sometimes called a

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special master. But the judge can bring in assistance for recommendations and for findings of fact that help the judge out. We're taking that part of the procedure, that safety valve, away completely when we put it up to the Court of Appeals. And we're saying, Court of Appeals, you're really bright and you're really on top of it and you just read the record and make a decision, the record that the administrative agency writes. What my amendment does is says, look, this doesn't pass the smell test of common sense. Why are we doing this? Why is there such a pressure from behind the glass in order to get this through? What is trying to be accomplished? And us, as a Legislature, have got an obligation to say, whoa, maybe there is more than meets the eye here, because there must be a whole lot of money involved in this, which we haven't heard of anything...any numeration of the supposed cost on your gas bill or phone bill or something like that. Well, the phone company charges...in many cases throws on a dollar charge just to keep their records up and nobody says anything about it. But there's pressure to do this. So my proposal in this language says, all right, if that's the case then if somebody appeals who is not a regulated party, in other words, an ordinary Joe gets...or a consumer interest group gets up the steam to try to take a run at this system, that they do not have to play in the first level before the system they are challenging. They can go to the Court of Appeals in this case and try it de novo. And it's misspelled in the...make a note, on the floor amendment. It's not de nova, it's de novo--brand new. And the Court of Appeals can have a trial in which all the evidence can be presented to them under situations where they rule what comes into the record rather than having the people being appealed being the rulers of what comes into the record. And then they can hear out whatever issue it is and make a decision. Now it's highly unordinary, it's unusual that that would be a procedure, but we're creating an unusual procedure here. We're creating a procedure to close the doors on judicial review. Why not exercise some muscle as a Legislature and say, you know, you come here with no good reasons for making this change and you try to tighten and insulate the regulated body and tighten down the system. Well, we're going to look at it objectively and we're going to swing wide open the doors to the courthouse. You've heard no justification for the restrictions that we've heard about being put on here, no quantification of this supposed big burden over four cases to the ratepayer because, in fact, there is none. But we're being asked to restrict it. This proposal is very simple. Says, folks, you're a citizens' group or a citizen and you want to take on the commission and the regulatees, who are in agreement here that this is the way to do things, and you've got to work and put together the public fund in order to go hire the attorneys to take on the armies of attorneys that the regulated industries can hire. Then you're going to have a clean, fresh hearing before the Court of Appeals in which you can present your evidence and arguments, in which the judges on the Court of Appeals can make a determination. What this amendment does is up the ante and it says we're opening the door open. You want appeals before the Court of Appeals, let's make it a real appeal of all the facts, not just the ones that were put into the record by a skilled set of attorneys, honed to create the record that wants the outcome. Let's open the door to the trial attorneys. Let's let it happen; not particularly the smartest result, because we've already

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got the smartest result in existing statute, but a whole lot better result than trying to limit access, trying to create an environment where it is easier and easier for the regulator and the regulatee to just get along because the muscle that a complainer would have before the regulated body is just not enough to overcome the momentum of the train. We're arguing about something here for some reason that must be really, really important to somebody. Or just is it a show of force? And when this comes down to a cloture vote, it will be interesting. It will be interesting if this body says this is more important than such things as \$400 million in Medicaid argument. It will really be interesting. And will, at the end of day, we be proud of ourselves that we have yielded for no really good reason to a force that we really don't understand, but somehow, in our conscience of consciences,... [LB545]

SENATOR CARLSON: One minute. [LB545]

SENATOR SCHUMACHER: ...know have got to be something wrong with? Why are we doing this? Twenty days left in the session and somehow a determination has been made that this is so important that it is a complete run-to-the-wall, cloture-worthy situation. Ask yourself what is really at stake here that this is that important. Why must the door to the courthouse be shut and chained? Thank you. [LB545]

SENATOR CARLSON: Thank you, Senator Schumacher. You've heard the opening on FA71. The floor is now open for debate. Those wishing to speak: Lautenbaugh and Chambers. Senator Lautenbaugh, you're recognized. [LB545]

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the body. Wonder if Senator Schumacher would yield to some questions. [LB545]

SENATOR CARLSON: Senator Schumacher, would you yield? [LB545]

SENATOR SCHUMACHER: Yes. [LB545]

SENATOR LAUTENBAUGH: Senator, do you have an understanding of what kind of review the district court performs now on an appeal? [LB545]

SENATOR SCHUMACHER: I believe that it is de novo on the record. [LB545]

SENATOR LAUTENBAUGH: De novo on the record. And I think you indicated that means that they're reviewing the record from below. Is that correct? [LB545]

SENATOR SCHUMACHER: Whatever record exists. [LB545]

SENATOR LAUTENBAUGH: Are you of the impression that the court somehow goes out and gathers additional evidence then? [LB545]

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SENATOR SCHUMACHER: No. [LB545]

SENATOR LAUTENBAUGH: Are you of the impression that the parties are free to bring in additional evidence then? [LB545]

SENATOR SCHUMACHER: No. [LB545]

SENATOR LAUTENBAUGH: And isn't that the same standard that by the amendment would be applied at the Court of Appeals? [LB545]

SENATOR SCHUMACHER: No. [LB545]

SENATOR LAUTENBAUGH: How so? [LB545]

SENATOR SCHUMACHER: Because the district court, on whatever evidence it has accumulated on the record, has got the ability to bring in folks who are experts on it and create a review of that on the record, review of that record and get a better opinion. So I think it's a better review at the district court. [LB545]

SENATOR LAUTENBAUGH: But that doesn't change the facts that they are submitted, the record they are submitted, does it? [LB545]

SENATOR SCHUMACHER: That doesn't change the record that's submitted and...because under the circumstance of how this record is generated is one of the reasons for this floor amendment to open the door so that folks can bring in additional data before an impartial judge rather than a regulator that is apparently in agreement on these procedures with the regulatee. [LB545]

SENATOR LAUTENBAUGH: If this bill doesn't go forward, are you going to still pursue apparently bringing in de novo review without being limited to the record for the district court? [LB545]

SENATOR SCHUMACHER: You know, that would be an interesting thing to look at considering that we've had situations where that might be a very useful tool for the public and an interesting way to make sure that regulatory bodies behave themselves, particularly if they're dealing with literally hundreds of millions of dollars. [LB545]

SENATOR LAUTENBAUGH: Thank you, Senator Schumacher. Folks, again, I rise with a certain amount of frustration on this issue. The Court of Appeals will do the review on the record. The district court does a review on the record. By my count, three times at the microphone I've said the problem isn't that there are so many of these cases clogging the courts, the problem is that the courts are so clogged that these cases are

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delayed at the district court level, the exact opposite of what has been made light of here and belittled: Well, there's only four of these cases, how can they be clogging the system? They aren't clogging the system. The system is clogged and holding up these cases. And by moving these cases forward to an adjudication, that benefits all the parties. So the next time someone stands up and says, I've still yet to hear a justification, I hope you're listening to these words coming out of my mouth right now for the fourth or fifth time, because that is a justification for doing this, and I've articulated it repeatedly. And I'm sorry if I sound a little frustrated, but I feel like I'm not necessarily being listened to on this particular point, and it is something of which I know. I don't know anything about appeals from the Public Service Commission, but I do know a lot about the pacing of matters in district court. And these cases aren't clogging the court; the court's docket are clogging these cases. It's the opposite of what you're hearing refuted here. And no one's access to the court...we just heard that the door to the courthouse is being barred and chained, being barred and chained by this. I mean, heaven knows I've been known to flights of hyperbole a time or two myself, but nothing could be farther from the truth here. This is cutting out one level of review and leaving two others above... [LB545]

SENATOR CARLSON: One minute. [LB545]

SENATOR LAUTENBAUGH: ...the Public Service Commission and all the things that go on at the Public Service Commission as well. Now if you have a beef with the Public Service Commission, dial direct. I mean throw in a constitutional amendment, say you don't like it, say it should be seven people or 12 people or 15 people or one person or they should be appointed and part of the administration or whatever. But this makes sense to me, what this bill is trying to do, and I feel like it's getting lost in a bunch of other agendas regarding various issues and grievances with the Public Service Commission or related parties or the industry or whatever, and we're losing sight of what this bill is actually trying to accomplish. And I understand the purpose of it. And I will...I don't see anybody saying that this is so important that we're rushing to do anything. I think you may want to inquire as to why it is so bad despite, you know, not really having clear reasons articulated that we're being told this is apparently heading... [LB545]

SENATOR CARLSON: Time. [LB545]

SENATOR LAUTENBAUGH: Thank you, Mr. President. [LB545]

SENATOR CARLSON: Thank you, Senator Lautenbaugh. Senator Chambers, you're recognized. [LB545]

SENATOR CHAMBERS: Thank you, Mr. President, members of the Legislature. As I listen to my colleague, the young cub, Senator Lautenbaugh, I almost laughed in spite

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of myself. It sounded like a record of what I say being played in his head and the words are coming out of his mouth: It seems that nobody is listening; I'm going to say this for the fourth time; I feel frustrated; what's really important here is being lost in all these other things. He has heard me say that repeatedly and it hasn't made him any difference. He still doesn't listen all the time. Sometimes you have to put the person who cannot understand pain of somebody else in a position where that person experiences the same pain. Some of you all may have heard that song, you're a rich girl and you've gone too far and you think it don't matter anyway, or something; you can rely on the old man's money. It talks about it's so easy to hurt others, especially when you feel no pain. Well, we're all going to feel some pain this afternoon, Senator Lautenbaugh, but it's bearable, it's endurable. And as for the questions put to my colleague, Senator Schumacher, as a spectator, let me put it this way. Senator Lautenbaugh has not disputed what Senator Schumacher said about the district court. Even though it's reviewing a case on the record, he has not disputed Senator Schumacher's statement that the district court can call in others who have expertise--I'm compressing what he said into a few words so I won't run out of time--to assist in evaluating what is in the record. The appellate court cannot do that. So what you allow the appellate court to do under Senator Schumacher's amendment is to compile a record right there. They don't look at what was developed in a lower court. The parties present their evidence right there. And some people may be unaware of it but a judge can ask questions of the parties, and judges have done that. So the appellate court, if it is hearing this case de novo, starting out, that means that A, who is the protagonist, B, who is the antagonist, come together before the court and make their case. There will still be the rules of evidence governing. Evidence has to be admissible. If one party thinks what the other party is offering is inadmissible, an objection is made. If the court agrees, the objection is sustained and that evidence is not admitted. But it's a matter of record and if it goes up on appeal and the evidence should have been admitted but wasn't, then error is found. If it's considered just a trial error, it will not result in a dismissal. A trial error means that the court indeed made a mistake, but there's enough other independent admissible evidence to make the case, so the error will be acknowledged,... [LB545]

SENATOR CARLSON: One minute. [LB545]

SENATOR CHAMBERS: ...but there will not be a dismissal or a reversal. The court plays by a lot of rules, arcane rules, and the judges know what these rules are and competent lawyers know what these rules are. I'm not a lawyer. I don't belong to the bar association. But I'm trained in the law and I can read and I can understand cases when I read them. And I pay attention to what the rules are of any game that is going to be played. And Senator Lautenbaugh did not successfully undercut what Senator Shoemaker (phonetically), Senator Schumacher is offering. Thank you, Mr. President. [LB545]

SENATOR CARLSON: Thank you, Senator Chambers. Mr. Clerk for an announcement.

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[LB545]

CLERK: Mr. President, the Education Committee will have an Exec Session at 3:00 in Room 2022. Mr. President, with respect to LB545, I have a priority motion. Senator Lathrop would move to bracket the bill until June 5 of 2013. [LB545]

SENATOR CARLSON: Senator Lathrop, you're recognized to open on your amendment. [LB545]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I draw up this bracket motion to provide myself with an opportunity to talk, and you'll see shortly that it's on a different subject matter. It appears that we're going to go the distance on this bill. And whether we go through with a vote on the bracket will be dependent upon, I suppose, how the rest of the debate goes. I wanted to make an observation. I'm within 20 days of the end of my seventh year in this body. And for all seven years that I've been here, we spend a considerable amount of time talking about rural Nebraska. In the Judiciary Committee at one time, we talked about having regional courts and closing courthouses. And the discussion immediately turned to, it will kill rural Nebraska. Many of the county seats in the counties across the state, that courthouse is the part of what is the cornerstone of a rural community. And I know when we did school consolidation and we took and closed some schools in some communities and bused the kids over to the neighboring community, it was the same concern--it is part of the cornerstone of the smaller rural communities across the state. We talk about rural economic development. We have the turnback fund that provides that 30 percent of the turnback dollars for rural America to build community centers to keep our kids in small towns. And I'm going to submit to you that there is another cornerstone of rural Nebraska. Of those towns that struggle in western Nebraska, those little towns struggling in western Nebraska to keep young people in their community, to keep from atrophy, and that's the community hospital. I want to talk for a minute about LB577. We had a debate here that went almost eight hours, a little over eight hours actually, and we spent a good deal of the time relitigating the Affordable Care Act and whether it was a prudent move by the federal government or not. And that really is beside the point. It's the law. And we spent a considerable amount of time talking about the 55,000 people who would be insured, and it wasn't persuasive to all of you. But I want today to spend a little bit of time talking about what we lose if LB577 doesn't come back and doesn't pass this body. And I hope I have the attention of rural senators as I speak because we're talking about the future of rural Nebraska. This is about your communities. And I want to share with you some information before I tell you what it might mean to your communities. The Affordable Care Act was passed by the feds, the Congress, and signed by the President and it was predicated on a trade-off. And the trade-off that was present in the Affordable Care Act was, we are going to take away Medicare benefits. That's Medicare so we're talking about the disabled, the retired, that's mom and dad, their care. We're going to take that back. In fact, \$220 million was taken each year from Nebraska hospitals. And the

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trade-off was that they will then have more Medicaid, less uncompensated care to make up for the Medicare that was taken to pay for the Affordable Care Act. That was the connection. It was predicated on that connection, on that trade-off, and the Supreme Court unhooked them. Now you can argue whether that was a good idea or a bad idea, but they unhooked them and this body has to decide whether we will accept the other half of the trade-off. Two hundred and twenty million fewer dollars coming into our hospitals, and the only way to take care of that is to accept the expansion of Medicaid. Now what does that mean to you and me and senators across the state, particularly if you have a rural hospital? Here's what the CMS, which is Medicaid, they've predicted that one in six hospitals won't make it. One in six hospitals won't make it with the loss of that \$220 million across the state of Nebraska if those numbers apply just as equally to Nebraska, and there's no reason to think they won't, one in six hospitals, probably fifteen--fifteen hospitals that may not make it. And understand if that's a hospital in your small community, that's a consideration because you're contributing to the atrophy of rural Nebraska if you do not recognize that those hospitals are a critical part of what makes the community a community in rural Nebraska. It's like taking the courthouse, taking the co-op. You take the school. You take the hospital and what's left? A bar and a gas station. Here's the other thing. If this money is not infused to replace the Medicare that is lost, there will be some that will make it, but they'll make it because they've cut services. Think about this for a minute--cut services in that small hospital in your district. So maybe they quit delivering babies there. When they quit delivering babies in that small town that that hospital where all the kids were born before and the generation before, what happens? The kids move out. The young people leave. They leave because I can't even have a baby in this town. I've got to drive to the next town or two or three over just to have a child. That's not all. That's just one example. Rehab services, dialysis, how about all those folks? And these are people on Medicare. These are the retired folks in your district who count on that small hospital in your district for their dialysis. Now they got to go to the one that survived down the street or in a neighboring community. Ambulance service, trauma, community clinics, behavioral health, free immunizations--if they don't have the money that was part of the trade-off, services will be cut in those communities. And I'm going to ask you because I know there were a number of you going around with a petition to come up with enough names to make sure this didn't happen. Let's take it back to your district. Let's think about your district. You all know how many hospitals there are. If one in six, 15 hospitals are eliminated, and the survivors...some of the surviving hospitals have to cut services and you're contributing to that, that's a big deal. We have talked about the benefits. There is a downside to not doing this. It will be significant in rural Nebraska. It will be contributing to the atrophy of those communities that count on that little small hospital with less than 25 beds. And what will happen, what will happen by necessity, by necessity, we will have the medical equivalent of regional courthouses where people can't get care in their county... [LB545 LB577]

SENATOR CARLSON: One minute. [LB545]

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SENATOR LATHROP: ...or at their neighbor...at their city or community hospital. They have to drive 50 miles. Now cut something off on a farm implement, and then think about driving 50 miles to the closest emergency room. This is an important conversation. It is an important subject. Rural Nebraska has a lot to lose, a lot to lose if we don't take another look at LB577. Thank you, Mr. President. [LB545 LB577]

SENATOR CARLSON: Thank you, Senator Lathrop. That's the opening on the amendment to bracket the bill. The floor is now open for debate. Those wishing to speak include: Harms, Schumacher, Campbell, Krist, Hadley, Dubas, and Chambers. Senator Harms, you're recognized. [LB545]

SENATOR HARMS: Thank you, Mr. President, colleagues. I couldn't help but hit the button when I heard Senator Lathrop's topic in regard to rural Nebraska. Where I live, Senator Campbell testified that we had the poorest county. Yesterday I had a conversation with our health center there, not the hospital, but we have a health center there under the Panhandle Community Services. They said, John, we're in serious trouble here because we cannot handle all of the people who are coming now for services. Rural Nebraska is truly at risk in regard to this. We know that 500 people a year die who do not have health insurance, will not go to the doctor. Yesterday, I had the opportunity to hear three or four doctors from the University of Nebraska Medical Center talk. And in that conversation they were talking about some of the services that they believe need to be provided in rural Nebraska and the concerns that they had. What caught my attention was when they stated that, you know, rural Nebraska is the sickest as far as health is concerned of our total population. Think about that a moment. Rural Nebraska is the sickest of our total population. We already don't have services; we already don't have...people do not have health insurance. And this issue is an issue that I feel very strong about that I think rural Nebraska is truly at risk. You know, if you're an elderly individual and your small rural hospital closes its doors or the doctors leave because they don't have support services like hospitals to take their patients to and they have to travel a hundred miles, it's one more nail in the coffin of the small rural communities. I look at three things, I look at you close your post office, your public schools, and your healthcare, you're pretty much done. And I look at the number of schools in rural Nebraska that are close to closing. And when I looked at the list of the number of post offices that might close, and then with the issue of increasing cost of hospitals, colleagues, rural Nebraska is truly in trouble. We need to provide whatever is appropriate and the appropriate kinds of health services, educational services, and when we got into the discussion about the state aid formula, that's just the beginning. What you see on that side of the house is exactly what's coming later. We don't have enough young people going into our rural schools and we're not going to be able to fit well into this funding formula. And I'm not being critical of the formula, I'm just telling you the facts as they are. And as you track that through and you make the projections out, it's really clear, it's really clear where rural Nebraska is headed. Not just in healthcare,

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but in business, in our public schools, treatment for the elderly, all those costs are going to go up and continue to rise. And so I would...in hopes that you do, no matter what takes place here, eventually, is give that serious consideration. The one thing that I have learned since I've been here is that we can always disagree on a lot of different topics, but when it comes down to the heart... [LB545]

SENATOR CARLSON: One minute. [LB545]

SENATOR HARMS: Thank you, Mr. President...the heart of Nebraska, we seem to find a middle road to get there. Healthcare is important. Here's the rub, as I said the last time I was at the mike when we were debating this bill, is it sustainable? Is it worth the risk? Can we afford to do it and will the federal government keep their promise? And I've said the same thing to Senator Lathrop recently. That's the gamble that we have. That's the issue we're going to have to look at, but we need to hold the federal government accountable. We cannot allow to happen what I think is going to happen is that we don't have healthcare services for rural Nebraska. So however this turns out, I would ask you to give that serious thought and understand we're in this together, that we all have a responsibility. We don't have access to the University of Nebraska Medical Center... [LB545]

SENATOR CARLSON: Time. [LB545]

SENATOR HARMS: Thank you, Mr. President. [LB545]

SENATOR CARLSON: Thank you, Senator Harms. (Visitor introduced.) Senator Schumacher, you're recognized. [LB545]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. Wow. Who says no good can come of a filibuster? Thank you, thank you, Senator Lathrop, for steering the ship of state back to things that are important. Not some petty move by a highly regulated industry to create a little one "upmanship" in the appeals process. We have got just 20 days to examine one of the greatest and most complicated and most expensive issues of our time and very well the most important issue that this room will face for the next 10 years. It's an issue which is complex, which as Senator Harms pointed out, involves a gamble which we might be wrong on or we might be right on, but which certainly we need to discuss. We need to discuss individually with our constituents and come to terms within our conscience. It is what governance should be about in these 20 days ahead. There's much truth in what Senator Lathrop said and Senator Harms said. And there's also much truth in what the folks earlier in the month, or in March said about the other side. But one thing we do not need is the mentality of the dog pack where we all decide we can clump together and sign a document or a pledge that we are on team A or team B, or we are right or we are wrong, and come hell or high water this is the way it's going to be. The people of this state deserve more from

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us. We need to resume debate on the issues that are important. We need to challenge the assumptions which are underlying those issues such as if we just hold off a year it will all go away. I sat on the (Banking, Commerce and) Insurance Committee and we heard--if we just don't discuss navigators, the Supreme Court will make it go away. In fact, if Nebraska legislative (Banking, Commerce and) Insurance Committee discusses navigators we can influence the Supreme Court, I think, and we were soft on the issue. Then we heard, don't worry, don't come to grips with it, don't come up to speed because the election is going to solve it all and it all will go away. And now we're hearing that the whole thing will go away because it's just going to collapse because the federal government is so incompetent. It may be incompetent and it may collapse, but if it collapses, it will collapse with a whole lot more than this one program. Thank you, thank you, Senator Lathrop for focusing us again. [LB545]

SENATOR CARLSON: Thank you, Senator Schumacher. Senator Campbell, you're recognized. [LB545]

SENATOR CAMPBELL: Thank you, Mr. President. And I want to thank Senator Lathrop who came to me and said, I feel very strongly about the issue and I think we should talk about it, and so I had some idea that this was going to be brought up this afternoon. And I want to use it as an opportunity to make it perfectly clear to everyone in the body where we are with the bill that we are discussing. And I gave my word to the Speaker that I would come back to him when I had 33 votes for cloture. And only I would speak to that issue and tell him that I was ready. There are no other deals. There are no other discussions. The Speaker was clear. He's been clear every time we've talked. When I have the 33 votes and I'm willing to guarantee those with my word is when it comes back. So I have spent the time since the discussion on the bill talking with you and visiting with some of you who had questions. And I continue to study and review your questions and comments to me as I have always done on serious issues. But I want to add my voice to the fact that there aren't just consequences here for not discussing this bill for those who are 19 to 64 childless adults. There's consequences for every Nebraskan and every community across this state and we need to listen to them. Time and again I heard, will the government keep its promises? And I say, will we keep our promise to bring to this floor and discuss public policy? That's what we promised when we got elected. Thank you. [LB545]

SENATOR CARLSON: Thank you, Senator Campbell. Senator Krist, you're recognized. [LB545]

SENATOR KRIST: Thank you, Mr. President and colleagues, and good afternoon Nebraska. Thank you, Senator Lathrop and others, who have spoken about the topic. If I thought it was going to do any good to stand up here, and I see many of the people that I'd really like to talk to are not here, if I thought it was going to do any good to stand up here and convince 17 people that they should have a proper discussion, that we

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should talk about compromise, because that's what the political process is about. If I had the faith in those 17 to have that compromise talk, that conversation, I would waste my wind. But I'm not going to. I'm not going to have that conversation because I've been told, not just in the whispers around the Chamber, but to my face, that my memorandum was distasteful that went out because it was part of the political process and they could do what they wanted to do. And I respect that; press on, god speed. But I'm going to tell you the real story of a young man that this expansion of Medicaid services, which is within our power, would help because he is an example of a person that we hear about in the Health and Human Services Committee every day while the rest of you are dealing with windmills and natural resources and water and law, we hear these stories every day and I trust you to bring me information, not disinformation. We had an example of disinformation being passed out on this floor just a few minutes ago that has to do with a future bill we're going to hear. It's not true. Those numbers are not true. And I'll talk about that in the future. But let me concentrate on this young man. I have a letter here that was signed by Christine Peterson. She was the CEO of Health and Human Services. She made a contractual deal with the Shaffer family, with Dee Shaffer the mother of Brian Shaffer. They were going to take care of, as I call him, the boy in the bubble, by allowing his mother, an LPN, to provide the services that he needed. He was, after this letter, I consider it to be a contract between the state of Nebraska and the Shaffer family, he was provided for. Then along came a new Medicaid director whose instructions were cut the budget and we invented reasons why Brian Shaffer was no longer a boy in a bubble, he got well. We weren't going to give him the services that he needed. His mother wasn't capable of doing what she can do. We can put other people into the home to take care of him. Really? This is a kid who can't go into a public rest room and get near a mister because he breaks out in hives and his throat closes up. He's allergic to over 190 things and he's not going to get better. That's like telling the Krist family that Courtney Krist is going to grow back that piece of the chromosome. Is that next? Is that where we're going to cut services? Now here's the gross reality of Brian. Brian could be a person who in some capacity of the expansion of Medicaid could be taken care of by that expansion. But we don't want the hundred pennies on the dollar because we're afraid that when the 10 pennies on the dollar come due in six years, we can't pay for it. I took my name off of that bill because I wanted to work on a compromise. [LB545]

SENATOR CARLSON: One minute. [LB545]

SENATOR KRIST: Compromise is not possible when 17 people decide I'm going to make legislation by blocking legislation. But you continue to do what you want to do. God speed. You'll answer in some way in the future. And as far as the letter and the opinion piece in the Journal Star that accused me of stating that the state was very narrowly defining the statement of medical needs, look it up. The statement of medical needs as provided by CMS is much broader than the state of Nebraska director of Medicaid, Vivianne Chaumont, has defined and she is cutting services. So let's not talk

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about Medicaid expansion, let's just talk about taking care of the people we can with the current Medicaid. And then let's talk about a little Medicaid expansion. If you don't want the whole enchilada, let's carve out a taco, if that's what it takes. [LB545]

SENATOR CARLSON: Time. Thank you, Senator Krist. Those still wishing to speak include: Hadley, Dubas, Chambers, Burke Harr, Bolz, Murante. Senator Hadley, you're recognized. [LB545]

SENATOR HADLEY: Mr. President, members of the body. As you remember when we stopped debate I had an amendment that would have put a sunset on after three years because I heard a lot of people worried about whether the federal government was going to be able to follow through. I thought it was a good compromise and, obviously, it did not go any place. Went to a lunch the other day with the University of Nebraska Medical Center; met with some rural senators and the dean and the vice president, the dean of nursing and the chair of the family practice department were all there and the topic was rural healthcare and what are we going to do in Nebraska to try and get and maintain healthcare in rural Nebraska? Because as has been said, if you don't have healthcare, how do you expect people to continue to live in rural Nebraska, move to rural Nebraska, stay in rural Nebraska? Now I want to talk a little bit about critical access-care hospitals. And I'm not an expert, but I did spend nine years on tertiary-care hospital board of directors. I understand how important critical care access hospitals, that's where people go first and then if their illness is such that they need to be air transported to a tertiary-care hospital for a higher level of care it can happen. There are a number of tertiary-care hospitals in Nebraska. They employ 42,000 employees. They see 11,000 people a day; 25 beds or less. These are the ones that are going to be in trouble. These are some of the ones that are going to close. I'm going to take the remaining time and I'm going to read them to you. And if you have one in your district, do me a favor, call that administrator and ask him how they work. How does their hospital work? How is it funded? What does Medicare mean to them? What does Medicaid mean to them? What does their tertiary-care hospital mean to them? Bear with me: Schuyler, Blair, Plainview, West Point, Osceola, O'Neill, Geneva, St. Paul, Fairbury, Tecumseh, Central City, Aurora, Pawnee City, Nebraska City, Hebron, Friend, Ainsworth, Callaway, Imperial, Cozad, Benkelman, Franklin, Gothenburg, Alma, Broken Bow, Minden, Bassett, Cambridge, Ord, Red Cloud, Lynch, Tilden, Atkinson, Valentine, Neligh, Beatrice, Albion, Superior, David City, McCook, Falls City, Syracuse, Creighton, Crete, Henderson, Seward, Auburn, Osmond, Holdrege, Wayne, Wahoo, Lexington, York, Alliance, Chadron, Oshkosh, Gordon, Kimball, Sidney, Bridgeport, Grant, Genoa, Ogallala, Oakland, Pender. Total licensed beds, 1,418. If one of those are yours, give the administrator a call. Ask him how Medicaid expansion would impact their hospital, or the lack of Medicaid expansion is going to impact their hospital. Because if you start closing hospitals, you're going to shut off part of the lifeblood for rural Nebraska. Thank you, Mr. President. [LB545]

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SENATOR CARLSON: Thank you, Senator Hadley. Senator Dubas, you're recognized.
[LB545]

SENATOR DUBAS: Thank you, Mr. President. I guess I'll speak to the bracket motion first and then I will have some things to add as far as the discussion we're having right now. I did my homework on LB545, worked really hard to understand the issue, see where we're coming from. The PSC brought this legislation forward at the request of committees from the Legislature. They were requested to look at how does this process work; are there ways we can make it work better? It has been a work in progress over several years. That's what they came back to. And to be honest, those industries that were...that the PSC regulates, we're not excited about the initial changes that were proposed and that's what made it a work in progress is how do we bring everybody together again without compromising the due process and making sure that consumers are being looked out for. No system is perfect. There is no way we can assure that everything works exactly the way it is supposed to work. But this bill, LB545, is not petty. Is it a major number one priority? Probably not. Is it an emergency? No. But it is a bill, just like so many other bills that we bring before this Legislature that is born of an issue, that is born of a concern that is trying to find a solution or a compromise or a way to do things better. So, you know, in the light of day, I had a friend who once told me, in the light of eternity, what will this really matter? Well, in the light of eternity, what will LB545 matter? Probably not a lot. But yet it is still an issue that was given very serious attention, a lot of work, a lot of work went into it in legislation that was brought forward with a very legitimate concern that we were trying to address. So that's where I'm at on LB545 and the bracket motion. I guess I'll go on to discuss what appears to be being discussed right now and just kind of picking up where Senator Hadley left off. I did visit with the hospitals in my communities and that's the perspective I came from is, I don't want to lose any of the hospitals in my district. I don't think any of us want to lose any of the hospitals in their districts. And what do those local hospitals mean to my constituents' access to medical care. And so having a hospital in Central City and Aurora and Genoa is a very, very important issue and concern for my constituents. As I visited with those hospitals and asked them how does Medicaid expansion help you? Basically, they said something is better than nothing. And while this certainly won't help alleviate all of their financial concerns, it will go a long way to help keep them operational. One of my hospitals told me, they start right out of the chute, right out of the chute they are recognizing that they have over \$500,000 in bad debt that they will never in any way, shape or form recover. If you ask very many businesses, can you keep moving forward starting out half a million dollars in debt? They're going to tell you, it's probably not going to be too likely. There's been some numbers tossed around about the number of critical access hospitals. And I think those were many of the hospitals that Senator Hadley just mentioned. How long are we going to be able to keep those hospitals operational? Because my guess is, again, based on the discussion that I had with the other hospitals in my district, they're dealing with those exact same types of numbers. How long are we going to keep them operational when this is where they're

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starting from? And how are we going to help them compensate for those losses? A lot of charity...and, you know, we as consumers are trying to help pick up those losses, whether you are an insured or whether you are a private pay, you know, they're going to try to pass on the losses... [LB545]

SENATOR CARLSON: One minute. [LB545]

SENATOR DUBAS: Thank you, Mr. President...in other ways. I know what I'm paying for my health insurance right now; I pay for it myself and regularly see increases in those premiums. And I know there's a lot of things that go into the increases in those premiums, but this issue is certainly one of them. And if there is a way that we can start to address...this is such a big issue, it's kind of hard to decide where it is that we start, but I think through Medicaid expansion, it is a start at how do we get a handle and controls on costs? How do we continue to make sure that medical care is accessible to everybody across the state of Nebraska no matter where they live and make sure that we have those facilities available for our use? And so from the very start, my position and my concerns were how do we ensure that our hospitals...our small...smaller, local, more rural hospitals have the ability to keep their doors open so that my constituents aren't having to travel hundreds of miles to receive their needed medical care. [LB545]

SENATOR CARLSON: Time. [LB545]

SENATOR DUBAS: Thank you. [LB545]

SENATOR CARLSON: Thank you, Senator Dubas. Senator Chambers, you're recognized. [LB545]

SENATOR CHAMBERS: Thank you. Members of the Legislature, I appreciate what Senator Lathrop did by opening the way to discuss some issues that really mean a great deal to me. You all have heard me ridicule these prayers that you all offer every morning and I think they mean nothing. But I'm going to read something to the Christians from John 21:15. Parson, it just happens that I have this. So, when they had dined, Jesus saith to Simon Peter, Simon, son of Jonas, lovest thou me more than these? He saith unto him, yea, Lord; thou knowest that I love thee. He saith unto him, feed my lambs. He saith to him again, the second time, Simon, son of Jonas, lovest thou me? He saith unto him, yea, Lord, thou knowest that I love thee. He saith unto him, feed my sheep. He saith until him the third time, Simon, son of Jonas, lovest thou me? Peter was grieved, because he said unto him the third time, lovest thou me? And he said unto him, Lord, thou knowest all things. Thou knowest that I love thee. Jesus saith until him, feed my sheep. That Jesus you all pray to, he knows what you are. You show me what you are. I say those prayers don't go higher than the ceiling. You're going to pray again tomorrow morning, and we've got sick people who need care. And these hard-hearted, hypocritical Christians, so-called, are saying that bird in the hand is not

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worth anything about something fearful three miles down the road in the bush. I don't believe all these nice words are going to have any impact on those people who are against helping the poor. So my approach is different. I believe like Joseph Kennedy, don't get mad, get even. You let somebody in this body have a medical emergency in his or her family and everybody stands up and commiserates. And that person can afford to get medical care and is grateful for it when that medical care is given and everybody on this floor is happy. But you ought to look at the people who don't have that medical care, who don't have access to it, who can't get it, and you're not thinking about them. It's only when it comes to you, a family member, or somebody you know, and you all know when recently something happened and you think it's inappropriate for me to say it. I think it's inappropriate to deny people medical care when they can get it. These people have their political agenda, let me tell you all something. I've got a little bill coming up on Final Reading, kill it. Kill everything I've got here and watch me show you what Joseph Kennedy meant when he said get even. I think the most important thing before us is this Medicaid expansion. I have a death penalty bill coming up. Kill it. And I'll kill the session. The Governor wants an airplane, I'm going to do all I can to ground him. And I'm going to pour through that budget and find everything the Governor wants and I'm going to fight it tooth and nail and you all are going to have to go to cloture for the first time in history on the budget. You all say things. I'll do it, watch me. And I'm doing it for those who cannot help themselves. You all know who they are. You talk about problems of the rural people so you'll build windmills for the big people and then you had another windmill bill for the little people in the rural communities. Windmills for the rural people... [LB545]

SENATOR CARLSON: One minute. [LB545]

SENATOR CHAMBERS: ...but no medical care? What did Jesus tell Peter? He's telling you, do you love me when you pray to me every morning? Feed my sheep. So you pray the next day. Do you love me? Yes, Lord. Feed my lambs. Then today, where we are now, do you love me? And these hypocrites say, Lord, you know everything, you know I love you. He says, feed my sheep. And they say, Jesus, go to hell. Thank you, Mr. President. [LB545]

SENATOR CARLSON: Thank you, Senator Chambers. Senator Burke Harr, you're recognized. [LB545]

SENATOR HARR: Thank you, Mr. President. Since we're not talking about the underlying bracket motion, I'm going to change the subject a little bit and talk about economic development. I'm going to talk about a way to bring \$423 million to the state of Nebraska and a way to keep our youth here. And what I'm talking about is LB577, because what we have we are leaving \$423 million that can come to Nebraska for economic development. And that's what it is. We're providing healthcare in return. It's a great economic development bill. If we do not get that money, we are going to lose jobs.

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We're going to break up families. And there are going to be individuals, probably most importantly, who don't receive proper healthcare. It's a...you want to build rural Nebraska. You look at what young people look at when they move to an area. It's what Senator Lathrop talked about earlier. When I move to an area, I want to know does it have good schools and do I have access to health insurance...excuse, me healthcare? I can have all the money in the world and buy my healthcare, but if there isn't a hospital there, it doesn't matter. And I'm not going to move there. I'm going to look for a place that has healthcare. And so where is that? Welcome to District 8, home of UNMC. Thank you for moving to Omaha, I appreciate it. UNMC is probably the last hospital in the state that would close. It is paid for by you and me. It is paid for, partially, through the taxpayers. So it will stay open a long time. I want to thank you. But luckily, the constituents in District 8 where I come from care more about than just their district. And that's what this is about, it's about helping all Nebraska. Ken Hunter, CEO of Kimball Health Services, in an article just published today said in addressing potential Medicaid expansion said: "Actually it would help us, it would draw the number of people. Most of them people that would be covered in the program are not covered now so it would have a positive effect. For instance, we particularly see in our young couples that they fall just above the financial standards to receive Medicaid. I think what it does is it raises the bar on financial qualifications so that would help." UNMC went on to say, states that decide not to expand Medicaid eligibility face a coverage gap, or a doughnut hole for insurance coverage options for the poor and under insured and I would say the working poor. We want to encourage people to get off Medicaid, off government services? We want to get them in jobs. Well guess what, not everyone starts out the top rung. You got to start somewhere. And so some of these people are going to start out in minimum wage jobs because they don't have the education. You want people off Medicaid...or off of government services, you got to give them a hand up. You got to help them. You got to give them a positive incentive. And so the more they work, the more they'll make, and the less we'll have to pay. But, what happens right now if we don't expand Medicaid? These people are going to say, I'll just take the free health insurance. Where's my incentive to get off government program? I can't afford insurance. And we know they can't afford insurance. I need health insurance. That to me is more important than anything else, so there's no incentive for them to work. This is an economic development bill, ladies and gentlemen. This is about keeping our small towns viable. This about keeping our towns healthy. It is much cheaper and a better use of services to provide preventative care and regular checkups than ER visits. That's expensive and it's dangerous. Because when real emergencies come through... [LB545 LB577]

SENATOR CARLSON: One minute. [LB545]

SENATOR HARR: Thank you...the services are clogged. And let me just tell you one more thing I heard Senator Hadley talk about the hospitals that may close, well, I'm from Omaha, I grew up in Omaha, but my grandparents aren't, and when I was a young child my dad was driving my grandmother, his mother, from Omaha to Greeley. And along

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that highway my grandmother had a heart attack. And we were very fortunate to be near David City and she was able to receive treatment. Now I can only imagine what would have happened if that hospital were closed. So you may not think this affects you, but you don't know where you're going to be when an emergency strikes and you want to make sure you have a healthcare center near you. Thank you very much. [LB545]

SENATOR CARLSON: Thank you, Senator Harr. Senator Bolz, you're recognized. [LB545]

SENATOR BOLZ: Thank you, Mr. President. Colleagues, one of the things that hasn't been spoken about very much related to healthcare reform is the improvements that will be made to mental health access. And I want to speak about that for a few moments today and I'd like to share an experience that I had early in the session with you. I was working on a Saturday, on a cold, snowy Saturday, the music was on, the door was open and a young woman walked into my office. And she was visibly upset and she asked to use the phone. And, of course, I let her use the phone. She made her phone call and I asked her if she was okay. She didn't have much of a response, she sort of shook her head. And I asked her if she wanted a cup of coffee. And she said, yes, I'd like a cup of coffee. And she sat down and she started talking to me. And it turns out that a few months ago she had lost her access to health insurance coverage. And she was working part time and going to school and trying to find her way in life. But because she had lost her access to her health insurance coverage, she couldn't afford her medication anymore. And this young woman, it turns out, was suicidal; she had a history of depression. And I ended up driving her to BryanLGH Hospital and checking her in. And colleagues, including those colleagues that are listening from your offices, I know you would do the same thing. I know you would. I know the character of every person in this body and I know you would have driven her to the hospital. Her hospital bill was \$4,791. And the reason I know that is because my office helped her fill out the forms for charity care. Colleagues, her prescription, the renewal for her prescription was \$80. I know you would have done the right thing. You would have offered her a cup of coffee. You would have driven her to the hospital. This bill is about filling her prescription. Thank you, Mr. President. [LB545]

SENATOR CARLSON: Thank you, Senator Bolz. Those still wishing to speak include: Nordquist, Krist, Wallman, and Chambers. Senator Nordquist, you're recognized. [LB545]

SENATOR NORDQUIST: Thank you, Mr. President and members. I know Senator Lathrop mentioned the CMS statistic of the potential one in six hospitals across our state closing. But I want to even go a little bit deeper into the numbers. Much like Senator Hadley, I spent time serving on a hospital board knowing the ins and outs of how at the end of the day we have to make budgets flow. And a huge part of our hospital expenditures, obviously, is the staff providing those services that accounts for

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about 50 percent. When you look at hospitals across the board, salaries, benefits, and wages...or salaries, benefits, yes, and wages, account for about 50 percent of the total costs. So when we're talking about these \$2.2 billion of cuts over the next 10 years through DSH cuts, through sequestration cuts, through the overall cuts...the larger cuts over part of the Affordable Care Act reductions, coding offsets, a number of reductions that add up to over \$200 million over that time period when you think about the loss just salary benefits and wages there, you're talking over \$100 million a year in our economy that will be gone. And when you think about the average wage, from my studies working on my masters in public administration with a concentration on healthcare, I looked up a little data, the average wage is about \$40,000 a year. So we're talking about lost jobs to the tune of almost 3,000...2,500 to 3,000 lost jobs right now that are providing services to our citizens. Now Medicaid expansion, if we do that, we know the total cost...the total amount coming in, about 30 percent of that would go to hospitals and they would be able to restore in the neighborhood of maybe \$80 million to \$90 million a year; maybe restoring in the neighborhood of a thousand jobs or more. That's the best-case scenario we got. That's our only option here, folks. Otherwise, we are going to see lost services in rural Nebraska, lost services across the state. But I think it's going to be more profound in rural Nebraska. So not just the hospital closures overall, but also even those that stay open, the lost access to services is going to be huge. And Senator Harr already read from the article that was posted today in the Western Nebraska Observer, but the last line...the hospital...CEO from Kimball said, it would help us in this area; it's something that we need. Medicaid expansion is something that we need. Thank you. [LB545]

SENATOR CARLSON: Thank you, Senator Nordquist. Senator Krist, you're recognized. [LB545]

SENATOR KRIST: Thank you, Mr. President, colleagues, and good afternoon again Nebraska. Again, if I thought it was going to change any of 17 minds in here, I would dwell on what we are trying to do, but it won't. So I'm going to tell you about another story. I started this when we were having the debate. And if you are not ready to put a face on your actions, the coffee is brewing; you need to wake up and smell it, because every decision we make based upon Medicaid, no matter what limited expansion we talk about, affects human beings. I'll omit the names because I don't have permission to use their names. Dear Senator Krist, I'm a registered nurse. My husband and I have two children born with a rare genetics disorder. For those of you who don't understand that, that means they never get well; they never get better. They will have that genetic disorder until they die. I'm sorry, I got off script. Nonketotic hyperglycinemia and failure to thrive, the life expectancy of the children with this disease is six months. I'll call her Miss A and Mr. D, which was her daughter and son, are the longest living people with this disease. Okay, they are square pegs that don't fit into round holes. I think you can grasp that analogy. They also experience grand mal seizures, ulcerative colitis, apnea, scoliosis, brittle bones. They cannot walk, talk, or feed themselves. They depend upon

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the nurses who care for them to meet their needs. They both have an immunity deficiency. They could not receive their childhood shots. They need to be isolated from other children and sick adults so they don't get sick themselves. Miss A ended up getting the mumps when her school teacher left her home...when her school teacher left her home, where her daughter was sick with the mumps and came to her home to provide school for Miss A. Miss A caught the mumps from the teacher. She ended up in the hospital on a ventilator for a month. They received school PT/OT and vision services from the school in our home until they were both 21. Both children are blind. I'm sorry, yesterday one of the senators stood up and said, liberty for everyone, a chicken in every pot, but we don't want to pay for it. How does that happen with these two kids? Mr. D has Ileostomy and frequently has problems with skin breakdown and secondary infections. Due to his brittle bones, he has had many bones broken: his right femur, his left foot, his left ankle, his left arm. His femur broke while lifting him out of the bath. Both children are at high risk of aspiration, placement of a nasal gastric tube must be verified by a nurse before each use and every hour to make sure the tube is still in his stomach. Now let me paint a picture. At 21 years old, these two are no longer eligible...let me see if I can quote it: when they turn 21 we were told that neither one was qualified for any nursing programs in the state of Nebraska. How does that happen? Did they get well at 21? Did they fall off the map at 21? I've been told that sometimes I turn red and get a little animated. When you start messing around with the lives of our children and the adults in this state who turn from children to adults and cannot do for themselves, I get a little animated. [LB545]

SENATOR CARLSON: It's one minute. [LB545]

SENATOR KRIST: I really believe that there is some negotiable points that we can get to that gets us to where we need to be to care for the people of this state. It is not black and white. It is flesh and blood. We're going to have to have the discussion. And there's going to have to be 17 that will come to the table to have that discussion unless all of their first names are Huey. Thank you, Mr. President. [LB545]

SENATOR CARLSON: Thank you, Senator Krist. Senator Wallman, you're recognized. [LB545]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. Thank you, Senator Lathrop; Senator Campbell for bringing that bill out in the first place. This is...just blows my mind that people would work against something like this when we are one of the major players in the world and don't have any kind of national healthcare. I talk to people from Germany, Poland, Czechoslovakia, China, and even Russia and they said, aren't you ashamed of yourself, Norm? We do business with your country. Germany has a 50-some percent income tax rate. They don't have to pay for any meds, doctors, hospitals. Their hospitals compete with ours, so...England, been in there. So I've been in hospitals from Orlando, Sioux Falls, Omaha, Lincoln, so I've been

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impressed with all of them as well as in other countries. So why are we trying to fight this? This deserves an up or down vote to see where you're at; so the people know where we're at, and we should not be afraid to show where we're at. And I'm not afraid to show where I'm at. I'm for Medicaid expansion. I think we should have had something like this in place a long time ago and I think, partly, it's because somebody made a decision right away, anti-Obamacare. And we can be against antigovernment, but we ride on federal highways, the airways are subsidized, our airlines; everything about us is subsidized by the feds. And do I like our government? You bet. Was I sworn in to serve? You bet. Will I uphold our constitution? You bet. So please, folks, let this go forward and see how it works. I think we have enough brains in this state to see how it works. And we should have a vote on this issue up or down. Thank you, Mr. President. [LB545]

SENATOR CARLSON: Thank you, Senator Wallman. Senator Chambers, you're recognized. [LB545]

SENATOR CHAMBERS: Thank you, Mr. President. I don't fear any man or anything that I'm aware of right now. Know that whenever you all get up to pray in the morning, there is somebody mocking, scoffing, and saying the words in your mouth ought to be like ashes. You ought to be ashamed of yourselves. If you're Christians, you ought to call what happens here every morning blasphemy and sacrilege. You have the means to put into action what I hear you hypocrites asking God and Jesus to put on other people's hearts to do. You can do it. You are the spokesperson for Jesus on this earth. You are the representatives of Jesus in this Chamber and you're going to say those prayers and then say, but the answer is no. You say things to each other, how can you stand to look at each other? You know you're a bunch of hypocrites. You know you're a bunch of liars. You're a bunch of untruth tellers. That's why Jesus was crucified because he went among the hypocrites like you and pulled the cover. When the hypocrites like you went so far as to sell animals and change money in the temple, he kicked over the tables and ran the animals out. They said, we'll get your donkey before it's over. You can do this now, but we're going to fix you before it's over. And how they fixed him. And you all say you worship him? Well, show the nonbelievers something. Let them see by your conduct what it is you believe. You come here all sanctimonious, pompous, talking about the law and justice, talking about saving fetuses and, oh-oh-oh-oh, then we have living people who need help and it's within our power to extend that help; somebody is drowning and we can throw them a rope and we won't throw the rope and they drown. Then we go and we have those dinners, those drinks, laugh, and then Sunday comes and you go to church and get the long face like a jackass and think you're fooling this God you serve. Is he a fool? Is Jesus stupid? Is Jesus crazy? If I can see through you, you think your Jesus can't see though you? What is your God thinking of you when a lost, sin-cursed individual such as myself am so much better than you that I can point the finger of scorn and condemn you. Your own heart should condemn you. Your works are evil according to that "Bibble" you say you believe in. What do you pray those

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prayers...what prayer are you going to ask tomorrow? What's you going to pray tomorrow? Who among you is going to open his or her mouth and pray up there tomorrow and commit sacrilege again as you do every day? And I'll tell you what I intend to do. I intend to try to get 30 votes and change the Speaker's agenda and put this issue before us. That's where it belongs. That's where it belongs. I don't know who these 17 whatever they are that people keep mentioning. But if you've got any backbone, if you're any kind of man, stand up and show your manhood, not by falling behind the Governor. And then you have the nerve to pray, bow your head, pray with me if you will. You say pray with me... [LB545]

SENATOR KRIST PRESIDING [LB545]

SENATOR KRIST: One minute. [LB545]

SENATOR CHAMBERS: ...and your Lord says, and you play with me. Is there a Jesus? Imagine there really is. And picture this Jesus every morning when you all pray and he looks down here and listens to you and you say, Lord, in your name. What do you think he's thinking of you? I don't think anything of you. And it said...the book says, he had no need that anybody speak to him of what's in you because he sees what's in you and your actions show what's in you and you're pretty poor stuff. Thank you, Mr. President. And I'm not through. [LB545]

SENATOR KRIST: Thank you, Senator Chambers. Senator Schumacher, you are recognized. [LB545]

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. You know, we're complicated beings. The physiological psychologists tell us that we really have three levels of brain function. One a very simple level, our snake brain. A thing called the amygdala. You take away the amygdala through a surgical proceeding; no matter how much you talk, no matter how much you think, you can't make a decision. It's a snake brain. It responds to fear; it responds and reacts. Overshadowing it is the cerebellum, the cat brain: emotion, wanting to run with the pack, sign on to pledges, be part of the group. And then there is a thing that makes us what we are in this little corner of the universe, the cerebellum. Our ability to think and to speak. And it is that part of our function that we are obligated to exercise in the cathedral of the state. We are obligated to engage that mechanism. And that mechanism is not activated by silence or by packs or by signing pledges or by trying to outfox the other. That's the snake level. Perhaps the cat level. We need to engage that discourse and use all the time that we need to, but nevertheless get to a position where we understand what we are doing. And then on this really, really, important issue, we need to engage the decision-making process. We need to have and be obligated to push either red or green so the people that sent us here can hold us accountable one way or the other. Let's look at what actions through fear do. We're the beneficiary of a huge action of fear. We just got \$125

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million because of fear. People are afraid, Obama was going to take their money. Estate tax was going to drop from \$5 million to a million exemption. Capital gains taxes were going to go from 15 percent up to somewhere between 30 and 40 percent. And people let fear grip them. Their advisors were afraid that if they advised them the wrong way, they might get sued for malpractice so they let fear grip them. They let fear hedge their bets. And they let fear make them pay \$125 million. They also let fear be fanned by people who are prone to take advantage of fear for political purposes, to run with the pack, to be that group of dogs or cats that had to run together. [LB545]

SENATOR KRIST: One minute. [LB545]

SENATOR SCHUMACHER: We are not animals. We are an unusual critter with a big brain. A brain that we need to put to use. A brain which our fellow Nebraskans have charged us with doing what we think is right after proper discussion. We should not hide behind packs. We should not let 17 or however many votes it works at, being able to make a decision that belongs to the majority of the people of the state...or this body to the Governor and maybe a super majority of this body. That is our obligation. That is something that we will not live up to unless we have the will to do what is right and what we were sent here to do. Thank you, Mr. President. [LB545]

SENATOR KRIST: Thank you, Senator Schumacher. Senator Crawford, you are recognized. [LB545]

SENATOR CRAWFORD: Thank you, Mr. President and thank you, colleagues. And thank you, Senator Schumacher, for your earlier test...your earlier statement when you talked about several chapters of the waiting game that we've played on this bill. And I'm new here so I've only been here for one chapter of that, but waiting for the Supreme Court case, waiting for the election. And, we've heard, in this chapter we should just continue to wait. So I'm going to tell another story about waiting and the costs of waiting. When my husband and I were first married, money was tight. The mechanic told us we should get a new timing belt, but that was hundreds of dollars. So we thought, we'll just wait. So we did. And things seemed fine for awhile; the car still worked, we thought, great, we just saved hundreds of dollars. But then all of a sudden the car didn't work anymore. And it turns out it ended up costing us thousands of dollars. Just waiting does not make the problem go away. That's the point I think several people have been making today as well. Just waiting doesn't cause sick people to go away. Just waiting doesn't cause people to magically no longer need healthcare services. Just waiting doesn't make it any easier for our rural hospitals to survive. Just waiting ends up costing us much, much more in the long run. With Medicaid expansion, we're being offered a timing belt that we've already helped pay for and we're turning it down. And in the end if we do not change our decision and decide to accept this, then instead we will end up paying much, much more down the road; not only financially, but in human lives. There's a study, an estimate based on a study in the New England Journal of Medicine

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suggesting that it would be 500 lives per year in Nebraska. And I think if you would build into that estimate, concerns that might be raised by some of these rural hospitals shutting down, I suggest that that number might go even higher. I think there is a mistake in notion that anyone in the United States can get healthcare because we know you can go into an emergency room, but the emergency room is not a place to go if you have cancer. The emergency room is not a place to get treatment if you have a chronic disease and not a place that helps you manage a chronic disease like diabetes. So as the New England Journal of Medicine indicates, if we just continue to wait, people will die in Nebraska and that is a cost that I don't think that we should accept. [LB545]

SENATOR KRIST: Thank you, Senator Crawford. (Visitors introduced.) Back to discussion, Senator Chambers, you are recognized. [LB545]

SENATOR CHAMBERS: Thank you, Mr. President. As I've often said, you all bring religion here every morning, so I'm going to your manual. This is from First Kings, the eighteenth chapter: And Elijah came unto all the people and said, how long halt ye between two opinions? If the Lord be God, follow him; but if Baal, then follow him. And the people answered him not a word. Then said Elijah unto the people, I, even I only, remain a prophet of the Lord; but Baal's prophets are 450 men. Then he told them how to have a test. Prepare these bullocks, build an altar, dig a trench around it, fill it with water, and the God that answers by fire is the God; follow him. And all the people said it was well-spoken. So they, these others, took the bullock which was given them and they dressed it and called on the name of Baal from morning even until noon saying: and this is what I say to the Christians after we get through this, here's what they said to their God, as you all do every morning, oh, Baal, hear us. But there was no voice, nor any that answered. And they leaped upon the altar which was made. And it came to pass at noon, that Elijah, and this is me, mocked them and said, cry aloud for he is a God; either he is talking or he is pursuing or he is in a journey or peradventure he sleepeth, and must be awaked. And they cried aloud and cut themselves and went through all of this and it came to pass at midday that no God had answered them, no voice nor any answer nor any that regarded. Then Elijah prepared his offering and then he said, oh, Lord, hear me, that the people may know that thou art the Lord God and that thou hast turned their heart back again. Then the fire of the Lord fell and consumed the burnt offering and the wood and the stones and the dust and licked up the water that was in the trench. Where's your God? You call on him every morning. He can't touch your heart. You are a believer. Is your God asleep? Is he on vacation? Is he talking? Is he on a journey? Call him louder, because you don't respond. Why do you do it every morning? Think of what I read you. You make yourself a target, a mockery. You've got all of these people who need that kind of medical care which can be made readily available and you have it so you don't care about them because you...let the day come when you don't have it, where will you turn? Will you have friends? Will you have others because you are a senator who will step in for you? What about the nameless person, maybe even a homeless person, the little children in the street? They have no shoes

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upon their feet. All kind of songs that righteous Christian Americans sing. Then they'll walk right past a homeless person, a hungry person and not offer a crust of bread. You all have the power. [LB545]

SENATOR KRIST: One minute. [LB545]

SENATOR CHAMBERS: Why do you think it was given to you? You say that God set people in authority and that authority is to be honored. Parson ought to speak to you and preach to you. You believe him. You don't believe Jesus. You don't believe the Bible. You don't believe God and you sure as blazes don't believe me. But maybe Parson Carlson can't say it either. Maybe Parson Carlson thinks that we should not minister to the sick, to the poor, to the rejected, to the scorn, to the marginalized. You all come here and the lobbyists feed you and you have the nerve to eat the food of lobbyists and you will not feed the hungry. You're taken care of every kind of way. Give to others just half of what you get. Thank you, Mr. President. [LB545]

SENATOR KRIST: Thank you, Senator Chambers. Senator Johnson, you are recognized. [LB545]

SENATOR JOHNSON: Thank you, Mr. President, colleagues. I've been preparing for about the last ten days, I guess, whenever we ended up our discussion on the bill. Ten days ago I was not ready for closure. I had some questions; I thought we needed some debate. There were several questions that came up that I hoped would be answered, at least in my mind. And I've known for several weeks the position of the hospitals in my district. Some of those were mentioned...all of those were mentioned by Senator Hadley. I've been in some of the hospitals throughout the state, either myself or family members and I've heard from most of those or some of those at least the effect if this is not passed. The questions that I had ten days ago, at least in my mind, have not been answered. I've listened to my constituents and Senator Chambers commented on that here awhile back that you got to speak from the heart. And, yes, Senator Chambers, I've even prayed about it. I've been waiting for an answer to come in order to help me out on this. And even before this discussion today, because I've been pondering this for quite awhile, I will ask for my name to be removed from that document that was mentioned before because I believe that this needs to come to a vote. Thank you. [LB545]

SENATOR COASH PRESIDING

SENATOR COASH: Thank you, Senator Johnson. Senator Wallman, you're recognized. [LB545]

SENATOR WALLMAN: Question. [LB545]

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SENATOR COASH: Don't need it, Senator, there are no other lights in the queue. Senator Lathrop, you're recognized to close on your bracket motion. [LB545]

SENATOR LATHROP: Thank you, colleagues. I appreciate the discussion. I appreciate the accommodation by Senator Dubas on what appeared to be an 8-hour trek on LB545. And when I get done with my remarks I'm going to ask that the bracket motion be pulled. I think that this discussion has led us to consider this, and we're all headed to a four-day weekend so I expect that everyone will be leaving the Capitol and going back to their district and we might consider this question as we pack up our briefcase and prepare for a long weekend. Who do we listen to? Probably all of you campaigned in some manner similar to the way I did. I went door-to-door. I went door-to-door and talked to the people who live in the 12th District and I asked them what they thought. And I also made a promise to them, you probably did, too, that you'd listen to them. And sometimes that involves listening to them and explaining to them, but you listen to them. I'll ask you, who do you listen to on this bill? Who are you listening to? Who is giving you direction because especially if you're in rural Nebraska, especially if you're in rural Nebraska ask yourself this, even if the hospital in your community doesn't close and there should be 15 of them if CMS is right, and they're usually right about that, 15 of them in Nebraska. If it doesn't close and they stop dialysis, what about that guy that has to get into a car three days a week and go to the hospital for dialysis? Three days a week and now he's driving instead of to town, he's driving to the next town. These have real consequences. We can stop the bleeding in rural Nebraska or we can stand back, follow the pack and let it happen. It is the post office, it is the courthouse, it is the school and it is the hospital. Please, go back to your district, talk to your hospital administrators, talk to the people that work in the hospitals and ask them what will be sacrificed in your community, in your hospitals? Will they survive? What will they amputate from their list of services? And then ask your constituents how they feel about it? But don't go back to your district and relitigate the Affordable Care Act which we had nothing to do with. Thank you. And with that I'd pull...ask permission (microphone malfunction) bracket. [LB545]

SENATOR COASH: Bracket motion is withdrawn. Returning to discussion on FA71. Senator Chambers, you are recognized. [LB545]

SENATOR CHAMBERS: Thank you. Mr. President, I'm trying to stay within the rules, which time is this that I've spoken on this particular amendment? [LB545]

SENATOR COASH: This is your second time, Senator Chambers. [LB545]

SENATOR CHAMBERS: Thank you. Members of the Legislature, I want to kill this bill still. But we can talk about whatever we want to. So I'm going to continue the discussion from my part that we were engaged in because that is the people's business and this bill to me, as I've said before, I think does not take the people into consideration. I read the

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paper every morning and I'm able to do it in the Research Office. And this morning it was either on the front page of the paper or the front page of the Midlands section, whatever it is called, of The World-Herald. I saw a color photograph of a two-year-old baby boy. His eyes were swollen shut. He had a knot the size of an egg in his forehead. His lips were slightly parted and you could see his little teeth and his lower lip on the right-hand side was sagging. And the caption said that that lump seemed to have been caused by a burn. Adults did this to a little baby boy. On his little arms were bruises that looked like they had been put there by the hands of adults and he had other injuries. Imagine what this little bitty child was going through while be mercilessly beaten. Was he rendered unconscious immediately or ever? Did he cry out as infants do when they're terrified or when they're experiencing great pain? Was there nobody to say, stop? There was nobody. And this child suffered what one investigator described as torture. When the two adults, both 27 years old, the mother of other little children in the house, but not the mother of this little boy, took him to the hospital, his father and this woman had caked makeup on his face, I guess not realizing that it would be cleaned away. They knew their deeds were wicked, so they tried to conceal them. And the picture that was in the paper was what the camera recorded forever after the makeup had been removed. And this little boy was taken to a hospital. There was a hospital available. Unfortunately, this may not be the only time that something like this has happened and we know that it will happen again. Adults can be very cruel. Children learn from adults and they can replicate that cruelty upon other children. And I do get very upset on this floor when I think of all the power for good that this Legislature has. This power that was entrusted to us. [LB545]

SENATOR COASH: One minute. [LB545]

SENATOR CHAMBERS: And rather than use it to alleviate the pain, the suffering, the cruelty, the unkindnesses that are in this society, address those things by our example we choose not to do it. But if you're going to put on the cloak of hypocrisy and pretend to do these things, it probably...and you'll find it to be the case, easier to actually do them. You will have done good and you will feel better. Thank you, Mr. President. [LB545]

SENATOR COASH: Thank you, Senator Chambers. (Visitors introduced.) Senator Schumacher, you are recognized. [LB545]

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. Wow, again anticlimactic to get back to this thing. We almost were about the business of governance. Let me focus a little bit yet on this particular matter before we go, as Senator Chambers says, off into interest of importance. We are told that this was a real hard, drawn-out process to come to the proposal that was initially brought to this body. That hard-fought, long, drawn-out process between the stiff regulator and the reluctant regulatees resulted in a compromise, a complicated thing that took years to work out.

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What was that compromise? Oh well, we'll just take things out of the district court's hands for the four cases, or so, a year that were appealed on. We'll put it up to the Court of Appeals and tell them that they can review it on a standard of whether we are arbitrary and capricious; and since you can almost never show that anybody is arbitrary and capricious, that will be that and we be king. That took years to come up with? That's not an appeal process. Finally, it's, well, we'll leave it in the Court of Appeals but they can review it on a record that we write. Almost as good. And we have to do that because, you know, it just takes too long in district court. The district courts are backed up, and this is important stuff. Apparently, the Court of Appeals sits around all day with nothing to do and can put it right on the top of the agenda and handle a review quicker than the district court can. Well, you know, if we really were worried about such things, if that really were an issue, there are plenty of times in the statutes where we require the district court to put something to the front of the line. They call it an expedited proceeding. If you contest an initiative petition, for example, the people that contest it, immediately their case gets to the front of the line and the court has to rule on it very quick. Just takes a simple statute to say, gee, you know, this stuff is so important that, district judge, you just adjust your calendar accordingly and put it on the front of the line. That wasn't the solution they came up with. That might have taken ten years. What was come up with is take it away from the district court. The court with the tools to determine facts either because of training and experience of the district judge or because they can call in experts called referees or special masters to aid in the decision-making process. Take it away from them. Betcha you never even thought about the issue of referees and special masters and that the Court of Appeals doesn't have that in its arsenal of tools. So this amendment, FA71, says okay, if we trust the Court of Appeals so much, let's let them try the whole thing from scratch. They've got so much time, let them go ahead and do it. Shifting gears just a little bit, one of the things that we deal with in our budgeting process is the Revenue and the Appropriations Committee are supposed to review the projections that appear in your budget and decree whether or not they are reasonable. And that procedure has been basically ignored for several years. And today, due to the diligence of Senator Mello and Senator Hadley, that procedure was complied with. [LB545]

SENATOR COASH: One minute. [LB545]

SENATOR SCHUMACHER: And you'll see projections in there that are based upon a theoretical 5 percent increase in revenues year after year. I would encourage everyone to, as we go off into this period of time, a weekend, to think about those numbers and the "realisticness" of some of those numbers. Fortunately, projections down the road in the year '16 and '17 aren't nearly as important. We don't have to be as close on the money on them if we have a very strong reserve that we can pull back on if we're wrong. And that is very important that we maintain an incredibly strong reserve because the range of certainty in those numbers is extremely wide. That 5 percent could very easily be 2 percent based upon some of the inflation and GDP growth projections we

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see today. [LB545]

SENATOR COASH: Time, Senator. [LB545]

SENATOR SCHUMACHER: Thank you. [LB545]

SENATOR COASH: Thank you, Senator Schumacher. Senator Chambers, you are recognized. [LB545]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, I'm going to get back on script, as they say, and talk about Senator Schumacher's amendment. We have a situation which might need a little bit of explanation to our colleagues who are not trained in the law, as some of us were. When a case comes up for appeal, nothing which was not dealt with in the trial court can be raised on appeal. There could be a law under which the original action was brought which is so unconstitutional that anybody who read it would see that to be the case. But if through inadvertence, if through inattention, if through sheer incompetency, the issue of unconstitutionality was not raised in the lower court and the person lost the case; hired another lawyer for the appeal and this lawyer immediately saw it and made that the major point on which to base the appeal; the appellate court, whether it's the Court of Appeals or the Nebraska Supreme Court, would not consider that issue. The court would explain that the review is made on the basis of the record. Anything not raised in the lower court had not been ruled on by that court. So the Supreme Court has nothing to review in terms of that issue because it's not a part of the record, so it's not considered. If you have somebody at one of these hearings that occurs before the commission and does not have a competent lawyer or tries to represent himself or herself, and does not raise issues which ought to be raised and could be raised, the appellate court cannot look at that because the review is based only on the record. So what Senator Schumacher's amendment would do, since you all want to streamline and short-circuit, it would say when the appellate court gets this appeal from the commission, it's not going to be bound by what occurred there. The only purpose of that hearing was to have a decision reached one way or the other, which the appellate court can now take to a full-blown trial, and both parties can present their evidence. And every issue can be raised and the judge can ask questions. A much more complete record can be put together if there is a trial before the appellate court. Then either side which is dissatisfied would take that record to the Nebraska Supreme Court and it would be a fully, or more fully developed record, and the Supreme Court could then render a decision that would be more in keeping with what the facts of the case would warrant. So I think that what Senator Schumacher is offering is a very good proposal. But do I think it will be accepted? Does Senator Schumacher think it will be accepted? I can't answer for Senator Schumacher and I won't answer for myself. [LB545]

SENATOR COASH: One minute. [LB545]

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SENATOR CHAMBERS: But based on the kind of bill this is, and considering those who are pushing it--I don't mean Senator Dubas who brought it to us--they don't want anything like that, because that's the very thing they want to avoid. They don't want a fully developed record. They want things not to be streamlined, but steamrolled. Thank you, Mr. President. [LB545]

SENATOR COASH: Thank you, Senator Chambers. Senator Schumacher, you are recognized to close on your floor amendment. [LB545]

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. This amendment would do exactly what Senator Chambers just described. If a member of the public, someone who wasn't in the regulated pack, brought an appeal or was part of a community group, an activist group, to challenge some of the ways things work in a highly regulated environment, they would not have had to play the game before the Public Service Commission by the rules that have been established by the regulated parties there and dominated in a proceeding where the decision-maker is also a participant. That's what would happen. They could try the case before the appellate court, just as cases of impeachment are tried directly before the Supreme Court. Now any lawyer hearing this discussion is saying, you know, they've gone mad. They'd be right. Any lawyer hearing the discussion, they have to wonder why this bill is before us to begin with, because it's taking a well-defined administrative procedure process and aborting it, creating a select class of lawyers capable of handling this highly specialized case, which select group of lawyers can be retained by the participants and taken out of action if they're any good, because of four cases a year. Oh, that raises our rates for gas or phone or whatever because, oh, a tremendous expense. Haven't heard that expense quantified at all--at all. And if you looked at your phone bill recently, as an example--not just to pick on phone companies; I'm sure there might be similar things with gas and other things--you'll find a whole bunch of charges on there. The Public Service Commission really doesn't care about charges for maintaining the phone book, charges for administrative fee, charges for creating the cost of creating charges. Federal access charges, which one might think goes to the phone company, when in fact...or goes to the federal government, when in fact it goes to the phone company. Just another way of disguising a number. It's not about a maybe tenth of a cent increment on a bill, which probably isn't even there because these things are handled by in-house lawyers. So it's about power. It's about not being able to be challenged. It's about what power can do. As I think about this amendment, it's better placed in the district court to have this full trial because those are the guys trained to have trials. Those are the people trained to do this. It shouldn't be in the district...this trial shouldn't be in the appellate court. Neither should this appeal be to the appellate court. It's not the way things are done. It's an aberration in the system that is unnecessary and unwarranted. But it's just as logical as LB545 and the years and years of work that went into thinking that we should just make appeals difficult and make the standard arbitrary

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and capricious so that it's really hard to appeal and really easy to frustrate anybody who tries to appeal. This is not the kind of thing this Legislature should be about. And while it probably... [LB545]

SENATOR COASH: One minute. [LB545]

SENATOR SCHUMACHER: ...probably begin to draft an amendment that puts the de novo appeal in the district court or maybe if the district court is so busy in the county court, but someplace independent from the form of the Public Service Commission, probably do that and probably have time to do that either now or on Select File. So at this point I'd withdraw FA71. [LB545]

SENATOR COASH: FA71 is withdrawn. Mr. Clerk. Mr. Clerk, you have some items. [LB545]

CLERK: I do, Mr. President. Thank you. Your Committee on Enrollment and Review reports LB3, LB23, LB99, LB553A, to...all of those reported correctly engrossed. I have amendments to be printed to LB354 by Senator Chambers; Senator Mello to LB195. And a new A bill, LB306A, by Senator Nordquist. (Read LB306A by title for the first time. Legislative Journal pages 1208-1209.) [LB3 LB23 LB99 LB553A LB354 LB195 LB306A]

Mr. President, the next motion I have with respect to LB545 is by Senator Chambers. He would move to indefinitely postpone the bill. Senator Dubas, as the introducer, you have the option to lay the bill over or take it up at this time, Senator. [LB545]

SENATOR DUBAS: We will take it up, please, Mr. Clerk. [LB545]

SENATOR COASH: Thank you, Mr. Clerk. Senator Chambers, you are recognized to open on your motion. [LB545]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, we all know who have taken an interest in this bill, that we're going to take it to a cloture vote. So rather than offer amendments, I'm going to submit various motions. And after this one, if there remains time, I have another motion that I'm going to make. This bill requires repetition, because there is nothing that can be said which will change anybody's mind; so it's going to be one of those situations where since we're discussing the public's business, I'm going to discuss other aspects of it. Let's say that a person needs medical care for his or her child, and there happens to be in this rural area a facility that has an ambulance; and the person picks up the phone and there's no dial tone--dead--because the bill was not paid and the service was cut. Well, people say that's not likely to happen. Maybe so. But could it happen? Anything is possible. Sometimes it does not take much when you're dealing with poor people to break their economic back. These companies will come before the Public Service Commission and

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indicate that this is not a big increase, not percentagewise, not absolutely speaking. But there is no consideration given to the people who must pay it. When we continue to pay higher rates, does that mean we get better service? No. But before I conclude that, I'd like to ask Senator Dubas a question or two. [LB545]

SENATOR COASH: Senator Dubas, would you yield? [LB545]

SENATOR DUBAS: Yes, I will. [LB545]

SENATOR CHAMBERS: Senator Dubas, I'm not going to ask you what all these commissioners go through before they determine whether or not they'll grant one of these rate increases. But are you aware of them ever saying that we want this rate increase and, as a result of being granted the rate increase, we're going to give better service? Is that the argument made by these industries that you know of? [LB545]

SENATOR DUBAS: I have not heard that argument, no. [LB545]

SENATOR CHAMBERS: Nor have I, and it just occurred to me now. If people were convinced that the people providing these services, these companies, are fair and they're doing the best that they can with what they have to work with and they explain to the public that we are indeed in a bind and to maintain the level of service that we're providing, and over a period of time being able to improve it, but before we get to improvement we're going to stabilize what we have and make it reliable; and to do this we're going to have to seek an increase and you're going to have to pay more in order for us to do this, do you think an argument like that might be persuasive to some people who might have to pay the rate? [LB545]

SENATOR DUBAS: Yes, it probably would be for some people... [LB545]

SENATOR CHAMBERS: Thank you. [LB545]

SENATOR DUBAS: ...if they are assured that they will get better service. [LB545]

SENATOR CHAMBERS: And it would persuade me, and I'm not...that's all I would ask you, thank you. I'm not eager to pay increases on my phone bill, as with most people. And I have a land line. I don't have these smart phones in your pocket. I'm too smart to put a phone in my pocket, so I'm smarter than the phone. But my basic service is a lot cheaper than all these other add-ons. More are added on to my bill in the way of fees of one kind or another than the cost of the service itself. But I know that's what's going to happen, so I just pay it. Oh, and I see Senator Johnson is back. What I want to say, and I wanted him to be here, it takes more for him to say on the floor what he said, and taking his name off that list, than a whole lot of things that other people could say; and I have an admiration for him for having done it, not just because it puts him on a side that

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I'm on, but you don't see many people publicly do something like that. And sometimes that can give an inspiration to somebody and I have to say this: You ought to blame Senator Johnson if I can go on all night. He charged my motor. I'm not...I could...I don't even know how to dance, but Senator Johnson, I could dance all night, right here on the floor of the Legislature. But I'm too shy to do it. But when I see something that is a tribute to the resilience of the human spirit, then that does something for me. Now, I'm not a weepy, teary person; so you're never going to see me cry, not even when I saw the horrible picture that I described of the little boy who had been brutalized. No tears. I don't have any. Maybe if I had some, I'd get relief that people say you get when you cry. But at any rate, I can appreciate, maybe because I'm at such an advanced age. When I see, every now and then, a glimmer that might turn into a gleam of light which shows that in human beings there can come persuasion that will move a person from point A to point B; point B being a better position. Now I'm going to let that alone and go back to my being the executioner of Senator Dubas' bill. Maybe this vote--because I'm going to take it to a vote whenever we get there, today or tomorrow, and let it be a test vote in a way. But it's not a good thing to take a test vote on because people may just not be ready at this point to kill the bill. There would have to be something else which, if voted on, would not necessarily result in consigning the bill to oblivion. But here's what I will say, and I'm going to say like preachers say: Hear me now, listen well. If Medicaid can be taken off the agenda, then this bill has to come off the agenda. But whether it does or not, I'm going to talk about it and speak against it as long as it's on the agenda. And if it means that whatever I have pending goes by the wayside, so be it. I establish for myself priorities. They don't have to be anybody else's priorities. But when I establish one, I'm willing to go to the mat for it. For something to be a priority to me...maybe instead of priority the word should be paramountcy. It is paramount to every other thing, and there's nothing that I will be involved in this session which is as important to me as the expansion of Medicaid. So if nothing that pertains to my direct interest means that much to me, you know none of your bills mean that much to me. And I might start tonight by putting a return motion on every bill on Final Reading and take my ten minutes on that return motion and then pull it, because I'm not interested in killing anybody's bill. But I'm interested in killing time and I'm interested in killing this session, and we kill it in increments and we kill it by degrees. And it takes some backbone and some determination to carry through on something like this. Nobody else on this floor would even talk about it, let alone undertake to do it. But this Legislature is not my life or my wife; and in 20 working days it's all over, and 20 calendar days after that it's all forgotten. If you look at life... [LB545]

SENATOR COASH: One minute. [LB545]

SENATOR CHAMBERS: ...and consider the instant during which you're living, and you can only live one instant at a time and it consumes you, then it throws things out of focus and it causes you to lose orientation and context. Nothing that we do here is permanent. So if I kill this session, so what? It means nothing to me. And if that's the

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way the game is going to be played, I'm getting into the game right now. Thank you, Mr. President. [LB545]

SENATOR COASH: Thank you, Senator Chambers. (Visitors introduced.) Senator Schumacher, you are recognized. [LB545]

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. I'm learning a new admiration for Senator Chambers. This filibuster stuff is not as easy as it looks. But it is important. It is important in underscoring what's important. And it's also important when the process goes awry, and when power is attempted to be seized in a manner that breaks the ordinary rules. That's what LB545 does. We've heard no quantification of this tremendous cost driving up ratepayers' bills for gas or phone or whatever other regulated thing there is. The dime, a nickel, a nothing, none; even though quantification has been asked for several times. We've heard no horror stories how the regulatory scheme has broken down and is in shambles because the district courts can't get to their schedule. No, none at all. We have heard a litany of assertions that somehow this is absolutely needed; that the way we do things under the Administrative Procedure Act, which is adopted I believe in all the states, or at least some version of it, that puts the reviews in the district courts or those courts of general jurisdiction, is somehow misfit when it comes to rulings, particularly rulings on money, before the Public Service Commission. We've heard how these industry leaders have really resisted the mean old Public Service Commission's effort to change the appeal process. They resisted it so hard they hired their fleet of lobbyists to appear at the hearing in support, fill the Rotunda with their lobbyists in support, saber-rattled their sabers to silence some senators. Yeah, they really are reluctant on this. It is our job to ride herd over a process in danger of going awry, not because of any corruption on the part of any individual, but because the stage is set for outcomes that are slanted, for tables and playing fields that are not level. We're told, oh, don't worry about any of this; we just got a public service advocate to advocate to the Public Service Commission. Ooh. This bill should be indefinitely postponed and indefinitely postponed promptly so that we can move on to the issues that really need to dominate this last 20 days of this session: a proper examination of the budget and what's underlying it; a vote up or down on the Medicaid issue; consideration of the death penalty and if we're going to keep it, how are we going to do it. Those are the issues that should occupy our minds, not a power play of, by gosh, we'll take this to the mat, because the glass echoes. [LB545]

SENATOR COASH: One minute. [LB545]

SENATOR SCHUMACHER: This is a bill that does not deserve further consideration, that has not been quantified in benefit or in theory, that is yet to answer the question of the Appeals Court does not have the tools to deal with this. I've been waiting for an amendment that says, gee, we're going to authorize the Appeals Court to try cases now and we're going to authorize them to have receivers and special masters and whatever

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physical facilities it takes to be a trier of fact. [LB545]

SENATOR COASH: Time, Senator. [LB545]

SENATOR SCHUMACHER: Thank you. [LB545]

SENATOR COASH: Thank you, Senator Schumacher. Senator Chambers, you're recognized. [LB545]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, let me tell you all a little bit about myself. I left here four years and few months ago because the people of Nebraska, primarily in the rural areas, voted to kick me out of the Legislature because they didn't like the way I conducted my business. I made up my mind that I would maintain my physical health and keep my mind more or less sharp. Based on the way people judge the Legislature and assess it, the second part would be the easiest: keeping my mind functioning at a level where I could operate here. So what I have said, and maybe some of you have heard it, "Parson" Carlson knows about this term: alpha and omega; the first and the last or the beginning and the end. I take it as the first and the last. But instead of alpha and omega, I am the omega and the alpha. Why do I say that? I'm last in terms of being a person who will stay in this Legislature and serve more than 40 years--the last one. That's omega. How am I alpha? I am the first one who was kicked out of here by term limits who came back. There can only be one first and that is me. As long as this Legislature exists on this planet or any other planet, I have done something that nobody can ever do again. I'm enshrined in history and in the constitution; that's why you have term limits. And in the rule book of the Legislature, that's why you have a cloture rule. Everywhere I go, all I wanted to do was maybe leave not a full fingerprint or thumbprint on history, just a ridge of the fingerprint. But not only do I put a ridge and a thumbprint, but a footprint--a footprint--because of my enemies. Every time they think that they have defeated me, then they just put me in a position to do that which had never been done by any of them before, and it makes them more upset. So it's not necessary, brothers and sisters, friends, enemies, and neutrals, for me to hate anybody. I can make my enemies kill themselves with their hatred--hate kills the hater--just by existing. They hate me so much that to think that I'm still not only alive but back in the Legislature, it's almost more than they can bear. But they must bear it. Life goes on and some people are irrepressible, some people are unconquerable, and some people are never going to have their spirit crushed or their will broken. And I will break the will of the Legislature before the Legislature will break my will. And if there remains 16 people who are proud of themselves for having said they take a blood oath to defeat the providing of medical care for people who need it, then they have given up the session. Let's see how much they're willing to do on that. Why, I've even got some questions for Senator McCoy. You know what I did? I've started reading bills I would never read before. It's a bill... [LB545]

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SENATOR GLOOR PRESIDING

SENATOR GLOOR: One minute. [LB545]

SENATOR CHAMBERS: ...that relates to drugs. It has to do with controlled substances. It has 45 pages...48 pages. I read every page of it. There are words in here I have never seen before in my life. There are words that it takes me a long time to pronounce in my mind, and I'm not sure that I'm pronouncing them correctly; but I read every word in this bill. And as a result, I have some questions to ask Senator McCoy when we get to his bill. They take their blood oath. I don't believe in oaths of any kind, but I made an agreement with myself that I'm going to pay attention to all of the bills that come before us. And to the extent that I can read every page of every one of them, I shall. [LB545]

SENATOR GLOOR: Time, Senator. [LB545]

SENATOR CHAMBERS: Thank you, Mr. President. [LB545]

SENATOR GLOOR: Thank you, Senator Chambers. (Visitors introduced.) Returning to discussion, Senator Schumacher, you are recognized. [LB545]

SENATOR SCHUMACHER: Thank you, Mr. Chairman. I want to rethank Senator Lathrop for not making this afternoon a total loss. The discussion we had on Medicaid was productive. Hopefully, we can begin to see our duties something other than a political game and see them as a responsibility to the people of this state to deal with the big issues and to overcome the pressures that are inherent in a political system that runs on money. We're seeing some of that in this particular bill today, and we are expected to roll over because of it. There is still no good reason that's been put forward why this reform makes Nebraska a better place or how Nebraska has been harmed by a commonsense solution that was put in place ten years ago when the APA was applied to these proceedings. We may very well see, if we should pass LB545, other agencies saying: Me too, we're sick of having challenges to our decisions; we'd like those doors closed a little bit tighter to the courthouse too; we'd like to have unique proceedings which only a limited number of people in the bar participate in, too, and those people can be bought by us by retainers and taken out of circulation; minor expense. This is not good law. It is not good law nor is it good legislation on the part of decision-makers who should have a lot better things to make decisions about. And maybe what I've learned so far this session is that the kind of stuff we bring out to the floor should be the stuff of the future and the stuff of the people rather than the stuff of the lobby and the stuff of the special interests. For that, that well-taught lesson, I can thank Senator Chambers. We need to move on from stuff like LB545 and not reward the kind of stuff that brought it here. Don't buy, for a minute, that this was years and years of painful negotiation or an attempt to limit big bills on your phone bill, when the Public Service Commission looks the other way and let's the phone companies load up the wagon with every imaginary

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charge they can come up with. And I suspect maybe that's happening in gas, too; but I don't pay my gas bill. Somebody else writes that check. My wife gets stuck with that job. So, ladies and gentlemen of the Legislature, I stand in support of indefinitely postponing LB545 and will continue to pursue... [LB545]

SENATOR GLOOR: One minute. [LB545]

SENATOR SCHUMACHER: ...the things we should be trying to pursue, even if that means talking and talking and talking on this particular bill that deserves to be postponed. Thank you. [LB545]

SENATOR GLOOR: Thank you, Senator Schumacher. Senator Chambers, you are recognized. [LB545]

SENATOR CHAMBERS: Mr. President and members of the Legislature, we are nearing the end of the day where we will be discussing this bill, and we're going to go to Final Reading. I would like to say that this bill would be consigned to its final resting place this evening; but such is not to be. So going back to my rhyme about the horse flying, with all due respect to Senator Dubas. Before tomorrow I may die; before tomorrow, Senator Dubas--and it would make me very happy--may shuffle off that mortal coil. Or maybe everybody will be gone. Maybe the world will come to an end. But even though those possibilities exist, I live my life as though not one of them is going to come into play and that I will be back here tomorrow fighting with renewed vigor, because I'm not going to get tired and I'm not going to wear down and I'm not going to wear out. But I will wear other people down, I will wear other people out, and I'll run them out of this Chamber. Look around here. Where have they gone? Now, if the lobbyists were giving them free food, I could tell you where they are. And that's what gripes me. There are senators who will sign that petition, so-called 16 moochers, spongers, hypocrites, eating at the trough of the lobbyists, then saying these people who need medical care shouldn't get it. No lobbyist should be allowed to set foot in this place and bring food again, and I'm going to offer a resolution to ban the practice, and I'm going to offer it this session and I'm going to see how many of you are going to vote against that resolution so you can continue to be fed by the lobbyists and let the public know what you are. Are you for it? Are you with me? And if you're with me, say: hip, hip, hoorah. [LB545]

_____: Hip, hip, hoorah. [LB545]

SENATOR CHAMBERS: That's kind of a thin response. But I'm going to draft that resolution tonight and I'm going to submit it. Well, I might draft it while we're on Final Reading and submit it tonight so it will be in tomorrow's Journal. The Legislature, whereas the Legislature represents the people, whereas it could be viewed as a conflict of interest if the legislators are fed by the lobbyists in the Senators' Lounge, in the State Capitol. Now, therefore, be it resolved, the Legislature intending to avoid even the

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appearance of impropriety will no longer permit meals to be served in the Capitol building to the senators, for the senators, by lobbyists. That should easily...that shouldn't even have to be referred to a committee, should it? But if it is, will a committee lock it up because they want to continue mooching and sponging off the lobbyists? I never have liked that. I never took a free football ticket, ever. But they're getting on the fighting side of me now, these hypocrites running around here denying the people who need help, the help they need, while they're sponging and mooching and freeloading. "Freddie and Fredericka, the freeloaders," the freeloading Nebraska legislators. [LB545]

SENATOR GLOOR: One minute. [LB545]

SENATOR CHAMBERS: "Captain Lunch-hunter," "Lieutenant Moocher," always on the prowl to get a free lunch. You all get more upset, at least talking about your mooching and sponging than I get about you denying help to the poor. If you would show consideration to others, I wouldn't care that you mooch and sponge off the lobbyists; but since that's the way we're going to be, we're going to set the example, although it's not setting an example by simply refraining from taking mooched meals and sponged meals from the lobbyists. Thank you, Mr. President. [LB545]

SENATOR GLOOR: Thank you, Senator Chambers. Seeing no senators left in the queue, Senator Chambers, you're recognized to close. [LB545]

SENATOR CHAMBERS: Now I believe that I can make another kill motion tomorrow but I'll find out. I'll check the rules and see. So I will accept a vote and then we'll do it again tomorrow. Am I...I'm closing now? [LB545]

SENATOR GLOOR: Yes, you are, Senator. [LB545]

SENATOR CHAMBERS: All right. I'm going to close with something that some of the people may have heard, but I'm not going to sing it. "I'm Henry the Eighth, I am; Henry the Eighth, I am, I am. I got married to the widow next door; she'd been married seven times before. And every one was an Henry; she wouldn't touch a Willie or a Sam. And my name is Henry, so Henry the Eighth, I am, I am; Henry the Eighth, I am." Second verse, same as the first, "I'm Henry the Eighth, I am." You hear the first verse today. We're going to go through this again tomorrow, and if the wrong thing happens during the debate on this bill that's before us, then the rest of the day is mine. And I'm glad that Senator Schumacher is telling the rest of you all that what I do might be made to look easy because I do it. But you try it. When they wanted to kill Medicaid, they couldn't do it alone. They had to hand it off. They had a relay. They had several skullduggers in their skulldugging, and one would pop up, then the other one would pop up. And I knew exactly what was going to come out of their mouth before they uttered it, because I knew where they got their orders from. You all won't say it but some of you are glad that I will say what's in your mind. There is a resonance in you. It's like if we have several

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strings of wire drawn tight and we strike a note someplace and the note we strike is the same as the note that that wire would strike, that wire will vibrate to that note and you will hear the same sound coming from that wire that you heard when I struck my note over here. I know these people and they know that I know them, and I will say what they are. We are not children. We are grown people. There is a knockdown, drag-out, bare knuckles time; and when you are going to hurt the poor, that's when the gloves come off for me. And I ask no quarter and I give none. Let the 16 of you gang up on me, right here. Do it. Stop everything I've got. Come out from the shadows and show yourself. Isn't that what the exorcist always says? When the person is possessed...now, I've seen this in the movies; some of them were supposed to be documentaries. What do they ask the demon? Who are you? They want to know who the demon is. And sometimes the demon will talk, and one time they answered: Jesus, our name is legion for we are many. And Jesus said--now this isn't in the "bible" this way--I don't care how many of you there are, I was before you are; every one of you vacate the premises. And they all left and went into a herd of hogs, and the poor hogs, which were doing nothing but being hogs, ran over the edge of the cliff, fell in the ocean--not the ocean, the sea--and drowned because of some demons. The innocent often suffer for the guilty. But we're going to see what happens the rest of this session, and I want those 16 to identify themselves. They ought to be willing to show me the list and let me see who they are. Everything I say,... [LB545]

SENATOR GLOOR: One minute. [LB545]

SENATOR CHAMBERS: ...you know it's from me. Anything I put out, I sign it. I don't do anything hiding. I'm not a sneak. I don't need a lot of company along with me. Let them show themselves. Are they men or are they mice? I want to see who they are. We all want to know who they are. They're bold enough to do this, to take advantage of the weak, the helpless, the voiceless; show me who they are so I can give them the credit they're entitled to. And I will give them that credit because it takes a certain amount of moxie to be very wicked just like it takes that moxie to be courageous. And I think it is the depth of wickedness for those who are strong to team up and harm the weak. And your God told you that the strong ought to bear the infirmities of the weak, and because of you, the weak carry a heavier burden. Oh, I can't wait till tomorrow morning... [LB545]

SENATOR GLOOR: Time, Senator. [LB545]

SENATOR CHAMBERS: ...to listen to the prayer. Is my time up, Mr. President? [LB545]

SENATOR GLOOR: Time, Senator. Yes. [LB545]

SENATOR CHAMBERS: I'd ask for a call of the house and a roll call vote. [LB545]

SENATOR GLOOR: Members, you've heard the request to place the house under call.

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The question is, shall the house go under call? Those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB545]

CLERK: 25 ayes, 0 nays to place the house under call, Mr. President. [LB545]

SENATOR GLOOR: The house is under call, members. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel, please leave the floor. The house is under call. Senators Kolowski, Pirsch, Karpisek, Nelson, Schilz, Coash, and Watermeier, please return to the Chamber and record your presence. Senator Karpisek, please return to the Chamber and record your presence. Members, the question before us is, shall LB545 be indefinitely postponed? Mr. Clerk, roll call vote, regular order. [LB545]

CLERK: (Roll call vote taken, Legislative Journal pages 1209-1210.) 7 ayes, 37 nays, Mr. President, on the motion to indefinitely postpone. [LB545]

SENATOR GLOOR: The motion fails. As the agenda points out, we will now move to Final Reading. The call is raised. But members, you should return to your seats or remain in your seats in preparation for Final Reading. [LB545]

SPEAKER ADAMS PRESIDING

SPEAKER ADAMS: Mr. Clerk.

CLERK: Mr. President, a couple of items before we proceed. Enrollment and Review reports LB23A as correctly engrossed. And I have an amendment to LB368 to be printed, by Senator Crawford. That's all that I have, Mr. President. (Legislative Journal page 1210.) [LB23A LB368]

SPEAKER ADAMS: Mr. Clerk, the first bill on Final Reading is LB647. [LB647]

CLERK: (Read LB647 on Final Reading.) [LB647]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB647 pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB647]

CLERK: (Record vote read, Legislative Journal page 1211.) 45 ayes, 0 nays, 4 excused and not voting, Mr. President. [LB647]

SPEAKER ADAMS: LB647 passes. (Visitors introduced.) The next bill, LB643, Mr. Clerk. [LB647 LB643]

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CLERK: (Read LB643 on Final Reading.) [LB643]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB643 pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB643]

CLERK: (Record vote read, Legislative Journal pages 1211-1212.) 44 ayes, 1 nay, 4 excused and not voting, Mr. President. [LB643]

SPEAKER ADAMS: LB643 passes. We will now proceed to LB549. [LB643 LB549]

CLERK: (Read LB549 on Final Reading.) [LB549]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB549 pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB549]

CLERK: (Record vote read, Legislative Journal page 1212.) 45 ayes, 0 nays, 4 excused and not voting, Mr. President. [LB549]

SPEAKER ADAMS: LB549 passes. We will now proceed to LB538. [LB549 LB538]

CLERK: (Read LB538 on Final Reading.) [LB538]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB538 pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB538]

CLERK: (Record vote read, Legislative Journal page 1213.) 45 ayes, 0 nays, 4 excused and not voting, Mr. President. [LB538]

SPEAKER ADAMS: LB538 passes. We'll now proceed to LB500. [LB538 LB500]

CLERK: (Read LB500 on Final Reading.) [LB500]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB500 pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB500]

CLERK: (Record vote read, Legislative Journal pages 1213-1214.) 45 ayes, 0 nays, 4 excused and not voting, Mr. President. [LB500]

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SPEAKER ADAMS: LB500 passes. We'll now proceed to LB493. [LB500 LB493]

CLERK: (Read LB493 on Final Reading.) [LB493]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB493 pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB493]

CLERK: (Record vote read, Legislative Journal page 1214.) 45 ayes, 0 nays, 4 excused and not voting. [LB493]

SPEAKER ADAMS: LB493 passes. We'll now proceed to LB477. [LB493 LB477]

CLERK: (Read LB477 on Final Reading.) [LB477]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB477 pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB477]

CLERK: (Record vote read, Legislative Journal pages 1214-1215.) 45 ayes, 0 nays, 4 excused and not voting. [LB477]

SPEAKER ADAMS: LB477 passes. We will now proceed to LB459. [LB477 LB459]

CLERK: (Read LB459 on Final Reading.) [LB459]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB459 pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB459]

CLERK: (Read vote read, Legislative Journal pages 1215-1216.) 44 ayes, 0 nays, 1 present and not voting, 4 excused and not voting, Mr. President. [LB459]

SPEAKER ADAMS: LB459 passes. We will now proceed to LB458. [LB459 LB458]

CLERK: (Read LB458 on Final Reading.) [LB458]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB458 pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB458]

CLERK: (Record vote read, Legislative Journal page 1216.) 44 ayes, 0 nays, 1 present and not voting, 4 excused and not voting, Mr. President. [LB458]

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SPEAKER ADAMS: LB458 passes. We will now proceed to LB442. And Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB458 LB442]

CLERK: 38 ayes, 4 nays, Mr. President, to dispense with the at-large reading. [LB442]

SPEAKER ADAMS: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB442]

CLERK: (Read title of LB442.) [LB442]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB442 pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB442]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1217.) The vote is 46 ayes, 0 nays, 3 excused and not voting. [LB442]

SPEAKER ADAMS: LB442 passes. We will now proceed to LB435. [LB442 LB435]

ASSISTANT CLERK: (Read LB435 on Final Reading.) [LB435]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB435 pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB435]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1217-1218.) Vote is 46 ayes, 0 nays, 3 excused and not voting. [LB435]

SPEAKER ADAMS: LB435 passes. We'll now proceed to LB420. [LB435 LB420]

ASSISTANT CLERK: (Read LB420 on Final Reading.) [LB420]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB420 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB420]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1218-19.) Vote is 43 ayes, 2 nays, 1 present and not voting, 3 excused and not voting, Mr. President. [LB420]

SPEAKER ADAMS: LB420 passes with the emergency clause attached. We will now

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proceed to LB386. [LB420 LB386]

ASSISTANT CLERK: (Read LB386 on Final Reading.) [LB386]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB386 pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB386]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1219.) Vote is 45 ayes, 0 nays, 1 present and not voting, 3 excused and not voting, Mr. President. [LB386]

SPEAKER ADAMS: LB386 passes. We'll now proceed to LB377. [LB386 LB377]

ASSISTANT CLERK: (Read LB377 on Final Reading.) [LB377]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB377 pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB377]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1220.) Vote is 46 ayes, 0 nays, 3 excused and not voting. [LB377]

SPEAKER ADAMS: LB377 passes. We'll now proceed to LB361. And, Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB377 LB361]

ASSISTANT CLERK: 40 ayes, 4 nays on the motion to dispense with the at-large reading, Mr. President. [LB361]

SPEAKER ADAMS: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB361]

ASSISTANT CLERK: (Read title of LB361.) [LB361]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB361 pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB361]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1221.) Vote is 45 ayes, 0 nays, 1 present and not voting, 3 excused and not voting, Mr. President. [LB361]

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SPEAKER ADAMS: LB361 passes. We'll now proceed to LB349. [LB361 LB349]

ASSISTANT CLERK: (Read LB349 on Final Reading.) [LB349]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB349 pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB349]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1221-22.) Vote is 45 ayes, 0 nays, 1 present and not voting, 3 excused and not voting, Mr. President. [LB349]

SPEAKER ADAMS: LB349 passes. We'll now proceed to LB345. [LB349 LB345]

ASSISTANT CLERK: (Read LB345 on Final Reading.) [LB345]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB345 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB345]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1222-23.) Vote is 46 ayes, 0 nays, 3 excused and not voting, Mr. President. [LB345]

SPEAKER ADAMS: LB345 passes with the emergency clause. We'll now move to LB344. [LB345 LB344]

ASSISTANT CLERK: (Read LB344 on Final Reading.) [LB344]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB344 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB344]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1223.) Vote is 46 ayes, 0 nays, 3 excused and not voting, Mr. President. [LB344]

SPEAKER ADAMS: LB344 passes with the emergency clause attached. We'll now proceed to LB332. [LB344 LB332]

CLERK: (Read LB332 on Final Reading.) [LB332]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB332 pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB332]

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CLERK: (Record vote read, Legislative Journal page 1224.) 46 ayes, 0 nays, 3 excused and not voting, Mr. President. [LB332]

SPEAKER ADAMS: LB332 passes. We'll now proceed to LB329. [LB332 LB329]

CLERK: (Read LB329 on Final Reading.) [LB329]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB329 pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB329]

CLERK: (Record vote read, Legislative Journal pages 1224-25.) 45 ayes, 0 nays, 1 present and not voting, 3 excused and not voting, Mr. President. [LB329]

SPEAKER ADAMS: LB329 passes. We'll now proceed to LB303. [LB329 LB303]

CLERK: (Read LB303 on Final Reading.) [LB303]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB303 pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB303]

CLERK: (Record vote read, Legislative Journal page 1225.) 46 ayes, 0 nays, 3 excused and not voting, Mr. President. [LB303]

SPEAKER ADAMS: LB303 passes. We'll now proceed to LB277. [LB303 LB277]

CLERK: (Read LB277 on Final Reading.) [LB277]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB277 pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB277]

CLERK: (Record vote read, Legislative Journal page 1226.) 46 ayes, 0 nays, 3 excused and not voting. [LB277]

SPEAKER ADAMS: LB277 passes. We'll now proceed to LB243. [LB277 LB243]

CLERK: (Read LB243 on Final Reading.) [LB243]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB243 pass? All those in favor vote aye; all those opposed

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vote nay. Record, Mr. Clerk. [LB243]

CLERK: (Record vote read, Legislative Journal pages 1226-27.) 46 ayes, 0 nays, 3 excused and not voting, Mr. President. [LB243]

SPEAKER ADAMS: LB243 passes. We'll now proceed to LB223. [LB243 LB223]

CLERK: (Read LB223 on Final Reading.) [LB223]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB223 pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB223]

CLERK: (Record vote read, Legislative Journal page 1227.) 46 ayes, 0 nays, 3 excused and not voting, Mr. President. [LB223]

SPEAKER ADAMS: LB223 passes. We'll now proceed to LB222. And, Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Record. [LB223 LB222]

CLERK: 40 ayes, 3 nays to dispense with the at-large reading. [LB222]

SPEAKER ADAMS: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB222]

CLERK: (Read title of LB222.) [LB222]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB222 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB222]

CLERK: (Record vote read, Legislative Journal page 1228.) 46 ayes, 0 nays, 3 excused and not voting, Mr. President. [LB222]

SPEAKER ADAMS: LB222 passes with the emergency clause attached. We'll now proceed to LB208. [LB222 LB208]

CLERK: (Read LB208 on Final Reading.) [LB208]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB208 pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB208]

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CLERK: (Record vote read, Legislative Journal page 1229.) 46 ayes, 0 nays, 3 excused and not voting, Mr. President. [LB208]

SPEAKER ADAMS: LB208 passes. We'll now proceed to LB192. [LB208 LB192]

CLERK: (Read LB192 on Final Reading.) [LB192]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB192 pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB192]

CLERK: (Record vote read, Legislative Journal pages 1229-30.) 46 ayes, 0 nays, 3 excused and not voting, Mr. President. [LB192]

SPEAKER ADAMS: LB192 passes. We'll now proceed to LB172. [LB192 LB172]

CLERK: (Read LB172 on Final Reading.) [LB172]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB172 pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB172]

CLERK: (Record vote read, Legislative Journal pages 1230-31.) 45 ayes, 0 nays, 1 present and not voting, 3 excused and not voting. [LB172]

SPEAKER ADAMS: LB172 passes. We'll now proceed to LB169. [LB172 LB169]

CLERK: (Read LB169 on Final Reading.) [LB169]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB169 pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB169]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1231.) Vote is 46 ayes, 0 nays, 3 excused and not voting, Mr. President. [LB169]

SPEAKER ADAMS: LB169 passes. Mr. Clerk. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LB647, LB643, LB549, LB538, LB500, LB493, LB477, LB459, LB458, LB442, LB435, LB420, LB386, LB377, LB361, LB349, LB345, LB344, LB332, LB329, LB303, LB277, LB243, LB223, LB222, LB208, LB192, LB172, and LB169. Mr. Clerk. [LB647 LB643 LB549 LB538 LB500 LB493 LB477 LB459 LB458 LB442 LB435 LB420 LB386 LB377 LB361 LB349 LB345 LB344 LB332 LB329 LB303 LB277 LB243 LB223 LB222 LB208 LB192 LB172

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LB169]

CLERK: Mr. President, I have a priority motion. Senator Burke Harr would move to adjourn the body until Thursday morning, May 2, at 9:00 a.m.

SPEAKER ADAMS: Members, the question is, shall we adjourn? All those in favor say aye. Opposed? We are adjourned.