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Floor Debate
January 30, 2008

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LB894 LB920 LB947 LB974 LB1012 LB1110 LB1170 LR231CA]

SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for this, the fifteenth day of the One Hundredth Legislature, Second Session. Our chaplain of the day is Reverend Rick Snodgrass from Assembly of God, Wayne, Nebraska, Senator Engel's district. Would you please rise.

REVEREND SNODGRASS: (Prayer offered.)

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

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

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

CLERK: I have no corrections, Mr. President.

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

CLERK: Mr. President, Enrollment and Review reports LB123, LB179, and LB179A to Select File. Enrollment and Review also reports LB204A and LB210 as correctly reengrossed. A series of committee hearing notices: the Government, Military and Veterans Affairs Committee, the Revenue Committee provides me with a series of hearing notices, as does the Appropriations Committee; all those signed by their respective Chairpersons. And I have a confirmation hearing report from the Agriculture Committee offered by Senator Erdman, as Chair. That's all that I have, Mr. President. (Legislative Journal pages 431-435.) [LB123 LB179 LB179A LB204A LB210]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. We will now proceed to the first item on today's agenda. Mr. Clerk, LR231CA. [LR231CA]

CLERK: Mr. President, Senator Erdman would move to withdraw LR231CA. [LR231CA]

SENATOR LANGEMEIER: Senator Erdman, you are recognized to open on your motion to withdraw. [LR231CA]

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SENATOR ERDMAN: Thank you, Mr. President and members of the Legislature. LR231CA was introduced as a part of a package to address the structure and organization of the Tax Equalization and Review Commission. It was not my intent, and it still continues to not be my intent, to pursue a constitutional amendment to address that issue, but this was simply introduced as an opportunity, should we need it, to be on the table. LB1110 was introduced in reference to the Revenue Committee, as it should have been, in my humble opinion, to address the governance and structure of the Tax Equalization and Review Commission, and I would ask that LR231CA be withdrawn and allow us the opportunity to work underneath the existing authority of the TERC board to address any changes that may come through the Revenue Committee this session. Thank you, Mr. President. [LR231CA LB1110]

SENATOR LANGEMEIER: Thank you, Senator Erdman. You have heard the opening on the motion to withdraw. The floor is now open for discussion. Seeing no lights on, Senator Erdman, you're recognized to close. He waives closing. The question before the body is, should LR231CA be withdrawn? All those in favor vote yea; all those opposed vote nay. Record, Mr. Clerk. [LR231CA]

CLERK: 25 ayes, 1 nay, Mr. President, on the motion to withdraw the constitutional amendment. [LR231CA]

SENATOR LANGEMEIER: LR231CA is withdrawn. Mr. Clerk, confirmation reports. [LR231CA]

CLERK: Mr. President, a confirmation report offered by the Government, Military and Veterans Affairs Committee involves the appointment of Timothy Kadavy as the Adjutant General. (Legislative Journal page 408.)

SENATOR LANGEMEIER: Thank you. Senator Aguilar, as Chair of the Government, Military and Veterans Affairs Committee, you are recognized to open on the confirmation report.

SENATOR AGUILAR: Thank you, Mr. President, members. Last Friday we had the confirmation hearing on Adjutant General Timothy Kadavy for appointment to head up Nebraska's Military Department. All the senators participated in a good questioning period, at which General Kadavy did a great job of responding to all of our questions. And at the end of the day, we approved him with an 8-0 vote, and I would encourage the full body to join me in approving this appointment of General Timothy Kadavy. Thank you.

SENATOR LANGEMEIER: Thank you, Senator Aguilar. You have heard the opening on the confirmation report offered by the Government, Military and Veterans Affairs

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Committee. The floor is now open for discussion. Seeing no lights on, Senator Aguilar is recognized to close. Senator Aguilar waives closing. The question before the body is, shall the confirmation report offered by the Government, Military and Veterans Affairs Committee be adopted? All those in favor say yea; all those opposed vote nay. Record, Mr. Clerk.

CLERK: (Record vote, Legislative Journal pages 435-436.) 32 ayes, 0 nays, Mr. President, on adoption of the confirmation report.

SENATOR LANGEMEIER: Confirmation report is adopted. Mr. Clerk, next item, Select File, LB235. [LB235]

CLERK: LB235, Senator McGill, I have Enrollment and Review amendments first of all, Senator. (ER8140, Legislative Journal page 345.) [LB235]

SENATOR LANGEMEIER: Senator McGill, for a motion. [LB235]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB235]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed say nay. They are adopted. Mr. Clerk. [LB235]

CLERK: Mr. President, Senator Nantkes would move to amend with AM1644. (Legislative Journal page 379.) [LB235]

SENATOR LANGEMEIER: Senator Nantkes, you are recognized to open on AM1644. [LB235]

SENATOR NANTKES: Thank you, Mr. President. Good morning, colleagues. Well, after a brief intermission from General to Select File, here we are at the second act. This morning we had the pages pass around an updated fact sheet in regards to LB235, as amended. As you can see in the first part, titled "Pre-Production Efforts Continue," that just kind of gives you a refresher on what the underlying piece of legislation seeks to accomplish and then also hopefully explains to you how the program would work if adopted. In the "Coming Attractions" section we've listed three different examples there of different film productions that would qualify, the type of rebates that they would be able to receive under the program, and then ultimately what the economic impact to Nebraska would be. I think that they're really quite informative and interesting and demonstrating exactly what the positive economic impact to Nebraska this legislation could help us accomplish. With that, I know that there are some other senators that have some amendments up this morning that are seeking to help clarify some of the language in the bill, and I would yield the balance of my time back. [LB235]

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SENATOR McDONALD PRESIDING

SENATOR McDONALD: Thank you, Senator Nantkes. Would anyone like to speak on Senator Nantkes' amendment? Senator Chambers. [LB235]

SENATOR CHAMBERS: Madam President, Senator Friend and I were in a discussion and I would like to ask Senator Nantkes what her amendment is that we're discussing, because I have some concerns about the bill and I want to know where we are. [LB235]

SENATOR McDONALD: Senator Nantkes, would you yield to Senator Chambers? [LB235]

SENATOR NANTKES: Yes, Madam President. [LB235]

SENATOR CHAMBERS: Senator Nantkes, what is the amendment we're on of yours? [LB235]

SENATOR NANTKES: AM1644, and basically it would tighten up some of the administrative concerns and costs in carrying out the Nebraska Film Advantage (sic) Production Incentive Act. [LB235]

SENATOR CHAMBERS: So you're offering yours to the E&R amendments, which means it will still be before us and we can go after it if we want to? Because I'm not...that's all I will ask you, Senator Nantkes. At least where we are I can see. I am opposed to the bill. I don't know whether what Senator Nantkes is offering in her amendment will make that much difference, but it might allay some of the concerns that I have. So not having seen the amendment before this moment, I'm going to look for Senator Friend, I'm going to look for Senator Harms, I'm going to look for Senator Fulton and all those people yesterday who were so upset because an amendment was offered to a bill--that's all I'll ask you, Senator Nantkes, thank you--so upset because a bill came before us and the amendment just got there. I'm looking for them, having read the amendment, to discuss it and let us know what is in it. But I don't think I see that interest today. So I'll use this opportunity to let some of my colleagues know that you showed me what the rest of the session is to be. I always have said, just let me know what the rules are that you all intend to play by, and I will play by them and I will beat you at your own game. Now I know that these senators are lying through their teeth when they say they jumped a bill because it just came out here and they didn't have time to work it. Every bill that has come out before us this session has just come out here, and there was not a lot of lead time. That, that happened yesterday, was about me. I know it, and you got the message through to me. There are some bills, like this one, however, which I just don't think constitute good policy for the state. Nebraska is not a place where, in my opinion, film companies are going to come and hire a lot of Nebraskans to be in a film, unless it's something to stereotype Nebraska as a place of hayseeds, hicks, rubes

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and whatnot. I saw on the front page of today's paper where some people are upset because they said that that program, American Idol, entrenched stereotypes about Nebraska. I didn't have an opportunity to read the paper so I don't know what stereotypes they're talking about, but Nebraska is known primarily for football, and now that football is in its nadir in Nebraska, it's known for that, n-a-d-i-r. I got to be careful with what I say and how I express myself on this floor since my colleagues have so much trouble understanding what I say. They feel that it takes them into murky territory. They read and don't understand. So that's the way... [LB235]

SENATOR McDONALD: One minute. [LB235]

SENATOR CHAMBERS: ...I shall function. This amendment may be discussed by others so I'm going to see what does develop, and if they do, it will give me the opportunity to read it. Thank you, Madam President. [LB235]

SENATOR McDONALD: Thank you, Senator Chambers. Senator Carlson, you are next. [LB235]

SENATOR CARLSON: Madam President and members of the Legislature, I would like to address a question or two to Senator Nantkes, if she would yield. [LB235]

SENATOR McDONALD: Senator Nantkes, would you yield to Senator Carlson? [LB235]

SENATOR NANTKES: Gladly. [LB235]

SENATOR CARLSON: Senator Nantkes, when the bill was voted from General File to Select File, I had said that my vote was kind of a weak vote, and I had asked for an example of the effect of this financially and so appreciate what's been handed out this morning. And whether it's you or someone else, I'd like you to spend some time, and I think that the time is okay, and go through this example, if you would. And I, as I sit here, I'm trying to look at the effect of being sales tax-exempt. I think that was in the bill too. And I'm not really seeing, although I haven't studied it thoroughly, how that impacts your example here. So I'm really interested in listening to and following your example, and I think it would be helpful for the body, and would you be willing to expound on what you've handed us this morning? [LB235]

SENATOR NANTKES: Thank you, Senator Carlson. Yes, and as you asked for during debate on General File, we did try and put together some hypothetical examples, mind you, but examples of exactly how the program would work. And just to clarify, I think, there isn't a sales tax exemption provided for in the bill. The qualifying production company would come in and purchase the different supplies and other things that they may need or incur rental costs and pay salaries, etcetera, and all along paying all applicable Nebraska taxes. At the end of production, once they submitted all of the

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appropriate paperwork, then they would be eligible of a rebate on the total cost of those production costs. So there wouldn't be any sort of sales tax exemption from the start, and that's why that's not included in these examples. [LB235]

SENATOR CARLSON: All right. Thank you. Let's look at example A there, if we could: a budget of \$2 million; spending \$1.25 million on production costs in Nebraska; 50 percent of the cast and crew are Nebraskans, so that qualifies for 25 percent rebate and that 25 percent rebate is \$312,500; the net investment, \$1.25 million; and now we go to total economic impact of \$937,500 directly and up to \$1.8 million. Help me understand that a little bit better, if you would. [LB235]

SENATOR NANTKES: Sure. Thank you, Senator Carlson. Under the...we tried to lay out in the different hypothetical examples there, as you may remember from debate on General File, that there's different thresholds for qualifying projects depending upon their overall investment in the state and the makeup of cast and crew and trying to ensure that those projects that hire Nebraskans will, in fact, receive a greater percentage of rebate. So say, for example, something that most people are familiar with,... [LB235]

SENATOR McDONALD: One minute. [LB235]

SENATOR NANTKES: ...they're going to film About Schmidt in Nebraska, and so they put together their overall budget and ideas for production and it comes to \$2 million. Of course, that film was more than that, but let's say it comes to \$2 million. They're going to spend \$1.25 million on various production costs within Nebraska. Those are all defined within the legislation, so they would qualify for a 25 percent rebate on that \$1.25 million investment. Thus, they'll receive back at the end of production and after they complete the appropriate paperwork, \$312,500. So directly, we'll see an increase in economic impact in Nebraska of a little less than \$1 million. Where it says "and up to \$1.8 million," if you note the footnote at the bottom of the page there, the way that that figure was calculated was by utilizing the Department of Economic Development's Nebraska tourism dollar multiplier. [LB235]

SENATOR McDONALD: Time. [LB235]

SENATOR NANTKES: Thank you. [LB235]

SENATOR CARLSON: Thank you. [LB235]

SENATOR McDONALD: Senator Langemeier, you're next. [LB235]

SENATOR LANGEMEIER: Thank you, Madam President, members of the body. If you look at the committee statement, I did not support this bill out of committee. I have a

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number of concerns. Number one is, what kind of films are we going to get? Typically, the big thing we have in Nebraska to offer is agriculture, and typically filmmakers have not made a positive light of agriculture. And if that kind of film is coming to Nebraska, it's going to come to Nebraska without incentives. So I have a great, great fear of that. I have an amendment that I'm going to offer in a little bit--as we work through some of these I think we're going to see others--that would take all these credits that they earn from sales tax and all the facets of this bill and creates those into income tax credits, good towards Nebraska income tax. I think it's crucial that we keep in mind that for a company that would come to Nebraska, spend some money and then leave, that we don't take Nebraska dollars and send that with them. So I think it's very crucial. I'm very supportive of the idea of having films here that might create some tourism. I think we still need to look at the reality of what Nebraska gets targeted for, for films, and I have some reservations in that regard. I think the work force, as my union constituents have contacted me, I think it's very...there's some things to be embraced in that regard. However, the history of Nebraska filmmaking has not been a positive light towards agriculture, and I would hate to see each and every one of us watch a film that depicts agriculture in a bad manner, and then in the credits see a thank-you to the state of Nebraska for your tax dollars to pay for it. And so I am going to offer an amendment later on to get this into income tax credits that would be nontransferable, so once they earn them they couldn't...they could only use them towards Nebraska income that they have and would not be allowed to be sold out on the open market to some other Nebraska income taxpayer. With that, I would yield the balance of my time to Senator Chambers, if he would like it. [LB235]

SENATOR McDONALD: Senator Chambers, you have 2 minutes and 52 seconds. [LB235]

SENATOR CHAMBERS: Thank you. Thank you...oh, he's gone, but thank you, Senator Langemeier. Thank you, Madam President. This bill, I believe, is well-intentioned. I want to make that clear. But based on what people think is my orientation, I ought to be in a position to state authoritatively that the road to Hades is paved, Senator Carlson, with good intentions. I see crucial points in this bill where flaws exist, but the first one that I would touch on is the one that says, on page 2 of the E&R amendment, if the film...oh, in line 19, "if the Film Office of the Department of Economic Development determines that the proposed project has a reasonable chance of economic success." How in the world are these rubes in Nebraska, who are not authorities on even the work they do, going to determine in advance that a film project is going to meet with economic success? What constitutes economic success? Success according to the standards laid down by Hollywood and others in the film industry as to how much profit a film should make in order to be considered a success? Does it mean that the project will break even? [LB235]

SENATOR McDONALD: One minute. [LB235]

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SENATOR CHAMBERS: Does it mean that there's a certain percentage over what is expended that ought to be realized as profit in order for it to be determined a success? And if the economic...if the film office makes that determination, it doesn't say that the project has to be a success. It can bomb and the taxpayers of Nebraska are going to pony up money for a failed project. That's all I'll say now because my time is running out. Thank you, Madam President. Thank you again, Senator Langemeier, who is absent from his chair at this point. [LB235]

SENATOR McDONALD: Thank you, Senator Chambers. And, Senator Chambers, you are next. [LB235]

SENATOR CHAMBERS: Thank you. Madam President, I was kind of hurrying so I could try to make the best use of the time that Senator Langemeier gave me. When this kind of discretion, this kind of opinion is the basis for taxpayer money to be handed over to a private enterprise, it would be foolish for this Legislature to do it. But yesterday you established that you're foolish. So I want to state again today on a matter such as this that you'll be foolish to do this. That has never stopped the Legislature. Who is in the film office? I'd like to ask Senator Nantkes a question or two, and she may not be able to answer because some of this is going to be...come into existence should this thing become law. If she would answer a question or two... [LB235]

SENATOR McDONALD: Senator Nantkes, would you answer a question for Senator Chambers? [LB235]

SENATOR NANTKES: I'd be happy to. [LB235]

SENATOR CHAMBERS: Senator Nantkes, there are no criteria in the bill to determine the qualifications of the person who would staff the film office, are there? [LB235]

SENATOR NANTKES: There are not. Currently, at the Department of Economic Development, they contract with a woman named Laurie Richards, who runs the film program that currently exists in Nebraska, which basically is pretty minimal overall in terms of its program. She's been working in this capacity since the eighties. She's well... [LB235]

SENATOR CHAMBERS: Okay, but I don't want all my time taken. There is no film office, as such, existing at this point. Is that correct? [LB235]

SENATOR NANTKES: There is a film program that currently exists within the Department of Economic Development. They receive about \$40,000 a year to carry out... [LB235]

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SENATOR CHAMBERS: But here's what I'm asking, not to be rude but my time will run out: There is no film office at this time, if I read the bill correctly. [LB235]

SENATOR NANTKES: No, this would create the film office in statute. [LB235]

SENATOR CHAMBERS: Okay. And there is nothing in the bill that says how many persons would be in that film office. Is that true? [LB235]

SENATOR NANTKES: I actually believe that the fiscal note on the legislation, as amended, details that DED administrative expenses from the rebate fund would have about \$75,000 worth of salary and benefits, for a total of about two economic development professionals to carry out the film program. [LB235]

SENATOR CHAMBERS: But there's nothing in the substantive language of the bill itself that tells us that there will be only two people in this office. Is that correct? [LB235]

SENATOR NANTKES: That's correct. [LB235]

SENATOR CHAMBERS: Now, they could hire five and pad their budget and get money to pay them from some other source, because all the A bill does is limit the amount of salary that can be appropriated pursuant to this A bill. Is that correct? [LB235]

SENATOR NANTKES: That is correct. [LB235]

SENATOR CHAMBERS: How many people do you think ought to be in that office? [LB235]

SENATOR NANTKES: Again, I think that the legislation is a good start in terms of attracting and building this industry and bringing them to Nebraska, so I think starting modestly with a few full-time professionals is the appropriate level of staffing, and then hopefully, as the program gains in popularity and we can clearly demonstrate more and more economic benefit, I'd like to see that office grow. [LB235]

SENATOR CHAMBERS: And where does it use the term in the A bill "professionals," the term you've been using? [LB235]

SENATOR NANTKES: I believe it lists them as economic development consultants. [LB235]

SENATOR CHAMBERS: So that doesn't even say that they've finished high school, does it? [LB235]

SENATOR NANTKES: It does not. [LB235]

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SENATOR CHAMBERS: Okay. And I'm not going to hold you to what they may do, but I just wanted--and that's all I will ask you--I just want to make it clear that everything is very fluid, everything is up in the air, and I'm not doing like Senator Friend because I'm going to get... [LB235]

SENATOR McDONALD: One minute. [LB235]

SENATOR CHAMBERS: ...very specific on why I say what I said. But I want to offer some comments that will serve as somewhat of an overview in order to make it clear the direction that I'm going. I understand the language in the bill, unlike Senator Friend yesterday, and the language that appears is not satisfactory. And unlike Senator Harms, I've read the language and my comments will be addressed to the language in the bill. Yes, Senator Wightman, I'm going to be like Santa Claus--whistle and shout and call them by name, now Dasher, now Dancer, now Prancer, now Vixen, Comet, Cupid, Donner, and Blitzen. And like Santa Claus (singing): making a list, checking it twice, going to find out who's naughty and nice, Santa Claus is coming to town. But I don't know whether what will be presented by Santa would be considered a gift or a lump of coal. But I assure each person who is a recipient, what is received will be merited. Thank you, Madam President. [LB235]

SENATOR McDONALD: Thank you, Senator Chambers. Senator Nantkes, you are next, followed by Loudon, Fulton, Stuthman, Chambers, and Wightman. Senator Nantkes. [LB235]

SENATOR NANTKES: Thank you, Madam President. I just wanted to address a few issues that have been brought forward in our debate so far this morning and mainly in line with Senator Langemeier's comments, which I truly, truly appreciated, and Senator Chambers mentioned as well, that they felt if we instituted and moved forward with a film incentive program that somehow that would encourage people to come in and play upon stereotypes that exist amongst...in the Midwest about who we are as Nebraskans and somehow create a negative light of what our state is like, and I really don't believe that that will happen. I instead think that this type of project would have the exact opposite effect. It would provide a positive opportunity for Nebraska to showcase not only our inherently beautiful landscape but the strength and quality and character of our citizens, and to illuminate the unique and rich history that Nebraska holds dear. So I really see this as a positive way to further the idea about the Midwest and Nebraska across the country and across the world in movie houses everywhere. So I really see this as a positive way to expand on feelings and ideas about Nebraska, rather than negative. My office has received, for example, Senator Chambers, and we're making a copy of the letter of...we've received correspondence from a filmmaker who is interested in highlighting a unique, personal story about a man in North Omaha and the unique story that his life has unfolded into. And I really believe that there's so many positive

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projects and good stories to be told that this legislation and this program is the best vehicle to do that and to counteract those stereotypes. In regards to Senator Langemeier's comments, you know, I'm open to working with the body in terms of the logistics in how we advance the idea, and the idea being that we need a program to retain and attract these types of productions which create good jobs, invest significant dollars into our local economy, and help to spread what we already know as Nebraskans--how great it is to enjoy the good life here in Nebraska. So with that, thank you, Madam President. [LB235]

SENATOR McDONALD: Thank you, Senator Nantkes. (Doctor of the day introduced.) Senator Louden, you are next. [LB235]

SENATOR LOUDEN: Thank you, Madam President and members of the body. Senator Chambers said something about Santa Claus is coming to town, and as I look this fiscal note over on some of this, I think maybe Santa Claus is already here if this thing passes. When you talk about putting a cap on there of \$5 million bucks, that's a pretty good piece of change. What I'm wondering when...as I look the fiscal note over and everything, they want to...one thing that I'm concerned about is the fact that you got to increase to have two full-time employees, and I guess with the latest fiscal note they'd be in the Department of Economic Development. Whenever you do that then you're talking about another \$155,000, \$150,000 worth of expenses to increase for two full-time employees, and then, as you notice, the travel expense and a few things like that. And I'm wondering what do they do? You know, do they sit around the office waiting for a film company to show up or do they go out and try and campaign to get a film company to come to Nebraska? And if so, what...I think that would be up to who is ever producing the film to decide where they want to show the film. As I stated before, we have a lot of seasonal businesses that come through the state of Nebraska, and I don't know as we give any of them any kind of a chance for a rebate or a chance to get into the public coffers like we would with this one here. Now as I've looked up Senator Langemeier's bill...amendment to give a tax credit and that would probably help. I guess it'd be like doctoring sore-footed horse--you'd hope it would be a little bit better than he was. But I don't really know if this would help it that far along. So I really, after reading the papers the other day and I think one of these production companies was in Omaha and filed bankruptcy and there's a bunch of people didn't get paid, so looks like to me we're working with an industry that maybe has a lot of headaches, and let them come and they'll pay their way. Will Nebraska get any advantage out of that just because they have a film in Nebraska? You remember that one film they showed who the old guy was that was touring across the United States in his RV and it showed the thing there at Kearney, that Archway over Interstate 80, and I don't know if that increased the people that stopped to see that on Interstate 80 that I ever know of. So I mean that was national, and you might say, worldwide recognition for that Archway, and I don't think it made a nickel's worth of difference on how it was handled, because that isn't the problem that people don't stop there at that Archway. It's because you can't get to it. So

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consequently, what we do here looks like to me is a way to...we're opening up some money to people that probably aren't going to stick around in Nebraska that long, and I think that money could probably be better spent, especially when you put a \$5 million cap on it, I think it could be better spent in other ways than to try and enhance production companies to come to Nebraska and have a short portion of their film filmed in Nebraska. With that, thank you, Madam President. [LB235]

SENATOR McDONALD: Thank you, Senator Louden. Senator Fulton, you are next. [LB235]

SENATOR FULTON: Thank you, Madam President. Would Senator Nantkes...is Senator Nantkes able to yield to a question? [LB235]

SENATOR McDONALD: Senator Nantkes, would you yield to Senator Fulton? [LB235]

SENATOR NANTKES: Yes, gladly. [LB235]

SENATOR FULTON: Thank you, Senator Nantkes. I do want to communicate that I appreciate this idea and I voted for this on General File, and as is always the case, you can appreciate and share, my questioning has to do with the money. On the AM...this amendment, AM1644, line 2, it would strike, in the E&R amendments, it would strike in line 3 the word "appropriations" and insert the word "transfers," and I'm hopeful that you can...can you explain why that is the case? [LB235]

SENATOR NANTKES: Because this legislation creates a fund, the Film Enhancement Rebate Program Fund, in consultation with fiscal analysts, under current state law you can't appropriate to a fund, you can only transfer to a fund. So working with them, we've tried to utilize the appropriate process and the appropriate terminology to carry out the idea to create the program appropriately. And I think that the amendments to the E&R amendment further really help to clarify that we're only going to put in up to \$5 million for this program, instead of continually putting in \$5 million each year and just watching it grow and grow and grow. But instead this one-time transfer and then only an additional transfer, if utilized, I think really helps to keep a handle on the overall cost. [LB235]

SENATOR FULTON: Okay. So this isn't something that we will take by way of action in the Appropriations Committee. This will be effectual by way of statute, so that's an explanation as to why we are making a transfer. Then...but this is coming out of the General Funds, correct? This isn't a decrease. The reason for my question is, in the fiscal note, it shows...and maybe I'm on the wrong fiscal note, this is revision one, I'm seeing a \$5 million reduction in revenue with the accompanying \$5 million is showing up as cash funds, which I understand. But if this is actually coming from the General Fund, I want to make that clear because I've...I'm on the committee and I don't understand it. I assume there are people that will have that similar question. This is a General Fund

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transfer, not a reduction in revenue. Is that correct? [LB235]

SENATOR NANTKES: Absolutely. It's a transfer from the General Fund to a cash fund. [LB235]

SENATOR FULTON: Okay. Okay, thank you for that clarification. And thank you, Senator Nantkes. Thank you, Madam President. [LB235]

SENATOR McDONALD: Thank you, Senator Fulton. Senator Stuthman, you are next. [LB235]

SENATOR STUTHMAN: Thank you, Madam Chair and members of the body. First of all, I want to say that I am very supportive of the Nebraska Advantage Incentive Act, the dollars that are committed to that program. I'm very supportive of that. But a concern that I have is that there's a \$5 million cap on this and we have another program that there's a \$2 million cap on, and that's the Beginning Farmer Act. Investment in that act, in my opinion, is investment in the future, in the future as far as revenue generated for the state in the next years to come. A real concern that I have with this is, after this film is produced, what assets are going to be added to the state of Nebraska in the next years--five, ten years--that will be a generating asset for revenue that will help in return for money that we've given for this \$5 million? Maybe I'm not understanding this right, and I would like to engage in a little conversation with Senator Nantkes. [LB235]

SENATOR McDONALD: Senator Nantkes, would you yield to Senator Stuthman? [LB235]

SENATOR NANTKES: Yes, gladly. [LB235]

SENATOR STUTHMAN: Senator Nantkes, when the production is over and they move out, what assets do they leave in the state of Nebraska that would contribute to revenue for our state? [LB235]

SENATOR NANTKES: Well, Senator Stuthman, thank you for joining the dialogue this morning and for talking about your past support of economic development programs, because I couldn't agree more that the same principles that apply to those other economic development programs that we have in Nebraska apply to this idea and to LB235 as we move forward. It's about leveraging in additional dollars into our local economy and creating good jobs, which time and time again these types of productions have demonstrated they do. They leverage in additional dollars into our communities and they provide good jobs. The resources that they leave behind are sometimes less tangible than they are in other industries but nonetheless real, from lasting images on film, from tourism opportunities to the production sets and the locations from which the productions occur at. Those are real and lasting benefits that they leave. [LB235]

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SENATOR STUTHMAN: Okay. But the employment component of this filmmaking, when the film is done, those people that are employed there, say 5, 10, 15 percent of their employment are from the state of Nebraska, you know, are they going to continue to have a job in the future for production of films, or is their job done and they got to find work elsewhere? [LB235]

SENATOR NANTKES: Typically, on the type of projects that would qualify under the legislation that we're debating this morning, the jobs range in the length of time, but they generally hover around a period of three to four to five months, and then the production crew would go on to the next project. And the only way that we can ensure additional projects for these qualified cast and crew members is to pass LB235 and create more incentives for more productions. [LB235]

SENATOR STUTHMAN: Well, I have a real problem with the amount of dollars in this fund in comparison to something that's going to be a long-term return for the state of Nebraska. And I used that example of the beginning farmer program. I just have a real problem with \$5 million cap in there. When the production is done, they've qualified for all of the rebates... [LB235]

SENATOR McDONALD: One minute. [LB235]

SENATOR STUTHMAN: ...and the incentives, and the company leaves and goes to Louisiana with \$5 million from Nebraska, and never to return for years. That is a real concern of mine. Investment in a incentive program that helps our agricultural part or anything in Nebraska on a long-term basis is more important to me than something to give a rebate, and we don't know if they will ever be back. Thank you. [LB235]

SENATOR McDONALD: Thank you, Senator Stuthman. Senator Chambers, and this is your last time. [LB235]

SENATOR CHAMBERS: Thank you, Madam President. Members of the Legislature, it's my last time on this amendment, but I assure my colleagues that it won't be my last time speaking on this bill. I was just shown the most recent fiscal note that there would be three positions created. If you undertake to produce a film, it's a gamble. This is underwriting a gamble. There is no way that the most successful producer, the most successful screenwriter, the most successful production company can guarantee that a film is going to be a success, a box office success. I say again, there is nothing in this bill that talks about what constitutes an economic success. Maybe that person or those persons in the Economic Development office would say, well, if you give people a few jobs for a short time that's an economic success. I want Senator Nantkes to know that I don't care whether people produce stereotypes about Nebraska, because the stereotypes they produce so far are accurate depictions in a lot of cases. People just

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don't like Nebraska to be shown for what it really is. I'm going to give you an idea of what I'm talking about. In my pocket is a quarter. From my pocket I extracted a quarter. On this quarter, if you take my word for it, is a rock and a stage coach, a covered wagon moving backward, and that was selected by your top elected official, telling the world this is what Nebraska is--a rock and a covered wagon going into the past, and the past is not anything in Nebraska to be proud of. You don't have people who are cultured in this state, you don't have people with a vision in this state, and you certainly don't have anybody who can tell that some film effort is going to be an economic success unless you define "economic success" differently from the way that term is ordinarily understood, but we don't have a definition. We don't have criteria for various things in this bill. Now if that quarter had portrayed a stately, dignified Native American chief who stood for the proposition that white people may call his people savages and beasts, but he was a man and his people were human beings, and if that were the message that emanated from Nebraska somebody might say that's a place worth looking into. Perhaps those people have a heritage, a history, an understanding and appreciation of culture, and maybe we'll look into it. But instead, what comes to Nebraska, Senator Aguilar? American Idol. And if you watched and listened to the screeching, the squalling, the yowling, the howling of Nebraskans, you'd say now maybe as stand-up comics they would be funny, except they're not trying to be funny, so they couldn't do this all the time. [LB235]

SENATOR McDONALD: One minute. [LB235]

SENATOR CHAMBERS: You cannot show me anything, other than the speaker, the one speaking, who has brought anything in the way of notoriety to Nebraska based on the workings of the brain. Senator Carlson, there is going to be a conference in Naples to which I have been invited to come and present a paper on my lawsuit to sue God because they saw that it was about, and there are people coming from all over the world and I've been requested. Nobody on this floor gets requests like that. They might say, come on over here and talk to us about some corn, some sorghum, some wheat, some switch grass, some cattle, pigs, hogs, cows, chickens. Thank you, Madam President. [LB235]

SENATOR McDONALD: Thank you, Senator Chambers. Senator Wightman is next. Senator Wightman, you are next. [LB235]

SENATOR WIGHTMAN: Thank you, Madam President, colleagues. I've sat back and I've listened to the debate on this matter, and I guess I'm fairly concerned with the amount of money that's involved here, and we're talking about that having a substantial positive impact to the state of Nebraska. I would like to engage in a few questions and answers, hopefully, with Senator Nantkes, if she would yield. [LB235]

SENATOR NANTKES: Senator Nantkes, would you yield to Senator Wightman?

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[LB235]

SENATOR NANTKES: Absolutely. [LB235]

SENATOR WIGHTMAN: Senator Nantkes, I know we're talking here 10 percent rebates on some expenditures, 25 percent on others, on that that would qualify, which would be the production costs in the state of Nebraska. You talked, when you initially introduced this bill, about other states offering incentives. Can you tell me anything about what these other states offer that have had a lot of film activity within the states, their states? [LB235]

SENATOR NANTKES: Thank you, Senator Wightman, and sorry for the brief delay there. I was just trying to find in my file here. There's a listing that we have from the National Conference of State Legislatures from January 2007 that lists out the different incentive programs that each state offers in regards to this industry. There's about 31 different incentive programs that different states have adopted. I think when we debated this on General File I tried to use examples of programs that, you know, were similar to what we were proposing and also programs that we could document the positive economic impacts from. I'd be happy to pass around a copy of the different film production incentives that exist in each state. I think that it helps to further make the case to show that we really need to move forward with this idea today, in order to ensure that Nebraska remains competitive in terms of retaining and attracting this vital industry to our state, because of the clearly demonstrated good jobs that they bring and the economic impacts that they provide. [LB235]

SENATOR WIGHTMAN: I agree somewhat with Senator Stuthman, in that these are kind of one-time investments in the state or productions, whatever they would be, employment in the state for each particular film. It seems to me it differs substantially from firms that take advantage of the Nebraska Advantage Act and the super Advantage Act, if that is later passed. These films typically would come in and would probably film something for maybe 30 to 60 days. Would that be a fair statement? [LB235]

SENATOR NANTKES: Well, Senator Wightman, I think depending upon the type of project and their overall budget, their production schedules are going to vary, so I can't say with any certainty if 30 to 60 days is an actual average, but I think generally they would be a little bit longer than that, but you're right that they're not lasting in the same manner... [LB235]

SENATOR McDONALD: One minute. [LB235]

SENATOR NANTKES: ...that, for example, a manufacturing job might be. But I did want to...you brought up Senator Stuthman's questions about, you know, were these kind of

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fleeting jobs or a fleeting industry, and you know, joining us here today are hardworking Nebraska men and women from the Teamsters, for example, who have deep roots here in Nebraska, who have their families here in Nebraska and who are hoping to have the good jobs provided by this legislation. Also with us is filmmaker Dana Altman, a native Nebraskan who really started his career here and wants to stay and raise his family here. Senator Nelson's son, Andrew Nelson, who's been helping us with this legislation, is a Nebraskan. These aren't just fleeting jobs in a fleeting industry. This benefits Nebraskans. [LB235]

SENATOR WIGHTMAN: I guess I still wonder about is the advantage to the state sufficient to justify the... [LB235]

SENATOR McDONALD: Time. [LB235]

SENATOR WIGHTMAN: Thank you, Madam President. [LB235]

SENATOR McDONALD: Senator Nantkes, you are next. [LB235]

SENATOR NANTKES: I'd be happy to yield any time to Senator Wightman, if he had...if he wanted to continue the dialogue. [LB235]

SENATOR McDONALD: Senator Wightman, would you like to continue? [LB235]

SENATOR WIGHTMAN: Yes, I would, if I could. Again, this may be answered somewhat, Senator Nantkes, if we were to see what other states are doing. I don't know whether those states' incentives are comparable to what we are proposing here. Obviously, we talk about a tax rebate and the tax rebate is a very small part of it because the taxes...I'm assuming the sales taxes and other taxes realized from the filming industry in Nebraska would nowhere near offset what the state was paying out in the way of rebates of cost. Is that a fair statement? [LB235]

SENATOR NANTKES: I don't think that's a fair characterization, Senator Wightman. I think that the rebate provided to the qualifying project...I think the overall economic benefit far outweighs the rebate that would be paid back to the qualifying project through not only the payment of taxes and other investments in Nebraska, but I think that's clearly demonstrated by the experience in other states. I also passed around this morning, it's on a yellow sheet here, it's the last study that we've had in Nebraska about the economic development impacts of the film and commercial production industry in Nebraska. It details a period from 1991 to 2001 and the different projects that were filmed here and the revenue that they generated. This was put out by the Department of Economic Development. And in that ten-year period there was a...look at the bottom line there, total economic impact, \$32 million. That's a serious positive economic benefit to Nebraska, and that only has the potential to grow with a program like this. [LB235]

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SENATOR WIGHTMAN: Now your rebate is based upon production costs and not on revenue. Is that correct? [LB235]

SENATOR NANTKES: That's correct. [LB235]

SENATOR WIGHTMAN: And it would range anywhere from 10 to 25...well, actually either be 10 or 25 percent on any particular project. Is that correct? [LB235]

SENATOR NANTKES: That's correct. And it would be capped at \$5 million per year. [LB235]

SENATOR WIGHTMAN: I guess my concern is this, that unlike the Nebraska Advantage Act--and I'm all in favor of economic development in the state, including the film industry--I just wonder if it's sustainable. But almost every other economic development tool that we use, such as the Nebraska Advantage Act, the old LB775 and all of these were based upon more of a long-term situation where the plant...a firm came in, in many instances would build a substantial plant. In some instances they maybe built offices or whatever. But I just don't see this having the long-term impact, perhaps, that we do on some of those others that I mentioned, including LB775, the Nebraska Advantage Act and the super Advantage Act. Again, I'd like to find a reason to support the bill. I will continue to listen. Perhaps I could be swayed a little bit if the percentages were not quite as high as they are, the 10 percent and 25 percent. But on the other hand, maybe that won't attract the film industry. So again, I will continue to listen and try to assess the financial impact to the state. [LB235]

SENATOR NANTKES: Thank you, Senator Wightman. [LB235]

SENATOR McDONALD: One minute. [LB235]

SENATOR NANTKES: I do appreciate your questions and the dialogue that ensued from those insightful questions. I guess, you know, not to sound like a broken record but to just remind folks about some important points that were brought out on General File and really haven't been discussed much this morning, if you're questioning the economic benefit of this legislation, again, I think we need to look to the experience of other states, and I think we need to look at the long and varied list of supporters for this legislation. This is pro-growth legislation. This is economic development. This is another tool in our overall toolbox for creating good jobs in Nebraska. The same principles apply here as they do to other economic development programs and the economic benefit is well documented. The types... [LB235]

SENATOR McDONALD: Time. [LB235]

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SENATOR NANTKES: ...and the...thank you, Madam President. [LB235]

SENATOR McDONALD: Senator Carlson, you are next. [LB235]

SENATOR CARLSON: Madam President and members of the Legislature, I would, before I talk on the bill, I'd like to address Senator Chambers for a minute. [LB235]

SENATOR McDONALD: Senator Chambers, would you yield to Senator Carlson? [LB235]

SENATOR CHAMBERS: I'm all ears. Yes, I will, Madam Chair. [LB235]

SENATOR CARLSON: Senator Chambers, are you going to go to Naples? [LB235]

SENATOR CHAMBERS: I'm afraid to fly over large bodies of water or go by ship over large bodies of water, so I'll be unable to accommodate them. Perhaps they may bring it to America. [LB235]

SENATOR CARLSON: Well, that's too bad. I was in the airport in Germany when the Sunday paper came out over there with your picture in it and about the lawsuit, so I went around that airport telling people, this is my colleague, and I didn't say the rest of it but in my mind I was thinking, in whom right now I am not well pleased. [LB235]

SENATOR CHAMBERS: (Laugh) Touche. [LB235]

SENATOR CARLSON: But I'm disappointed you're not going because I was going to ask if you had room for a colleague to go along to balance the issue, and if you change your mind, I'm volunteering for that. I'm simply making a statement here. I am for economic development. I want to support economic development and I really want to support this bill, and I'm guessing that this morning this discussion is...can be rather frustrating for Senator Nantkes, and she'd probably like us to stop talking and just vote for the bill. I think...I know yesterday Senator Chambers would rather have had us stop talking and vote for the bill, vote for the bill. I've got a bill to present that is going to be later today or maybe tomorrow or whenever and it has to do with economic development, and I hope to be able to accurately define a believable economic advantage to the bill, that's understandable to the body. So I would suggest let's stay on this until we can really understand it and then, hopefully, endorse it. My goal is not to kill but to understand. Thank you. [LB235]

SENATOR McDONALD: Thank you, Senator Carlson. (Visitors introduced.) Our next speaker is Senator Stuthman, followed by Senator Nelson. [LB235]

SENATOR STUTHMAN: Thank you, Madam President, members of the body. I've been

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listening to the debate and I have a real concern, as I stated earlier, about the amount of dollars that is projected for this pool of money. And then I also look at the fact that this yellow sheet that she has here and in the year 2000, Coke advertisement, \$200,000. What benefit to the state of Nebraska was a Coke advertisement for the Coca-Cola Company? Should have we given them some money just because they did the advertisement in Nebraska? Did that help the people in Louisiana buy more Coke? It maybe did. But did it help Nebraska? I don't think so. I think it benefited the company very much. So those are some of my comments that I have right now, and I'd like to give the balance of my time to Senator Chambers. [LB235]

SENATOR McDONALD: Senator Chambers, you have 3 minutes and 57 seconds. [LB235]

SENATOR CHAMBERS: Thank you, Madam President. Thank you, Senator Stuthman. Senator Nantkes I would like to ask a question, if she would yield. [LB235]

SENATOR McDONALD: Senator Nantkes, would you yield to Senator Chambers? [LB235]

SENATOR NANTKES: Yes, absolutely. [LB235]

SENATOR CHAMBERS: Senator Nantkes, I see on the committee statement that a woman from the Omaha Film Commission testified for the bill. Did she mention films that her commission had brought to Omaha to be made that they had...production companies they had lured to Omaha to make films? [LB235]

SENATOR NANTKES: You are correct, Senator Chambers. We did have representatives from the Omaha Film office join us at the committee and at the interim study hearing that we had subsequent to that. And they did discuss their conversations and their negotiations with various different production companies over the years, and how they helped to facilitate production of those projects in the Omaha area. [LB235]

SENATOR CHAMBERS: And this yellow sheet constitutes the things that they brought here? [LB235]

SENATOR NANTKES: I don't think the yellow sheet is specific to Omaha projects, Senator. I think, instead, that is illustrative of a variety of different projects filmed in Nebraska over that ten-year period. [LB235]

SENATOR CHAMBERS: Okay. Before the time runs out, in the column where it says "Revenue Generated," revenue generated for whom? [LB235]

SENATOR NANTKES: For the local economy. [LB235]

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SENATOR CHAMBERS: So Indian Runner, the first one, generated \$5,500,000. Is that salary, wages and so forth, or is this what they call that spin-off and magnification? Is that what that...is that how they got to \$5,500,000? [LB235]

SENATOR NANTKES: I'll need to double-check the methodology on that,... [LB235]

SENATOR CHAMBERS: Okay. [LB235]

SENATOR NANTKES: ...but I believe those are direct impacts rather than coupled with an economic multiplier. [LB235]

SENATOR CHAMBERS: And Real Stories of the Highway Patrol brought in \$15,000. Were these stories of the Nebraska Highway Patrol? [LB235]

SENATOR NANTKES: I am not familiar with the project itself, but we could probably call up a tape on that and see. [LB235]

SENATOR CHAMBERS: Okay. That's all I will ask you. Thank you. And how time would I have, Madam President? [LB235]

SENATOR McDONALD: One minute and thirty seconds. [LB235]

SENATOR CHAMBERS: Thank you. Senator Wightman is weakening. He's going to support this bill. But it's good that somebody can persuade Senator Wightman because if you persuade him maybe you've persuaded others, but I'm not persuaded, and it's not just from an economic development angle. I'm looking at the critical decision, where it will be made and by whom. Somebody... [LB235]

SENATOR McDONALD: One minute. [LB235]

SENATOR CHAMBERS: ...in a film office is...oh, did you say time? [LB235]

SENATOR McDONALD: One minute. [LB235]

SENATOR CHAMBERS: Oh, thank you. Somebody is going to determine in advance whether this will be an economic success. There is nothing in the bill which says it has to be one. Maybe as the discussion goes forward we will be told that before these handouts are actually made in the form of rebates what economic success means. I am not aware from what I've read in the bill so far of what that is, and I'd like to have that explained to me, if somebody who supports the bill or who is familiar with the bill would enlighten me on. Thank you, Madam President. [LB235]

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SENATOR McDONALD: Thank you, Senator Chambers. Senator Nelson, you are next. [LB235]

SENATOR NELSON: Thank you, Madam President. I am supportive of this bill. I realize that we have questions to answer. I'd like to address a question to Senator Nantkes, if she will yield. [LB235]

SENATOR McDONALD: Senator Nantkes, would you yield to Senator Nelson? [LB235]

SENATOR NANTKES: Yes, of course. [LB235]

SENATOR NELSON: Could you go into just a little bit of explanation about what we're talking about, this determination that Senator Chambers is concerned about, the possibility of economic success and what is meant by that, what your understanding is? [LB235]

SENATOR NANTKES: Thank you, Senator Nelson. As you know, in most legislation, particularly when we're talking about creating a new program, some of the logistics of administering that program will be dealt with through rules and regulations to further define important components of the program. But I think overall the intent behind that language at this point in time and why it's contained within the legislation, is to provide an additional safeguard for the Department of Economic Development and for our state to ensure that there's just a level of oversight to ensure that our tax dollars are only subsidizing appropriate projects, in terms of their artistic value and otherwise. [LB235]

SENATOR NELSON: Well, thank you very much. We can determine economic success or we can speculate on that, but the fact remains that there are quite a number of movies that are made that turn out to be flops. They don't generate the income nationwide for the producer and the investors in the company. Isn't that important...or isn't that right? [LB235]

SENATOR NANTKES: You're right, Senator Nelson, and just to add to my previous comments, I think additionally, in regards to that vein of thinking, there's also an evaluation idea there that basically the Department of Economic Development is going to look at the soundness of that plan, that budget and that production company, and that's really what we're trying to look at as well. So it's not just a dollars-and-cents kind of figure and looking into a crystal ball to figure out whether or not a project is going to be a box office smash, but rather is this a sound project to move forward with? [LB235]

SENATOR NELSON: All right. And on the basis of their experience--thank you, Senator Nantkes--if they can make that determination and it looks like it's got prospects of economic success, then colleagues, it appears to me that the important thing is what's it going to do for the state of Nebraska. What kind of revenue are we going to generate

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here? And I'm looking at the yellow sheet and you see the various movies that have been made, and let's go down at the very end to 2001, About Schmidt, \$8 million. Now whether that was actual revenue that came into the state of Nebraska or whether it had the multiplier put onto it doesn't really make that much difference to me. It means that \$8 million came into Nebraska in the form of salaries, rental of motels, rental of cars, equipment, all of the various things that are involved in movie production. And I certainly support the Nebraska Advantage Act and the fact that the intent is to develop some growth in Nebraska. I don't think we confine that to the, Senator Stuthman, you know, just to the agricultural economy here. We have to realize that we have some larger cities here, such as Lincoln and Omaha, where there are film programs, where there's a lot of interest and a lot of people that can earn money through movies. And we stand the risk that it may be, yes, it might show Nebraska in a detrimental light, but I think overall it's going to be positive because they aren't necessarily coming to Nebraska to show off Nebraska. They're coming here to tell a story, and it may have... [LB235]

SENATOR McDONALD: One minute. [LB235]

SENATOR NELSON: ...nothing to do with Nebraska at all. I just...I'd like to point out some things. Let's talk about Louisiana, which is number three now as far as film production. Shreveport has grown to the...it's become a production center and I'm looking at: The economic impact of direct instate spending is dramatically increasing over the years from 33 percent in 2005 to 72 percent in 2006. Total direct impact to Louisiana's economy is \$1.48 billion, \$1.48 billion. I think if we aren't competitive and if we don't provide incentives of some sort, we're going to lose out. I think, by and large, we've shown that we're going to get more money in than we're going to put out. And I guess the final statement I would make is that \$5 million is a cap. It doesn't mean, Senator Nantkes, is it, that we're going to spend \$5 million every year? It's going to depend on the number of movies that are made and what they may earn, whether it's \$100,000... [LB235]

SENATOR McDONALD: Time. [LB235]

SENATOR NELSON: ...or \$250,000. Thank you, Madam President. [LB235]

SENATOR McDONALD: Thank you, Senator Nelson. Senator Wightman, followed by Senator Wallman. [LB235]

SENATOR WIGHTMAN: Thank you, Madam President. And I apologize, I understood that I referred to you as Mr. President and whatever, but I now acknowledge you as Madam President. I do have some questions, again, that I would ask Senator Nantkes. I've now had an opportunity to review some of the incentives that are offered by other states, and I'd like to engage in some conversation with Senator Nantkes concerning that. [LB235]

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SENATOR McDONALD: Senator Nantkes, would you yield to Senator Wightman?
[LB235]

SENATOR NANTKES: Yes, gladly. [LB235]

SENATOR WIGHTMAN: In looking at these other states, Senator Nantkes, it appears that many of them, and certainly not all of them, provide incentive in the way of tax credits. Some of them are refundable credits but many of them are not, and they're credits only against sales taxes, income taxes that would be owed by the filming company for the film produced in the state. Have you reviewed those? And I certainly haven't been able to compile them in any way, but many of them are not refundable credits but only against credits that they would pay within the state. [LB235]

SENATOR NANTKES: Yes, Senator Wightman, and I think if you look through that handout that lists all the different types of programs that exist in different states, there are a variety of different approaches that states have utilized from a tax credit to a tax rebate. For example, Montana offers a rebate program. Oklahoma offers a rebate program as well, and that, the Oklahoma program, is really the model that we utilized in drafting our legislation. And in visiting with professionals from the movie and television production industry in trying to craft this legislation, because it is a modest program at the outset...and I thank Senator Nelson for reminding people that it's capped at \$5 million. It doesn't automatically pay out \$5 million a year. They have to have qualifying productions first. But I think that the reason why this type of approach is attractive to people within the industry is for the very reason that it is a rebate. And I think that that, with the modest amount of dollars we're talking about to start off with, makes it more competitive and more attractive than, for example, Iowa's or Kansas' or South Dakota's program, which...and other neighbors which are tax credit programs. [LB235]

SENATOR WIGHTMAN: And I, interestingly enough, have looked at these and had marked Oklahoma as maybe being closest to what you were providing, so perhaps you had patterned... [LB235]

SENATOR NANTKES: A keen eye as always, Senator Wightman. [LB235]

SENATOR WIGHTMAN: ...that after Oklahoma. However, even on theirs, I see that it offers a rebate of up to 15 percent, as opposed to the 25 percent that we're proposing under LB235, so ours would be more generous. And I'm assuming when they say up to 15 percent, that there would be some instances they would not qualify for that full rebate. [LB235]

SENATOR NANTKES: You're right, Senator Wightman. And I think if you look at the range of rebates envisioned in the legislation, that the top rebate, that 25 percent rebate

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of production costs, is only going to go to films and projects that have a budget of \$30 million or more. So that top rebate is only provided to really large-scale, large-budget projects that will far, far outweigh what that rebate amount is going to be. And then the rebate amount is dialed down appropriately... [LB235]

SENATOR McDONALD: One minute. [LB235]

SENATOR NANTKES: ...to address smaller productions and to reward projects that utilize more Nebraskans as part of the cast and crew, and so it's really a graduated and flexible program in that regard. [LB235]

SENATOR WIGHTMAN: Would it be a correct statement to say that in many instances, or some instances at least, that there would be very little tax generated? So if we were looking at only a rebate of taxes, these rebates would be far less than what is proposed under LB235? [LB235]

SENATOR NANTKES: Again, there's no tax exemption at the outset. So all of these taxes are paid and the production costs and the payroll and the rentals and the other services and fees and revenue-generating activities occur, and then for the qualifying production costs--wages, wardrobe, equipment, photography and editing costs, facility, location, rentals, etcetera, as... [LB235]

SENATOR McDONALD: Time. Senator Langemeier, you are next. [LB235]

SENATOR LANGEMEIER: I would yield my time to Senator Chambers. [LB235]

SENATOR McDONALD: Senator Chambers, you have 4 minutes and 57 seconds. [LB235]

SENATOR CHAMBERS: Thank you, Madam President. Thank you, Senator Langemeier. There's no way to compare Louisiana to Nebraska. It has a very ugly history as far as black people are concerned and at some point, in another context, I'm going to talk about that. But what do you have in Louisiana, "Nawlins," "Norlins," New Orleans? What do you have in Omaha? Old Market. What's a market? Fruit, vegetables, live chickens. Who, if you put before them these two items and they could make a choice, New Orleans, Louisiana; Old Market, Omaha, Nebraska? And do you know that they rave in Omaha about the Old Market, which will tell people from other places these are rubes; they point to the Old Market and they are dazzled by that. As far as being able to determine whether or not a film is going to be an economic success, we're not talking about artistic success, those never make money, Tom Cruise is one of the top box office draws--two or three flops in a row. Now some rube or hick in Nebraska is going to match knowledge and the ability to prognosticate and forecast success against that of the top producers, production companies, screenwriters, investors in the country

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and maybe the world and say, well, if you bring that to Nebraska, we think it's going to be a success. Why are they coming to Nebraska? Because nobody else is going to give them money for a flop. If some film company is going to spend \$30 million, which by the way is not a monumental amount of money by Hollywood standards, they're going to spend \$30 million, if they select Nebraska they're going to come here anyway. They're not going to come here because you offer them some peanuts. As Armand Hammer said, if you pay peanuts you get monkeys. Give them some money if you think what you're offering is going to be the draw. How many of you all think that films are made because they're going to get a tiny, relatively speaking, piece of money such as what might be derived from this bill? Senator Nantkes did point out that maybe you're looking at some of these little rat...she didn't say this but I say, these little rat-race operations like the kind that did go bust in Omaha or Nebraska not too many weeks ago. We ought to think in terms of not showing "rubeness," "hickness," and what's that other one they always use, "yokelism" by offering: you know what, (whispering) psst, come here, I will give you \$500,000 to come to Nebraska and spend \$30 million. They say, say that out loud. Sometimes the way Nebraska presents itself when it's trying to be sophisticated is the very thing that underscores its lack of sophistication. There was a feature being discussed about people purchasing multimillion-dollar houses. The person who sells these houses says that when somebody who may not really be able to afford such a house comes, he or she will put on their best... [LB235]

SENATOR McDONALD: One minute. [LB235]

SENATOR CHAMBERS: ...Sunday-go-to-meeting clothes, maybe rent a big car to impress, and that doesn't impress. Somebody who can afford it may wear a sweatshirt--this is what they said, they weren't...they didn't have me in mind...maybe--a sweatshirt, blue jeans, and flip-flops, because they don't have to impress you with what they're wearing. They've got the money and they know how to discuss this house and what might give it the value that you're asking for in terms of the price. So Nebraskans put on their Sunday-go-to-meetings--a bright yellow coat, florescent green pants, a wide polka dot necktie, and a straw hat--and they are strutting. Now they might be in the movie, but they won't persuade anybody of their sophistication. Thank you, Madam President. [LB235]

SENATOR McDONALD: Thank you, Senator Chambers. Senator Rogert. [LB235]

SENATOR ROGERT: Question. [LB235]

SENATOR McDONALD: The question has been called. Senator Rogert, you are the last speaker. Senator Rogert waives. Senator Nantkes, you are recognized to close on your amendment. [LB235]

SENATOR NANTKES: Thank you, Madam President. Thank you, Senator Rogert. And

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thank you, colleagues, everyone who's added their voice to this exciting and interesting and informative dialogue that we've had here this morning. I'm asking for your support on the amendment that's before us. I know that Senator Raikes has an amendment up afterwards that addresses some additional concerns that I'm eager to hear more about in that debate, and I'm...I want to make clear to folks as we move forward, again, that I think it's important that we move forward with the idea proposed in this legislation. I'm happy to work with senators if they have different ideas about what the program would look like in terms of credits or rebates or what the thresholds are or are not. And I made clear on debate during General File and I want to reiterate here today, this morning on Select, I have no allusions about what the overall budget picture is that we're facing here in Nebraska. I've made very clear that I'm happy to wait and take a cautious approach and see what the February forecast looks like, see what happens in the Appropriations Committee and in cooperation with the larger body as we shape and craft our state budget to see if there is, in fact, room for this program this year. But the only way that we can move forward and make that decision is if we advance the legislation. I think the amendment clarifies the administration and the logistical operations that would occur within the program. I think it tightens up the fiscal side of things and makes clear how the program would be funded. I think we've had a great debate this morning. Again, I'm open to working with any of my colleagues on exactly how this program would operate or work, but I think we need to move forward and ensure that Nebraska has an additional tool within our overall economic development programs to retain and attract this critical industry that clearly, clearly brings with it good quality jobs and positive economic benefits for Nebraska. Thank you. [LB235]

SENATOR McDONALD: You have heard the closing on the amendment. The question is, shall the amendment be adopted? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB235]

CLERK: 27 ayes, 2 nays, Madam President, on the adoption of Senator Nantkes' amendment. [LB235]

SENATOR McDONALD: The amendment is adopted. Mr. Clerk. [LB235]

CLERK: Madam President, some items, if I may. Your Committee on Health and Human Services, chaired by Senator Johnson, reports LB782 to General File with amendments. Natural Resources Committee, chaired by Senator Loudon, reports LB493, LB579, LB583, LB652 as indefinitely postponed. Senator Pirsch would like to print an amendment to LB157; Senator Hudkins to LB692. And I have two notice of hearings, one from Natural Resources, a second from Education Committee, signed by their respective Chairs. (Legislative Journal pages 436-438.) [LB782 LB493 LB579 LB583 LB652 LB157 LB692]

Madam President, the next amendment I have to LB235 is by Senator Raikes, AM1654.

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(Legislative Journal page 425.) [LB235]

SENATOR McDONALD: Senator Raikes, you're recognized to open on your amendment. [LB235]

SENATOR RAIKES: Thank you, Madam President, members of the Legislature. AM1654 imposes a sunset date of December 31, 2010, for the program proposed in this bill. The amendment requires the Film Office of the Department of Economic Development to provide a report to the Legislature within six months following the sunset of the program that includes the following: a cost-benefit analysis of the program, the amount of incentives paid pursuant to this program, the nature of films produced in Nebraska during the time this program was in place, an estimate of the economic activity generated by the production of such films, data as to the amount spent on film production in Nebraska before and after the introduction of this program, and any other information the Film Office may deem relevant in assessing the effectiveness of this program. Furthermore, the amendment limits the types of films that would qualify for rebates under this program. The amendment would exclude from eligibility any film that the Film Office deems as: pornography or other obscene material--that is expanded from the exclusion of child pornography in the General File version; material that promotes bias or prejudice toward a particular race, color, culture, nationality, gender, religion, sexual orientation, or other social category; material created for the purpose of influencing public opinion with respect to a particular political candidate or issue; and material that portrays the state of Nebraska, its citizens or its institutions in a negative light. I want to make it clear that this amendment would not prevent films of this nature from being made in Nebraska, it would simply exclude these types of pictures from receiving state subsidization under this act. I certainly have other issues with the General Fund appropriation as a part of this proposal, the way it is. And I'm particularly interested in Senator Langemeier's ideas to follow. I guess, I would tell you that I think these...this amendment helps. I won't pretend to tell you that for me it fixes the bill. But I would like to hear whatever reaction you have to this. Thank you. [LB235]

SENATOR McDONALD: Thank you, Senator Raikes. You've heard the opening on the amendment. Senator Nantkes, you're authorized to speak. [LB235]

SENATOR NANTKES: Thank you, Madam President. And thank you, Senator Raikes. I've been in conversations with Senator Raikes about this bill since our debate on General File. I think that the first part, which helps to clarify qualifying projects, generally, I don't have a large problem with that. I really feel like the committee amendment appropriately limited what types of projects could be considered. But if, in fact, that type of language helps to ease some fears or concerns amongst my colleagues, I'm happy to support that. I also think I would encourage a cost-benefit analysis of this program, if adopted. I am confident that the numbers will demonstrate what they have in other states and will clearly show the positive economic impact that

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these type of programs provide. I do have a slight concern as to the time frame envisioned under the Raikes amendment in conducting the cost-benefit analysis. I want to just review the time frame there a little bit more closely to ensure that the program, if adopted, has an honest chance to be promoted and to attract and operate as envisioned under the legislation and that the cost-benefit analysis and the sunset wouldn't occur before the program really had a chance to get off its feet. I appreciate that other economic development programs have sunsets. I don't think that that's a bad idea philosophically. Again I think the cost-benefit analysis will be to our favor in continuing the program. I just want to clarify that there would be an appropriate length of time available for the program to demonstrate its positive impacts. Just to dovetail on a few of Senator Raikes's opening comments, in talking about what types of projects would qualify, looking through Black's Law Dictionary, there's generally accepted legal definitions for pornography, child pornography, and obscenity. I think that, you know, as we move forward it's important to keep those in mind. And I don't believe that there would be any sort of constitutional problem with limiting the types of qualifying projects. As Senator Raikes mentioned, as we discussed off the mike yesterday in visiting about this bill, according to the First Amendment we have to tolerate certain types of artistic endeavors. But we do not have to subsidize them as a state. I don't think there's a constitutional problem. I have no problem in moving forward with limiting the types of eligible productions. That's not what we envisioned when we were working on this legislation. We want to help independent filmmakers, large production companies, and otherwise showcase Nebraska and bring strong, positive projects here. So with that, I'm looking forward to the debate on the Raikes amendment. And again would like to just clarify that there is an appropriate time frame available to conduct appropriate cost-benefit analysis. Thank you. [LB235]

SENATOR McDONALD: Thank you, Senator Nantkes. Senator Chambers, you are next. [LB235]

SENATOR CHAMBERS: Thank you, Madam President. In looking at this yellow sheet that talks about revenue generated, I see for the year 1991, a movie called "Indian Runner", which produced \$5,500,000; 1994, "To Wong Foo, Thanks For Everything", \$8 million; 2001, "About Schmidt", \$8 million, three films produced--\$21,500,000 of the \$32 million, and that's over a ten-year period. So there are a lot of little rat race operations here. And some of them were produced by local people: 1998, "Kolobos" or whatever that is, you could say it backwards and get away...probably it would have brought more people. But anyway, that produced \$130,000. "Nebraska Supersonic", such imagination, \$25,000; "Carpula, From Here to Turbidity", \$50,000; "Private Public", \$50,000; Richman Gordman advertisement, not applicable; "Full Ride", \$1,600,000. If you're talking about big production companies, they're coming here anyway. They came here without anything like this. Some of these little rat race operations did what they were going to do. If this is an attempt to underwrite the advancement of the arts and it was presented in that way, I would support it wholeheartedly. But to cast it as economic

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development, I think, is a charade. I don't think that is Senator Nantkes' intent, but that's the way I view it. I must be a realist, Senator Carlson, I must be a pragmatic politician, I must be practical. And in being practical, as I look at this bill, it's not something that the Legislature ought to enact. Looking at Senator Raikes's amendment, I'd like to ask him a question or two. I'd like to ask Senator Raikes a question or two. [LB235]

SENATOR McDONALD: Senator Raikes, would you yield to Senator Chambers?
[LB235]

SENATOR RAIKES: Yes. [LB235]

SENATOR CHAMBERS: Senator Raikes, would you read the very last item in your amendment, in line 10. What does it say? [LB235]

SENATOR RAIKES: Material that portrays the state of Nebraska, its citizens, or its institutions in a negative light. [LB235]

SENATOR CHAMBERS: Now it doesn't say in an untrue light, because those two works could be synonymous when we're talking about Nebraska, couldn't it? Wait a minute. No. You don't mean to say, or do you mean to say, do not portray Nebraskans in a true light? Is that what you mean to say? [LB235]

SENATOR RAIKES: I'm not interested in excluding the truth, but the word is negative light. [LB235]

SENATOR CHAMBERS: Well, the truth often about Nebraska would be negative by other people's standards, wouldn't it, if Nebraska were held up and compared to others or other places? Isn't that true? [LB235]

SENATOR RAIKES: There...I will tell you, Senator, that's part of my concern, that I think it's very hard to distinguish that or be wary of what might happen in that regard. [LB235]

SENATOR CHAMBERS: You don't think it would help Nebraska to have a company subsidized to promote Nebraska... [LB235]

SENATOR McDONALD: One minute. [LB235]

SENATOR CHAMBERS: ...around the world as the clodhopper capital of the world?
[LB235]

SENATOR RAIKES: As the what capital? [LB235]

SENATOR CHAMBERS: The clodhopper capital, big shoes and people would come

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here and buy it. Wouldn't that be good? It might be seen as negative, but it would be good, wouldn't it? [LB235]

SENATOR RAIKES: Well, I have to give that one a little thought. [LB235]

SENATOR CHAMBERS: Thank you, Madam President. Thank you, Senator Raikes. [LB235]

SENATOR McDONALD: Thank you, Senator Chambers. Senator Raikes, you are next. [LB235]

SENATOR RAIKES: Thank you, Madam President, members of the Legislature. To carry a little bit on with the conversation from Senator Chambers, I am concerned, for example, with the way this proposal is at the moment. You could have a person, like I think Michael Moore, I think I have that correct, he's a movie producer who has been very successful and, and I might just add in passing, I suspect that he has done well enough at his chosen line of work that he has considerable income and considerable net worth and probably has...is crafty enough that he doesn't undertake movie enterprises that would not yield him, or he doesn't expect they're going to yield him a very good return, whether or not there's any state contribution. But, for example, you have a Michael Moore come to Nebraska, develop a movie that portrays--pick the topic, the use of the electric chair in Nebraska as a...something that is very undesirable or uncivilized or however you might want to describe it, or maybe a packing plant in Nebraska, or pick another one--and certainly Nebraska wouldn't be the only state that could be targeted. But Nebraska could be targeted by something like that. So you are providing an opportunity for someone like that who doesn't need the money, but yet you are going to take money out of the state treasury to pay someone like that to produce a film on a topic like that. And as a matter of fact, a question might be if such a film is made, should the state of Nebraska be listed in the credits because the state of Nebraska helped pay for this production? So that concerns me greatly. I really think that this is a long ways from being in a form that we ought to consider adopting as part of statute. So that's where I am. I offer this in hopes of stimulating some of your thoughts and suggestions on these issues. But I'm very concerned about these kinds of things, as well as the cost and other aspects. Thank you. [LB235]

SENATOR McDONALD: Thank you, Senator Raikes. Senator...Speaker Flood, for an announcement. [LB235]

SPEAKER FLOOD: Thank you, Madam President, members. I do have an announcement regarding the agenda today. At 11:45 a.m. this morning we're going to, assuming we're still on this bill, we're going to move off of this bill and address some of the other bills that remain on Select File. We are going to start with LB465, and we are going to take up bills that have no amendments, other than E&R amendments. And then

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put those bills that have amendments, other than E&R amendments, at the bottom of the list, under the Select File portion of today's agenda. Accordingly, LB586 would be moved to a position on the agenda following LB480. And I anticipate an amendment being filed to LB619 that would also move. This is being done in an effort to make the most of our time here this morning. I appreciate your attention. Again, that will happen at 11:45 a.m. Thank you, Madam President. [LB235 LB465 LB586 LB480 LB619]

SENATOR McDONALD: Thank you, Speaker Flood. Senator Chambers, you are next. [LB235]

SENATOR CHAMBERS: Thank you. Madam President, members of the Legislature, Senator Raikes touched on something when he mentioned that Nebraska would be in the credits for these films that Nebraska had subsidized. One of the best films that I have seen, and I've never seen it from beginning to end at one sitting because it lasts about three days, is called "Once Upon a Time in the West." Sergio Leone was responsible for it. It was made in Spain, but it portrayed America, the American West. There was some land that the railroad was attempting to get so that they could move in that area and make money. Charles Bronson was in it; he had no name. I'm trying to think...Jason Robards was in it. He wore long leather coats. Henry Fonda was in it. And what some people wanted to do with him, since he was going to be a particularly nasty villain, was to put brown contact lenses to cover his blue eyes, because it's known that in America white skin and blue eyes is always good, and constitutes or connotes a master race. Leone said, no, we want his blue eyes to be stark so that there will be an attention-grabber in that apparent dichotomy. This villain will have blue eyes. And the movie went on. Each major character had a theme song, and when you heard that theme song you knew that character was on the scene. And it was a bit more imaginative than is done with American movies, such as "Jaws", when the shark was to be there (hums music of "Jaws"). And some guy sat down and spent six hours composing those notes for the theme song for the shark in "Jaws". Now when you talk about this project being an economic development tool, I don't see it as that at all. And because it's portrayed as that, those who oppose it from the standpoint of how much money is going to be expended for a very iffy return, their concerns and arguments are justified. I say again, it's not being presented to us as something to advance the arts. The companies that would find Nebraska to be a backdrop for a film they have in mind will come here anyway. And if you have...let me ask Senator Nantkes a question instead of just making assertions. [LB235]

SENATOR McDONALD: Senator Nantkes, would you yield to Senator Chambers? [LB235]

SENATOR NANTKES: Yes, of course. Thank you. [LB235]

SENATOR CHAMBERS: Senator Nantkes, I want to ask this question directly. Three

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people are provided for with money for their salaries. What are they going to be doing with all that time they're going to have on their hands? [LB235]

SENATOR NANTKES: Well, I think that they'd be engaged in a variety of different opportunities from promoting the new economic development program that would be adopted under this legislation. [LB235]

SENATOR CHAMBERS: How would they do it, specifically? Are they going to be traveling to places where filmmakers and production companies are located? Just what specifically will they be doing? [LB235]

SENATOR NANTKES: Senator Chambers, that's exactly what they'd be doing in part. They would be traveling to industry events and trade shows and setting up, you know, booths and informational materials, talking to members of the industry about... [LB235]

SENATOR McDONALD: One minute. [LB235]

SENATOR NANTKES: ...what we have to offer them in Nebraska, not only in terms of incentives, but in terms of our workforce, in terms of our landscape, and to just generally... [LB235]

SENATOR CHAMBERS: Okay, because my time is running. Thank you. And I have one more time to speak. But if you have in one booth New Orleans and the other booth Nebraska, where you going to go? If you had somebody dressed like the gingham dog and the calico cat and somebody dressed from Dr. John or Victoria's Secret, which one are you going to go pay attention to? What does Nebraska have to offer? Thank you, Madam President. [LB235]

SENATOR McDONALD: Thank you, Senator Chambers. Senator Nantkes, you are next, followed by Carlson and Gay. [LB235]

SENATOR NANTKES: Thank you, Madam President. Thank you, Senator Chambers, for your comments. And Senator Raikes, just to get back to my initial comments on this amendment, I've had a chance to review the time frames envisioned under your amendment. And I guess I'd ask if you would yield to a question? Senator...would Senator Raikes yield to a question? [LB235]

SENATOR McDONALD: Senator Raikes, would you yield to Senator Nantkes? [LB235]

SENATOR RAIKES: Yes, yes. [LB235]

SENATOR NANTKES: Thank you, Senator Raikes. In looking over the amendment that you've provided here, again like I mentioned, I don't have a problem with changing

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some of the language on qualifying projects and otherwise. And I was a little concerned about the time frame envisioned here for the sunset and the ensuing cost-benefit analysis. But I was wondering, to get to the issue of what your motives are in filing this amendment, if we were to move forward and adopt this amendment, would you then plan to support the underlying legislation? [LB235]

SENATOR RAIKES: Senator, I appreciate that question, and I think it deserves a straight answer. My intention was to put these ideas out. But do I think that this amendment is the way to change your bill in the way you might like it? The answer is no. If these ideas are good ideas, then I think they ought to be offered in an amendment by you, which is maybe considered at a later date, that would accomplish that. So my intention is to have...to allow the discussion here, but then to withdraw this amendment. [LB235]

SENATOR NANTKES: Thank you, Senator Raikes. I appreciate your candor and your honesty. And I think as we move forward, what's so illuminating about the high level of debate that we are fortunate to be a part of here in this body, is that it helps us to draw out questions and concerns and different perspectives and different ideas as we consider legislation. And I welcome that kind of debate. But I want to ensure that as we move forward that in fact if people don't have an issue with the underlying concept and principles contained in the legislation, let's move forward with the ideas and principles contained herein. Senator Raikes has a well-documented opposition to any sort of incentivized economic development program, which I appreciate his well-held opposition to that. And he speaks about why he holds those beliefs very eloquently. But I just want to keep that in mind as we move forward here. Again, I'm happy to work with the body to ensure that only appropriate projects are subsidized through a program like this. But I also believe that it's quite a distraction to talk about some of the outrageous examples that have been mentioned here beforehand. That simply has not been the experience of other states when they've developed and incubated and have even seen growth in these types of programs. In fact, they are bringing in reputable projects with reputable companies, and they are seeing net positive gains in their economy, their tourism, their workforce. Those are the things that we're talking about here today. The good news is that, you know, we don't have to pull anybody out of central casting. There's no villains on this issue; there's no heroes. This is about working together to appropriately formulate an important public policy in terms of our economic development. With that, thank you, Madam President. [LB235]

SENATOR McDONALD: Thank you, Senator Nantkes. Senator Carlson, you are next. [LB235]

SENATOR CARLSON: Madam President, members of the Legislature, again if Senator Nantkes would yield to a question, I'd like to ask her something. [LB235]

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SENATOR McDONALD: Senator Nantkes, would you yield to Senator Carlson? [LB235]

SENATOR NANTKES: Yes, absolutely. [LB235]

SENATOR CARLSON: Senator Nantkes, would you take the yellow sheet that you had distributed to each one of us. And again, I'm trying to get something into kind of position that I can understand, and it might be helpful to the rest of the body as well. And on that sheet it indicates total estimated economic impact of \$32 million with all these projects. [LB235]

SENATOR NANTKES: That's right, Senator Carlson. [LB235]

SENATOR CARLSON: So that's money spent, wasn't it? [LB235]

SENATOR NANTKES: That's right. Those are direct economic impacts from those...that variety of different productions that are listed there over that ten-year period. [LB235]

SENATOR CARLSON: Okay. Now I said that's money spent by these various projects. They spent this money. Would that be true? [LB235]

SENATOR NANTKES: Yes. [LB235]

SENATOR CARLSON: Okay. Now if we could imagine that this was one project, just from the standpoint of example, \$32 million spent. If that \$32 million was subject to state income and sales tax, it would generate in the area of \$1,600,000. I just took 5 percent of it. And you've given examples of the multiplier effect that for every \$1 that's spent it generates \$3. So if \$1,600,000 of sales and income tax, of which that really wouldn't be the case because you've got some sales tax exemptions in there, so it's not going to be \$1.6 million, it's going to be something a little bit less than that. But let's just assume it's \$1.6 million. And the multiplier effect takes place, that multiplies it by 3, that's \$4,800,000. Are you okay with me? [LB235]

SENATOR NANTKES: I'm following you, yes. [LB235]

SENATOR CARLSON: And we've rebated \$5 million. [LB235]

SENATOR NANTKES: Potentially yes, Senator Carlson. But, of course, there's other economic impacts that aren't taken into account under that example that you just provided, through the payment of other taxes; payroll, for example, just to name one. But I see where you're going and I know that you want to ensure, as a responsible senator, and as a responsible steward of the taxpayer dollar, that we're not paying out more than we're receiving under these types of qualifying projects. And I know that you're just really honestly trying to work through the math on this. And that was my hope

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in passing out this sheet this morning, that we could demonstrate that. The only time that we're going to hit the cap there on that \$5 million paid out for a single project, is for really those large-budget, large-scale productions that have at least a \$30 million budget with, you know, the vast, vast majority of that being invested in Nebraska. [LB235]

SENATOR CARLSON: Okay. And with my questions here and multiplying this \$1.6 million times 3 and getting to \$4,800,000, that's getting close to a break even, and I'm not saying that's good or bad. But if in addition to that there can be some more comfort that we do have additional economic advantages, we're getting closer to what I'd like to see. So thank you for answering my question. [LB235]

SENATOR ERDMAN PRESIDING

SENATOR ERDMAN: Thank you, Senator Carlson and Senator Nantkes. Senator Gay, you're recognized to speak, followed by Senator Chambers. [LB235]

SENATOR GAY: Thank you, Mr. President. This amendment, I think, is a very good amendment. The way it's drafted, I commend Senator Raikes. I do like the idea. What he's getting at here is a cost-benefit analysis of the program. And whether it be this particular proposal or others, the important thing I think we need to look at here is we're going to review this, and it would be reviewed in three years to see if it actually is working. This concept of any incentive we're going to be giving, I think should be reviewed at some point, just not ending...never-ending incentives. So I commend him for this. I think it goes a ways, too, and I'm disappointed to hear he may be removing this amendment. But I think it goes a way to cover some of the other issues that I've been hearing this morning where it would portray the state in a negative light. Senator Nantkes talked about some of the negatives. But there are probably some positives here that may come from this, too. So we're talking about doom and gloom, but there's probably some positive things that could be coming with this new opportunities that we're trying to create here. The point I get though, that I'm trying to make, is I like the idea of the cost-benefit analysis and what this film production office would do. They'd have to be accountable to the Legislature, file a report, and we could look at the merits of this bill. So I think that's a...we're going down the right road on that. Mr. President, I'd like to ask if Senator Nantkes would yield to a few questions. [LB235]

SENATOR ERDMAN: Senator Nantkes, would you yield to questions from Senator Gay? [LB235]

SENATOR NANTKES: Yes, absolutely. [LB235]

SENATOR GAY: Thank you, Senator. Senator Nantkes, this bill...and others have brought up the fact that the state could be portrayed in a negative light. Can you

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explain? I come in and I'm looking for incentives. This person in the film production office that reviews these programs, how does that work? She's going to review the programs. What is she going to ask for when...if I come in as a producer and I want to have a film on the Nebraska Legislature, let's say, what does she review on this cost-benefit analysis? How does it work? [LB235]

SENATOR NANTKES: Well, Senator Gay, thank you so much for your questions and for adding to the debate and dialogue this morning. You've been a strong partner in trying to move this idea forward, which I greatly appreciate. As I stated earlier in debate, I think that some of these factors are going to have to be further delineated and defined through the rules and regs that the department would develop. I guess, you know, my hope would be that rather than doing kind of an analysis of content, so to speak, that really they're looking more at soundness and just kind of the...under the language envisioned in Senator Raikes's amendment, you know, they're going to look at a variety of different factors to ensure that, you know, the film and the product...and the project that's being promoted or looked at, you know, generally is going to put Nebraska in a positive light. And I don't...if that's what it takes to move this forward, I'm happy to do that. I don't think that those restrictions are necessary. That just really hasn't been the experience of other states. [LB235]

SENATOR GAY: Senator, then Senator Chambers brought up a fact. You don't know that these films will be successful. Is she looking at what is going to be spent in our state? How much of the film are you going to produce in our state? Some of these films you handed out were just filmed on location here for a very short time; the major production wasn't done here. Does she look at the actual amount of money that you're going to spend in our state? [LB235]

SENATOR NANTKES: Absolutely, Senator Gay. To be a qualified project, as you can see through the legislation, of the overall budget, it requires a certain amount to be in production costs to be invested in Nebraska. [LB235]

SENATOR ERDMAN: One minute. [LB235]

SENATOR NANTKES: For example, on the sheet I passed out this morning, under the hypothetical example in film A, there's a \$2 million budget, they have to spent \$1.25 million of that on production costs in Nebraska. And that film happens to have 50 percent of Nebraskans as cast and crew. So thus they'd be eligible for the 25 percent range and the rebate there. But the rebate is appropriate and graduated in accordance with the level of investment. [LB235]

SENATOR GAY: Thank you very much, Senator. I appreciate that. Thank you, Mr. President. [LB235]

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SENATOR ERDMAN: Thank you, Senator Gay and Senator Nantkes. Senator Chambers, you're recognized to speak. [LB235]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I'm not going to go through each of these categories because you can read them regarding the number of employees who must be Nebraskans. But if you're going to produce a large budget, high budget film, you're not going to want to be told that you have to have 50 percent of your crew or employees from Nebraska. That is not why they would be drawn here to make a film. I think this is pie in the sky. Not everything that might have a degree of success in another state is going to work in Nebraska. These films that produce a relatively large amount of money in terms of millions that we see on the yellow sheet came here without being given any of these supposed incentives. When Cabela's was before us and the Legislature was peopled by individuals who wanted to give Cabela's incentives, I fought them off. And I said, when you have an operation like that, they have looked at all of the demographics and made a determination that a location is going to make money for them, and that's where they're going to go, whether you give them incentives or not. And that is where they went. And when the World-Herald had to acknowledge that they went there, the World-Herald mentioned other people, but not the fact that I had held out against Cabela's and said they would go there anyway, because the World-Herald has a slant to the way it presents things. But I will continue to fight against these kind of ideas because I think it's a boondoggle, in the same way I think all of this subsidization of ethanol is. And I fought off a lot of ethanol crack-brained notions. But again, I won't be here (laugh) after this term, so they'll get them all through and the state will be awash in ethanol, the social and environmental problems that come with ethanol. But on the last part of Senator Raikes's amendment...Mr. President, is this my third time on this one? [LB235]

SENATOR ERDMAN: It is, Senator Chambers. [LB235]

SENATOR CHAMBERS: Okay. I might take that up after it is disposed of and we get to another item where I can speak. I'm going to support Senator Raikes's amendment, but I still will not support the bill. How much time do I have? [LB235]

SENATOR ERDMAN: Two minutes, twenty seconds. [LB235]

SENATOR CHAMBERS: Okay, maybe I can get it out. There was to be a film made and the Lutheran Church wanted it made. It was "Made in Nebraska" and the people in the Lutheran Church participated. I can't give it all, but I will give you some background on it. And the film makers were looking for some people they could talk to from the black community. There was mayor at that time named Al Sorensen, and he sent them to the barbershop where I worked. I wound up participating in the film. I'm a modest person, but I was the one whose picture was used to promote the film, clips of what I said were used, when critical evaluations were made my participation was mentioned. But those

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from the church who participated willingly did not like what they saw after the film was made. They did not attend a showing of the film. It was something which if they knew in advance the way it would make them look, being honest as they thought they were being, they would not have participated and they said it. And some are so bitter to this day, they have not watched it. And I think this year or next year will be the 40th year since that was made. It was nominated for an Oscar. The federal government archived it... [LB235]

SENATOR ERDMAN: One minute. [LB235]

SENATOR CHAMBERS: ...as one of the best films made in America. It was recently reissued. It's being shown on university campuses with various groups. I'm getting invitations to speak, which I don't accept because I don't have the time. But many times you don't know in advance what is going to happen. So when Senator Raikes says that you should not subsidize a film that would portray Nebraska citizens of the state negatively, suppose people didn't know that's the way they would look, but the project was approved? Are you then going to back out? If you made a contract, you cannot alter the contract. You've got to deliver. But anyway, that's the point I wanted to explore a little further. Thank you, Mr. President. [LB235]

SENATOR ERDMAN: Thank you, Senator Chambers. Senator Ashford, you're recognized to speak. [LB235]

SENATOR ASHFORD: Thank you, Mr. President. And Senator Chambers is correct. The film that he's talking about was actually a film about my church, Augustana Lutheran Church in Omaha. And I've had a conversation with...many conversations with Senator Chambers about that film. And our family, I know, was not one of those that didn't want to see it, as he knows, and was very supportive of the efforts of Senator Chambers and others and many of the ministers. There was a...let me see if I can ask Senator Chambers a question about that. [LB235]

SENATOR ERDMAN: Senator Chambers, would you yield to a question from Senator Ashford? [LB235]

SENATOR CHAMBERS: Yes, I will. [LB235]

SENATOR ASHFORD: The Lutheran Church in North Omaha, which was part of the film...I can't recall, was that...do you remember the name? [LB235]

SENATOR CHAMBERS: Hope Lutheran, it was called. [LB235]

SENATOR ASHFORD: Hope Lutheran. And so the idea was that the parishioners, many...the parishioners were divided in the middle, I believe, Senator Chambers. What,

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was it 1967... [LB235]

SENATOR CHAMBERS: Or 1968. [LB235]

SENATOR ASHFORD: 1968, and the parishioners were divided down the middle on whether or not to actually only have neighborhood get together...or actually it wasn't even congregations coming together in the church. They were going to have sessions in homes, I believe. [LB235]

SENATOR CHAMBERS: Right, if...there would be people...there would be families in the white church who voluntarily wanted to meet with families in the black church. And the people in Augustana Church thought that was so radical and so out of the question that it split the church. And they said, this should not happen, it's too soon, you can't do something like this. And it wasn't even done as an official policy of the church, just families voluntarily coming together. And that was too much for that church. [LB235]

SENATOR ASHFORD: And I...thank you, Senator Chambers. And I remember at the time the...and these were good Swedish Lutherans, too, Senator Chambers, as you recall. And I don't...but the church brought down a new pastor, Pastor Youngdahl, from Minneapolis. His father had been governor of Minnesota, I believe. And he came down to Augustana, and he was the pastor. And he tried to bring the congregation together. And he went to visit, I believe I'm correct,...did he go to visit you at your place of business? [LB235]

SENATOR CHAMBERS: Yes, he did. That was the first scene. And I told him at that point, knowing Omaha like I do, something as mild as this will get you kicked out of your church. And the last scene showed him being kicked out his church. [LB235]

SENATOR ASHFORD: That's correct. But that was a...there was another scene, and I will never forget this scene. I don't know if you remember it, Senator Chambers, where...do you remember the man's name who...there was a scene in the movie with he and his wife, sitting at their living...in their living room? Do you remember who that was? [LB235]

SENATOR CHAMBERS: It seems like his name may have been Ray Christensen (phonetic), I think. [LB235]

SENATOR ASHFORD: Yeah, I think that's right. And I remember Mr...who...and Ray was trying to help support the effort to bring the church to these...to the conclusion that we should be involved in this program, and he was not successful. But I remember him describing Senator Chambers to his wife, in the movie. And his wife was crying because...in the movie, it was a documentary. And she was very upset because the church was so divided over this issue. And he explained to his wife that he had met

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Senator Chambers. And she was, oh my goodness, that he had met you. And that he said something very profound, he said, and I was looked...in Senator Chambers' face, and he had...hate came out of his mouth, but there was love in his heart and love in eyes. Do you remember that comment, Senator Chambers? [LB235]

SENATOR ERDMAN: One minute. [LB235]

SENATOR CHAMBERS: That's what he said, but he was incorrect. (Laughter) [LB235]

SENATOR ASHFORD: Well, anyway, it was a great movie and I've seen it many times, "A Time for Burning". And if anyone has an opportunity to see it, they should because it tells a great story about the 1960's, and it tells a lot about Senator Chambers who was very prominent in the movie. With that, I conclude my remarks. Thank you, Mr. President. [LB235]

SENATOR ERDMAN: Thank you, Senator Ashford, Senator Chambers. Senator Wallman, you're recognized to speak. [LB235]

SENATOR WALLMAN: Thank you, Mr. President. I, too, am a Lutheran, and I remember that time very well. And we took two inner city youth in our home. We kept them the summer and they worked with us, and I don't know if it helped us or them. It helped me. And so I appreciate what the church was trying to do right then, but it was...as we as Lutherans are mostly reactionary, not "proactionary". And so I'd yield the rest of my time to Senator Chambers. [LB235]

SENATOR ERDMAN: Senator Chambers, 4 minutes and 30 seconds. [LB235]

SENATOR CHAMBERS: Thank you, Senator Wallman. Thank you, Senator Ashford. Thank you, Mr. President. And here's why I brought up the issue. The Omaha people tried to stop the film from being distributed. They brought pressure to bear. And there was a lot of discussion, but the national office said it was accurate, it did not misrepresent what happened, so it was going to be presented. It was shown at the auditorium in Omaha. And as I say, the malefactors from that church did not show up. Here is the context in which I present that information. Senator Raikes's amendment says that no rebate would be granted for a film if Nebraska or its citizens were presented in a negative light. And that's why I said if the light...if it were true and accurate but negative, what about that? Well, I'm sure that the Lutheran Church, even those officials who decided to have the film distributed, I'm sure they didn't like what they saw. I'm sure they cringed. They wished that it had been different, but it wasn't, so they presented it. Now in this bill the way it's drafted or crafted, a determination is made relative to the economic success. Let's say that hurdle was surmounted and the rebates were agreed to. But what was presented in the film, although accurate, although true, although not a misrepresentation, wound up presenting a negative image of Nebraska

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and Nebraskans. Then you would try to pull back the agreement that you made to get the rebate. I'm going to support Senator Raikes's amendment, then when it's appropriate I'm going to try to strike that language. There are not a lot of positive things that can be said about Nebraska. When the Supreme Court was to have a person put on it--Senator Harms, I read your body language--and a man was deemed to be mediocre and unacceptable by the American Bar Association, you know what Nebraska's Senator Hruska said? Well, mediocre people are entitled to have somebody on the U.S. Supreme Court, and made Nebraska the laughingstock of the nation and the world, and he meant that. When Richard Nixon had been totally discredited and was going to get on a plane saying, I'm not a crook, there was Carl Curtis portrayed beneath a wall, and Nixon was portrayed as Humpty Dumpty, with all the corruption. And Carl Curtis is saying, don't worry, Mr. President, I will catch you. He supported him even after he was kicked out of office. And again Nebraska was the laughingstock of the nation. So what are you going to say? Because the truth shows the mentality of Nebraskans who send these kind of people to represent them, therefore you're not going to subsidize the film? That's the very kind you ought to subsidize... [LB235]

SENATOR ERDMAN: One minute. [LB235]

SENATOR CHAMBERS: ...because it might be educational for these people in Nebraska. And let them see what the rest of the world sees when they see Nebraska, when they hear Nebraskans. I'm often asked, how do you survive in a place like that? Why will you stay in a place like that? Come here, and this is what you can do. I tell them, whether it's on the edge of a meadow or in the middle of a forest, if that's where my friends and family...I'll put it like this, if that's where my family and my friends, both of them, live then that's where I'll stay. Somebody has to be everywhere. But Nebraska does not have a good image. At least let it have a reputation for telling the truth about itself as they revealed (laugh) on American Idol. Thank you, Mr. President. [LB235]

SENATOR ERDMAN: Thank you, Senator Chambers. Senator Ashford, you're next, followed by Senator Nantkes. [LB235]

SENATOR ASHFORD: Thank you, Mr. President. I'm going to give the rest of my time to Senator Chambers. But I did want to finish the story that I was telling. Because one of the ironies of...that I've been serving, this is the tenth year I've served with Senator Chambers in the Legislature. And because of all the dissension that he caused at Augustana Lutheran Church, the Wednesday night Sunday...or Wednesday night classes that I had to go to as a member of that church were cancelled for at least about a year, which was...so I did not...I remember Pastor Reuben Swanson (phonetic), at that time, and he would say, we're not having any of those classes, because there is so much dissension that you can't even come to church on Wednesday night. So I do recall that as well, Senator Chambers. But with that, I'm going to give you the rest of my time, if I... [LB235]

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SENATOR ERDMAN: Senator Chambers, you have 4 minutes and 15 seconds. [LB235]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Ashford. And for the record, I never visited that church; I didn't even know where it was. It was just the aura about me that upset and frightened some of them so much. There was a write-up in Life Magazine by somebody named, Jose' Ferrer the second. And I'm sure he called himself being complimentary toward me. But he described me as an astonishingly articulate young Negro firebrand, or something. Astonishingly articulate--he was astonished that I could put ten words together and make sense. That astonished him. White people insult us and don't even realize it. And when we take offense, they say, well, what are you offended for? I said you are astonishing. I said, man, it shows the low regard you have for black people. I spoke in an ordinary conversational tone, the way I speak all the time in the barbershop. But because I'm black, that was astonishing. Watch the film and draw your own conclusion. But at any rate, back to what we're talking about here. A deal is a deal. If this person in that film office determines that there is likely to be economic success, and this outfit was lured to Nebraska on the basis of that promise, as Abraham Lincoln said, the promise having been made must be kept. So if it turns out to be negative, that's tough. We're dealing with grown people. They are immature, they are not highly or well-educated, but they are grown and they've had enough life experiences to know that things don't always turn out the way you want them to. I saw a little piece in the paper and it said that some people's obituary ought to say, they died at 30, buried at 60, meaning that everything stopped, everything that makes a person a human being. The ability think and using that ability stopped at 30, but they spent 30 more years just stumbling around, encumbering the ground. So I'm going to support Senator Raikes's amendment I say again, and I do understand what he is talking about when he says a certain kind of film would have Nebraska listed in the credits, and it might be to Nebraska's credit to do so. There were some films made during the apartheid system in South Africa where the government participated, and people were stunned because the film was so negative in presenting South Africa because it gave a true depiction of what happened there. [LB235]

SENATOR ERDMAN: One minute. [LB235]

SENATOR CHAMBERS: The Lutheran Church, every time that film is shown, is listed as the ones who underwrote the film. So as shameful as those people behaved, along with it is the fact that this conduct was brought to the public by virtue of action by the Lutheran Church itself. Now they may have been uncomfortable at the time, but they've felt very proud since then because they were praised to high heaven, that with the opportunity to quash this film and let it go nowhere, they chose nevertheless to send it out into the world. So something that may embarrass people in Nebraska initially may redound to what little glory they may...well, glory is a strong work when you're talking about Nebraska, a little credit for something. [LB235]

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SENATOR ERDMAN: Time. [LB235]

SENATOR CHAMBERS: Thank you, Mr. President. [LB235]

SENATOR ERDMAN: Thank you, Senator Chambers. Senator Nantkes, you're recognized to speak, and this is your third time. [LB235]

SENATOR NANTKES: Thank you, Mr. President. I think as we move forward and talk about, you know, concerns and true public policy issues that are in play here on this piece of legislation, I think that it's appropriate to remember too that, you know, this is an interesting and provocative idea, and it's fun and it's a cool program. Let's have a little bit of levity in the conversation. I know that the King Cobra probably doesn't have an official theme song as of yet, but this morning in my mind I continue to hear (hummed theme from "Jaws"). (Laugh) So until the King Cobra is given his own appropriate theme song, that may do to borrow one from popular culture of course. I think again as we move forward here we have to remember what we're talking about as well, in terms of what's a qualifying project, what's not. Again, happy to work with people on what those terms mean. But remember what film does as an artistic endeavor, in addition to the economic value and the industry value that it has within our economy. But it's meant to evoke all aspects of the human experience; that's why it's such a powerful medium as it, you know, details stories of triumph and of heartbreak, which I'm feeling all of this morning through the course of this debate. And I think that as we move forward, let's consider those principles. And Senator Chambers, it doesn't have to be a zero sum game. We can bring on board the economic development folks along with the promoter of the arts and humanities. That's why this is a great piece of legislation. It provides, you know, unique partnership for so many different important public policy ideas. It addresses the brain-drain and keeping the young people here. It helps to promote a positive and modern image for Nebraska. It has the potential to celebrate our rich history. It does do something to retain and promote the creative class and the arts and humanities in Nebraska, and it provides good quality jobs at the end of the day. This is a unique piece of legislation that touches upon all of those varied and different concerns, and I look forward to continuing the debate on this. And I think it's been really, really fruitful to have this discussion in the state of Nebraska. My in-box in my e-mail is just overflowing with comments from people who are watching at home or over the Internet about their ideas in regards to this legislation. And how exciting that this issue has engaged them in the process! I'm so happy, as we move forward, that we're having this debate. I look forward to having a vote sometime today or in the near future that advances the ideas contained in this legislation. We'll work together on the details. But let's move forward with the ideas contained in LB235. Thank you. [LB235]

SENATOR ERDMAN: Thank you, Senator Nantkes. Senator Raikes, there are no lights on. You're recognized to close on amendment. [LB235]

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SENATOR RAIKES: Thank you, Mr. President, members of the Legislature. I have raised in this amendment issues that I think need to be raised. But I have not addressed them in a manner that satisfies even me. So I commend the task to those...Senator Nantkes and those who might support the bill, and I would withdraw this amendment. Thank you. [LB235]

SENATOR ERDMAN: AM1654 has been withdrawn. Mr. Clerk, next motion. [LB235]

CLERK: Mr. President, the next amendment I have to the bill, Senator Langemeier, AM1702. (Legislative Journal pages 438-444.) [LB235]

SENATOR ERDMAN: Senator Langemeier, you're recognized to open on AM1702. [LB235]

SENATOR LANGEMEIER: Mr. President, members of the body, my amendment, AM1702, would preserve the founding heart of this piece of legislation. It would preserve everything that Senator Nantkes has so eloquently told us that is her motivation for LB235. What it does do is takes, after these films are made, and we've talked about this whole process, how you're going to submit back and get your sales tax dollars back, and get everything you have coming to you in the green copy or the E&R amendment of this bill. What my amendment, AM1702, would do is take that amount of money and turn it, not into cash, but turn it into Nebraska income tax credits. So you could use those credits over a three-year period towards Nebraska income tax. And so I think it's crucial. It would take economic dollars. I support...we've done this in many other bills is to say, yes, we'll give you credits back, but we want you to use it towards Nebraska income tax. It's Nebraska tax dollars, let's use it towards Nebraska income tax. And with that, I'll conclude because I have an amendment to my amendment, to follow. Thank you, Mr. President. [LB235]

SENATOR ERDMAN: Thank you, Senator Langemeier. Members, you've heard the opening on AM1702. Mr. Clerk, amendment on the desk? [LB235]

CLERK: Senator Langemeier would move to amend his amendment, Mr. President, with AM1711. (Legislative Journal page 444.) [LB235]

SENATOR ERDMAN: Senator Langemeier, you're recognized to open on AM1711. [LB235]

SENATOR LANGEMEIER: Thank you, Mr. President. And a little...I thank the Revenue Committee clerk for clarifying something here. In my income tax credits I didn't address...or I'll make it allowable for a partnership to earn these, if it's a pass-through to an individual owner. There's no pass-through of these credits back to how ownership

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could be held in a company in which would earn these credits. And so this amendment, AM1711, would clarify the ability for the Internal Revenue Service to pass these membership...type of ownership issues and how these credits would be given back. With that, I would thank you, Mr. President. [LB235]

SENATOR ERDMAN: Thank you, Senator Langemeier. Members, you've heard the opening on AM1711. Senator Chambers, you're recognized to speak on the amendment. [LB235]

SENATOR CHAMBERS: Mr. President, members of the Legislature, in order for Senator Langemeier's amendment to be in the form he wants, I'm going to support this amendment before us and have nothing further to say at this time. Thank you. [LB235]

SENATOR ERDMAN: Thank you, Senator Chambers. Senator Nantkes, you're recognized. [LB235]

SENATOR NANTKES: Thank you, Mr. President. I was hoping that Senator Langemeier would yield to some questions. [LB235]

SENATOR ERDMAN: Senator Langemeier, would you yield to questions from Senator Nantkes? [LB235]

SENATOR LANGEMEIER: I would. [LB235]

SENATOR NANTKES: Senator Langemeier, thanks so much for putting forth your amendment in trying to further the debate this morning. I was wondering if you could elaborate a little bit. In the approach that you're taking, have you had a chance to visit with the Fiscal Office and analysts to determine exactly how this approach would enhance or increase the economic benefits to Nebraska in comparison to the approach that I'm utilizing in my approach? [LB235]

SENATOR LANGEMEIER: Senator Nantkes, as you've said on many occasions, the economic drivers and the factors you want are the investment in Nebraska. This would not prevent that. This would not change that at all. The process would still happen in the same manner in which you desire, it's just at the end of the day when you submit back to the state of Nebraska, you would not be getting a check from the state of Nebraska. That's not economic development. We would then...we would be converting that check, instead of just a cash check to that individual or company that came to make the...or is requesting the funds, it would give them income tax credits. Now this has some limiting factors. How do you collect those income tax credits? I will give you that. But I think it would incentivize two things. Number one, a gentleman like Dana Altman, who is in Omaha, Nebraska that's doing a great job, it would incentivize him to do movies in Nebraska. It would incentivize companies that are outside Nebraska to contract with him

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to make movies in Nebraska. So it would further, in my opinion, would further the economic development because it would require these companies to make sure they use Nebraska-based filmmakers and bring them into the loop that they might otherwise overstep and not involve. So I think it has some possibility and some potential to encourage out-of-state big companies to involve local ones. And I've taken your time. I'll yield you back some time of mine. But that's what I envision here. Now I do have one more clarifying amendment that we won't have here today, but we'll have to put on this, in my opinion. It will be up to the body whether they agree with that, is the way it's written now one development company could come in and get \$5 million worth of credits. The next company could come in and get \$5 million worth of credits. The next company would be able to come in and get \$5 million worth of credits. That was not your intent in your copy. That does happen with my amendment. I do think we need to limit that, and we'll bring another amendment in the future, to limit that to say the state can only issue \$5 million credits at one given time. When they are redeemed, then they could be reissued. So I would have to limit it in that regard. So I am expanding that in this amendment over what you had anticipated with your green copy. [LB235]

SENATOR NANTKES: Thank you, Senator Langemeier. And just a final question, I'm sure we're probably running short on time here this morning, but I guess again just to bring out, you know, your motivations in bringing forth this amendment. I know that you've had a chance to examine this issue for quite some time, since you were on the committee of jurisdiction that this legislation was first brought before. Are you committing this morning to this body that if the approach envisioned in your amendment were to become adopted that you would be supporting the legislation from this point forward and through Final Reading? [LB235]

SENATOR LANGEMEIER: I have no intentions to support this legislation. [LB235]

SENATOR NANTKES: Thank you. [LB235]

SENATOR LANGEMEIER: Now however, I would further not oppose it on the floor, yes. [LB235]

SENATOR NANTKES: Thank you, Senator Langemeier, for your candor and honesty. And thank you, colleagues, for... [LB235]

SENATOR ERDMAN: One minute. [LB235]

SENATOR NANTKES: ...continuing with us in this debate. Again I...as I've made, I think, clear on the record this morning, I don't have a particularly strong feeling about the details of this. But what...how this legislation was envisioned, it's modeled after what's happened in Oklahoma, which is a rebate program. That's one of the most recent examples we've seen adopted in a very, very conservative state that has a similar

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political dynamic as does Nebraska. We also have clearly "demonstratable" information from Oklahoma about the positive economic benefits that program has afforded to that state. That's why I do like the rebate approach. Again as I mentioned earlier in conversations with industry professionals and executives, the rebate is a more attractive approach to creating this type of program,... [LB235]

SENATOR ERDMAN: Time. [LB235]

SENATOR NANTKES: ...rather than tax credits. Thank you, Mr. President. [LB235]

SENATOR ERDMAN: Thank you, Senator Nantkes, Senator Langemeier. Senator Langemeier, your light is next. You may continue. [LB235]

SENATOR LANGEMEIER: I would yield my time to Senator Nantkes. [LB235]

SENATOR ERDMAN: Senator Nantkes, you have 4 minutes and 55 seconds. [LB235]

SENATOR NANTKES: Thank you, Senator Langemeier, I appreciate that. And just to continue again, the industry executives and professionals have indicated to us that a rebate approach is really the most attractive mechanism for this type of program. Again it's overall a very modest program in comparison to what some other states offer, with the \$5 million a year cap. So I think retaining the rebate feature rather than moving to a tax credit feature, as put forth by Senator Langemeier, is important. And as he, you know, clearly noted on the record and on the mike, he has no intention to support the legislation as we move forward. So overall, while I appreciate looking at different ways to accomplish this important idea, I think instead that this is probably just kind of a delay tactic. So I would ask the body to not support the amendment currently before us. Thank you. [LB235]

SENATOR ERDMAN: Thank you, Senator Nantkes, Senator Langemeier. Senator Chambers, you're recognized to speak. [LB235]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I don't like the income tax rebates, I don't like giving up anything in these boondoggles and scams, as I characterize them. I'm looking again at the language of this bill. When describing a film it says all kinds of things, mentioning media, multimedia, theaters, television stations, combinations of these operations. But the film is not child pornography or obscene material. As Senator Nantkes pointed out, there are Supreme Court opinions that can give some direction and indication of what constitutes obscenity. Now if you look at the critical area that I keep referring to, it would be on page 2, in Section 3, beginning in line 15: "A rebate as provided in this section in the amount of up to 25 percent of documented production costs incurred in Nebraska for production of a film in this state shall be paid to the production company responsible for the production

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if the Film Office of the Department of Economic Development determines that the proposed project has reasonable chance of economic success." This outfit is not going to make the film unless it has been told that you're going to get this rebate. So the deal is struck. Now you have made a determination that the film is going to be an economic success. When the film is completed one of these right wing Nebraska zealots will say, by God, I think that's obscene; we ain't going to pay off. Then you go to court and you've got some expenses. And you're going to lose and you're going to pay court costs too. People in Nebraska are not capable of making an objective determination relative to what constitutes obscenity. Child pornography is a bit more sharply defined. And that would, I don't think, pose the same kind of problem, although it could pose some. You're getting now into an area where people who maybe and probably are narrow-minded are going to be making content determinations, not in the first instance, which they could do. They could say, we don't think that your film is going to meet our standards, therefore we're not going to give you the rebate. They can go ahead and make the film in Nebraska, and Nebraska can't stop them from making it. But they don't get the rebate; they don't get the subsidization. But if you agree and sign on the dotted line, you've got to give them the rebate whether you like it or not. If you don't like something that appears salacious to you, that appears to have no redeeming value, it appears to that prurient interest, and that's...those are the kind of films, brothers and sisters, friends, enemies, and neutrals, that sell. Let me give you an example. Why do you think they said, go west, young man, go west? They were talking about Mae West. And that's why young men, every kind of way they could travel--they didn't have airplanes, but some of them flew--ran as fast as their clodhopper feet would carry them to Mae West. Now you have the opportunity to see a movie about Mother Teresa,... [LB235]

SENATOR ERDMAN: One minute. [LB235]

SENATOR CHAMBERS: ...a movie starring Mae West, would you go for Tess or West? Tessy or Mae "Westy"? You'd go to Mae West and you know it. Why do you think they have sex scenes in all these movies? That's what people pay money to see. So they're going to have to look at this language, and if they hire somebody in this film office--they got three people--they better get some people with some sense. And you cannot, after the fact, renege on a bargain. Even if you think it's obscene but the court determines it's not, you got to pay up. So this is not as simple as it might seem. And I do think that what Senator Langemeier is offering, whether it's a delaying tactic or whatever, is better than giving over cash under the existing language... [LB235]

SENATOR ERDMAN: Time. [LB235]

SENATOR CHAMBERS: ...of the bill. Thank you, Mr. President. [LB235]

SENATOR ERDMAN: Thank you, Senator Chambers. Senator Nantkes, you're recognized. [LB235]

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SENATOR NANTKES: Thank you, Mr. President. Just...I know that we're running up on a deadline here in just a minute or so that the Speaker has put forward so that we can attend to some other legislative business this morning. But I wanted to talk about just a couple of points that Senator Chambers has brought forth and another point that I've visited with a variety of different colleagues about this morning. In terms of economic success, again Senator Nelson helped to draw out some of this, this morning. But what we're talking about is not box office receipts at the end of the day, way past production. What we're talking about is a general evaluation of the soundness of the project, of the budget, of the idea and the qualifying project there. I mean, that's the sort of factors and determination that that language is intended to help provide for. So I don't want to give anybody the wrong impression there that unless, you know, we're asking some sort of economic development professional to look into a crystal ball and say what's going to be a summer blockbuster or not. That's not the type of evaluation that we're really concerned with there. And then another issue I wanted to address was in regards to some legal questions that have been brought up in limiting the types of eligible projects or films. Again I want to be very clear here that as a society, as a government we have an obligation to tolerate certain maybe distasteful artistic endeavors. We do not, however, have an obligation or a responsibility or any sort of legally binding duty to subsidize them with state products or incentives or tax dollars. By putting in language that limits the types of projects that may be eligible we're not creating any sort of justiciable issue there. There is no standing for any sort of protected class, or First Amendment issue, or property right. Those kinds of things aren't going to be at issue with Hollywood lawyers, like I've heard some of my colleagues ask. We have a right, as a state, to say where our economic development efforts are directed. The industry, the creative industry and otherwise has a right to create, you know, with certain limits any type of project that they would like to, to provoke questions, to document experiences, etcetera. Those are different questions--what can happen artistically and what we must, or "choose" is a better word, what we choose to subsidize through tax dollars and through economic development programs. So I just wanted to clarify those two points on the economic success factors that Senator Chambers has brought out and then on some of those legal issues that have been asked this morning as well. So I think it's important to keep a clear head and a clear mind and to not confuse the issues as we move forward but instead to try and work together to advance the idea. Thank you.
[LB235]

SENATOR ERDMAN: Thank you, Senator Nantkes. (Visitors introduced.) Pursuant to the Speaker's modification of the agenda, we will now proceed to LB465. Mr. Clerk.
[LB465]

CLERK: Mr. President, LB465. Senator McGill, I have Enrollment and Review amendments pending. (ER8142, Legislative Journal page 358.) [LB465]

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SENATOR ERDMAN: Senator McGill, for a motion. [LB465]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB465]

SENATOR ERDMAN: Motion before the body is, shall the E&R amendments be adopted? All those in favor say aye. All those opposed say nay. The motion is adopted. [LB465]

CLERK: I have nothing further, Senator. [LB465]

SENATOR ERDMAN: Senator McGill. [LB465]

SENATOR MCGILL: Mr. President, I move LB465 to E&R for engrossing. [LB465]

SENATOR ERDMAN: Members, the question is, shall LB465 be advanced to E&R Engrossing? All those in favor say aye. All those opposed say nay. The bill is advanced. Mr. Clerk. [LB465]

CLERK: LB196, Senator. I have Enrollment and Review amendments, first of all. (ER8146, Legislative Journal page 362.) [LB196]

SENATOR ERDMAN: Senator McGill. [LB196]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB196]

SENATOR ERDMAN: Members, the question is the adoption of the E&R amendments. All those in favor say aye. All those opposed say nay. The amendments are adopted. [LB196]

CLERK: I have nothing further, Senator. [LB196]

SENATOR ERDMAN: Senator McGill. [LB196]

SENATOR MCGILL: Mr. President, I move LB196 to E&R for engrossing. [LB196]

SENATOR ERDMAN: Members, the question is, shall LB196 be advanced to E&R for engrossing? All those in favor say aye. All those opposed, nay. The bill is advanced. Mr. Clerk. [LB196]

CLERK: Mr. President, Senator McGill, LB632. I do have Enrollment and Review amendments. (ER8147, Legislative Journal page 386.) [LB632]

SENATOR ERDMAN: Senator McGill. [LB632]

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SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB632]

SENATOR ERDMAN: Members, the question is, shall the E&R amendments be adopted? All those in favor say aye. All those opposed, nay. The amendments are adopted. [LB632]

CLERK: I have nothing further, Senator. [LB632]

SENATOR ERDMAN: Senator McGill. [LB632]

SENATOR MCGILL: Mr. President, I move LB632 to E&R for engrossing. [LB632]

SENATOR ERDMAN: Members, the question is, shall LB632 be advanced to E&R? All those in favor say aye. All those opposed, nay. The bill is advanced. Mr. Clerk. [LB632]

CLERK: LB621, Senator, does have Enrollment and Review amendments. (ER8150, Legislative Journal page 387.) [LB621]

SENATOR ERDMAN: Senator McGill. [LB621]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB621]

SENATOR ERDMAN: Members, the question is, shall the E&R amendments be adopted to LB621? All those in favor say aye. All those opposed, nay. The amendments are adopted. [LB621]

CLERK: I have nothing further on LB621, Senator. [LB621]

SENATOR ERDMAN: Senator McGill. [LB621]

SENATOR MCGILL: Mr. President, I move LB621 to E&R for engrossing. [LB621]

SENATOR ERDMAN: Members, the question is, shall LB621 be advanced to E&R? All those in favor say aye. All those opposed, nay. The bill is advanced. Mr. Clerk. [LB621]

CLERK: Mr. President, Senator McGill, LB480. I have Enrollment and Review amendments. (ER8149, Legislative Journal page 389.) [LB480]

SENATOR ERDMAN: Senator McGill. [LB480]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB480]

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SENATOR ERDMAN: Members, the question is, shall the E&R amendments be adopted? All those in favor say aye. All those opposed, nay. The amendments are adopted. [LB480]

CLERK: I have nothing further on LB480, Senator. [LB480]

SENATOR ERDMAN: Senator McGill. [LB480]

SENATOR MCGILL: Mr. President, I move LB480 to E&R for engrossing. [LB480]

SENATOR ERDMAN: Members, the question is, shall LB480 be advanced to E&R for engrossing? All those in favor say aye. All those opposed, nay. The bill is advanced. Mr. Clerk, items for the record? [LB480]

CLERK: Thank you, Mr. President. Your Committee on Urban Affairs reports LB813 to General File; LB947, General File; LB768, General File with amendments, those reports signed by Senator Friend as Chair. Hearing notices from Retirement Systems Committee and from the Judiciary Committee, signed by the respective chairpersons. I have a confirmation hearing report from Health and Human Services Committee, signed by Senator Gay as Vice Chair of the committee. Amendments to be printed: Senator Cornett to LB500; Senator Lathrop to LB586. (Legislative Journal pages 445-449.) [LB813 LB947 LB768 LB500 LB586]

Mr. President, a unanimous consent request. Senators Erdman and Friend would ask unanimous consent to alternate their hearing rooms on February 12.

SENATOR ERDMAN: Is there any objection? Senator Chambers, you object?

SENATOR CHAMBERS: I'll drop my objection.

SENATOR ERDMAN: The objection is withdrawn. The motion is successful.

CLERK: Mr. President, the Revenue Committee will meet in Executive Session today at 12:45 p.m. Revenue at 12:45 p.m. today. And a series of name adds: Senator Carlson to LB894; Senator Pirsch to LB920; Senator Carlson, LB974, LB1012; Senator Preister, LB1170. (Legislative Journal page 449.) [LB894 LB920 LB974 LB1012 LB1170]

And I do have a priority motion, Mr. President. Senator Harms would move to adjourn until Thursday morning, January 31, at 9:00 a.m.

SENATOR ERDMAN: Members, the question is, shall we adjourn? All those in favor say aye. All those opposed, nay. We are adjourned.