

MAY 5, 2005

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LB 425

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Good morning. Welcome to the George W. Norris Legislative Chamber. Our chaplain this morning is Minister Robert Lawrence, South Auburn Church of Christ, Auburn, Nebraska; guest of Senator Heidemann. Minister.

PASTOR LAWRENCE: (Prayer offered.)

SENATOR CUDABACK: Thank you, Mr. Lawrence, for being with us. We appreciate you being here. Senator Heidemann represents the 1st District. I call the seventy-third day, Ninety-Ninth Legislature, First Session, to order. Senators, please check in. Record please, Mr. Clerk.

ASSISTANT CLERK: There's a quorum present this morning, Mr. President.

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

ASSISTANT CLERK: I have no corrections.

SENATOR CUDABACK: Messages, reports, or announcements?

ASSISTANT CLERK: One item, Mr. President: a communication from the Board of Douglas County Commissioners. That will be on file in our office. That's all I have this morning. (Legislative Journal page 1381.)

SENATOR CUDABACK: Thank you, Mr. Clerk. (Doctor of the day introduced.) We now go to General File, budget bills. Mr. Clerk, LB 425.

ASSISTANT CLERK: Mr. President, LB 425 was introduced by the Speaker at the request of the Governor. (Read title.) Bill was read for the first time on January 13, referred to the Appropriations Committee. That committee reported the bill to General File with committee amendments attached. They were considered by the body. There were amendments to the committee amendments. The first was offered by Senator Foley. That was

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adopted yesterday. We now have pending a motion to reconsider the vote on AM1374. (Legislative Journal pages 1369-1370.)

SENATOR CUDABACK: Mr. Clerk. Senator Schimek, would you like to open on your motion to reconsider the vote taken?

SENATOR SCHIMEK: Yes, thank you, Mr. President and members. I come before you today to ask you to think about what we did yesterday, and a motion to reconsider takes a majority vote. And if it is...if we do vote by majority to reconsider, then the amendment on the bill goes away, unless the introducer of the amendment wants to take up the amendment again at that point, at which time it would again take 25 votes to attach the amendment again to the bill. And I just...I just tell you that because I think that, in thinking about whether you want to vote to reconsider or not, you should also decide whether you can vote to attach the bill again or not. Don't vote for one if you intend to do the other, is what I'm saying to you. I offer this motion to reconsider because I was alarmed yesterday by what this Legislature did in adopting the Foley amendment. We're talking about half a million dollars here, a half a million dollars, and that's taxpayer money. I don't care if it's federal money or state money; it's still taxpayer money. And I think it was done rather on the spur of the moment as far as most of us are concerned, and it was done without adequate information to make an informed decision. When you're making a decision to spend a half a million dollars, and I can remember us quibbling over \$10,000 on this floor before, when you're making that kind of decision there's certain questions that each of us should be asking ourselves. First of all, is this program needed? I did not hear anything on the floor yesterday that either confirmed or dissuaded us that the program is needed. There was nothing that was talked about as far as some of our agencies that already provide these kinds of services, that they're asking for more money or they're not being able to serve the people that they're being asked to serve. I don't know about you, but I haven't heard from one of those agencies, nor have I heard from any constituent who says that she is not getting these kinds of services. I'm not saying they're not out there, but I don't believe that it's documented, and I don't know how we can build a program when we don't even know what the

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need is. I don't know that we've been adequately informed about what the program would do. What kind of services would be developed? Would it be just that 800 number and a couple of billboards? Would it be more than that? Would it be actual help with nutrition and all those kinds of things? Again, I don't think we have the information. I don't think we know exactly who it would serve. Now, I know it's meant to serve lower-income women, and if you know me, you know that I'm always trying to help those who are least advantaged, but I'm not exactly sure who this is supposed to serve. Who would provide the services? I don't have a clue. I've heard about the discussion at the Appropriations Committee, when it was recommended that we have this program from Pennsylvania come in and do this. I don't know if that would still be the case if we allowed the amendment to stay on this bill. I don't think there's any guarantees one way or the other. If it is a new program, maybe if it isn't even the one from Pennsylvania, what happens in three years from now? Do we just let that program go away, or do we come back in here and appropriate another half a million dollars for it? Be careful what you ask for. What about our involvement in setting the parameters of this program? What about oversight, accountability? Is there a sunset provision, Senator Erdman? Is there a sunset provision in this? If not, is it sustainable, as I mentioned earlier? I don't think we answered these questions adequately yesterday and I wanted to have the opportunity to have us revisit the issue and reconsider the issue. And with that, Mr. Chairman, thank you very much.

SENATOR CUDABACK: You've heard the opening on the motion to reconsider. For discussion of that motion, Senator Thompson, followed by Senator Foley and others. Senator Thompson.

SENATOR THOMPSON: Thank you, Mr. President, members of the body. Well, I woke up at 4:00 this morning and I've been thinking about this for quite a while. My initial reaction yesterday was, you know, I've worked in these areas for a long time, spent my entire adult life, either as a volunteer or in public office, working on children's issues, and here we have \$500,000 for an area that I really care about, but I also feel we have responsibility as public officials to make sure when we

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create a new welfare program, and that's exactly what this is, this is a welfare program, that we know that it's effective. I've never done anything like this that didn't have some kind of evaluation component to it, particularly when it's a pilot project. You know, I'm just kind of dumbfounded by the whole thing. And then it sort of dawned on me. I had this epiphany, if you could call it that, and I realized what this is all about. We the Legislature are being played for chumps, and the reason we are being played for chumps is because the Governor has the authority to do this without us. You don't need this amendment to do this. As an Appropriations Committee, we appropriate funds to the department for grant programs from the federal government, and the department decides, within the parameters of those programs, how to spend the money. We don't do this just with HHS. We do this with lots of agencies. Now, sometimes the Governors come in and they kind of tell us what they have in mind. I'd like to think that maybe that's what this was about, but it wouldn't be that if the Governor asked Senator Foley and they had this big news thing about putting it in. The reason they're asking us to validate this is because in two years, when the money runs out, you are going to be held accountable. You're going to have to come up with another half million dollars of General Fund money, when we've blown the money to stay in compliance to get this money in the first place. You're the ones, and I'm not going to be here. Those of you who are, you know, that's what I was thinking about in the middle of the night. I thought, why should I even weigh in on this? Because I care about the people we serve and I care about the children, and if we're going to spend \$500,000, it sure as heck had better be for an effective program. And it can be done without us. The only reason this is coming up in the Legislature is this is going to be one heck of a mess two years from now--a program that doesn't have an evaluation component; a program that's for one provider, which I think we need to think about as a future amendment if this doesn't pass. That's \$500,000 for one provider. We have lots of Nebraska organizations that can do this work and, instead of just picking one, we should be looking at multiples. The reason we're being asked to do this is because this is set up to be a mess, and it got brought to the previous Governor and the current Governor for political reasons. I like the idea of serving pregnant

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women with...and I said that at the beginning yesterday, but I want a program that I know is going to be effective. I want to make sure we're not duplicating other things that are already out there, which we are. I want to make sure we're not in conflict with the other parts of state statute. We are being set up, and I'm embarrassed us. Thank you.

SENATOR CUDABACK: Thank you, Senator Thompson. Senator Foley, followed by Senator Don Pederson.

SENATOR FOLEY: Thank you, Mr. President and members. Good morning. I...since yesterday, someone provided me some additional backup money...back information on the trend of the state of Nebraska to receive TANF funding, and particularly TANF bonus funding. This was from the web site of the federal U.S. Department of Health and Human Services, and it shows that in 2003, state of Nebraska received \$2.9 million TANF bonus money; prior year, 2002, another \$2.9 million TANF bonus money; prior year, 2001, \$2.9 million; and then the year 2000, \$648,000 TANF bonus money. There's obviously a trend here of continuing receipt of funds to the state of Nebraska in TANF bonus money. Is that going to happen again next year? I'd say probably. Can I guarantee it? No. But this...there is obviously a very strong trend here of Nebraska getting regular allotments of substantial...not just Nebraska. All the states are getting it and this web site has the listings for all the states and Nebraska is right in there with the rest of them, getting our share of the pie. And the thinking...some of the thinking yesterday was, oh my God, we're going to spend this money, it's all gone, never going to come again. That's not true. That's not true. You know it's not true. Comes in every year. There was talk about, well, we don't even know who's going to do this work. Of course we don't know who's going to do this work. It was designed that way. It's a competitive solicitation, competitive. HHS will put out a request for proposals. It will be all done in the sunshine and the open air. Everybody can see it. Everybody can bid on it. Those proposals will be analyzed and ranked and scored, and a winner will be selected. And it's all a matter of public record. It's all done in the sunshine. Of course we don't know who's going to win today. How could we possibly know? My friends, there are three kinds of money in

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our state budget--federal, General Funds, cash funds. All I needed to say in my amendment was that we're using federal funds. I went beyond that. Told you where, where in federal funds it was coming from. It's coming from TANF. But I didn't need to do that. I could have simply used the term "federal funds" and that would have been sufficient and that would have been fully consistent with how federal funds are identified throughout our state budget. We've got...we've got billion-dollar line-items, billion-dollar line-items in our budget; says federal funds, and that's sufficient. Senator Schimek says there's no sunset. Of course there's a sunset. It's a two-year pilot program and that's specified very clearly, a two-year pilot program and that's all the funding that's provided. After that, HHS has got to come back in and make the case, if they want to go forward. If they want to go forward, they've got to make the case. We hear that there's no evaluation component. We're funding Senator Howard's home visitation program. When the Legislature voted for that bill, they voted for the bill with the understanding that there would be no A bill; and a lot of people voted for it saying, well, there's no A bill, let's just vote for this thing. The Appropriations Committee found some money to fund it. Is there an evaluation component? I don't think so. Can't have it both ways, Senator Thompson. This is a pilot program, a two-year pilot program. It's all been presented to the Legislature in aboveboard manner.

SENATOR CUDABACK: One minute.

SENATOR FOLEY: The terms of my amendment fully comply with all the statutory requirements regarding making a proper appropriation to a state agency. We've appropriated money to the Department of Health and Human Services. They will receive the money, they'll conduct a competitive solicitation, they will rank the proposals, then they will write a contract with a winning grantee, and that contract must be in conformity with federal and state law. They're not going off in some half-cocked manner, violating state law. That's ridiculous. They're going to write a contract that's in conformity with federal and state law. You know, the other day, I don't know if it was yesterday or the day before, Senator Raikes had a bill on

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the floor and he was trying to muster 33 votes for the E clause. He fell one vote short. Senator Landis came in and said, you know, I was unavoidably...

SENATOR CUDABACK: Time, Senator Foley.

SENATOR FOLEY: ...I was unavoidably absent so I've filed a reconsideration motion. Did you say time, Mr. President?

SENATOR CUDABACK: I said time, yes.

SENATOR FOLEY: Thank you.

SENATOR CUDABACK: Senator, thank you. Senator Don Pederson, followed by Senator Raikes.

SENATOR D. PEDERSON: Thank you, Mr. President. Cinco de Mayo, everybody. But I'm a little bit concerned about this bill and I'll tell you why...or this amendment. Our Appropriations Committee met. We heard this measure in a different form. We heard it as a program from Pennsylvania. We recognized, in discussing the matter, that there were a number of agencies in the state of Nebraska that perform the same service for pregnant women or women apparently who think they're pregnant. But that was not the issue. We decided that we had money from the TANF funds that could be used for the purposes for which we dedicated a certain number of dollars. I think the thing that bothers me the most about this proposal is the fact that, why is it before us? It's before us because there's \$500,000 federal dollars available so (a) it isn't going to cost us any money; (b) there's money that's already there from federal funds, therefore, we don't have to worry about it, doesn't come out of our budget. I think that that is exactly the kind of thinking that we have to avoid, because when we start spending money based upon the fact that it's there and it theoretically isn't going to cost us any money, although each one of us, I think, I'm not sure we all make it with our salary at the Legislature, but let's assume that everybody does pay an income tax, and part of that money goes for programs such as TANF. And I just think that we have to be very careful about encroaching upon the budget that the Appropriations Committee has proposed. We heard

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innumerable good ideas that we couldn't think that we could afford to spend it for, and I think that it's not a responsible thing for the Legislature to come in as an amendment to add this kind of money based upon the criteria that (a) there's a need, but without generally establishing what that need is in this particular case. We don't know very much about what programs we're talking about. Are there...are there a number of women that have problems with pregnancy? I'm certain that's the case. But we haven't established the need for this particular type program, and I think the thing that establishes its need is the fact there is money there for the program, and I think that's a poor rationale for determining that we should go forward with this program. This is not an issue of pro-life or not. It's an issue of how we should spend our money, and I think that we need to be very circumspect in how we do that, whether it's from cash funds, federal funds, or local General Funds in the state of Nebraska. So please use your judgment in respect to whether a program has been established, whether we think that this is an appropriate way to spend this kind of money. And it's spending all of the money that we've got right now in that particular program, which we think is not an appropriate way to handle it. But, be that as it may, I'm just expressing my opinion and I believe the opinion generally of the committee that this is not the appropriate way to approach the spending of money. Thank you.

SENATOR CUDABACK: Thank you, Senator Pederson. Senator Raikes, the motion to reconsider.

SENATOR RAIKES: Thank you, Mr. President. Members of the Legislature, I would like to support and underscore what Senator Pederson has just said about the Appropriations Committee's work. They considered this issue and decided not to include it in the budget. I guess I have not been convinced at this point that this is something that fits within the narrow focus of what it is we need and ought and must do as a state government, and I think it's particularly undefined, I guess I'll put it that way, in a few key areas at this particular point. My recommendation is to not include it on the General File discussion. That certainly does not foreclose the opportunity for those supporting this notion to revise it according to the discussion

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and reoffer it on Select File, but that would certainly be my preference. So I urge your support of the reconsideration motion. Thank you.

SENATOR CUDABACK: Thank you, Senator Raikes. Senator Chambers, followed by Senator Howard and others.

SENATOR CHAMBERS: Mr. President, members of the Legislature, the arguments that were given are very compelling, not just because I agree with them, but the Appropriations Committee does come in for a lot of grief. They do a tremendous amount of work. They have, however, access to information, individually and collectively, that we as nonmembers of that committee do not have readily at our disposal. On matters of this nature, where they're not just looking at one isolated item which a particular special interest group may want, they're looking at the totality of the budget. They're looking at the federal funds that come in. They have considered what these TANF funds ought to be used for. Senator Thompson pointed out that if the Governor decides that this is an appropriate use of the money, he can assume the responsibility and do this. When the Legislature does something, I have been emphasizing that we should legislate in a responsible manner. There is nothing at all in terms of guidelines that must be met by anybody trying to get this money. Politics can and will enter into it. The Legislature, in a sense, is abdicating its responsibility by not putting any guidelines. It is not unheard of for the Legislature to allow an agency to carry out legislative will, but courts have said repeatedly that the Legislature must give adequate guidance so that the agency is not, in fact, legislating but is, rather, carrying out the expressed will of the Legislature. And there are bills that the Legislature enacted into law which were stricken down because they constituted an inappropriate transfer of legislative authority to some other agency. When I listened to the discussion yesterday, there were organizations and agencies mentioned which are already in existence, providing these services, the names of which I didn't even know at the time. So there has been no showing whatsoever that the need, and I put that in quotes, that Senator Foley is talking about is not being met. I will not say I'm the only one concerned about the welfare of women, poor women, poor pregnant women, and I

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will not say that I have more concern than all of those categories of women, but I don't think there's anybody that has more concern than I do. When Senator Crosby was here, LaVon Crosby, she and I worked on many projects together although our views on abortion were diametrically opposed. We worked on Medicaid, Aid to Dependent Children, assistance to poor women, prenatal and postnatal care, and it was a kind of totality in our approach, which is lacking in what we're seeing here today. There was no attempt to single out or stack the deck in favor of a specific organization when no need was even shown to do that. A half million dollars is a lot of money. There are other established needs which that money could go for, but when you consider the appropriating process, to derail that when the amount is a half million dollars...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...should not be done in a light, frivolous, hasty manner. When you consider those on the floor who command a degree of respect from the body based on their experience, their stable approach to things, there seems to be a consensus, if not unanimity, surrounding the idea that this money should not be appropriated in the way that Senator Foley's amendment would have it appropriated. I support the reconsideration motion. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Howard, followed by Senator Landis and others.

SENATOR HOWARD: Thank you, Mr. President. Members of the body, when I came down here I had such respect for every one of these individuals, every one of you who are here today. And in the days I've been here I've learned many lessons, but one of the ones that concerns me the most is that we don't listen to those who have experience, who have worked hard on issues and who've come to you to tell you the truth. And doing a quick search this morning on the computer, we came up with 26 agencies here in Nebraska ready, willing, waiting to provide services to any, any pregnant woman under any circumstance. And you all know I come from Health and Human Services and have many years of working in this field. Never, never has there been a

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circumstance where a pregnant woman has ever been denied services of any type by any agency in the state. The need does not exceed the available resources. As a matter of fact, this is an area that's more than covered, more than covered by resources and by individuals and by community agencies who are willing to step forward. The need is to protect the children, those children who are already with us, those children who are vulnerable, those children who are left in the hands of an inappropriate caretaker, those toddlers, those toddlers whose mothers' boyfriends shake them, those little ones that have nobody who's saying, yes, I am concerned about them. And I'm so upset about this. I'm so upset that you've turned your back on this. I took a bill into Appropriations for additional case managers funding, and it's in Appropriations. I respect that. I know that times are tight. I know that they're being careful with a dollar. But to come forward with a bill now, not going through the proper channels, not respecting how things are done here and asking for dollars for a program that's already addressed, and start-up dollars, when we have excellent agencies here in this state; and then, to add insult to injury, to make an accusation that the program that I've brought forward has not been researched, does not have a track record, when in fact it's proven to be effective. If I sound upset it's because I am. It's because I am. You've all taught me many valuable lessons, but I have one to bring to you and teach you. Social work is an important field. Protecting children is our mission. Stand up. If you don't take this opportunity to protect the children that we have in this state, Nebraska is going to have to face some difficult consequences and very, very soon. I hope I've been able to convey my message. I hope you've listened to me. I hope those folks that are on the phone, I hope those people that are talking to one another are aware of what's happening here. This is critical. This is important. Thank you. And I offer the rest of my time to Senator Chambers.

SENATOR CUDABACK: Senator Chambers.

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Howard. And Senator Howard expressed thoughts, and I sometimes have to acknowledge that I have them, feelings that I entertain, when it comes to how children are treated, mistreated, and

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ignored. That does fit within the context of what we're talking about here. The money that is being siphoned off through Senator Foley's proposal is money that could go to establish needs that are not being met. It has not been my experience in the time I've been in this Legislature to see the body willingly shovel a half million dollars, whatever the source of the money, to an area where no need has been shown,...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...none whatsoever. Not only has no need been shown, but there is an overabundance of services and resources readily available to address whatever the need might be that somebody has tried to get money for. This process is one that should be given serious thought, and the process I mean I would break into two prongs--how the Appropriations Committee does its work, and how the Legislature then decides to derail that work. We are not going to throw \$500,000 toward anything else that goes against what the Appropriations Committee suggested. And...

SENATOR CUDABACK: Time, Senator Chambers.

SENATOR CHAMBERS: ...there are other things...oh, thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. (Visitors introduced.) Senator Landis, on the motion to reconsider.

SENATOR LANDIS: Thank you, Mr. Speaker, members of the Legislature. A debate about the merits or demerits of this particular amendment will I think fall on, if not deaf ears, ears that are listening to a different axis or dynamic than what's being talked about, because my interpretation is that this amendment is all about symbolism in the name of a program. It would be rare to give half a million dollars for a program that has so little documentation and support from the existing sources of assistance to children. It probably would have a different background and history. It would have probably come to us from a different group. It would probably have different people out in the lobby fighting for it if it wasn't the

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symbolism that it is, and the symbolism is against the backdrop of pro-life versus pro-choice. I also think that at this point in this body, this body has a choice between those two, and this body is now dominantly a pro-life Legislature. All right, fair enough. So if we're going to defy the Appropriations Committee and all of the existing known mechanisms of doing business on behalf of children to do symbolism, I would suggest that this Legislature, which is dominantly conservative and dominantly pro-life, merge those two things and find a cheaper way to do your symbolism than half a million dollars. If you need to be loyal and if you need to show a symbolic support I can't defy that, but you don't get to be conservatives and pro-lives when you spend half a million dollars for something for which we already do these program, have local support, and have people who are worried about children's well-being who are saying there are far more important ways to do this. If you want the symbolic victory, which I think is absolutely...I can understand why that's going to happen, I think you're in the majority, I think you're going to have your way, okay, could it just not cost so much? If we are going to have some money, can we put it to the ways in which we can demonstrate success, have existing mechanisms which are local, which have the support of child welfare systems, and can we buy our symbolism a little cheaper if we are conservatives? Because half a million bucks to send a message seems like a lot. Couldn't we do it for \$100,000 and spend \$400,000 on, let's say, some caseworkers, or some state troopers, or (laugh) some more other needs that we have? Couldn't we, if we were both conservative and pro-life, just be a little cheaper than this end run on the Appropriations Committee? That should be possible, shouldn't it? Because we lose our right to be called conservatives when we invent symbolic ways to spend half a million dollars for which we have no track record of success, compared to local programs that have the support of child welfare agencies and who have deep roots in Nebraska in doing the hard work of social services, case management, and child welfare.

SENATOR CUDABACK: Thank you, Senator Landis. Further discussion on the motion to reconsider the vote taken on AM1374? Senator Kruse.

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SENATOR KRUSE: Mr. President and members, thank you. I will support the motion for reconsideration. When we voted yesterday, I recognized the symbolism to which Senator Landis spoke quite eloquently, and thought, and was ready to let that go, and still am; not a great emotional issue to me. But what we did in my mind was inappropriate and I rise to speak to that. First of all, it's not appropriately on our plate. This is something that HHS can do. It's separate money. It's not even a cash fund. They can do this if they would want to. Along with that I would say the purposes of Senator Foley's amendment are fine. I have no quarrel with doing this. I would hope we are doing it. If HHS wants to do more of it, bless them; do that. My second "dis-ease" with this is that the amendment simply does not fit TANF guidelines. We spoke to that briefly yesterday, but I would ask you to look at that. TANF has four programs. It's clearly not under any of them. One is assisting needy families. That's not what this is. The second is reducing the dependency of needy parents by promoting job preparation. That's not what this is. The third is preventing out-of-wedlock pregnancies...I'm reading on page 159 of our big book...preventing out-of-wedlock pregnancies. Oh, would that this be it. I would love it if Senator Foley's bill spoke to this issue using TANF money or if HHS decided to use more TANF money. This is a huge problem to us. But his amendment does not address that. And the fourth one is encouraging the formation and maintenance of two-parent families. It is not what this is about. I also have a reservation because it does not envision professional counseling. I have been a professional counselor for all of my life. I have counseled many young, pregnant, unwed teenagers. I have never brought my agenda to that. The focus is on that young woman. That is where you focus in counseling. You don't try to figure out how to use this young woman to move your own agenda around, and that's a side piece of it. But again, it is a side piece. The real problem with it is that we are not fitting TANF guidelines; that we are striking off in an area that we don't need to deal with, even though we do need to affirm the basic premise of Senator Foley's amendment that we need to give support to young pregnant women. Thank you.

SENATOR CUDABACK: Thank you, Senator Kruse. On with discussion

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on the motion to reconsider. Senator Jensen.

SENATOR JENSEN: Thank you, Mr. President, members of the Legislature. First of all, I appreciate very much...and I've said it publicly to...and I've also said it privately to Senator Don Pederson...I just think the Appropriations Committee this year has done a very good, credible job, and I appreciate that. And I recall when we were at...all of us together, at the symposium at the Platte River State Park and I had moment to say a few things and I said that I think we need to be very careful; that we're coming off of several years of shortfall and now all of a sudden we've got some dollars, that we be very careful in the programs that we enter into in the future and how that might be affected. And, yes, then we get into a legislative session and then we sometimes forget some of that. But I do think it's very important that we be careful as to the programs that we enter into. And in the committees, when Senator Howard's bill came forward, it was a good bill. We worked on that. We brought it forward, but we did not pass that bill out of the committee with an A bill--no funding. Senator Howard did go to the Appropriations Committee and they funded that, and that is a good program. Don't...don't...I will not argue with that. We had that, a program like that, in Omaha several years ago and I was disappointed that the funding ran out and we had to cease that, because it was one of the few programs that we could look back and say, that was...that had good results. However, it is a new program that we have also taken these dollars out. Now, for years I've gone to conferences and I've looked at other states and I've listened to them and how they've used their TANF money, and I come back here to Nebraska energized and say, gee whiz, look at what these other states have done. They've taken TANF money and, like Oklahoma, set up a marriage program. Others have set up family programs. Some have funded uninsured. Some have funded clinics for the poor with their TANF money. So I come back to Nebraska and I say, why can't we use our TANF money for that? All of our TANF money in the past has gone for childcare, childcare; \$68 million a year we are spending today for childcare. We've never had any extra money until now we have some bonus money, if you want to call it. You want to call it reward money, whatever it is, we have these dollars, and so how can we use those? We used some for Senator Howard's bill.

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Senator Foley come in with a proposal and we've instituted that. Now what happens if those dollars are not there in the future? Yes, they're going to come back to this Legislature, I won't be here at that time, to say then can we fund these with General Funds? I don't know whether we can or whether we can't. I do know that certainly at the end of last year when we met at Platte River State Park I said we shouldn't have any more new programs or be very, very careful when you enter into a new program. But Senator Howard's, we did that one. Do we do this one? Perhaps. Also, as you look on the agenda on LB 425 that's before us, there are others that are asking for more dollars, and every year as we approach appropriations time there are those that ask for more dollars. One of those I have committed that, yes, I will try to increase more dollars for that particular program. So this is not something that all of a sudden this is bad, Senator Foley's bill is bad, because he's asking for dollars. And if we're going to take that approach that that's bad, let's not take any additions to our appropriations program because, same thing, they work long and they worked hard and they've...

SENATOR CUDABACK: One minute.

SENATOR JENSEN: ...come up with a...what they thought was the proper funding. Then we shouldn't take any of these extra items that are there. Senator Byars has ones on DD. I told him I support that, to increase that funding. There are some that would increase funding to the cities and others. But if we get back to where I was at the symposium, we shouldn't do that. We shouldn't go in any new programs. I supported Senator Foley's bill because I think that it is proven, but, again, we have to decide if that's what we want to do, and I hope you'll all search your soul on that. I think any time that we can improve people's lives, if we can improve our situation and families, that we should do that. With that, I hope you will all think a little bit about where we go from here and the process that we do. And if you look at the out years, we do have some problems,...

SENATOR CUDABACK: Time, Senator.

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SENATOR JENSEN: ...there's no question about it. This is a pilot program. If the funding isn't there in two years, it doesn't go on.

SENATOR CUDABACK: Time, Senator Jensen.

SENATOR JENSEN: Thank you.

SENATOR CUDABACK: Thank you. Senator Foley, followed by Senator Johnson.

SENATOR FOLEY: Thank you again, Mr. President. The...you know, when you offer legislative language on the floor here, whether it's a bill or a constitutional amendment or an amendment to someone else's bill, you try to anticipate where the opposition is going to come from and what arguments might be tossed back at you, and I guess I didn't think this thing through as carefully as perhaps I should have, because I would never have anticipated, I would never have anticipated the argument that Senator Howard brought to the floor and that the need is already being met. In fact, she said the need is more than being met. Oh, I don't think so, Senator Howard. I don't think so at all. That's not what we're seeing in the state of Nebraska. It's not what we're seeing anywhere in this country. What we're seeing is that women who are young, unmarried, poor and pregnant are in crisis, and they're turning to abortion as a solution. We have a program here that says, my friend, you're not alone; there are resources; we do want to stand by you and help you through this. What could be so offensive about that? To say that we've got all these 26 agencies that are already dealing with this, yeah, right. They operate on bake sales. There's one this weekend that's having a walk in the park that asked me to come over and walk with them for a couple of hours. If they have a good day, they might raise a few thousand dollars. There's a tremendous need here to help women who are pregnant and lack the financial resources and are hurting, a tremendous need. Senator Kruse acknowledged that and I appreciate his comments. Senator Raikes says don't tamper with the Appropriations Committee work. Seems to me I saw a Senator Raikes amendment coming up a little bit later trying to change the Appropriations Committee package. Ouch. Well, I think the debate is getting just a bit stale.

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We're hearing the same arguments over and over again. I don't know if I'll speak to this again. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Foley. Senator Johnson, followed by Senator Redfield.

SENATOR JOHNSON: Senator Chambers (sic), members of the Legislature, I don't think there's any question that this is a good and well-meaning program that Senator Foley is advocating. I don't think there's any question about that. But look around this Legislature. Who in this Legislature has a better record amongst us senators than our retiring Senator Thompson as far as the welfare of the young and the people that we're concerned about here today? Senator Howard has worked her whole life doing this, in the field on a day-to-day basis; Senator Kruse, same thing. They think that there are more important things that this Legislature should consider. Perhaps there are; perhaps there aren't. But it would seem to me that what Senator Jensen was alluding to we ought to consider, and that is, we like to think of ourselves as being fiscal conservatives. A week or so ago we had a big battle about funding \$200,000, not \$500,000, for rural economic development. It is stagnant. We don't know whether that's going to happen or not. Is it a good program? Probably is, but the sponsors of this are having a very difficult time advancing a program for rural economic development for \$200,000. But happy times are here again. Here's some free money; let's spend it. Let's not have it go through the legislative process. Let's not have it have to...its sponsors work hard to get this accomplished, like our people have been working hard for the rural economic development. Here's a good program, believe me. And I agree it is a good program, but compared to what? There are other programs out there. Next time that you have a chance, come around to hear the Health and Human Services Committee and find out about the great need in autism. There is a demonstrated need. We don't have the money to help these people. But here, where there isn't a demonstrated need, we're considering funding this to the tune of \$500,000. Next time you look in the mirror, see if you see a fiscal conservative. Thank you.

SENATOR CUDABACK: Thank you, Senator Johnson. Thanks for the

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compliment but, for the record, I'm not Senator Chambers. On with discussion. Senator Redfield.

SENATOR REDFIELD: Thank you, Mr. President. Members of the body, when this amendment came before us, I did not vote; not because I didn't see a need, not because I didn't see anything in this bill that I thought served a good purpose, but for an unusual reason. I really didn't want to see an organization like this become entangled with government and its rules and its constraints and its ill-ability to share its heart and its faith and its hope with the young women who are in need. When a woman goes to a clinic, it's because she has not found the support she needs at home, whether it's her husband, her boyfriend, her parents, her church, her family, extended. It's because she's desperate and she's feeling alone, and she's in a place where she needs all the hope that she can get. She needs a real friend. She doesn't need government. She needs a friend and somebody that will support her and provide some security through a tough time in her life. And I want to ask you what evil there is in this provision of maternity and infant clothing. I'm hearing speeches here that I can't fathom, that we're talking about something evil here, that we'd be doing great harm to provide maternity and infant clothing to a woman, food and supplies, information about pregnancy so she's not afraid of what she's going to face, information about medical services that she needs, information on adoption. This last weekend I held in my arms my first grandchild because there was a young woman that was provided information on adoption. Nutrition, parenting, the availability of additional public and private assistance to pregnant women and mothers of newborn children, there is no evil here in the purpose, no evil whatsoever. Yes, there are some services out there. Government provides a number. I know we have programs. But I would ask you, if you were a woman feeling alone and in need, if government is the first place you want to go. Will government provide you a friend? Will they give you a number to call late at night? Will they be there for you months ahead? I don't think so. We do our best to protect and defend. That's our purpose. But we're really not called to be the friends of the people. We're not called to provide the emotional needs of a young woman. We can provide the food and the clothing, some cash for rent, but

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these are desperate women in desperate times. I'm not going to support the motion to reconsider, even though I didn't vote for the amendment, because I see no evil here other than the fact that some nonprofit might become entangled with government. Thank you.

SENATOR CUDABACK: Thank you, Senator Redfield. The issue directly before the body is the motion to reconsider the Foley amendment, AM1374, to LB 425. On with discussion. Senator Aguilar, followed by Senator Stuhr.

SENATOR AGUILAR: Thank you, Mr. President and members. Happy Cinco de Mayo, everyone. I rise in support of the reconsideration motion, simply because I felt it was necessary for me to weigh in on this because yesterday I'd had a conversation with someone and I kind of committed to supporting Senator Foley's legislation, because I do believe in the concept of what he's trying to accomplish. That was all before. Then I came onto the floor and found out that that program could possibly jeopardize the funding for Senator Howard's legislation. Senator Howard's legislation came about as a result of recommendations from the Children's Task Force, a task force that myself and Senator Stuthman had the honor to serve on for quite a long period of time, and that was one of our strongest recommendations. We felt that it could do the most good for children in the state of Nebraska. So I, naturally, feel that my commitment belongs there. I've spent a lot of time and a lot energy on that task force, and that's my first commitment. So I'm going to stick with that and I hope some of the other senators will do as well. And I'd yield the rest of my time to Lady Howard.

SENATOR CUDABACK: Senator Howard.

SENATOR HOWARD: Thank you, Senator Aguilar. Thank you. I would have to say that if Senator Foley is indeed interested in the field of social work, I would welcome him to come in. I would welcome him to participate in this. But there's a very basic requirement, and that's when you work with individuals that you remain objective. You do not make decisions for them other than for young children. For those decisions that you are

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assisting people with, you do not make their decisions. And in doing our research and looking at the agencies that are available just here in Lincoln, just locally: Catholic Social Services, nearby, over on O Street. Their services include medical, marriage, and family counseling, and I can give you their phone number if you're interested. They offer mental health practitioners, family planning, family planning, pregnancy counseling and information services, adoption services. Catholic Charities has always been a leader in adoption services, marriage and family counseling. If you want a second choice, Lincoln Crisis Pregnancy Services, again nearby, over on O Street: marriage, family counseling, free pregnancy testing--you can find out if you're pregnant and it won't cost you anything, confidential counseling, and, and they offer 24-hour services, 24-hour help line. So in the middle of the night, you're anxious, you're worried, you're waking up, call. They offer family planning, pregnancy counseling, information services, marriage and family counseling, family crisis and intervention services. Lutheran Family Services, here is another choice for you in Lincoln, Lutheran Family Services, possibly your family was of a Lutheran background: marriage and family counseling, free counseling, free counseling to expectant parents, parental supporting advice, individual adoption plans if that's your choice. Nowhere, nowhere do any of these agencies indicate any, any indication of promoting abortion. These agencies are here to provide counseling, pure and simple. I've got the phone number. This agency, Lutheran, will be available to you any evening that you're interested, day or night. And Nebraska Children's Home, you've heard me mention Nebraska Children's Home. This is a traditional agency. No, Nebraska Children's Home doesn't operate simply on bake sales. Nebraska Children's Home has been well-funded by individuals that contribute back, that choose that as their charity of choice, that endow that charity because they so strongly believe in it. Nebraska...

SENATOR CUDABACK: One minute.

SENATOR HOWARD: ...Children's Home has a branch here in Lincoln as well. Their specialty is, frankly, adoption. Family planning is available, pregnancy counseling, information

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services, adoption agency that will help you with anything you need in that regard. And, yes, yes, Nebraska Children's Home, as well as these other agencies, will provide you with baby clothing. They would be happy to do that. They are more than willing to do that. They have...each of these agencies has supplies available at any time. So I am saying to you, you don't have to look any further than Lincoln and you can find any number of agencies. They're willing, ready, and will not turn you away. Thank you.

SENATOR CUDABACK: Thank you, Senator Howard and Senator Aguilar. Senator Stuhr, followed by Senator Engel.

SENATOR STUHR: Thank you, Mr. President and members of the body. I have not weighed in on the issue and I wanted to do so. I will be opposed to the motion to reconsider and I, too, am one of those that agree that we must be cautious, and I thank Senator Pederson and his committee for all of their work that they did in the Appropriations Committee. We have had a lot of talk about Senator Howard's bill this morning, and I think one thing that needs to be pointed out is that I do not believe the funding for her bill is in jeopardy. It is my understanding that there is \$500,000 available; \$200,000 of that is used for Senator Howard's bill, leaving \$300,000. Senator Foley is asking for \$250,000 of that remaining \$300,000. I supported Senator Howard's bill. I think it is a good bill. It is a new program. I do think it was rather bold to have a bill come out of committee with no funding and then go to the Appropriations Committee. I admire her for her persistence, but it is a little bit unusual because usually we do support the committee's recommendations. However, she did go to the Appropriations Committee, she did receive the funding, but there still remains funding to do this program. I had to get up and speak about a bill that I introduced this year, and I believe Senator John Synowiecki has introduced it previously, and that is the safe haven bill. We do not have a safe haven law in Nebraska. We are only one of five states that does not have a law to protect abandoned children. I have always said that if I could save the life of one child it would be worth it. It is basically about education, trying to reach those women, particularly that are very...in a very desperate situation, that they find a place, if

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they feel it is absolutely necessary that they cannot care for this baby, that they find a safe haven for it. And we need education for this program. I introduced a bill this year to form a task force to look and study this issue. As I say, we are only 1 of 5 states; 45 states. Last year, Iowa saved six babies because of their safe haven law. So you can't tell me that there's enough education. We can always use more education. I believe if Senator Crosby were here, she would be scolding all of you. She was a mentor who really believed in saving children and working with those young pregnant mothers. So I felt I had to express my thoughts on this issue and I will be opposing the reconsider. Thank you.

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

SENATOR ENGEL: I call the question.

SENATOR CUDABACK: The question has been called. Do I see five hands? I do see five hands. Question before the body is, shall debate cease on the motion to reconsider? All in favor vote aye; opposed, nay. Have you all voted on the question who care to? Have you all voted? Record please, Mr. Clerk.

CLERK: 27 ayes, 3 nays to cease debate, Mr. President.

SENATOR CUDABACK: The motion was successful. Debate does cease. Senator Schimek, you're recognized to close on your motion to reconsider.

SENATOR SCHIMEK: Thank you, Mr. President. I'd like to ask for a call of the house, please.

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

CLERK: 32 ayes, 0 nays, Mr. President, to place the house under call.

SENATOR CUDABACK: The house is under call. All unexcused personnel please report to the Chamber. Unauthorized personnel

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please leave the floor. The house is under call. Senator Johnson, would you check in, please? Senator Schrock, please. Senator Friend, please. And Senator Chambers also, and Senator Louden. Senator Beutler, Senator Thompson, please, and Senator Bourne. Senator Erdman. Senator Schimek, your time is running, as you know. You may close.

SENATOR SCHIMEK: Thank you, Mr. President and members. First of all, let me say up-front that I don't think there's anybody in here who does not care about children. I think children are the priority of all of us. And, Senator Redfield, I'd give anything to have that first grandchild and to be holding that one in my arms, and maybe I'll get the chance some day. What I want for children is to protect them. What I want for this body to do is choose the priorities which will give us the best expenditures of money. My concern about the Foley amendment is that it doesn't evaluate that proposal in conjunction with others that might be far more needed and far more important. I still would like to reiterate what I said in my opening remarks. This is a half a million dollars. Can you explain to your constituents why this program is needed? Can you tell them what the facts are about enough programs to provide these kinds of services? I don't believe it's demonstrated. The other concern I have, among many, is that if we do institute this program, and it would be a government program, Senator Redfield, it would be funded by government money and it wouldn't be different from any of the other programs we've had out there. I believe...

SENATOR CUDABACK: One minute.

SENATOR SCHIMEK: ...there are people in government programs who also care about children. But what would happen to those existing programs if we start up a brand new one? What kind of funding will they get, and will they have services going to waste, in a sense? Are we funding something that we will not be able to sustain two years down the road? I don't have the answers to these questions, and I don't know if any of you really do. I would just ask for your vote to reconsider the amendment that we adopted yesterday. If you vote to reconsider, then the amendment goes away, unless the maker of the amendment decides to put it back up on the agenda again. Thank you,

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Mr. President.

SENATOR CUDABACK: Thank you, Senator Schimek. Mr. Clerk, please read the motion before the body.

ASSISTANT CLERK: Mr. President, Senator Schimek has moved to reconsider the vote on the adoption of AM1374.

SENATOR CUDABACK: You've heard the motion as stated. All in favor of the motion vote aye; those opposed, nay. Have you all voted who care to? Senator Schimek, for what purpose do you rise?

SENATOR SCHIMEK: I'd like to ask for a roll call vote, please.

SENATOR CUDABACK: Been a request for a roll call vote. Mr. Clerk, when you get time, please call the roll on the question before the body.

ASSISTANT CLERK: (Roll call vote taken, Legislative Journal page 1382.) Vote is 14 ayes, 27 nays on the motion to reconsider, Mr. President.

SENATOR CUDABACK: The motion to reconsider was not successful and I do raise the call. Mr. Clerk, next motion.

ASSISTANT CLERK: Mr. President, next amendment to the committee amendments is offered by Senator Chambers. This is AM1429. (Legislative Journal page 1360.)

SENATOR CUDABACK: Senator Chambers, to open.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, this is an amendment that I hope you will give serious consideration to because I'm offering it in all seriousness. For the record, on page 10, strike lines 1 through 5 and insert the following: On line 2...well, on page 10 strike these lines as I mentioned. And I will tell you what happens when you strike 2, 3, and 4. We will do away with \$70,000 made available for transitional money for the Governor. I'm striking \$70,000 and I'm raising that amount to \$100,000. I do not think

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this amount is unreasonable. I don't think it is extravagant. And I think I'm probably the one who ought to offer such an amendment because I have had dispute with governors down through the years. But that has never prevented me from being willing to see that necessary activities are adequately funded. When you look at this transition money, don't just think of the Governor's ball or whatever they call it. I never attended anything like that although I was mightily tempted to do so because I think when they send the invitation they make some kind of comment at the bottom about the kind of clothing you ought to wear. And I thought about going there just the way that I am now to see if the State Patrol or whoever the security personnel are would try to stop me physically at the door, and if somehow I slip through they would try forcibly to remove me. But the whole thing was not of sufficient consequence for me to put anybody to that test. This is the money that would provide funding for all that is entailed in transitioning into office. I'm hoping that you will agree to this \$30,000 increase. It is not going to impair any program. It's not going to shortchange any program. And the \$100,000 total is not an extravagant amount. We can do everything on the cheap if we choose to do so. If we choose to do so, we can just strike all money for the transition and require the new Governor, whoever that person may happen to be, to go to corporations, those who contributed to his or her campaign, and try to gather enough money and maybe have in-kind services contributed to make this activity possible to be carried out. There was, before I offered a bill, a restriction on what could be available to provide travel expenses for the spouse of a Governor or something like that. But at any rate, corporations and others were asked to ante up this money. My feeling is that the spouse is a part of the bargain in a manner of speaking and the Governor would have his or her expenses paid, but it wouldn't be true for the spouse. And I thought there was something very unseemly and inappropriate about that so I was able to persuade my colleagues to change that. And it happened that it took place during the tenure of a Governor with which I was disputing and arguing all the time. Those political arguments should never extend to the operation of the office and what is needed to operate it, regardless of who happens to be occupying it. I think that this modest increase from \$70,000 to \$100,000 is reasonable. If you

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have any questions you want to put to me, I'm prepared to answer them. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. You've heard the opening on AM1429 offered by Senator Chambers to the committee amendments to LB 425. Open for discussion, Senator Don Pederson.

SENATOR D. PEDERSON: Mr. President, members of the Legislature, this is a very small amount and I know it's very well-intended by Senator Chambers. I think I should tell you why it is fixed at \$70,000. Number one, that's what was used the last time the transition was needed. Secondly, this is the amount of money that was requested by the Governor's office for a transition fund for the change of office in two more years. And then thirdly, as far as the money is concerned, it's our experience, I think, that we tend to use what money is available. And if they think that they can do it at the \$70,000 mark, then I think that's the target and they try and do it within that amount. I think if you made it \$100,000 be try and work within that figure; \$200,000 the same thing. So I think if they feel that they can do that at that price, that's fine; but there's another alternative. In the event that the cost of transition exceeded that amount of money, there is always the opportunity to come in for a deficit request. So with that and for the reasons that I've stated, I would request that you follow what the Appropriations Committee has done, recognizing that Senator Chambers is very well motivated in seeking this difference. Thank you.

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

SENATOR CHAMBERS: Mr. President, members of the Legislature, and respectfully to Senator Don Pederson, I would agree that if you made a large amount of money available some might find a way to spend it. But I went the other direction. If we struck all of the money, a way would be found to get the money, but the way that the money is going to be procured is not what I think ought to happen. We should not let an incumbent Governor limit what may be available for a new Governor, should that contingency

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arise. If we put the \$100,000 in there, we will see how it is spent and what it is spent for. We do not put restrictions on how the money is spent, and we should not try to itemize with a laundry list where each dollar should go. One thing that was discovered when I offered this amendment is that the amount ought not come out of the Cash Fund, as is the case in the budget, but it should come from the General Fund. So that correction is going to have to be made whether you up the amount to \$100,000 or not. Why would I do this? If \$70,000 was the amount used before, that doesn't mean that four years down the road you can get the same whatever it was you got for the same price. There are different tastes and different everythings when you have a new Governor. Sometimes an incumbent Governor who may be reelected will have different expenses or the cost of the same things that were provided four years before will have increased. We don't have to be cheap here. I don't believe anybody is going to applaud us because we failed to give this \$30,000 additional dollars for the purpose of this transition. I would like to ask Senator Don Pederson a question.

SENATOR CUDABACK: Senator Pederson, would you yield?

SENATOR CHAMBERS: Senator Pederson, because of the uniqueness of the present state of affairs in Nebraska, when you said this is the amount that the Governor asked for, would you identify by name which Governor that was?

SENATOR D. PEDERSON: Well, it's hard for me to know exactly which Governor it was because this was during the transition and they were preparing the budget together, which would be Governor Johanns and Lieutenant Governor Heineman at that time. But I don't know exactly who put the finishing touches on that, but that's the way it was presented to us, as a dual effort of both of them.

SENATOR CHAMBERS: But at that time, Governor Johanns was still in office.

SENATOR D. PEDERSON: That's correct.

SENATOR CHAMBERS: All right. Maybe Senator Heineman...I meant

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Lieutenant Governor Heineman would have had a different perspective had he known he'd be the person transitioning into that office. When you have two individuals working on a project and one is a lion and the other is a kitty cat...let me not say kitty cat, a Lynx rufus, or for Senator Connealy's benefit...or I should say Senator Schrock, you know, Lynx canadensis. That's just the Canadian lynx. The other one is the red lynx. You got a lynx and a lion. There is no parity. The lynx might say "rrrrrr" and the lion says "RRRRRR" and the lynx says, well, I guess you have it your way, Leo. There is no parity there. So when they say it was a joint decision, all that means is that...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...the lion said, this is the way it is, and the lynx said, amen, so let it be written, so let it be done. There's no way to determine what current Governor Heineman would have recommended were he making the decision. Frankly, I don't feel we have to be bound by what was offered in the early days of putting the budget together. Nobody, in my opinion, will be able to show me where this amount is extravagant or that it will lead to an extravagant, profligate expenditure of money. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. On with discussion of AM1429, Senator Don Pederson, followed by Senator Janssen.

SENATOR D. PEDERSON: Thank you, Mr. President. Senator Chambers is totally correct in that the funding source for this should be General Funds instead of Cash Funds. It was an error in the preparation of that particular portion of the budget, and I'm glad that it was called to our attention. We do have an amendment, incidentally. In the event that this amendment of Senator Chambers is not approved, we have an amendment that changes the funding source to General Funds rather than Cash Funds. But let's just talk about, what are we really talking about? We're not talking about an inaugural ceremony or anything like that. That's done by separate funds. What we're talking about with transition funds is the office space, the telephone, secretary, and that sort of thing. It's not a big

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expense item. There are other means by which the transition takes place, but we're talking about specific transition funds. And it isn't as involved as might appear; and, of course, you couldn't do very much with \$70,000 or \$100,000 these days anyway. But we were trying to prepare for you, for your consideration, what both...I'm informed now that this was perhaps prepared under Governor Johanns, but that now Governor Heineman concurs that this is an adequate amount of money for this purpose. So it's always hard when someone says I need \$70,000 to say, well, okay, you probably need more than that. And so if give them more money, I think it's a question as to why you're doing that because we do have the alternative, as I mentioned earlier, in the event that for some unforeseen circumstances the actual cost did exceed this, there could be a request for a deficit appropriation. And I would think that that's a better approach to take in this regard. That's the approach that we did take. So with that, I would urge that we keep with the budget proposal. And we just spent a half a million dollars on one project, and now here I'm fighting with Senator Chambers over \$30,000, but it's a question of superimposing our judgment over the judgment of the people who have been through this process and believe that that's the necessary amount for this purpose. So thank you very much.

SENATOR CUDABACK: Thank you, Senator Pederson. (Visitors introduced.) On with discussion, Senator Janssen.

SENATOR JANSSEN: Thank you, Senator Cudaback, members of the Legislature. In looking at what Senator Chambers is proposing to do, the amount of \$70,000 which is allocated there now, I have a problem with knowing where this money goes. What is it expended for? Senator Chambers, you want to raise that \$30,000. Maybe you could answer a few questions for me.

SENATOR CUDABACK: Senator Chambers, would you respond?

SENATOR CHAMBERS: I'll give it my best shot, Mr. President, and Senator Janssen.

SENATOR JANSSEN: All right. Senator Chambers, what...you've been here a long time. What would these dollars be spent on?

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Can you...and I know Senator Pederson alluded a little bit of it, but what would you be doing with \$100,000 or even \$70,000?

SENATOR CHAMBERS: (Laugh) The way you phrase the question by asking what would I be doing with it...

SENATOR JANSSEN: Well, you never know.

SENATOR CHAMBERS: ...if it were me, I would, first of all, open the mansion to all of the citizens in the same way that Andrew Jackson opened the White House to all the citizens when he became the President. I would make food and soft drinks available to every person with or without a home. If there were furnishings that had to be moved or changed around, money would be spent for that purpose. If I had to do some checking around to see how I was going to staff various positions, some money could go for that. But speaking from personal experience, I have no idea what the money would be used for. But somebody probably could give you some rundown, but I don't know if anybody on the floor has that awareness. But I just believe if something cost \$70,000 four years ago, giving \$100,000 for it now is not lavish or overly extravagant.

SENATOR JANSSEN: Thank you, Senator Chambers. Senator Pederson.

SENATOR CUDABACK: Senator Pederson, would you yield?

SENATOR D. PEDERSON: Yes.

SENATOR CUDABACK: Would you allude a little farther on where this money goes. Is it for stationery, changing stationery or changing staff people? You know, what could it be used for, other than the mansion that Senator Chambers alluded to?

SENATOR D. PEDERSON: I imagine that the stationery...I don't know specifically, but I imagine stationery and things like that are done through other sources. It's just the transition of the funds for...or transition of the office. And you've seen it when it takes place here when we have a change of administration. And maybe there won't be a change of

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administration. We don't know, but the fund needed would be the same in that they would provide simply office space, telephone, hiring the staff person for the brief period of transition that we're talking about, not full-time employment. It's just that brief period of time between the election and the assuming of the office in January. So we're really talking about a month.

SENATOR JANSSEN: So we appropriate this then just once every four years or...and that will take care of the...

SENATOR CUDABACK: One minute.

SENATOR JANSSEN: ...transition period in that four years? What if you don't have a transmission...or (laugh) a transition period if you keep the same Governor? What would happen then? Would you still appropriate that much money?

SENATOR D. PEDERSON: Well, we have this happen. You heard initially when I first started these various bills, sometimes you overestimate certain things and maybe it wouldn't be used. But that money would lapse then and come back into the General Funds.

SENATOR JANSSEN: Thank you, Senator Pederson. I see "General" Bare in the back behind the glass. I'll go out and ask him. Thank you very much for the time.

SENATOR CUDABACK: Thank you, Senator Janssen. Senator Pederson, you may continue. This will be your third time.

SENATOR D. PEDERSON: Okay. This, as I said, this is a very well-meaning proposal. But I want to mention that when this fund was established at \$70,000, that was figuring in all of the increase in cost and things of that nature, so it wasn't a figure that was just, say, let's say \$70,000. They have an experience that goes with that \$70,000. And if you wish to give additional money for this purpose as Senator Chambers is proposing, I don't have any objection to it. I just think that when the people in office and people who have experienced this change say it's going to cost \$70,000, I think it's difficult for me to see that we should attempt to superimpose our judgment

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over those people. And we do have recourses either way. If we overfund it, the amount will come back. If we underfund it, we can achieve that by way of deficit appropriation. So I think this is something that I'll just leave up to you. Thank you.

SENATOR CUDABACK: Thank you, Senator Pederson. Senator Chambers, there are no further lights on.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I could not provide what might be called a passionate defense or argument for this money. There is no passionate opposition to it. I just believe we should stop doing things on the cheap. You cannot always go by what current officeholders say. There have been senators who voted against a salary increase for senators. When I was fighting tooth and nail to get expenses for senators, there were senators who voted against that, but they accepted them once we did the hard work. The current Governor has said he will veto a bill to raise the salaries for those constitutional officers. So that shows you take what those people in office say with a grain of salt. They might be fearful of political repercussions if they do not indicate that they think things ought to be done on the cheap. If the public were asked do they think that transitional...the cost of transition should be paid by the state, most people, if you told them what that meant, they'd say, yes. If you said, well, it takes about \$200,000, they'd say, okay. They are not going to parse this amount of money. They will look at it as, first of all, dealing with a necessary activity. Senator Don Pederson pointed out that any of this money that is not spent will lapse. Well, let us see what the Governor is going to do with it--\$30,000 above what is here now. I say again, whether you accept this or not you're going to have to amend this portion of the budget bill because it says this amount comes from Cash Funds but it doesn't. I hope you will give this amount. And while I'm on the floor, you may think that every amendment I offer is just to take time because I said I'm going to divide the question on the budget. I've talked to the Speaker and in that conversation I was the lynx and he was the lion. And the lynx said to the lion, all right, Leo, have it your way. So if the question will be divided on the committee amendment that the Appropriations Committee is presenting, that

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request will be made by somebody other than me. And I'm sure that probably disappoints Senator Don Pederson, because knowing how thorough he is, I'm sure he has crammed so that he could answer any question anybody would ask on any section, over 100 of which are in the committee amendment. So he'll just have to suffer this disappointment, maybe get a cup of coffee, take consolation from those who understand this appointment, and make do. I mention that to you so you'll be aware this amendment is not a part of an overall strategy. I was going through the budget book that we were given that narrates things, read through some of the budget bill itself, the committee amendment, and this did jump out at me among other things. Rather than trying to deal with every issue that I saw worthy of being dealt with, I felt this one was reasonable. It's not outlandish. It's even ecumenical. So I hope you will vote to accept this amendment. Mr. President, I would ask for a call of the house.

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

ASSISTANT CLERK: 16 ayes, 2 nays to go under call, Mr. President.

SENATOR CUDABACK: The house is under call. All unauthorized personnel please leave the floor. Unexcused senators report to the Chamber. The house is under call. Members, please check in. The house is under call if you're not excused. Senator Cunningham, Senator Flood, Senators Langemeier, Raikes, Schrock, Schimek, Stuhr. Senators Landis, Fischer, Kremer, Wehrbein, Smith. Senators Preister, Beutler, Thompson, Bourne, and Aguilar. The house is under call. Senator Landis, Senator Preister, Senator Beutler, Senator Thompson, Senator Bourne, Senator Aguilar. Senator Preister and Senator Aguilar. All members are present or accounted for. The question before the body is, shall AM1429 be adopted to the committee amendments to LB 425? All in favor vote aye; all those opposed, nay. The question is, shall AM1429 be adopted? Have you all voted on the issue who care to? Senator Chambers, for what purpose do you...

SENATOR CHAMBERS: Request a roll call vote.

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SENATOR CUDABACK: A roll call vote has been requested. Mr. Clerk, when you get time, please call the roll on the question before the body.

ASSISTANT CLERK: (Roll call vote taken, Legislative Journal pages 1382-1383.) The vote is 13 ayes, 14 nays on the adoption of Senator Chambers' amendment.

SENATOR CUDABACK: The motion was not successful. I do raise the call. Mr. Clerk, next motion before the body.

ASSISTANT CLERK: Mr. President, Senator Raikes would move to amend with AM1432. (Legislative Journal page 1371.)

SENATOR CUDABACK: Mr. Clerk.

ASSISTANT CLERK: Mr. President, Senator Raikes would offer AM1432.

SENATOR CUDABACK: Senator Raikes, you're recognized to open on AM1432 to the committee amendments to LB 425.

SENATOR RAIKES: Thank you, Mr. President and members of the Legislature. This amendment deals with funding special education in K-12 schools in Nebraska. The issue of special education was referred to by Senator Pederson in his opening comments on this bill, LB 425. Our...just to remind you a little bit, our current statute basically approaches special ed in the following manner. It is a separate funding stream and it is capped as follows: Currently, the Legislature has a base which is...the base in the current year for special ed funding is a little over \$160 million. The maximum additional expenditure that the state can make for special ed is capped in statute at 5 percent. The way that works then for individual school systems is that the excess allocated costs for special ed are calculated by each school system in the state. That total is added up, then you calculate a ratio between the legislative cap and the actual total amount of expenditures. And each school system then is reimbursed using that percentage. So if you as a school system have \$1 million that is audited as an

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allocated excess cost for your special education programs, if the percentage is 75 percent, then you would be reimbursed by the state for \$750,000 and you, the local school district, would be responsible for covering the remaining \$250,000. And you would have the other resources available to you, your equalization aid, your property tax receipts, and so on. Over the past few years, what has happened, because of the increase in special ed education costs, is that that percentage has continually gone down. And this is on one of the handouts I think this is shown. The one with the graph shows that in 2000-2001 the percentage of reimbursement to the school districts was about 85 percent and it has slipped in the last three years to just over 70 percent, 74 percent. The reason for that is that the actual expenses schools incur have increased at a more rapid rate than the 5 percent cap that is allowed. The Appropriations Committee, in its work--and I would remind you, of course, that the Appropriations Committee did its work before the revenue forecasting board met for its second time this session--they have recommended moving the cap back to 3 percent for the upcoming biennium. I'm not being at all critical of the Appropriations Committee, because the Governor actually recommended a zero increase over that period. I'm going to argue, though, that there are a couple of important reasons that either a zero...particularly a 0 percent but even a 3 percent increase is not altogether appropriate. The first and main one is that these are not optional expenditures by school districts. They are responding to a federal mandate to offer these programs. There is no choice. Each student that's identified for special ed is...there's an IED, individual...or IEP, individual education plan, that's developed. And it is the responsibility of the school to support that program and provide whatever resources are necessary for that program to take place. So this is not something optional. This is something that is required of schools to perform. Even with a 5 percent cap, there is considerable incentive for school districts to do what they can to hold these costs down because they are not, even on the mandated things they must do, reimbursed dollar for dollar. The best, as I mention on this chart, was at one point they got 85 cents for every dollar they had to spend. Now it's down to 73 or 74 cents. Given the rate of cost increases and so on, that percentage in reimbursement, even with the 5 percent cap,

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is going to go down much below that. So this creates a financial bind, if you will, for individual school systems. And because there is no choice as to whether or not these programs are funded, if there's not money, reimbursement money available, then their only choice is to take it from other programs that they may offer. A second concern that you need to have in dealing with reducing special ed funding is the equity of individual school systems. It is the case, as you can well imagine, that in the state there are certain school systems that, maybe because of size or other resources available, have become more or less magnet schools for special education services. They do an excellent job of that. Many of the parents of the students who are identified as special ed students recognize that so that you tend to have somewhat of a concentration of special ed students in certain school systems. This probably, and I don't have the statistical information to back this up, it probably involves some of the higher-need special ed students rather than the mildly...mild level, level I students, but certainly is the case for probably all special ed students to some extent. If you cut the funding, then that is a relatively inequitable treatment of those school systems as compared to the ones who don't have as many special ed students or don't offer quite the number of programs. So certainly again the two points I would emphasize there are the obligation, it's not a choice, it's something that must be done. The second one is that you run into equity issues when you cut back on funding this important program. The third point I want to make, I'll make use of another handout, if you will, and that is the agenda and the green sheet on the back of it. If you look at the General Fund financial status, you look at the boxed in numbers in the section headed "Ending Balance," you can see that there is approximately a little less than \$60 million available in the current biennium that we are budgeting for, whereas if you go out to the next biennium, you face a significant hole, almost a \$100 million hole. Special ed...funding special ed has the effect of transferring obligations from the far out or the \$100 million hole biennium to the current biennium. And I've made an effort to demonstrate that impact on the other single sheet handout that I've passed around. What that shows you is that if you fund special ed at the full 5 percent level, the actual financial impact is \$10 million in the current biennium,

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3.2 plus 6.7. It's only about \$3.5 million in the out biennium. So by and large you're transferring an obligation, particularly if you note from the fiscal year 2008-2009...

SENATOR CUDABACK: One minute.

SENATOR RAIKES: ...to a current year. In most budget scenarios we've faced since I've been in here, that's not something you'd want to do, but it is something we want to do in the budget situation we face now. We are better off budgetwise to transfer obligations from the out year's to the current year's, and that is what funding special education at its full 5 percent rate does. So that's an advantage in addition to the two I mentioned before. I think this is an appropriate thing to do. I will mention in addition that among the programs that we discuss in terms of budgeting, there are a number of excellent potential programs that come up. Some of them, although excellent in my view, do not fit in the narrow range of programs that are absolutely required...

SENATOR CUDABACK: Time, Senator Raikes.

SENATOR RAIKES: ...by government. Thank you.

SENATOR CUDABACK: You've heard the opening on the Raikes amendment, AM1432, to the Appropriations Committee amendments to LB 425. Open for discussion, Senator Don Pederson.

SENATOR D. PEDERSON: Thank you, Mr. President, members of the Legislature. Senator Raikes and I have visited about this for some time and trying to determine just exactly how to handle this. Special education is something that's with us. Under our law, we can go to 5 percent so it's 0 to 5 percent. And in the Governor's budget, it was zero, and we didn't think that was appropriate and we didn't think that that was going to serve the best interest of either the school districts or the long-range budget situation. Five percent, if you look at it...the reason we went to 5 percent a number of years ago was because they were going over 5 percent as far as special ed was concerned within the school system. And as I mentioned yesterday when I started talking about things that we did, this is one of those items

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that we're going to pay one way or the other. And when you look at special education, Senator Raikes is talking about adding about \$10 million to this biennium by paying the special education. So what's the net effect? I think that we more than pick it up in the out biennium. So one of the considerations that we have...I have not, candidly, seen the economic proposals that are to be submitted later. But what I know of them is that primarily the money is what we call back-end loaded. That is, the first few years it's low, but then after that it goes up considerably. So we have been visiting in terms of what should we do in the current biennium. Certainly we don't want to just spend money unnecessarily, but we do consider perhaps making some adjustments. May I ask Senator Raikes a question?

SENATOR CUDABACK: Senator Raikes.

SENATOR RAIKES: Yes.

SENATOR D. PEDERSON: Senator Raikes, I know that you felt that it was important to present this proposal at this time so that the body was aware of what you were considering doing. Is that correct?

SENATOR RAIKES: Yes, that is correct, Senator.

SENATOR D. PEDERSON: And we have discussed the long range of this and that perhaps this is a matter that we might see how the budget goes in the first round and then review and after we get the economic package see where we are and perhaps this could be dealt with in the Select File portion of our process. Is that correct?

SENATOR RAIKES: Yes, I agree with that assessment, Senator.

SENATOR D. PEDERSON: So with that, I think it's important that the position that Senator Raikes is presenting is brought to you at this time. And this is one of those pay me now or pay me later deals. And perhaps this is as good a time as any for you to be aware of the fact that we do have this upcoming problem. And I'm glad that Senator Raikes has filed this amendment and we'll see how it proceeds. I believe that he intends to take

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action in connection with the later handling of this. Thank you.

SENATOR CUDABACK: Thank you, Senator Pederson. Further discussion on the Raikes amendment, Senator Kopplin.

SENATOR KOPPLIN: Thank you, Mr. President, members of the body. I am in support of Senator Raikes' proposal, and I'd like to share a few thoughts with you about special education funding. My thoughts won't necessarily be approved by all of my colleagues out in the education world. Frankly, some of them would say, let's pay for it with General Fund money because it has a bigger effect on state aid down the road. I don't believe that's the best way to approach this problem, but that is a feeling of some people. And I may be challenged a little bit by some of my friends in the Department of Education on what I have to say, but that's okay. I spent many, many years in special education administration. And when we began, it was really quite simple. We would receive 90 percent reimbursement for level I funds, which is speech therapy and so on outside of the classroom. We would receive 90 percent reimbursement for those programs that are classroom programs once we had reached per pupil expenses, and the same thing with level III students, which were usually students that were contracted because we couldn't handle them. We pay the per pupil costs and then we receive 90 percent reimbursement. Preschool handicapped came along at 100 percent reimbursement, and actually that lasted through my career at 100 percent. But things have changed. Budget issues arose for the state, for the department, for everything else, so sometimes we get creative. And now we're saying, well, the federal government is now providing IDEA money, which is Individuals with Disabilities Education Act. Therefore, if we count that towards the 90 percent, we save some state dollars. State funding actually for school-age programs this past year has been more like 62 percent, 62 percent reimbursement to the schools. And then it will be qualified by saying, but you can use IDEA money to bring that up. It doesn't work that way necessarily. When you're a suburban school or a school that has an excellent special education program, you draw people there. That's the only place that some parents can get services, so they move to where they can have the best service

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for their children. And we're talking about severe cases: shaken baby syndrome, birth defects, so on, for preschoolers. IDEA money is based somewhat on poverty. When you're a suburban school, your percentage may not be very large, so you end up really with huge General Fund expenditures for preschool and for school-age programs. You do not get the funding back; therefore, you use General Fund monies which should be used somewhere else. Now to get back to my first suggestion, to some people that's okay because we're going to pay...we're going to raise then our needs and we're going to collect state aid down the road in a bigger amount than we would have.

SENATOR CUDABACK: One minute.

SENATOR KOPPLIN: Now I think that's the wrong approach. We need to fund special education at what we agreed to fund. We need to take care of these children. It's required by law and there's not a one reason in the world we should not. Good school systems do that. They pay for it with General Fund, but they are not getting the reimbursement that the state agreed to when all these programs were set up. I think the funding should be restored as best you can. It's still not going to...the 5 percent is still not going to bring it back to where it should be, but it certainly would help. It also has to be considered again the effect on state aid down the road. And with that, I will give my time back to the Chair.

SENATOR CUDABACK: Thank you, Senator Kopplin. (Visitors introduced.) On with discussion of the Raikes amendment, Senator Janssen.

SENATOR JANSSEN: Thank you, Mr. Cudaback, Senator Cudaback, members of the Legislature. Senator Raikes, could I ask you a few questions?

SENATOR CUDABACK: Senator Raikes, would you respond?

SENATOR RAIKES: Yes.

SENATOR JANSSEN: Senator Raikes, if we don't fund special ed as much as we can, will the districts still have to provide that

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service even though we don't fund it up to an amount that would be whole?

SENATOR RAIKES: Right, two points to make on that. Senator, you're right, those services have to be provided. It's a mandate. The special ed expenditures also are outside the budget lid, so there's not a budget lid cap on meeting those obligations. If there are not other resources available, then you have to meet those obligations by taking away from other programs that the school may offer. But it is something that has to be done.

SENATOR JANSSEN: Thank you, Senator Raikes. You answered my second question also. Where will these extra funds come from? To my years of being on a school board, there is only one source and that is from property taxes. Is that correct?

SENATOR RAIKES: Yes. As long as there's property tax resource still available under the lid, that would certainly be the case.

SENATOR JANSSEN: But I thought you just told me those special ed needs were over the lid.

SENATOR RAIKES: They're outside the budget lid.

SENATOR JANSSEN: Outside the budget?

SENATOR RAIKES: Yes. Yes.

SENATOR JANSSEN: All right. So what...

SENATOR RAIKES: But not the levy lid.

SENATOR JANSSEN: Folks, I just wanted to remind you, what do you hear the most complaint about, especially in the rural districts? I'm sure you all know what that answer is. It's property taxes. And if we don't fund special ed, which there is more of in every school in this state, unfortunately...we won't get into the cause of that right now. I think you all know what it is, or is a leading contributor to special ed. I think that Senator Raikes needs to have this. Maybe we don't need to

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decide that on the first round of debate, but I am going to be watching for it, and I think we do need to fund that with sales and income tax dollars, to the extent that we may have to hurt something else, because this is something that needs to be done. And I can't remember, unless it's just identification of students now with special needs, I know it's better than it used to be, but there's a lot more of it and I think we need to fund it from this source to help relieve the property tax burden. Thank you. With that, I'd give the rest of my time back to Senator Raikes if he'd like it.

SENATOR CUDABACK: Senator Raikes, if you'd care to use it, 1, 50.

SENATOR RAIKES: Thank you, Mr. President and thank you, Senator Janssen. I would just emphasize again what Senator Pederson has said, is that this turns out to be a pay me now or pay me later issue. This is...and that's again emphasizing the budgetary advantage of this, that's something that we obviously need to consider. I have...I started to mention, too, I guess, that there are a number of good programs that are going to be suggested to you or to us...

SENATOR CUDABACK: One minute.

SENATOR RAIKES: ...in terms of the budget. If you categorize or try to separate out those that are in that very narrow area of which the state has the obligation, there can't be any question, the state has an obligation. This is not an extra or a frill or anything like this. This is something that is absolutely required. That, I think, characterizes this particular program and the need for this particular funding, so I would urge you to keep that in mind. Thank you.

SENATOR CUDABACK: Thank you, Senator Raikes and Senator Janssen. Senator Kruse, followed by Senator Flood.

SENATOR KRUSE: Mr. President and members, thank you. I was just affirmed that within the committee we examined this fairly carefully and clearly recognize that it is pay me now or pay me later. I would like to raise a question with Senator Raikes if

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he is available.

SENATOR CUDABACK: Senator Raikes.

SENATOR KRUSE: These questions are for clarification so that we understand, all of us, what we're doing here more than anything else. The local schoolboard is responsible to plan and pay for the special ed. Is that correct?

SENATOR RAIKES: That's correct.

SENATOR KRUSE: They aren't under a 5 percent cap. I'm kind of pursuing this 5 percent figure, is it?

SENATOR RAIKES: No. The 5 percent cap is strictly a statutory creation, if you will, to limit the state's contribution for reimbursement.

SENATOR KRUSE: So...

SENATOR RAIKES: So if a particular school system...I think what you're asking, if I can...

SENATOR KRUSE: Go ahead.

SENATOR RAIKES: ...go on, if a particular school faced a situation where in order to meet the obligation of the special ed programs they were required to provide, more than a 5 percent increase in expenditures was required, they would in fact need to do that.

SENATOR KRUSE: All right. So the 5 percent then applies to us, not to them, and that's a figure we chose?

SENATOR RAIKES: That's correct.

SENATOR KRUSE: The obligation for paying for special ed, is that more with the local district or with the state? I've heard it kind of both ways.

SENATOR RAIKES: Well, and I think probably there are a couple

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different ways to approach that argument. It may go back to the...I'm not sure what the wording is in the federal statute that requires special education funding. Certainly if you go back to the state constitution it's free instruction in the common schools, which is a state obligation. And the state responds to that obligation by creating local school districts to partner with in achieving that goal. So to some extent the overall funding of K-12 schools, yes, the educational obligation is that of the state. But there is a delegation of authority to local school districts and a partnership in the funding. And that partnership involves a number of sources, certainly direct state aid to school systems, which includes equalization aid, it includes option funding, it includes allocated income tax. And it also includes an authorization for school systems to levy property taxes.

SENATOR KRUSE: So the budgeting responsibility is basically on the school districts.

SENATOR RAIKES: Yes. That's an authority that is delegated by the state to school districts.

SENATOR KRUSE: And if they need more money than we are giving them, they can go over the budgetary limit that's set aside or something, some term like that.

SENATOR RAIKES: For certain expenditures, special ed is one of them.

SENATOR KRUSE: Special ed is what I'm thinking about.

SENATOR RAIKES: Now they can't, for example, go over it because the...for teacher salaries or other general operating.

SENATOR KRUSE: I'm thinking of special ed on this. Then is there a minimum that we are required or expected to provide?

SENATOR CUDABACK: One minute.

SENATOR RAIKES: Well, the statutory obligation is 0 to 5 percent. So if you look at this year's funding base of

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\$161 million approximately, then it is the obligation of the state, according to statute, to provide at least \$161 million for the next two years. Now the upper range is 5 percent, so it could be a 5 percent on top of that base. The Governor chose 0 percent.

SENATOR KRUSE: Yeah.

SENATOR RAIKES: The Appropriations Committee chose 3 percent. I'm recommending, given our current situation, 5 percent. So all of those are within the law, so to speak.

SENATOR KRUSE: I would just...thank you. I would simply recognize that the competition with it, as already been pointed out, is the economic incentive package...

SENATOR CUDABACK: Time, Senator Kruse.

SENATOR KRUSE: ...that we are considering and will continue to consider. Thank you.

SENATOR CUDABACK: Thank you, Senator Kruse. Senator Flood, followed by Senator Loudon.

SENATOR FLOOD: Thank you, Mr. President, members. I agree with what Senator Janssen said. And he pointed out an issue that we find in the rural areas all the time, and that is constituents asking us about property taxes. As straightforward as this is, this not only addresses additional property tax on residents of a particular district, it also takes care of a need that will be addressed two years down the road in the budget anyway. We're essentially moving it from one pot to another. There is something happening across the state with special education, and I see it in rural Nebraska and in the bigger populated cities. Norfolk, for example, has become a hub of special education because we are the biggest school in northeast Nebraska. We see kids and their families moving from rural communities to Norfolk to receive services in autism, in special education of every kind. We have over 55 special education instructors in the Norfolk Public Schools. That is a big program. In the last four years, Norfolk special education programs have increased

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23.6 percent. Norfolk itself is responsible for 12 percent of the entire state's picture when it comes to special education. Senator Kruse raised the issue, is this a district responsibility or is this a state responsibility? Now I look at it this way. If special education students were scattered evenly across the state in their individual districts, placing a moderate but not high burden on every district in the state, moderate to low burden, that becomes maybe more of an argument for a district responsibility. But when individual communities, whether it be a Valentine, a Grand Island, Lincoln, Norfolk, Scottsbluff, North Platte, when they become special education hubs, that places an unreasonable burden at times on the property taxpayers and requires state assistance. In addition to that, Rule 19 of the Nebraska Department of Education requires, for instance, a school to be saddled with these expenses. Say you've got a young person that requires the service and they're in the Stanton Community Schools District, they need to go to Axtell for residential care and education. That's a \$50,000 per year cost that Stanton Public Schools assumes. State aid in this area is absolutely necessary. And by the formula as it's written, you're going to pay for it, and when I say you're, we're going to pay for it in two years anyway because we're two years in arrears on that. This is absolutely vital, I think, if we're going to send the message to education that we want to partner with education, help these kids that have these special needs from birth to age 21. That's what kinds of kids we're dealing with here. So I strongly support Senator Raikes' amendment. And I appreciate Senator Janssen's focus on what this does for property taxes. Thank you.

SENATOR CUDABACK: Thank you, Senator Flood. Senator Louden, on the Raikes amendment, AM1432.

SENATOR LOUDEN: Thank you, Mr. President and members of the body. I would like to certainly applaud the Appropriations Committee for raising the percentage from what the Governor had at 0 to 3 percent. And I certainly would support Senator Raikes' amendment to go to the 5 percent. I agree with Senator Janssen that this is something that will show up on our property taxes. This is, we find from our school districts in the districts that I represent that special ed is a problem,

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especially in some of your larger districts that have a lot of it, and even some of the other smaller rural districts when the...actually would be a higher percentage of students receiving special ed. As Senator Kopplin talked about when he first got into administration for special ed, I was on the school board back then, too, and we were reimbursed nearly 90-some percent, whatever the figure was, of our special ed funding. And now, why, we're down to 73 percent of it. I realize that special ed funding has increased considerably over the years, but this was something that was mandated by the state that had to be done. And personally, I think the state should really fund nearly all of it. I don't know as a local district should even have to come up with the 27 percent like they have been. I think it should be funded more on a state level. This was a state mandated program years ago and I think the 5 percent is the least that can be done now. This certainly will impact or help on the property taxes, and property taxes in support of schools in your rural areas is something that's actually, what would you say, eating our lunch out there from...and it's mostly support of our school systems. Many of the schools have high enough valuations out there that they receive very little state aid other than what they get through special education. So this is something that will help all school districts because of the percentage because it usually doesn't have as much effect on the needs as what your other state aid does. So I certainly support this amendment. Whether you do it now or on Select File wouldn't make any difference as far as I'm concerned. I would vote for it whenever it comes up. So thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Louden. Senator Stuhr, on the Raikes amendment.

SENATOR STUHR: Thank you, Mr. President and members of the body. I, too, am supportive of this amendment, I think, for many of the reasons that have been already stated by rural senators in regards to the property tax issue, and that it is helpful to all schools. Whether we are going to be able to look at the total 5 percent I think that is something that we can further negotiate. But I am pleased that the Appropriations Committee at least came up with the 3 percent, because I think that is very, very helpful. With that, I give the rest of my

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time back to the Chair. Thank you.

SENATOR CUDABACK: Thank you, Senator Stuhr. Senator Raikes, there are no further lights on. The Chair recognizes you to close on AM1432 if you care to.

SENATOR RAIKES: Thank you, Mr. President, members, and thank you all for the discussion. I hope the case has been made because I think it is a valid and important case. To recap, it would involve \$10 million expenditure to cover this obligation which is clearly an obligation of the state, in my view. It's not a frill or an extra program. I am confident that you will keep this in mind and that you will consider this as something we need to do. Senator Foley has given me an opportunity to explain on an earlier set of comments he made about, well, I'm arguing against a spending program that he offered on General File but here I've got one. Yes, I do. And my view is, and it's only my view, that General File is a time for us to hear about these sorts of budgetary needs and make the pitch for those. In my view, the time to actually take action and include it in the budget is on Select File. I don't think that we should be hearing brand new programs that nobody has mentioned before on Select File. I think General File is the time to hear these requests and try to come up with some sort of prioritization. I hope we've been effective in doing that and also convincing you that this needs to be a high priority. But with that, I am going to withdraw this amendment at this point and ask that it be refiled on Select. Thank you.

SENATOR CUDABACK: So ordered, Senator Raikes. Mr. Clerk, next amendment when you get time.

ASSISTANT CLERK: Mr. President, next amendment is offered by Senator Don Pederson, AM1364. (Legislative Journal page 1371.)

SENATOR CUDABACK: Senator Pederson, to open.

SENATOR D. PEDERSON: Mr. President, members of the Legislature, whenever you do a 170-page amendment, there is going to be an error, something is going to be left out or something is going to need correcting. Senator Chambers had alluded to one of

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those earlier on the transition fund. It was inaccurately described it was going to come from Cash Funds but actually it is going to come from General Funds. I have an amendment that will be heard sometime, it's at the bottom of the pile, but it will correct that to show that it really is General Funds that we use for that purpose. But I have an amendment now that on page 62 we add some verbiage that was inadvertently omitted. Since 1999, we have had a program concerning the pap smear, chlamydia proposals that require treatment, so forth; but we had a condition on that that was omitted somehow from this particular amendment. And this repeats the verbiage that was in our law since 1999 and just was missed. So all we do is we add that when we have the funds for treatment of these particular bad things in our society that there is a requirement that none of the General Funds provided for in this program shall be used to perform or facilitate the performance of abortion or to counsel or to refer for abortion. So it was an agreement that we had entered into, as I said, in 1999 that did provide that anyone could provide services for these problems in our society for women, and that by allowing anyone to perform the treatments and the counseling that goes with that, that we would not include abortion counseling or treatment in that process. So this is merely to clarify and to put back into this amendment what has been our law since 1999. Thank you.

SENATOR CUDABACK: Thank you, Senator Pederson. You've heard the opening on AM1364 to the committee amendments. Open for discussion. Senator Pederson, there are no lights on. He waives the opportunity to close. The question before the body, shall AM1364 be adopted to the committee amendments to LB 425? All in favor of the motion vote aye; those opposed, nay. We're voting on adoption of the Pederson amendment, AM1364. Have you all voted on the question who care to? Please record, Mr. Clerk.

ASSISTANT CLERK: 33 ayes, 0 nays on the adoption of Senator Pederson's amendment.

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

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ASSISTANT CLERK: Senator Byars would move to amend with AM1440. (Legislative Journal page 1372.)

SENATOR CUDABACK: Senator Byars, to open on your amendment, AM1440, to the committee amendments.

SENATOR BYARS: Thank you very much, Senator Cudaback, members of the body. I want to give you a little refresher course to those who have been in the body for some time and an educational background for those who are new to the body. This amendment is a substantially...substantial increase in the Appropriations Committee recommendations. And I'd like to explain to you why we're bringing it to you today. It does increase funding in the next fiscal year by \$643,000-plus of General Funds, but also brings in almost \$1 million in federal funds to match that; would increase the budget by \$1,675,000 in General Funds in 2006-2007; would bring in nearly \$3 million, \$2,678,000, in matching federal funds. Over almost 15 years ago in 1991 Developmental Disabilities Services Act was passed by this body calling for adequate and equitable funding for disabilities programs. And understand, what I'm bringing to you today is what I feel is, when we say rate equity, is a fairness issue. And the whole reason for this and the whole history behind this is that we have typically in our reimbursement system not funded entry-level direct care staff of those providers of services to people with developmental disabilities at even close to the same level that we pay our entry-level workers at Beatrice State Developmental Center and typically in our other institutional type settings around the state. In the early to mid 1990s, in order to try to correct this, the Appropriations Committee and the Legislature developed a funding methodology that was based on keeping the gap in salary between state employees and the employees of community-based providers from expanding, from getting larger. According to a study by Deloitte Touche at that time, state employees, and that still holds true, receive approximately 35 percent more salary and benefits for comparable responsibility for community providers. And the plan at that time was to tie the funding to 90 percent of the lowest-paid staff person at Beatrice State Developmental Center. This was done incrementally and it was considered at that time to be minimum funding that the state could defend if legal action were

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brought against them in the court. That happened several times in the nineties. The state subsequently was not the winner, and subsequent rate increases are based upon those raises that are received at entry level. So as we increase salaries to entry-level employees in our state budget, the Appropriations Committee, even in the worst of times, the toughest of economic times, has tried to keep faith in bringing that level up to 90 percent. Now equitable and equity in itself is a question mark. That also was addressed by the Legislature. When we started addressing this in the early nineties, we had providers in the state that were being paid on historical costs resulting in different rates to different providers in different areas. The lowest-paid providers received approximately 60 percent of the highest-paid providers. And over a ten-year period, that gap was narrowed and finally was eliminated four years ago. And I want to make certain that we don't confuse what I'm asking for here with what the typical provider reimbursement rates are within the budget and the increases or level funding or decreased that we've seen over the year, because those are the reimbursement rates that are based on the provision of services in total by the providers. What the piece that I'm asking you to maintain faith with what we've done in the past in AM1440 is, let's keep the faith of what we established a number of years ago by making certain that direct care staff with community-based providers are paid at at least 90 percent of the level of state direct care staff. Why? Why should we even be concerned about this? You know, we're putting this year, at least as I see, in our budget and our spending, we're putting \$1 million right now in HHS into hiring additional state employees to monitor quality. The very real impact of not giving the same type or similar type entry-level wages to direct care staff totally impacts on the quality of care that we, unfortunately, receive in community-based services. I think providers work hard and they find other places in their budget to subsidize these dollars so that they can try as best as possible to keep entry-level workers. But if you look at the turnover rates on direct care staff, because they can truly go to Arby's and McDonald's and Amigo's and I don't want to leave anybody out, but all of the fast food restaurants, they can make more money going there and working without the pressures and without the responsibility that they accept as an entry-level

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worker working with people with developmental disabilities. The difference between...and the committee has said, okay, we'll fund this at a 2 percent increase, the Governor asked for 0 in this situation, just as he did in special ed, and it means we need to spend more time educating him about people with disabilities and the providers and the need for the people that provide these services in this state. But the difference between that 2 and the 3 percent increase which I'm asking for makes a difference to the people who receive services, who receive supports from these providers. The quality of work, the ability to learn, the type of person that you attract with that fare, not an increase, not more money than state workers get, but only 90 percent of what state workers get. Many of these people already have second and third jobs and recruitment and retention is always tremendously problematic. The funding methodology that we have started and that we've continued with, even in the toughest times, should be continued so that we assure continuity and quality of supports that Nebraskans with developmental disabilities receive. And understand, this isn't an issue of...as the Appropriations Committee has looked at this issue they have tried to gauge their increases on reimbursements to keep people equal, to try to be not unfair to one person or another. But here we're looking at direct care staff. We're looking at individuals that we have worked really, really hard to try to get to the 90 percent level. We need to do this. As you've looked...and Senator Beutler has been very helpful and introduced a bill, and I know that in the off-session we're hopeful to move forward to looking at many of these problematic issues. What are the reasons that we have some of these issues that you see in the newspapers? Are we getting adequate training for direct-level staff? Are our providers providing enough direct-level staff to do appropriate supervision? And are we doing appropriate assessments, and are service coordinators doing...do we have adequate service coordination to be able to coordinate how many staff we have per residence? We've had some real serious problems relative to this. We're moving forward. The state is moving forward with a plan to address these issues. But believe me, if we don't stay current on the amount of wages that we pay...

SENATOR CUDABACK: One minute.

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SENATOR BYARS: ...entry-level staff, all of the quality issues are going to jump up and bite us. Now I know it's a huge money issue, but it's also a fairness and equity issue. It's quality of life for people with developmental disabilities. It's quality of life for those entry-level workers. And it's a provision of services that we, that we as a state have promised. And I think that we need to keep in mind that this is as equally important in providing for the protection of the citizens of our state as business incentives and other dollars that we have in our budget. And I would ask for your approval of AM1440.

SENATOR CUDABACK: Thank you, Senator Byars. You've heard the opening on the Byars amendment, AM1440 to the Appropriations Committee amendments. (Visitors introduced.) On with discussion of the Byars amendment, Senator Synowiecki, followed by Senator Don Pederson and six others.

SENATOR SYNOWIECKI: Thank you, Senator Cudaback and members. First of all, very sympathetic to what Senator Byars is attempting to do. Obviously we want to maintain a certain level of parity with the state employees relative to our provider rates, particularly the good work that those that work with developmental disabilities. I'm sure Senator Pederson will also shed some light on what the Appropriations Committee approach to provider rates were. Number one, this represents, this subject represents one of the greatest divergence with the Governor in terms of spending is provider rates generally. And the methodology undertaken by the Appropriations Committee, albeit very simplistic and maybe oversimplistic, but I thought it made some degree of sense in the sense that we took a group of providers that has had no increase since 2001 and then we had another group of providers that have received increases, albeit small, but increases every year since 2001, and we divided these two groups--those that had not received an increase since 2001, and they, as you can see in your budget book, were given the 3 percent each year increase; and those that received small increases, but have received increases subsequent to 2001, received the 2 percent increase. Essentially all of these increases, the 2 and 3 percent group, were substantially above the Governor who, for the most part, zeroed all the provider

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rates out within his budget. Again, I'm extremely sympathetic to those that provide these very valuable services to the population of our developmentally disabled. But we had some real tough choices in the Appropriations Committee. And I think that the methodology that we employed in separating these provider groups between historically what they have received in terms of provider rate increases made sense. And once we go into this opening up this provider rates and once we extract, if you will, one group out of the 2 percent group, you know, what is that going to do to the remainders within that 2 percent group? And for that matter, given the methodology undertaken by the Appropriations Committee, that would provide some philosophical basis, some reasoning for those provider groups that are receiving the 3 and 3, again, given the methodology undertaken by the Appropriations Committee. So it will be kind of a dangerous slope to go on here. If the AM1440 is adopted, there would be a good, sound, philosophical reasoning for reexamining the provider rates that are under the 3 percent grouping, as well those that would remain under the 2 percent grouping there would be some good, sound, philosophical reasons to take a second look at them. I would employ (sic) the body to adopt what the Appropriations Committee attempted to do. I think although it is a very simplistic approach, it embodies sound logic to what we did to attempt to rectify for those provider groups that have not received an increase since 2001 and to reconcile that with those that have received small increases subsequent to 2001, but have received yearly increases. I appreciate Senator Byars'...

SENATOR CUDABACK: One minute.

SENATOR SYNOWIECKI: ...attempts. Again, I'm sympathetic to those that he's trying to do. It's a very tough decision. The Appropriations Committee had a very tough decision, but I think what we did represents some sound logic. And I would recommend that we do not go in this direction to opening up these can of worms with this provider rates because we can be in for a long debate relative to the appropriations work. Thank you, Senator Cudaback.

SENATOR CUDABACK: Thank you, Senator Synowiecki. (Visitors

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introduced.) On with discussion, Senator Don Pederson.

SENATOR D. PEDERSON: Thank you, Mr. President, members of the Legislature. I, too, agree with what Senator Synowiecki has said. And by the way, he has been a really good member of the Appropriations Committee this year. I think they've all been good, but I think he brings an expertise in a lot of areas and I appreciate his service on the Appropriations Committee. So we were faced with an issue of how are we going to handle the various providers. And each one of them has a compelling story for additional funds. So we don't run out of needs and desires for additional money. And we felt that particularly in light of the fact that the Governor had provided zero for all of these, it was appropriate that we look to the history of the various providers and what they had received and what they had not received. And we found there were two classes of groups, as Senator Synowiecki has referred, and the one group had been receiving periodic, perhaps small, but periodic increases in their monies, but there was a group also that hadn't received anything since 2001. And we felt that there was a good dividing line in that respect. So we did decide to appropriate 2 percent for those who had received some and 3 percent for those that hadn't received any. And every one of them could tell us and show us and did, to a large extent, their needs for more monies than we were providing for. But we felt we had a restraint as far as dollars were concerned. So that was our form of equity. We were trying to be fair to the various providers. Now what changed the fairness that's alluded to by Senator Byars? And he has legitimate reasons for concern, as we all do, for all of the providers. But in his particular case he's talking about the people who are getting a 2 percent raise and what causes the difference. The difference is that when it was a negotiated salary change for state employees it was determined that the salary for state employees be 3 and 3.5...or 3.25 percent; 3 this year, 3.25 percent next year for the salary. So there we have the disparity between the salary that was awarded by the negotiation process for generally for state employees and what we had provided for the providers such as Senator Byars. But I think it all boils down to dollars. And with the 2 percent providers, we gave an increase of \$8,700,000 this year and \$16,900,000 next year. And this, you see, is one of the very

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big changes that we made in the budget that was provided by the Governor. This was one of the biggest certainly. But what Senator Byars is talking about and how that would make...now actually the group he is referring to, his group would be receiving 98.75 percent, not 100 percent but 98.75 this year under the methodology, and 98.6 next year. So it's a very small difference between what was provided by our committee and what was determined by state salary. So that's where the problem is--where does it boil down dollarwise? If we were going to be fair about this and not just provide for the people that Senator Byars is talking about, we would have to go back to all of the providers that we gave 2 percent and adjust theirs accordingly. Now what's the effect of that? An additional 1 percent increase for the 12 providers would total \$4,372,000 in '05-06 and \$8,492,000 in...

SENATOR CUDABACK: One minute.

SENATOR D. PEDERSON: ...'06-07. So you see, we can talk philosophy, but we also have to talk dollars. And we're talking about locking things into bases that we're going to keep on paying. And I think we need to be very, very cautious in making such change. But I don't feel that we could provide for Senator Byars' group and not provide for the others in the same fashion. And so I think if we talk about a matter of fairness, we tried to be as fair as we could within the dollars that we had available for that purpose. So with that, I would ask that you reject the proposal of Senator Byars and sustain...I know he's wounded right now, but he'll get over it, but...and then I would ask that you support what the Appropriations Committee determined after judgment, hearing all of the bodies that were asking for their rates for providers. Thank you.

SENATOR CUDABACK: Thank you, Senator Pederson. (Visitors introduced.) On with discussion, Senator Jensen.

SENATOR JENSEN: Thank you, Mr. President, members of the Legislature. And I do appreciate Senator Don Pederson's work and Senator Synowiecki's work in this area. You know, it was a year ago that we were discussing towards the end of the session a situation that happened here in Lincoln with some providers.

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And as we began to look into that situation, we did see, first of all, that here you have people who are receiving very low pay for the job that they are doing. And I'm just so thankful that we have people in this state that are willing to do those jobs, those positions, that many people just would not, regardless of the pay, be involved in. And we've got some great people out there that are doing tremendous work within our state. But also we saw as we looked into that situation that turnover rates were just excessive--60, 80, 90, even as much as 100 percent in some areas. And why is that? Well, it is because even though they would like to stay in that work, the pay is just so low. And this would...I do support Senator Byars' amendment here, and also recognizing the appropriations situation. But I think it's a matter of safety for those people with suffering from DD to ensure that they have good and proper employees in those positions. My, it is tough and it's always this tough time of the year when we look at these budgets and try to work the best that we can on providing services for people and certainly at a cost that the taxpayers of this state can bear. And, boy, I'm really cognizant of that. And if there's anything that we can do, I certainly would like to address those issues. But this is an area that it is because of the pay, it is because of the job that is required of these individuals that I certainly would like to see that they are paid at least a rate that they can even live off of and that becomes difficult. So I understand the appropriations process and I appreciate the job that has been done. But in this case I will be supporting Senator Byars in his effort to increase this amount. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Jensen. Senator Kopplin.

SENATOR KOPPLIN: Thank you, Mr. President, members of the body. I'm speaking in support of Senator Byars' amendment. We're dealing with a group of people, very dedicated people, on the low end of the scale salarywise, who are dealing with some of our most vulnerable citizens. If you were to go and see some of the work that is being done with these disabled people, it touches your heart deeply because we have citizens that years ago would have been hidden away in some home or some institution that are now out there making a contribution. And we are hiring

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people to work with them at the very lowest that we can get. They can't afford to stay in those jobs. The turnover is really great. I often get concerned when we start talking about, well, 2 percent raises or 3 percent raises or so on, because 2 percent of a middle-income person is still a whole lot more than 3 percent of the low-end scale. So I'm very much in support of Senator Byars' position and would urge the rest of you to support him also. Thank you.

SENATOR CUDABACK: Senator Stuthman.

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I, too, truly support Senator Byars' amendment. I've been fortunate to serve on the county board, four years on the disability development board, and four years on the mental health board. The average person doesn't realize the people that are dedicated to working with these people that have developmental disabilities. I really feel for those people. It takes special people. We also discussed the turnover. There are people that are really dedicated to working with these individuals. They go to the schooling, they pay for a lot of schooling. They go and help these individuals and are very serious about what they do. But then they finally realize, you know, that what they're working for they could earn a lot more money in another field, so they leave. Then another group has to be trained, another person has to be hired. These people that they're working for, the developmental disability individuals, you know, continually have to work with another instructor, another teacher, another assistant for these people. You know, and that's not good for those individuals also. These individuals are in a world of themselves. They can't help that. They can't help it the way they are. But we, as individuals here in the legislative body, as people in the state of Nebraska, do have the ability. We have two hands, a good mind to help these individuals. I'm really concerned about, you know, just a slight increase, you know, to help with the funding for this for the providers. A lot of times the 2 percent or 3 percent doesn't even cover the basic increase of cost that are coming forward every year as far as health insurance is concerned, the liability insurance, everything like that. So when these providers have to provide services for these people,

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they have to cut back. And do we want to cut back? No, I don't think we do. I did introduce a bill this year that did not make it. It was LB 728, and it was to try to provide a methodology of how we could reimburse providers for doing the service for, you know, developmental disabled people, you know, hopefully getting some method so that we could continue to provide the service and also have an increase, a normal increase and a substantial increase to the providers that were providing the service. As a county board member, the counties also participate in this to a small amount. But we have always seen that it seemed like when things got cut, we put the cut down onto the provider. They had to cut services or starve that program out. And I've seen a lot of programs be starved out. And it was at the expense of the individuals with disabilities that had to suffer. I think we can do, you know, something for these individuals. You know, I am in favor of Senator Byars' amendment. Maybe it don't go far enough, but we can only go so far. So with that, those are my comments. Thank you.

SENATOR CUDABACK: Thank you, Senator Stuthman. Mr. Clerk, items for the record?

ASSISTANT CLERK: Mr. President, your Committee on Enrollment and Review reports LB 421, LB 422, LB 423, and LB 424 to Select File. Amendments to be printed: Senator Schrock to LB 90; Senator Beutler to LB 57. Interim study resolution, LR 99, offered by Senator Brown; that will be referred to the Executive Board. New A bill. (Read LB 683A by title for the first time, Legislative Journal pages 1383-1385.)

Mr. President, I do have a priority motion. Senator Pahls would move to recess until 1:30 p.m.

SENATOR CUDABACK: You've heard the motion to recess until 1:30. All in favor of the motion say aye. Opposed, nay. We are recessed.

RECESS

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SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Good afternoon. Welcome to the George W. Norris Legislative Chamber. Senators, the afternoon session is about to reconvene. Please check in. Record please, Mr. Clerk.

CLERK: Mr. President, there is a quorum present.

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

CLERK: Not at this time, Mr. President.

SENATOR CUDABACK: Mr. Clerk, please inform the body where we were when we recessed for lunch.

CLERK: Mr. President, when we recessed for lunch, under consideration was LB 425. The committee amendments were under consideration. We are now considering an amendment to the committee amendments offered by Senator Byars, AM1440. (Legislative Journal page 1372.)

SENATOR CUDABACK: Senator Byars, you are next in line to speak.

SENATOR BYARS: Thank you, Senator Cudaback and members of the body. I know we all have a lot to discuss, coming back from lunch and our noontime meetings, but I think it is important that we come back to the important issue at hand, and this is, do we or do we not value our direct-level providers of care in our community-based programs? I think I've outlined pretty clearly, but I...the needs of these individuals, but I think it's important that, as we've heard the debate this morning, we...that the Appropriations Committee members, and appropriately so, have talked about the increases that they have asked for in this year's budget, to try to be equitable and bring those who are not being reimbursed enough up to a certain level and try to get equity, parity if you will, across the board. Again, something I think that needs to be kept in mind,

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those increases that were used as separate from the pay equity issue, that is, looking at providers of services and looking at their entire operational costs and what it is to bring them up to what would be considered by the Appropriations Committee and the executive branch as parity. What we saw years ago is that there is a significant difference between developmental disability services providers and other types of providers that are funded by Health and Human Services; and that if you look across the broad array of those service providers from behavioral health specialists to psychologists, psychiatrists to dentists to doctors to anybody, to hospitals to anybody in that array of services, most of those individuals that are funded by Health and Human Services don't have their entire client base made up in the same way that the client base is made up by developmental disabilities service providers. And I think it's important that you keep that in mind. And this why, significantly over a period of the last 10 to 15 years, we have looked at this group of people in a different light, a different way, than we have other areas of funding. So keep in mind we're talking two separate...we're talking one big general pot of General Fund dollars, but we're talking about different providers and a different client base that we're talking about for persons with developmental disabilities than we are in other areas. And we have to keep that definitely in mind. And when we look at that issue, I think it reminds us of the whole quality issue that we're faced with, the whole turnover, the retention issue that we have with direct care service providers. And I think, as we've looked over the years, and I can't remember the exact numbers, but I think somewhere upwards of 60 percent of those direct care staff turn over in any given year. So I think it's important that we're mindful of that. I do understand, and I...Senator Pederson will talk about this some more, that there was some carryover in the developmental disabilities fund from last year. I look at that, and I think he'll probably agree, that those were carried over because of a lack of management of funds. It wasn't because of an extra amount of dollars. Now could some of those possibly be used in some rate equity? Yes, there's a possibility of that happening. There's no reason that, therefore, that we can't look at these increases in the General Fund. And if those dollars can be utilized within the existing budget and we see that between now

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and Select File, we can look at that...

SENATOR CUDABACK: One minute.

SENATOR BYARS: ...as far as the appropriation process is concerned. But at this point, I would ask you that this is...these are people that need to be considered separately. The individuals that they're caring for and providing services for are very vulnerable, a very vulnerable population, and I would again ask you to move AM1440. I don't see a need for a huge extended debate on this, and I think most of us pretty well understand the situation. If there are any questions, I'll certainly take them or have any dialogue, but I see no reason why we have to have a huge extended debate. Thank you, Mr. Chair.

SENATOR CUDABACK: Thank you, Senator Byars. Senator Fischer, on the Byars amendment.

SENATOR FISCHER: Thank you, Mr. President and members. First of all, I'd like to thank Senator Pederson and all the members of the Appropriations Committee for the time that they have spent in preparing this budget and the information and the data that they looked over for it. I'd also like to thank Senator Byars for introducing this amendment because I do believe this is an important issue that we need to discuss. In my district, I would like to discuss two of the programs that we have that is affected by this amendment. One is in Valentine. This is a small program that employs from 20 to 25 people, and it supports about 18 clients. This is a group that's very close-knit. There are a number of individuals who move to our community to be a part of this program, and it also receives quite a bit of community support in the area around Valentine. The clients that are served, they are members of the community. They volunteer in a number of organizations. They are also employed by a number of businesses. This is an example of how community programs can work, but as Senator Byars said, it is hard to find people who are willing to be out there on the front lines and who are willing to provide these services at a very low salary. In Broken Bow, Mid-Nebraska Individual Services, they have a location there. They also have seven locations that

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serve 22 counties here in Nebraska. In Broken Bow, they serve 33 clients. These are mentally retarded adults. And they employ 33 full- and part-time employees. If you look at the money in this amendment, that would help to improve the salaries of these employees who are the direct line staff, and these are the people that work directly with the clients. The average starting salary for these direct line staff people in the state is \$8.33 an hour. In Broken Bow at Mid-Nebraska Individual Services, the starting salary for these direct line people who work directly with clients is only \$6.75 an hour. As you all know, these positions are needed, but they are also difficult to fill. And if these providers cannot offer a decent wage to employ people to work with these clients, then it will be the clients, and ultimately the communities, that will suffer. Is Senator Pederson here? Would he yield to a question, please?

SENATOR CUDABACK: Senator Pederson, would you yield to a question?

SENATOR D. PEDERSON: I'd be glad to.

SENATOR FISCHER: Thank you. Senator Pederson, I was...I've been told, and I don't know if this is correct or not, but I was told that we will get a federal match with the expenditure of the state's General Funds in regard to this.

SENATOR D. PEDERSON: There are federal matches, but I...it's a Medicaid match that goes to this.

SENATOR FISCHER: Medicaid match. Okay, the numbers that I was...thank you very much, Senator.

SENATOR D. PEDERSON: Thank you.

SENATOR FISCHER: The numbers that I was sent by a constituent was if the developmental disability providers, if they are moved to that 3 percent in the '05-06 budget, that would mean approximately \$640,000 in General Funds that would need to be spent, and the federal match would be about \$950,000. And for the fiscal year '06-07, it would mean a General Fund expenditure of about \$1.6 million,...

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SENATOR CUDABACK: One minute.

SENATOR FISCHER: ...with a federal match of \$2.6 million. And I would like to check those figures with Senator Pederson. I just received them over the noon hour. But as you can see, if these are correct, and I will check those with him, then I think it would be a good investment for the state, and we are getting some matching funds at a higher rate and from the federal government, and I think that would be very beneficial. But I think the bottom line on this is, is we need to pay those employees that are dealing with clients who are in desperate need of these services. Thank you very much, Mr. President. I will return the rest of my time to the Chair.

SENATOR CUDABACK: Thank you, Senator Fischer. On with discussion, Senator Engel. Is Senator Engel on the floor? I do not see him. We will pass over him for the moment. Senator Schimek.

SENATOR SCHIMEK: Yes, thank you, Mr. President and members. I stand in support of the Byars amendment, and I do so with mixed emotions because I, too, like Senator Fischer, would like to thank the Appropriations Committee for what they've done. They've really taken a step forward. And I'd also like to thank Senator Byars, of course. My interest in this stems not only from the interest in developmental disabilities but the fact that there are other providers out there also who have been contacting me. And I suspect that their concerns are the same concerns as those who provide for those with developmental disabilities. But there is a litany of worries that providers in general have, including food costs which have gone up 25 percent in the last four years; insurance costs which have skyrocketed since 9-11; workers' compensation which has increased over 100 percent; property taxes, utility charges, motor fuel costs, all have risen over normal inflation rates. In fact, this says, this particular letter from this provider says the Legislature added a 7 percent sales tax to all our service vendors. Staff costs have increased by 35 percent. And I...there's a whole list here. I'm not going to go through all of that. But the point is, I think that their remuneration has

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not kept pace with their costs. And this is certainly true for those who are providing for developmental disabilities, but it's probably just as true for all of the other service providers there are out there. And I know that it's a tough call. I know that we have to be careful how we prioritize things, but these are the people who are taking care of our most vulnerable citizens, and I am going to be supporting the Byars amendment. Thank you.

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

SENATOR ENGEL: Mr. President, members of the body, I want to give you just a little history. Ever since I signed my...before the ink was dry on my appointment, I became involved with those in the developmentally disabled situations. And over the years, I have worked very, very hard with others to get that pay equity up, because in the beginning, you have...I've found you have very, very dedicated people working with these people, but you can only be so dedicated, because you still have to make a living. And over the years, we did work very hard to get that pay equity up to where it is, and so I appreciate what Senator Byars is doing, but I hope that he can find another avenue to find this money between now and next year, because in Appropriations, I think we did what we could and over the years we have given them as much as we have increased their dollars, and this year we were unable to do that. So the 2 percent, they're very close to the 100 percent. So I will do everything I can between now and next session and...to see how we can perhaps fund that at that time. But in the meantime, I believe that Senator Byars can work with Senator Pederson and others and try to find those dollars in some other fund to bring this pay equity up. I would certainly appreciate that, but I am going along with the Appropriations Committee because I think we did what we had to do, but I do appreciate where these folks are. Thank you.

SENATOR CUDABACK: Thank you, Senator Engel. Senator Don Pederson.

SENATOR D. PEDERSON: Mr. President and members of the Legislature, this was kind of what I was worried about as we

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start to go through these, because one at a time, everybody has a compelling reason why we should add to the amount of money. And certainly, you can pick on developmental disability, and there isn't anybody that isn't in favor of supporting that. But you remember how tough it is to get the first peanut out of the jar, but once it opens, they kind of flow very freely, and I just don't want to see that happen to our budget because I think it's destructive. Now, over the noon hour, in visiting with the Fiscal Office, I was made aware of the fact that in the program for developmental disability, and Senator Byars alluded to that, there is money left over. And that money that's left over, if it's structured appropriately, could be used for this salary situation. It's...I'm very surprised. It seems to me it's a problem of management to a certain extent, in that we have somewhere between \$3 million and \$10 million in that fund available, and they have a waiting list. But the reason that it hasn't been spent is because they haven't been serving the people on the waiting list. So I think there's a management concern that I have in regard to this, and I don't know that Senator Byars disagrees with that particularly. I think it's something that needs to be addressed. But also, you know, we're not talking about...I mean, the people here that have been speaking speak very fluently and very concerned manner about the people who are providing services for the developmentally disabled. I'm with you on that. I agree with that situation. However, it isn't like they have been totally deprived. I mentioned, when I spoke earlier, that actually, when it comes to this rate equity situation, we funded this particular agency, as well as the others, at 98.75. And the concern is it didn't get to 100. And I think that that's a problem, because if we go to 100, and if we go using the same process that Senator Byars is referring to on developmental disability, I would feel very strongly that we would have to go back to all of those providers that got a 2 percent because the differential is what the state paid, which is 3 percent and 3.25 percent this year and next year, so I think that we would have to consider strongly adding to the money that would go to all of the other providers. We haven't heard from them one at a time, but they all could come in and tell you what they do and how they are not able to complete the work that they are supposed to do. So I just think that's a deep concern that I have, and that's a concern I think

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that the Appropriations Committee has had all along, and that is, we know we're not funding everything at the level it could and probably should be funded, but we didn't feel that we had the money to do that. So we did the best we could with the dollars we had available. And things have changed a bit in that the Forecasting Board has indicated that we will have more money. But somebody asked me just a little while ago, they said, you know, that's good news that you have more money, isn't it? And I said, well, it's good news and it's bad news. I mean, it's good news from the standpoint of the solvency of the state, but the problem is, when you say that you've got additional money, you have about ten people asking for each of those dollars that knows that they need it but that we haven't had money to provide for it. I'm just afraid you set a bad precedent, and I think that in the long run it's going to be a run on many things when we do this. So I think the difference here that we're talking about is not that big a difference, and I do believe that if it's structured appropriately and managed appropriately, that there is money right now in that fund to transfer some of that money into the salary...

SENATOR CUDABACK: One minute.

SENATOR D. PEDERSON: ...differential we're talking about and still have money available for the services. So we're asking that we take the place of appropriate management in that particular entity and that we give additional money, and I just don't think that's an appropriate use of that money. So I would ask reluctantly, frankly, that we reject the proposal of Senator Byars. And I know it's a very well-meaning proposal. I know that he feels very strongly about this issue, as many of us do, but that's not the point. The point is that we are establishing a biennial budget and we can't do it one piece at a time. We have to do it in a total package, and the Appropriations Committee viewed it in the light of fairness as to all concerned. So with that, I would once again urge that we reject this proposal and that we try and work with Senator Byars and see if we can't restructure some of the work in that agency. Thank you.

SENATOR CUDABACK: Thank you, Senator Pederson. On with

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discussion of the Byars amendment, Senator Beutler, followed by Senator Jensen.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, I would also recommend that you stay, in this case at least, with the Appropriations Committee's work. There are...Senator Byars' cause is a very deserving cause. He represents that segment of the population and that segment of the needy population very, very well. But there are also providers out there providing for the aged who need our help; for those who have mental health problems, they need our help; for the hospitals and the emergency rooms that are taking in loads of people; for nurses. There's a lot of provider need out there. And the Appropriations Committee tried to apportion all these things and do what was fair within the context of a reasonable budget, and I think we've done that. But I wanted to also mention one thing that was probably not a part of the decision-making process for many Appropriations Committee members, but very definitely was for me, because I've been caught up, along with Senator Schimek, in the incident in west Lincoln a time ago involving a group home. And Senator Schimek and I want through a long process of examining what went wrong there, what needs to be changed. And let me tell you that more money to the DD providers in the long term would be helpful, but in the short term, in my opinion, the DD providers are not measuring up in terms of allowing reforms to take place that really need to take place. And I think that this has to be a two-way street. The training that they do is inadequate in many cases. I know that to be a fact. The levels of care needed by different clients varies, and it's not always the case that a client with a high need is in a situation with a person that's trained well enough to meet that need. There's sometimes an inappropriate and excessive use of local law enforcement. That's a problem that's taking a lot of resource. It may have to do in some part with untrained people, it may have to do in some part with poor judgment on the part of those who are supervising. In some instances, it appears to be related to poor placement. There are still people being placed in these homes that are not, at least in the one case in west Lincoln, was not an appropriate placement. There's been inadequate communication with the neighborhoods and also with the

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Department of Health and Human Services. The people who run the group homes are supposed to be in contact with the neighborhoods and letting neighborhoods go...know what's happening. That's not happening the way it should, and so there is a fearful relationship growing in many places between the homes and the neighborhoods the homes are in, and that's a very, very unfortunate development. The...and some of the things that they need to do that they're not allowing to be done doesn't have anything, arguably, whatsoever to do with provider rates, but things like opposing in committee fine...a fine and penalty system that would apply to providers that applies to other kinds of providers but not to them. And they are resisting that, and that is one of the mechanisms by which some leverage can be brought on providers to perform up to standards. So there are a whole series of things that I think they need to react to.

SENATOR CUDABACK: One minute.

SENATOR BEUTLER: I don't think they can come to us and just ask for more and more money until there's some response and some promise and commitment, and statutory change backing up that promise and commitment, to operate in a different way, to operate in a way that makes more sense for the clients that they serve and will allow them to better serve those clients and to operate in a way that gains the confidence of the communities in which they live. They've had problems in Lincoln. I know they've had problems in Kearney, and the more recent information I've gotten is that these sorts of problems are not being solved, and that people are switching places and there's finagling going on. They really need, I think, to get their act together and come to us and say, we're going to operate in a different fashion but we do need more money to do that. And I think if they did that, there would be a little more...I know there would be...

SENATOR CUDABACK: Time, Senator Beutler.

SENATOR BEUTLER: ...a little more openness on my part to respond. Thank you.

SENATOR CUDABACK: Thank you, Senator. On with discussion,

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Senator Jensen.

SENATOR JENSEN: Thank you, Mr. President. I'd respectfully call for the question.

SENATOR CUDABACK: The question has been called. Do I see five hands? I do see five hands. The question before the body is, shall debate cease on the Byars amendment, AM1440, to the committee amendments? All in favor vote aye; all opposed, nay. The question before the body is, shall debate cease? Have you all voted on the question who care to? Record please, Mr. Clerk.

CLERK: 26 ayes, 4 nays to cease debate, Mr. President.

SENATOR CUDABACK: The motion was successful. Debate does cease. Senator Byars, you're recognized to close on AM1440. Sorry about that.

SENATOR BYARS: Thank you, Senator Cudaback and Matt for turning on the mike. We've had, I think, plenty of dialogue, and I think everyone knows, has enough information to make an objective decision. And I certainly didn't ever intend when we brought this amendment to the floor that it would be one that should take up hours and hours and days of debate, although I do feel that I certainly would be up to that and I feel the issue is important enough to have important dialogue. But we do have some differences of opinion. I certainly respect what Senator Beutler said and am in support of what he said. I have been a very strong advocate of trying to get the department to do a plan: where are we, where have we been, where are we going. We are finally under the direction of Ms. Montanez and Rene Ferdinand, who is head of the DD division now, moving forward on that plan, because all of those issues that he brought up need to be addressed. They do affect us and are a good reason why you should support this amendment, because one of the things that we found consistently is the fact that without...with a staff that turns over so regularly, it's impossible to have the kind of adequate training that you need. You need people that you train that can stay awhile and that start to understand the system. They are able to accept supervision better and are

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better stewards, not only our resources of the state but those resources in people that we have the obligation to protect and to empower in any way we possibly can. And let's...going back to what Senator Pederson said, which is right, and I hope between now and Select File, and I would like to ask you to move this along. Let's keep the pressure on so that I can work with the Appropriations Committee, and let's look and see with these dollars. I think there's been total inadequate mismanagement of DD dollars over in the department. Our waiting list has gone up from 600-and-some to well over 1,000, I think probably up around 2,000, of people that need services and aren't getting them. And I call that mismanagement when you have dollars left over that should be used for these individuals. You have providers just squeaking by, barely making it, and giving entry-level wages that are totally inadequate. And if we have these dollars, we need to use them for what we've appropriated for. I think it's interesting, and one last point I would make, in support of this issue. If you look at your business incentive plan that's coming out, which I tend to be in favor of, you look at a requirement, a new requirement in this plan that wasn't in LB 775, that the wages that would be required by companies to pay would be 60 percent of the average state wage, or \$19,600. You figure out what that amounts to per hour? It's maybe \$1.50 to \$2 higher, at least, than an entry-level wage of somebody at BSCC, and we're asking for 90 percent of that for our entry-level wages for people who are providing services to the most vulnerable people in this state. And I think it's important that we keep that in mind. I think we should move this amendment. I think it's important, and I think we can have some discussion between now and Select File to see how we are managing those funds and how we might best do that. But I think it's very appropriate and I don't feel the least bit uncomfortable with adding this into a budget, and I don't think we're starting down a slippery slope. I think we look at issues. Over the years, the Appropriations Committee in this Legislature have long recognized the importance of this minimum standard, and they have supported it, even in the toughest of times. And I don't see now that we have some additional revenues is the time that we turn our back on these individuals who need us so badly. And with that, Senator Cudaback, I yield my balance of my time back to the Chair.

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SENATOR CUDABACK: Thank you, Senator Byars. You've heard the closing on AM1440. The question before the body is, shall that amendment be adopted to the Appropriations Committee amendments? All in favor vote aye; opposed, nay. The question before the body is adoption of the Byars amendment, AM1440. Have you all voted on the question who care to? Senator...

SENATOR BYARS: Mr. Speaker, I would ask for a call of the house and a roll call vote.

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

CLERK: 27 ayes, 1 nay to go under call, Mr. President.

SENATOR CUDABACK: The motion was successful. The house is under call. All unexcused senators please report to the Chamber. Unofficial people please leave the floor. All unauthorized people please leave the floor. Unexcused senators report to the Chamber. All members are present or accounted for. There's been a request for a roll vote, in reverse order. Did I hear that correctly? Senator Thompson, for what...

SENATOR THOMPSON: In reverse order, please.

SENATOR CUDABACK: There's been a request in reverse order. Mr. Clerk, when you get time, please call the roll on the question.

CLERK: (Roll call vote taken, Legislative Journal page 1386.)
The vote is 17 ayes, 17 nays, Mr. President.

SENATOR CUDABACK: The motion was not successful. The amendment was not adopted, and I do raise the call. (Visitors introduced.) Mr. Clerk, next motion.

CLERK: Mr. President, Senator Mines would move to amend with AM1438. (Legislative Journal page 1372.)

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SENATOR CUDABACK: Senator Mines, to open on your motion (sic).

SENATOR MINES: Thank you, Mr. President, colleagues. AM1438 is offered for your consideration on the basic premise that a deal is a deal. Let me explain. State aid to municipalities has been funded by this body since 1967 when tax on personal property was removed. This was a promise made to municipalities to keep them whole from losses in personal property tax revenue, and this fund has been the target for state reductions in that fund ever since. In our most recent difficult fiscal years, our municipalities were asked to cooperate and bear their share of the burden for declining revenues, and they did. In fiscal year 2002-03, 2003-04, and 2004-05, cities and villages saw their state aid reduced by 25 percent, 34 percent, and 32.5 percent respectively. MIRF, or the Metropolitan Infrastructure Redevelopment Fund, carried a \$3 million expenditure into 2003, and we as a body decided to suspend that program for fiscal year 2003-04, but for a \$520,000 accommodation for Lincoln. This cut was intended to be temporary, and would be reinstated during this biennial session. In confirmation of that intent, I'd like to read to you a brief exchange on the floor between Senators Bourne and Beutler on May 1, 2003 regarding AM1661 to LB 440, and this won't take long and, believe it or not, it makes some sense. This is Senator Bourne: Now just let me clarify...Senator Bourne to Senator Beutler: Just let me clarify exactly what your amendment does, as your amendment says that the MIRF fund for every city except for Lincoln, and in return until the year 2005, and then MIRF will be restored or reinstated as it exists now, prior to LB 440. Is that accurate? And Senator Bourne further says: Okay, okay. And then, and then--you do stutter a bit, Senator--also what will happen is that in the mainline budget bill, the committee has recognized that they took an additional \$3 million in each year. The aid to municipalities took a 10 percent cut plus an additional \$3 million cut in each year. And so that your amendment would do, again, is eliminate the MIRF fund, except for the aid to Lincoln, until 2005. Then everything would be reinstated until 2009. And Senator Beutler responded: Senator, that's precisely it; you've got it. And this body, on a vote of 28-5 confirmed that amendment and the intent that MIRF funding of \$3 million

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would be reinstated in this budget. This year the Governor's budget restored \$2,480,000 to MIRF in honor of that obligation. However, the budget also was cut...the budget on aid to municipalities was cut an equal amount, \$2,480,000. Remember, the \$520,000 accommodation for Lincoln is removed from that. Municipalities have not been made whole as promised or as intended when this program was to be reinstated, and that's why I introduced AM1438. The Appropriations Committee concurs with this manipulation of funding, and I do have to agree with the process. The intent has not been followed. Cities are the economic engines that we want to stimulate. They provide local refunds and incentives to eligible businesses, and I believe it's fair that we honor our commitment to fully fund their state aid. As I stated originally, I believe a deal is a deal. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Mines. You've heard the opening on the Mines amendment, AM1438, to the Appropriations Committee amendment, AM0521. Open for discussion, Senator Thompson. Senator Thompson waives her opportunity. Senator Bourne.

SENATOR BOURNE: Thank you Mr. President, members. I was in a heated discussion with the Speaker and I heard Senator Mines making fun of my comments on the floor last year. (Laugh) You know, it's funny when you read those transcripts. You think, do I really sound like that, but I guess you do. Listen, I rise in support of Senator Mines' amendment, and I will tell you why. If you look through the transcripts, as Senator Mines obviously has, as have I, and that...the agreement was that that was for two years. And then it went back today, in 2005, and then as I understand it, and Senator Mines probably has his light on, will correct me if I'm wrong, but then in 2009 the entire program sunsets. If you read through...and I didn't realize I was coming up this soon, and I'll speak again on this measure, but even Senator Thompson acknowledged in the debate that if you go along with the amendment that Senator Beutler was carrying at the time, you are saying that these funds go away for two years and then come back in 2005 and then carry through till 2009. And that is exactly what the vote...that's exactly what happened when we took a vote. Now, I will give you also that previous

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Legislatures cannot bind future ones, and I'm not suggesting that this is an ironclad situation, that that agreement was such that it bound a future Legislature, the one we're in today, but I do believe that that is what we were agreeing to. These cities have been cut, along with everybody else. I'm sure each of you can think about your city's budget, and it's been devastated. The state has had huge problems during these last couple of years, but so have our communities. And when I read the letter from our mayor saying that the money that would go to his city means 13 police officers, or could fund three or four libraries for an entire year, or the entire swimming pool budget so kids could swim over the summer, that is...that means something to me. The cities participated in our budget problems by not fighting, by going along and say, okay, we don't like it, we have to be cut, too. And I would suggest to you they would have fought a heck of a lot harder if they had thought that this was a permanent elimination of these funds. They didn't think that, I didn't think that, and a majority of the legislators that were in the body at that time didn't think that. I think this is an appropriate thing to do to put this money back. Again, it's here for another four years, as I understand it, then the MIRF fund is eliminated. That's what I voted on a couple of years ago. I voted on allowing the city of Lincoln to get some other funds to satisfy the obligation they had bonded against the MIRF funds. And as a conciliatory measure, if I recall, Senator Beutler's amendment allowed them to maintain their MIRF money, because they bonded against it, as an income stream, and they were cut elsewhere, and it was a gesture of compromise. The majority of legislators accepted it, and I quite honestly think that the money should be replaced, and I intend to advocate for that. I would urge your adoption of Senator Mines' amendment. Thank you.

SENATOR CUDABACK: Thank you, Senator Bourne. Senator Don Pederson, followed by Senator Redfield.

SENATOR D. PEDERSON: Thank you, Mr. President, members of the Legislature. I heard Senator Mines start off with the idea, a deal is a deal. Let me read parts of a letter that was sent to the city council of Omaha and a copy of it going to the city of Lincoln, and it was in response to a letter from Omaha. And it

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begins: We have reviewed your letter and we respectfully disagree with your conclusions. Neither the current nor the prior Chair of the Appropriations Committee recall any kind of an agreement on restoring state aid level as you assert. And this was signed by Governor Dave Heineman and myself as Chair of the Appropriations Committee. I am in the process of having copies made of a printout showing aid to cities and MIRF funding. At times I wish I had never heard of MIRF. The reason we got into a discussion and a debate about MIRF the last time was because inappropriately the city of Lincoln had used MIRF funds to bond a project. So when we quit MIRF funds, the fear was that the city of Lincoln was going to be called on their bonds, and so we switched things around, and therein lies the confusion. But what I'm anxious for you to see is what is being circulated to you now, and it shows aid to the cities and MIRF funding. And you will see by this that...look at the bottom line, the grant total. There is no reduction. The cities...aid to cities and MIRF funding combined, lead to a constant figure of \$11,777,193. There is no reduction. And I think what happened in this particular case is that, opportunistically, someone conveyed to the city of Omaha that there was really MIRF funding that was going to be in addition to whatever they were doing, it was going to be restored. And that was never the case. What we have tried to do is to show to you that the funding sources for the cities is the same through all of the years into the year 2009, and it's constant, it's not been reduced. And I think Senator Redfield has some additional information. I'd like to ask her if she would present that to you at this time.

SENATOR CUDABACK: Senator Redfield.

SENATOR REDFIELD: Thank you. Thank you, Senator Pederson. Actually, I do. What we're talking about in Senator Mines' discussion is some of the changes that occurred during our budget bill discussion. And one of the other things that was not a part of that budget discussion but actually did occur was the change within the revenue stream. As a result of LB 759, and I hold the fiscal note in my hand, there was an impact on political subdivisions. As the Legislature chose to expand the list of goods and services that we ask them to collect sales tax

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on, we actually expanded the capacity for cities with a local option sales tax to reap a windfall. If you have 1.5 percent on a basket of goods that has increased, you actually have increased capacity for revenue growth at the city level and, in fact, it was predicted in 2004, because it was a partial year after our action, that that fiscal impact would be a plus \$6,930,000. In fiscal year 2005, it was predicted to be \$11,995,000, and in 2006, they expect in excess of \$12,534,000. That is the impact of the actions of our passage of LB 759,...

SENATOR CUDABACK: One minute.

SENATOR REDFIELD: ...which was a tax increase. When you look at the impact of the budget turndown on local cities, you recognize that they have one of the most stable tax bases that we can provide. That's property taxes. Property taxes did not go down, and their cities and schools could count on those funds. Sales taxes also held very stable throughout the budget downturn. They didn't grow as fast as cities had predicted, but they, in fact, did not turn negative. The opposite occurred here at the state level, where we are heavily reliant on the income tax stream. With the impact on capital gains and dividends, we saw, in fact, a negative downturn in our funding here at the state level, and that did not enable us to send state aid back to the cities and these entities that, in fact, were not suffering to the same degree.

SENATOR CUDABACK: Now, we're now on your time, Senator Redfield.

SENATOR REDFIELD: Thank you.

SENATOR CUDABACK: You may continue.

SENATOR REDFIELD: Thank you, Senator Cudaback. So while they suffered by not having the growth they had expected, they still had more stability in their budgeting process. The state had obligations, not only for aid to schools, but the universities, the Medicaid increases and, in fact, a number of other increases on our resources because of the downturn and the heavy demand from our citizenry as they lost jobs and saw other impacts. We

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saw a lot of jobs lost in this state. So in fact, I believe that we have provided the means through LB 759 for the municipalities with a local option sales tax to actually increase their revenue to the tune of about \$12 million a year, which is far in excess of the \$3 million cut that Senator Mines is talking about. And therefore, I will stand with the committee. And Senator Pederson, if you would like the remainder of my time, you are welcome to it.

SENATOR CUDABACK: Senator Pederson, about four minutes.

SENATOR D. PEDERSON: I think that you have adequately explained the total fiscal picture. And I think that it appears to me to be overly opportunistic to attempt to come back now and get additional funds, claiming that the cities were misled. If they were misled, they misled themselves. And they have been told time and again that there was not this confusion that Senator Mines referred to in his opening. So I think we have to look realistically. I was just talking to Senator Stuhr. She said, by the way, how much did the counties get this year? And I think it turned out to be like a goose egg. But the cities seem to want more money all the time, and I think that in this particular case it's not warranted by what took place, and they have been so advised many, many times. But in addition to that, it's not borne out by the dollars. They have not really lost dollars. They've gained dollars. So I think that we need to remain fiscally responsible. I don't know how we ever got into the situation of aiding cities in the first place, but we did. And so I think that the facts speak for themselves and I ask you to study that aid to the cities and MIRF funding that I distributed to you, and you will see that they have not lost money. Thank you.

SENATOR CUDABACK: Thank you, Senator Pederson and Senator Redfield. Senator Janssen, followed by Senator Mines and seven others.

SENATOR JANSSEN: Thank you, Senator Cudaback, members of the Legislature. This is kind of the same story only a different tune. The only thing is that the...instead of the schools, it's the cities, and the cities do have the option of recouping some

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of those lost tax dollars through their option to initiate a sales tax within those cities. But there again, those are local funds going to that local entity, you know, and I don't think we can change things that we...we change something down here and put a problem on other entities and they knuckle under and say, okay, we'll help you out this time. And I don't follow the appropriations process that much, but I know that some of the cities in my district have missed that. You know, they say that we tried to help out during that crunch, and actually we were penalized for that. I remember that very well. If any of you know the ex-city administrator in Fremont--his name is Jack Sutton. If you've ever talked to him for any length of time, you really get an earful. I remember the first year I was here, Jack would call me every morning and chew me out about something, and finally I told him one morning, I said, Jack, you know, I know how you can save the city a lot of money. I said, every morning you open your south window in your office and I'll open my north window and you start hollering and I can hear you all the way down here. That's the kind of a guy Jack Sutton was, but a great man, a good manager. He's somewhat like Mr. Nolan up in Senator Flood's district, was always on top of things. And I still listen to what Jack has to say, you know, and in my opinion, yes, the cities have kept up. But the property taxes in those cities also have went up. Some of the cities were fortunate to have some growth which also helps. But I think that the cities will not...they could use this to lower some of their sales tax. And I believe that that is a burden that we've put on. And listening to testimony, I think we need to come back and address this again. And with that, I give the rest of my time to Senator Mines if that will help him a little bit on his time.

SENATOR CUDABACK: Senator Mines.

SENATOR MINES: Thank you, Mr. President. Thank you, Senator Janssen. A couple of things that I think might be appropriate to mention right now. There's been discussion that by broadening our sales tax several years ago, cities with sales tax shared in that benefit, and I have no doubt...in fact, I have the numbers to show that cities did receive more revenue because of the expanded sales tax base. That's as a consequence

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of the broadening of the sales tax, not...it was not intended to cover the obligation for MIRF. And I think it's important to note that of 532 municipalities in Nebraska, only 160 have a local option sales tax. Now could every one have a sales tax? Absolutely. Citizens in every one of our villages and cities could vote in a local option sales tax up to 1.5 cents, but quite frankly in many of these cities 1.5 cents won't make much difference. They don't have the ability to capture much sales...enough sales tax to make a difference. And Senator Pederson had passed out some interesting information, and I can't dispute what it says. What I can dispute is...

SENATOR CUDABACK: One minute.

SENATOR MINES: ...the information begins in fiscal year 2004-05, and it doesn't change through the rest of the graph. What it doesn't show is...or doesn't mention is fiscal years 2004-05 were the years that MIRF was cut by \$3 million. So of course it's not going to increase. According to this body's vote on the amendment of LB 440 two years ago, we were going to reinstate MIRF as it stood before, and this...if we go back to the fiscal years 2001, 2002, 2003, MIRF was at \$3 million a year. These numbers should be \$14,770,000 as opposed to \$11,000 (sic). We're not honoring the commitment we made on this floor two years ago. That's the argument. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Mines. Senator Mines, your light is next. Do you wish to waive your opportunity? Senator Erdman. Senator Erdman, you're recognized.

SENATOR ERDMAN: Thank you, Mr. President. Members of the Legislature, I'm going to rise in opposition to Senator Mines' amendment, and it has absolutely nothing to do with really what's in Senator Mines' amendment, because he says a deal is a deal, and I think we should somehow honor that. And if we're going to honor it in this area, I think we should probably honor it in other areas. I voted against Senator Byars' amendment, not because I thought it was bad public policy or that it wouldn't help in the situation that he spoke of, but it appears that the goal here is to try to rush to spend the money that we

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have. Now Senator Pederson pointed this out. There's a big goose egg under the property tax relief provision of the budget, and Senator Raikes had a bill that was passed and we all supported it--some of us did, some of us in those smaller communities didn't--but that was supposed to have \$2.9 million restored in 2006. That money is not in the bill. That money is not in the budget. That was a part of the process that we made, and most of us who are here now were here then. That was the deal, and that was the deal that we had made within our body that when the times turned around, that money would be restored. Senator Mines brings us another one of those options, that we had an opportunity to make that decision. And when we made that decision, there were assumptions about what would happen in the future. So I don't oppose Senator Mines' idea because he's doing it. I think it's well within his right. In fact, there are going to be others that are offering amendments. We've had those. There will probably be more that will continue to offer amendments to try to restore money. Whether they come from specific areas as former city officials, former county officials, or other areas of interest, that's going to be a natural tendency of this process is to try to restore or try to right some wrongs that were done. We're also making restitution or we're trying to restore funding in other areas, higher education. We're trying to continue to fund areas like state aid to schools, and we're trying to continue to do those things, and I think that's appropriate. You know what's not being discussed? We discussed at the process of passing LB 1085 that those tax increases we passed would be temporary. That was part of a deal. That was part of the deal with the citizens of the state of Nebraska. We're not keeping that deal, Senator Mines. We're not keeping that deal, members of the Legislature. That frustrates me. Now the logical argument will be, well, if we do that, it makes the out years look worse. Depends on your state of mind, it depends on the economic philosophy that you buy into. But if we're going to be consistent, and if you're going to buy into the argument that Senator Mines gives you today, that a deal is a deal, then those of us who were here at the time when those deals were made should keep them. And if we're not going to keep them on all, then we should choose to decide the public policy in which we're going to deviate, because we're obviously going to deviate on tax policy. We flat out are. So

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let's be clear about what is a deal and what is not a deal, and let's be clear about what we're going to allow to happen in this body and what we're not. In fact, I'm not so sure, and I might just be letting you know where I'm at, I'm not so sure I'm comfortable supporting the budget. Is it because I think the Appropriations Committee did a bad process? Absolutely not. You want to talk about a committee that does their work? You bet, absolutely, they do their work. But am I comfortable seeing the growths that are in the budget? No. And why am I not comfortable? Is it because we shouldn't fund higher education? We should do it. We should absolutely make it a priority of this Legislature and this state to fund those programs. We should make state aid and we should make special ed a priority. And we should look at Medicaid and we should do it, not only within context of LB 709 going forward, but within today. And we should look at those programs and we should decide as a body what is important. And then we should look at those people we're asking to pay the bill, and we should say, is this fair to you? And I'm not convinced that when you look long-term what we're doing today that builds the base for future Legislatures, including you new members that got here, it's fair to you. So I'm going to rise in opposition...

SENATOR CUDABACK: One minute.

SENATOR ERDMAN: ...to Senator Mines' amendment, and I may be opposed to any other amendments until we see some discussion about why it is that we're deviating, why the policy is there and why within this idea of a deal is a deal that we're not also talking about the fact that we could have had the opportunity to address the actual tax climate in the state and not just give out money to certain individuals and certain entities that are eligible. That's a deal, and that was a deal that was made with the public, and I guarantee they're not forgetting that deal that was made. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Erdman. On with discussion of AM1438, Senator Friend, followed by Senator Bourne.

SENATOR FRIEND: Thank you, Mr. President. Members of the

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Legislature, I don't know if I can...I wouldn't even try to add to what Senator Erdman eloquently...just eloquently spoke of, but I wanted to point out that, and I have pointed out to a couple of folks already, that I probably shouldn't even be spewing into this microphone right now because this is a subject that could get me in trouble. But sometimes trouble just follows a man. What I would say about this amendment, I wrote up a few minutes ago...I didn't vote on Senator Byars' last amendment. And Senator Byars made a really good argument, and I thought, I'm not going to vote on this because I really don't know what to do. But now, I say let's have some fun, because I think I know what to do. I may vote for this amendment but, guess what, I also may take this reconsideration motion and go up there, put it in, and say, what's more important? What's more important than what Senator Byars was just talking about? Let's forget about, just for a second, the fact that a lot of folks might not think Senator Byars had the right approach. I don't really know. Let's forget about that a second. Let's say that it was the right approach. What could be considered more important than what he was promoting? The things that we're talking about today, I didn't hear, maybe with a couple of exceptions, a whole lot that was more important than what Senator Byars was promoting 20 minutes ago. Now what we've got in front of us...I love the city of Omaha. I've been there most of my life. Now what we've got in front of us, and I've told people I'd do the soft sell for an amendment like this, but here's what bothers me, and here's why I might not vote on this and reconsider everything that I do from here on in, because I have a problem with what happened a couple of years ago. This Legislature was excoriated in the public, and guess what? I didn't excoriate anybody, I didn't feel it was my position, for raising taxes to the degree that we did. I was here. I'm part of the body. I accepted that. I raised my hand and that, and people blamed me. I said, fine, do it, I'm part of that body. I could have tried to prevent it. I didn't. I could have filibustered it, I didn't. I let it go. We're a body in here that made a decision. But now we've got city elections in Omaha, we just had some in Lincoln coming up, with people pounding their chests about how they haven't had to raise taxes. Ha, ha, ha. That's funny. Guest what? They have taxing authority in these communities, they can do it, but they let you

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guys do it. They let us do it. They let us be excoriated, from the mayor of both of these cities, all the way down. Name a public official, pound their chest and say, we didn't raise your taxes, we didn't raise your taxes. Fine. You didn't raise our taxes. But guess what? Come down and sit in here for a little while and then we can go out and look at the landscape and say, this is what the federal government does to us. Hey, it's fair play. This comes back to you now. Here's my point. Okay? I can't see any good reason not to do something like this to the...

SENATOR CUDABACK: One minute.

SENATOR FRIEND: ...even to a lesser degree than we're doing it right now. But I also can't see any good reason so far that I've heard today why we shouldn't go back to Senator Byars and talk about what he wanted to do again. It made sense. Now I don't know exactly what I'm going to do about this, but I'll tell you this. If I vote yes...that's not a threat. I just want to have some fun. I think it would be fun because I'd like to go back to the mayor of Omaha, whoever that might be, and I'd like to go back to some of those public officials and say, I think we've stood up. I think we stood up and did some good things. And now I think it's probably their turn to stand up and do some good things.

SENATOR CUDABACK: Time, Senator Friend.

SENATOR FRIEND: Thank you.

SENATOR CUDABACK: Thank you. Senator Bourne, followed by Senator Wehrbein, on AM1438.

SENATOR BOURNE: Thank you, Mr. President, members. I think we're going to take some time on this amendment because I don't think people understand exactly what is going on. And I appreciate Senator Friend's comments regarding politicians, but that's what politicians do. I care about the communities in this state. And what happened, and I'm going to give you history of exactly what transpired and what this...the Legislature then agreed to and what I'm asking this Legislature

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to honor. In 2003, Senator Thompson introduced a bill, it was LB 440, and the statement of intent from that bill said that the purpose of LB 440 is to eliminate the funding of the Municipal Infrastructure Redevelopment Fund from cigarette tax revenue. It would provide an annual cost savings of \$3 million. The funding source for the fund was due to expire in 2008-09. So what she said is in 2003 she wanted to eliminate a fund some five or six years early and it would save \$3 million annually that would go into the state's General Fund. Now I'll be honest with you. I thought at the time that I could have stopped LB 440, but I elected not to because I felt I entered into a compromise with Senator Beutler. And here's why I think I could have stopped it. The city of Lincoln let a bond issue out and used this MIRF money to guarantee the bonds. You know, if you let bonds, you have to have an income stream to pay for them. And I think those are specific obligation bonds, I don't remember the name. But the city of Lincoln was opposed to LB 440 because they had obligated or bonded against that income stream. So, in my mind, we had all the senators from the city of Omaha opposed to LB 440 and all the senators from the city of Lincoln opposed to LB 440. Now this...be advised that the MIRF fund also helps a lot of communities throughout the state. This is not about Omaha and Lincoln. What this is about, in my mind, is an agreement we made in 2003 that all of a sudden we've forgotten about. All right. So you've got LB 440, which I believe could have been stopped because it hurt the city of Lincoln particularly because they had obligated those funds to a bond. Okay? Senator Beutler introduces an amendment, and that amendment is AM1116, I believe. And what that did was it said that somehow Lincoln would get General Fund money or some money to satisfy that bond stream and, in return, the agreement was that the MIRF money would come back two years later, now, and continue on until it was supposed to naturally expire in 2008-09. So here we are, that we've forgotten this agreement. And I'm not criticizing the Appropriations Committee. They had a tough task to do, as usual, and they did it. Maybe they forgot about this, I don't know. I asked Senator Beutler. He said he argued strenuously in the committee twice to get to honor this obligation and it didn't happen. I didn't stop LB 440 two years ago because I thought we had an agreement. And again, that agreement was, is to give Lincoln some additional

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funds because they had already bonded against that income stream. We were trying to be conciliatory and help them because they had obligated that stream. And in return for that, in return for the adoption of AM1661, the bill went forward. And let me tell you what Senator Thompson's comments were on the floor: So if you vote for AM1661, you're doing two things. You're saying we'll take care of the Lincoln problems but we're also going to reverse the Appropriations Committee recommendation to sunset MIRF totally. You'll say...you'll be saying, sunset MIRF for two years then put it back...

SENATOR CUDABACK: One minute.

SENATOR BOURNE: ...until 2009. If you adopt that, you reverse the Appropriations Committee recommendation of the bill. It goes away. And we voted, like, 28-5 to do this temporary thing, to say that the city of Lincoln is going to be taken care of because they obligated those bonds. The money goes away for two years and then it's reinstated in 2005 until MIRF dies a natural death in 2009. And Senator Mines' amendment honors the obligation that the Legislature in 2003 made, or made in 2003. I think we should honor that today. I don't care what politicians, they thump their chests and say they haven't raised taxes. You'll not find me in that group. I care about the communities. I care about the 13 police officers that this money might hire in Omaha. I care about the swimming pools in my neighborhood that will stay open because of this. I care that this almost means the library budget for the entire city in which I live...

SENATOR CUDABACK: Time, Senator Bourne.

SENATOR BOURNE: ...and each and every one of you can make the same argument about your community.

SENATOR CUDABACK: Thank you, Senator Bourne. On with discussion, Senator Wehrbein, followed by Senator Kremer.

SENATOR WEHRBEIN: Mr. President and members, I read the transcript several times, trying to decipher what was on our minds, my mind, back several years ago. And I admit, it

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probably...it was a complicated time. We did have the MIRF bill in the committee, and it...Senator Thompson was going to sunset it. That's true. And what we did...I think as I recall, we didn't know it till we got to the floor that MIRF...or that Lincoln had bonded against MIRF, and so there was an understanding, a deal if you'd like to say, cut as to whether we would take care of Lincoln and provide the rest of the money. My best memory is it's like it is in the book, it's page 111, it's very similar to the handing out...handout that Senator Pederson had. And the reason is, when...and as I read the transcript, Senator Thompson said it was going...we would sunset MIRF in two years, eventually then we ended up sunsetting and going till 2009, continuing MIRF. So in my mind, we've done exactly what was implied, if not clearly stated at that time, because MIRF now goes to 2009. That money is restored. If you look at the status, we did add...that \$3 million has been added back to MIRF. It may have been...I admit, it may have been implied to some that we would also add another \$3 million to the aid to cities. I find that hard to really believe that we...I really thought that at least back then, and maybe many others. Otherwise, we'd be restoring \$6 million if we go by the deal that is being recalled here, \$3 million more, putting MIRF back to 2009 instead of, by the way, of killing MIRF completely, which was the original intent of Senator Thompson's debate. And we had intensive debate in committee on that. And then we would also then continue adding back to the aid to the cities, which would have been a restoration of \$6 million. This way, there's \$3 million restored instead of \$6 million. And I admit I'm not clear as to whether it was really said, and I often tried to say in our transcripts to say exactly what we mean because this is where many times good, honest people I think disagree, because our memory isn't perfect. We're already talking two years ago. And it was kind of in the heat of the battle, if you remember. It was probably a week later than this, and we were getting anxious to try to settle the budget. But I really don't believe that we intended to restore \$6 million in the future, because MIRF did come back, and it's going to 2009. That was part of it. MIRF would continue because, as I recall, Lincoln had bonds against that. I don't know how long it goes but I would guess it's at least two, three, or four more years, so they are going to need that money. And I think there's many of us, I won't be

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here, that would be willing to let MIRF expire when the time comes and state aid to cities. By the way, state aid to cities, counties, and so forth, the history of that is it replaced personal property tax back in the seventies. It was not necessarily an account, a genius that restored it. It was the amount of money that was lost to cities and counties and the NRDs, what they were getting from the personal property, and it's interesting how we lose sight of that in history. But that was the original intent, to replace personal property taxes. So I'm going to oppose Senator Mines because that, to my best memory with the aid of the transcript and the study, I think we intended to...the restoration was intended, it was done via MIRF, and you'll...that does show \$3 million. But I don't think it was our intent at that time also then to restore another \$3 million in state aid to cities. Thank you.

SENATOR CUDABACK: Thank you, Senator Wehrbein. On with discussion, Senator Kremer, followed by Senator Kruse.

SENATOR KREMER: Thank you, Mr. President and members of the body. I was one of, I think, five that voted against this bill in '03, and I was also one of the "Dirty 30" that raised our sales tax and income tax somewhat. The reason I voted against it was because it was just a shift, and I remember telling people as I went back home to town hall meetings as we were a lot of times saying, we cut, we cut, we cut, and we didn't raise taxes near as much as we cut. But I think we shifted, shifted, shifted, is what we really did, and that's what was happening here. We cut the cities, aid to cities, and really it had to go back on property taxes. It was only a shift; people still had to pay it. I guess I have some questions for Senator Pederson if he would answer them. And what you're doing now is reinstating MIRF and cutting the like amount from the state aid to the cities. Could you tell me why that...and I'll just...let me have a couple of other comments first. This kind of puts a burden on the cities that have some flexibility when the state aid just goes into their General Fund. They can use it for infrastructure, they can use for anything else. If one year they use it a lot more for streets, another...if it goes back into MIRF, then they're restricted on what they can use it for, and puts less flexibility in the money, but it would be the same

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money going to each city. Is that correct?

SENATOR D. PEDERSON: Yeah. MIRF funding is funding the use of which is limited. And of course, the cities don't like that too well anymore, and...but if you look at the handout that I presented, the funding is constant for the cities. The cities are not being deprived of any money, and it's a bookkeeping entry on '05-06 and '06-07 to take it away, take away \$2,480,000 for both those years and then to put it back. So it zeros it out. But then if you look at the bottom line, it's a constant \$3 million that goes for MIRF. So we're not cutting MIRF. I mean, it's there.

SENATOR KREMER: Yeah, I understand. But I was wondering, what is the advantage to not just leave it the way it was, where it just went in their General Fund, they could use it for infrastructure or whatever they wanted, rather than putting it back into MIRF and restricting how that can be spent, and cutting them in another area? What is the advantage of what we're doing rather than just leaving it the way it was?

SENATOR D. PEDERSON: Well, it is left where it is right now, in that the MIRF funding...

SENATOR KREMER: The dollars, but not the way they're spent.

SENATOR D. PEDERSON: No. There's a statute that provides that we have to fund MIRF.

SENATOR KREMER: Okay. Okay.

SENATOR D. PEDERSON: And that limits what we can do, and it's in there in what we have done by this.

SENATOR KREMER: So that...because of statute, that's why you have to reimburse...

SENATOR D. PEDERSON: Yes. Yes, Senator Thompson essentially was trying to do away with that statute and cut it off, but it was decided not to do it that way, and so we have continued along in the projection as the statute provides until 2008-09 to

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do the MIRF funding.

SENATOR KREMER: Okay, because I think some of the towns in my district would rather have it just the way it was. But we have no choice but to do it this way because of the statues the way they are then? Okay.

SENATOR D. PEDERSON: Yes.

SENATOR KREMER: So what we're really doing is just giving them, the cities more money to spend than what originally what you're doing then, so. Okay. Okay.

SENATOR D. PEDERSON: Yeah, the limitation, of course, on this...and I can understand why Aurora, for example, wouldn't be thrilled with some of this, because it's infrastructure redevelopment...

SENATOR KREMER: Yeah, and most...

SENATOR D. PEDERSON: ...and they would like to have the General Funds.

SENATOR KREMER: And most of the time they would probably spend that much on infrastructure, but it would take more bookkeeping just because some years they maybe do a lot of street work or something like that, and the next year not so much, and instead of just being able to be flexible on it, that they have to really make sure that they kept track of everything. It had to be spent on infrastructure rather than just General Funds then.

SENATOR D. PEDERSON: Yeah, they'd like to have the opportunity to use it for whatever they thought they needed, which could be infrastructure or could be for other purposes.

SENATOR KREMER: This will really cut back on the flexibility of what they're able to do, but probably not to where it'll be that much...

SENATOR CUDABACK: One minute.

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SENATOR D. PEDERSON: Yeah. We're not cutting it back necessarily, Senator Kremer.

SENATOR KREMER: Of how it...

SENATOR D. PEDERSON: We're carrying out the existing law and that's...

SENATOR KREMER: No, I know it's not cutting back the dollars...

SENATOR D. PEDERSON: Yeah.

SENATOR KREMER: ...but just how they'll be able to be used in a certain way.

SENATOR D. PEDERSON: Yes. Yes.

SENATOR KREMER: So thank you, Senator Pederson. With that, thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Kremer. (Visitors introduced.) On with discussion of AM1438, Senator Kruse, followed by Senator Engel.

SENATOR KRUSE: Mr. President and members, thank you. Senator Mines, I have good news and bad news. (Laugh) We'll go with the good news first. It is true that in the past, previous to the time that we are focusing on here, that quite a bit more aid was given to the cities, and that needs to be a part of our thinking and of our record. You can find it on page 41 in the "Lamb's Book of Life" here, the huge one. And for those of you that are looking at it, aid to municipalities, you have to add those two together. You will see that in '03, we were giving \$16 million instead of the \$11 million. And in '02, it was right at \$20 million. So there's more that was given. Now I invite you to turn the page and see what's happening to the counties. On page 42, the jail reimbursements remained steady, so just kind of ignore that, but the aid to counties and property tax relief, which now runs at about \$5 million, was, combining those two, \$13 million in '02. That's the good news. In the old days we did that. The bad news is that my memory is

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the same as the other persons who are speaking to this. I don't think there's any member of Appropriations who promised that this would come back. We may have hoped that. But the reason I can be so confident about that is because that's another biennium. We can't commit ourselves for another biennium. It just isn't the way we work. Where does this come out to? In my mind, and now I speak for myself not for the Appropriations Committee, though I don't think we'd find disagreement on it, I certainly am willing to look at this whole issue next winter when we have another Forecasting Board and when we get a chance to review what we are doing. But when we look at it, friends, let's examine it on a different base. Let's raise the question, is this appropriate use of our money? A good case could be made for it. It has been done for property tax relief. I'll take a hind seat to no one in seeking to do property tax relief. It is a tax shift. That's what we've been talking about, a tax shift. I think that we should look at that, along with everything else, and say, is it time for a tax shift? This year we've made a huge tax shift in our proposal in terms of TEEOSA. A much larger tax shift is proposed in the next biennium. So that's a tax shift, to favor the local school districts. Do we also want to do that for cities and for counties? It's certainly a valid question. It deserves the reflection of this board. I will be content with whatever decision this...the floor makes on it. But at the present, we don't have that kind of money, we don't have that kind...we did not have that kind of option within the Appropriations Committee. We had to simply look at the dollars we had and to figure out the use of them, and at that point, we felt we didn't have more dollars, more than the TEEOSA, which is a huge amount, more than TEEOSA to do for a tax shift to favor property tax. But I certainly...

SENATOR CUDABACK: One minute.

SENATOR KRUSE: ...affirm that that could be a subject in the future. Thank you.

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

SENATOR ENGEL: Mr. President, members of the body, many years ago when you first came out with sales and income tax, that was

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to relieve property tax in the state of Nebraska. And it was temporary relief, as we all know, because anything you hear, any complaints you hear from people is property tax, what they're paying for property taxes now. And as far as this MIRF situation, you know, some of us have selective memory, some of us have fuzzy memories, and...but my memory, whatever it's at in between there, is I do not recall promising this restoration. I do remember at the time when we...the city of Lincoln thought that these had to be restored in order to cover their bonding. Well, that is not true. It wound up that they...I mean, they did not tell us something that wasn't true, they were under the assumption they needed that, but we found out that was not necessary, so they did not put...and they mentioned that to us. So they did not utilize that as far as forcing us to...try to force us to continue on with MIRF. But over the years, as far as these tax shifts and so forth, you know, like aid to cities, aid to counties, NRDs, et cetera, et cetera, who have other means of getting...raising funds through...for property tax, sales tax, et cetera, so many times they shift that burden back to the state. They want more money from the state so they don't have to do what have...what they should be doing locally, like looking for more efficiencies. You know, in the last three years, what we've gone through here, with all the cuts we've had to make, all the efficiencies we've had to look for, and we have to continue to look for those efficiencies. But they have to do that on a local basis, too. They have to find out what's necessary to run a government, to have a good safe environment, to furnish the utilities and the amenities they actually need in a city and a county, et cetera, et cetera, and what are nice to have. And some of those nice things you're going to have to put on the back burner and leave them there, because people cannot afford those anymore. So therefore, I think...and I don't blame them for looking for more money, more money, more money, more money, but there's a point when I think we have to just say no. And I think there's a point when they have to say no. I served on school board and county board and we've had to do that in the past, and I think they have to get a little better at it here in the future. Thank you.

SENATOR CUDABACK: Thank you, Senator Engel. Senator Thompson, followed by Senator Raikes, on AM1438.

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SENATOR THOMPSON: Thank you, Mr. President, members of the body. I did carry the bill. Some of you were here in the Legislature and some of you weren't, but these were the dark days when we had to find ways to cut the budget. In fact, some of these things that we did cut I've been advocating for years, and I'm kind of viewed by certain people and have been tarred with a certain brush of being some kind of big wild-eyed spender. I was willing to stand up, introduce the bills, and cut state spending. On this particular bill, the bill was introduced, the Appropriations Committee supported it, it went to the floor. That day, some people got together, I wasn't one of them, and had some kind of verbal chitchat about it. When it got to the floor, instead of repealing it totally till 2009, it just got repealed for two years. We all--that's the deal. The deal that we're talking about here though is...or that's what happened. That wasn't a deal, that was a vote on the floor of the Legislature. And not...but the Appropriations Committee always has the ability to establish these aid programs, what we can afford. Now everybody wanted to be restored, and we knew they were going to come back in hordes the minute the revenue forecast started looking a little better, and they've been there this year. And we like to be loved, we like to have people think we care about them. We've had...we're going to have...we could have a thousand amendments come up, because we all want to do the right thing for everyone. We want to do the right thing for the cities and the counties and state aid to schools and the university and the Department of Environmental Quality and problems we have with water issues and law suits and settling those. And the Appropriations Committee takes all this as a big picture and puts it together for all of you. Now you can have legitimate differences with us, but the fact is the Appropriations Committee has the authority to set the aid program. Now whatever wheeling and dealing went on that I wasn't party to, all you really have, in fact, is that at that point in time MIRF was suspended for two years. MIRF is back in the budget. But the cities want their aid restored. Well, all the state agencies would like to have their programs restored. The people who didn't get any salary increases would like their salary increases restored. We heard this morning the DD people want to get their salaries back up, want to be restored to

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100 percent. We can't do it all this year, and we made a conscious effort that, as a committee, to not open the floodgates and restore everything. We had to prioritize. So I don't know what kind of deals got cut. I wasn't a party to the deals. I was just the person carrying the bill. The bill passed, but only for two years. Now Senator Bourne, in what I just told him was a real show of male bravado, said, I could stop that bill and I'd have stopped that bill. Well, you know, let's go back two years or three years or whenever that was, and we can talk about it. But that isn't what...that isn't...we don't have that to relive here today. All we have are the facts. The fact is it was suspended for two years, it's been put back. The cities would like to have more money come back in their aid side of the program. That's a decision, and it gets back to the whole issue of taking your thumb out of the dike. I just got an e-mail from a county commissioner in Sarpy County who wants...

SENATOR CUDABACK: One minute.

SENATOR THOMPSON: ...county aid restored. Well, once we start doing that, it's going to be tough. And I have great sympathy for the cities. They do great things with their MIRF money. But we can't afford everything, and I'm going to back...and I in the committee, we had a vote on this. I supported putting more aid in, with Senator Beutler. There were three votes. It went 6-3 against it in committee. And now I stand on "Team Appropriations," I guess. If I wanted to be a weasel, I'd come out and say, well, I didn't get my way in committee, and therefore we should restore this money. But we can't do everything. I think you should honor the views of the Appropriations Committee on this.

SENATOR CUDABACK: Thank you, Senator Thompson. Further discussion on the Mines amendment, Senator Raikes.

SENATOR RAIKES: Thank you, Mr. President and members. I'm trying to recall some of these discussions, along with others who were here at the time. Looking at the handout by Senator Pederson, which I find very useful, it looks to me like...and I did check on the '03-04 fiscal year. The number was

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\$11,777,193. So, in effect, there are six years where that amount of funding the base is all the same. So you would have had to go back to the 2001-02, the biennium that included that year, before you got the higher numbers that Senator Kruse pointed out. And Senator Thompson just pointed out, these were times when we simply had to make reductions. We did not have the money. Senator Bourne referred to the MIRF needs of the city of Lincoln, and I think he's correct on that. But my understanding is that the city of Lincoln retained some additional MIRF funding at the expense of their portion of the aid to cities. So this was not additional money for the city of Lincoln. This was simply accommodating their need for that funding to come from that particular source rather than aid to cities. So again, I am not seeing where there is a violation of a deal. There has been...or there would have been or will have been, if this plan is followed, a constant base for six years except, as Senator Redfield pointed out, we have had a significant expansion of the sales tax base during that period so, in fact, this constant base is an understatement of the amount of money available to cities. So my recollection and read of the information presented, I think it's been a good discussion, is that there hasn't been a violation of the deal, that in fact the reduction and restoration is accommodated with the \$2,480,000 reduction in aid to cities and added back to MIRF. So I respectfully oppose this amendment and would support what the Appropriations Committee has recommended in this connection. Thank you.

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

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. I wanted to try to close the loop on my trouble-laden speech of about 15 minutes ago. I don't know if I can do that. It's coincidence that this type of thing is coming up now. You know, I don't think so. Senator Bourne, in no uncertain terms, has pointed out that that's what politicians do. They beat and thump their chests and talk about how they didn't raise taxes. But, look, I'm not making statements about who should be elected where and when. What I'm talking about is genuine behavior as opposed to disingenuous behavior, mismanagement as opposed to good management. That's what I'm

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talking about. Why are we dealing with this right now? I don't think it's coincidence. Again, I just had approached some of the folks here on the floor and talked about, is there a number that's better than this? Because, you know to me, we're arguing about whether there was an agreement or not. Nothing is written down on paper. I don't know how we're going to...well, except for Senator Mines has something...has some, you know, dialogue from two years in the floor debate. Goodness, I hope nobody goes back and, you know, and grabs...well, now they will, but grabs the dialogue that I've thrown out there, holds to me to that type of standard. Obviously, I want to do something for the...for our local communities. This makes since, but it appears to me that there's an argument or disagreement over whether there was, you know, really a concrete deal cut or not. And I would even go so far as to say whether this is the right amount. I even brought it up, like I said, off the record a couple...on a couple of occasions. If this isn't the right amount, I'd like to find out what is. But frankly, I stand by what I said before. If we're going to do something like this which, to me, doesn't rise, you know, to the level of some of the other things that we've been talking about today, yesterday, and the day before, then we ought to revisit some of these issues, and we ought to really start putting great and serious thought, I believe, into some of these other points that people think are frivolous, because I do think this is politically motivated. Not necessarily by Senator Mines, Senator Bourne or even myself. I think it's politically motivated because of what I brought up before. I don't think it's coincidence that it's here. Of politicians, managers, in the city of Omaha and other places, thumping their chest and talking about how they haven't had to raise taxes. It's not a political thing from that standpoint; it's a practical thing. Why haven't they had to? Well, we did it for them. They've got the money; now they want more. I guess I'm willing to give it to them, but I'm willing to talk about how much it should be. I guess I'd leave it at that. How much should it be? If this isn't the right amount, let's talk about what the amount is. Maybe this is the right amount. If we're going to just keep talking about whether there's an agreement or whether there wasn't, whether there was an agreement or not, I don't think we're going to get anywhere. We're going to sit here for another 45 minutes talking, you

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know, about how Senator Bourne and Senator Beutler's discussion and what we did and what we promised everybody. I don't know if we're going to be able to hammer that one out. I would just say I would submit respectfully that we talk about, is this the right amount and is this the right time? And if you think it's politically motivated, you know, maybe you're going to come to a different conclusion than me. With that, again, I would say that I reluctantly support AM1438, but I'd like to talk about the numbers.

SENATOR CUDABACK: One minute.

SENATOR FRIEND: Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Friend. Senator Mines, on your amendment.

SENATOR MINES: Thank you, Mr. President, colleagues. I take a different approach than my colleague, Senator Friend. This isn't politically motivated. When you look at the intent...when you look at the amendment, look at the amendment we passed two years ago on Senator Thompson's bill, and it clearly says that it's a temporary reduction, or temporary elimination of MIRF, two years. That's what 28 of us in this body voted on. Most of...most, all but like three of you are still here. So now it's two years later, and municipalities are expecting to be made whole. They suffered along with the state through our difficult times. They agreed, take us out for \$3 million a year for two years. We'll help you out. Well, now it's time to come back and honor our agreement. This isn't political in...in my mind, it's not political. Let's, aside...Lincoln and Omaha aside, let's look at the other 530 municipalities in this state. One hundred sixty have sales tax, and by broadening that sales tax, they received benefit. Four hundred municipalities, approximately, have no sales tax so they took the hit on MIRF and now they're not able to recoup that investment. Could they have a sales tax? Sure they could. Would it generate much revenue? Not really, not in a lot of these smaller communities. And Senator Kruse was kind enough to point out on page 41 of the book...now you can argue this round, you can argue it flat, you can argue whatever you want to argue. My basic premise is that

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if you start with fiscal year 2001-02...actually, let's go to 2002-03 on page 41. If you add MIRF and state aid to cities, if you add those two numbers together, it's roughly \$16 million that the state is aiding municipalities. The next fiscal year, it went down to \$14 million, and since then, fiscal year 2004-05, 2005-06, 2007-08...or 2006-07, if we go that far, it's \$11 million. So \$14 million in fiscal years 2003-04 to \$11 million. That's the \$3 million we're talking about. That's what the cities agreed to give up, but they...their...for two years. Now it's time to honor that commitment. And there's been general...there's been great debate, you know, why this? Why do we want to reimburse...or excuse me, why do we want to make cities whole when we've got counties that took hits, we've got schools that took hits? We can generalize that everyone suffered. And I'm not necessarily picking one over the other. I just happened to see that municipalities had a deal on this floor. Let's honor that deal. A deal is a deal. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Mines. Senator Bourne, followed by Senator Stuthman.

SENATOR BOURNE: Thank you, Mr. President, members. And again, I just want to bring us back to what the agreement and the discussion was. But before I do that I want to say that a \$3 million cut in the state aid to municipalities is about 25 percent, so I don't think there's any other entity that was cut that much. I guess I'm struggling as to...I was jokingly calling the Appropriations Committee the "iron claw" because once they have you in there, they tend to stick together like glue and you can't break them apart. I was lucky enough to escape their grasp a year or two ago. But listen, I want to get back to what I perceive the deal was. And you know what? Think about how our relationships work down here. Think about a lobbyist or a colleague that said they were going to do one thing in two years, you do this today, two years from now we'll do this. You would never...you'd never go back to them again. And now I'm not saying anybody has deliberately forgot what the agreement was, but I've read to you the transcripts. I've read to you the transcripts of what the agreement was. And Nancy Thompson, Senator Thompson, can say it's male bravado, whatever

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she wants, but I care about my community, and I want them to be funded. I want there to be libraries and swimming pools and police officers. So when she says that it's male bravado, well, if she things that, then I'm sorry. But it's not that at all. It's that I, while I'm a state senator, I also am cognizant of the impact that our decisions have on our communities. And I'll tell you what, we had an agreement. I've read you the transcripts. We had an agree to reinstate these funds. It's amazing to me. We have a budget before us that calls for 8 percent growth, and we cannot restore \$3 million as we agreed two years ago. That baffles me. Senator Engel and Senator Kruse both said they don't remember such an agreement. It's because they were excused, they weren't here. But 28 other people were here and only five people were absent. Senator Wehrbein, I could go through the members of the committee, they...we had an agreement. LB 440, in my mind, was dead on arrival. Now maybe Senator Thompson will remember it in a different way, but there was a lot of opposition to that bill. There were a number of cities. I went through and I've got the list from 2002-03, of what cities in the state received money from MIRF. It's extensive. It means a lot to those committees (sic). And I can remember that the bill was in trouble. And I'm not criticizing Senator Thompson, I know she introduced the bill, and it's not male bravado. I'm simply saying there were a number of people on this floor that got up and said, hey, I live in Beatrice, we got \$30,000. That's a swimming pool for my community. That bill was in trouble. And Senator Beutler introduced an amendment that I ended up supporting, it's in the transcripts, and the reason I supported it is because I felt we had an agreement we would contribute to solving the state's problems, quite honestly, on the backs of the municipalities and, in return, that money would come back in two years. If anybody wants the transcripts, I have them. If you want to prolong the debate, which I sense we don't, I could read them verbatim. There was an agreement. Twenty-eight of our colleagues said, okay, that makes some sense. That's the compromise. And now we're turning our backs on that, and that's disturbing to me. We're looking at a budget with 8 percent growth. Nobody has talked about that, and yet we can't even honor our commitments that we made two years ago.

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SENATOR CUDABACK: Thank you, Senator Bourne. Senator Stuthman.

SENATOR STUTHMAN: I want to call the question.

SENATOR CUDABACK: The question has been called. Do I see five hands? I do see five hands. The question before the body is, shall debate cease on Mines amendment, AM1438? All in favor vote aye; those opposed vote nay. The question before the body is, shall debate cease on AM1438? Have you all voted on the question who care to? We're voting on ceasing debate. Record please, Mr. Clerk.

CLERK: 26 ayes, 5 nays to cease debate.

SENATOR CUDABACK: The motion was successful. Debate does cease. Senator Mines, you're recognized to close on AM1438 to the Appropriations Committee amendments.

SENATOR MINES: Thank you, Mr. President. May I call the house, please?

SENATOR CUDABACK: Yes, you may. Senators, all vote...the house is under call if you vote yes.

SENATOR MINES: And I'll let my time run while we're doing this.

SENATOR CUDABACK: Record please, Mr. Clerk.

CLERK: 24 ayes, 0 nays to place the house under call, Mr. President.

SENATOR CUDABACK: The house is under call.

SENATOR MINES: Mr. President and colleagues, the...I'm sorry.

SENATOR CUDABACK: All unauthorized personnel please leave the floor. I was just telling the people that unauthorized leave the floor, Senator Mines.

SENATOR MINES: Would you like to join in this closing? Is that a definite no? Thank you, Mr. President.

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SENATOR CUDABACK: Members, all unexcused members please report to the Chamber and unauthorized personnel please leave the floor. Senator Jensen, Senator Heidemann, Senator Landis, Senator Kopplin, Senator Chambers, Senator Beutler, Senator Wehrbein, Senator Brashear, please report to the Chamber. The house is under call. Senators, please report to the Chamber. Senator Mines, now you may continue if you wish to.

SENATOR MINES: Thank you, Mr. President. I apologize for my insubordination. Members, as we've discussed, a great discussion, and frankly, you know, I think you could argue this on either side. But this amendment is the right side. As you've heard time and again, we did have an agreement and on this floor we amended LB 440 two years ago that the reduction...actually the elimination of MIRF funding in the amount of \$3 million, but for \$520,000 that was kept for Lincoln, was withdrawn for two years, temporary. And at the end of the two years when we came out of our economic funk, that that money would be restored. And all AM1438 is asking is to honor that commitment. And you can look at the projections and those, I believe, that show in 2002 that municipalities received state aid of \$16 million, 2003-04 was \$14 million, and then it dropped off to \$11 million. That's the \$3 million that we're short. That's the \$3 million in funding to a combination of MIRF and state aid, and we are \$3 million short and we're not honoring our commitments. This is about Omaha, in my mind. This isn't about Lincoln, in my mind. This is about the 530 other municipalities that do or don't have the ability to recapture the reduction in revenue that they've seen over this last three years. We're in this together and I would urge your support on passage of AM1438. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Mines. You've heard the closing on AM1438. All members are present or accounted for. The question before the body is, shall that amendment be adopted? All in favor vote aye; those opposed vote nay. Senator...

SENATOR D. PEDERSON: I'd like to request a roll vote in reverse order.

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LB 40, 117, 425, 683
LR 100

SENATOR CUDABACK: There's been a request for a roll call vote in reverse on the question. Mr. Clerk, when you get time, please call the roll on the question.

CLERK: (Roll call vote taken, Legislative Journal page 1387.) 16 ayes, 27 nays, Mr. President, on the amendment.

SENATOR CUDABACK: The motion was not successful. The amendment has not been adopted. I do raise the call. Mr. Clerk, items for the record, please.

CLERK: Yes, Mr. President, I do. Thank you. Hearing notice from Health and Human Services Committee; study resolution offered by the Urban Affairs Committee and signed by its members, will be referred to the Executive Board (re LR 100); Senator Aguilar, amendment to LB 117; Senator Chambers, LB 683; Senator Redfield to LB 40. (Legislative Journal pages 1387-1390.) Mr. President,...

SENATOR CUDABACK: Thank you,...

CLERK: Excuse me.

SENATOR CUDABACK: That's fine. Mr. Clerk.

CLERK: Mr. President, Senator Bourne has the next amendment. Senator, FA216.

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

SENATOR BOURNE: Mr. President and members, I'd like to withdraw that amendment and place it at the very bottom of that long list of amendments to the committee amendment.

SENATOR CUDABACK: It is withdrawn. Mr. Clerk.

SENATOR BOURNE: Excuse me, withdrawn and refiled at the bottom.

SENATOR CUDABACK: It is so ordered.

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SENATOR BOURNE: Thank you.

SENATOR CUDABACK: I should have said, so ordered.

CLERK: Mr. President, the next amendment I have is by Senator Chambers, AM1441. Senator, I have a note that you would like to withdraw AM1441 and offer as a substitute AM1463. (Legislative Journal page 1390.)

SENATOR CHAMBERS: That's correct.

SENATOR CUDABACK: Any objection? Seeing no objection, so ordered.

CLERK: Senator Chambers, AM1463.

SENATOR CUDABACK: Senator Chambers, to open.

SENATOR CHAMBERS: Mr. President, members of the Legislature, this is an amendment which would restore funding to the Women's Commission. I was trying to call it up on my gadget but I've got other things on here. The first form of the amendment was much longer. In order to have the money to do this, I wanted to take twenty of the largest agencies in terms of the amount of money they're getting and, as somebody described it, it's like a gnat on the body of an elephant. From each of those entities, I would have cut \$10,000. The total would have equaled \$200,000. That would be the amount that I would want to appropriate to the Women's Commission. It has been determined, between the time I filed that amendment and the one which we're considering now by way of a substitution, that it would not be necessary to cut \$10,000 from each of those entities. So what this amendment would do, for the record, is go to page 82. After line 24, we would insert the following: From the General Fund would come \$200,000 for FY 2005-06, and a similar amount for 2006-07. We would strike line 27. Then on page 83, strike lines 1 through 6, and the purpose of that is to get rid of anything that would suggest that the commission is not to be funded. The other day I expended some venom. It is unnecessary to utilize any venom today. The amendment has been discussed by a number

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of you with others on the floor. So the amendment is clear in terms of what it does, the amount of money that is involved. And if you have any questions, I'm prepared to answer them. But I should not stop before giving my rationale. As a general statement, if commissions were to be eliminated, there are numerous commissions which should have suffered that fate before the Women's Commission. Some people have objected in the past because they say the Women's Commission is an advocacy agency and they don't think the government should be in that business. If you look at the Department of Economic Development, that is an advocacy agency for business. The Department of Environmental Protection has often served to hinder meaningful regulation of industries and operations that do, in fact, harm the environment. The Department of Agriculture is an advocacy department. There are others that you could mention and compile quite an impressive list, and they are funded to the tune of multimillions of dollars per year. This is a small amount which will help an agency, a commission, operate which is able to perform a service which is needed. There might be disputes of the kind that I've touched on already, and I'm not going to go into depth on those things. But the record should have something that would show a bit of what this commission has done and is capable of doing. For many reasons, women wind up in very dire circumstances. The "General" this morning said sometimes bad luck follows a man. In this society, dire circumstances befall many women. Some who start out life and enter young adulthood have not had a bad set of circumstances. The reversals that anybody will face they've faced. They might wind up in an abusive relationship with a man whom they do not marry, but they did not know it was going to be abusive. They wind up becoming entangled with this person, they may even start a family. So it is not easy to just pull out and go someplace else. Women who marry find themselves similarly situated. It is easy for people on the outside to say, well, just cut and run. There's no place to cut and run to. Women don't want to leave their children and, as strange as it may seem, they could even continue to have fondness for the individual who is doing the mistreating. Nevertheless, there are circumstances where a woman does feel she needs to go someplace immediately where there is safety. The Women's Commission is able to make recommendations, make phone calls, provide assistance in those

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emergency situations, and it serves as something like a one-stop shop. Maybe medical care is needed, maybe day care, maybe assistance in finding employment, assistance to go to school. So these types of things are dealing with the realities confronting women in this society. I had touched on briefly the other day the number of lawsuits being lost by the Health and Human Services Department because they are improperly applying the law to harm women and children. So when an agency with the name Health and Human Services is conducting its affairs in such a way as to hurt women and children, it is clear that the state ought to have available some means to address an existing evil. By the word "evil," I'm not talking in moral terms like the evil people who go to the nether regions and the good people go to the upper regions. I mean evil in the sense of a harm befalling a segment of society, and that harm should be mitigated to the extent that it can be. The Women's Commission is not going to, and nobody should expect it to, resolve and solve all the problems that women have. Dr. Johnson can tell us that the best physician in the world cannot heal every person who is afflicted. Even Jesus did not heal everybody who was sick. He did not raise everybody from the dead who had died. But we do know that it is not the well but the sick who need the physician, so those of us who may be hale and hearty should not block from our minds the fact that there are many people who don't share that kind of healthful condition. And we do owe something to our brothers and our sisters who are less fortunate. Sometimes I will be sarcastic when I quote from the Book. Other times, I'm not being sarcastic at all. I'm accepting what is contained between the covers of that Book as being good advice, sound principles according to which a person should direct his or her life. There was a person whom most people on this floor I think respected who said: When I was sick, you didn't help me. When I was hungry, you didn't feed me. When I was naked, you didn't clothe me. When I was in prison, you didn't visit me. And as most people would say when they're caught with the goods, when did any of those things happen? And you all know the response. You did not do it to the least of my brethren and sisters, so you didn't do for me. Whatever appeal it takes to get us to see that there are unfortunate people who need assistance, that appeal...

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SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...I'm trying to make now. I don't think all of that is necessary to get the support for this amendment, but I don't think the record should be naked and merely a motion having been made that funding be provided, and somebody looking at the record may not know what the rationale was. So I'm trying to provide that. If I haven't done an adequate job, I'm prepared to answer any questions you may ask me. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. You've heard the opening on AM1463. Senator Thompson. Senator Thompson passes. Senator Brashear, you're recognized on AM1463.

SPEAKER BRASHEAR: Thank you, Mr. President and members of the body. This has been a matter of considerable discussion on the floor. I wanted to indicate that I rise in strong support of it. I have, as I've told a number of you, for some time when asked about the abolition of the Commission on the Status of Women, said that I thought that we got lost along the way, that we were either should have done it all or none, but certainly symbolically, it sends entirely the wrong message as far as I'm concerned, given all the issues that we could talk about in our society, to not be recognizing the need to deal with this issue. And so I am strong in my support of it, would urge you to be also; believe that it will help us to accomplish many very good things, and I ask your support. Thank you.

SENATOR CUDABACK: Thank you, Senator Brashear. Senator Schimek, on the Chambers amendment, AM1463.

SENATOR SCHIMEK: Thank you, Mr. President and members. This is what makes being in this Legislature so interesting, because things can do a 360 degree turnaround in a matter of minutes, sometimes days, and sometimes it takes longer. But, Senator Chambers, thank you for offering the amendment. I support the amendment. The Nebraska Commission on the Status of Women has a long history. It was established in 1965 as the Governor's Commission. It has done very fine, tremendous work, and I believe it has benefited all the citizens of Nebraska. Thank

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you.

SENATOR CUDABACK: Thank you, Senator Schimek. Senator Don Pederson.

SENATOR D. PEDERSON: Thank you, Mr. President, members of the Legislature. I'm speaking to you as the Chair of the "Iron Claw" Committee, and I want to tell you that it's been my experience that eliminating commissions is not easy, any commission, and reminded me of the story of Rasputin where they shot him, stabbed him, poisoned him, tried to drown him, and he came back every time. Well, commissions tend to do that. But I would say that in a sense of collegiality and due to the persuasive discussions presented by Senator Chambers, I would urge you to support this particular amendment of Senator Chambers'. The commission of women is a body that probably, if we weren't going to treat all commissions the same way, it probably shouldn't have been singled out as the only one we didn't preserve. Several years ago, in an effort to try to pare down the number of commissions, we had several proposals, but when it came to the floor, this was the only one that was actually cut. And probably, as Senator Brashear says, that sends a bad message because we do concern ourselves with the status of women, and they're all important in our lives, so I think that we need to continue to support that organization. And for that reason, I would urge you to support this amendment to provide for funding for the Women's Commission. Thank you.

SENATOR CUDABACK: Thank you, Senator Pederson. Senator Kruse, on the Chambers amendment.

SENATOR KRUSE: Mr. President and members, thank you. I want to add a bit from history because I think the body needs to understand why this decision was made by Appropriations to begin with. It had nothing to do with money. It is not a question of money. Also, Senator Chambers has listed a number of reasons why the Women's Commission has done a good job. It had nothing to do with the Women's Commission doing a good job. I never heard a criticism of the Women's Commission and the work that they were doing. I'd be in a hard spot to suggest that because my wife, Ruth, was chair of the commission 25 years ago.

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Twenty-five years ago, the Women's Commission was dealing with a Governor and a Legislature who insisted that domestic violence is not a problem. We've come a long ways during that 25 years, and part of it is because of the Women's Commission. So what was the reason that the Appropriations went at it? You know, right or wrong, we looked at it in terms of advocacy. What percent of advocacy should the state pay for when this advocacy is to us? It was on that basis, and that basis alone. We went over all five of the commissions, advocacy commissions, and we found that they were each in a very different circumstance. I may not be able to finish this, but I will try to do it at another point. First, we looked at the Blind Commission. We saw that as giving assistance to a section of our population. They were doing a minimal amount of advocacy. We didn't feel we should be paying for advocacy to ourselves. Next, the Deaf and Hard of Hearing, a similar type of a judgment. Their target is to do the work with the deaf. Just as with the blind, this work would have to be done by somebody else if we didn't do it through these agencies, so we left that there. Mexican American was a very interesting discussion because we recognized that here's a new population coming in our midst. They can't organize. Our mission, we felt, was to reach out to these new residents in a way that would be helpful to them and, therefore, the Mexican American Commission was judged to be serving persons more. The most interesting of these discussions was on the Indian Affairs Commission where we are dealing with another nation. We should be sending ambassadors to that nation and they should send ambassadors to us. The question is, should we pay for those ambassadors, both directions? We didn't think we should but we felt that the chances of the Indian community coming together as a unit was slim to none. And I have a story to go along with that, because I was there at the forming of this commission and I can assure you there were 26 groups of Indians that we had to have represented in that. It doesn't come together easily. Then we come to the Women's Commission. We recognized that they do a tremendous job. There was never a question about the job that they do. But a far higher percentage of that was advocacy to the state. In the earlier days, 25 years ago, that task had to be represented by public dollars. In the present time,...

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SENATOR CUDABACK: One minute.

SENATOR KRUSE: ...we felt it did not need to be. Pardon me?

SENATOR CUDABACK: I said one minute, Senator.

SENATOR KRUSE: Thank you.

SENATOR CUDABACK: Thank you.

SENATOR KRUSE: I have no difficulty with the floor expressing its judgment on this basis, but I would urge you to think about it in that term of basis. If you feel that this is advocacy which we should fund, so be it. But that was the basis on which this decision was made. Again, it was not to cut funds, it was not to hassle somebody. It was, we hoped, and the reason we left it in statute was, we hoped that it would make it more powerful, more effective, they got private funding, then they could come at us in a stronger way. I close with an illustration from my wife who, when she was chair, said: It felt like...I always felt like I was a teenager going to my parents for an allowance. I was in a diminished position, a subservient position, and I could not advocate freely.

SENATOR SCHIMEK PRESIDING

SENATOR SCHIMEK: Time.

SENATOR KRUSE: This would allow a person to do it. Thank you.

SENATOR SCHIMEK: Thank you, Senator Kruse. Senator Stuhr, you are next in line to speak.

SENATOR STUHR: Thank you, Madam President and members of the body. I, too, will be supporting this amendment, and I did just want to make a couple remarks about the commission. The commission has been established for 40 years, and I can tell you that things have changed in many of the lives of women today than compared to 40 years ago. I do commend the commission on the work that they have done, but I think that we also need to offer them some challenges. If they are going to continue, I

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think that it will be important that they set some priorities. As Senator Chambers stated, this is...they simply cannot be all things to all people or to all women. Two hundred thousand dollars is still a limited amount of funding. And I think it is going to be imperative that, first of all, they look at some short-term focuses that they would like to accomplish, and also some long-term. I think that we will be expecting some accountability from the Legislature. We will be looking at some of the accomplishments, and I think that they will need to focus on those areas that are very much in the forefront of women's needs. Today, we have more women in the workplace than almost any other state in the union. It's childcare. Childcare may be an issue that is extremely important, not only in the urban areas but also in the rural areas. But this, I see, is one of the challenges of the commission if it is reestablished, is that they do set some priorities and also that we will expect some accountability. So with that, I turn the rest of my time back to the Chair. Thank you.

SENATOR SCHIMEK: Thank you, Senator Stuhr. Senator Bourne, you're recognized to speak. Senator Bourne waives. Senator Beutler, you're recognized.

SENATOR BEUTLER: Senator Schimek, members of the Legislature, I would like to voice my support for this amendment, as I voiced support for the commission within the committee. but I see this a little differently than other people perhaps. Whether it's the Indian Commission or the Hispanic Commission or the Women's Commission, I see them as facilitating groups who we put in charge of aiding us with historic transitions of one type or another. In the case of Hispanics, it's the transition of the influx of Hispanics into Nebraska and integrating them into society and making that change peacefully, making that change as easily as that change can be made. And it's pretty amazing that our society makes these huge changes now without revolution, without blood, but because we're educated and because there is a consciousness and because we are willing and able and can make changes peacefully, big changes. The same thing is true with the Indian Commission, dealing with the new-found independence of the tribes and integrating those sets of feelings and legal principles in with the principles of state rights and federalism

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and all of that. That is a commission that facilitates all of that transition. And likewise with the Women's Commission. I mean, in historic terms, there has been an incredible revolution in America in terms of the status of women, the economic status of women and the social status of women of women. And that change has meant a lot of very, very good things and has empowered this society in an economic way that is almost beyond comprehension, and has a lot to do with the productivity gains in the society in the last couple of decades. But at the same time, like any great change, it has its set of problems that come along with them. And we discussed earlier in Senator Foley's amendment some of those problems relating to young women and their adjusting to new independence and new freedoms; and problems relating to more mature women who are trying to raise kids, who are in more traditional families, or at least where the male attitude is more traditional, and they're trying to raise kids and do a job at the same time. There's just a multitude of problems that still exist with regard to this particular transition. And there will be a time when the Women's Commission, I'm sure, is no longer necessary. But I, for myself, don't feel like that time has nearly come, and I'm glad to hear on the floor of the Legislature that there is a more supportive attitude towards this group of people whose job is to aid us in this historic transition. Thank you.

SENATOR SCHIMEK: Thank you, Senator Beutler. Senator Combs, you're recognized to speak.

SENATOR COMBS: Thank you, Madam President, members of the body. I want to just say...I guess I'll just pile on with Senator Stuhr and say, me too. I made the statement on the floor a couple of years ago when we had to cut the money, that they do need to keep reinventing themselves, looking at the current status of women, what current needs are, what they need to do to meet those needs, develop goals and objectives, and then evaluate those at the end after they've been implemented, and then retool their approach for the following year or two or whatever the cycle needs to be. And perhaps...I'm not sure how agencies specifically operate commissions, if this is their approach. But certainly, I would like to see them still apply for more grant funding. I think there is grant money available

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that they could do a whole lot more with, and not just be dependent. I...all commissions probably could, but particularly Women's Commission, because there are many, many foundations: Annie E. Casey, Robert Wood Johnson, you know, for healthcare issues. There's lots of foundations out there that can be accessed and perhaps, you know, if someone in the commission has grant-writing capabilities, they can augment their income and do even more. But I am going to give a vote for them on this amendment for Senator Chambers, because I do want women to be helped, and I do want them to continue--and I'm not using the word "but." You know what "but" does? It erases everything you said in front of it. I'm going to vote for them, "but"...no, "and." I'm going to vote for this, and I do want, though, to continue to say, please, let's continue to keep pressing on. Women's needs change and evolve, just like Senator Chambers was talking about. You know, abused women...and abused women just aren't the lower social strata in our society. You know, abused women come in all walks of life, and certainly from all backgrounds and all situations. So continuing to...and then in ringing their bell. You know, we're out here, we're the Women's Commission. And beyond just the annual meeting that we have at the Cornhusker that they sponsor, you know, to help promote the status of women; also be out there and promote themselves for being that umbrella organization for essential linkage to community resources, to help solve the problems that we've talked about here on the floor. So you know, get the word out, get more funding for yourself, and you know, make yourself noticed by being very, very usable and available. And again, amen to Senator Stuhr. Thank you.

SENATOR SCHIMEK: Thank you, Senator Combs. We're on the discussion of AM1463 to the committee amendments. Seeing no further lights, Senator Chambers, would you wish to close on your amendment? Senator Chambers waives closing. The question is the adoption of AM1463 to the committee amendments, AM0521. All in favor say aye...vote aye; all opposed vote nay. Have you all voted? Record, Mr. Clerk.

CLERK: 26 ayes, 2 nays, Madam President, on the adoption of Senators Chambers' and Brashear's amendment.

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SENATOR SCHIMEK: The amendment is adopted. Are there further amendments, Mr. Clerk?

CLERK: Madam President, the next amendment I have, Senator Chambers, AM1379. (Legislative Journal page 1374.)

SENATOR SCHIMEK: Senator Chambers, would you like to open on your amendment?

SENATOR CHAMBERS: Yes, I would, Madam President. Members of the Legislature, the way this amendment is drafted, it would add a new section to the budget bill. If this amendment is adopted in this location, that long list of other amendments would go away. This is what I would call a general amendment, because placing it where we will would make it apply to all of these agencies. The long list is based on this amendment being offered to each individual agency. This is what the language of the amendment says: It is the intent of the Legislature that there should be no discrimination by any agency receiving funds under this act against any person, based on sexual orientation. Why would I offer this amendment on a budget bill when the budget bill does not go into the statute books and establish what might be called positive law? There are people who have come to me, and some have even said on the floor at various times, that a provision of this kind prohibiting discrimination ought to apply to the government and its agencies and let that show the example to the private sector. I have not adopted that view and that position with any legislation that I've offered because I think this kind of discrimination should be prohibited everywhere, and it does occur everywhere. As Senator Combs said on the other proposition, domestic abuse cuts through all strata of society. There are people in all strata of society whose sexual orientation places them outside the pale. I don't believe that such discrimination ought to occur. What this amendment would be saying is that no agency of this government is going to discriminate on this basis. We were told in another context that the University of Nebraska has a policy that would include prohibiting this kind of discrimination. The Nebraska Supreme Court has put into the code of judicial conduct an explicit directive that there shall be no discrimination based on sexual orientation. That cannot be engaged in by judges,

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employees of the court, or any who appear in a judge's courtroom. The concept of sexual orientation being a basis for discrimination is recognized throughout this country. Many of the so-called Fortune 500 companies have adopted a policy against this kind of discrimination because their interest is in what they call the bottom line or profit. They know, and some of these executives themselves are of that persuasion, that there is talent, ability, possessed by people who are described, and who describe themselves, as gay if they're male, lesbian if they're female. What is being sought by these companies are people who can do the job effectively and efficiently and help that company earn money. Universities have people on their staffs who are gay or lesbian. People who are gay and lesbian are everywhere. For all I know, some are on this floor. I don't inquire into matters of that kind because it is none of my concern. If any person, whether gay, lesbian, straight, hetero, or whatever term is used, engages in inappropriate conduct, appropriate corrective action may be taken. What discrimination means is that negative or hurtful conduct or policies are directed against people solely on the basis of their sexual orientation, not because they violated a work rule such as coming to work on time, doing your job, putting in a more or less honest day's work for more or less fair wage. It means, eat your spinach, brush your teeth, bathe and observe the rules of hygiene, be courteous, be respectful, work and play well with others, all of the things that we heard when we were growing up that civilized people ought to do when they're interacting with each other. None of that is waived. What this amendment is attempting to do here, what the bill that I have languishing in the Judiciary Committee now, and similar bills which I've offered down through the years, all of that is aimed at the principle that our brothers and our sisters are our brothers and our sisters. We should treat them the way we desire to be treated. I have not been treated the way I desire to be treated. People of my complexion have never been treated that way throughout history. Instead of putting in me a hatefulness that makes me want to get even and make other people hurt the way we have hurt, instead causes me to understand the hurtfulness of that kind of mistreatment, and I want to alleviate it wherever I can. One of the things that troubled me when I was much younger--as Billy Joel sang, "When I wore a

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younger man's clothes," and there was a time when I did--what impressed me and troubled me was when I read in the "Bible" that there were people called lepers and they were forced to cry out when people came near, about themselves, "unclean, unclean." They had been reduced to the level of things, unclean things at that, and whatever shred of dignity they may have tried to maintain was destroyed when they had to shout to any person who came near, "I'm unclean." And that seemed, to my young mind, so unfair, so wrong. When society adopts that attitude, it has to be counteracted. Those attitudes spread poison throughout the body politic. Somebody has to seek an antidote. That's what an amendment like this is designed to do. It is simply saying that no governmental agency in this state is going to discriminate against anybody on the basis of sexual orientation. How much time do I have, Madam President?

SENATOR SCHIMEK: You have a minute left, Senator Chambers.

SENATOR CHAMBERS: There's a point that I want to make, but I don't have enough time in a minute, so I will stop now and turn on my light. Thank you, Mr. President.

SENATOR SCHIMEK: Thank you, Senator Chambers. Senator Kruse, your light is next.

SENATOR KRUSE: Madam President and members, thank you. I stand in strong support of this amendment. We've gone over this area before, so perhaps I anticipate some of what we are talking about. We are not talking about sexual activity here. Senator Chambers has said that, but let's underline it. We're not talking about homosexual activity. If there were a motion to approve of homosexual activity on this floor, I would vote against it. But hang on. If there were a motion to approve of heterosexual activity, I would vote against it. I know about some of these kinds of activities and I cannot give a blanket approval to that. That is not what we're talking about. We are talking here about the appearance of somebody who comes for employment, appearance of somebody comes to rent, or whatever. We are talking about a condition of birth. And that question has, you know, been debated, and there are people with some axe to grind who want to say different things about it. They simply

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don't hold. I can identify a gay man on the phone by listening to his voice, and in further conversations, I have discovered I was never wrong. Now if I can determine that even by the phone, I can tell it even more by sight, do I have a right to discriminate against that person because that person appears to be gay? I can't confirm that. That person appears to be fat, that person appears to be out of the range of person that I want to employ or something else. No, I cannot use that basis for discrimination. That's what this is about. I would assume that it would be the policy of this state that we do not discriminate against anybody because of the way they appear. The universities and colleges have taken the lead on this. Our corporate community has taken a lead on this. We have gone through a lot of struggle. I have been teaching classes on sexuality and sexual responses for 25 years. Believe me, I've been over all of it, and I've dealt with a lot of people in it. It really still remains quite simple. Some persons find out that someone is gay and they assume they know what they are doing in private. They don't know. I have married a thousand couples. Do I assume that I know what a single one of those couples does in private? I don't know. I know their relationship to each other. Someone asked me one time in the flurry recently, you know, have you married any gay persons? I said, absolutely yes. Any pastor who has been around for a while has married gay persons, because gay persons get married at the same rate that straight persons get married. They do it as a cover. They do it as a way of avoiding the reprimands of this community. Many of them want to have children and raise children, and I know of many who have been faithful to their spouse, raise their children, but say to me at the end of it, I have to force myself to be in a sexual relationship with my spouse.

SENATOR SCHIMEK: One minute.

SENATOR KRUSE: It has no attraction to me whatsoever. I've never come out of that. I am gay, but I love my family and that's where I am. Should that person who appears to be gay also be judged out of the appearance of this person or the voice or whatever other characteristics? I will emphasize that not every person who is gay has a characteristic that is identified

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by body structure, but many do. I urge that we be open in this and follow the lead of universities and corporations in simply stating that we're not going to judge somebody by the way they look. Thank you.

SENATOR SCHIMEK: Thank you, Senator Kruse. Senator Chambers, your light is next.

SENATOR CHAMBERS: Thank you. Madam President and members of the Legislature, right now in Nebraska they're working on a 50th anniversary celebration for Willa Cather. If people knew at the time she was in Nebraska that she was a lesbian, she would have been run out of this state. She would not be in the Nebraska Hall of Fame if the people who voted for her knew she was a lesbian. She shares a grave site with the woman, now, with whom she spent decades. She has been embraced by the gay and lesbian community. People marvel at her writing, but she had to hide her orientation. She could not have survived in Nebraska had her orientation been revealed, and it should not be that way. If somebody is not harming me, what difference should it make to me how they find happiness as long as they're not harming anybody or hurting anybody? The woman that I married maybe nobody else wanted to marry, but I know that's not true. And I used to have to say, the only woman that I want...the only woman I care about anybody not messing with is the one that I married. Other than that, go for broke. Come this way and get broken. Moving from Willa Cather, I have talked in the past about this man who was known as the Elephant Man. He had this disease where parts of his body would grow outsized and disproportionate, and he was put in a freak show. When he became a man, he would wear this burlap hood that had an eye hole cut in it. His body was misshapen, so he didn't walk like a normal person, as we use that term, or do anything in the way that one who is considered normal would do. They did a movie about him, John Merrick, and he was making his way down the sidewalk and he bumped into a little girl, or something happened, and people started chasing him. And because he had this covering, that incited the mob. So he is running, and I think some little boys had been throwing things at him first. But anyway, they chased him down the street, he ran into what looked like an alley but it was a dead end, and he was closed

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in. And the mob was coming to do whatever they chose to do. And somebody pulled that covering off his face, and people saw him and they shrank back in horror. And he was accustomed to seeing that look in people's face. And he said, and tried to make it intelligible, I am a human being. I am a human being. Why should any of our brothers and sisters have to make that appeal to us? We know that anything born of a man and a woman is a human being. Why will we treat them as less than a human being? Why will we treat them as things and make them feel that they're things? Our job, if we're civilized, if we're refined, if we're educated, should be to bring that understanding to bear that we've accumulated through our education, our experiences,...

SENATOR SCHIMEK: One minute.

SENATOR CHAMBERS: our religion if we have that, to cause us to alleviate as much suffering as we can. It should not be a matter of pointing our fingers, looking down our nose at other people, and saying, you're unfit to come here. "Draw not nigh unto me for I am holier than thou." That is a very bad message. Sometimes the best way to obtain converts or adherents to a point of view is to demonstrate by your conduct that you have something that others might find worthy of being looked into. This amendment is not unreasonable, it's not radical. I'm asking that you adopt it. Thank you, Madam President.

SENATOR SCHIMEK: Thank you, Senator Chambers. Senator Don Pederson, you're recognized to speak.

SENATOR D. PEDERSON: Thank you, Madam President, members of the Legislature. I looked at this amendment by Senator Chambers and I thought, this is a statement of intention of the state of Nebraska. And my personal view is that we should always intend not to discriminate against anyone, and I think this is a specific one regarding the identity of people on sexual orientation, but it should apply to most anything. I think it's very appropriate that we consider that as a statement of what we, as a state, intend for the various bodies that make up our state government. It's a tragic thing when we do actually discriminate against someone. It means you're setting them out

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from away from others and you're saying, you know, we don't really care about you. And I think that we should become more enlightened as a state and I think a statement of intent accomplishes that. So I respect Senator Chambers' efforts in this regard. Thank you.

SENATOR SCHIMEK: Thank you, Senator Pederson. Senator Foley, your light is next.

SENATOR FOLEY: Thank you, Madam President and members. Let me start off by stating the obvious, which is that within this very Capitol building, and certainly throughout our state government agencies, there are persons employed who are homosexual. And I want them to know that I am deeply grateful for their service to me as a state senator to the extent that they may work in some area of the State Capitol that would be of assistance to me. And to the extent that they're employed by other state agencies, I want them to know that I'm very grateful for their service to the people of Nebraska. Having said that, we're working on a state budget. We're appropriating money to state agencies to fund the operations of government. I think it's entirely inappropriate to use this bill to try to advance a particular social agenda. And if this amendment is adopted, you're giving me license to do the same. Senator Chambers has a bill that's pending in the Judiciary Committee on employment discrimination. He attempted to advance the bill. It did not advance. There's another bill in the Judiciary Committee, a bill on human cloning. That bill has not had a vote yet, but it will get a vote before the end of the year, pursuant to some discussions that I've had with the Chairman of the committee. It wasn't a priority bill, didn't need a vote up till now. There's no reason to push for a vote because it wasn't a priority bill. But the bill will come to a vote later, and I presume the votes will be there to advance the bill to General File. Why couldn't I just take the language of this amendment and say it's the intent of the Legislature that the University of Nebraska shall not entertain any...engage in any biomedical research involving human cloning? Is that where we want to go with our state budget, to start bringing in these kinds of issues? The issues associated with Senator Chambers' bill are complex. They relate to whether or not a new protective class should be created

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within our statutes. And to date, Senator Chambers has not persuaded a sufficient number of senators to accept that logic. And so now he's using other legislation to try to advance his cause. If that's where we want to go with the state budget bill, then there are plenty of other issues that can be brought in, and we can have all kinds of intent language and all kinds of subjects. But I'm not sure that that's what the people expect of us as we write our state budget. Thank you, Madam President.

SENATOR SCHIMEK: Thank you, Senator Foley. Senator Landis, your light is next.

SENATOR LANDIS: Senator Schimek, members of the Legislature. I could be wrong, Senator Foley, but I think, in fact, we just used the budget for a social agenda earlier today, yesterday. Judging by who was out in the foyer and what we were being urged to do, I think it was a signal. In fact, it was an advancement for the pro-life agenda, a social agenda. I think you've won the day. I think you're a big winner this year on that score, and my guess is that the gauntlet has gone down. If it's gone down, it's not in this amendment. It happened in that amendment, that we essentially were subscribing to using the budgeting process for a social agenda. I'm going to vote for this because I've always believed that this was appropriate. I vote...I don't think that housing or job discrimination on this basis is appropriate. I don't think it's Christian. I don't think it's moral and I don't think it's religiously appropriate for what I regard as being the cynosure of moral perfection, and that is the life of a Galilean who said, among other things: Let the children come to me; let you who cast the first stone be without sin; who said, let...render unto Caesar what is Caesar's and render unto God what is God's; and who never shunned anyone; who never shunned anyone. And for that reason, guided by own moral and religious beliefs, I regard this as a very Christian thing to do and I'm going to vote for the amendment.

SENATOR SCHIMEK: Thank you, Senator Landis. Senator Chambers, your light is next.

SENATOR CHAMBERS: Madam President and members of the

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Legislature, Senator Landis hit on a issue, a point that I was going to make, but I will add to that. My amendment does not cost \$500,000. My amendment does not take anything from anybody. By doing this, we do not lessen or diminish anybody. This amendment does not create a class. Mistreatment by society has classified a group of people, and this amendment is designed to make it clear that the state is not going to participate in that kind of mistreatment. This is not a complex issue. Despite how strongly and forcefully on occasion I speak about the interests of black people, I'm going to say this, and it might sound arrogant and egotistical, but I believe I've done more to help white people in this state than anybody who has ever been in this Legislature. I've come to the aid of white people in situations where nobody else would. I've had them call me because they've gone everywhere else and could get no help. When I went after a judge in Omaha who was carrying a pistol on the bench, he was calling women, and I won't use the term but it starts with a "c," the worst degrading thing that can be applied to a women, and it refers to sex organs, women were cursed out, all white, nobody would do anything about this man, so they came to me. And it started with a white female judge. And I could have said, you're getting a due recompense of reward for the wrong that white people have done to black people, and you're getting it at the hands of your own. That's not what I have done. I got him off the bench. I caused another one to retire who had committed almost unmentionable wrongs against female employees, over a dozen. And it was left to me to make him decide it was best if he resign or retire. A judge told a female lawyer in Omaha, f--- you. And when she filed a complaint, the Judicial Qualifications Commission said nothing is going to be done about it. I found out about it and was told that nothing can be done because they had decided not to. I said, well, they're going to do something about this because I'm not the female attorney. I will make them do something. So I wrote a letter to the Chief Justice, and I said, Chief Justice, suppose a lawyer looked into your face and said, f--- you. And I wrote the word. I said, that's what this judge said to a woman. Now if it's not going to be said to you, and you don't have to accept it, this lawyer doesn't have to accept it. And the fact that she is a woman does not give the judge a free pass. His name was Judge Hartigan in Omaha, and he

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received a public reprimand and he said that it made him a better judge. I've got a list of judges. If I was like Senator Foley, I would say, that's no concern of mine, those are complex issues, let somebody else do it. I'm not that kind of person. When I see a group harmed and hurting, I try to help them, and it is not complicated for me. My standard of values, if anything, can be summed up in what Jesus said: Love your neighbor as yourself. What did Jesus say about gay people, lesbians or homosexuals, to use Senator Foley's word but which was not a word in Jesus' day? He didn't say anything, not a word, not a whisper. But he did say, love one another, love your neighbor as yourself. That's why it's difficult for me to lend credence to the sincerity of people who profess so much religion but they can turn their backs on those who need...

SENATOR SCHIMEK: One minute.

SENATOR CHAMBERS: ...help. Senator Landis hit the nail on the head when he mentioned that Jesus never shunned anybody. He spent his time among prostitutes. He did say, you're trying to create a special class, you're trying to make it seem like these people should be accepted by society, so don't spend time with them. That wasn't his attitude. So if those things that are said and preached have any meaning, that meaning is shown by the way we conduct our lives and the way we treat people. As ominous as I'm supposed to be, nobody in trouble has felt deterred from coming to me to seek my assistance. And if they have a case, I will do what I can to help them. And just one other comment. Other groups are protected by the nondiscrimination laws. They're protected by the law. They cannot be discriminated against without...

SENATOR SCHIMEK: Time.

SENATOR CHAMBERS: Thank you, Madam President.

SENATOR SCHIMEK: Thank you, Senator Chambers. The next speaker is Senator Erdman.

SENATOR ERDMAN: Thank you, Madam President and members of the Legislature. I'm going to rise in opposition to Senator

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Chambers' amendment. And in my term here in the Nebraska Legislature, the five years that I've been here, I think Senator Chambers, and even Senator Landis to the extent, have exactly expressed their attempts to help those that they feel are in need, and I think that's entirely appropriate. The interesting part, I guess, as we look at this...and Senator Landis is correct, there were other amendments that were adopted. Senator Chambers is also correct that there are bills that are introduced on this issue. And so while this may not be the controversial or the difficult issue that it is, I still believe it's inappropriate. Now the amendment that Senator Foley had offered us is on an issue that we can debate regularly, and Senator Landis has been a part of the discussion on the floor since I'm been here, and it has happened regularly, usually once a year. It's been a knock-down, drag-out. We have those types of fights and, at the end of the day, usually the status quo wins. There have been exceptions to that since I've been here. I have prioritized bills that we couldn't even get past General File. We've had debates on bills that have gone past first round that we've never even voted on as public policy, that have been reintroduced in front of the Judiciary Committee. So there is a uniqueness to this process, and that uniqueness generally comes on issues where there is philosophical opposition. Now the reason I bring up that in this opposition, when I voted for Senator Foley's amendment, I didn't vote for a new idea. There's a known issue that's been addressed. It's been addressed by other states. And the money that we were talking about was already going to be spent. Now the argument is, who is going to spend it? The Department of Health and Human Services would have had the authority to spend all \$500,000 of that over the next two years because federal funds are not limited to our appropriation. So you can make the argument, which I feel comfortable doing, that the money that Senator Foley was asking us to earmark and direct, was money that realistically would have been used for a purpose similar to what he asked us to do. The fact that it was specifically directed to a program that some found objectionable because of the limitation is well noted. What Senator Chambers is asking us to do today on this amendment and on this bill is to say that, even though he believes that those individuals that would violate his amendments are doing wrong, they can do wrong in private sector,

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because he still doesn't address the whole issue. That's why I believe it would be appropriate for us to have the discussion on a bill. I would believe it would be appropriate if it's the number that Senator Chambers introduced this year or even a bill that Senator Landis has. We have delayed the inevitable. Let's have the debate. Let's have that discussion on this floor. Let's lay out the arguments that Senator Chambers has that says this is going on in our society, and evidently Senator Chambers must know of situations; otherwise, he wouldn't have brought this amendment going on in state government in which an individual has been discriminated based on their choice of sexual orientation. So I would be interested in hearing that. Senator Foley has brought up in the Judiciary Committee there's been a lack of evidence, if you will, to sway the committee to advance the bill to accomplish the goal that Senator Chambers would seek to accomplish. So my thought is, let's have the debate. And if we go down this path with Senator Chambers' amendment, it may lead to the things that Senator Foley spoke of, that Senator Landis alluded to that we've already begun, but it will become more evident in this process than what it is now. The afternoon or this morning, I had a discussion with Senator Beutler, and I said, why is it that when the Appropriations Committee advances a bill that we can never, or we very seldom, address or attack the committee amendment? The Appropriations Committee can do that. We can address a bill on mental health reform. That gets sliced up in a second. The tax incentive bill is going to come out here and there is not going to be the same iron-clad idea behind those types of bills and behind that committee's work as...

SENATOR SCHIMEK: One minute.

SENATOR ERDMAN: ...what you're going to have here. This is unique, and this is unique because we should be careful as to what we put into our state budget. The interesting part about this whole process is that it will lead us down that path. And while some may say we're already doing it, it will become more prevalent. And regardless of whether I'm on the pro side or the opposition side of any particular issue, it brings the politics into the policy that, to this point, has been minor if not void of the process. Let's think about what it is we're being asked

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to do before you engage in allowing this amendment to be adopted to the state's budget. Thank you, Madam President.

SENATOR SCHIMEK: Thank you, Senator Erdman. Senator Kruse, you are recognized to speak.

SENATOR KRUSE: Madam President and members, thank you. There is a genuine question as to where is the appropriate place to put this policy. First, let's assume...or let me state for myself. I assume that's already our policy. It's an unspoken policy. I think we need to say it at some place. I would prefer that it be in statute, but we don't seem to come to that. In this particular place where it refers to all agencies, I consider that appropriate. The following amendments which pick out this and that one do not seem appropriate, and that's why I appreciate that Senator Chambers says this would replace all of those. I feel that we have a right to speak to our agencies, since we haven't made a clear statement on this, that...about the matter, for there is clearly a prejudice against gay persons in our society. In the United States, we kill one gay man every week because he is gay; fifty a year, every year. The Allen Shepard (sic--Matthew Shepard) got some publicity a few years ago. The next week there was another one; it's not picked up. This is a serious problem that we have to deal with. I would also join Senator Landis in saying this is the Christian thing to do. We have not spoken of it this time, but there are persons who have questions about whether this is Biblical. There is no Biblical reference to being a homosexual, not one verse, not one hint. This is not a Biblical matter. Jesus didn't speak to it in any sort of a way for those who are Christian. It is a matter of intense psychological feeling, emotions, on the part of many persons. I respect that. There are many persons who feel that they cannot associate with gay persons. I respect that. I don't have any problem in dealing with that. The question before us, however at this point, is public policy, and I think this is an appropriate place for us to state our public policy. Thank you.

SENATOR SCHIMEK: Thank you, Senator Kruse. Senator Erdman, you're recognized to speak.

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SENATOR ERDMAN: Thank you. Madam President and members of the Legislature, I'm intrigued by Senator Kruse's comments, and it may be a play on words. But Senator Kruse, if you would yield to a question, I would be interested to have your insight.

SENATOR SCHIMEK: Senator Kruse, would you yield?

SENATOR KRUSE: Yes. Well, if there's a mike. Yes.

SENATOR ERDMAN: (Laugh) It works. Senator Kruse, if you have a chance to look at Senator Chambers' amendment, do you see the word "homosexual" in that language?

SENATOR KRUSE: No.

SENATOR ERDMAN: And so you would say that that is realistically...the term that you're using in regards to whether or not it's present in the Bible or not is also not present in Senator Chambers' amendment.

SENATOR KRUSE: That is correct, and we should recognize, appreciate it. This is relating to heterosexual orientation as well as to homosexual orientation. You could take it both.

SENATOR ERDMAN: Could you clarify what you just said about what it applies to and what it doesn't?

SENATOR KRUSE: Sexual orientation would refer to both heterosexual and homosexual orientation.

SENATOR ERDMAN: So your understanding of the definition is that it would apply to either someone who is heterosexual, someone who is homosexual. And yet, Senator Chambers and others have said that it would apply to only those who are...I'm sorry, they haven't said that, they have inferred that it applies to those who are homosexual. Is that...withdraw that question. That's not accurate. I...making sure that I'm...

SENATOR KRUSE: Yeah.

SENATOR ERDMAN: All right. Thank you, Senator Kruse.

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SENATOR KRUSE: Thank you.

SENATOR ERDMAN: Members of the Legislature, the...again, look, we can play with words all we want to, but the fact that Senator Kruse can get up, and I know that Senator Chambers can quote scripture better than probably any member of the Legislature, and if Senator Tyson were here, he would call him his good Christian brother, and we would have that discussion, but the reality is, is that there are specific things that are outlined as far as what Senator Kruse is not telling you. Is it appropriate, however, to discriminate against those individuals, or, as Senator Landis said, to not shun them? It is not. It is not, and Senator Chambers is right. We should love our neighbor as ourselves. Absolutely, absolutely. But the reality of that line of thinking takes you to a position that shows that love is not disclosing or excluding other things that someone would do. So the scripture that Senator Chambers would quote us would say that if you look back at the examples that were given when Jesus was here, or that he did things within the temple, that he called out people who were hypocrites. Senator Chambers has done that repeatedly on the floor of the Legislature, and I think that we have all gained the idea that we are somewhat hypocrites. But to say that there is something in this amendment that is contrary to what there are specific guidelines and provisions in the Bible is not true. It flat out isn't. But back to the policy at hand, should we adopt on the floor of the Legislature in the budget this public policy decision, only to apply to state agencies, only to apply to those agencies in which the state of Nebraska specifically has authority or to a code agency? Now I'm not sure if this would apply to any entity that receives money, so then it wouldn't reach to those nonprofits that are receiving funding under this. So again, we're not accomplishing the goal that Senator Chambers would like to accomplish. Is that the type of piecemeal idea we want to have? And maybe it's an incrementalism idea. Maybe this is a best that you can get and maybe that's what you want to go for. I think that's inappropriate. I've introduced bills that have gone to committees that have gotten killed. Senator Foley has talked about some on social issues. I have other public policy issues I'd loved to see addressed. Senator Raikes and

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the Education Committee keeps killing bills that I introduce. I would love to see a prohibition in here about discriminating against certain individuals who make a different...

SENATOR SCHIMEK: One minute.

SENATOR ERDMAN: ...choice and precluding them from being able to take advantage of the educational opportunities that they have. Not a social issue, okay? But I think it's wholly appropriate that if we're going to go down that, and we're going to make ourselves just like the people in Washington, that this will become a circus. Members of the Legislature, I would encourage you to oppose Senator Chambers' amendment. In regards to the reason that I spoke, I was seeking to clarify Senator Kruse's understanding of the language in the amendment as offered. He understands that it applies to heterosexuals or homosexuals both. There is some confusion about what that leads to. Again, let's think about the policy decision that we're going to make here, because it will have implications on future actions and future decisions that the Legislature will make, maybe this session and maybe into the future. Thank you, Madam President.

SENATOR SCHIMEK: Thank you, Senator Erdman. (Visitors introduced.) Senator Landis, you're recognized to speak.

SENATOR LANDIS: Question.

SENATOR SCHIMEK: The question has been called. Do I see five hands? I see five hands. There were no other lights on. I'm sorry, Senator Landis. Senator Chambers, you are recognized to speak. We do not need to vote on that.

SENATOR CHAMBERS: Thank you. Madam President and members of the Legislature, this is a declaration of policy. Senator Erdman and Senator Foley may not be aware of it, but there has been in the budget bills an injunction to the University of Nebraska relative to the hiring and retention of females and minorities. I haven't heard Senator Foley or Senator Erdman speak against that. Budget bills are known to express intent language. That is a way of showing oversight and declaring the

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position of the state. If Senator Erdman and Senator Foley believe that the state ought to discriminate on this basis, they will vote against this amendment. And however way they want to try to characterize it, that's exactly what they're doing. Speaking of reality, we know that there's discrimination against gay and lesbian people. The Supreme Court knows it; they acknowledged it. Large companies throughout this country and in other nations have acknowledged it. So to be so parochial and narrow and backward in 2005 as to suggest that there's no discrimination against people based on sexual orientation is to be totally disconnected from reality. This amendment can only deal with the state. Senator Erdman knows, or if he doesn't I'm going to inform him, the budget that we build, it involves only the state and its entities. We cannot put in this budget bill something that affects the private sector. I have never said that's what this would do. I have said there is a problem that exists in this society. There are people who are employed by this state, there are people in this Legislature, who have an attitude, and some people will reduce it to action, which would be discriminatory against people based solely on their sexual orientation or their perceived, alleged, or rumored sexual orientation. Those types of attitudes are hurtful and productive of nothing positive. This should be an inclusive state, and I have been doing things to try to see that that will happen. What Senator Foley does not understand and realize is that there would never be a Catholic priest praying over the Legislature if it hadn't been for me challenging the existence of a chaplain in the Legislature. A determination was made that it could not be limited to a person of one denomination. The anti-discrimination law on the books prohibits discrimination based on religion. Religion is a matter of choice. So those kinds of arguments are evasive, and I hope that you will adopt this amendment. And I'll tell you that that other 49-or-so will go away, and this is the most appropriate way to make this declaration. Madam President, I would ask for a call of the house, and I will take a machine vote.

SENATOR SCHIMEK: Thank you, Senator Chambers. There has been a request for a call of the house. All those in favor would vote aye; all those opposed vote nay. Record, Mr. Clerk.

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CLERK: 23 ayes, 1 nay, Madam President, to place the house under call.

SENATOR SCHIMEK: The house is under call. Would all members please return to the Chamber and record your presence. Would all personnel...unauthorized personnel, please leave the floor. The house is under call. The house is under call. Would all senators please return to the Chamber. Senator Stuhr, Senator Heidemann, please check in. Senator Janssen, Senator Cudaback. Senator Cudaback and Senator Heidemann, would you please return to the Chamber and check in. The house is under call. All members are present. Mr. Clerk, this is a machine vote. Is that correct, Senator Chambers? The question is the adoption of AM1379 to the Appropriations Committee amendment. All those in favor vote aye; all those opposed vote nay. Have you all voted? Have you all voted? Senator Chambers.

SENATOR CHAMBERS: Roll call vote.

SENATOR SCHIMEK: There has been a request for a roll call vote.

CLERK: (Roll call vote taken, Legislative Journal page 1391.)
19 ayes, 10 nays, Madam President, on the amendment.

SENATOR SCHIMEK: The amendment is not adopted. Mr. Clerk, are there...oh, the call is raised. Mr. Clerk, are there other amendments?

CLERK: There are Madam President. The next amendment I have, Senator Chambers, AM1380, Senator.

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

SENATOR CHAMBERS: Madam President, what I'm going to request that you allow is that I come up to the Clerk's desk and designate the amendments that are pending here which I want to withdraw and refile on Select. But in order not to make a mistake, I would like to be able to come to the desk and make certain that I'm having the correct numbered amendments. So is it all right to do that instead of calling me on each one and I

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say, withdraw, withdraw, all the way down?

SENATOR SCHIMEK: Please do, Senator Chambers.

SENATOR CHAMBERS: Thank you.

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Mr. Clerk.

CLERK: Senator, just so I'm clear, the amendments that you wanted to be withdrawn, you want refiled on Select, is that what I heard you say? Okay. Mr. President, I have a series of amendments of Senator Chambers to be withdrawn. The next amendment for consideration, AM1442, Senator. It's an amendment that deals with the low-level settlement payment over a two-year period, AM1442. (Legislative Journal page 1374.)

SENATOR CUDABACK: Senator Chambers.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, you probably will have to, whatever you call it, scale down until you get to the amendment numbered 1442, but what it would do, simply put, is to break this amount of money that is to be paid of this settlement into two payments, each of roughly \$74,250,000--to be precise, it would be \$74,247,506--instead of putting those two together, having the total amount and making it in one payment. The way this would work is that money would be...if the payment is to be made, it would be transferred to...from the Cash Reserve Fund to a Low-Level Radioactive Waste Settlement Fund. So the money would be in a Cash Reserve Fund, the total amount. If one payment is to be made, it would be transferred from that Cash Reserve Fund, and if that's all that that's for, you'd do away with that fund. But it would go into the Low-Level Radioactive Waste Settlement Fund and flow from there to be paid out. If this amendment is adopted, I would suspect that a certain amount would be transferred into that Low-Level Waste Settlement Fund, and the payment made. That other money would remain available, but it could not be used without a specific act by the Legislature to make the proper transfer and then appropriation, if I've got

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that correct. But whether I've gotten all of that exactly correct or not, that is what would happen. The main thrust of this amendment is to break the payment into two parts rather than just one. The argument is made that if the full amount is paid in one lump sum, a certain amount of interest would be saved. But when you have a certain amount of money in the bank, and you can either pay it all at one time or make payments as you choose to retire a debt, you can decide whether to empty the account and make the payment and get rid of that debt in one fell swoop or make a payment on retiring the debt and retain some money that can be used for other purposes. I don't know what else would be needed to be said to make clear what this proposal would do. But if you have any questions, I'm prepared to answer them. I do think this would be a prudent step to take. I also have an amendment, while I'm at it, which would call for three payments. The third one would naturally not be covered in this budget, which only covers two years. So the third one, when I would offer that amendment, would not show up in the amendment. It would cover two years, and the third one would be outside of this budget. So that's what this particular amendment would do. If you have any questions, I'm prepared to answer them. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. You've heard the opening on AM1442, amendment to the Appropriations Committee's AM0521. Open for discussion, Senator Don Pederson.

SENATOR D. PEDERSON: Thank you, Mr. President and members of the Legislature. Senator Chambers caught me on the way out the other day and alluded to the fact that this was something that he was considering doing anyway. And I think at the time that he was making that suggestion of what he may want to do in this regard, we didn't exactly know what the Forecasting Board was going to do in connection with the monies that are forecasted to be brought into the state in the next two years and beyond. And when I first looked at this low-level payment, I thought--this was before the session started, and we were not in very good financial position at that time--and I thought that maybe we should spread it out so that we had the money available in the event that we...that we did need it. But now I have felt that there is not any real good reason, and I don't mean to change

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what you're saying, Senator Chambers, but I don't see any real good reason for doing that, because, number one, we don't need the money; number two, we have the money now, we can pay it off and get it behind us; but number three, as we look at the financial status, as of today we have \$59 million sitting there, subject to whatever may happen in regard to the proposals that will come up, probably primarily in connection with the economic incentives. But I think if we had needed it for the economic incentive program, it would probably be a good idea to reserve it. But as I'm looking at that \$59 million, I think there's adequate room for whatever I've heard about in connection with the economic incentive programs or the budget proposals to be made by the Revenue Committee. But what I'm afraid of, to be honest with you, if we had that money sitting here, I'm afraid that the inventive minds will decide that, just hate to see money laying there when we could spend it on something, and I think that's how we've managed to get in problems in years before, because I think we have to go back to the fact that last year we had an 8 percent increase in revenue, this year about 7.5 percent increase, but the average is 5.1. And I think that I'd like to have us consider how to budget this so that we don't have a lot of money sitting here but we have enough Cash Reserve for when the economy turns down. It is going to turn down. It's historic. It'll...we're in the up times right now. We don't know how long those will last, but I'm just very much afraid to leave additional monies on the table, because I'm afraid it's our propensity is to spend it. So for that reason, I'm really...it's up to you as to how we want to do this, but I just think it's better judgment to go ahead and pay it off. Thank you.

SENATOR CUDABACK: Thank you, Senator Pederson. Senator Stuthman, on AM1442.

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. In listening to the opening comments of Senator Chambers, and he said he would be willing to answer any questions, I have a couple of questions for him before I can make a decision on how to vote for this, so would Senator Chambers be willing to answer?

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SENATOR CUDABACK: Senator Chambers, would you yield to a question?

SENATOR CHAMBERS: Yes. I am going to withdraw the amendment.

SENATOR STUTHMAN: Then I guess I don't have to get any...

SENATOR CUDABACK: Did you yield to Senator Chambers your time? Yielding your time and he would do such a thing.

SENATOR STUTHMAN: I was really concerned about interest, but in the interest of time...

SENATOR CUDABACK: Senator Chambers, did you withdraw the amendment? It is withdrawn.

SENATOR STUTHMAN: Thank you, Senator Cudaback.

SENATOR CUDABACK: Thank you, Senator Stuthman. Mr. Clerk.

CLERK: Mr. President, the next amendment I have, Senator Chambers, AM1444.

SENATOR CUDABACK: Senator Chambers.

SENATOR CHAMBERS: And this one I also will withdraw, because it would have spread the payments...it would have made three payments instead of one, so I withdraw it also.

SENATOR CUDABACK: It is withdrawn.

CLERK: Mr. President, the next amendment, Senator Chambers, AM1431, Senator. (Legislative Journal page 1375.)

SENATOR CUDABACK: Senator Chambers.

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, this is one that I am taking up. It would eliminate the funding for that textbook loan program. When it comes to expenditures for education, the constitution says that money will go only for public education. There was a court case

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that said the state could lease rooms in a church or some sectarian building if it was used exclusively for education purposes and nothing sectarian or religious was done there, that the state could contract to do to have different agencies and organizations provide services for what were described as handicapped children in those years, if nothing else is available, and if there is no religious instruction connected with that. All public school facilities otherwise must be owned by the state, and there's to be no sectarian or religious education, hymns, or anything else done in the public schools. These books in this program are a part of a stratagem to circumvent the constitution, and I think that it ought to come to an end. If you look on the gadget, you will see that, on page 19, you would strike--this is of the budget bill, the committee amendment--you would strike line 25 and insert "GENERAL FUND, \$866,104,661"; then "921,100,438." On page 20, you would strike line 1 and insert "PROGRAM TOTAL \$1,113,810,171"; then "1,176,677,207." In line 3, still on page 20, you would strike "\$866,524,661" and then insert "\$866,104,661." Then in line 6, still on page 20, you would strike "\$921,520,438" and insert in its place "\$921,100,438" and you would strike lines 25 through 27. Then on page 21, you would strike "line 1." All of this taken together has the effect of eliminating the funding for that textbook loan program as it is called. If you want to subtract \$921,100,438 from \$921,520,438, you will get an idea of the amount we're talking about. But to simplify it, if you want to subtract \$100,000 from \$520,000, you'll get the idea. I do not think this program is appropriate. There is not now and never has been really adequate funding for public education and the ramifications. There have been attempts earlier today to add money to programs that are provided by the public schools, and those attempts were unsuccessful. Perhaps if this amendment is adopted, it would free up some money that might make more viable an attempt to do some of those other things by the time we get to Select File. So that is what this amendment would do. I do not intend to withdraw it. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. You've heard the opening on AM1431. Open for discussion, Senator Friend, followed by Senator Engel.

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SENATOR FRIEND: Thank you, Mr. President. Members of the Legislature, Senator Chambers and I, jokingly at times, and I guess maybe even half seriously, he's asked me where will a guy like him, or where will he specifically stand on the hill and fight. Will it be prairie dogs? Will I fight for prairie dogs? Obviously, the management of prairie dogs is an important aspect of many Nebraskans' lives, but probably doesn't raise the passion level in me that it does in either other folks on this floor, other people in the state. Hunting, fishing, trapping? No, probably not, not for me anyway. But this is interesting. AM1431 is very interesting, and I will stand on a hill and I will fight it. And I will do it for various reasons. Forty, forty-five thousand students in this state attend private schools, in that general vicinity. A good portion...all of their parents or guardians, I should say, are either indirectly or directly paying property taxes or income tax, combination of both, in order to benefit...and maybe they don't realize that, but in order to benefit our public schools. I'm a product of public schools and parochial schools. I can tell you I think the public schools in this state are tremendous and I want them to constantly improve and become better, day by day, month by month, session by session, every year. That would be my goal. But this particular amendment has nothing to do with any of that. The money has been appropriated. These people that pay property taxes and income tax understand that it's their choice to opt out or go to a private school and do what they need...what they feel like they need to do for their children. I think the state constitutionally and statutorily helps them maintain that position. And I don't think statutorily or constitutionally that private school parents and guardians are asking that much with a program like this, especially considering that most of the parents, at least the ones that I've talked to, and I think that, I hope, most of the ones that you talk to, do understand that they like a strong public education...public school education in the state as well, and are more than happy to see their property taxes and income tax injected into that system. I am. I pay almost \$3,000 in property tax a year. I don't know how much...you know, and the funny thing is, I don't know how much income tax is withheld. I'd have to go look at it from my paycheck every year. But

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guess what? I'm happy that that happens. I wish it were a little less, but I'm happy that it happens and I'm happy that it benefits our public schools. I just don't think we're asking that much here.

SENATOR CUDABACK: One minute.

SENATOR FRIEND: I would say that if we head down avenues like this, I think we could probably go through the budget, line by line, and find things that each one of us thinks is inappropriate and, you know, maybe today after the time that we've spent, maybe it feels like we're doing that. But I would say we could do down, line by line, and find things that we think are inappropriate. I would submit to you that this isn't one of them. I believe it's been through the legal system. It's been defined as appropriate, and I think the Appropriations Committee has defined it now as appropriate. I would urge the defeat of AM1431. With that, Mr. President, thank you.

SENATOR CUDABACK: Thank you, Senator Friend. On with discussion of AM1431, Senator Engel, followed by Senator Foley and others.

SENATOR ENGEL: Mr. President, members of the body, this has been an ongoing battle for several years as far as far this textbook loan situation. I think Senator Chambers has brought this up before, not totally to eliminate it, but to reduce and so forth. And this has been in effect for several years. Senator LaVon Crosby, who served with us, who Senator Chambers admires, her husband took this to the courts, and it is constitutional, and it's been very effective. A little history. My children went to parochial school the first eight years. They went to public schools thereafter at high school and college. I served on our St. Michael's school board and then I served on our community school board, our public school board. In fact, one person, when I ran for the public school board, he says, I'll tell you what, I'll vote for you if you promise to keep St. Michael School open, because of the savings to the taxpayers. Now we did that by choice. I don't mind...I didn't...we didn't ask for tax dollars to support our school, because that was a choice we made, and I was very happy to pay

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in both instances. I pay a lot of property taxes, and I don't mind that because education, to me, like I've said before, is a great equalizer. If you get a good education, I don't care where you come from or your ethnic or background or anything else, a good education effort on your part, you can do anything anybody else can do. So I believe in education. I don't mind paying my taxes, but this is a small token that we can do for the parents. This is for the parents of these students who are going to private schools. They're all...they are not all Catholic schools. There are different religious schools, other private schools that benefit from this. And the situation is, individual parents of individual students attending state-approved private schools make individual requests to borrow textbooks through the public school districts in which they reside. The local school districts calculate the amount of funding necessary to purchase the textbooks requested and apply for that amount from the state Department of Education. If the aggregate amount of requests for funding exceeds the available appropriation, then prorated reductions are made. So they do loan the textbooks to the parents for their children attending nonpublic schools. So as far as I'm concerned, I'm not...Senator Friend mentioned about how many private students there are in Nebraska, and if you want to use some figures, there are about 40,000, approximately, and I figure that that saves the taxpayers about \$299 million a year. If you calculate it, that's a \$7,476 average for public school costs. So that's a savings, but that is not the point here, because we don't...again, I'm not using that as a crutch here to get your vote to defeat this amendment, but just information for those who aren't aware of that. But we do that by choice. We do that by choice. We're not complaining about how much money we spend or how much we're saving. But if that would...if they all would close...Senator Chambers was talking about where we could use these few dollars in other areas of education. If these schools would close, well you'd really be searching for a dollar. So I do oppose the amendment. It has been working very effectively for many, many years, and I think it has aided a lot of families. And of course, it's for the children. And it's for the children, it's not for us. So I do appreciate your vote no on this amendment. Thank you.

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SENATOR CUDABACK: Thank you, Senator Engel. On with discussion, Senator Foley, followed by Senator Kruse.

SENATOR FOLEY: Thank you, Mr. President and members. I may be mistaken on this, but I think there is a history behind this program and some court rulings on this program. And again, I may be mistaken, but it's my understanding that it was former Governor Crosby who, as a private attorney, litigated this matter, and the courts found that he was correct, his arguments were persuasive, and that the program is fully constitutional. This program has been around for years and years and years. Look, I pay property taxes to support the public schools, and I pay tuition as well to send my kids to parochial school. That's my choice. And for every other parent who, like me, sends their kids to parochial schools and pays property taxes to support the public schools, all we get from this program is a loan of books. And what books get loaned to us? Not books on religion. It's the very same books that are used in the public schools. They buy more of the books and they loan them to the parents of the kid, to send their kids to parochial school. The parents have to fill out paperwork in order to qualify for the loan of the book, just like checking a book out of the library. They use the book for the school year and the book gets returned. What's the big deal? But there are parochial schools in the state who are hanging on by a shoestring. If you start pulling away some of these kinds of benefits, and it is a benefit for sure, what happens to those kids when those schools close down? Do the kids just vanish? No, they don't vanish. They go to public schools, and the public schools have to absorb those thousands of kids. And there goes property taxes again. I urge you to vote no on AM1431. Thank you.

SENATOR CUDABACK: Thank you, Senator Foley. Senator Kruse, on AM1431.

SENATOR KRUSE: Mr. President and members, thank you. I will be very quick and simple. I oppose the motion, although I do understand it. There are very few ways that we can join our parochial education partners in the communities which are across the state, and this is one way we can do it. It is an appropriate way. They help to pay for the textbooks, the

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textbooks remain in the ownership of the local school district, and it's a way that we can work together that really is insignificant in our state budget, but makes a lot of difference in the local school. Thank you.

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

SENATOR SYNOWIECKI: Thank you, Senator Cudaback, members. I am opposed to the amendment, AM1431. As has been spoken to earlier, this textbook loan program is, from what I understand, has been proven to be constitutional. If you look at the state expenditures for state aid to education, you know, you're looking at \$684 million this year, and the next biennium, you're looking at \$734 million. This does not include expenditures for special education, aid to ESUs, high ability learner programs, early childhood programs, school lunch programs. And this program, if you look at it within the backdrop of them types of numbers, represents such a minuscule amount. And has been mentioned by Senator Engel, the mitigating factors relative to the private school system and its relationship, its corresponding relationship to public expenditures for public education saves the state an enormous amount of money, an enormous amount of money. So given that it...we're talking about a minuscule amount compared and contrasted with what this state invests in public education, and we're talking about less than a \$500,000 program that enables kids to participate in a private education, I would hope that the members would find it to vote against the amendment, AM1431. You know, not all private schools are on your higher-end social economic scale in terms of participation by youngsters. In my district, I have a small Catholic, inner-city Catholic, grade school that does wondrous works with the kids that attend the school, and they depend in large degree on this program, and they utilize this program to the fullest extent that they're allowed to. And I would sure hate to see that to go away for them kids. And please vote against the amendment, AM1431. Thank you.

SENATOR CUDABACK: Thank you, Senator Synowiecki. Senator Chambers, on your amendment.

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SENATOR CHAMBERS: Mr. President and members of the Legislature, it seems to me that those who don't like social engineering in the budget bill are engaging in some more of it for their particular narrow interests. Can I condemn them for it? No, I do the same thing if I can. It just happens that I'm outnumbered. I don't have a church. I'm not operating an education system that competes directly with the public school system. The reason I don't feel sorry for the Catholics, Senator Synowiecki, Senator Engel, Senator Foley, the church is one of the biggest property holders in the state. You all may not know that. One of the largest single property owners in the state. They have a big mess of land, or mass of land, in Sarpy County. Sometimes I'm driving out Highway 370, if that's what it is, and I see a land...a big piece of land with a big sign on it saying who owns it. The Catholic school system is parallel to, and in competition with, the public school system. They're not some little ragtag group trying to barely make it. Now they might have individual schools in their system that they don't give as much attention to as others in their system. How can you have well-off Catholic schools and some barely making it and hanging on by a shoestring? They're not lying when they say those kinds of schools exist in the Catholic education system. The same kind of discrimination that occurs--and I'm saying "kind," not exactly the same--in public schools exists in the Catholic system. If all Catholics are equal, why do they have some schools that are plush and lush and others that are hanging on by a shoestring? Why? It's one system. And then they come to the state and say, help us. You notice when I was talking, I didn't say this is unconstitutional. I said it's an end run around the constitution. That's why they say they loan the books rather than give them. The state cannot give any direct aid to a sectarian or religious operation. So religious people are very clever in circumventing the law. They say, loan it to us. The effect is the same. That's what you call defeating the spirit of the law. If you violate the words in the law, you can be punished. If you find a way to violate the spirit, you're all right. And that's what the Catholic Church has managed to do, not only in this regard but others. And people for some reason are afraid to mention that the Catholic Church is one of the most powerful political entities on the face of the earth. The Vatican is represented in the U.N. I don't see where the

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Lutherans have a representative there or the Methodists or the Baptists. I'm not advocating that, brothers and sisters, not by a long shot. I don't see the President paying court to the head of any other religion, but he pays it to the Catholic Church and the Pope. So there is no need in people thinking that the Catholic Church is not a political entity and organization. And one thing that I have done, and I continue to do it--I started when I was at Creighton because I was fascinated--I did find out how much corruption and crookedness speckles the whole history of the church: illegitimate children, murders of Popes and fomented by Popes, gangsters who became Popes. All that you...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...find in the Mafia you find in the Catholic Church. So I'm not talking about what people believe in terms of how they're going to get to heaven or what will take them to hell. That's between them and whatever they believe. I'm talking about the political impact. Sometimes they have as many as five lobbyists representing Catholic interests out here in the lobby. They do get deeply involved in politics, and I am going to make note of it if nobody else does, and I'm going to take issue with it. And I do not want to see any money that ought to go to public schools go to private schools, even if they're not religious, but certainly not to religious schools. They don't need to get this money. But I take it from the comments that have been made so far, my amendment is not very popular. Thank you, Mr. President.

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

SENATOR FRIEND: Thank you, Mr. President. Members of the Legislature, Senator Chambers is right. It's not popular at all. I hate it. (Laughter) All right, look. We can...what would be the goal of an amendment like this? What would be the goal? A lot of folks who think the goal would be to promote the exodus. I don't think it is. Let me...hear me out for a second. The exodus of private schools, get people out of these private schools. I don't think that's the goal. Senator Chambers has not...as a matter of fact, I don't think...I don't have any documentation. I don't have any information to believe

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that he's ever showed this to be the case, that that's...that his goal would be to promote that type of behavior. He'll get other opportunities to explain his goal, but I personally think it is...or I think it could be, because this is money that could be used for other purposes within the educational system. That's legitimate. You know, that makes a lot of sense. But I sense a little bit of, at times, spite coming from Senator Chambers, and I think that there's a little bit of that with this amendment. If...to a degree. Look, the Catholic Church has had a lot of problems in the last 2,000 years. Sure it has. So have human beings. And the Catholic...and the people associated with the Catholic Church, as coincidence would have it, are human beings. Mother Teresa was a human being. There are also human beings associated with the Catholic Church and its history that were not so nice. I'm sure Senator Chambers can bring those people to life for us. What I'm saying is, that probably doesn't have anything to do with this argument, I don't believe. I believe this argument boils down to this. There's a history and a track record and there's legal precedence that shows that this passes muster. There are also thousands of parents in this state, all law...the majority law-abiding, tax-paying, public-school-supporting parents, who either have some of their students in private school, all of their students in private school, or have transitioned from one spot to another at times in their life. My parents did that; sometimes out of convenience, sometimes out of for what they thought was going to be best for me at that particular time, like all of your parents did for you. I'm sorry, Mr. President, did you say time? He can't...okay. What I'm getting at is, I think that we can safely assume that there's a little bit of good will associated with AM1431, and I would venture to guess maybe a little bit of a gut punch. Take this, you don't need it. Well, the Appropriations Committee decided it's appropriate. Let's find out what the body has to say. I think it's appropriate. I hope you do, too. I ask for the rejection of this...

SENATOR CUDABACK: One minute.

SENATOR FRIEND: ...amendment once again. Thank you.

SENATOR CUDABACK: Thank you, Senator Friend. On with

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discussion of AM1431 to Appropriations Committee amendments, Senator Smith.

SENATOR SMITH: Thank you, Mr. President and members. We have some issues facing education today that I believe are some challenges, and I believe that we can overcome those challenges. But among those challenges, I believe, is community support. And I believe that this amendment would lead to less community support of the concept of public education. Now in my own district, or in my own legislative district, not my home school district but my home legislative district, that a school district is now even hiring a public relations officer. And these will be dollars not spent in the classroom because of some public relations, and that's certainly a local decision and I won't criticize them for that. What I'm saying is we need to develop relationships that don't cost local...that doesn't cost local school districts a lot of dollars. And we have a program here that I believe, number one, helps to educate students, no other questions asked, helps to educate students. There's not a movement afoot in here to even expand this program or create new programs to take dollars out from public education and put them into private education. There's no movement afoot to do that. But the first thing we need to do all the time is ask, are these dollars educating students? And quite frankly, I don't care in what context. But we have the dollars here that I believe are wisely used, wisely applied, and they help families and they help students, and I think that's what we should be about. I cannot support the amendment because I think it would, as I stated earlier, lead to fewer community partnerships that leads to the education of students, and I think ultimately gives a boost to public education, because public education is vital to Nebraska as well. But we know that not everyone has opted for public education, for several reasons. It might be a religious belief. It might be a concern of academic rigor. It might be lack of a program for gifted students or special needs students, whatever the case might be. Many parents, thousands of parents across Nebraska, have chosen to not participate with their children in the public education system, while they are paying taxes. The book loan program, the textbook loan program, I think is a good thing. And I don't seek to double the funding. I just seek to keep what we have here, and I think that we

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should continue to support that, and I urge the no vote on AM1431. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Smith. Senator Redfield, followed by Senator Chambers.

SENATOR REDFIELD: Thank you, Mr. President, members of the body. Senator Raikes introduced an amendment earlier today and he talked about the fact that we had a choice whether to pay special ed funding up-front or to pay it again later. And I would tell you that often I'm an idealist, but underneath that ideal surface, there is a core of pragmatism in us...in me, and I will tell you that if, in fact, we don't continue to fund this, we will find that these children are coming to our public libraries to check out the books. So we are going to pay for the books, one way or another, and it's a matter of whether we want Senator Mines to come back with another amendment to try to give the cities more money so that they can purchase the books for their libraries, or whether we want to go ahead and take care of it here. Education is a state responsibility according to our constitution. I believe that books are important. Learning is important, and I think that it serves the public purpose. As our children are better educated, they will perform better in our society and, in fact, not be so dependent upon the services that we are finding ourselves hard pressed to provide under the fiscal climate. So I think that books are a good thing. I want to see them in the hands of every child. I don't care where they go to school. I want to make sure they learn, and I want to make sure that they succeed, and I would like for them to stay in Nebraska and be productive citizens and contribute to our economy. If this helps that be achieved, I think we should keep it. Thank you.

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

SENATOR CHAMBERS: Mr. President and members of the Legislature, I believe in a clear line of demarcation between the church and the state, between religion and the state. This kind of thing blurs that line. Senator Redfield is probably unaware of this, but there was a quarter of a billion dollar bond issue in Omaha

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that was floated two or three years ago to re-segregate the schools. Now after getting that quarter of a billion dollars, you know what happened in the black schools which were re-segregated? They didn't have enough money for textbooks. The state didn't say, we're going to loan books in the public school system where the black children are, but you'll loan them to Catholic schools. That's what I'm talking about when I say political clout. You all know, like I know, that this is a political issue. I'd like to ask Senator Redfield a question. She's standing there looking...

SENATOR CUDABACK: Senator...

SENATOR CHAMBERS: ...at me trying to melt me, almost succeeded, but I looked away.

SENATOR CUDABACK: Senator Redfield.

SENATOR CHAMBERS: Senator Redfield, there was a guy in the "Li'l Abner" comic strips named Evil Eye Fleegle and if he hit you with a double whammy, you were done. A "one-thoid" whammy, as it was called, would wipe out the ordinary person. You just put a triple whammy on me, so I'm not going to look at you. But let me ask you this question. Are you aware that there are what could be called poor Catholic schools, where they're hanging on by a thread, as one of our Catholic colleagues mentioned, and other Catholic schools which are not in that set of circumstances?

SENATOR REDFIELD: I would be aware of some parishes in neighborhoods that are not very prosperous, and therefore would not see the contributions into their local parish that would facilitate a great deal of spending in their schools.

SENATOR CHAMBERS: So what you're saying is that some schools are better off in the Catholic education system than others?

SENATOR REDFIELD: Yes.

SENATOR CHAMBERS: How can that be if they're all...well, are there separate Catholic education systems, or is there one

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overarching Catholic system of which all of their schools are a part?

SENATOR REDFIELD: Senator, I'm probably not the best to answer that. I know that they each...each parish runs their own school, and I do believe that the diocese has some oversight, but I know that they have a local principal and school board, so I don't know how much autonomy they have. You would have to ask someone who is more familiar with the system.

SENATOR CHAMBERS: Okay. And I'm going to ask you a question to test you. This is a grammatical question. What is the plural of diocese?

SENATOR REDFIELD: I don't know.

SENATOR CHAMBERS: Thank you. Is "General" Friend here? "General," I'd like to ask you a question if you will yield. To your post.

SENATOR CUDABACK: Senator Friend, would you reply?

SENATOR FRIEND: Yes, thank...

SENATOR CHAMBERS: Senator Friend, you've been a Catholic for a good long time, haven't you?

SENATOR FRIEND: Ever since I can...

SENATOR CHAMBERS: I didn't say a good Catholic. I said you've been a Catholic for a good long time.

SENATOR FRIEND: You...a good Catholic?

SENATOR CHAMBERS: No, I said I didn't say a good Catholic. I said you've been a Catholic for a good long time.

SENATOR FRIEND: Since I can remember.

SENATOR CHAMBERS: Okay. You're familiar with the word diocese?

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SENATOR FRIEND: Yes.

SENATOR CHAMBERS: Did Senator Foley whisper into your ear what the plural of that word is?

SENATOR FRIEND: No, he did not. "Dioci."

SENATOR CHAMBERS: What is the plural of diocese?

SENATOR FRIEND: Dio...

SENATOR CHAMBERS: Thank you. (Laugh) That's wrong, though. Senator Foley, can you help me with this question?

SENATOR CUDABACK: Senator Foley.

SENATOR CHAMBERS: Senator Foley, what is the plural of the word diocese?

SENATOR FOLEY: "Dioces."

SENATOR CHAMBERS: Thank you. Fail. I'm not going to ask Senator Engel.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: Dioceses. Dioceses. Diocese is plural; dioceses...I mean, diocese is single; dioceses is plural. But even when you read that word mentioned in some of the largest newspapers and they're making it plural, they get it wrong. I pay attention to religion, probably more than people who are in those religions. It just happens that there are more Catholics in this body than any other single group, and they have more power than these other weak, sniveling sister religions, that I go after the big ones. I don't go after the little ones. But at any rate, I started reading about the Catholic Church when I was at a Jesuit university, and priests used to come to me and ask me questions. I don't know whether it was to test me or to get information. But the information is there. On this issue I bring up some of those points to let you know that the Catholic Church is more than able to take care of itself.

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SENATOR CUDABACK: Time, Senator Chambers.

SENATOR CHAMBERS: Thank you, Mr. President.

SENATOR CUDABACK: Senator Kopplin, on the Chambers amendment, AM1431.

SENATOR KOPPLIN: Thank you, Mr. President, members of the body. I wasn't going to enter this discussion. I'm not going to support this amendment, but I enter the discussion. I also don't support some of the concepts that I heard tossed around here, and that was that, you know, I pay taxes, therefore I should get what I should from the public school in spite of my children not going there; or if we close our doors, we're going to swamp the public schools. You know those things aren't going to happen. I'm not going to support this bill because it was simply a good move on the public schools that I worked with that we take care of our patrons wherever they go. We did not give books to a Catholic school. We gave books occasionally to a child that needed them, whether they went to a Catholic school or whether they went to a home school. That was only good public relations that helped us in many other ways. So I'm not going to support this amendment, but I just had to get that in, that I...neither do I support the arguments that simply because you send your child to a parochial or private school, that you have some claim on the tax money you paid to the district, because that's not true either. Thank you.

SENATOR CUDABACK: Thank you, Senator Kopplin. Senator Aguilar.

SENATOR AGUILAR: Question.

SENATOR CUDABACK: Senator Aguilar, there are not further lights on, so that will not be necessary. Thank you anyway. Senator Chambers, you're recognized to close on AM1431 to AM0521.

SENATOR CHAMBERS: Thank you, Mr. President, members of the Legislature. Never have I felt more loved in this body than I feel right now. (Laugh) See? But see, I have a way of taking one of these issues, which could be very contentious, and before

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it's over, we're all laughing together with each other. But it is a very serious issue. I'm serious about this amendment. I know it's not going to be adopted. But whenever something comes before us that can blur the line between church and...between the state and religion, I'm going to stand and try to stop that from happening. I know this amendment has no chance, but there are many things which were deemed to be lost causes because people didn't have the imagination, they didn't have the vigor, they didn't have the tenacity to work the issue until they got it to turn around. Now when you deal with something that is hidebound or covered with barnacles, something huge and looming, it reminds me of an analogy that I often give. If you're flying a Piper Cub, which is a small airplane, you can maneuver and turn that little airplane, go up and down, a lot more easily, a lot more quickly in your individual maneuvers, than if you have one of these jumbo jets. The jumbo jet is so large that if it's going to make a turn, it has to make a long, wide, slow turn because there is so much momentum going in one direction that to alter it, you have to do it slowly, gradually. There's a lot of inertia in this thing that I'm dealing with, so I have to start early in the morning and try to get something done. But I'm going to sensitize my colleagues to the line that is to exist between church and state. Render unto Caesar that which is Caesar's, and you all know the rest of it, but you don't want to do it. I'm going to continue on these issues. One of the things that I have managed to achieve, and it's not mentioned by the media or anybody else when they're trying to give me credit for having done something, is to get rid of an aid program where the money was available only to private schools, and most of them religious, only to private schools, although the students going to private schools had access to all the other funds. So it took me a while but I finally got that done away with. It takes somebody willing to fight and fight and fight, and that's what I'm prepared to do. People such as myself take our lumps, but what doesn't kill us makes us stronger. That's why, as the day wears on, the session wears on, we get stronger. We get in a zone, we become more enthusiastic, more energetic. We don't have to stop to eat. We don't go sponge and mooch off the lobbyists. I don't know if the lobbyists are going to feed you all this evening, but let me tell you this. Don't be so ungrateful that you come in here with the odors and the crumbs

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of the lobbyists' meal still hanging on you and cleaving to you, and you're criticizing the quality of the food that you got through gluttoning down. If you're going to be a beggar and feed at the trough of the lobbyists, don't run back in here criticizing about how terrible the food was, you're (smacks lips) trying to get what you got stuck between your teeth, you're trying to chew what little...what little bit of the food you have left in your mouth, and condemning it. I say, "Captain Lunch-hunter," how did you like that food? He said, I couldn't stand it, "urp". Okay, he didn't. (Laugh) No, he...that "Captain Lunch-hunter," I don't think he criticized the food, but some of them did, and they were very serious. Don't be outraged when they give you bad food. Beggars can't be choosers. They ought to give you bad food. You're sponging, you're mooching. You have no pride, no self-respect, so they treat you like that. They ought to do just like with the pigeons, get some popcorn and throw it on the floor and say, go get it. Cut up some of Senator Janssen's sausages...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...and throw them out there and let you eat it off the floor. You all don't like this? Then stop putting yourself in that position. Show some pride. Buy your own food. We get a per diem as it's called. It's not that, strictly speaking. Your expenses are paid. They give you enough. And if you all eat up all that you get the money to provide yourself in a day, I will provide some food down in my office and let you eat with some respect and dignity, and I won't even tell you that you came down there. But I'm embarrassed by my colleagues, sponging and mooching off the lobbyists. If the lobbyists had any pride, they would choose better company. But I'll tell you why they do it. You got something they want. They want your vote, and they can buy it cheap: meat loaf sandwich and a chicken dinner. That's why everybody in this Legislature is honest. You don't have to give a bribe. You don't have to give a bribe. But if you stopped letting them feed you over there, you'd get some other offers.

SENATOR CUDABACK: Time, Senator Chambers.

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SENATOR CHAMBERS: For what? To eat? (Laugh) I'm just kidding. Mr. President, won't even put us through a vote on this particular one. I will withdraw it.

SENATOR CUDABACK: AM1431 is withdrawn. Mr. Clerk, when you get time, next amendment, please.

CLERK: Mr. President, the next amendment, Senator Chambers, AM1439.

SENATOR CUDABACK: Senator Chambers, you're recognized to open on AM1439 to AM0521 to LB 425.

SENATOR CHAMBERS: Mr. President, I would like to withdraw this and refile it for Select.

SENATOR CUDABACK: So ordered. Mr. Clerk, next motion (sic).

CLERK: Mr. President, Senator Chambers, AM1437.

SENATOR CUDABACK: Senator Chambers, to open on AM1437.

SENATOR CHAMBERS: Mr. President, members of the Legislature, this is an amendment that would reduce the General Fund appropriation that would go to Peru State College. I am in negotiations and discussions with the representative of that college, and nothing fruitful has happened yet, but nothing has been derailed, so I want to withdraw this amendment and refile it on Select also.

SENATOR CUDABACK: And also so ordered.

CLERK: Mr. President, the next amendment I have, Senator Stuthman; Senator, I have AM1378. I understand you'd like to offer as a substitute AM1470.

SENATOR CUDABACK: Any objection?

SENATOR STUTHMAN: That is correct.

SENATOR CUDABACK: So ordered.

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CLERK: Senator Stuthman offers AM1470, Mr. President.
(Legislative Journal page 1392.)

SENATOR CUDABACK: Senator Stuthman, to open.

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. My amendment has to do with county reimbursement for jail inmates. What this bill is...I'll give you a little bit of history of how we got to this point, where we're at and what took place several years ago. In 1998, LB 695 was introduced by Senator Cudaback and was passed on April 9, 1998, and this bill did accomplish an override of the Governor. And this bill had put \$5,500,000 in the fund to be reimbursed to county for inmates that were for the state prisons, county reimbursement, property tax relief. What had happened was, that did take place for a couple of years, but in 2002 at the Special Session, there was a bill that did pass, and I'll read you the portion of that is. It says: Beginning with the fiscal year 2003-04 and each fiscal year thereafter, the total amount appropriated approval...for the Legislature for the Department of county jail reimbursement assistance shall not exceed \$3,910,000. What my amendment states is that on page 86, lines 20 and 21, strike each occurrence of \$3,501,405 and insert \$3,910,000; and in lines 24 and 26, strike \$3,501,405 and insert \$3,910,000. What I want to do is I want to give you a little bit of history. Yea, the Appropriations Committee--and I really appreciate it--they did appropriate \$3.5 million for the 2006 budget year and 2007. This program does cost, realistically, of the amount of prisoners and the county reimbursement of \$35 a day, would cost \$7.2 million, if we funded the whole program, as what the intent was to be when it was initiated in 1998. But since that time of budgetary problems has occurred, and the passage of the bill in 2002, I just feel that I would like to see that we would at least get up to that amount of \$3,910,000. And that is what I am trying to accomplish with this. I would like to hear some of the discussion and then I'm going to see where I'm going to go with it at that time. Senator Bourne also signed onto this bill, and I don't know if he wants any of my time. I do not see him in the Chamber right now. But with that, those are my opening comments. I'm realistically asking for about another

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\$411,405, is what I'm asking for. It's not a large amount that I'm asking for, but I think, you know, I would like to see that amount up to what was placed into law in 2002. I'm going to see how the discussion goes, as far as what I intend to do with my amendment. So with that, those are my comments on the initial opening of it. And if anyone has any questions, I would attempt to try to answer those.

SENATOR CUDABACK: Thank you, Senator Stuthman. On with discussion, Senator Don Pederson.

SENATOR D. PEDERSON: Mr. President and members of the Legislature, I understand where Senator Stuthman is coming from in connection with this. It was not only Mr. President's bill, but I prioritized it when it was passed. And why was it passed at that time? It was passed during that time that we did many things in the Legislature in an effort to help the property tax situation, in this case in the counties. And that was the intention, and then we ran onto hard times, as you know, and this money fell by the wayside. But what is being asked for here is a restoration, basically, of money that it didn't get in those bad times. And we started out this session, and I informed all of the various agencies that one thing that we were not going to consider was restorations at this point. And of course, when we sent that, we were not in great shape financially. But nevertheless, people did respect that and did not come back in and ask for additional monies that they hadn't gotten during the several lean years. And I think in this particular case, I would ask that we consider that same thing and that we not go back and reimburse, because if we start reimbursing for everybody that did not get money during those lean years, then we would be broke. And I just think that we have to adhere to this approach. And the Governor, for example, this year, asked for 21 additional troopers. And that was a restoration, and we rejected that on the basis of the fact that it was a restoration. We did go back and we tried to fund that with what monies we felt we had available at that time, and we did fund five additional troopers. Now it's possible that we can still have some additional discussion with the Governor's office and see if we can possibly do anything, but it's based upon the current needs of the patrol, not the effort to restore

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and put back where we were in the year 2001, 2002, 2003. Those were just situations that we felt we had to deal with on the basis of current need, and we just could not go back and restore, and I think it puts us in a terrible position if we do attempt to do that at this point. This is the beginning of potential restorations, and I believe that we just simply can't go forward in that direction. Thank you.

SENATOR CUDABACK: Thank you, Senator Pederson. Senator Bourne.

SENATOR BOURNE: Thank you, Mr. President, members. I introduced this amendment with Senator Stuthman largely because I remember some letters that had been sent out by the Chair of the Appropriations Committee lamenting the fact that this bill...a bill was passed that created a state obligation that was never met. And if...is Senator Pederson still on the floor?

SENATOR CUDABACK: Senator Pederson.

SENATOR BOURNE: He's working his way to his microphone. I remember him receiving a...or sending out a copy of a letter. I think the letter went to the Governor, and he copied all of the Legislature...legislators, and this has been a couple of years ago. Senator Pederson, would you yield to a question or two?

SENATOR CUDABACK: Senator Pederson.

SENATOR D. PEDERSON: Certainly.

SENATOR BOURNE: And, Senator Pederson, again I...you were out in the lobby when I mentioned this, but I signed onto this amendment with Senator Stuthman, and I seem to remember that you had written a letter, I believe, to Governor Johanns a year or two ago, perhaps three years, lamenting the fact that we had passed the bill that the...to require the state to reimburse counties for incarcerations, and the state never really followed through on that. Is that accurate?

SENATOR D. PEDERSON: Very accurate. I was very upset at the time.

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SENATOR BOURNE: Okay, and at the time...you know, they tell a lawyer never to ask a question unless you know the answer. But is your position the same today? And I heard that you were talking; I was talking to somebody else. Where are you with the amendment?

SENATOR D. PEDERSON: Well, I think I've stated that I have to oppose the amendment because I'm afraid it sets a bad precedent, for all of those that would require restoration if we went back that way.

SENATOR BOURNE: So the precedent is more the iron claw of the Appropriations Committee rather than your objection to the state not funding this?

SENATOR D. PEDERSON: Well, I think we ought to consider changing the law if we're not going to reimburse.

SENATOR BOURNE: What...Senator Pederson, and again, it might...was this your bill that was the original, the original bill that caused this obligation to be created?

SENATOR D. PEDERSON: Actually, it was Senator Cudaback's bill and I prioritized it.

SENATOR BOURNE: Okay, Senator Cudaback's. There is an obligation. I guess I never understood why the state didn't pay this money. As I understood it, the Department of Corrections turned a certain amount of money back into the General File this year, and that money could have been turned over to the counties to fund this obligation.

SENATOR D. PEDERSON: Are you asking me, Senator Bourne?

SENATOR BOURNE: I am.

SENATOR D. PEDERSON: Okay. The statement was made by the Governor's office, the Governor, I guess, exactly himself, saying that we did not have sufficient money in Corrections at the time and, therefore, the bill was not going to be paid.

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SENATOR BOURNE: How is it, though, that a statute can exist that requires the state to perform a duty so the state is obligated in some regard, and then they basically thumb their nose at the counties and say, we're not going to pay? How was the statute worded that it...such that it would allow the state to get away with that conduct?

SENATOR D. PEDERSON: I don't believe it does. I think that that's why I was objecting to the procedure adopted by Governor Johanns of saying, well, we just don't have the money; therefore, we're not going to obey this particular law. And I felt at the time that there was adequate money in Corrections, and it fell on deaf ears.

SENATOR BOURNE: All right. So basically the remedy then, if a county was to receive "x" number of dollars that the statute specifically says the state has to pay, then the remedy for that county would be to sue if that money is not forthcoming?

SENATOR D. PEDERSON: I would think so, yes.

SENATOR BOURNE: Okay. And no county has elected to do that. I assume that to sue the state is a significant undertaking.

SENATOR D. PEDERSON: Yeah.

SENATOR BOURNE: But you would agree with me that the state has this obligation and has not met that obligation for a number of years.

SENATOR D. PEDERSON: I would agree.

SENATOR CUDABACK: One minute.

SENATOR D. PEDERSON: It's statutory and they simply haven't done it.

SENATOR BOURNE: Okay. And again, your objection to the amendment is not necessarily...I don't want to mischaracterize your words, but you would probably say it is the right thing to do. You simply don't want to change the precedent of being

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the...as I refer to, the iron claw of the Appropriations Committee, and allowing for deviations from the Appropriations Committee's bill. Is that accurate?

SENATOR D. PEDERSON: That description makes me feel kind of draconian, to be honest with you, Senator Bourne--the iron claw. But I would say that if we are not going to comply with this particular statute, that we should modify the statute. And we haven't done that yet. But I think that there is an obligation, and my objection at this time has to do with the fact that it would open a floodgate of restorations which we can't afford.

SENATOR BOURNE: Do those restorations that you're alluding to, are there statutory obligations for each of those, or is this one unique?

SENATOR D. PEDERSON: I'm not sure that there are others that are statutory.

SENATOR SCHIMEK PRESIDING

SENATOR SCHIMEK: Time. Thank you Senators Bourne and Pederson. Senator Louden, your light is next.

SENATOR LOUDEN: Thank you, Madam President and members of the body. I guess as I look at that and what our counties are going through, most of our counties are usually maxed out at their levy limits or close to it on some of them. And my take on the situation would be it isn't necessarily any restoration of funding. It would be a way of helping on property taxes, because if the counties are near their maximum levy limit and they have to go ahead and fund this for these prisoners until they're incarcerated down on state property, they have to use money from some other means. And usually, whether it comes out of their road funds or whatever funds it comes out of, there are other funds that they have to use in order to pay for this. So I would think that if there is any give in this state budget that we're working on, this would be a good opportunity to probably put some of it back into the counties to help alleviate property taxes. It wouldn't be a great deal, but it would be that much. And some of the counties that are at their levy

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limits would certainly appreciate it. There are some counties that have several of these situations arise through part of the year. And my understanding is some of the counties have used up a lot of their funds that they get from estate funds and estate taxes that many counties use as a rainy day fund. Some of them have already depleted that because of some of the legal situations that have been involved in their counties. So I think this is a viable amendment. I think this is something that if there's any give in this budget process this would be a good place to probably look to see to fund some money. I think Senator Stuthman and Senator Bourne have come forward with something that could probably really be positive and help out in some areas and would help to reduce the property tax load in some places. I'll return the rest of my time to Senator Bourne if he so desires to have it.

SENATOR SCHIMEK: Senator Bourne, would you wish to use the rest of Senator Louden's time? You have about 2 minutes and 36 seconds.

SENATOR BOURNE: Is there eight minutes left?

SENATOR SCHIMEK: Oh, no.

SENATOR BOUPNE: Thank you, Madam President and members.

SENATOR SCHIMEK: Two minutes and thirty-two seconds.

SENATOR BOURNE: Thank you. Senator Pederson, would you continue the dialogue that we had? Senator Pederson, I appreciate you answering these questions. And again, as we were talking, you mentioned that this would kind of open the floodgates. And I guess I'm trying to distinguish this that I see as an absolute obligation of the state that the state has chosen basically to disregard, versus, say, an agreement that we might have had that was a lot...on a particular set of funds, MIRF, that was a lot looser than a statutory obligation. So are you aware of anywhere else in statute that creates an obligation for the state that the state disregards in terms of funding?

SENATOR SCHIMEK: Senator Pederson.

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SENATOR D. PEDERSON: I'm not aware at this time of any obligation that's a statutory obligation that the state did not fund. Are you?

SENATOR BOURNE: And I agree with you, Senator Pederson. I've looked and I've looked and I can't find it either. And I was baffled. I remember reading your letter that you sent out a couple of years ago, and quite honestly I read it and I was impressed, as I usually am, by your work. And for the life of me, I don't understand why we haven't funded this. And I guess what I'm going to do is stand with Senator Stuthman and hopefully other people will recognize that this is wrong. We shouldn't...I argued yesterday on the claims bill that we had an obligation to make a payment...

SENATOR SCHIMEK: One minute.

SENATOR BOURNE: ...and we should have made that. And in that situation we did. I think in this case we had a bill that passed, it had a hearing. It came out of the committee, obviously. I don't know how many votes it had out of the committee. It was on General File. It was argued on General File. It must have had a majority of the legislators approve it on General File. It obviously went on to Select File. A majority there approved it. It went on to Final Reading, had a majority of the legislators there approve it. The Governor obviously signed it, and that's law. And we have, in my opinion, ignored a statutory obligation and refused to fund this. I don't think that's right. Actually, I wish a county would sue. Of course, that would take money to do that and time and create some ill will between that county and the state, and so I understand why they don't sue. But I do not understand why we don't honor this commitment.

SENATOR SCHIMEK: Thank you, Senator Bourne and Stuthman. Senator Kopplin, your light is next.

SENATOR KOPPLIN: Thank you, Madam President and members of the body. I'm going to support this amendment, not because it makes a great deal of effect. The state pays counties about \$35 a day

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for inmate when actual costs are about \$68. For Sarpy County, the difference might run about \$50,000, which isn't a great deal of money. But what it does is the state is raising my property tax, and that just isn't right. If you're not going to fund this, then change the law that says we're never going to do this again. But as long as the law is there, let's honor it and don't make any pretense about raising my property tax or saying you haven't raised taxes when indeed you have because you raised my property tax. Thank you very much.

SENATOR SCHIMEK: Thank you, Senator Kopplin. Senator Chambers, your light is next.

SENATOR CHAMBERS: Madam President, members of the Legislature, Senator Bourne was trained in the law, I was trained in the law. We have a difference of opinion on this subject. I do not think that a lawsuit exists on behalf of the counties with reference to what is being discussed here. You would have to establish that a debt was created which the state is obliged by law to pay. The nuclear, the low-level nuclear waste settlement grew out of a lawsuit where a court could impose a responsibility on the state to pay. And if the state refused to pay, the court could authorize levying against property of the state if the Legislature refused to appropriate the money. But no court is going to say that Sarpy County can levy on state property to make them pay this money for these inmates. A county is not going to file a suit against the state for something like this. I have said repeatedly that words should not be put in the statute when the only intent is to try to put pressure on the state to compel a future Legislature to do something that a previous Legislature tried to bind it to do. And sometimes, even this session, language would be eliminated which would say the state is going to provide so much and so much money for a certain program when the only time money is made available is by way of appropriation. No money is appropriated through one of these bills that we pass. So putting the intent in one of those pieces of legislation to provide a certain amount of money is just words on paper. That's all. Under the system, that is not how money is appropriated. And when money is appropriated, there must be an identified fund or source from which that money is coming, and the appropriation has to be made in accord with

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the law, and that's the A bill or, in this case, the budget bill. So whatever is in the statute sometimes will show that a Legislature has not been prudent. These counties are always trying to get the state to assume their responsibilities. When they are going to bring trifling charges against people, when prosecutors are not going to exercise good judgment, and judges are going to go along with the program, and they have all these people sitting in the county jails, that's something these counties can rectify--their county attorney, their judges, and their local law enforcement. When they pick up a lot of people because they don't like them and can get them convicted, part of the cost of that is going to be that they have to support and provide for these people while they sit in that county jail. I'm not going to support this amendment. I have not supported this idea of reimbursing the counties for anything. They're not doing the state a favor. The state's doing them a favor. It creates a receptacle in Lincoln, Tecumseh, York, and other places for the counties to dump the people they don't want in their counties. The counties are not paying to have their inmates put in the state prison, and the state system doesn't determine which people are going to wind up down there. Counties do that. Crimes are prosecuted in the courts of the county. Let them...um-hum. Let them use some...I thought Senator Stuthman was disagreeing, but he said uh-uh, but he was just clearing his throat. So when he said uh-uh, I thought I should say um-hum to let him know that, you know, I was aware of what he said and I disagreed. I oppose...

SENATOR SCHIMEK: One minute.

SENATOR CHAMBERS: ...what is being presented here. And at last I can feel the pleasure that my colleagues have felt when they say that against everything that I've brought, almost, today. I oppose this. I oppose this. I oppose this. I hate this. (Laugh) I listen. And I don't hate what Senator Stuthman is offering, but I oppose this. Thank you, Madam President.

SENATOR SCHIMEK: Thank you, Senator Chambers. Senator Stuthman.

SENATOR STUTHMAN: Thank you, Madam President and members of the

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body. The thing that really concerns me is that, you know, there was a bill that was passed. It got passed by an override of the veto. Then it got changed down in several years again. What does that really mean, you know, to me as a third-year senator down here? You know, when we pass something and we feel that it's an obligation, in my opinion, it's an obligation of the state to the county, and that, to me, would have been the real property tax relief. But I want to hear...I'm not going to take all of my time this time, and I want to hear a little bit of the reasoning behind the original bill from Senator Cudaback. I want to give him some of my time. If he don't utilize it, I'll take some of it back. But I want to hear where he came from originally to start with this program. So I would turn time over to him.

SENATOR CUDABACK: Thank you, Sen...

SENATOR SCHIMEK: Senator Cudaback, you have 3 minutes and 55 seconds.

SENATOR CUDABACK: I'm sorry, Madam President. It's been a long ride here. This bill has been about six or seven years in the making and we thought we got it passed, and many things happened between times. I know there were many people on this bill. Senator Wickersham modified it, changed it, or amended it, and we added some road...to fix up the roads on it, and then that got taken out. Governor Nelson vetoed the bill because he didn't like the Wickersham amendment, and then I had to get it overridden. It's just been a long, long bumpy road. And we thought we got it held up here and with Senator Pederson's help, we did. Now we're back to maybe not quite what we think it should be, but these are obligations of the state after the prisoners are sentenced. That's the bottom line, not before they're sentenced. After they are sentenced, they become the obligation of the state. It's just that simple. We're not giving the money to the counties. As in the MIRF situation awhile ago as we discussed, the state does not owe the cities one dime, no obligation there at all. All we give them was, you might say, a gift, which is fine, but no obligation. Here it's an obligation because they are prisoners and they are the state's responsibility after sentencing. It's that easy. I

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would love to vote for Senator Stuthman's... "love" is probably the wrong word, as Baxter Black said this noon in a commercial, but for lack of a better word, I would like very much to vote for your amendment. But with the situation with the dollars, perhaps can't do this. But I certainly want to remain this and we can look at this maybe next year or the next year and up the dollars. But as Senator Pederson said, right now it may be difficult. But Senator Stuthman is actually absolutely on the right track here. It's dollars are owed by the state to the counties. And we debated it on the floor over and over and over again by the hour, Senator Kristensen, it was LB 695 at the time. And it was just a...we finally got it through. And how it come about, how it really came about is the sheriffs came down and we had a hearing, public hearing one night at 7:00 in Judiciary. And it wasn't easy, but we finally got it through. And it took a couple of years, but it made it, and it was working quite well until...all is well not always ends up well. But anyway, that's how it got started. The state owes it, and I don't know what else to say. I think we all know how it works and why it's there. It's the state's obligation as the prisoners become convicted...

SENATOR SCHIMEK: One minute.

SENATOR CUDABACK: ...and are sentenced. That's all I'm going to say, I think--the state's obligation. Anyway, I'll give the rest of my time and I thank Senator Stuthman for his two minutes.

SENATOR SCHIMEK: Senator Stuthman, would you like to finish your time?

SENATOR STUTHMAN: Am I still back on my time, or...?

SENATOR SCHIMEK: You're back on your time.

SENATOR STUTHMAN: Okay, thank you. Thank you, Madam President. This is a real concern of mine, and I think we got to look at this as, you know, what we pass down here, is that what we want to pass? Are we obligated to it or are we going to the next year change it and the next year change it or not fulfill our

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obligation? That is the concern. And why don't we fulfill our obligations? I think that should be part of the budget process. There are obligations that are not being met, and that's a real concern. The money that was received in, I think it was 2003, for the jail reimbursement,...

SENATOR SCHIMEK: Time.

SENATOR STUTHMAN: ...that the first three quarters they did get reimbursed for part of it.

SENATOR SCHIMEK: Time.

SENATOR STUTHMAN: The fourth quarter they didn't get any. Thank you.

SENATOR SCHIMEK: Thank you, Senator Stuthman and Senator Cudaback. Senator Bourne, you're recognized to speak.

SENATOR BOURNE: Thank you, Madam President and members. I won't speak again on this, but I think if you listened, we had a discussion, Senator Pederson and I, and as he mentioned, it was his priority bill. But I...you know, I spent, I don't know, it was a year or 18 months on the Appropriations Committee. And I'll tell you for the new members, once they got you in their claw there, they don't let you up. And it changes the way you think. And I appreciate Senator Pederson's conservatism on the budget and commend him and the committee for that work. But it's like when you get on that committee you have a fundamental change in the way you look at the world. And two years ago, and I'm not criticizing Senator Pederson at all, but two years ago he sent out this letter saying that the state needs to meet this obligation. And I understand when he gets on the Appropriations Committee things change and there's other pressing needs, and yet I still feel that we should fund this. And Senator Chambers can say it's not a debt and that you can't sue because it's not a debt, but I'll tell you it's an obligation. And these counties relied on it and the state, in my mind, is thumbing their nose at these counties, and that's wrong. And Senator Stuthman said it quite well when he said this is property tax relief. And I think that if we do nothing else, I argued on the

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MIRF money this morning and that was an agreement or an understanding, and I still believe that that was the right way to approach that. But this is a little different. This is a statutory obligation that the state has. This is a bill that obviously Senator Pederson thought was important enough to prioritize, that Senator Cudaback thought was important enough to introduce and spend the time and the effort and the debate time and people thought it was a good idea, it had merit, and it went forward and it's law. I think we should honor that and I think we should fund it. If we do nothing else on the budget, I think this is the one thing that we should do. It's the right thing to do. I'm going to vote yes. I urge you to do the same.

SENATOR SCHIMEK: Thank you, Senator Bourne. Senator Combs, you are next to speak.

SENATOR COMBS: Thank you, Madam President and members. I just want to recap a little bit what's going on in Saline County. I did get a fax transmission that was sent from Sheriff Alan Moore, and we do have a very nice new facility in Saline County that is used for this purpose. I've toured it, been there a couple of times, and it's modern and kind of sort of state-of-the-art, but it's full a lot. So we do take in our share of these prisoners. And we have already covered that the total amount lost has been approximately \$3.3 million, and that's what Senator Stuthman had told us about. And just quickly, what Sheriff Moore has sent tells us that, for instance, the quarter ending March of 2004 they claimed \$4,690; they received 312 bucks. The quarter ending September 2004 or, excuse me, December 2004, they billed for \$4,550; they got \$3,904. And the quarter ended of March 2005, just very recently, they billed for and claimed \$10,780; they got nothing, nada, zip, cero. Forty-five percent of what these people had been owed under statutory obligations have not been given to them. They are taking care of our criminal population. We are obligated to them. And if we're talking about getting tough on meth and locking up these meth cooks and other people that happen to probably maybe be in our counties and may need our housing facilities and room and board on the county level here, it's kind of sad we're ripping them off. And then we're going to give them more people to take care of and rip them off some

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more. So it's not really right and I know we don't have a lot of money, but, again, we are statutorily obligated, to the best of my understanding. Senator Chambers, is that correct?

SENATOR CHAMBERS: I didn't...

SENATOR COMBS: May I direct a question to Senator Chambers?

SENATOR SCHIMEK: Senator Chambers, would you respond?

SENATOR CHAMBERS: Happily.

SENATOR COMBS: All right. Are we statutorily obligated to pay this money?

SENATOR CHAMBERS: Well, there's a statutory provision that says the state will.

SENATOR COMBS: Okay. Thank you.

SENATOR CHAMBERS: You're welcome.

SENATOR COMBS: Well, if we promise to do something, I guess we probably ought to, at least that's the way I was raised. Thank you.

SENATOR SCHIMEK: Thank you, Senator Combs. Senator Don Pederson, to speak.

SENATOR D. PEDERSON: Thank you, Madam President. You know, it's a very compelling thing to talk about the fact property tax relief, helping the counties, and so forth. Those are the same arguments that I used several years ago when this first went into effect. But when I first started practicing law, I had a very elderly attorney that was very well respected. And he said, you know, as a last resort, why don't you look at the statute? And so let's look at the statute, which is 47-119.01. And this statute that we're saying is a definite you've got to do this or that, let's hear it. Beginning with the fiscal year 2003-04 and each fiscal year thereafter, the total annual appropriation approved by the Legislature for the department for

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county jail reimbursement assistance shall not exceed \$3,910,000. It does not say that they are to pay that amount of money. It just says it "shall not exceed." So I know that Senator Stuthman is somewhat aware of that because his initial proposal was in excess of this \$3,910,000; but it was modified to reduce to that particular figure. But it doesn't say that the Legislature shall pay that sum of money. It says it "shall not exceed" that amount of money, and I think that's the operative word. Senator Chambers introduced me to this thing the other day when we were talking about how much legislators are to be paid, and we checked the statute to see. It didn't say we get \$12,000; it says "not to exceed \$12,000." So I think as a last resort let's look at the statute here and see what the real obligation is. We've been throwing around the terms, the state is obligated, the state owes, and so forth. But that's not what this statute says. And so we have appropriated in the appropriation process the amount of money that we felt was appropriate under the circumstances. And with that, I would suggest that we reject this particular amendment. Thank you.

SENATOR SCHIMEK: Thank you, Senator Pederson. Senator Chambers, you're recognized to speak.

SENATOR CHAMBERS: Thank you. Madam President, members of the Legislature, I'm glad Senator Pederson read from the statute. But in any case, this amendment should not be adopted. I'd like to ask Senator Stuthman a question if I may.

SENATOR SCHIMEK: Senator Stuthman, would you respond?

SENATOR STUTHMAN: Yes.

SENATOR CHAMBERS: Senator Stuthman, how much are you asking for?

SENATOR STUTHMAN: In mine, according to what's in the budget, I'm asking for another \$411,000...\$411,405.

SENATOR CHAMBERS: Do you know how much money would have been available had you adopted my amendment to cut out the textbook loan program? Four hundred fifty-thousand dollars. We have

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priorities. He selected a priority. And now when you make your bed, Senator Stuthman, you got to lie in it. Well, actually you don't have to, but if you're going to lie down somewhere, you have to lie down in the bed that you made. Senator Stuthman knows that this amendment is not going to be adopted. We all know it's not going to be adopted. The attempt was made...well, we have some people who are a little thick who don't know that. But I'm not going to call any names and, therefore, I will bear no blame, but he was born by a river in a little tent. (Laughter) In this set of circumstances, when we get late into the evening on the budget bill, there are some matters that may have a chance of being accepted. I have always been opposed to reimbursing the counties in this set of circumstances. Counties have come to the state to try to find any and every way possible to get money from the state so that they don't have to discharge the duties and the powers that they have bestowed upon them. This is a part of another situation where the counties don't want to pay for medical care for the inmates who are there because the county's officials put them there. There is a price that is paid when you deprive people of their freedom. So when you convict people and you can't get them to the penitentiary right away, then you got to pay. It's as simple as that and the counties know it. Not one of them has been harmed because of the way things are done by the state. As Senator Combs was reading off these requests that the counties made and how little they got, it just seemed that they weren't getting the message until it finally reached the point where they got nothing. Then they said, oh, I think I see something. I'd like to ask Senator Stuthman a question, though.

SENATOR SCHIMEK: Senator Stuthman, would you yield?

SENATOR STUTHMAN: Yes, I would be glad to.

SENATOR CHAMBERS: Senator Stuthman, is this the first time that you've tried to do something to get this reimbursement funded?

SENATOR STUTHMAN: Yes.

SENATOR CHAMBERS: And why did you choose this time? Was it brought to your attention by a county or the county association

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or the organization of counties?

SENATOR STUTHMAN: It was brought to my attention as serving as a county board of supervisors individual and realizing that, I think it was in 2002, that we had to adjust our county budget because we were not receiving the sufficient funds of reimbursement from the state that we were supposed to be getting. And I had that in the back of my mind and all the time that when the appropriate time would come I felt that I should be doing it. And this is the first time that I had the opportunity to work with a new budget for the next two years that I could try to...

SENATOR SCHIMEK: One minute.

SENATOR STUTHMAN: ...adopt something.

SENATOR CHAMBERS: Okay. But based on what Senator Pederson read that the law says that this appropriation shall not exceed \$3 million, it means that nothing need be appropriated at all. Isn't that true?

SENATOR STUTHMAN: I guess you could interpret it that way. But...

SENATOR CHAMBERS: If they...what...the state is not obliged to appropriate any amount when there's just a maximum set. There's no amount that it is obligated under any interpretation of the law to appropriate, is there, or reimburse?

SENATOR STUTHMAN: I guess you could say that. If they put a maximum amount on there, that would be the most that they could ever reappropriate, and they probably wouldn't have to do anything. But I think that would be not a good practice to do.

SENATOR CHAMBERS: Thank you, Senator, and thank you, Madam President.

SENATOR SCHIMEK: Thank you, Senator Stuthman and Chambers. Senator Stuthman, it is your turn next to speak.

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SENATOR STUTHMAN: Thank you, Madam President. I have enjoyed, you know, the conversation that we've had here. The thing that really does concern me is, you know, it was a priority bill at one time. It was a real concern of an obligation. It was passed. It was very good consideration and it had to do with property tax relief on the county level and trying to fulfill the state's obligation. The thing that, you know, concerns me is that when we, as a legislative body, have an obligation, what does that really mean? Does it mean that we don't have to abide by that? Does that mean that when a bill is submitted to us we can just forget about it, pay part of it, pay only a little bit of it? What does that really mean when we have a state obligation that was voted on by enough people to pass it? So I'm really always concerned about that, that, you know, it is a state obligation. So all I'm trying to do, I know there is money in there and it's close to what the amount that was established several years ago that it could not exceed. I really think that if that number means anything, that should be the obligation. I know it's kind of a first come, first serve, people that get to submit their claims to the state, they get paid first. And I think once counties know that is the procedure that has to take place, they will get their bills in there and submit their claims early on. And when the money is gone, it's gone. But I think, in my opinion, \$3,910,000, what does that mean? That means \$3,910,000. That doesn't mean \$3 million. That doesn't mean \$2 million. It don't mean \$1 million. It could mean \$1 million if that's all the claims that there were. Then it could mean that. But if there's claims for \$4,000,000, they can pay \$3,910,000 of those claims because that dollar should be in some fund, in some line item that is to take care of that part of it. So that is the thing that I'm concerned about. If we were serious about what the intent was and what the priority was in 1998 and what the bill realistically is, the bill is \$7,900,000 if we were going to fulfill what the intent was. But we're down to about half. And like Senator Kopplin said, you know, \$35 a day I think for us, and we have a new jail, I think our jail costs are \$100-some a day. But \$35 a day and then only paying half of that, so that's really only \$17 a day, is what it comes down to. That obligation isn't very great. And I'm just really concerned that, you know, what do we really mean when we put something in

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a bill and get it passed here in the legislative body? I have really enjoyed the discussion and the conversation amongst the senators. And what my plan is, is I'm not going to take this to a vote right now, and would ask that it be refiled on Select if that's possible.

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: So ordered, Senator Stuthman.

SENATOR STUTHMAN: Thank you.

SENATOR CUDABACK: Mr. Clerk, next motion.

CLERK: Mr. President, the next amendment I have is by Senator Don Pederson. Senator, AM1430. (Legislative Journal page 1392.)

SENATOR CUDABACK: Senator Pederson, you're recognized to open on AM1430 to the committee amendments.

SENATOR D. PEDERSON: Thank you, Mr. President, members of the Legislature. A long time ago today we had a discussion with one of Senator Chambers' amendments and it was the transition fund for the Governor's office. And he very appropriately pointed out that there was an error in the way in which it was put in the amendment. And it described the \$70,000 as being from Cash Funds. That was just plain a typographical error; it was General Funds. So my amendment simply changes on page 10, striking line 1 and inserting, General Funds \$70,000. That's it. Thank you.

SENATOR CUDABACK: Thank you, Senator Pederson. You've heard the opening on AM1430 by Senator Pederson. Open for discussion, Senator Chambers.

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, in reviewing my amendment that I had offered, the staff member who was drafting up the amendment noted that the wrong fund had been used and I mentioned that I would make reference to it, so it was...it may have been an error in the

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first instance, but it was a staff member who caught it, just so that the record is clear on that. Members of the Legislature, I've been given a new assignment around here today because I've taken so much interest in the condiments that are being served and the reaction of my colleagues, I am the complaint department. So if you all have any complaints about what the lobbyists have fed you, you just bring them to me and I will note them. But I'll tell you what's happening. They're serving you all that bad food hoping you will reach the point where you just stop coming and they won't be bothered with you. But if they stop giving you the food, you may take offense. And I'm going to talk about that every day that you all go over there and eat. Some of you all were whining because you say we don't stay here long enough. I work harder on the floor than anybody in here. You don't hear me crying and grumbling because there's no food. Why, think about old Mother Hubbard who went to the cupboard (laugh) to get her poor dog a bone. And when she got there, the cupboard was bare because the senators had been there and gone. Didn't even leave a bone for the dog. That's the way the senators are portrayed, and they make it possible to do that, and I'm going to do it. I'm using Senator Pederson's amendment to take the opportunity to say that, because his amendment is correct, there doesn't need to be a lot of explanation. But in all seriousness, I do want to mention something that will explain why, at least to Senator Pederson, I will not try to raise this amount from \$70,000. Larry Bare did see me in the hallway and he said, of all the people who really knew what would be entailed, I did not ask that person, which would have been Larry Bare, I didn't even think to ask him. But he said the \$70,000 will easily cover the transition costs. So I will not try to raise that amount. But here's what I will say. Since there's going to be a new Governor, we shouldn't maybe limit what "King Tom" is going... "King Thomas"... since he's the king now, he shouldn't be called Tom. That's too familiar. I don't know whether to call him His Majesty, His Highness, His Excellency, His Eminence. But really a burden that's somewhat unfair is being put on him, because he's not going to be able to do everything that people want him to do. And although I'm in favor of his running, I've mentioned to some of my colleagues that there's a difference between being a part of a several hundred member organization where you're not really

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responsible for anything being achieved or anything being stopped and you can get lost in the crowd. You can make statements which you do not have to be called to account on because even if you're making high-sounding recommendations and you're not successful, people can say, well, the rest of the Congressmen and women did not go along with it. But when you become the number one person, you not only make the decisions, but you have to effectuate them. There is a lot of difference. And pretty quickly, that popularity that may have been gained while he was coaching football is going to evaporate. What will be done with reference to property taxes? What will be done with the school textbook loan program and some of these other big issues? I see that my colleagues are starting to filter back into the Chamber now, so I think...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...I'll stop talking before they leave and not be here to vote for Senator Pederson's amendment, which I support.

SENATOR CUDABACK: Thank you, Senator Chambers. Mr. Clerk. Senator Pederson, you're recognized to close.

SENATOR D. PEDERSON: I'll waive closing.

SENATOR CUDABACK: Closing has been waived. The question before the body is adoption of AM1430 offered by Senator Pederson to the Appropriations Committee amendments to AM0521. All in favor vote aye; opposed, nay. Have you all voted on the Pederson amendment who wish to? Record please, Mr. Clerk.

CLERK: 38 ayes, 0 nays, Mr. President, on the adoption of Senator Pederson's amendment.

SENATOR CUDABACK: The motion is successful. The amendment has been adopted. Mr. Clerk.

CLERK: Mr. President, a couple of items if I may. Two study resolutions: LR 101 by Senator Landis, LR 102 by Senator Smith; both will be referred to the Executive Board. (Legislative

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Journal pages 1392-1393.)

The next amendment I have, Senator Chambers, AM1455.
(Legislative Journal page 1393.)

SENATOR CUDABACK: Senator Chambers, on AM1455.

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, the next three items relate to programs associated with the Nebraska Supreme Court. When these items were being discussed by me with the Chief Justice, I told him, if there is not a willingness on the part of the Appropriations Committee to give funding for these programs, I want you to tell me, because I'm going to try to get that funding. Before anybody hits the ceiling, court fees and costs are being raised substantially this year. I don't think that the court's essential duties ought to be paid by fees. That money should come from the General Fund. But there is a deficiency in the judges retirement program and there are some other matters which fees have been raised for in the past to fund. All three of these programs together will come to a total of about \$101,000 the first year and \$99,000 the second. This particular item in AM1455 has to do with the minority justice task force. It was put together by the bar association and the Supreme Court. The bar association is picking up 50 percent of the cost of staffing and operating this task force. A lot of studying has been done, statistics and raw data have been gathered. This body has enacted several laws that I have asked you to enact that will provide information that the court needs to evaluate how fair or unfair the system is operating. Disparities were detected based on race, in some cases gender. But rather than drawing a conclusion other than one justified by the facts, the court wants to gather those facts. For example, when it came to presentence investigation reports, the court had to get authority by the statute to have its people or its designee go through those reports to get certain information that would be used in this study, certain information from juror questionnaires which information is not available to the public. So the court has been doing all that it could. The amount that would be needed to make up the difference or the shortfall here would be \$28,500 for the next two years. It may seem like a

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small amount, but the court is not being the recipient of the amount of General Fund money I think it should have. I don't think any of the court's operations should be based on fees. There should never be cash register justice. But other states have chosen to use that methodology. The court in this state has been given a very strong signal that it's a direction this court should go. I have been the stumbling block as far as increasing fees to an unreasonable level. Over \$1 million will be raised by increasing the fees this year. I didn't want to see that. But being a pragmatist and a practical politician, I will adapt to reality. I plan to review the proposed fee increases to make sure that no more money is being raised than necessary, which would mean fees are not going to be raised any more than is absolutely necessary to get the amount of money that is needed. When you have no fat in your budget, when fees are being raised, I think this is a program that justifies this small amount. I'm telling you there are three items. I've decided to take them individually. But so you'll know what the other two are, the Judicial Qualifications Commission, which is the entity charged with disciplining judges, requires \$61,000 this year, \$63,000 next year. Then there's the Commission on Children which the court is working with and which has done some good work, and the people who sit on that commission have been encouraged to examine the courts, how they handle the cases dealing with children. And they've been told by the Chief Justice himself to be very frank, forthright, don't worry about any repercussions or reprisals, criticize where criticism is needed, don't bite your tongue and don't hold back, because the purpose of this commission is to get at the truth, to properly and accurately draw out the nature of these problems, and then the court is going to address them. Those are the three items, but I'm taking them one at a time. Had the body chosen, I could have brought one amendment. But all it would have told you is the total amount and mentioned page numbers and what would be stricken. These are drafted in that way too. But I'm able to break out the amount of each one of these programs and try to persuade you to fund it. So the first one will provide money for the minority justice task force and it would be to help provide the cost of staffing. Half of that amount is being paid by the Nebraska State Bar Association, one of the few things they have done which I can give them a positive grade for. If

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you have any questions, I will answer them. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Open for discussion, Senator Kruse, followed by Senator Thompson.

SENATOR KRUSE: Thank you, Mr. President and members. I'm speaking now for the Appropriations Committee. We appreciate the consultation and work that Senator Chambers has done with the Supreme Court and the Supreme Court has done with the bar association. This request is certainly within order, as are the others. I'll speak to them when they come up. This is a .1 percent increase in this fund, so it's a minor ripple within it. I urge your support. Thank you.

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

SENATOR THOMPSON: Thank you, Mr. Speaker, members of the body. I was chatting with Senator Chambers a little bit about this, and I know they're three different issues. But I do want to explain, at least from the committee's perspective, some discussion that we had about two of these requests, and look forward to visiting with Senator Chambers here. But we did hold a hearing and we heard a lot of requests from the Chief Justice. And these were prioritized. And the things that...a couple of the things Senator Chambers mentioned here were not funded for a variety of reasons, but they were not the priorities. And so let me tell you the conversation that we had in committee, because while this sounds great on the surface, I think when you pull back and get to the details it gets a little more murky. We asked, since the bar association has been funding this minority justice study, I specifically asked the Chief Justice why we were being asked to tax fund it now. And he said it was his view that there should be a contribution from the state to it. I said, is there risk that it won't happen? No. This was just kind of his view that there should be a state contribution. I guess when we have private funding for something I'm a little reluctant to just give state funding to it because we've decided that it would be a nice thing to do. It wasn't a priority; it didn't get funded by the Appropriations Committee. The other question that I'm going to spend a little time on asking about

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this, we asked...and I'm going to check with our staff, but on the commission on children's issues he was asking for this money to be able to pay the people who...he appointed a commission. And he wants to be able to pay, or at least that's what the money was discussed in our committee, was to pay the people who were serving on the commission that he had appointed, mileage and so forth. And I'm going to check on this because I'm not sure of the answer, and he never came back, so I assumed it wasn't workable to the committee. But I'm not...I think it's not possible under state law to reimburse people for a commission that wasn't created in statute. I'm not sure we can pay those mileage expenses, which was what he was asking for when it came to the committee. So I will yield my time to Senator Chambers. Maybe he knows specifically what that...and I think we're off amendment...are we on the minority amendment right now? This was not funded by the committee. It was not a priority. The Chief Justice said, I know it's privately funded but it was kind of like a magnanimous thing, is kind of the way I...that we the state should start paying some of this. I think when we have private sources to fund things and they're not a priority we can't start picking that stuff up and even how laudable it might be. Those were the things that happened in the hearing, and that's why that wasn't picked up by the Appropriations Committee in the budget.

SENATOR CUDABACK: Thank you, Senator Thompson. Further discussion on AM1465?

SENATOR CHAMBERS: She gave me her time.

SENATOR CUDABACK: Senator Chambers.

SENATOR CHAMBERS: Thank you, Senator Thompson. Thank you, Mr. President. By way of response to make it clear, I asked the Chief Justice to bring to me these items. And in view of Senator Thompson's explanation, I'm going to withdraw this pending amendment. And until I can get some clarification on that children's commission, I'm not even going to offer that one. It can be offered later on Select File. But since there are questions...

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SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...that have been raised which I cannot answer, I will not put the body through a discussion which may lead us nowhere anyway. And if the bar association is going to pay the entire amount, I'm going to withdraw this amendment. But I wanted to make it clear that I asked the Chief Justice to bring these to my attention, and maybe I didn't listen carefully enough. I had said they're paying 50 percent, and I got the impression--maybe he didn't give it, I might have just assumed--that the state would have to give the rest. But I can find out that, too. But Senator Thompson's issue is substantive enough for me to not proceed at this point, so I will withdraw that pending amendment.

SENATOR CUDABACK: It is withdrawn.

CLERK: Senator Chambers would move to amend with AM1454. (Legislative Journal pages 1393-1394.)

SENATOR CUDABACK: Senator Chambers, to open on AM1454 to AM0521.

SENATOR CHAMBERS: Mr. President, members of the Legislature, this is a matter that is very close to me. I might, but I'm not sure, file as many complaints on judges as anybody else or others put together. Until some kind of action is taken, that information heretofore has been confidential. Thanks to a bill the body enacted into law this time as a part of LB 361, the commission is going to produce a yearly report that will give information on what work they've been doing. Now if no disciplinary action is taken against a judge, that judge's name will not be mentioned, but the number of cases, the dispositions, the things that have heretofore been confidential or secret will be open to the light of day. As much of what any governmental agency can do that can be transparent and conducted in the open ought to be done so, ought to be handled in that way. What this amendment that I'm offering now would do is provide for the first year, '06, \$61,000 to the Judicial Qualifications Commission; and in '07, \$63,500. There is no private funding here. I cannot say why some things were not

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made a priority, other than that I'm sure these agencies are given a number of items that are supposed to be at the top of the list. The fact that something may not make the top, whatever the number is, does not mean it's unimportant. I think it's very crucial that the amount of money that's needed for the Judicial Qualifications Commission to function properly ought to be made available. I am not criticizing the commission...the committee, the Appropriations Committee, for not funding it. I'm not chastising anybody. That's not my approach on these amendments at all. They are not based on the kind of principle that I get all wrapped up in and am willing to stand on the hill, as the general says, and fight and shed your blood. Mine is not going to be shed. But I'm not going to shed anybody's blood over this one. But just think for a moment how many times people tell you about judges who engage in misconduct. There is no other place to take a complaint against judges. And if anybody is interested, maybe I'll just do it at some point anyway, just make a listing and give a brief little summary on the judges that I managed to have disciplined and encouraged others to quit. It starts by me filing a complaint with the Judicial Qualifications Commission. All of their papers are confidential. But the complaint that I file is not a part of their papers. That is my complaint, and I always publicize them. I let the judge know that I'm after him or her. I let the commission know that I've laid out the facts of the case. And if people want to inquire, the reporters usually do write a story on all of the complaints that I have filed. So to the extent that I'm able, I publicize these things. Now the commission will be able to do that also. But the commission does need money to operate. Sixty-one thousand dollars is not an exorbitant amount. And I think it would be hard to find a better way to spend this money. By the way, it is not fat. It is needed, and I hope you will agree to support this amendment. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Open for discussion on AM1454. Senator Don Pederson.

SENATOR D. PEDERSON: Thank you, Mr. President. Senator Chambers, could you help us in connection with the way in which you established these dollars that you believe are needed for

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this particular project? I would tell you first that when the then court administrator came in to us, presented us with 40 different items from the Supreme Court, all of which were so important they couldn't prioritize any of them, and so we cooperated by rejecting all of them. And then they came back in, but I guess I would like some edification on these particular bases for determining the need for this additional amount of money. I would appreciate it.

SENATOR CUDABACK: Senator Chambers, do you yield?

SENATOR CHAMBERS: There...thank you. I cannot go and give you every detail of it, but they have an investigator who, when a complaint is given, has to do all of the work of questioning people, compiling the information, presenting it. And on one of the cases alone, it cost \$60,000 to handle one case. So it has...it goes directly into the handling, investigating, and processing of the complaints that come in. And that basically is what the money would go for. And that's why I don't think it's a very large amount, because if one case costs that much, and I can see where it would easily take that much money, I'm surprised that more was not being sought. But maybe they're trying to get what they can to tide them over. That former person, Giddroe (phonetic), Goodroe, whatever his name was, was so difficult to work with, when he came before the Judiciary Committee, I would have questions to ask and he did not give good responses. And as you may know, or maybe not, he no longer has that job. He couldn't work with anybody. The great things that apparently people thought would happen under his tutorship did not take place at all. So I am interested in trying to fill a breach to the extent that I can with this amendment.

SENATOR D. PEDERSON: If I can carry on then, I'm under the impression that if, in fact, this money was not needed for this particular program, and it would go into a specific program, then that money would come back to us if it wasn't actually needed.

SENATOR CHAMBERS: Are you asking me?

SENATOR D. PEDERSON: And that's just an observation on my part.

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SENATOR CUDABACK: Senator Chambers.

SENATOR CHAMBERS: Okay, would you...if that's a question, would you phrase it...or if it's a comment?

SENATOR D. PEDERSON: No, it's more of a comment actually. These kinds of appropriations for a specific purpose are dedicated to that. And this is more edification for the Legislature I think. And if the money is actually not used for that particular project during the biennium, then that would come back into the funds. It would lapse. But...so it's not money that is lost by doing this because, it's dedicated for a purpose and if they don't need it, it will come back.

SENATOR CHAMBERS: Okay. That makes it even better.

SENATOR CUDABACK: Are you through, Senator? I guess everybody is through. I do not see any more lights on. Senator Beutler, your light did come on before I got to ask the question to close. You may talk.

SENATOR BEUTLER: Senator Cudaback, just for what it's worth to the body, when the court came in, they had prioritized their items. And their first priority were three court studies basically that we funded in the hundreds of thousands of dollars. Their next priority was a budget officer, which we didn't fund. Their next priority was drug court coordinator, which we did not fund. Their next priority after that were county court positions, a records clerk, an assistant clerk, and some equipment, and we didn't fund that. And then after that were these three small studies. So I'm just letting you know that these weren't high on the list. And I'm not sure why they should be treated differently, but that's up to the body. Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. Further discussion? Senator Thompson.

SENATOR THOMPSON: I was just...thank you, Mr. President. I was checking with our staff about this one, and I think this

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particular piece...and I appreciate the fact that Senator Chambers is pulling the other two until we have that information. I did double-check with some other people and that was what the Chief Justice did tell us on children's and the minority study. On this particular one, one of the things that the Chief Justice and the court administrator at the time wanted to do was reorganize the budget so that some of the things that they were basically absorbing would be specifically allocated. (Inaudible) the timeout chair for some of the members of our corner here. Anyway, this particular piece is a way for them to, instead of paying it as part of their regular operating budget, to have a specific budget for it. And that's what they asked for in a number of areas where they had been finding the money and doing the contracting for whatever might be needed. And he wanted to reorganize his budget and the new budget office...budget deputy, well, he wasn't a budget deputy, but...court administrator, court administrator wanted to allocate things in a different way in the budget and asked the Legislature then to fund that instead of the things that they were normally just absorbing as part of their operations. And as Senator Beutler said, this wasn't the top thing that they asked for. We funded some of those, several hundred thousand dollars worth of studies that were asked for that were the priority. So this is, I guess, up to the body. I'll probably stick with "Team Appropriations" on this one. Thank you.

SENATOR CUDABACK: Thank you, Senator Thompson. Further discussion? Seeing none, Senator Chambers, the Chair recognizes you to close on AM1454.

SENATOR CHAMBERS: Mr. President, members of the Legislature, the work that I do in trying to help see that judges are disciplined who need to be disciplined is something I do in my spare time, which I don't have a lot of. I stay up late, I get up early, and I make sure of my facts. And remember, I'm just hitting and missing compared to the kind of detailed investigation that must be done by the investigator for the commission. I know how much time it takes for me. I don't accept everything that people tell me. I will receive it, but I evaluate it. I weigh it against other information that I've gathered. And if what they say sounds more like a gripe because

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a decision by a judge went against them, I will not process that. I let people know that the complaints that I deal with are not based on the fact that a judge gave what might even be an improper decision, unless in the process of rendering it the judge says something or does something which violates the ethics. For example, one went off into some religious comments because he had some attitudes about homosexuality, and he interjected it into a case twice. And in both cases, it had to be the sentence was vacated, sent to other judges for resentencing. And after it happened the first time, the judge went and did it a second time. And before he did it the second time he said, I got in trouble doing this before, I know I'd be better off if I didn't say anything; then he said it. I went after that judge and that complaint is being processed. But when you don't have enough money to do what needs to be done, time is taken. I'm probably more impatient about these things than anybody else, but I'm also realistic, as I've stated. And I know there's a limit to how much one person can do. And even when a judge is accused of having done the most egregious act, that judge is entitled, if he or she is to be punished, it's not called punishment, to be corrected or disciplined, should be disciplined according to the book. If I'm the one who will criticize judges because they have strayed from their ethics, then I would insist that the disciplinary machinery follow the rules in arriving at the conclusion that discipline should take place. But once that decision is reached, I think the discipline should be forthcoming. If I wasn't so intimately involved with and aware of these discipline matters, I wouldn't bring this amendment; but I know about this area. I've even had judges ask me questions about how to formulate a complaint that maybe one of them wanted to file, because I've got a lot of that stuff in my head, the specific canons. I even know that canon has one "n" like a legal canon, a religious canon. Some judges spell it c-a-n-n-o-n. This is an area that needs more attention, and it takes money to do these things. Sixty-one thousand dollars is not a lot of money. If I thought it was going to be used for some other purpose, I would not be bringing this amendment. If I was not aware through personal experience, and I've been doing this for years, I wouldn't be talking about the amount of effort and work it takes to formulate a sustainable complaint. So I'm asking this time that you place a

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little credence in what I tell you, have a little confidence in the validity of what I'm saying, and vote to give this \$61,000. And I'll tell you this, and the Chief knows this, if the money is not properly spent,...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...he cannot come back to me for anything. And he knows that. If he's going to trick me, he's going to trick me and get more than \$61,000. So I don't believe any chicanery, trickery, or deceit is involved here. The court's affairs were put into, I hate to use the word "shambles," by the person who came from Douglas County and was named the court administrator. He could not be worked with. He wouldn't look you in the eye, and he got a lot of things wrong. It reached the point where he could not be tolerated anymore so they got rid of him. That lets you know that things were not handled in the way they should. And this that I'm offering by way of amendment is not going to correct everything, but it will help facilitate the discipline process. And I hope you will vote for this amendment. And I'll ask for a call of the house, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. You've heard the closing on AM1454. There's been a question for a call of the house. All in favor of the house going under call vote aye; those opposed vote nay. Record please, Mr. Clerk.

CLERK: 20 ayes, 0 nays, Mr. President, to place the house under call.

SENATOR CUDABACK: It was successful. The house is under call. All unauthorized personnel please leave the floor. Unexcused senators report to the Chamber. The house is under call. The house is under call. Senators Jensen, Janssen, Cunningham, Flood. Senators Raikes, Schrock, Schimek. Senator Schrock, will you check in, please. Thank you. And Senator Janssen, and thank you. All members are present or accounted for. The question before the body is advancement of...adoption of AM1454 to AM0521. All in favor vote aye; opposed, nay. Voting on adoption of AM1454 offered by Senator Chambers to the

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Appropriations Committee amendment, AM0521. Have you all voted who care to? Record please, Mr. Clerk.

CLERK: 30 ayes, 0 nays, Mr. President, on the adoption of the amendment.

SENATOR CUDABACK: The motion was successful. The amendment has been adopted. Mr. Clerk, next motion.

CLERK: Mr. President, Senator Chambers, AM1453.

SENATOR CUDABACK: Senator Chambers, you're recognized to open on AM1453.

SENATOR CHAMBERS: Mr. President, I believe this is the other one that I intend to withdraw.

SENATOR CUDABACK: It is withdrawn and I do raise the call as well.

CLERK: Mr. President, Senator Bourne would move to amend, FA216.

SENATOR CUDABACK: Senator Bourne, you're recognized to open.

SENATOR BOURNE: Thank you, Mr. President, members. It appears that the "iron claw" is rather strong tonight, so I'd like to withdraw that amendment and replace it on Select File right under AM1432, please.

SENATOR CUDABACK: So ordered.

CLERK: Senator, I...withdraw and refile, or just withdraw? I'm sorry.

SENATOR BOURNE: Right. Right under AM1432. (Laughter)

SENATOR CUDABACK: I'm not sure that can be accomplished, but it will be refiled in the order that it comes in, Senator Bourne.

CLERK: I have no idea where AM1432 is. I have nothing further

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pending on the committee amendments, Mr. President.

SENATOR CUDABACK: Open for discussion on AM0521. Anybody wishing to discuss? Seeing none, Senator Pederson, you're recognized to close on AM0521, Appropriations Committee amendments to LB 425.

SENATOR D. PEDERSON: Thank you, Mr. President and members of the Legislature. First of all, I want to thank you all for the participation in this discussion. It's been a long day. I know it has been for me and I'm sure it has been for you also. But I think we have ended up with a package that we can be proud of as a state. I would ask you to adopt the amendments. Thank you.

SENATOR CUDABACK: Thank you, Senator Pederson. You've heard the closing on AM0521. The question before the body is, shall that Appropriations Committee amendments be adopted? All in favor vote aye; those opposed vote nay. The question before the body is adoption of AM0521, offered by the Appropriations Committee. Have you all voted on the question who care to? Record please, Mr. Clerk.

CLERK: 42 ayes, 0 nays, Mr. President, on the adoption of committee amendments.

SENATOR CUDABACK: The motion is successful. The committee amendments have been adopted.

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

SENATOR CUDABACK: Thank you, Mr. Clerk. Back to discussion of advancement of LB 425. Seeing no lights on, Senator Pederson, you're recognized to close.

SENATOR D. PEDERSON: The amendment that we just passed is the bill, and I would like you to now advance the bill itself. Thank you.

SENATOR CUDABACK: You've heard the closing on advancement of LB 425. The question before the body is, shall LB 425 advance to E & R Initial? All in favor of the motion vote aye; those

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opposed, nay. Voting on advancement of LB 425 to E & R Initial. Have you all voted who care to? Record please, Mr. Clerk.

CLERK: 42 ayes, 0 nays, Mr. President, on the advancement of LB 425.

SENATOR CUDABACK: The motion is successful. LB 425 does advance to E & R Initial. Mr. Clerk, next bill, LB 426.

CLERK: LB 426, introduced by the Speaker at the request of the Governor. (Read title.) The bill was introduced on January 13, referred to Appropriations, advanced to General File. I do have committee amendments pending, Mr. President. (AMI282, Legislative Journal page 1334.)

SENATOR CUDABACK: Senator Pederson, Chairman of the Appropriations Committee, you're recognized to open on LB 426.

SENATOR D. PEDERSON: Thank you, Mr. President, members of the Legislature. There are a series of proposals, transfers, and so forth in connection with this amendment, and I will go through them rather rapidly. Section 1 creates a capital...a Nebraska Capital Construction Fund, and the fund shall be appropriated to state agencies for making payments on capital reconstruction projects. Section 2 creates a radioactive waste settlement fund, authorize the deposit of funds as the Legislature may authorize, and the text for this comes from LB 184. The appropriation of funds is contained in LB 425, the mainline budget preproposal. Section 3 creates a Superfund Cost Share Fund. The Department of Environmental Quality shall remit grants and gifts received by the department for the purpose of providing cost share for remediation of superfund sites for credit to the fund. The department shall use the funds to pay for nonfederal costs, including costs for in-kind service required as cost share for the remediation of superfund sites. Sections 4 through 7 deal with the State Fair support cash fund. You will recall that, of course, the people of the state voted in favor of providing the State Fair as a recipient of funds, but there was no way of a self-executing implementation. And Senator Landis proposed a bill, but the bill was simply one that said, pay over the money; and what we decided we needed to have

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more detail. And we have worked with all of the parties involved to create a fund mechanism whereby the money will come from the lottery funds and be able to be distributed to the State Fair appropriately. And Section 7 (sic) of this creates the Ferguson House Fund to be used by the Nebraska Environmental Trust Board only for the operation, administration, maintenance, and restoration and renovation of the Ferguson House. Revenue to the funds may consist of rental and other income-related properties. You know, the Ferguson House is one of those historical landmarks that was refurbished and it's in a position now where the Environmental Trust is the main occupant, and they are able to hopefully rent out portions of that, and this provides for that purpose. Section 9 transfers \$350,000 from the Community Corrections Uniform Data Analysis Fund to the Nebraska Law Enforcement Training Center Cash Fund within five days of July 1, 2005. Section 10, the amount to be transferred annually from the Nebraska Medicaid Intergovernmental Trust Fund and the Nebraska Tobacco Settlement Fund to the Nebraska Health Care Cash Fund increased from \$50 million to \$52 million and strikes the subsection referred to, to a fund transfer that's already been...has already taken place. We already had a discussion about that with Senator Jensen's bill which increases the amount of funds for the revenue of the cash fund of the tobacco settlement and allows the various recipients of that to engage in appropriate research. The section transfers \$1,939,863 from the Nebraska Health Care Cash Fund to the Nebraska Capital Construction Fund within five days of July 1, 2005. The Section 11 transfers \$1,403,000 from the Vacant Building and Excess Land Cash Fund to the Nebraska Capital Construction Fund within five days of July 1, 2005. Section 12 strikes two subsections referring to funds transfers that have already taken place. Section 13 requires a complete and comprehensive annual audit of the books, accounts, and funds from the Board of Trustees of the Nebraska State College and each of the state colleges. And Section 14 incorporates the provision of LB 515. Current law authorizes each of the Nebraska state colleges to maintain institutionally administered revolving cash funds currently held at local financial institutions to facilitate day-to-day financial transaction. Currently, statute of limitations...or statute limits the balance of such funds to \$25,000. This section of the amendment

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would increase the fund level to a limit if \$50,000. The change would accommodate an increase in the volume of transactions processed through these accounts. However, the total expenditure would not be impacted. Those are funds from within the college, so it doesn't require a separate funding. It's their use of their own money. So with that, I will submit to you these various transfers. I know that they're complicated, they're detailed, and I've tried to hit the high points. If you have any question, I'd be glad to attempt to answer them, with the help of the Fiscal Office.

SENATOR CUDABACK: Thank you, Senator Pederson. As stated by the Clerk, there are committee amendments. Chairman Pederson of the committee, you're recognized to open on those amendments, AM1282.

SENATOR D. PEDERSON: Mr. President, what I just referred to are the committee amendments.

SENATOR CUDABACK: Thank you, Senator Pederson. Discussion of the committee amendments to LB 426. Senator Don Pederson, your light is now if you wish to use it. Your light was on, Senator Pederson. Did you...

SENATOR D. PEDERSON: No.

SENATOR CUDABACK: You're recognized if you wish to. He did. I'm sorry, you did not understand me, but we will go on to others if there are any. Seeing no lights on, Senator Pederson, I'll recognize you to close.

SENATOR D. PEDERSON: Thank you. I'll try not to repeat all those things I just said in the discussion of the amendment. This generally is what we need to do in order to implement the transfers that have already been provided for, and I would request your approval of the amendment.

SENATOR CUDABACK: You've heard the closing on AM1282. The question before the body is, shall those amendments be adopted? All in favor vote aye; opposed vote nay. The question before the body is the committee amendments, offered by the

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LB 426, 427

Appropriations Committee to LB 426. Have you all voted on AM1282 who care to? Record please, Mr. Clerk.

CLERK: 31 ayes, 0 nays, Mr. President, on adoption of committee amendments.

SENATOR CUDABACK: The committee amendments have been adopted.

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

SENATOR CUDABACK: Thank you, Mr. Clerk. Open for discussion on advancement to E & R Initial, LB 426. There are no lights on. Senator Pederson, you're recognized to close on the advancement of LB 426.

SENATOR D. PEDERSON: Thank you, Mr. President. I would ask that LB 426 be advanced.

SENATOR CUDABACK: You've heard the closing. All in favor of advancement of LB 426 to E & R Initial vote aye; those opposed to the advancement vote nay. The question before the body is advancement of LB 426 to E & R Initial. Have you all voted on the question who care to? Record please, Mr. Clerk.

CLERK: 38 ayes, 0 nays, Mr. President, on the advancement of LB 426.

SENATOR CUDABACK: The motion is successful. LB 426 advances. Mr. Clerk, next legislative bill is LB 427.

CLERK: LB 427 by Senator Brashear at the request of the Governor. (Read title.) Introduced on January 13, referred to Appropriations. I do have Appropriations Committee amendments pending, Mr. President. (AM1288, Legislative Journal page 1334.)

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Pederson, as Chairman of the Appropriations Committee, you are recognized to open on LB 427.

SENATOR D. PEDERSON: Thank you, Mr. President, members of the

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Legislature. I think the best way to describe this particular amendment is to refer to the wording in the statement that we had as a committee statement. It explains it and it simply...I'll go over it a bit. Paragraph 1 changes the name of the destination cash fund created for the making of payments on the low-level nuclear settlement. The amount and the timing of the transfer proposed from the Cash Reserve Fund stays the same as is provided by the Governor's proposal. Number two, in subsection (4) the committee recommends increase the amount of existing plan transfers authorized to the Nebraska Capital Construction Fund by \$2,025,556 for increased costs associated with the Eastern Nebraska Veterans Home authorized in 2003. This resulted, of course, from an overrun from what they had initially proposed, but this is required in order to let this project go forward. This additional transfer will be repaid to the Cash Reserve Fund on or before June 30 as required under current law. And then, three, replace the Governor's recommended transfer in subsection (8) through (11) of the original bill with the Appropriations Committee recommendation for the transfer to General Funds. The committee recommendation (a) eliminates the Governor's proposed transfer as in FY '05-06 and replaces the Governor's proposal in that respect. The net difference between the Governor's and the committee's recommendation level of transfer over the four years in the appropriation relies on a \$14,404,000 less than the cash reserve assets to support the recommended project budget. This primarily is technical in nature and it simply provides for the creation and implementation of the funds which we have approved. Thank you.

SENATOR CUDABACK: Thank you, Senator Pederson. You've heard the opening on LB 427. As stated by the Clerk, there are committee amendments. Senator Pederson, as Chairman of the committee, you're recognized to open on AM1288.

SENATOR D. PEDERSON: The amendments in this particular case do become the bill, and I have just described what those amendments are and would ask to go forward on that.

SENATOR CUDABACK: Thank you, Senator Pederson. There are amendments. Mr. Clerk, please.

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CLERK: Senator Chambers, AM1443.

SENATOR CUDABACK: Senator Chambers, you're recognized to open on your amendment to the Appropriations Committee amendments to LB 427.

SENATOR CHAMBERS: Mr. President, I withdraw both of these pending amendments that I have.

SENATOR CUDABACK: AM1443 is withdrawn...

CLERK: And AM1445, Mr. President.

SENATOR CUDABACK: Thank you, Mr. Clerk.

CLERK: I have nothing further pending to the committee amendments, Mr. President.

SENATOR CUDABACK: Open for discussion, adoption of committee amendments. Seeing no lights on, Senator Pederson, you're recognized to close.

SENATOR D. PEDERSON: Mr. President, members of the Legislature, I would ask you to approve the amendments as stated.

SENATOR CUDABACK: You've heard the closing on AM1288. The question before the body is, shall AM1288 be adopted to LB 427? All in favor vote aye; those opposed to the motion vote nay. We're voting on adoption of the committee amendments offered by the Appropriations Committee to LB 427. Have you all voted who care to? Record please, Mr. Clerk.

CLERK: 35 ayes, 0 nays, Mr. President, on adoption of committee amendments.

SENATOR CUDABACK: The committee amendments are adopted.

CLERK: I have nothing further, Mr. President.

SENATOR CUDABACK: Thank you, Mr. Clerk. Open for discussion,

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advancement of LB 427 to E & R Initial. Seeing no lights on, Senator Pederson, you're recognized to close.

SENATOR D. PEDERSON: Thank you, Mr. President. I would ask that the LB 427 be advanced. Thank you.

SENATOR CUDABACK: You've heard the closing on advancement of LB 427. The question before the body is, shall LB 427 advance to E & R Initial? All in favor vote aye; opposed, nay. The question before the body is advancement of LB 427. Have you all voted who care to? Record please, Mr. Clerk.

CLERK: 38 ayes, 0 nays, Mr. President, on the motion to advance LB 427.

SENATOR CUDABACK: The motion is successful. LB 427 does advance. Mr. Clerk, LB 614.

CLERK: LB 614 is a bill by Senator Pahls. (Read title.) The bill was introduced on January 18 of this year, referred to Appropriations, advanced to General File. I do have Appropriations Committee amendments pending, Mr. President. (AM0997, Legislative Journal page 1336.)

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Pahls, you're recognized to open on LB 614.

SENATOR PAHLS: Mr. President and members of the body, I think I am the tail end of the appropriations bill. This is what we started it with and we will end with my bill with two pages. This bill, LB 614, authorizes the State Electrical Board to grant a one-time salary adjustment for the employees of the State Electrical Division. This adjustment is in addition to any approved wage agreement. The impact of this adjustment shall not exceed the appropriations and salary limitations authorized for the division for fiscal years 2004, 2005, and 2006. This section of the bill, which is Section 1, will sunset in July 1 of 2007. Section 2, subsequent to the implementation of the adjustment, the State Electrical Board, with its executive director, shall have authority to establish the starting salary for vacant positions and may also adjust the

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salary of existing employees as necessary based on qualifications, experience, and comparability. Again, the impact of any salary adjustments authorized by the board shall not exceed the appropriations and salary adjustments provided for the division. Section 3, which will be amended because it's the money in this bill will be amended to an A bill, just to give you an idea, for 2005 the monies involved would be \$112,000; 2006 the money would be \$121,000. Section 4 is the bill that contains the emergency clause. Basically, this bill affects 15 state electrical inspectors. It does not remove their protected status. I've been told it will put to rest an issue that has been around for 20-plus years. Through this bill we will provide the State Electrical Board with legislative oversight the ability to hire and keep qualified personnel. This bill was actually brought to me by the industry. They want to see the people, the inspectors, they want to see their salaries increase. I'm going to give you a little bit of a history. Last year, Senator Cudaback introduced legislation, LB 913. That was to take electrical inspectors out of the Personnel System and give the board sole authority to set salaries, of course, again, under the limits specified by the Appropriations Committee. This bill was assigned to the Government Committee. The Government Committee convinced the Electrical Board of inspectors to use the collective bargaining unit for inspectors to negotiate a change in salary grades for electrical inspectors. The results of that is last year the director of Personnel for DAS was not currently authorized to perform any new "agencywide" pay classification reviews. And just to give you an idea, I'm learning a little bit about these reviews, deals with the number of turnover of personnel and how hard it was to fill that position or those positions. They did not have the data to come up with any changes at the moment. Of course, on the other side of the issue, the union, they wanted to have across-the-board pay increases. Neither one of them came to any kind of a conclusion, so that money was not authorized, it was not utilized. Hopefully, this will be one way to get this issue settled. When I went in front of the Appropriations, I could tell there was some frustration because they thought in the past this had been handled and, as you can see, it was not. I do know there are a couple senators here that do have some history on this, and I would appreciate if

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they would be willing to add any additional information to this issue. Thank you.

SENATOR CUDABACK: Thank you, Senator Pahls. There are committee amendments, as stated by the Clerk. Chairman Pederson, you're recognized to open on those amendments.

SENATOR D. PEDERSON: Thank you, Mr. President. Have a very simple amendment, and what it does is strikes Section 3 of the bill and renumber the remaining sections accordingly. Section 3 provided simply for an appropriation of certain monies for this project, but this bill is going to be followed by an A bill, as Senator Pahls has alluded, and so we'll expect that that will take place. But in the meantime, there's no reason to have Section 3 in this particular bill now. Thank you.

SENATOR CUDABACK: Thank you, Senator Pederson. You've heard the opening on AM0997, offered by the Appropriations Committee to LB 614. Open for discussion. Senator Schimek.

SENATOR SCHIMEK: Yes, thank you, Mr. President and members. I truly do hate to pick on a freshman senator's bill, but I at least want to have a chance to discuss this issue on the floor, because I think there may be repercussions that we're not thinking about. And let me say up-front, at first, that I believe that these electrical inspectors are underpaid. They are paid less than the journeymen that they supervise, and I do believe that they need to be paid better. The problem is in finding a way to pay them that doesn't interfere with collective bargaining processes and that doesn't cause an unintended consequence, and I think this bill causes an unintended consequence. And I could be wrong and I'd be willing to listen to the discussion on it, but what this bill does is gives the Electrical Board the power to change these salaries, to change the starting salaries, and that makes me very nervous because I believe that there are other collective bargaining units that have people in them that will be wanting to then come to us, as a Legislature, and to actually, in a sense, interfere with that collective bargaining process or make it not that important anymore. And I believe things start crumbling apart if we do this. I would like to give you just a little bit of history

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from my perspective on this bill. And I think, Senator Pahls, you said that it went back maybe 20 years, and maybe it does. I remember it's gone back for about eight years probably anyway. But I just want to go over what's happened in the last year. And as you mentioned, a bill was introduced by Senator Cudaback and the purpose of it was to exempt State Electrical Division personnel from the State Personnel System. Well, it came to the Government Committee and we didn't think that was a good way to approach the problem, so I asked Senator Wehrbein and the director of the State Electrical Division to sit down with DAS and with me and to try to work out a way to solve the problem. And as part of the compromise, the Appropriations Committee agreed to increase the State Electrical Division's PSL, and the director of the State Electrical Division was directed to write letters to the State Personnel Division requesting increases in pay for state electrical inspectors. And it's my understanding that the Appropriations Committee, in fact, I know they did increase the PSL and that three other requests for pay increases were granted by Personnel. Now, some of these requests for pay increases were not granted because the labor contract did not provide for salaries to be advanced above the maximum rate for salary grade. In other words, some of the inspectors were at the top of the pay scale. And then over the interim, more discussions were held with DAS and the union and the Electrical Division, and I finally said, I think the only way that this can be solved is through the collective bargaining process, and why didn't you go through the collective bargaining process? And I don't know what actually happened. I heard from some that it was on the table and then it dropped off the table. I've heard from others that it never was introduced as an issue at the bargaining table. Whatever it was, it didn't get solved. And I think that if we do advance this bill then we're asking for other units to come to us and ask for the same kind of permission,...

SENATOR CUDABACK: One minute.

SENATOR SCHIMEK: ...and that makes me nervous. I don't believe this group of 15, who I believe are underpaid, I don't believe their turnover is very high. They had one person in 2004 that left the agency for another agency. The year before that they

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have one person who retired. And they have a much lower turnout than some of the other bargaining units that are out there, and when I have a little bit more time I will mention some of those. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Schimek. Those wishing to speak are Senator Jensen, Senator Don Pederson, Senator Synowiecki, Senator Wehrbein, Senator Pahls, Senator Bourne, Senator Schimek. Senator Jensen, you're next.

SENATOR JENSEN: Thank you, Mr. President, members of the Legislature. This has been an issue that's been around for some time. I, frankly, think that this is a good solution, and I support Senator Pahls in his...in this bill and the amendments to it. First of all, what you need are good, qualified inspectors and, secondly, you need timely inspections and you need to be able to hire qualified inspectors to ensure that inspections are made on time. Now certainly anything under construction, when that is completed it goes on the tax rolls, so any time you delay a building process, the taxpayers really are not receiving...or the state of Nebraska is not receiving tax dollars that they could be receiving should the progress and the completion of a building or a remodeling come to its fruition. So, as a contractor, when you call for an inspection, you want, certainly, a reasonable time for them to make that inspection, but also then to proceed with the construction process to complete the process to call for a CO, a certificate of occupancy, and then the building goes on the tax rolls. That benefits everyone. Also, if you have a tenant in mind or you have somebody who is waiting for a house or a building, they certainly have also a time line that they need to fulfill. So, for the board to hire additional inspectors, if necessary, for them to pay the wage for qualified inspectors that is necessary to get good inspections, it just makes sense to me. So I think that this is a good solution to a situation that's been around for a long time. And certainly you need to pay inspectors a salary that is very close if perhaps not even just a little bit higher than journeymen. That's the way it's usually done. And...but you, more than anything, want qualified inspectors. You want to be able to have those inspections done on a timely process. I think Senator Pahls has come up with a good solution

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here. It's gone through the appropriations process, and I would certainly endorse it and would ask the body to do also. And be glad to answer any questions that anyone might have. With that, I'll return the rest of my time back to the Chair.

SENATOR CUDABACK: Thank you, Senator Jensen. Senator Don Pederson.

SENATOR D. PEDERSON: Thank you, Mr. President. This was a unique situation that was presented to the Appropriations Committee. I really appreciate what Senator Jensen has had to say, and he has a lot of experience in the construction business and knows how important it is to have qualified, capable inspectors. We have a sad situation when the inspectors are earning so much less working as electrical inspectors than they could as an electrician on the outside, and I think it's a self-destructing process to continue this. We had discussions with DAS about this situation, and DAS took the position, well, there isn't a lot of turnover; therefore, there's not a problem. Well, that's not the answer. The answer is that you have to look at what is really going on in the outside world and this is what's going on. Interestingly, the unions are in favor of this. Everybody around is in favor of this except DAS. They didn't like the process. And so we determined that the appropriate process was to have this bill advanced and to carry it to the floor in that fashion rather than trying to make it a part of the appropriations process, but to advance it as a committee. And we feel, frankly, that this is the solution to the problem. We feel if we do this the problem will go away, and so I think that's the important thing to remember. And do remember this. We're talking about cash funds. This is not General Funds from the Legislature. This is the electricians and all pay fees in to have money for a cash fund to pay for the electrical inspectors, and it's their money that they feel that they need to use in order to maintain qualified, proper inspectors. And part of our industrial complex, if we would call it that in Nebraska, relies upon having quality inspectors to see to it that the appropriate electrical systems have been installed. And so, with that, I would urge you to favorably consider this proposal. Thank you.

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SENATOR CUDABACK: Thank you. Next speaker will be Senator Synowiecki. Senator Synowiecki, did you wish to address the body?

SENATOR SYNOWIECKI: Thank you, Senator Cudaback, members. I think...I support the bill. I voted for it in committee. But I think for the record there needs to be, for the record, a correction to the committee statement. It's my recollection, and I checked with Senator Pahls and he is in agreement as well, is that the Department of Administrative Services did testify in a neutral capacity, not as a proponent. So I think it's important that the record reflect correctly the Department of Administrative Services' position, and that position indeed was in a neutral capacity, if I am...if I recall correctly, and I can be...if the Chairman wants to correct that. But it's my recollection it was in a neutral capacity. And much of the concern echoed by the Department of Administrative Services is those that are shared by Senator Schimek and what she mentioned. So I think it's important that, as a record, we know that it's corrected and that everyone is under the correct guidance in terms of the committee statement that Lori McClurg, with the Department of Administrative Services, did indeed testify in a neutral capacity and spoke to many of the issues that Senator Schimek is bringing up here during this discussion. I'll give the rest of my time, should he want it, to our Chairman, Senator Pederson, if he wants to confirm that my...if he wants to confirm my recollection relative to the committee hearing.

SENATOR CUDABACK: Thank you, Senator Synowiecki. Senator Pederson, did you wish to use some of Senator Synowiecki's time?

SENATOR D. PEDERSON: Sure. I haven't had many opportunities to speak today, so I want to take this one. (Laughter) But, yes, Senator Synowiecki has a good memory. And one of the questions that you may have is, why do these people still serve as inspectors when they are underpaid? And it's...I think we could ask that same thing in this body--why do we serve here when we know we are being underpaid? And that is because we are doing a service, and they believe they are doing a service. I think we have come up with an equitable process and I do not believe that this will cause a run on the ship. I think this will simply

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give a process to taking care of these people, who are underpaid, and we have found a process to accomplish this thanks to Senator Pahls. Thank you.

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

SENATOR WEHRBEIN: Yes, Mr. President, members of the body. I'm sympathetic to this issue, and Senator Schimek did remind me a little bit of what our discussion was. And I know what we were trying to do, it was about a year ago, as I recall, it was before we got out a year ago, talking about what we could do without going to this route, and I am concerned. Senator Pederson, I'd like to ask you, one of our concerns then was that it wouldn't affect...that it would affect other noncode agencies, and I assume you've had some discussion in committee. Because what will prevent other...I mean, with a cash funded agency, anytime you have a cash funded agency you're going to run the risk of raising these, because they have access to the cash and they're in an area that's specific. And that was my only concern. And I...if I may add a minute,...

SENATOR D. PEDERSON: Sure.

SENATOR WEHRBEIN: ...when we discussed that, we thought that there was an ability for them to do that in-house. If I heard Senator Pahls right, and I'll give you a chance in a minute, Senator Pahls, if I heard you right, you said you could do it. I know Miss...Lori (laugh) thought that she could do it, but she felt that she wasn't authorized to make a study, if I heard your testimony right when you said that. So I'll ask you that in a minute. But, Senator Pederson, I...if you'd answer the question.

SENATOR CUDABACK: Senator Pederson, would you...?

SENATOR D. PEDERSON: Specifically, Senator Wehrbein, what would your question be to me?

SENATOR WEHRBEIN: The question would be, do you...are you concerned about other noncode agencies, i.e., cash funded

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agencies, that may also see this as an opportunity in the future to raise their salaries beyond what we negotiate on other union contractors?

SENATOR D. PEDERSON: Yeah. I'm not worried about that. I think there's enough uniqueness to this particular entity that it would not...it would not subject itself to being used by everybody. I don't think it could qualify by everybody, and I do believe it's unique enough.

SENATOR WEHRBEIN: Thank you.

SENATOR D. PEDERSON: Thank you.

SENATOR WEHRBEIN: Senator Pahls,...if I could ask Senator Pahls, Senator Cudaback?

SENATOR CUDABACK: Senator Pahls, would you reply?

SENATOR PAHLS: Yes.

SENATOR WEHRBEIN: Did I hear you right, Senator Pahls, that part of the blockage here was the fact that there wasn't able to...she didn't think she could conduct a study which was necessary in order to raise those beyond what it was currently authorized? Did I hear you correctly?

SENATOR PAHLS: Yes, it's my understanding, to make this...to follow the rules and regulation, you need to have a number of positions open and it needs to have a number...I mean, they have to be open for a while. Well, this 15, this group of 15, over the last four years there have only been 2 people leave, so that really doesn't allow them to have much data. There's only like a 7 to 10 percent changeover, so that's why that was hard for her to make that change. At least that's how I understood it.

SENATOR WEHRBEIN: Thank you. I'm sympathetic. I probably will vote for this, but I am concerned. I have two concerns, and it won't be my problem, I assume. I still question whether we might not be opening up a hornet's nest into the future. And secondly, we usually try to operate on hard data. Apparently

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there is not hard data saying that the turnover is excessive at this point. For whatever reason, they're staying. And remember, in many cases it isn't all wages when you work for the state of Nebraska. The retirement, the benefits are pretty good in most cases, particularly over a long-term period of time. It's worthwhile employment for the state of Nebraska. It isn't...we don't necessarily reward to the salary levels that maybe some could get on the outside, but there is somewhat more job security in many cases. I'll state that very carefully. But those two, I think, are the long-term effects of this, and so I am concerned about that. Thank you.

SENATOR CUDABACK: Thank you, Senator Wehrbein. Senator Pahls, followed by Senator Bourne.

SENATOR PAHLS: Yes, just to make a little bit of a clarification, out of the 15 inspectors, 13 of them at their highest training, 2 of them are in the journeymen category. So sometimes you ask, well, they can't write a letter; well, like it was explained to me, 13 of them have risen as high as they can. So that's an issue there. And just to let...I looked at...if the salary would pass for this year, a person at the maximum would get \$19 per hour. If you're out in the working world, they average \$29 plus benefits. So they are substantially paid less. And also, just to give you an idea, in the community of Bellevue they no longer have a local inspector. They're depending on the state to do that, and they can do that. Those fees follow that inspection. But I was told by the executive director dealing with the electrical division...association said that's a potential, especially in some of the larger areas, that if they...they could not find at that time somebody who...to be an inspector, because of the pay difference. The industry is very supportive of this. They want qualified inspectors. Thank you.

SENATOR CUDABACK: Thank you, Senator Pahls. Senator Bourne.

SENATOR BOURNE: Thank you, Mr. President, members. I'm trying to figure out what the confusion is on this bill. I mean, this is a bill, the industry wants better and better paid inspectors, and they're willing to pay for it. And, Senator Pahls, if I've

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stated this incorrectly, please correct me. But as I see it, these folks were...the inspectors were underpaid. The industry itself, the electrical industry, wanted a higher caliber of inspectors and they're willing to pony up the money and pay for this. I don't understand why this is an issue at all. I don't see this as a terrible precedent issue or anything. I look at the iron claw that is the Appropriations Committee, put this out. It was unanimous except for...unanimous except for the two or three members that were not there. But this is something the industry wants. They want better inspectors. They want better and paid inspectors and they're willing to pay for it and the state will no longer have to. I think this makes sense. I intend to support it. I thank Senator Pahls for bringing the bill. Thank you.

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

SENATOR SCHIMEK: Thank you, Mr. President and members. I know that I'm kind of off here by myself tonight, but I feel pretty strongly that we need to be aware of the issues in this bill before we do anything with it. And I want to share with you some information that was given to me by DAS, and it says, based on the percentage of turnover and ranking the classification with the most turnover first, and ranking the one with the least turnover last, the electrical inspector classification ranks 268 out of 327. Some classifications seem to present a much more serious problem. In the Developmental Technician II classification, which are primary workers who assist our mental and physically challenged patients, there was a 56.5 turnover, or 166 out of 294 positions. Now that's turnover. If you want to address turnover then we ought to be talking about some of these others. Staff Care Technician IIs, who assist veterans in our veterans' homes, had a turnover rate of 42 percent, with 103 out of 245 positions turning over. I could go on, because they talk about corrections officers with a 38.1 percent turnover, and so on and so forth. But the point here is that they do need an increase in salary. They are trained people. They do need to be paid more, but I don't think that this is the way to do it, to come to the Legislature for the pay increase when there is a collective bargaining process that everybody else has to go through. And if we do this for this group, then what will be

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the next group? Now, I know the unions are out there and I'm on the other side of the fence this time, but I think the unions are wrong on this one and I think it could hurt them in the long run. And so that's why I'm standing up here trying to at least discuss the issues that I think are there and to let you make a decision based on all the information. I also might tell you what the salaries are for these electrical inspectors. The starting salary is \$28,453 annual, and it goes up to a maximum of \$41,208.67. Now, that's not a horrible salary, but it's not a good salary for people who are in charge of our safety, who are in charge of inspecting the wiring in our homes and businesses and so forth. So I do not disagree with that at all. I just wanted you to be aware that this is an issue that I believe needs to go to the collective bargaining process and should not be one that we decide in here. I've had my say. That's it. I'm not sure that it's making a whole bunch of difference here tonight at this late hour. Senator Pahls, maybe you're really lucky to have your bill up this late in the evening, I don't know, but I just wanted to say it because I thought it needed to be said. Thank you.

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

SENATOR MINES: Question.

SENATOR CUDABACK: The question has been called. Do I see five hands? I do see five hands. The question before the body is, shall debate cease on AM0997? All in favor vote aye; opposed, nay. Voting on ceasing debate. Have you all voted on the question who care to? Record please, Mr. Clerk.

CLERK: 27 ayes, 0 nays, Mr. President, to cease debate.

SENATOR CUDABACK: Debate does cease. Senator Pederson, you're recognized to close.

SENATOR D. PEDERSON: Mr. President, members of the Legislature, we kind of went far afield of what the amendment was. The amendment was to strike original Section 3, which had to do with whether or not there should be an A bill, and so I think we've kind of taken care of that part of it. So as far as the

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amendment is concerned, I would ask that you approve that now. Thank you.

SENATOR CUDABACK: You've had your...you've heard the closing on AM0997. All in favor of adoption of committee amendments to LB 614 vote aye; opposed, nay. Have you all voted who care to? Record please, Mr. Clerk.

CLERK: 37 ayes, 0 nays, Mr. President, on adoption of committee amendments.

SENATOR CUDABACK: The committee amendments have been adopted.

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

SENATOR CUDABACK: Discussion of the advancement of LB 614? Senator Schimek. Senator Schimek, did you wish to...her light went off. Senator Jensen.

SENATOR JENSEN: Thank you, Mr. President and members of the Legislature. And I'd also give a little bit of my time to Senator Ray Janssen. For those who don't know, the code book of the electrical association is about that thick...or, I mean, not electrical...the code book of the electricians is about that thick, and you don't go out on inspections unless you know that code book. It's very detailed. It's very important. It's a life safety issue. As a contractor, boy, I want it done right and I want it inspected right. And so it is a very important issue. And the salary is about half what a journeyman electrician can make. And, yes, you get what you pay for, but...and it takes time to become an inspector. Not only do you have to know it; you have to have experienced it, you have to know what to look for. And so it's a highly specialized field and it's very important that we have the right people within that. With that, I'll give the remainder of my time to Senator Janssen.

SENATOR CUDABACK: Senator Janssen.

SENATOR JANSSEN: Thank you, Mr. Cudaback. Thank you, Senator Jensen. The General Affairs Committee, which I chair, hears the

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appointments to the State Electrical Board, and I cannot stand here and let this go by with giving praise to the quality of the people who are placed on that or who are nominated to come before us and present themselves about why they want to be on the Electrical Board. We've had candidates come before us who have had degrees and hours on...above their degree, who want to sacrifice their time and being on this board. And the quality of those people, I just hated to leave this go by without expressing how the General Affairs Committee feels about the candidates that are presented before the committee. They're just a great bunch of people, and they are sacrificing. They are sacrificing some dollars to do that. So I just wanted that on the record, that they are a great bunch of people, very well-qualified. Thank you.

SENATOR CUDABACK: Thank you, Senator Janssen and Senator Jensen. Senator Combs.

SENATOR COMBS: Thank you, Mr. President. I'll keep this pretty brief because I know we all are ready to vote on this pretty soon. This is an issue of public safety. I know that this same issue came up before Business and Labor the prior years I've been on there in other bills, and the point that I made then and I want to make now is it's a public safety issue. Because it's just like in a nursing home. If I'm a director of nursing and I've got people that I have to inspect their work, and if I'm very, very low-paid and the people I'm inspecting make more than I do, there is an element or a possibility for graft and corruption to take place. We don't like to think of bribes being done, but that is a possibility. When you get people that are paid less and under what the going rate for the industry is for a same or similar knowledge, skills, and ability level, you have that possibility. We didn't...don't want to think that that would happen, but it could happen, in which case public safety could be at risk. And I understand that Senator Smith is next and I will give the rest of my time to him.

SENATOR CUDABACK: Senator Smith. Senator Smith, you're...you have Senator Combs' and you're also next in line, too, so you have eight minutes.

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LB 614

SENATOR SMITH: Mr. President, I would prefer that I use my own time and respectfully call the question.

SENATOR CUDABACK: You did not accept Senator Combs'? You're on your own time? You did call the question on your own time? The question before the body is, shall debate cease on advancement of LB 614? All in favor vote aye; opposed, nay. I did see the five hands. Record please, Mr. Clerk.

ASSISTANT CLERK: 35 ayes, 0 nays to cease debate, Mr. President.

SENATOR CUDABACK: Debate does cease. Senator Pahls, you're recognized to close on advancement of LB 614.

SENATOR PAHLS: It is after 8:00 and I know people are tired. What I do need to say, I've been told this problem has been around for a number of years, and I was quoted 20, and hopefully this will solve this issue. And I don't think I can say it much more eloquent than the two individuals who are actually in that area, that was the Jensen and Janssen, Senator Jensen and Janssen. I think what they said is my closing. Thank you.

SENATOR CUDABACK: Thank you, Senator Pahls. You've heard the closing on advancement of LB 614. The question before the body is, shall LB 614 advance to E & R Initial? All in favor of the motion vote aye; those opposed, nay. Have you all voted who care to? Have you all voted? Record please, Mr. Clerk.

ASSISTANT CLERK: 36 ayes, 4 nays on the motion to advance the bill, Mr. President.

SENATOR CUDABACK: LB 614 advances to E & R Initial. Mr. Clerk, any items for the record?

ASSISTANT CLERK: Mr. President, I have no items at this time. I do have a priority motion. Senator Brashear would move to adjourn until Friday, May 6, 9:00 a.m.

SENATOR CUDABACK: Heard the motion to adjourn, Friday morning, May 6, 2005, 9:00 a.m. All in favor of the motion say aye.

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Opposed to the motion, nay. We are...the ayes have it. We are adjourned.

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