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Floor Debate
May 23, 2007

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SENATOR LANGEMEIER PRESIDING []

SENATOR LANGEMEIER: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for this, the eighty-sixth day of the One Hundredth Legislature, First Session. I call to order the eighty-sixth day of the One Hundredth Legislature's First Session. Senators, please record your presence. Mr. Clerk, please record. []

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

SENATOR LANGEMEIER: Thank you. Are there any corrections for the Journal? []

CLERK: I have no corrections, Mr. President. []

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

CLERK: Mr. President, an explanation of vote from Senator McDonald (re LB221, LB334, LB482, LB482A, LB504, LB516, LB516A, LB542, and LB299). I also have a motion with respect to an override on LB321 from Senator McDonald. That's all that I have. (Legislative Journal page 1753.) [LB221 LB334 LB482 LB482A LB504 LB516 LB516A LB542 LB299]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. We will now proceed to the first item on the agenda, legislative confirmation reports from Health and Human Services. Mr. Clerk. []

CLERK: Mr. President, the first report, Health and Human Services. Senator Johnson, I have three appointments to the Commission for the Deaf and Hard of Hearing. (Legislative Journal page 1697.) []

SENATOR LANGEMEIER: Senator Johnson, you are recognized to open on the confirmation report offered by the Health and Human Services Committee. []

SENATOR JOHNSON: Thank you. Good morning, members of the Legislature. Yes, we do have a series of appointment or confirmations to be heard this morning. There are three appointments to the Commission for the Deaf and Hard of Hearing. All three of

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these appointees appeared in person before the committee and answered questions posed to them. Jeff Santema has been on our staff for several years now and he stated that this is the first time that he can remember that every single appointee appeared in person before our committee. The first is Maureen Larsen; is a new appoint to a three-year term. She is a sign language interpreter living in Gretna. She has been a professional interpreter for more than 13 years with a speciality in medical and legal interpretation. She currently serves on the commission's licensing board and she is on the Nebraska Supreme Court Interpreter Advisory Board, and she is a member...a board member of the Nebraska Registry of Interpreters for the Deaf. Next is Raymond Meester, a new appointment for a three-year term. He is the child of deaf parents and the pastor at Heritage Presbyterian Church in Lincoln. He is a consultant for ministries to the deaf and hard of hearing for the Presbyterian Church of the United States, and has been awarded two sabbatical grants to study deaf culture. David Rutledge is a new appointment to a three-year term. He has been deaf for 7 years and hard of hearing for more than 20 years prior to that. He uses two cochlear implants to hear. He is a real estate agent at Lincoln and a former employee of the Lincoln Public Schools. Mr. President, I believe that all three of these appointments are outstanding and would recommend them to the Legislature without question. Would you like me to go through these each by section? I would presume that you would. []

SENATOR LANGEMEIER: You have heard the report on the confirmation report offered by Health and Human Services. The floor is now open for discussion. Is there anyone wishing to speak to the confirmation reports? Seeing no lights on, Senator Johnson, you are recognized to close. Senator Johnson waives closing. The question is, shall the confirmation report from Health and Human Services be accepted? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. []

CLERK: (Record vote, Legislative Journal pages 1753-1754.) 26 ayes, 0 nays, Mr. President, on the adoption of the confirmation report as it relates to the Commission for Hard of Hearing. []

SENATOR LANGEMEIER: The confirmation report is adopted. Mr. Clerk. []

CLERK: Second report from Health and Human Services, Mr. President, involves the appointment of Ms. Terri Nutzman, Office of Juvenile Services. (Legislative Journal page 1697.) []

SENATOR LANGEMEIER: Senator Johnson, as Chair of the Health and Human Services Committee, you are recognized to open on your second confirmation report. []

SENATOR JOHNSON: Thank you, Mr. President. The Health and Human Services Committee desires to report favorably on the appointment of Terri Nutzman as the

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administrator of the Office of Juvenile Services in the Department of Health and Human Services. Ms. Nutzman is an attorney who joined the Nebraska Attorney General's Office in the year 2000, working with the child protection division and mostly...and most recently served as senior attorney in the medical division of the Attorney General's Office. Her background also includes serving as a deputy county attorney for Douglas County, as an adult and juvenile probation officer, and as an attorney in private practice. She has criminal justice degree from UNO and has graduated from the University of Nebraska College of Law in 1987. The Office of Juvenile Services is responsible for managing evaluation and treatment programs for juveniles who are made wards of the state after committing a criminal offense. OJS also operates the state's two 24-hour youth rehabilitation and treatment centers, that is the YRTCs in Kearney and Geneva. I'd ask for your confirmation of Terri Nutzman. []

SENATOR LANGEMEIER: Thank you, Senator Johnson. You have heard the opening on the second confirmation report offered by Health and Human Services Committee. The floor is now open for discussion. Seeing no lights on, Senator Johnson, you are recognized to close. Senator Johnson waives closing. The question before the body is, shall the second confirmation report offered by the Health and Human Services Committee be adopted? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. []

CLERK: (Record vote, Legislative Journal pages 1754-1755.) 28 ayes, 0 nays on adoption of the confirmation report, Mr. President. []

SENATOR LANGEMEIER: The confirmation report is adopted. Mr. Clerk. []

CLERK: Mr. President, a third report offered by the Health and Human Services Committee involves an appointment as Finance and Support for Health and Human Services System. (Legislative Journal page 1698.) []

SENATOR LANGEMEIER: Senator Johnson, as Chairman of the Health and Human Services Committee, you are recognized to open on the third confirmation report. []

SENATOR JOHNSON: Thank you, Mr. President. The Health and Human Services Committee does desire to report favorably on the appointment of Vivianne Chaumont as the director of the Department of Health and Human Services Finance and Support, to replace Mr. Dick Nelson, who retired earlier this year. When LB296, the reorganization of Department of Health and Human Services, becomes effective in...or on July 1 of this year, Governor Heineman does intend to appoint Ms. Chaumont as the director of the Division of Medicaid and Long-Term Care within the department. Ms. Chaumont served as a director of medical assistance office in Colorado from the year 2001 to the year 2005. From 1985 to 2001 she served as assistant attorney general in the Colorado attorney general's office, where she was the chief counsel for the state's Medicaid

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program and the children's basic health plan, along with other public assistance and public health programs. Prior to this, that is from 1980 to 1984, she served as counsel for the California Department of Health Services advising the department on programs relating to environmental health. Most recently she served as CEO for ValueOptions of Arizona, a managed care company that contracts to manage the care and delivery of medical services to Medicaid clients and individuals with mental illness. She did receive her bachelor's degree in 1975 and in 1978 her law degree from the University of California at Davis. Mr. President, I would recommend to the body that Vivianne Chaumont be confirmed by the Legislature. Thank you. [LB296]

SENATOR LANGEMEIER: Thank you, Senator Johnson. You have heard the opening on the confirmation committee report offered by Health and Human Services. The floor is now open for discussion. Seeing no lights on, Senator Johnson, you are recognized to close. He waives closing. The question before the body is, shall the confirmation report offered by Health and Human Services be adopted? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. []

CLERK: (Record vote, Legislative Journal page 1755.) 29 ayes, 0 nays, Mr. President, on adoption of the third confirmation report, as offered by Health and Human Services Committee. []

SENATOR LANGEMEIER: The confirmation report is adopted. Mr. Clerk. []

CLERK: Mr. President, the confirmation report by the Judiciary Committee, involving the appointment of Lloyd Kimzey to the Community Corrections Council. (Legislative Journal page 1702.) []

SENATOR LANGEMEIER: Senator Ashford, as Vice Chair of Judiciary... (Laughter) Senator Lathrop, as Vice Chair of the Judiciary Committee, you are recognized to open on the confirmation reports. []

SENATOR LATHROP: Thank you very much, Mr. President and colleagues. I'm pleased to report on the confirmation hearing of Dr. Lloyd Lee Kimzey to the Community Corrections Council. He was unanimously approved by the Judiciary Committee. Dr. Kimzey is from North Platte and an exceptional person for this position. The post...the position to which he has been appointed, subject to our approval, is a one-year term. Dr. Kimzey is a Ph.D. in psychology. He's currently the owner and partner of Behavioral Medicine Associates in North Platte. He's a past clinical director and clinical psychologist at Region II Human Services, where he did that for eight years. He's been at Richard Young, St. Joseph's Center for Mental Health, and Richard Young Memorial Hospital, in addition to his extensive education in the area of psychology. When we visited with him in committee, it was clear that he has an interest in this position. He has background in the criminal justice system. Would be an exceptional candidate and we

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would ask for the approval of the appointment by the members of the Legislature. Thank you. []

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

CLERK: (Record vote, Legislative Journal pages 1755-1756.) 30 ayes, 0 nays, Mr. President, on the adoption of the confirmation report. []

SENATOR LANGEMEIER: The confirmation report is adopted. Mr. Clerk, we proceed to Select File appropriation bills. LB247A. [LB247A]

CLERK: LB247A. Senator McGill, I have no amendments to the bill. [LB247A]

SENATOR LANGEMEIER: Senator McGill, for a motion. [LB247A]

SENATOR MCGILL: Mr. President, I move LB247A to E&R for engrossing. [LB247A]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed say nay. It does advance. Mr. Clerk. [LB247A]

CLERK: Mr. President, LB351 on General File is a bill offered by Senator Stuthman. (Read title.) Introduced on January 12, referred to Health and Human Services, advanced to General File. Committee amendments were considered and adopted yesterday, Mr. President. When the Legislature left the issue there was pending an amendment by Senator Synowiecki, AM1382, as an amendment to the bill. (Legislative Journal page 1664.) [LB351]

SENATOR LANGEMEIER: Senator Synowiecki, would you give a...Senator Synowiecki, would you give us a brief explanation of AM1382. [LB351]

SENATOR SYNOWIECKI: Thank you for that opportunity, Senator Langemeier. AM1382, I'd like to first reiterate my deep appreciation of both Senator Stuthman and Speaker Flood for their consultation in allowing me to run the bill. What AM1382 is, is essentially LB82 and it's to do away with the family cap provision within our welfare reform law. Essentially what the family cap does is if a family conceives a child after the Aid to Dependent Children contract is signed, that we do not provide any support for that child. Should the mother elect to bring the pregnancy to full term, we do not support the existence of that child within that family unit under ADC rules and regs. Thank you.

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[LB351 LB82]

SENATOR LANGEMEIER: Thank you, Senator Synowiecki. The floor is now open for discussion on AM1382. Senator Stuthman, you're recognized. [LB351]

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. Yesterday we were debating this amendment and I do support the amendment and encourage the people to also support this amendment. What this amendment does is the possibility of a fiscal impact on this, and I want to give you a little bit of an update as to where would we be on this, and there is no fiscal impact as far as money needed from the state. What it will do is there will be an increased cost projected for this of possibly over \$500,000, but the money that will be utilized for that will be coming from the TANF carryover balance, and there is enough money in that, in that fund, to take care of this. So this will not have a General Fund impact on the state of Nebraska or the taxpayers, so I think this is the right direction to go and I encourage your support for this amendment. Thank you. [LB351]

SENATOR LANGEMEIER: Thank you, Senator Stuthman. I would also ask that the body lower their voices a little bit so everybody can hear the discussion on the floor. Senator Erdman, you are recognized. [LB351]

SENATOR ERDMAN: Thank you, Mr. President. Would Senator Synowiecki yield to a question, please? [LB351]

SENATOR LANGEMEIER: Senator Synowiecki, would you yield to a question? [LB351]

SENATOR SYNOWIECKI: Yes. [LB351]

SENATOR ERDMAN: Senator Synowiecki, and just as a follow-up on what Senator Stuthman said, the funding that would come for eliminating the family cap would come out of, the TANF carryover funds, out of the rainy day funds. It would not come out of the General Fund. Is that correct? [LB351]

SENATOR SYNOWIECKI: In the short term, that is correct. The Fiscal Office has assured me and the review of the fiscal note indicates that the...Senator Erdman, being a member of the Health and Human Services Committee, you're probably much more acquainted with this than I am. The rainy day funds, which I don't know exactly what that alludes to, would cover the costs for this biennium for this program. [LB351]

SENATOR ERDMAN: Right. And I think...and, Senator Synowiecki, as I understand it, we're allocated a certain amount of funds under the TANF, the temporary assistance for needy families. That is a block grant. It's a fixed amount. And then we have to have a maintenance of effort requirement, which is a certain amount. TANF or this...excuse me,

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this program would qualify under that maintenance of effort, but we don't get any more money for it. And to the extent that there are rainy day funds, which are the unexpended funds that carry over, they would be able to use those funds. I think that's how Liz and those in the Fiscal Office have explained. I just wanted to make sure it was clear on the record. And you can respond. [LB351]

SENATOR SYNOWIECKI: Senator Erdman, I've been informed that the balance in that fund that you speak of is \$15 million. [LB351]

SENATOR ERDMAN: Right. [LB351]

SENATOR SYNOWIECKI: The cost of...Senator Erdman, the cost to eliminate the family cap is estimated to be \$536,000... [LB351]

SENATOR ERDMAN: Correct, per year. [LB351]

SENATOR SYNOWIECKI: ...per year, and the...there are some federal funds, though, and a majority of that is federal funds, even if we had to go to General Funds. [LB351]

SENATOR ERDMAN: Right. And, Senator Synowiecki, I'm not opposed to your amendment. In fact, I'll probably support it. One of the things, if you'll recall, and I think we've had this discussion before with LB82, the reason that bill came out 4 to 0, with 3 not voting, is that we have, as a committee, been looking over the past couple of years at a number of programs similar to this one that were implemented under the Welfare Reform Act and trying to determine their effectiveness and whether or not this is the biggest bang for our buck. You were the only...you were the only member to get a bill out that dealt with this, and I would hope that we would look at this in a broader sense. I think that would be your intent as well. This is one part of that. Given the fact that this has no fiscal impact in the short term, I would hope that we would look at this into this session, including this interim and next year, and look at some of those other programs--I know the Health Committee has another interim study--that now that we've compiled all of those programs under LR400 last year, now we're going to be taking the next step and looking at the effectiveness of those programs in accomplishing the intended goal. So I appreciate the information and wanted to make sure that the record was clear how this would be funded. Thank you, Mr. President. [LB351 LB82]

SENATOR LANGEMEIER: Thank you, Senator Erdman. Wishing to speak we have Johnson, Nantkes, Howard, and Schimek. Senator Johnson, you're recognized. [LB351]

SENATOR JOHNSON: Mr. President, members of the body, I just stand to support Senator Synowiecki's amendment. I voted for this to come out of committee. What the presumption was when this was put in on the federal level was that it would discourage people from having additional children, which at that time people felt was the thing to

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do. The fact of the matter is, is that that presumption has not held up and statistically has no validity. So what we are caught with doing, because of where we're at now, is that if there is a child born that would not be covered under this, we basically penalize the child that is born and don't support this child, and to me that just doesn't seem to be correct. If the original presumption is faulty then I think it should be removed and we should take care of these kids. With that, I would ask for your support of Senator Synowiecki's amendment, AM1382. [LB351]

SENATOR LANGEMEIER: Thank you, Senator. Thank you, Senator Johnson. Senator Nantkes, you're recognized. [LB351]

SENATOR NANTKES: Good morning, Mr. President and colleagues. I rise in support of the Synowiecki amendment and want to thank Senator Synowiecki and Senator Stuthman for bringing this idea before us this morning. This is an issue that I feel very passionately about and have worked many, many years on. It's also an issue whose time has come. We've seen, from a variety of different studies in relation to this, that the only effect that the family cap has is punitive effects on children and families who are struggling to achieve self-sufficiency. I really believe that with the information we have today Nebraska has a unique opportunity this morning to update and modernize our Welfare Reform Act and to ensure that we are, in fact, providing ways for families to achieve true self-sufficiency rather than further hindering their progress. With that, I yield the balance of my time back to the Chair. [LB351]

SENATOR LANGEMEIER: Thank you, Senator Nantkes. Senator Howard, you're recognized. [LB351]

SENATOR HOWARD: Thank you, Mr. President and members of the body. I stand in support of this amendment and would like to stress that poverty should never be a factor in determining whether a woman will carry a baby to term or to raise the child. As an adoption social worker, I have always been very careful in counseling a mother when she is considering relinquishment of her baby. Children should not suffer due to their parents' inability to provide sufficient income. This places additional stress on the family and ultimately on the child. Thank you. [LB351]

SENATOR LANGEMEIER: Thank you, Senator Howard. Senator Schimek, you're recognized. [LB351]

SENATOR SCHIMEK: Yes, thank you, Mr. President and members. I'm going to address this issue this morning and I hope Senator...former Senator LaVon Crosby is listening because Senator Crosby and I argued vigorously against this cap in the first place and, LaVon, I hope that you know that this is happening today and that we are going to restore a way for people who are in poverty to take care of the babies that they do have. I don't think having this cap in place means that we'll have fewer babies. I don't

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think that's a motivation at all. Seventy-one dollars, or seventy-five dollars maybe it is now, is not going to encourage somebody to have a baby. So I'm just delighted that Senator Synowiecki introduced this amendment...or this bill and now this amendment and I thank him. And I gather that the body is going to support this and I think it's good policy. Thank you. [LB351]

SENATOR LANGEMEIER: Thank you, Senator Schimek. There are no other lights on. Senator Synowiecki, you are recognized to close on AM1382. [LB351]

SENATOR SYNOWIECKI: Thank you, Senator Langemeier. I appreciate all the comments and I think it's just important for us, in our formulation of public policy in the state of Nebraska, that we support these mothers that are living in profound poverty, and that with Senator Stuthman's bill with the educational efforts, with what Senator Harms, I believe, is bringing on Select File, you know, we can make some real differences here and transition these families appropriately. I think in the end, I think what we want is these families to be participating in our economy at a college-educated level and not at a GED level. I think welfare reform and its success is dependent on the policies that we set forth in this body and that if we transform these families to \$6-an-hour, \$7-an-hour fast-food jobs, we're not having any success. We got to look at this holistically. We got to look at the educational needs of these families. We've got to look at the immediate needs relative to...so that they can survive and by being punitive in this particular public policy approach and not allowing for the \$71 for an additional mouth to feed, a body to clothe, that we really are depriving these families of subsistence, care, and that we need to do something. And I appreciate again, I want to reiterate, Senator Stuthman, my deep appreciation to him for bringing this legislation. You know, this legislative body this session, we're going to have something like \$420 million in tax relief and I think it's fitting...I think it's fitting that within that same session we have something substantive relative to individuals that are living in Nebraska that are really living under profound poverty situation. I think it's perfectly fitting that we have this approach and that it is done within the same legislative session that we'll have the largest tax break in the history of our state. Thank you. [LB351]

SENATOR LANGEMEIER: Thank you, Senator Synowiecki. You have now heard the closing on AM1382. The question is, shall AM1382 be adopted? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB351]

CLERK: 39 ayes, 0 nays, Mr. President, on the adoption of Senator Synowiecki's amendment. [LB351]

SENATOR LANGEMEIER: AM1382 is adopted. Mr. Clerk. [LB351]

CLERK: I have nothing further on the bill, Mr. President. [LB351]

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SENATOR LANGEMEIER: We return now to discussion on LB351, the bill itself. Seeing no lights on, Senator Stuthman, you are recognized to close on LB351. [LB351]

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. I would encourage your support for this bill. What this bill will do is get us in compliance with the federal regulations, as far as the assistance and the temporary work assistance program with the Welfare to Work Reform Act (sic). This is a bill that if we do not pass this bill there could be a penalty from the federal government of \$2.9 million and that is a figure that we can't have in this cycle at the present time. So I would encourage your support in voting for this bill. Thank you. [LB351]

SENATOR LANGEMEIER: Thank you, Senator Stuthman. You have now heard the closing on LB351. The question before the body is, shall LB351 advance to E&R Initial? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB351]

CLERK: 38 ayes, 0 nays, Mr. President, on the advancement of LB351. [LB351]

SENATOR LANGEMEIER: LB351 does advance. Mr. Clerk. [LB351]

CLERK: Mr. President, LB351A, a bill by Senator Stuthman. (Read title.) [LB351A]

SENATOR LANGEMEIER: Thank you. Senator Stuthman, you are recognized to open on LB351A. [LB351A]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. My original A bill is being amended at the present time, and is being amended because of the fact that we have added Senator Synowiecki's bill to it, and we added that to the committee amendment. What this bill does, and I will give you the basics of it, what this bill does and the committee amendment, we're going to reduce the savings with the committee amendment, and the committee amendment is the part that reinstated the postsecondary education. It reinstated that portion of it. And it reduced the savings by \$179,000, but there still is a savings. And with Senator Synowiecki's amendment, that's all federal funds. So what this A bill is, and you will be...you'll be glad to hear this part of it, that there's going to be a savings to the General Fund of \$585,000 a year. So with the two-year period, would be over \$1 million savings. So that is the A bill. It's not an expense of the state. It's a savings of the state. So I would ask for your support in adopting this A bill. [LB351A]

SENATOR LANGEMEIER: Thank you, Senator Stuthman. Mr. Clerk, for a motion. [LB351A]

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CLERK: Mr. President, Senator Stuthman, I have AM1438, but I understand you want to withdraw. That was the first one. [LB351A]

SENATOR LANGEMEIER: AM1438 is withdrawn. [LB351A]

CLERK: Senator Stuthman would move to amend with AM1457. (Legislative Journal pages 1756-1757.) [LB351A]

SENATOR LANGEMEIER: Senator Stuthman, you are recognized to open on AM1457. [LB351A]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. This amendment is a combination of the committee amendment and Senator Synowiecki's amendment that was just adopted to LB351, and that is the savings that we're going to have. We're going to have a savings the first year of \$585,000, and savings from the General Fund, the savings the second year, of \$250,000. So it's a savings of about \$800,000 and some savings by adopting this A bill. Thank you. [LB351A LB351]

SENATOR LANGEMEIER: Thank you, Senator Stuthman. You have now heard the opening on AM1457 to LB351A. The floor is now open for discussion. Senator Schimek, you're recognized. [LB351A]

SENATOR SCHIMEK: Yes, thank you, Mr. President and members of the body. I'm standing, I guess, in favor to this amendment, Senator Stuthman, but I'm really standing to tell you that I just had in my office a phone call from former Senator LaVon Crosby and she said this is the happiest day for her; that she was so glad that we had adopted the Synowiecki amendment. And I guess once a legislator always a legislator. She watches, I think, faithfully and religiously. So I just wanted to share that with you. Thank you, Senator Stuthman. Thank you, Mr. President. [LB351A]

SENATOR LANGEMEIER: Thank you, Senator Schimek. Seeing no other lights on, Senator Stuthman, you are recognized to close on AM1457. Senator Stuthman waives closing. The question before the body is, shall AM1457 be adopted to LB351A? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB351A]

CLERK: 35 ayes, 0 nays, Mr. President, on the adoption of Senator Stuthman's amendment. [LB351A]

SENATOR LANGEMEIER: AM1457 is adopted. [LB351A]

CLERK: I have nothing further, Mr. President. [LB351A]

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SENATOR LANGEMEIER: We return now to discussion on LB351A. Seeing no lights on, Senator Stuthman, you are recognized to close on LB351A. Senator Stuthman waives closing. The question before the body is, shall LB351A advance to E&R Initial? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB351A]

CLERK: 30 ayes, 0 nays, Mr. President, on the advancement of LB351A. [LB351A]

SENATOR LANGEMEIER: LB351A does advance. Mr. Clerk, returning to Select File, LB265. [LB351A LB265]

CLERK: LB265. Senator McGill, I have Enrollment and Review amendments, first of all. (ER8119, Legislative Journal page 1725.) [LB265]

SENATOR LANGEMEIER: Senator McGill, for a motion. [LB265]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB265]

SENATOR LANGEMEIER: You have heard the motion on the adoption of the E&R amendments. All those in favor say aye. All those opposed say nay. The ayes have it. They are adopted. [LB265]

CLERK: I have nothing further on the bill, Senator. [LB265]

SENATOR LANGEMEIER: Senator McGill, for a motion. [LB265]

SENATOR MCGILL: Mr. President, I move LB265 to E&R for engrossing. [LB265]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed say nay. It does advance. Mr. Clerk, LB358. [LB265 LB358]

CLERK: LB358, Senator, I have Enrollment and Review amendments first of all. (ER8113, Legislative Journal page 1642.) [LB358]

SENATOR LANGEMEIER: Senator McGill, for a motion. [LB358]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB358]

SENATOR LANGEMEIER: You have heard the motion on the adoption of the E&R amendments. All those in favor say aye. All those opposed say nay. They are adopted. [LB358]

CLERK: Senator Hudkins would move to amend with AM1370. (Legislative Journal

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page 1693.) [LB358]

SENATOR LANGEMEIER: Senator Hudkins, you are recognized to open on AM1370. [LB358]

SENATOR HUDKINS: Thank you, Mr. President and members. The amendment that you have before you was sent down by Bill Drafting. It fixes a drafting error that is just more than a technical amendment and that could have been taken care of with E&R. Sections 1 and 8 don't apply to private carriers, but in drafting the error was made referencing Sections 1 through 8. So all we're asking you to do is take out this language that is in error, and I would appreciate your support. Thank you. [LB358]

SENATOR LANGEMEIER: Thank you, Senator Hudkins. You have heard the opening on AM1370. The floor is now open for discussion. Seeing no lights on, Senator Hudkins is recognized to close. She waives closing. The question before the body is, shall AM1370 be adopted to LB358? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB358]

CLERK: 31 ayes, 0 nays, Mr. President, on the adoption of Senator Hudkins' amendment. [LB358]

SENATOR LANGEMEIER: AM1370 is adopted. Mr. Clerk. [LB358]

CLERK: Senator McGill, I have no further amendments to the bill. [LB358]

SENATOR LANGEMEIER: Senator McGill, for a motion. [LB358]

SENATOR MCGILL: Mr. President, I move LB358 to E&R for engrossing. [LB358]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed say nay. LB358 does advance. Mr. Clerk, LB551. [LB358 LB551]

CLERK: LB551, Senator McGill, I have Enrollment and Review amendments. (ER8112, Legislative Journal page 1629.) [LB551]

SENATOR LANGEMEIER: Senator McGill, for a motion. [LB551]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB551]

SENATOR LANGEMEIER: You have heard the motion on the advancement...the adoption of the E&R amendments. All those in favor say aye. All those opposed say nay. They are adopted. [LB551]

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CLERK: First amendment to the bill, Mr. President, Senator Flood, FA108. [LB551]

SENATOR LANGEMEIER: Senator McGill, you are...Senator Flood, you are recognized to open on your amendment. [LB551]

SPEAKER FLOOD: Is this the right one? [LB551]

CLERK: Senator, this is a floor amendment that you'd given me on General File to offer on Select. [LB551]

SPEAKER FLOOD: Mr. Clerk, I would ask that that amendment be withdrawn. [LB551]

SENATOR LANGEMEIER: FA108 is withdrawn. Mr. Clerk. [LB551]

CLERK: Mr. President, Senator Flood would move to amend with AM1456. (Legislative Journal page 1752.) [LB551]

SENATOR LANGEMEIER: Senator Flood, you're recognized to open on AM1456. [LB551]

SPEAKER FLOOD: Thank you, Mr. President, members. This is the, as many of you call it, the Qwest Center bill that's back today on Select File consideration. This amendment is an attempt to address most of the concerns that are still out there. It was drafted to address uncertainties with regard to LB551. It's the product of meetings involving the Department of Revenue, counsel for the Revenue Committee staff, my staff, Senator Ashford's staff and others. The amendment does a few things. Number one, it replaces the language describing the state sales tax revenue that would be returned to Omaha in such case. The amendment creates a new term, "associated hotels." It includes definitions of convention and meeting center facility and sports arena facility. It includes the definition of eligible facility. It includes the definition of convention and meeting center facility and sports arena facility. It has a provision for maximum state assistance. One of the inadvertent drafting results of the green copy was that I had unintentionally struck \$75 million as the cap any one facility could receive. That's back in here. It's back in here because this isn't an open-ended deal. That's what the law said and the law says now. Number seven, there's a definition of poverty areas in the Ashford amendment and that's done in part following the compromise that was reached on General File. There's a distribution clarification, a clarification of auditing certification responsibility, and language consistence clarification. So I think this amendment is technical, for the most part. It is an attempt to try and clean the bill up, make sure things are clear, make sure that when we're talking about a sports arena we're talking about what I think we all see when we talk about the Qwest Center and not some open-air stadium. There are going to be several amendments coming. I think one that will address the inclusion of the...of other towns in Nebraska, like cities the size of Lincoln,

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that will, of course, have to be debated. We'll see which direction it goes. But I would urge your adoption of AM1456. Thank you, Mr. President. [LB551]

SENATOR LANGEMEIER: Thank you, Senator Flood. You have heard the opening on AM1456. The floor is now open for discussion. Senator Fischer, you are recognized. [LB551]

SENATOR FISCHER: Thank you, Mr. President and members. I speak in support of Senator Flood's amendment. I believe that has taken care of some issues that we discussed on General File. However, even with this amendment that I support, I cannot support the bill as it now stands. We have an amendment that we'll be offering. Hopefully we won't have to, but it will strike the language that Senator Avery had adopted into the bill on General File that would allow other communities outside of Omaha to take advantage of that raid on the state's revenue. For that reason, I cannot support the bill. This bill, as it was first introduced, was introduced to address a situation, a situation that is in Omaha with the Qwest Center, a situation that occurred because of action by this body a number of years ago. After much thought about whether I could support that or not, I decided and came to the conclusion, yes, as a state senator, because of action in this body, and Senator Ashford, as he'll tell you, because of maybe some numbers that didn't turn out the way the people in Omaha had hoped that they would, that this situation does need to be addressed. It is a problem. But I believe that to open it up and allow other communities in this state to take advantage of that is not right. It's not good policy, and I don't believe we, any of us, should be supporting the bill if that's how it moves forward. As I said, we will have an amendment filed to strike the language that was adopted on General File in regard to that, because I do believe it is not good state policy to see a continuing of a raid on the sales tax revenues that the state of Nebraska has. There are many needs for that revenue across the state. Many of you have appropriation bills still up with your projects that you've been working on all session. Where do you think that money is coming from? It comes from sales tax and it comes from income tax that our citizens pay to this state in order that they can receive benefits from legislation that you have introduced on their behalf. So I would ask you to support Senator Flood's amendment and, even though it may be adopted, if we aren't able to limit this bill back to its original purpose in handling of a problem that occurred in Omaha because of legislative action, I would ask you then that you not support the bill. Thank you, Mr. President. [LB551]

SENATOR LANGEMEIER: Thank you, Senator Fischer. Senator Ashford, you are recognized. [LB551]

SENATOR ASHFORD: Thank you, Mr. President. Thank you, Senator Fischer, for your comments regarding this matter. As I mentioned, and Senator Flood mentioned, this is before you, in the case of the Qwest Center, to change the formula for...turn back to the city of Omaha to try to get as close as we can to the \$75 million target that was put in

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the first Qwest bill. And I appreciate Senator Fischer's comments regarding that. I want to talk about another part of the bill that is in this amendment that I think is important to our city as well. In addition to the 70...within the 70...the 70 percent money, as this is now drafted, would go to the city of Omaha to help retire the bonds, or just go into its General Fund. I have an amendment...or within this amendment is language which also allocates from that 70 percent figure 10 percent to be allocated to programs and projects to enhance the Qwest Center's ability to attract conventions. One of the issues that we've had in Omaha and the convention center obviously, those of you who have been there, is a significant part of the Qwest Center project. It is a large convention center. It is one of the largest convention centers in the Midwest and it needs to continue to actively seek business. One of the things that we need to do in Omaha, and we need to do a better job of it but we're getting there, is to develop attractions like the zoo and the Old Market and other things so that conventions, when they look at Omaha, will say, oh good, there's all...there are many activities for conventioners to attend and many places for them to go to get a three-day convention or a four-day convention. So 10 percent of the money, in this amendment, would go to a fund that would be distributed in...within a five-mile radius of the Qwest Center. That includes the downtown area of Omaha, it includes south Omaha, it includes north Omaha. Anyway, it is...it includes many of the older parts of Omaha. There are new attractions being developed in the older parts of the city that have been part of redevelopment plans that are exciting. There's a jazz museum in south Omaha, and I know Senator Synowiecki, in his district, is excited about many of the attractions that are being developed along 24th Street and near 24th Street, and these attractions, these places, will enhance, will create more options, more variety for conventioners to go to understand the history of Omaha, the jazz history of Omaha, which is really an exciting history. There's some talk about even a Baseball Hall of Fame museum in the area of north Omaha. So it's exciting and I'm excited that we can...we have an opportunity to help fund these attractions which will, in the end, result in the spin-off of additional sales tax, income tax, rental car tax, leased vehicle tax, all the kinds of revenues that come to the state. Sorry. I'm glad everyone is listening. That was good, Senator Fischer. (Laugh) Thank you. But it...so let me just, if I can, just summarize. The amendment that has been offered by Senator Flood does the things he talked about, but in addition allocates what would be approximately \$300,000 each year to a committee... [LB551]

SENATOR LANGEMEIER: One minute. [LB551]

SENATOR ASHFORD: ...that would direct funds to tourist...tourism...well, tourist tourism locations within the city of Omaha and five miles of the Qwest Center. I certainly urge that we adopt this amendment and move on. Thank you, Mr. President. [LB551]

SENATOR LANGEMEIER: Thank you, Senator Ashford. And again I would remind the body to keep the visiting to a minimum. It's getting hard to hear the speakers. Next person in line to speak is Senator Chambers, and you are recognized. [LB551]

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SENATOR CHAMBERS: Mr. President, members of the Legislature, these types of bills I have always opposed, always. When LB775 first came, I was the lone strong opponent. I kept them here night and day. And here's how I got tricked by a senator that I trusted. I had a series of amendments and there was no way the evil forces could get in and do anything to put on that bill what they needed. Senator Loran Schmit, whom I trusted, asked me could he sign on to one of my amendments. I took that to mean he would support my amendment. Instead, he wanted to substitute another amendment for mine, and since he was a cosponsor of mine that put him in a position, and the Chair erroneously, unethically agreed to let that happen. My amendment was taken away and Senator Schmit put in an amendment that ConAgra wanted. That's how LB775 was able to skirt around me. I trusted a senator whom I trusted and I was betrayed. That's why I don't trust people. Other bills the court will say a certain case and its progeny, meaning that case and other cases spawned by it as people used it to bring cases. I have been opposed to LB775 and its progeny. This bill is a part of that progeny. Senator Ashford persuaded me to relieve some of my opposition and not just fight the bill tooth and nail, and I said that's what I'll do. I'm not going to vote for it, but I won't try to stop it. Then Lincoln got involved and the bill became, with Lincoln's addition, bigger than what the original LB551 was. A bill that the Revenue Committee would not advance was added to this bill as an amendment. Were I Senator Ashford, I would not have let that happen to my bill, but he did. So now my opposition is to LB551 and I'm going to do all I can to defeat this bill as long as Lincoln is a part of it. Take Lincoln out and I'm back where I was with Senator Ashford before Lincoln became a part of it. If I had offered an amendment to somebody's bill and they were foolish enough to let me put it on and it will bring their bill down, I'd say that's a lesson that you learn, pay attention, although I wouldn't do that. If I had an amendment that would wipe out somebody's bill which had a chance, I wouldn't insist on offering them the amendment and I wouldn't snooker a person into putting it on. I don't believe that Senator Avery snookered Senator Ashford. Senator Avery presented that amendment right out in the open, in full view, but my opinion being that that amendment probably was going to create some problems and it wouldn't be adopted, some items that I wanted to get into LB551 Senator Avery was going to attempt to do with his amendment. Seeing what his amendment was, I didn't wait for that. I began to offer individual amendments of my own which were adopted to LB551. I had to leave the floor and I was certain that his amendment wouldn't be adopted. When I came back up I believe the bill had moved or something. But the Lincoln amendment had been adopted. The milk has been spilt, s-p-i-l-l. I said it like that on purpose. I am going to try to curdle that milk and I'm going to try to kill this bill, and I'm going to do everything I can. And if that means I'm going to have to borrow time the rest of the session from other bills, that is exactly what I'm going to do. [LB551]

PRESIDENT SHEEHY PRESIDING [LB551]

PRESIDENT SHEEHY: One minute. [LB551]

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SENATOR CHAMBERS: I'm not going to trick you all. I'm not going to use subterfuge. I want you to know what my intent is. I don't have to tell you what I'm going to do. I can be like Thor, as I have been on occasion--you going along in a little meadow and everything is serene, then wham, you're hit with a thunderbolt. There will be a thunderbolt all right, but you're going to know that it's coming, and that's what my intention is on this bill. Thank you, Mr. President. [LB551]

PRESIDENT SHEEHY: Thank you, Senator Chambers. (Visitors introduced.) Senator Louden, followed by Senator Pirsch, Senator Ashford, and Senator Engel. Senator Louden. [LB551]

SENATOR LOUDEN: Yes, thank you, Mr. President and members of the body. As I look at this bill, LB551, I notice a fiscal note of a little over \$2 million here in the next two fiscal cycles. And I'm wondering, is that just for the Omaha situation or is that for statewide? I was wondering, would Senator Ashford yield to questions, if he would, please. [LB551]

PRESIDENT SHEEHY: Senator Ashford, would you yield to a question? [LB551]

SENATOR ASHFORD: Yes. [LB551]

SENATOR LOUDEN: Yeah, Senator Ashford, as I look at the fiscal note, this \$2 million fiscal note, is that just for to take care of Omaha and the Qwest Center? Is that what that is mostly for? [LB551]

SENATOR ASHFORD: That's correct, Senator Louden. I think in the out years there's a minimal amount put in. [LB551]

SENATOR LOUDEN: Okay. [LB551]

SENATOR ASHFORD: I don't have it in front of me. [LB551]

SENATOR LOUDEN: Now as the bill, as written though, other municipalities can take advantage of this. Is that correct? [LB551]

SENATOR ASHFORD: Yes, I believe there's a three-year cap in the amendment, Senator Louden, that would... [LB551]

SENATOR LOUDEN: In other words, they have to do it within the next three years or... [LB551]

SENATOR ASHFORD: There has to be an application within three years. I believe

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that's correct. [LB551]

SENATOR LOUDEN: Yeah, something like that. Now would we have any idea then what the fiscal note could possibly be then? I mean this could be several million more dollars, couldn't it? [LB551]

SENATOR ASHFORD: Well, Senator Louden, realistically, it's unlikely that it would be anything near there. This is \$2 million for the Qwest Center, so the turn back of around \$2 million, which is an additional...actually, it's an additional \$1.7 million, is for a facility the size of the Qwest Center. There wouldn't be any facility built in the state within three years that would come anywhere near that size, so I doubt if there would be much of a fiscal impact over and above what the Fiscal Office has already noted, I think. [LB551]

SENATOR LOUDEN: Okay. Now if they were facilities that were already built that were in somewhat of a problem with their financial situation, could they apply for this and receive money for it? [LB551]

SENATOR ASHFORD: No, that's not the intent of the bill. [LB551]

SENATOR LOUDEN: Well, then how does the Qwest Center be able to apply for this money then, because they're already in... [LB551]

SENATOR ASHFORD: The reason for that...it's a good question, Senator Louden. The reason for that is because the Legislature years ago made at least a...somewhat of a commitment that the Qwest Center could access funds up to \$75 million. That doesn't exist for any other facility. There was a public policy debate at that time over whether or not the state should be involved in any kind of a facility like this, so I would make a distinction. The Qwest Center is distinguishable from other facilities across the state because of that commitment that was made... [LB551]

SENATOR LOUDEN: Okay. [LB551]

SENATOR ASHFORD: ...six, seven years ago. [LB551]

SENATOR LOUDEN: Okay. Now one other question... [LB551]

SENATOR ASHFORD: I think that distinguishes it. [LB551]

SENATOR LOUDEN: What's the mill levy for, like, Douglas County or even Omaha? What's the levy per \$100 valuation? [LB551]

SENATOR ASHFORD: I believe it's 46 cents, Senator, but I could be mistaken. It's... [LB551]

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SENATOR LOUDEN: You say 46? [LB551]

SENATOR ASHFORD: I believe it's 46 cents. [LB551]

SENATOR LOUDEN: Okay. [LB551]

SENATOR ASHFORD: It's at... [LB551]

SENATOR LOUDEN: Then they're not up to the maximum levy yet? [LB551]

SENATOR ASHFORD: You know, I believe they are, so it probably is...you know, I'd have to check. [LB551]

SENATOR LOUDEN: Okay. [LB551]

SENATOR ASHFORD: I believe they don't have any sales tax authority and their property tax I believe is at or near or the lid, Senator. [LB551]

SENATOR LOUDEN: Okay. And what about Omaha? What does their mill levy run per \$100? [LB551]

SENATOR ASHFORD: Oh, I'm sorry, were you asking me...I think Omaha is 46 cents. I'm sorry. [LB551]

SENATOR LOUDEN: Okay, I'm asking you about Douglas County. [LB551]

SENATOR ASHFORD: Thirty-five, I believe,.. [LB551]

SENATOR LOUDEN: Okay. [LB551]

SENATOR ASHFORD: ...somewhere in that area. I think it's... [LB551]

SENATOR LOUDEN: Okay, then they're way, way underneath the cap of 50 by a long ways. What would a 1-cent raise in tax levy... [LB551]

PRESIDENT SHEEHY: One minute. [LB551]

SENATOR LOUDEN: ...on Lancaster...or on Douglas County do for that? Would that raise it \$2 million or more? [LB551]

SENATOR ASHFORD: Property tax, 1 cent equals about \$2 million, I believe, Senator Louden. [LB551]

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SENATOR LOUDEN: In other words, the county commissioners or your...could raise your mill levy 1 cent, which would still be probably lower than a lot of counties in the state and still cover the Qwest Center. So if this doesn't happen, you still have resources to cover the money for the Qwest Center? [LB551]

SENATOR ASHFORD: Senator, yeah, and I certainly made no claim here that the city should not or could not or may not add additional levy to this project. My point is, though, what I've tried to say and I've not said it very artfully on these debates...in these debates, is that this building was built with \$75 million in private money. The idea was the state would be able to kick in up to \$75 million and the rest is city... [LB551]

SENATOR LOUDEN: Okay, I have one more question before time runs out. [LB551]

SENATOR ASHFORD: Okay. [LB551]

SENATOR LOUDEN: What is... [LB551]

PRESIDENT SHEEHY: Time, Senator. [LB551]

SENATOR LOUDEN: Thank you. [LB551]

PRESIDENT SHEEHY: (Doctor of the day introduced.) Next wishing to speak is Senator Ashford, followed by Senator Engel, Senator Chambers. Senator Ashford. [LB551]

SENATOR ASHFORD: Louden. [LB551]

PRESIDENT SHEEHY: Senator Louden, would you yield? Senator Louden. [LB551]

SENATOR ASHFORD: Let me...let me...and I will ask...I will yield...let me go ahead so I don't lose my...Senator, could I ask Senator Louden a question, please? [LB551]

PRESIDENT SHEEHY: Senator Louden, would you yield to a question? [LB551]

SENATOR LOUDEN: Yeah. Yes. [LB551]

SENATOR ASHFORD: Senator, can you go ahead and ask me your last question, if you would? [LB551]

SENATOR LOUDEN: Well, I was wondering what does Douglas County do with their Tourism Development Fund? How much is raised on that? Because part of that can be used for...to improve tourist facilities, I think 2 percent of that. What do they do with that money? [LB551]

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SENATOR ASHFORD: And, Senator, that money is allocated each year. Some of the money goes to the Convention Visitors Bureau to engage in bringing tourist conventions to Omaha. Some of it goes to the zoo, so forth and so on. But let me...can I just...let me just make my point again. Had...when the state made...passed this bill for the turn back financing, the idea was that the private sector would put in \$75 million, the state would put up, up to \$75 million into the project, and that the city would pay the remainder of the freight, which is a substantial portion of the cost. So I do think, in all honesty, members, and Senator Louden particularly, that the city has made a significant commitment to this building which has thrown off a tremendous amount of economic activity throughout the entire...that benefits the entire state, not just from the Qwest Center itself, but from business activity in the city of Omaha. So I do think it's a net gain no matter how we cut it. A facility that's this large and that provides this much economic activity is going to throw off...is going to throw off income. And I agree with you, Senator Louden, that a city or a county can always participate more, but the idea here when the city went forward with this project was that the state would participate. The simple fact is that the formula that was devised relied upon the convention center and that was a formula that was worked out with the Revenue Committee, Senator Landis, myself, and others. The idea was that conventions would spin off sufficient activity to get towards that \$75 million number and that just has not happened. My plea here is really not to relieve Omaha or Douglas County of a tax obligation because they already have one with the Qwest Center. I'm not...and I'm not suggesting that the city does not have other obligations. Quite frankly, the city is looking at other things that they will be paying for that will enhance convention business and enhance arena business. So I think the city is playing its part here. All I'm suggesting here by this bill and with the amendment that involves north and south Omaha is that if we get...if we change the formula and get close to...we're never going to get to the \$75 million anyway, but it could be in the area of \$50 million to \$60 million, is closer to the idea behind the financing of the Qwest Center in the first place. And I agree with your comments, Senator Louden, that the state did not make an absolute commitment, or the implication of your comments, and I fully agree with that. The state did not. Probably it would have been smarter if the city had come in and asked the state for matching funds, had they done...which is not an unusual process in Omaha or in the State Legislature where we provide money for matching funds. Had we done that, there would be no issue--\$75 million raised by the private sector, \$75 million paid in from the state. We didn't do that. The Revenue Committee did not want to make that kind of commitment, and that's fair. But there was at least a commitment that the state would participate in the development of this Qwest Center building, and with this new formula we're going to get clearly closer to the \$75 million. We won't get to the \$75 million, at least under any reasonable projection we won't get to the \$75 million. So what I'm asking.. [LB551]

PRESIDENT SHEEHY: One minute. [LB551]

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SENATOR ASHFORD: ...this body to do is try to help me get back to where we originally were when this bill passed by utilizing a formula that is closer to reality. The convention business simply did not develop as quickly as it was anticipated, and I'm not going to sit here and say it's because of September 11, because that's not fair either, though it did have a dramatic impact on convention business across the country. So the Lincoln amendment, it's my understanding Lincoln wants to develop a convention center arena and they need the ability to use this turn back money for that kind of a development, which would include private financing. And as I said initially on this amendment, and the reason I didn't see it as a major change, was that had that amendment been in place when the turn back was originally passed, we might have been able to use more private investment in the hotel. So the reason that I thought... [LB551]

PRESIDENT SHEEHY: Time, Senator. [LB551]

SENATOR ASHFORD: Thank you. [LB551]

PRESIDENT SHEEHY: Thank you, Senator. (Visitors introduced.) Senator Engel. [LB551]

SENATOR ENGEL: Thank you, Mr. President, members of the body. I realize we have a new amendment here which I think is about 12 pages long, and Senator Ashford is going over it slightly (laugh), but I do believe there's a lot of things in there that perhaps we should go over and spend a little more time explaining to us, who do not understand this. I want to go back. I want to go back to what we talked about earlier, back to 1999, when this was first kick...this first came about, Qwest Center, where we passed it through here. I voted for it at that point in time because there was a limit how far they would go. And of course, and they had all the...all the facts, figures and everything on all...they did all the research that it would make it on the...on what was allowed at that point in time. And they had all the best brains in Omaha and probably the United States behind them, evidently, so as we are told, and it hasn't worked. And like I said before, one thing I thought senator...here's a quote, too, from 1999: Omaha Senator Ernie Chambers has vowed to fight the bill, saying the bill was poorly drafted and slipshod. He was critical of the bill's definitions and intent language, and questioned the bill's benefit and impact on Omaha taxpayers. He said the bill is very convoluted, complicated, and in some ways devious. And I certainly agree with what he said at that point in time. So I do believe that this is a great facility. Like I say, I've been there. It is an attraction for Omaha. The people in Omaha love it. I, like I mentioned the last time I talked, 80 percent of the people polled in Omaha said that they just really, really do like the Qwest Center and they want to keep it. And like I say, if you have 80 percent approval of a facility, I'm sure that those same 80 percent would vote for a one penny property tax increase to fund it because that 1 percent would bring in approximately \$2.2 million a year, which is about the same amount that they say they're getting from this, this time,

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at the start. How much it will bring later on I do not know. So with that, I want to listen to more explanation of the amendment and I am totally against this bill. I have been from the start. I think it should be funded locally, above and beyond what we already committed, and continue our original contract and not expand it. And I guess that's all for right now, but I will be talking more later. Thank you. [LB551]

PRESIDENT SHEEHY: Thank you, Senator Engel. Senator Chambers, followed by Senator Wallman and Senator Ashford. Senator Chambers. [LB551]

SENATOR CHAMBERS: Mr. President, members of the Legislature,... [LB551]

PRESIDENT SHEEHY: Excuse me, Senator. [LB551]

SENATOR CHAMBERS: ...a kind of negotiation that I refer to as Ex-Lax is underway. There is going to be some movement on the issue, and I think there might be the removal of an obstruction and everybody will feel a lot lighter than they did before and things might flow more smoothly. But at any rate, I'd like to ask Senator Ashford a question or two. [LB551]

PRESIDENT SHEEHY: Senator Ashford, would you yield to some questions? [LB551]

SENATOR ASHFORD: Yes, I will, Mr. President. [LB551]

SENATOR CHAMBERS: Senator Ashford, I was trying to follow what you were saying but there was quite a bit of background noise. What Senator Flood's amendment really does is to rewrite the bill and incorporate all amendments that had been adopted, with some refinements that were necessary to make sure they stated what the intent of various amendments would have been. Is that more or less correct? [LB551]

SENATOR ASHFORD: That is correct, Senator. [LB551]

SENATOR CHAMBERS: And you added some material here that relates to a portion of the money that would be available going to an area with a high concentration of poverty for the purpose of promoting, enhancing, or increasing tourism opportunities. Is that correct? [LB551]

SENATOR ASHFORD: That's correct. [LB551]

SENATOR CHAMBERS: I will not ask any more questions or discuss this further at this point. I will wait and see what happens to the amendment that Speaker Flood intends to offer and then I may have a bit more. Thank you, Mr. President. [LB551]

PRESIDENT SHEEHY: Thank you, Senator Chambers. Senator Wallman. [LB551]

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SENATOR WALLMAN: Thank you, Mr. President. I'd like to ask Senator Ashford a question. [LB551]

PRESIDENT SHEEHY: Senator Ashford, would you yield? [LB551]

SENATOR ASHFORD: Yes, Senator Wallman. [LB551]

SENATOR WALLMAN: How long do those revenue bonds go for the Qwest Center? Do you know? [LB551]

SENATOR ASHFORD: Seventeen more years. [LB551]

SENATOR WALLMAN: Seventeen more years. Would you be comfortable if we had this for 17 years or put a sunset it on it for... [LB551]

SENATOR ASHFORD: I have no problems sunsetting it in 17 years, if we can do that. I suppose we can do that. I haven't ever done something like that before. I suppose anything is possible. I don't know. [LB551]

SENATOR WALLMAN: Well, as you probably know, I have a little trouble with private entities asking government for money and they are taking stuff off the tax rolls and...but I do think the Qwest Center and convention centers bring in a lot of money. And if this body could actually almost give cities or entities, government entities, in certain facilities, I would even support if they could, you know, raise a sales tax themselves and that money would go to those entities, but I haven't submitted an amendment or a bill. So I think we need something like this to finance these institutions and otherwise they won't be built. Sports stadiums, you know, I have trouble with these nice big sports stadiums being paid by a lot of poor people, and so it's...and then it's off the tax rolls. But I support this bill. And I got trouble with it, you know? But thank you, Mr. President. [LB551]

PRESIDENT SHEEHY: Thank you, Senator Wallman. Mr. Clerk, you have an amendment filed on your desk. [LB551]

CLERK: Mr. President, Senator Flood would move to amend his amendment with FA131. (Legislative Journal page 1757.) [LB551]

PRESIDENT SHEEHY: Senator Flood, you're recognized to open on your floor amendment, FA131. [LB551]

SPEAKER FLOOD: Thank you, Mr. President and members. This amendment is designed to do one thing and that is take Lincoln out, take the rest of the opportunities

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in the state out, because it makes the requirement consistent with what the law currently is and that is must be a publicly owned facility. When Senator Avery approached me with his interest in having opportunities in this bill for Lincoln, his mission was to improve his community. And I said, if you had the votes, let's go forward. Well, he had the votes. I don't know that he has them today and I don't know that this bill moves as currently amended. This bill...this amendment takes Lincoln out. I would like to yield the rest...I'm supporting it. I would like to yield the rest of my time to Senator Avery. Thank you, Mr. President. [LB551]

PRESIDENT SHEEHY: Senator Avery, 9 minutes. [LB551]

SENATOR AVERY: Thank you, Senator Flood, and thank you, Mr. President. We've had a lot of discussions in the last 30 to 45 minutes about this and I've agreed to support Senator Flood's amendment, but I have to tell you that I do so with a heavy heart. I worked very hard to get the amendment onto LB551 on General File. I thought it was a good one. I still believe it's a good one. I believe that it's important that every community in the state have an opportunity to participate in this program, and that includes Columbus, that includes Kearney, it includes, Lincoln, yes, but I'm a realist. You know, an idealist thinks you've got to have everything. A realist is willing to say, okay, I understand I can't get everything I want, and this is one of those cases. I don't have any permanent friends and permanent enemies when it comes to legislation. I can do business with every one of you. I have permanent interests and those permanent interests are doing what's good for the city of Lincoln, for the city of Omaha, and for the city of Kearney, and for Columbus and Norfolk and all across this state. That's my interest. I'm a state senator. But if amending this bill to take Lincoln out is the only way that we can advance it and the only way that we can avoid a long, difficult filibuster, then I will agree to that. Senator Flood is giving up something too. Senator Flood is giving up the opportunity for Norfolk to participate, and I'm sure that's not easy for him. So what I'm saying is that LB551 was a better bill as amended. It's still a good bill. It's not as good as it was, in my opinion, but it's still a good bill and I am going to support it. I do want to put you on notice that I am a tenacious person and I will be back. Next year you will see this come back as a standalone bill, not amended to anything. We'll work on it through the summer and the fall and we'll be ready and expect to hear from me, probably every single one of you, because I think this is important for the state. And I don't want you to think that I'm only interested in Lincoln. I'm going to support this bill and it's going to be primarily helping out Omaha, but that's okay. Omaha is important to this state. Omaha is important to Lincoln. When Omaha prospers the rest of us prosper, but when Lincoln prospers the rest of us prosper as well. So I am going to do something that I've told Senator Flood. I'm going to hold my nose, I'm going to swallow hard, and I'm going to go along with this. Thank you, Mr. President. [LB551]

PRESIDENT SHEEHY: Thank you, Senator Avery. Senator Ashford, followed by Senator Fischer. Senator Ashford. [LB551]

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SENATOR ASHFORD: Well, Senator Avery, I appreciate your willingness to support the amendment. I think the bill, as amended with the amendment that does address Lincoln, was a better bill. I don't know how else we're going to get these kinds of facilities built without some kind of state help in doing them. So I would just applaud Senator Avery and I will guarantee him that I will support his efforts to address the particular issues that are raised by the financing of the Lincoln facility. And I hope that he is successful and I will be there to support him in the future on this issue. And with that, I would...I guess urge is the wrong word, but certainly I will vote for the amendment with Senator Avery's consent. Thank you, [LB551]

PRESIDENT SHEEHY: Thank you, Senator Ashford. Senator Fischer. [LB551]

SENATOR FISCHER: Thank you, Mr. President and members. I offer my thanks to Senator Flood for offering FA131 that takes care of my concerns on the bill. As I said earlier, I supported his underlying amendment and, at this point, if this floor amendment is passed, I will certainly support the bill and look forward to a healthy Qwest Center in Omaha and look forward to projects across the state that meet the criteria outlined in the original bill. Thank you, Mr. President. [LB551]

PRESIDENT SHEEHY: Thank you, Senator Fischer. Senator Chambers, followed by Senator Langemeier. Senator Chambers. [LB551]

SENATOR CHAMBERS: Mr. President, members of the Legislature, Senator Avery made an observation which everybody on this floor and on the floor of any legislative assembly in the county, in the world, in the universe, he has no permanent enemies and no permanent friends, which means that on occasion he may have a friend. When he reaches my status, that's when he needs to be worried and his hide is going to have to thicken and toughen. I don't have friends, period, and I know that, but I function anyway. When issues come up there's a result that I want to achieve. If I can achieve it wearing kid gloves, real soft leather, just stroke and caress and make people feel so good that they just want to do it, that's the way I'd like to proceed. If they don't, then you might curl your fingers into a fist. And although there's a kid glove, what's inside is a little firmer and you become a little more forceful and insistent. When a steel fist in a kid glove is not adequate, then you pick up the hammer. And when you put the hammer down, that's when something is going to give. This bill was one, as I've stated, which I didn't support at all, and Senator Ashford knows I'm not going to vote for it, but I'm not going to fight it. Senator Carlson, Senator Ashford prevailed on me not to fight against his bill, and I won't, in the sense of trying to do all I can to stop it. But if Lincoln had stayed into it, it was going to be my project to kill it. Lincoln was the jockey that was bigger than the horse being asked to carry that jockey. It was a bill that remains in the Revenue Committee. It should not have been attached as an amendment, in my opinion, but I don't fault Senator Avery for seeing what was going on, on this floor, and making use of

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that opportunity to achieve a result he wants in the way that I do what I can to achieve a result that I want. He will have far more success on this floor than I ever will. First of all, his complexion is right. There's not going to be an automatic suspicion and skepticism, and he's not going to have a lot of idiotic white people in his district say, oh, you supported Chambers on that, and the idiot doesn't even know what was being supported. I have some of you-all's constituents calling me, thanking me what I'm going to do on the death penalty. And you know what they think I'm going to do? That I'm reinstating the death penalty. First of all, I'm against the death penalty and the death penalty exists now. That's how uninformed they are. And these are the ones who have you all running around here like a dog chasing his tail, scared to death because some idiot put something on an e-mail misspelled, grammar is atrocious, and says, I don't like what you did, and you all are seized with fear and trembling. That's why being here is sometimes difficult for me. I mention my plight so that Senator Avery may feel consoled. He can look around this Chamber and see everybody who look just like him. He's y'all, and y'all are him. Y'all are brothers, sisters, blood brothers. He doesn't have to worry about what I have to worry about. But I have those things to deal with and I still function... [LB551]

PRESIDENT SHEEHY: One minute. [LB551]

SENATOR CHAMBERS: ...in this hostile environment. So what Senator Avery went through this morning is not a defeat. He should feel proud that he got this thing as far as it went. That's what he should look at. He achieved something. He's in a political setting. He shouldn't have gotten anything, but he did and that should be his consolation. Senator Ashford got rid of something that might have brought his bill down and, as I stated, I'm not going to have amendments to offer, I'm not going to put any motions on the bill, I'm not going to try to delay it. Thank you, Mr. President. [LB551]

PRESIDENT SHEEHY: Thank you, Senator Chambers. Senator Langemeier. [LB551]

SENATOR LANGEMEIER: Mr. President, members of the body, I rise in support of FA131, as I rose in opposition to it being adopted the last go-round. I don't have a problem with Lincoln wanting to be part of this. I don't have a problem with Lincoln's idea to build a facility similar to Omaha. What I do have a problem with is we had a formula out there; it didn't work. Now here's formula number two for the Qwest Center. Let's see if it works. So I applaud Senator Avery saying he'll be back again with a new idea, and I hope he waits two years actually. I'd like to see if this program and this formula works, because if it doesn't work and we get another facility built in Lincoln based on a formula that doesn't work, three years from now, four years, five years from now we'll be back bailing out two facilities instead of just one. So I think it's prudent that we see if this formula actually is going to work for the Qwest Center and then at that point look into the future expansion. Thank you, Mr. President. [LB551]

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PRESIDENT SHEEHY: Thank you, Senator Langemeier. Further discussion on the floor on FA131? Seeing no lights, Senator Flood, you're recognized to close on your amendment, FA131. [LB551]

SPEAKER FLOOD: Thank you, Mr. President and members. I would urge your adoption of this. You know what it does. It removes the language that was the primary interest of, like, the city of Lincoln regarding publicly owned facilities versus privately owned facilities. This requires that it must be publicly owned. Appreciate Senator Avery's consideration of the situation and his willingness to vote for this as we look forward to moving the bill today. Again, I would urge you to vote for FA131 to AM1456. Thank you, Mr. President. [LB551]

PRESIDENT SHEEHY: Thank you, Senator Flood. You've heard the closing on the amendment. The question is, shall FA131 be adopted to AM1456? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB551]

CLERK: 32 ayes, 1 nay on the amendment. [LB551]

PRESIDENT SHEEHY: FA131 is adopted. We will return to floor discussion on AM1456. Seeing no lights, Senator Flood, you're recognized to close on AM1456. [LB551]

SPEAKER FLOOD: Thank you, Mr. President. Again, this bill, in my opinion, for the rural areas of the state replenishes that fund so that cities like the Battle Creeks and the Cortlands and the Beatrices and the Norfolks have a shot at getting some of that money for projects that are worthwhile in our own communities. And right now there's no money...there's not enough money coming into that fund to make a difference. That's the rural side of it. The urban side of it is I think we can celebrate the Qwest Center, in my opinion, as a facility that's a gem for all Nebraskans. I can't tell you how many people from my area will drive the two hours down there to take in the entertainment that's offered or the opportunities at the state wrestling meet or other featured events in Omaha at the Qwest Center. It's thinking outside the box. It does what we want our communities to do--be creative and find solutions and create opportunities for our citizens. Before I end my time, I'm done talking, but I'd like to give the balance of my time to Senator Ashford, who I must say has been a tireless partner on this bill and has certainly proven that he knows exactly the history of the Qwest Center and is willing to stand up for it. So that's all I have, Mr. President. I would give the rest of my time to Senator Ashford. [LB551]

PRESIDENT SHEEHY: Senator Ashford, about 3 minutes, 30 seconds. [LB551]

SENATOR ASHFORD: And I won't need that time. Thank you, Senator Flood and Speaker Flood, and thank you for your willingness to carry this bill, representing the

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local communities throughout the state that benefit from the fund that's created here. I just want to mention one other thing about Senator Avery because obviously what Senator Avery has done is made a very magnanimous move here. And in addition to what he has just done here on the floor for Omaha, you know, it was the creativity that Senator Avery exhibited in coming up with a compromise for LB641. And I've known Senator Avery for a long, long time. And I just am very appreciative of his efforts on LB641 and will maybe not talk about that again, but I want to thank him and thank him for this as well because both of these measures, LB641 and LB551, do a lot for my city and hopefully, by so doing, will help the state as a whole. So with that, Senator Avery, thank you very much. Thank you, Senator Chambers, for not voting for the bill but not talking about it anymore. With that, I would also urge the adoption of AM1456. Thank you, Mr. President. [LB551 LB641]

PRESIDENT SHEEHY: Thank you, Senator Ashford. Senator Engel, your light was on. We have closed on this amendment. You have heard the closing on the amendment. The question is, shall AM1456 be amended to LB551? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB551]

CLERK: 39 ayes, 0 nays, Mr. President, on the adoption of Senator Flood's amendment. [LB551]

PRESIDENT SHEEHY: AM1456 is adopted. [LB551]

CLERK: I have nothing further on the bill, Mr. President. [LB551]

PRESIDENT SHEEHY: Senator Engel. [LB551]

SENATOR ENGEL: Mr. President, members of the body, I want to make just a few more comments. This looks like just a slam dunk all at once and that's the way things work down here, but I still don't think it's right. I don't think it's the way it should be because of the way things were set up several years ago. And like I say, promises made certainly aren't promises kept down here. And I see Senator Chambers is not going to vote for the bill and I appreciate that. But as far as not carrying on with his convictions, of course, that's 18 years ago. Things change and I realize that. We all change our minds over a period of years. But I don't think we really had enough things explained to us as far as this amendment. I don't think people really understand where the expansion of this revenue is coming from as far as under this new bill. And I don't think we've talked enough about the money we'll be losing here, the sales tax revenue we'd be losing here in the state of Nebraska. Here we are on a budget with some overrides and it's about \$2.2 million worth of revenue we are not going to receive each year because of this, and that will be more in the future, I'm sure, if things work like they should over there at the Qwest Center. And I know we've used our sales tax dollars in the past and income tax dollars to promote economic development in the state of

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Nebraska. And that's for the whole state and I believe that's what we should use these dollars for is expanding our work force, etcetera, in the state of Nebraska, and that's what we're doing. That's why we put that \$10 million in this biennium. Of course, that's out of the Cash Fund to continue on with our work force development. I think that's where our sales tax dollars should go. I don't think we should go subsidize a local entity like this that wasn't designed to utilize more tax dollars. And I think the people in Omaha, and again I commend them for their foresight, wanting to build up the Qwest Center and build up the riverfront there. It's much nicer driving into Omaha, etcetera. But I think there's a local obligation for that because I think they're the ones that are going to benefit the most. And so, therefore, I just want to just voice some more objections to this particular bill and I would...hopefully on Final Reading that we vote it down. So with that, I guess it's time to close. Thank you. [LB551]

PRESIDENT SHEEHY: Thank you, Senator Engel. Senator Chambers. [LB551]

SENATOR CHAMBERS: Thank you, Mr. President, members of the Legislature. Now that Lincoln is out of the bill, I want to focus on some things that are in the bill and I would ask Senator Ashford to turn to page 9 of the amendment, Senator Flood's amendment which was just adopted, so that you will know what I'm referring to. [LB551]

PRESIDENT SHEEHY: Senator Ashford, would you yield to some questions? [LB551]

SENATOR ASHFORD: Yes, I will, Mr. President. [LB551]

SENATOR CHAMBERS: Senator Ashford, beginning in line 22, we're talking about this 10 percent of these funds which would be made available for areas with a high concentration of poverty. It says the following: Three members, we're talking about a nine-member committee. [LB551]

SENATOR ASHFORD: Correct. [LB551]

SENATOR CHAMBERS: "Three members of the city council of the city of the metropolitan class whose district includes an area with a high concentration of poverty." Based on the structure of that language, are you of the opinion that more than three of the seven city council districts will have high concentrations of poverty? [LB551]

SENATOR ASHFORD: Senator Chambers, I believe it's the three city council districts within five miles are the three that are represented by those. There aren't any other high concentration areas. [LB551]

SENATOR CHAMBERS: Well, if, as a matter of law, because the statute is saying those three members shall be on this committee, why then do we have the following sentence which says the following: "Such members shall be appointed by a majority of the

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members of the city council"? If their districts contain the concentration of poverty, they are appointed by virtue of the operation of this statute. Is that true or false? [LB551]

SENATOR ASHFORD: Senator, I think that's a good observation. And when we were drafting this last night, it was out and apparently Bill Drafters put it back in. But that language is unnecessary. [LB551]

SENATOR CHAMBERS: Okay, now I will go to the next page. In line 9...are you with me on page 10? [LB551]

SENATOR ASHFORD: Yes, I am. [LB551]

SENATOR CHAMBERS: In line 9, "The committee shall research potential tourism projects in areas with a high concentration of poverty and make the final determination regarding the distribution of funding to such projects." What could such a project be that would benefit the community where it's located? [LB551]

SENATOR ASHFORD: The...it has two purposes, Senator Chambers. One is to benefit the community in which it's located. The other purpose is to enhance opportunities for tourism, I mean so people can understand what's the history and so forth. A good example of it would be the jazz museum. [LB551]

SENATOR CHAMBERS: Okay. Now if this committee decides that no such project exists worthy of funding, what becomes of that 10 percent of the money that came that year? [LB551]

SENATOR ASHFORD: It remains in that fund, Senator. It cannot be used for another purpose. That's my understanding of what we have drafted. But do you feel that's not the case? [LB551]

SENATOR CHAMBERS: No, here's what I'm getting at. Let that be the case. But there's no fail-safe to make sure that this money is spent. Because if those councilpersons decide, along with the ones they appoint, that this money is not going to be spent in an area where I live, then the money can continue to pile up. Isn't that true? [LB551]

SENATOR ASHFORD: That's correct. [LB551]

SENATOR CHAMBERS: It need never be spent. [LB551]

SENATOR ASHFORD: That's correct, Senator. That's correct. I agree with you that it should be clear that the money... [LB551]

SENATOR CHAMBERS: So where's the guarantee that this is going to benefit the

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community? [LB551]

PRESIDENT SHEEHY: One minute. [LB551]

SENATOR CHAMBERS: There is no... [LB551]

SENATOR ASHFORD: Senator Chambers, I have no objection to, and it's my intent that the money be spent on an annual basis for... [LB551]

SENATOR CHAMBERS: So what are we going to do about this bill then and that language? [LB551]

SENATOR ASHFORD: We're going to do a floor amendment right now to change it. [LB551]

SENATOR CHAMBERS: Well, do you think one can be crafted right now that will achieve this purpose or should there be some time given to doing it? [LB551]

SENATOR ASHFORD: You know, I really think it's quite simple to make the change, Senator. [LB551]

SENATOR CHAMBERS: Give me an idea of what the change would say. And I don't mean this is necessarily the language you would use, but what is the concept? [LB551]

SENATOR ASHFORD: The concept would be that the money must be spent in each year that it was received by the fund. It must be spent in that year. In addition to that, that the committee is made up of the three council members who represent the three districts that have 20 percent of poverty. [LB551]

SENATOR CHAMBERS: But there could be two of the council members, plus the two people each one of them select, which would give them.... [LB551]

PRESIDENT SHEEHY: Time, Senator. [LB551]

SENATOR CHAMBERS: ...six people...thank you, Mr. President. [LB551]

PRESIDENT SHEEHY: Senator Ashford, followed by Senator Pahls, Senator Chambers, Senator Carlson, and Senator White. Senator Ashford. [LB551]

SENATOR ASHFORD: Yes, Mr. President, I'd be happy to yield my time to...Senator Chambers, would you...I'd yield my time to Senator Chambers. [LB551]

PRESIDENT SHEEHY: Senator Chambers, 4 minutes, 50 seconds. [LB551]

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SENATOR CHAMBERS: Thank you, Mr. President. And I will continue the discussion with Senator Ashford. Senator Ashford, you were about to give me an idea of the concept that you have in mind. [LB551]

SENATOR ASHFORD: Senator, the concept, the idea is that the money be spent each year. [LB551]

SENATOR CHAMBERS: Okay, and that brings me back to my objection. I am not liked by the members of the city council. They don't like the community of which I'm a part. So those two who are on this committee, each one of them will also appoint two people, which will give them six of the nine people on this committee. And they could simply say there is no project we think is worthy and you could not even get a mandamus action to compel them to spend the money because you don't compel them to select a project. And I don't know how you can do that statutorily. So how are you going to get around what it is that I see is a problem? [LB551]

SENATOR ASHFORD: I would answer it this way, Senator Chambers. It's not necessarily, in all deference, about you, because the fact that they may or may not like you I think that the projects that are out there that need help are obvious. And I'm not saying that that doesn't mean that they will do it. But I think that it's a fair committee. That it is made up of the council members in the... [LB551]

SENATOR CHAMBERS: Senator Ashford, how can you say it's a fair committee when you don't know which two people each of those councilpersons will appoint? [LB551]

SENATOR ASHFORD: Because someone has to appoint them. And the answer is I think it's a fair way to do it. And quite frankly, we looked at plenty of other options, but I think this is a fair way to do it. And I think the projects are rather obvious. [LB551]

SENATOR CHAMBERS: You're saying trust...I should trust these people who have not shown themselves to be trustworthy when it comes to dealing with my community. This city council has dealt with issues that relate to my community. And they have not been fair. They have not been sensitive. They have been insulting. They have been dismissive. So why all of a sudden, when money is involved, are they going to be different? [LB551]

SENATOR ASHFORD: Senator Chambers, I think the projects speak for themselves and the animosity that has been shown or not shown I don't think will enter into this. I think that there are clear projects in the downtown, near downtown areas, in north Omaha and south Omaha that need funding. And I think this committee will do the right thing... [LB551]

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SENATOR CHAMBERS: I don't... [LB551]

SENATOR ASHFORD: ...whether or not they have animosity toward you or not. [LB551]

SENATOR CHAMBERS: I don't just want it in the near downtown area because this would be a way for them to let this money, this 10 percent, just add on to what they're already putting around the Qwest Center. This is money, if it's spent, that has to be in other parts of the community that's affected, not just tangential to what is going on with the Qwest Center and what they call north of downtown or whatever it is the term that they use. [LB551]

SENATOR ASHFORD: That's correct, Senator. And if it helps, and we can look at language, but I think the clear intent here, Senator, is there are areas in north Omaha that are not near downtown. There are areas in south Omaha that are not part of the downtown area that will be helped by this. And that is my intent. And even though we have three city council members, I didn't think it was quite fair to leave anybody out if they represented those areas. So... [LB551]

SENATOR CHAMBERS: Give me the three council members. I know Frank Brown represents north Omaha. [LB551]

SENATOR ASHFORD: Well, Garry Gernandt represents south Omaha and Jim Vokal represents District 3, which would be part of near downtown to the west downtown and part of downtown as well, I believe. [LB551]

SENATOR CHAMBERS: So what poverty areas exist in Vokal's district? [LB551]

SENATOR ASHFORD: Well, most of downtown is... [LB551]

PRESIDENT SHEEHY: One minute. [LB551]

SENATOR ASHFORD: ...a poverty area, Senator. [LB551]

SENATOR CHAMBERS: So he's...he represents downtown and you're seeing that as a poverty area. [LB551]

SENATOR ASHFORD: That's what the statistics show. I mean downtown still has pockets of poverty in it. I can't think of any projects that are in a poverty area particularly in downtown. It's not all of downtown. Most of the poverty areas, as you know, are in north Omaha. There are some in south Omaha. The actual project must be in the poverty area. It can't be in another area. It has to be in a poverty area of which...and there clearly are examples in north Omaha, Senator. [LB551]

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SENATOR CHAMBERS: But six people could say that these projects will go into downtown Omaha and that's where they would go, based on the language of this bill. Isn't that true? [LB551]

SENATOR ASHFORD: That's true. [LB551]

SENATOR CHAMBERS: Right. And that's what I don't trust. Thank you, Senator Ashford, even though I'm on your time because you can see...you said I could use the time. How much time is left, Mr. President? [LB551]

PRESIDENT SHEEHY: Ten seconds. [LB551]

SENATOR CHAMBERS: Thank you. [LB551]

PRESIDENT SHEEHY: Thank you, Senator Chambers. Senator Pahls. [LB551]

SENATOR PAHLS: Mr. President and members of the body, Senator Chambers, I will give you some of my time. The part that intrigued me was the issue that we're dealing with right now. I went up to Senator Chambers earlier and made comments. I see this as a positive move. I think more people are listening. I think it's sort of a wake-up call. We just talked about the learning community that we are really looking to help those children in poverty. I see private donors are taking more of an active role in what's going on. I'm not saying they haven't in the past, but if you've been reading the newspaper, you can see more people are seeing and maybe realizing there's more of a need than we had thought of in the past. This is one of the legs I think to make the metro area a better place for all of us to live. And I understand the concerns that Senator Chambers has on where these projects would be located because there is a high need in north Omaha. And I would give the rest of my time to Senator Chambers. [LB551]

PRESIDENT SHEEHY: Senator Chambers, you are yielded about 3 minutes, 50 seconds. [LB551]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Pahls. I do not trust the Omaha City Council. I do not trust Mayor Fahey. I do not trust the chief of police. I do not trust the Douglas County Board. I do not trust the Omaha School Board. I do not trust the superintendent of schools of Omaha, of OPS. These are the ones who have created problems for the people that I have a concern about. They have never shown any sensitivity. They have never been responsive. And the only time the city council was responsive was when they insulted my community. And I'm supposed to trust those same scalawags with this money. I will tell you what it boils down to. It would be better not to create a sham at all than to do something like this. Senator Ashford is pure in his motivation. His motives are as pure as the driven snow. But if some flakes of snow fall, however pure, and those flakes are few in number and they strike the

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concrete, how long are they going to exist? They will melt upon contact. Good intentions are not enough. There are no guarantees in the language in this bill. If, as Senator Ashford correctly pointed out, downtown Omaha is a part of this mix, where do you think the projects are going to be accepted by six of the nine people, and they'll all be white? They're going to be in downtown Omaha. This bill was not put before you to improve the areas where there are high concentrations of poverty. That's a tack-on, an afterthought. Everything that this Legislature has done in response to a request from Omaha has been to benefit the big shots and their interests. Ordinary people are not even contemplated. It's all that I can do to avoid trying to kill this bill, but I'm not going to. However, I don't want to agree to put something in the bill that's not going to work. And I don't think this is going to work. I don't know whether Senator Ashford and the Speaker can do something about this, but I don't want to let the bill move in its present condition. I don't know if he could lay it over and give us all an opportunity to work on it or what. But I cannot support the bill... [LB551]

PRESIDENT SHEEHY: One minute. [LB551]

SENATOR CHAMBERS: ...the way that it is. And since I have one minute, I'd like to ask Senator Ashford a question. [LB551]

PRESIDENT SHEEHY: Senator Ashford, would you yield to a question? [LB551]

SENATOR ASHFORD: Yes. [LB551]

SENATOR CHAMBERS: Senator Ashford, is there any way you and the Speaker could hold this bill over, even if it comes up later in the day, so that we could discuss this and try to come up with something? Because, frankly, I don't know that we can arrive at an acceptable solution talking back and forth on the mike. I'm willing to do it. But since I'm not just trying to kill the bill off, that's...oh, I'd like to ask the Speaker a question. [LB551]

PRESIDENT SHEEHY: Senator Flood, would you yield to a question? [LB551]

SPEAKER FLOOD: Sure. [LB551]

SENATOR CHAMBERS: Would you answer, Mr. Speaker, what was being addressed? [LB551]

SPEAKER FLOOD: Well, I...yes, I will. Your question is can we pass over LB551 to work on this and bring it back this afternoon and finish it up and move it to Final. I'd be happy to do that as long as you let my next bill up just roll right through before lunch. (Laughter) [LB551]

SENATOR CHAMBERS: What bill is that? [LB551]

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PRESIDENT SHEEHY: Time, Senator. [LB551]

SPEAKER FLOOD: (Laugh). [LB551]

PRESIDENT SHEEHY: (Visitors introduced.) Senator Chambers, you're recognized, followed by Senator Carlson, and Senator White. Senator Chambers. [LB551]

SENATOR CHAMBERS: Mr. President, members of the Legislature, I would like to ask the Speaker a question. [LB551]

PRESIDENT SHEEHY: Senator Flood, would you yield to a question? [LB551]

SPEAKER FLOOD: Yes, Mr. President. [LB551]

SENATOR CHAMBERS: Senator Flood, if it's agreeable with you and Senator Ashford that we could pass over it, I don't even have to speak my five minutes now. So is that what we're agreeing to? [LB551]

SPEAKER FLOOD: Yes, Mr. President, I would ask that we pass over LB551 at the conclusion of Senator Erdman...at the conclusion of Senator Chambers' time, and then we'll move to LB554, and we'll come back to LB551 after the conclusion of either LB554 or at the conclusion of veto overrides. [LB551]

SENATOR CHAMBERS: He said after I get through, Mr. President. Senator Flood almost got Erdman out when he was mentioning my name. I would rather be called Ergotrass than Erdman. And if Senator Erdman looks up what that word means and what Ergotrass can be used for, he will understand why I said what I said. That concludes my comments. Thank you, Mr. President. [LB551]

PRESIDENT SHEEHY: Thank you, Senator Chambers. We will be laying LB551 over until after we dispense with the LB554 or after the motions to override the vetoes. So we will move to the next item in Select File, Mr. Clerk. [LB551 LB554]

CLERK: Mr. President, LB554 on Select File. Senator McGill, I have Enrollment and Review amendments, first of all. (ER8115, Legislative Journal page 1688.) [LB554]

PRESIDENT SHEEHY: Senator McGill. [LB554]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB554]

PRESIDENT SHEEHY: The question is the adoption of the E&R amendments to LB554. All those in favor say aye. Opposed, nay. The amendments are adopted. [LB554]

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CLERK: Mr. President, Senator Flood would move to amend with AM1453. (Legislative Journal pages 1758-1760.) [LB554]

PRESIDENT SHEEHY: Senator Flood, you're recognized to open on AM1453. [LB554]

SPEAKER FLOOD: Thank you, Mr. President. This is the technical cleanup change to LB554, and at the outset I want to say that I am blessed to have Denise Pearce working for me. She's going to be leaving the Legislature this year, but she has invested an enormous amount of time, and her technical skills are unbelievable. And she has worked this bill with me from the first sentence to the last period, and every comma and semicolon between, and I can tell you that this amendment here makes sure, essentially, that we're going the right direction in LB554 with regarding a rewrite to the parenting change. As you look through the amendment, you'll see most of it is obviously technical changes. There's a rewrite of Section 11. Rather than file an affidavit of a proposed temporary parenting plan, a party must file a child information affidavit that includes the same information. Technical changes tied into the funding mechanism. If the court is referring to mediation, the case must go to an ODR-approved center or conciliation court program. Again, the ODR-approved centers are expected to absorb half the cost. We have structured this in such a way that there's no General Fund impact, and we're doing that to avoid using General Funds and to make the system self-sustaining. It talks about when mediators are provided with public records, like protection orders. They have to consider such records in determining what form of mediation is appropriate. This bill is designed to avoid a situation where a victim and the abuser are sitting at the same table, trying to mediate. If there's any hint of domestic violence or emotional abuse or verbal abuse, you don't sit in the same room. You have specialized alternative dispute resolution. There are some Health and Human Services technical changes per their request. Senators Wightman and Synowiecki are going to be raising some issues regarding the child support provisions of inmates that are in custody and should be paying their child support, and that, I think, is very good. And then, of course, Section 43 has been rewritten. It is drafted as narrowly as we can to address two issues: First, the fact that hospitals now bill separately for mom and baby; and second, addresses issues where county attorney goes after dad for state medical expenses that the Medicaid program paid for mom and baby. In those cases, when dad challenges such expenses as not medically necessary, dad will bear the burden of proof, and that should address the concerns raised by Sarpy County attorney. This is a technical amendment. I don't think it deserves much discussion. In fact, I would urge you to adopt it and get to the meat of what Senators Synowiecki and Wightman want to do. They want to talk about the provisions relating to in-custody child support...folks in custody and making their child support payments. So I would urge your adoption of AM1453. Thank you. [LB554]

PRESIDENT SHEEHY: Thank you, Senator Flood. You have heard the opening to

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AM1453. (Visitors introduced.) The floor is now open for discussion on AM1453. We have Senator Ashford, followed by Senator Synowiecki. Senator Ashford. [LB554]

SENATOR ASHFORD: Thank you, Mr. President, and I believe Senator Johnson's grandchildren are up there somewhere, too. Am I right in that assumption? I don't know if Senator Johnson...is that correct? So I believe there are two grandchildren of Senator Johnson who might want to stand up, as well. Is that possible, Mr. President? [LB554]

PRESIDENT SHEEHY: Yes. Would Senator Johnson's grandchildren please stand? Thank you. (Applause) [LB554]

SENATOR ASHFORD: Thank you. Thank you for that, Mr. President. That's all I have. Thank you. [LB554]

PRESIDENT SHEEHY: Senator Synowiecki. [LB554]

SENATOR SYNOWIECKI: Thank you, Mr. Lieutenant Governor, members. As the Speaker indicated, there is an amendment relative to Senator Wightman's portion of LB554, that was amended on, on General File. I don't have it right here with me at this moment, but essentially what Senator Wightman's part of this bill, or part of this amendment that was adopted on General File--I had my light on, but was not able to speak to it on General File--what it does is, if an individual sentenced to jail for six months, that during the period of that incarceration their child support payments, or the fact that they would have to pay them child support payments while they're incarcerated would end, if they'd make application to do so, if I remember correctly. After the adoption of that amendment on General File, I had a discussion with Senator Wightman relative to some concerns I had with that provision. Specifically, my concern was individuals that may be incarcerated that, prior to that incarceration, if they had a demonstrated history of willfully not paying their child support in good faith, and if they had a balance in arrears of child support, why would we give individuals that had not paid child support in good faith to their incarceration, why would we give them that luxury during their period of incarceration? I had some concerns with that. Senator Wightman was very willing. He worked with me. We worked on this amendment which has now been incorporated into the Speaker's amendment. The second portion of that is--I believe Senator Wightman is also in agreement with--is it raises the period of incarceration when these individuals would be afforded that reduction in their child support, or where the child support would essentially be held in abeyance during that period of incarceration, and it raises it to one year, is what I believe this amendment does. What I'd like to do is give the balance of my time to Senator Wightman, so he can...again, I don't have the stuff in front of me as I'm recalling it. But I would like to give Senator Wightman the balance of the time, so that he could perhaps affirm everything that's in the Speaker Flood amendment relative to what Senator Wightman's amendment was on General File. So, Mr. Lieutenant Governor, I'd like to give the

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balance of my time to Senator Wightman. [LB554]

PRESIDENT SHEEHY: Thank you, Senator Synowiecki. Senator Wightman, about 2 minutes, 25 seconds. [LB554]

SENATOR WIGHTMAN: Thank you, Mr. President, and thank you, Senator Synowiecki. We were contacted, as Senator Synowiecki has told you, with regard to a concern that he had with considering any result of being incarcerated as being...what the amendment did that we originally had was that would become an involuntary reduction rather than a voluntary reduction. Senator Synowiecki had a real concern, in the event somebody had willfully failed to pay for, rather habitually, for some period of time when he went in, and we agreed that that could be amended so that if there had been a willful nature to that failure to pay prior to the time that he was incarcerated, that that would no longer be considered an involuntary reduction. At the same time, we agreed that the time, the effective time on this, would be one year rather than six months; that the person had to be incarcerated for one year before he would even be entitled to have the advantage of the amendment. We are also proposing, and that will be mentioned later, a separate amendment, because of some fear on the part of the county attorneys as to what type of a... [LB554]

PRESIDENT SHEEHY: One minute. [LB554]

SENATOR WIGHTMAN: ...flood--and that's not a pun--what kind of a flood there might be, as far as actions in the district court, and so we are going to further provide by that separate amendment that the effective date of this portion of the act would become July 1, 2008, so that the county attorneys across the state could plan or even propose amendments a year from now. So we are supportive of the amendment and, as I say, we'll have a separate amendment. Thank you, Mr. President. [LB554]

PRESIDENT SHEEHY: Thank you, Senator Wightman. Senator Pirsch, followed by Senator Wightman. [LB554]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I wonder if Senator Wightman would yield to a question, if he's available. [LB554]

PRESIDENT SHEEHY: Senator Wightman, would you yield to a question? Senator Wightman, would you yield? [LB554]

SENATOR WIGHTMAN: Yes, I will. [LB554]

SENATOR PIRSCH: Thank you. And I appreciate the dialogue that was going back and forth between you and Senator Synowiecki. Could you just, with respect to Senator Synowiecki's concern with respect to those individuals who are habitually late or show

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bad faith in their payments of child support...how would this amendment, again, address that? [LB554]

SENATOR WIGHTMAN: Well, the amendment would say that if the person, the child support judgment debtor, had a history of failure to pay, and that had been a willful failure to pay, if it didn't come about just because of his finances entirely, that then it would not be considered a involuntary reduction, but would continue to be considered a voluntary reduction in which the arrears would not only continue to run, but you would be adding child support all the time until a change was made by the court. [LB554]

SENATOR PIRSCH: Very good. I appreciate the concept behind it. How would one...well, let's talk about the general process, then, under your bill, or your amendment, with respect to a person who is ordered to pay child support. He's incarcerated. Would he have to wait, then--assuming that the date is for 12 months now under this amendment--would he have to wait, then at 12 months and one day can then petition the court? Is that how it works? [LB554]

SENATOR WIGHTMAN: That's my understanding, although there is some concern on the part of the county attorneys, that they may have some obligation to bring that action. I think the language in the section that this is amending says that, if directed to do so by the Department of Health, the county attorney shall bring the action, and that's one of the reasons we would agree to making the effective date of this July 1, 2008, rather than January 1, 2008, so that they have a better opportunity to review the contents of that bill and look at changing it next year, if those changes appear to be necessary. [LB554]

SENATOR PIRSCH: Okay. And how many...and then...so at, say, 12 months and one day, then the particular individual who is...then benefits from this lowering of child support payments, he serves hypothetically his jail time of, say, two years. How would that individual then...once he's released, then what happens? Does it automatically adjust back somehow, or must the...some sort of mechanism take place? The county attorney petition the... [LB554]

SENATOR WIGHTMAN: As of right now, I think either the judgment creditor, being the spouse, would probably have to bring that action, or in the event that the money was being paid or the support was being paid, which it probably would be at that point by the Department of Health and Human Services, then they probably would have to bring the action. [LB554]

SENATOR PIRSCH: How would the Department of Health be aware that he had been released, say, meet...you know, it's a...sometimes good time is an unknown circumstance, and so you can't with any accuracy foresee the exact date,... [LB554]

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PRESIDENT SHEEHY: One minute. [LB554]

SENATOR PIRSCH: ...several years into it. How would that happen, that the...I'm sorry, go ahead. [LB554]

SENATOR WIGHTMAN: Right now I'm not sure I can answer that, because I don't know. In many instances, I think the other parent would probably know, particularly if any visitation rights or any contact... [LB554]

SENATOR PIRSCH: Okay. [LB554]

SENATOR WIGHTMAN: ...was there with that other parent, but I can't say that's going to happen in every circumstance. [LB554]

SENATOR PIRSCH: Well, if the other parent is relying on...I guess the support is being filled in by the state through Aid to Dependent Children and what not, what motivation does the other parent have to take such affirmative action? [LB554]

SENATOR WIGHTMAN: There could be a problem with regard to knowledge, I suppose, and that's one of the reasons we have agreed to change the effective date of that act to July 1, so that we can perhaps look at those situations and see whether we would need to tweak this amendment. [LB554]

PRESIDENT SHEEHY: Time, Senator. [LB554]

SENATOR PIRSCH: Thank you. [LB554]

PRESIDENT SHEEHY: Have Senator Wightman, followed by Senator Nelson, and Senator Pirsch. Senator Wightman. [LB554]

SENATOR WIGHTMAN: I think I had the opportunity to say most of what I wanted to with...in response to Senator Pirsch's questions, so I'll yield the rest of my time. [LB554]

PRESIDENT SHEEHY: Thank you. Senator Nelson. [LB554]

SENATOR NELSON: Thank you, Mr. President, members of the body. I'm going to get you back up again, Senator Wightman, and ask you to yield to a question, if you will. [LB554]

PRESIDENT SHEEHY: Senator Wightman, would you yield? [LB554]

SENATOR WIGHTMAN: I will. [LB554]

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SENATOR NELSON: Maybe you discussed this and it just went by me, but what is the rationale for increasing that six-month period to one year? [LB554]

SENATOR WIGHTMAN: Partly because of the numbers, we think, that would be there on felony charges. The one year is kind of a dividing line, and we think on a temporary basis that's probably not as necessary, and not going to create the same feeling of futility on the part of the judgment creditor, as if that goes on for a longer period of time. And so some of that was a concession to hopefully get this bill passed. I think that the one year is workable. I realize there will be a lot of people that can't take advantage of it, but they probably are not going to have a great feeling of futility for the additional six months that they may have accrued child support. [LB554]

SENATOR NELSON: Well, if I understand it, the six months was sort of a demarcation point. After that point in time, there would be a need for assistance here, or for what we're trying to do here, and it seems to me like extending it to a year is just going to cut that person out, as far as giving them any assistance... [LB554]

SENATOR WIGHTMAN: Well, again, we did that... [LB554]

SENATOR NELSON: ...here in the involuntary reduction. [LB554]

SENATOR WIGHTMAN: Excuse me. Again we did that, pretty much, at the request of the County Attorneys Association, that they thought that their...what they perceived as being a rather dramatic increase in their work would probably be lessened substantially by the difference between six months and a year. [LB554]

SENATOR NELSON: Well, the county attorneys are getting paid good salaries to do this work, and I'm not sure that the fact that it will serve to reduce their work is a valid reason for extending this period. All right, if Speaker Flood will yield to a question? [LB554]

PRESIDENT SHEEHY: Senator Flood, would you yield to a question? [LB554]

SENATOR NELSON: Can you respond to this, Senator? [LB554]

SPEAKER FLOOD: Yeah. It's my mike, too. (Laughter) Just giving you a hard time. You raise a good question about, why go to a year? And the reason I was interested in going to a year is that a lot of times somebody sentenced to a year only or less is going to do county jail time, and a lot of times sheriffs, especially when they have a child support obligation, will allow the inmates to have work release. And so I thought, well, wait a second. If you're getting work release and you're getting a paycheck because the judge wants you to meet your obligations, then I don't want you to have any kind of reprieve. So that was my primary reason in going to a year, because I knew that work release

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happens in those situations, and they should still pay their child support. That's where I was coming from on the year, Senator. Thank you. [LB554]

SENATOR NELSON: All right, thank you, Mr. Speaker, and I accept that as a reasonable rationale. Thank you, Mr. President. [LB554]

PRESIDENT SHEEHY: Thank you, Senator Nelson. Further discussion on AM1453? Seeing none, Senator Flood, you're recognized to close on your amendment. [LB554]

SPEAKER FLOOD: Thank you, Mr. President, and thank you, Senator Nelson. He's been a great seatmate this year, probably wishes I was around more often but...or maybe he likes it. (Laughter) I just want to say thank you to the body for considering this amendment, technical in nature. We do have to work through a few of these issues with regard to the child support. We're doing that. I would encourage you to consider Senator Wightman and Synowiecki's amendment. I have one amendment coming up; it takes some technical changes I'll talk about. But this bill is moving in the right direction, and I would appreciate your support for AM1453. [LB554]

PRESIDENT SHEEHY: Thank you, Senator Flood. You've heard the closing to the amendment. The question is, shall AM1453 be adopted to LB554? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB554]

CLERK: 32 ayes, 0 nays, Mr. President, on the adoption of Senator Flood's amendment. [LB554]

PRESIDENT SHEEHY: AM1453 is adopted. Next amendment, Mr. Clerk. [LB554]

CLERK: Mr. President, Senator Flood would move to amend with AM1465. (Legislative Journal page 1760.) [LB554]

PRESIDENT SHEEHY: Senator Flood, you're recognized to open on your amendment, AM1465. [LB554]

SPEAKER FLOOD: Thank you, Mr. President. This is quick, simple, and easy. There's no need to have any discussion on it, because after I explain it, you'll have no--Senator Synowiecki, don't push your light--you'll have no choice but to vote for it. AM1465 makes a change to the language, indicating that mediators must inform the parties that a mediator has the duty to report instances of child abuse to the appropriate reporting agency pursuant to existing law in Chapter 28. The current language includes the term "evidence," that I have in the bill now, with regard to instances of child abuse that carry a legal meaning. That is too narrow. The new language is broader. Basically, if a mediator hears what they believe is abuse happening in the home, they've got a duty to report it to law enforcement, like anybody else. This is done at the request of the

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department. I think it's a reasonable request, and I think it's one that we should adopt. I urge you to vote for AM1465. [LB554]

PRESIDENT SHEEHY: Thank you, Senator Flood. You have heard the opening to AM1465. The floor is now open for discussion. Senator Langemeier. [LB554]

SENATOR LANGEMEIER: Mr. President, members of the body, would Senator Flood yield to a question? [LB554]

PRESIDENT SHEEHY: Senator Flood, would you yield to some questions? [LB554]

SPEAKER FLOOD: Yes. [LB554]

SENATOR LANGEMEIER: You did such a fine job of explaining that, we got to ask a little question. Who gets to pick the mediator? [LB554]

SPEAKER FLOOD: Well, the litigants can pick their own mediator, and if they can't afford one, they go to an ODR-approved center under the Supreme Court's direction and, if they're indigent, they'll have one appointed for them. We do have a network of mediation centers and mediators across the state of Nebraska, so it's still up to the choice of the litigant. [LB554]

SENATOR LANGEMEIER: Thank you. With that explained, I think you've fully explained the amendment. Thank you. [LB554]

SPEAKER FLOOD: Thank you. [LB554]

PRESIDENT SHEEHY: Thank you, Senator Langemeier. Further discussion on AM1465? Seeing none, Senator Flood, you're recognized to close. Senator Flood waives closing. The question before the body is, shall AM1465 be adopted to LB554? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB554]

CLERK: 37 ayes, 0 nays, Mr. President, on the adoption of Senator Flood's amendment. [LB554]

PRESIDENT SHEEHY: AM1465 is adopted. Next amendment, Mr. Clerk. [LB554]

CLERK: Mr. President, Senator Wightman would move to amend with AM1466. (Legislative Journal pages 1760-1761.) [LB554]

PRESIDENT SHEEHY: Senator Wightman, you're recognized to open on AM1466. [LB554]

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SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. AM1466 is the one I discussed with you when I...when Senator Synowiecki yielded some time to me. Basically, all it does is extend the date of these sections dealing with the child support. The effective date would become July 1, 2008, as opposed to January 1, 2008, at which the rest of the LB554 would be effective, so that's all we're asking. Again, we're doing that just to give everybody a time to get oriented a little bit before the effective date and see what their rights may be. So I urge the adoption of the amendment, and then the adoption of LB554. Thank you, Mr. President. [LB554]

PRESIDENT SHEEHY: Thank you, Senator Wightman. You've heard the opening to AM1466. The floor is open for discussion. Anyone wishing to speak on this item? Seeing none, Senator Wightman, you're recognized to close. Senator Wightman waives closing. The question before the body is, shall AM1466 be adopted to LB554? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB554]

CLERK: 30 ayes, 0 nays, Mr. President, on the adoption of Senator Wightman's amendment. [LB554]

PRESIDENT SHEEHY: AM1466 is adopted. [LB554]

CLERK: Mr. President, I have nothing further on LB554. [LB554]

PRESIDENT SHEEHY: Senator McGill, you're recognized. [LB554]

SENATOR MCGILL: Mr. President, I move LB554 to E&R for engrossing. [LB554]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB554 is advanced. Next item in Select File, Mr. Clerk. [LB554]

CLERK: Mr. President, passing over LB554A, awaiting an amendment, which brings the body to LB573. Senator McGill, I have Enrollment and Review amendments pending. (ER8114, Legislative Journal page 1688.) [LB573]

PRESIDENT SHEEHY: Senator McGill. [LB573]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB573]

PRESIDENT SHEEHY: The question is the adoption of the E&R amendments to LB573. All those in favor say aye. Opposed, nay. The amendments are adopted. [LB573]

CLERK: Senator Lathrop, AM1397. I've got two from you, Senator. AM1397 is the first

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one. (Legislative Journal page 1720.) [LB573]

SENATOR LATHROP: AM1397 I intend to proceed with. [LB573]

CLERK: Okay. [LB573]

PRESIDENT SHEEHY: Senator Lathrop, you are recognized to open on AM1397. [LB573]

SENATOR LATHROP: Thank you very much, Mr. President and colleagues. I'm offering AM1397 to LB573, and just by way of background, LB573 is the minor alcohol liability act, which essentially provides for liability for adults who provide or procure alcohol for minors in three instances. First is the occasion where you allow children, underage minors, to drink in your home; the second is if you are a retailer and you sell alcohol to minors; and the third is if you simply procure alcohol for someone you knew or should have known was a minor. If you do that and the child or the minor is involved in some kind of negligent conduct which causes injury, you are liable just as the minor would be for their negligent conduct. Today I am offering an amendment, AM1397, which does three things, or makes three changes which really are refinements, and not major policy-type changes. The first portion of...or the first piece of the amendment has to do with the liquor retailer who sells alcohol to a minor and their liability. We have narrowed the liability in this sense: that the employee or the liquor retailer must be within the scope and course of his or her employment. What that does and what that's intended to do--and let me explain this, because this is a pretty common phrase in the law. In civil liability we use it in respondeat superior, where an employer is liable we use it in work comp. It's a well-understood phrase, and what it would do to the liability of a retailer is this. If you employ a 25-year-old young man to work at the liquor store, and he gives alcohol to his buddy or sells alcohol to his little brother, that would be outside the scope and course of his employment and would not give rise to liability. The reason it wouldn't is because he has simply abandoned his duties as an employee, and he's now working for his own account. There is some benefit to him in that transaction; no benefit to the employer, and so the employer would not have liability. Understand something, however, that it is not every violation of the law that takes someone outside the scope and course of their employment. So if you are an employer and you have a policy against selling to minors and your employee sells to minors, that will not...this language will not take you outside of that exception. Let me give you an example. In the law an employer is liable for the conduct of his employees when they are in the scope and course of employment, and a good example is where someone is making a delivery. If they are delivering a package from point A to point B, they are in the scope and course of their employment. If they deviate from that to go to lunch with your girlfriend at some location other than along the route designated or the shortest route, you have abandoned or left the scope and course of your employment, and if you got in a wreck in that situation, there would not be liability. The same principles would apply here, and

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the distinction is whether or not...not whether a law is being broken, because it will always be broken if you're selling to minors. The distinction is whether or not the employee is now working for his own account. Is he giving the beer to a friend who he will drink with later? Is he selling it to his brother? It is not, I repeat, it is not every violation of the law that takes you outside the scope and course of your employment, only those instances where the employee is working for his own account. The other change that we are making is to change the definition of "social host." The exception to a social host from...in the original amendment it is based upon whether it's happening in your own home with your child. This amendment would have it dependent upon whether the child was consuming alcohol in the company of his parents and with his parents' permission. In that instance, there would not be liability for the parent for their own child, as a social host. I have had some concern over that. Let me explain that those parents would have liability under different doctrines of the law which are not excluded or preempted by this act. They would have responsibility for their kids in any event, because they have provided them with a car, and so the parents will be essentially caught in the web of liability through another principle of law. And the last thing that this amendment does is change the statute of limitation from two years to four years. That is in some sense a technical amendment. The reason we have changed it to four is because the liability statute of limitations for the underlying negligence of the child or the minor is four years. The parents, the procurer, the retailer will be equally liable under this act and, for that reason, they should be in the same lawsuit, and the time to sue them should correspond with the time to sue the minor who caused the accident in the first place. Otherwise you'll have, if a suit got filed after three years, only one of the responsible parties could be brought into the action and not both. So I would urge your adoption of AM1397. I'd be happy to answer any questions relative to the amendment or to LB573. Thank you. [LB573]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. You have heard the opening to AM1397 to LB573. Senators wishing to speak are Senator Kruse, Senator Schimek, and Senator Langemeier. Senator Kruse. [LB573]

SENATOR KRUSE: Mr. President and colleagues, thank you. I support the Lathrop amendment and the underlying bill, which I remind you is what we adopted on General File and passed forward the other night. But the amendment and that piece that is being amended is big. This is a very important deterrent to the procurers that are out there, and I've already expressed my low regard for procurers. They are out there deliberately breaking the law. They know they're the adult. The teen knows that he or she is the teen. The adult knows it. This is as deliberate a breaking of the law as you can possibly get, and...but this particular piece is the civil liability. Let me put it in nonlawyer terms. On the statutes already, all of this stuff is against the law. That's not what we're talking about. We're not increasing sanctions of law here. We're talking about the civil liability if somebody breaks the law, and this piece says that getting teens, minors, drunk will leave one exposed for a civil liability. We hope that that has significant impact on

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somebody. This week in Elkhorn in the news was 45 teenagers who were drinking a lot in a home with three adults. Now those adults are the procurers I'm talking about. Their fines are not significant, they can be ignored. There are other repercussions; it just depends upon the creativity of the prosecutor. But this piece puts the...places them as vulnerable to a lot of pain. Forty-five teenagers would mean a pretty nice house, and that house is being put into jeopardy by this piece, as a civil liability. The cases that would come by it would be very, very few--I would hope none. But the fact that that liability is out there is going to stop people from doing it. There are anecdotes all the way along the line. I just remind you of a couple of them quickly. Matt's dad has been around to all of our offices. Matt was killed by a young woman, teenager, who left one of these parties. Matt was walking down the street and she hit and killed him. She was getting the alcohol from a place like that. These persons now would be under the liability, civil liability, for Matt's death. Another one that was there at the hearing was a dad of a young woman from the western end of the state. This young woman really didn't anticipate this, but there was alcohol within the home. She had not done this before, but she drank some, she became confused, recognized that she wasn't in shape to drive home, and told the woman who was hosting the party that case. A number of the other kids were getting a little bit silly and woozy, and the woman, the adult in the scene, pushed them all out of the house. She got scared. It was raining. This girl asked to be able to call her folks, because she didn't trust herself to drive. She was feeling strange. The woman still pushed her out of the house into the rain. She went out and sat in her car, thought about it a bit, finally decided maybe she could creep home safely. She didn't know what her body would do. She didn't make it home. [LB573]

PRESIDENT SHEEHY: One minute. [LB573]

SENATOR KRUSE: She is alive. But at any rate, those are the persons that we're looking at. We're also...just a quick word on stings. Somebody talked about that the other night. This is a compliance check. We don't have anything that is maneuvering around or trying to trick somebody. We are...when a compliance check comes along, a teenager with his or her own driver's license is there with a police officer alongside to see if they will drive...if they will sell them. Friends, the fact is that there's bars in every town that will sell to a teenager, knowing it's a teenager. The kids say, we just do a run across the town. You just go straight in and ask them if they'll sell you beer, and some of them will. We hope this gives those "someones" a real pause for thought. I thank you. [LB573]

PRESIDENT SHEEHY: Thank you, Senator Kruse. Senator Schimek. [LB573]

SENATOR SCHIMEK: Yes, thank you, Mr. President and members. First of all, I rise in support of the amendment, but I also wanted to ask Senator Lathrop, if I could, a question. [LB573]

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PRESIDENT SHEEHY: Senator Lathrop, would you yield to a question? [LB573]

SENATOR LATHROP: Yes. [LB573]

SENATOR SCHIMEK: Yes, Senator Lathrop, thank you. Could you just elaborate a little bit more on the other kinds of repercussions that a parent would have if their son or daughter did drink in the home with the parents' permission and supervision, and then they went out, maybe without the parents' knowledge or maybe with it, and drove a car and were involved in a fatal accident? Could you explain a little more what you were talking about there? [LB573]

SENATOR LATHROP: I'd be happy to. I'd be happy to, because it's responsive to concerns that I've heard since this...since the original provision passed. And if you are a parent and you provide a vehicle to your minor children--you're the head of the household--you're responsible for any of the people in your home who operate that car with your permission, under a doctrine of--and now I'm going to forget the name of it--family purpose doctrine. I was thinking negligent entrustment, which is another doctrine. But the family purpose doctrine basically says if you're the head of the household and you provide the car to your children, when they're in a wreck, you're responsible for it. So the fact that we've carved out an exception in the definition of a social host for the parent doesn't mean that they don't have any other responsibilities. Furthermore, when a child operates a vehicle owned by the parents, whether it's their car or someone else's, their automobile insurance policy will cover that child that would subsequently be involved in an accident, whether they're intoxicated or not. [LB573]

SENATOR SCHIMEK: Thank you very much. I appreciate that explanation and I suspect there may be a lot of parents out there who aren't aware of this particular doctrine. But thank you very much. Appreciate it. [LB573]

PRESIDENT SHEEHY: Thank you, Senator Schimek. Senator Langemeier. [LB573]

SENATOR LANGEMEIER: Mr. President, members of the body, I want to thank Senator Lathrop for working on AM1397. I've had the opportunity to discuss this a number of times with him between General File and Select, and I do rise in support of AM1397. I think it's a responsible way to enact LB573, dealing with retailers, and with that, I would encourage you to support AM1397. [LB573]

PRESIDENT SHEEHY: Thank you, Senator Langemeier. Further discussion on AM1397? Seeing none, Senator Lathrop, you're recognized to close on AM1397. [LB573]

SENATOR LATHROP: Thank you again, Mr. President and colleagues. I'd just like to take the opportunity on close to reiterate the scope and course of employment language

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and maybe clarify it so that we're clear on what we intend to do here today. It is not every violation of the law that occurs that takes an employee of a liquor retailer outside the scope and course of his employment. It is no different than someone who speeds while they're making a delivery. That doesn't take him out of the scope and course, nor would a policy of the retailer prohibiting the sale to minors take them out of the scope and course. It is only when there is some benefit, not to the retailer, but to the person who's selling the alcohol. So maybe somebody has paid him money to make the unlawful sale; maybe it's to a family member or to someone who is going to take it to a party where that person is going to drink, that we're trying to exclude with this language. Again, I think we've made an improvement to LB573. I would encourage your adoption of AM1397. Thank you. [LB573]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. You have heard the closing on the amendment. The question is, shall AM1397 be adopted to LB573? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB573]

ASSISTANT CLERK: 33 ayes, 0 nays on the adoption of Senator Lathrop's amendment. [LB573]

PRESIDENT SHEEHY: AM1397 is adopted. Next amendment, Mr. Clerk. [LB573]

ASSISTANT CLERK: Senator Lathrop would offer AM1422. [LB573]

PRESIDENT SHEEHY: Senator Lathrop, you're recognized to open on AM1422. [LB573]

SENATOR LATHROP: I'd move to withdraw that. [LB573]

PRESIDENT SHEEHY: AM1422 is withdrawn. Next amendment, Mr. Clerk. [LB573]

ASSISTANT CLERK: Mr. President, Senator Kruse would offer AM1195. (Legislative Journal page 1371.) [LB573]

PRESIDENT SHEEHY: Senator Kruse, you're recognized to open on your amendment, AM1195. [LB573]

SENATOR KRUSE: Thank you, Mr. President and colleagues. I have great news for you all. Nebraska is number one--top state in the nation! Isn't that special? We are the top state in the nation for teen drinking. We earned it, it's not accidental, so I'm saying we'd better claim it. Why is that questionable distinction ours? Mostly because of adult attitudes--that's the main reason for what we are dealing with here. We've been talking about that some. I want to thank Senator Lathrop for his help, not only in this amendment, but for the last month as we have worked on this. It's...the pieces of this bill

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have been around for years, but they're finally coming together in a way that I think is going to make a difference on that number one ranking, and I appreciate all the help--staff of Judiciary and Chair and others. The adult attitudes are the main reason. The law, as it's addressed in this particular amendment, does provide a big legal gap, and since I've opened on this the other night, I'm not going to re-cover some of that, that teens are not drink, and I read the law on that. That's absolute. That's been the law for decades. Teens are not to drink, period, and then we waffle, except at home or at church. The teen can, or minor, can legally drink all they can get their hands on at home or in a place of worship. Then they can go anywhere. They cannot drive, and some have raised that question, if they get out in a car and they're drunk--this is dangerous. That's covered in law. There's a .02 limit to their driving there, which I can't help but note on the side is a wonderful thing. A teenager must limit themselves to three or four drinks before going out to drive. That was put in so that they could have some mouthwash and gargle before they go out. That's what we were told at that time. At any rate, that's in the law. We're not affecting that at all. Also, please note that we're not talking here at all about adults providing. Adults may not provide, be it parent or anybody else. There is concern on the floor, and the person that's spoken to me specifically about it and directly about it is Senator White. We've had lots of discussions on it, and that's about removing the exemption of the home. I think that exemption should be removed. He disagrees with me. And therefore, in order to focus on that, there is following this an amendment, floor amendment, that simply will restore the exemption in the home as it is in current law. And I am, and I think he is, and there may be others, I'm content to leave this to the floor. You say, and that's the way it will be. In fact, I don't intend really to speak to it much, except in this form in the opening. The other night we wondered how to...I pulled this amendment because we were wondering how to shade this. Could we say they could drink in the home but be limited to two or three drinks? You know, it's really interesting, because obviously we do not enforce this in the home. There is not a single case on record. We ignore what's going on in the home, or to put it better, we trust what's going on in the home between a parent and a child. That is not what's before us here. But there is the language there, and you're wondering about it. So we thought, well, maybe we could limit it to two or three drinks. If it's from the parents, it still would be against the law, but the teenager might do that, and again, under the supervision of the parents. And I do want this on the record, friends. I want it on the record that I recognize that parents and their children have particular privileges within the home that we are not impeding on with this language, though we said, well, how about having it that they couldn't leave the home with more than a .02? Then we get into the area of public drunkenness. They'd be out in the street, and Nebraska, for whatever reasons--I'm not going to defend or oppose it--but Nebraska does not touch public drunkenness for adults or for teenagers or for anybody. So at any rate, we looked it all over, we consulted. Several staff were involved in this, and we simply couldn't find a satisfactory way of changing that amendment. So it...the present amendment that you're looking at would remove the exemption of home and church. Church is not an issue because we found another wording for it that I think everybody is satisfied with--get

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away from the place and just deal with something there that would include the Jewish as well as Christian. So that's okay. But the question is about the home exemption and again, that's what the next motion will be about. You understand why I will be opposing that motion. That's simply because I...I'm not worried about violations and laws and prosecution and so on. You're not going to be doing that. I'm worried about the message we're sending to the youth. That's the heart of it. If we're going to get out of the number one ranking, we have to, as adults, say that teenagers ought not to be drinking. Why ought not they to be drinking? Mainly because of the permanent brain damage. If this parent in love gives their kids regular alcohol at home, there's permanent brain damage. The parent may not know that, but I know it. We know it. You know it because I've just told you. Can we really go forward authorizing the brain damage of those that would use this regularly? Occasional use is beside the point. But those parents that would get into that, I think we need to have a clear stand to parents, but especially to teenagers. By the way, this section does not deal with parents. It is directed only at minors. It just talks about where a minor can drink. I think we need to say to the minors, use of alcohol is a bad deal. And finally, I would remind you that our number one ranking in the nation is also number one in cost--\$447 million a year is the cost to Nebraska of underage drinking. I would like to bring that number down, and I think we could find other places to use that money well. Thank you, Mr. President. [LB573]

PRESIDENT SHEEHY: Thank you, Senator Kruse. (Visitors introduced.) Mr. Clerk, do you have an amendment filed on your desk? [LB573]

ASSISTANT CLERK: Mr. President, Senator Kruse would offer FA130, which is an amendment to AM1195. (Legislative Journal page 1761.) [LB573]

PRESIDENT SHEEHY: Senator Kruse, you're recognized to open on your amendment, FA130. [LB573]

SENATOR KRUSE: Thank you, Mr. President and colleagues. I will open on this. I've told you what it's about, and I'm going to turn the rest of the opening over to Senator White, whose concern it is carrying. But I do not resist this. I think we need to wrestle with this. It's not an easy answer. There's not a clear answer. And as I've indicated, I will be submissive to whatever the floor says is the best policy on this. What the amendment does, looking at AM1195, which is what you're likely to have had up on your screen, on page 2, line 11, there's some words of present law which have been stricken, and they will be replaced. Following the word "ceremony," we have to insert the word "or" for grammar, but then the rest of that that's in present law would be restored by this amendment: "in his or her permanent place of residence." So it is excluding the home from the prohibitions in this paragraph. Mr. President, I would yield the rest of the time to Senator White. [LB573]

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PRESIDENT SHEEHY: Thank you, Senator Kruse. Senator White, you have about 8 minutes, 40 seconds. [LB573]

SENATOR WHITE: Thank you, Mr. President. Thank you for your courtesy, Senator Kruse. Members, first as a procedural matter, there is no reason for FA130 if AM1195 does not pass, and I would tell you right now, AM1195 is an extraordinarily bad piece of legislation on any number of levels. Number one, the laws are not meant to send messages. If Senator Kruse wants to send a message, and it's a good message, then get a commercial. Have a public relations campaign. Laws are meant to govern behavior. Laws are meant to and must be enforced, or we make a mockery of the entire body of law. To pass a law and say, well, we don't enforce it is the worst level of hypocrisy. Let me tell you what this law does. If at any time in your life you left a six-pack of beer in the refrigerator and a minor child, your minor child, was in the home and that minor child reached into the refrigerator, picked up the six-pack of beer, moved it to get something else, they have violated the law, unquestionably violated the law. It is never appropriate to say, oh well, they won't enforce that. Number one, you don't know that; number two, that is an absolute signal of an awful law. What this says is you cannot leave a minor child at home, 18 years old, 19 years, at home, with alcohol in the home, because they are constructively in possession. The reason the exemption is there is so that a minor can't, for example, carry your package of alcohol from the car into the house to help you move the groceries. We do not pass laws we know should not be enforced. And if we need a message, I have no problem if Senator Kruse wants to bring a bill to fund, out of the part of the proceeds we get from the sale of alcohol through the taxations, on an outreach to discourage minor drinking. I think that's wonderful. But then we do that. We don't criminalize normal, healthy behavior, invading the home, to send a message. That is absolutely inappropriate. And this bill is not only a bad idea, it is devastating to the privacy of the home and the ability of families to function as they will. I see no reason for the first amendment and certainly no reason for the second. We need to pass laws...and by the way, I support the underlying bill. I absolutely support this bill. But this amendment is without question going to criminalize behavior that has been considered normal and healthy and appropriate in this state since before we were a state, and it should not be done. Thank you, Mr. President. [LB573]

PRESIDENT SHEEHY: Thank you, Senator White. You have heard the opening to FA130 to AM1195. Senator White, you are next in the queue to speak. Senator White waives. Senator Kruse, followed by Senator Lathrop. Senator Kruse. [LB573]

SENATOR KRUSE: Mr. President and colleagues, thank you. Not into a debate on this, but just to make clear what I'm thinking about. I'm not excusing this. I'm going under a basic principle of law and understanding in the state that parents and their children have a special relationship within the home, and we honor that. We're not trying to ignore law; we're honoring that and have it within. I would point out also to the body that the rest of

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AM1195 is very important to us. The keg tag--no one has objected to that. The business of religious worship, in the present language it goes to a place of worship. That's not good language, so we're improving that by allowing it to be at a youth camp or at a school gymnasium in a parochial school, or for Jewish folks within their Seder meal at Passover. So the rest of the amendment is very important to us. The objections that Senator White is bringing are quite appropriately made, but they do focus on this amendment only. Thank you. [LB573]

PRESIDENT SHEEHY: Thank you, Senator Kruse. Senator Lathrop. [LB573]

SENATOR LATHROP: Thank you, Mr. President. I'm wondering if Senator Kruse will yield for a couple of questions. [LB573]

PRESIDENT SHEEHY: Senator Kruse, would you yield to some questions? [LB573]

SENATOR KRUSE: Yes, I will. [LB573]

SENATOR LATHROP: Senator Kruse, your first amendment, AM1195, would do two things, if I understand. One, it would prohibit removing the tag off a keg of beer. Is that right? [LB573]

SENATOR KRUSE: Yes. [LB573]

SENATOR LATHROP: The second thing it would do, standing alone, would be to take away the exception where...the criminal exception for allowing a minor to drink in one's home. Is that right? [LB573]

SENATOR KRUSE: Yes. [LB573]

SENATOR LATHROP: So as the law currently exists, there are two exceptions. One is if they're in church and drink as part of a ceremony, and the other is if they have alcohol in their permanent place of residence. Is that true? [LB573]

SENATOR KRUSE: Yes. I would see those as two separate items, in church and in the home, but yes. [LB573]

SENATOR LATHROP: Okay. With respect to the church, you've actually improved the language, and with the blessing of, if I can use that term, the Catholic Conference. Is that right? [LB573]

SENATOR KRUSE: (Laugh) I have been much blessed, Senator, by...all across the state. Yes, we have agreement. [LB573]

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SENATOR LATHROP: Okay, so the...it's not the religious worship language that is at issue. It is...in AM1195 you've removed the exception for drinking or for having...being in possession of alcohol in one's own permanent residence. Is that true? [LB573]

SENATOR KRUSE: That is what...the only item of debate that I see. [LB573]

SENATOR LATHROP: Okay. And with FA130, you've put that exception back in, have you not? [LB573]

SENATOR KRUSE: We restore the original language, the current language. [LB573]

SENATOR LATHROP: Okay, so the way you've left the law, or your amendment, is you've now restored the two exceptions for a minor being in possession of alcohol, one in the church and one in his permanent home, the way the law was before. Is that right? [LB573]

SENATOR KRUSE: Correct. [LB573]

SENATOR LATHROP: So the net effect of these two amendments is to leave you with...or the only thing left in AM1195 is the removing the tag off a keg of beer. Is that right? [LB573]

SENATOR KRUSE: Yes. [LB573]

SENATOR LATHROP: Okay. With that clarification, it seems to me that Senator Kruse has started down the road of making a modification to existing criminal law and then backed off that with FA130, leaving AM1195 to do nothing more than prohibit the removal of tags from kegs of beer. And I think we've accommodated the interests of Senator White and those who share his point of view, and for that reason I guess I'd support FA130 to AM1195. Thank you. [LB573]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. Mr. Clerk, you have items for the record? [LB573]

ASSISTANT CLERK: One item, Mr. President: your Committee on Enrollment and Review reports LB247A as correctly engrossed. (Legislative Journal page 1761.) [LB247A LB573]

I do have a priority motion. Senator Janssen would move to recess until 1:30 p.m.

PRESIDENT SHEEHY: There is a motion to recess until 1:30 p.m. All those in favor say aye. Opposed, nay. We are adjourned, or in recess.

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RECESS

SENATOR LANGEMEIER PRESIDING []

SENATOR LANGEMEIER: Good afternoon, ladies and gentlemen, and welcome to the George W. Norris Legislative Chamber. The afternoon session is about to reconvene. Senators, please return to the Chamber and record your presence. (Microphone malfunction)...session is soon to reconvene. Please return to the Chamber and record your presence. Mr. Clerk, please record. []

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

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Are there items for the record? []

CLERK: I have nothing at this time, Mr. President. []

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Pursuing with the agenda, it is 1:30. We will now move to motions to override gubernatorial vetoes. Mr. Clerk. []

CLERK: Mr. President, LB321 was returned by the Governor with certain line-item veto included; received a report, pursuant to the rules, from the Appropriations Committee. The report is found on page 1745 of the Journal, which essentially concludes the Appropriations Committee will not be overriding or offering any override motions. Therefore, individual members may file. The first I have is by Senator Rogert. Senator, I have motion 83 in front of me but I have a note that you'd like to withdraw motion 83 and offer, as a substitute therefor, motion 88. [LB321]

SENATOR ROGERT: Yes, Mr. President, that is correct. [LB321]

SENATOR LANGEMEIER: Seeing no objections, so ordered. [LB321]

CLERK: Motion 88, Senator. [LB321]

SENATOR LANGEMEIER: Senator Rogert, you are recognized to open on motion 88. [LB321]

SENATOR ROGERT: Thank you, Mr. President, members of the body. Good afternoon. Today is the day where we take up the budget again and we're talking about overriding possibly some of the line-item vetoes that were handed down to us by the Governor last week. This particular motion compiles a few things together and there are several sections listed in the motion. However, it's basically three items. The first one is Supreme Court employee salary increases. Another one is a prostitution diversion court. And there are several sections that are included in provider rate increases for HHS. And

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what I've done is taken the original recommendations handed down to us from the Appropriations Committee and I've returned them to those percentages and those dollar figures. The Governor vetoed some of the back down a little ways on the provider rate; I took them back up. And he vetoed out the specialized court operations for the prostitution diversion court and he took out the salaries for Supreme Court employees for the first year of the biennium. And I want to ask the body to stand by our budget that we passed and we worked very hard on and the Appropriations Committee worked very hard on. This year, we set legislative history by passing a record-breaking tax cut package and the most responsible budget in a decade. And I want everybody to think that they should be able to hold their heads up high and represent your constituents that put you here and stand by your Appropriations Committee and the outstanding work that they did to deliver us what they thought is what the state needs in terms of spending. I want to remind everybody that this body is a distinct branch of government. We are sent down here to do a few things. We raise the money for this state, we do it through the Revenue Committee. We make the laws of the state, we do it right here on the floor and through our other standing committees. We spend the money, the people's money, and we appropriate dollars as we see fit with the counsel of the people and the work through the Appropriations Committee, not the Governor. He was elected to conduct the business of the agencies in our state and recommend his thoughts on taxes and the budget. We make the budget. I also want you to take a look at some of the things that are vetoed. We are cutting people serving people, cost-of-living increases for those people who work for our state, and opportunities and jobs for, primarily, women. When you're looking at county court staff, a lot of these provider positions, they're primarily women. And we're cutting services and dollars for people in need: young people, elderly people, disabled people, mentally ill people. And I can't consciously let that go. I figured it out. We spend about \$6,400 a minute in the state. By the time we get done debating this motion, we will have spent the money that I'm asking you to override in this package. The total dollar figure for this is about \$4.5 million for next year. I've been getting quite a few calls and some of you probably have been as well. And I've got a couple more things coming up following this that will address some other issues. But these issues here are important and they're not a lot of money but they're enough money for the people who need them. The people who work for our court system are in dire need of some more money. They are woefully underpaid and have not seen a pay increase in many years. I got calls today from folks that are driving several miles because we don't have enough people working in those positions so we have to share them across our counties. And with the price of gas and everything else that continues to go, it's another burden on them. One of the county court officers called me today and said she has a staffer that is a week away from pay yet and she can't afford to buy diapers for her children. But it's a job and it gives her some benefits, but it's a pretty low-paying job. So I want you to look at these things pretty hard and we'll talk about them this afternoon. And thank you, Mr. President. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Rogert. You have heard the opening on

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motion 88 offered to LB321. Wishing to speak, we have Synowiecki, Wightman, Nantkes, Heidemann, Aguilar, Pedersen, Stuthman, Lathrop, and others. Senator Synowiecki, you are recognized. [LB321]

SENATOR SYNOWIECKI: Thank you, Senator Langemeier. Thank you, Senator Rogert. I rise to support the motion to override the Governor. I'd like to specifically speak to the prostitution diversion court. We have a lot of new members here in the body. And last year, this Legislature passed LB1086 which was the Nebraska Prostitution Intervention and Treatment Act. It was a comprehensive response to the increasing incidents of prostitution across the state of Nebraska. It included both a treatment component and a criminal justice component. And under the criminal justice component, criminal penalties were raised significantly for solicitation. This purposeful disproportionate increase in solicitation penalties was a public policy recognition that recognized the influence and disproportionate balance of power in the prostitution-solicitor equation. Almost always, members, it is documented that prostitutes are victims of substance abuse, addiction, they have serious mental health disorders, and are often victims of mistreatment and manipulation by solicitors. Having it widely documented that individuals involved in prostitution often use the activity to support drug and alcohol addictions, and these unhealthy addictions serve to enhance and compound significant mental health disorders, LB1086 also included a treatment component in an effort to be responsive to women involved in prostitution. Last year, the Governor vetoed the treatment funding and in his note, in his veto note he indicated that to, quote, benefit a population that is engaged in illegal activity would not be a right thing to do. Last year, there was no override attempt of those treatment resources. This session I introduced LB545 as a mechanism to provide a substantially less-expensive alternative to funding the Nebraska Intervention and Treatment Act. My goal under LB545 is to set up a state prostitution drug court that would be accessible by individuals that find themselves unfortunately involved in this activity from throughout the state. Prostitutes have unique and profound needs as it relates to their successful rehabilitation and reintegration. These profound needs need specialized case management addressed by treatment professionals. The relatively small amount of resources under LB545, we're talking about \$60,000, would serve as a part of a collaboration of other local resources to established a specialized drug court in Douglas County as a subset of the existing Douglas County drug court infrastructure. It would provide specialized case management to help these women. It would help them navigate toward hope and rehabilitation. I have been in contact with Scott Carlson, the statewide problem-solving court director, and Paul Yakel at the Douglas County drug court. And I have been insistent upon it all along that women throughout the state could receive the services through this drug court. The Governor again vetoed the treatment component of this and the veto message was that, quote, it is difficult to justify the allocation of scarce state resources for this purpose when there are so many other worthy priorities in the state court system. Members, what we're talking about here is sex offender treatment resources. Prostitutes are sex offenders. On the male side, for

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those individuals that perpetrate against youngsters in our state, for the men, for the child sex abusers, we spend in excess of \$5 million a year for their treatment. And we've got a proposal here for \$60,000 for women that are sex offenders, \$60,000 for the women... [LB321 LB545]

SENATOR LANGEMEIER: One minute. [LB321]

SENATOR SYNOWIECKI: ...that find themselves victims of sexual assault, victims of substance abuse, and they find themselves as sexual offenders as a result because they use the activity because of those addictions. But on the male side, on the sex offender side, under LB1199 we spend in excess of \$5 million. And we can't provide resources of \$60,000 for women that are involved in this activity? I know there's been a lot of pressure put upon members of this Legislature to not support these overrides. I'm sophisticated enough politically to know what's going on. You try to tell me that's fair. You tell try to tell me that's equitable. You try to tell me that's an equitable apportion, appropriation of treatment resources for sex offenders. You try to get up on this mike and explain to me how that's a proportionate... [LB321]

SENATOR LANGEMEIER: Time. [LB321]

SENATOR SYNOWIECKI: ...appropriation of treatment resources for sex offenders. Thank you. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Synowiecki. Senator White, you're recognized. Excuse me. Senator Wightman, first. [LB321]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. We're through playing musical chairs now so I'll...I'm rising in support of motion 88, I think it is. My eyeglasses aren't so good, but I think that's the number that has been introduced by Senator Rogert. And I'll tell you up front that these will be the only three issues that I will be supporting an override on. These issues, as was explained by Senator Rogert, are the court administration staff, primarily at the county court basis; the provider rates for Health and Human Services; and the issue just addressed by Senator Synowiecki with regard to the prostitution diversion. I'll speak only briefly on the court administration because I know that's going to be covered a great deal more in detail by, I think, Senator Lathrop, perhaps Senator White. But it is an important item. I've been contacted by county courts throughout my district and beyond, suggesting that they just cannot keep people with the caliber of people they need with they pay that they have at the present time. The Chief Justice addressed us on the same issue, made it clear that this was more important to them than the judges' compensation package; that they just have got to get more or they're going to continue to lose employees at the county court level. And so I think that is very important. I'd like to address you in more detail with regard to the provider rates on Health and Human Services. We sat in the Appropriations

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Committee, and if I heard it once I heard it 100 times, and that's probably way low, that the members of the committee would like to see more of the services being performed by community-based service providers. And I'm pretty aware of what the community-based providers do. My wife worked for 20 to 25 years as a coordinator of a community-based Nebraska, Mid-Nebraska Community Services. It ran the food pantry. It operated the preschool. It did a number of things that were community-based that were services that provided the state of Nebraska a lot of money, or provided and saved, I should say it saved them a lot of money. She did this and at much less pay. At that time, it probably was on the equivalent of top-end caseworkers for the Department of Health and Human Services. And my guess is she made 60 percent probably. She had a college degree. She could have been working elsewhere. But it kind of became the love of her life. And almost no health insurance, almost no benefits. I probably, more than anyone else, have kind of followed exactly where we are on state employees and where we are on benefits. And I can almost hear the members of the Appropriations Committee laughing at that time because I brought up benefits probably maybe 1,000 times during our meetings. That might be a little high, but at any rate, many, many times. And I also have looked at documentation that an average worker working for the state of Nebraska at \$25,000 has a benefit package that is approximately 88 percent of their pay, meaning that it would be about \$21,000 probably. I haven't calculated that exactly. But the benefits cost 88 percent as much as their compensation alone does. [LB321]

SENATOR LANGEMEIER: One minute. [LB321]

SENATOR WIGHTMAN: Now as you move up, that becomes less and less of a percentage because many of these, including health insurance, which is the biggest one, does not grow proportionately with the pay. But you have many, many workers out here that are working for almost no benefits, working for 60 to 65 percent of what their similar employee for the state of Nebraska. And the Governor proposed that we have a 1 percent increase in his original budget proposal. We as a committee raised that to 3 percent, it's been cut back to 2 percent. I've talked to nursing homes and I know the argument is going to be made here that the Association of Nursing Homes is not here requesting that we override that. But I've talked to some of the nursing homes in Dawson County and I can tell you that they are talking about getting...I have the figures here somewhere, but somewhere around 75 percent at the most. I think 165 is the rate at one of the homes. [LB321]

SENATOR LANGEMEIER: Time. Time. [LB321]

SENATOR WIGHTMAN: Time. Thank you, Mr. President. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Wightman. Senator Nantkes, you are recognized. [LB321]

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SENATOR NANTKES: Thank you, Mr. President. Good afternoon, colleagues. I wanted to start off just with some general comments and initially to thank Senator Rogert for putting together what I believe is really a compromise in our discussions about motions to override this afternoon. Senator Rogert has pulled together three important components from the messages sent to the body from the Appropriations Committee, that in regards to provider rates as a whole, in regards to salaries for front-line court employees, and in regards to specialized courts targeted to prostitution prevention and treatment services, these are things we as an Appropriations Committee decided deserved more debate, more and more dialogue in regards to the motion to override. As many of you know, the Appropriations Committee has spent countless hours over many months carefully going through agency requests. And I'm so proud of the work that our committee did and the teamwork exhibited by the committee to put forth a very conservative and responsible budget to this body, which then you acted on. And I believe that that budget, as a whole, was responsive to the needs of the state and took great care to be good stewards of the taxpayer dollar. All of us again worked together this session over countless hours to provide record tax relief for the citizens of this state. And many members of the Appropriations Committee and many members, the people who will be running these motions to override, worked very hard in that regard as well. The three items brought forth under Senator Rogert's package represent a small fraction of all the possibilities there could be motions to override on and, I think, really address those with the highest need. So I'm rising in support of his package and these three critical things and asking for your support to override and asking for you to stand up for yourselves and the budget that we created together. I want to talk a little bit about the component of the package involving salary increases for court employees. The Supreme Court came to us on the Appropriations Committee with a long list of clearly demonstrated needs in their agency requests. Their number one need, their number one request was to get additional resources to provide for...to ensure that we can provide competitive salaries for front-line court employees all across this state, members, in every single county, in every single courthouse. And if you talk to the local court personnel in your district or the local judges in your district, I think you'd be interested to know that the judges have put these front-line employee salaries as their number one priority, above their own salaries. And I think that's very compelling to demonstrate the extreme need in this regard. And the Supreme Court employees as a whole do not have the benefits afforded to them that other state employees do under collective bargaining. And so it's really important that we act in this motion to override to ensure basic equity amongst the court employees and other state employees. [LB321]

SENATOR LANGEMEIER: One minute. [LB321]

SENATOR NANTKES: Finally then, I just I wanted to touch upon the importance of the provider rate increases. In a time of economic robust prosperity for the state of Nebraska, if in fact we do not override on these provider rates, we're turning our backs

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on Nebraska's most vulnerable, those with developmental disabilities, those with mental illness, and those with substance abuse issues. And today we have the opportunity to take care of some of those needs and to ensure that we don't have a high rate of turnover amongst providers of those critical services and to ensure a strong quality of life for those Nebraskans who are dependent upon those services. With that, I'd yield the balance of my time to Senator Rogert. [LB321]

SENATOR LANGEMEIER: Senator Rogert, 18 seconds. (Laughter) [LB321]

SENATOR ROBERT: I want to clear up a little bit of confusion. The question has been, how many things are actually in this motion? Everything that mentions the Health and Human Services, all provider rates, and there's about seven of those, and three of them are Supreme Court services. So actually there are only three portions of this... [LB321]

SENATOR LANGEMEIER: Time. [LB321]

SENATOR ROBERT: ...but several sections. Thank you. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Rogert and Senator Nantkes. Senator Heidemann, you're recognized. [LB321]

SENATOR HEIDEMANN: Thank you, Mr. President, fellow members. I do rise up in opposition of motion 88 and I thought I would share that first with the members of the body. And then I just hope to share some information, more than anything else, and from there you can go on and make the good decision. I do believe, and I commend the Appropriations Committee for the work that they've done this year, and I applaud them. I think we had a good budget. I think we had a great budget. I believe--and I will tell you right now that I will not vote for any overrides--that if none of the overrides pass, we still got a good budget, we still got a great budget. I think we've been very responsible to the people of the state of Nebraska on both sides of the aisle, the people that pay the taxes. And we've given tax relief back. And I believe we've been very responsible to the people that need our services. We've looked very hard at the issues in Appropriations Committee and we spent the hours and we've looked and I thought we was very responsible when we did that. And I believe, even with the overrides, it's still a good budget. And that's where I'm going to be. To talk just a little bit about provider rates, when the Governor brought his budget out it was at 1 percent. And I will tell you that and I will share right now, that probably made me a little bit nervous. And we as Appropriations Committee looked at it and we decided that we was going to go to 3 percent. The Governor met us halfway, compromised, 2 percent. And for right now, I'm going to go with that. And I think it was said before that the Appropriations Committee looks very hard at provider rates. And I will pledge to you that, as soon as next year, we will look again. The next biennium, we will look again. Because this is high on my list. I do not take this lightly. But for right now, I'm satisfied. But I pledge to you, we will look

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again. I also want to point out one thing, and I pointed this out to the committee yesterday as why I'm okay with this, and I'm very proud of the committee's work, I'm very proud of the Governor on this fact, and I'm very proud of the Legislature. We have over \$400 million in the Cash Reserve. During the last budget crisis, the economic turn when it went bad, the provider rates--and I'd like to turn around and ask somebody this...Senator Engel, will you yield just a second? [LB321]

SENATOR LANGEMEIER: Senator Engel, will you yield to a question? [LB321]

SENATOR ENGEL: Yes, I will. [LB321]

SENATOR HEIDEMANN: For two or three years, the provider rates were held at what? [LB321]

SENATOR ENGEL: They were what? [LB321]

SENATOR HEIDEMANN: During the bad times, the provider rates were what? [LB321]

SENATOR ENGEL: Well, we tried to held them at their regular, where they were. [LB321]

SENATOR HEIDEMANN: They were at zero, though, actually. [LB321]

SENATOR ENGEL: Zero, at zero, yeah. [LB321]

SENATOR HEIDEMANN: Yes, thank you. Why I feel good that we're okay at 2 percent--\$400 million in the Cash Reserve. We go through a budget crisis again, it would be my belief and my hope we will never go to zero again. We have been very prudent in keeping a large amount of money in the Cash Reserve. Hopefully, if we go through those downtimes again, that downturn, we'll be able to pull that money out of that Cash Reserve and we will not take these providers to zero again. And that's my intention and that's why I'm glad that we have the large Cash Reserve and that's why I'm glad that we're where we're at. [LB321]

SENATOR LANGEMEIER: One minute. [LB321]

SENATOR HEIDEMANN: Just very briefly on the salaries that are paid through the Supreme Court, they have got a raise, 2.5 percent COLA that all state employees got. The committee recommended and it was in the budget that we would actually add 4.5 percent on top of that. They was to get a 7 percent raise. The Governor decided that he was okay with part of it, he vetoed part of that back out. They will still get a 4.75 percent raise, more than any other state employee. So even though that 7 percent is better, I hope we remember that 4.75 isn't too bad. So that's where I'm at. If you have any

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questions of me, I would be more than willing to answer them. Thank you. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Heidemann. (Visitors introduced.)
Senator Aguilar, you are recognized. [LB321]

SENATOR AGUILAR: Thank you, Mr. President, members. I rise in support of this override attempt. I want to thank Senator Rogert for bringing it forward. My particular field of interest is the Supreme Court employees' raise. And I'm glad I follow Senator Heidemann because there was a little part he left out there. Yes, it is a four-point-something increase this year. But what he didn't mention was the years that they went without an increase and the rest of the state employees did get their raises because of collective bargaining. That's the unfairness part of it. And that's what they were trying to do, they were trying to catch up. They made a request of 10 percent. The Appropriations Committee couldn't go down that road so they changed it to 5 percent. And then if that wasn't enough, the Governor decides to step in and make it 2.5, and that's why it's sitting at 4-something right now. That's not right. And we all know that the Governor has a particular number in mind that he wants to accomplish. And that's fine, you know, that's his goal. He has a right to do that. But, gosh, don't do it on the backs of state employees that have been loyal employees for years. I spent my last recess day off the whole morning sitting with a group of court employees in Hall County listening to them, listening to the problems they endure. And I can tell you, many of them, because of the overload of cases they have, lack of help, people that leave employment and, you know, they can't replace them, they can't afford to replace them, their workload is terrible. They told me stories of on the weekends they've got to come in just to do filing that they got behind on. And in many cases, they bring their kids in to help them do the filing. That's not right for state employees. We've got to take care of our employees here, we have to do that. I think that's very important. I hope you'll support this override. Thank you, Mr. President. I'd give the rest of my time to Senator Rogert, if he wants it. [LB321]

SENATOR LANGEMEIER: Senator Rogert, 3 minutes. [LB321]

SENATOR ROBERT: Thank you, Senator Aguilar. Members, once again I'm going to finish up here what I started here a second ago. There is a little confusion about how many things are actually in this package and there's just basically three things. Sections 15, 16, and 19 are all one item having to do with Supreme Court salaries and the people that work for that division. Section 18 is by itself and that is the prostitution diversion court. Section 107, 111, 116, 117, 119, and 123 are all provider rates, it's all one package that goes together so that's the third item. And I understand that we've all been getting a lot of calls from one side or the other. And there's been some discussion about what happens if we override some of these items that the Governor has vetoed. And the indication has been made that if some of these things get overridden, then we may not have enough money to pay for some of the following bills that we have that are going to

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go before his desk. And I ask you not to consider that at all when you consider your vote on this motion. Every single thing that comes before this body gets a separate debate and a separate decision. And to think that the result of this would change how something else got voted on or moved along is disturbing. And we should think about everything separately and we need to vote how you want to do on these items based upon how you feel about these items. Do you want to fund them or you don't? Don't vote for it or against it because you're worried about how something else is going to end up. This is its own separate item and I am concerned about the fact that we can be shaken by a threat to veto another bill. Thank you, Mr. President. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Rogert and Senator Aguilar. Those wishing to speak, we have Pedersen, Lathrop, Dubas, Howard, Schimek, and others. Senator Pedersen, you are recognized. [LB321]

SENATOR PEDERSEN: Thank you, Mr. President, members of the Legislature. When the Appropriations Committee brought us a budget and we approved it and sent it to the Governor, they didn't say we hope the Governor vetoes some of this so we have money left for some other bills. They brought us a budget the way they wanted it and wanted us to vote for it, and we did. I'm not going to pick on the Governor because I've been very fond of this Governor and the job he's doing. But I am going to support this entire override because it's necessary. We in this Legislature also a few years ago decided that we wanted to cut down some of the money in the institutions and we were going to send people to local programs. What got cut here, people, is local programs, reimbursement to them agencies that we want to take care of them people. It's kind of schizophrenic saying one thing and doing another. The people I work the closest with in my private practice are probation officers. Probation officers have been carrying caseloads that are completely unbelievable. And they've been doing one heck of a good job with it. They've been putting up with changes in administration, which is hard for anybody. Recently a very close friend of mine who had been a probation officer for many years resigned and went elsewhere. And that's been going on for years and a big part of that is pay. They can go across to Iowa, they can go to the feds, they can go to almost any other probation department that I know of and I can't think of any that are lower than we have in Nebraska. The people who need the most help are the ones that are being cut in the Governor's vetoes. And I know the Governor didn't mean to cut the people who are hurting because I think he's as sensitive as most of us. But he does have to keep his eyes on the purse strings. And as I see it, it's kind of like mom and dad. You go to dad and ask him for the money and he says, no, we haven't got enough. And you go to mom and mom says it needs to be done, and we find a way to do it. Mom knew the money was there, calling us mother in the Legislature, and we send it to dad and dad said, no, the mom knows best. I know that's kind of a different analogy but it's the way I see it. We have it, there won't be any tax raised here, and it was what we had when we sent it to the Governor, it's still there. Let's do what's right. My only regret is the Eastern Nebraska Office for the Aging is not in this same group. We owe it to these

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people. The ones who need treatment the most, our offenders, are the ones who can't afford it. And the ones that can afford it most of the time go through court without even having to go to treatment. And if they do, they can afford the places that are much more expensive. And there is plenty of that treatment out there. We need the treatment that's going to take care of the people who need it the most and you all know who that is. Thank you. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Pedersen. Senator Lathrop, you're recognized. [LB321]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I rise in support of Senator Rogert's motion. And I'd like to take a few minutes to visit with you about that aspect of the override that deals with county court employees. I think it's useful for you to understand that our Chief Justice of the Supreme Court came to the Appropriations Committee and regarded these pay increases as the number one priority of the court. I've had conversations with the Chief Justice and it's not just...a number of conversations where he's expressed concern for the pay of the county court employees. And I think it's easy for us to look at the county court employees and say, well, you know, be happy, we gave you 4 percent or whatever the Governor ended up providing for. But I think it's important for you to understand what they do and who they are. They are the men and women who staff the county courts across our state. When I first started practicing law in Douglas County, which is where I'm at primarily, and Sarpy County as well, we go into the courthouse the morning 25 years ago, there might be a few people standing in line. You know, we've added county court judges because the volume, it is mind-boggling in Douglas County. We've added county court judges in Sarpy County since I started practicing and their hallways are full of people. These are the folks, these are the folks that deal with the people who have gotten misdemeanor tickets. They've gotten traffic tickets, they've received and been charged and they process people through the county courts with various misdemeanor crimes. They're responsible for handling a large, and I mean a very large volume of civil cases. All the collection work done in the state, the greatest share of it, is done through the county courts. They also handle the probate matters in the state and the county court's responsibilities extend to probate matters. That's dealing with wills, trusts, and those kinds of things. These are the support staff for the county court judges and they're state employees. And you should know that most of the people that they see in the courthouse are not state employees, they're county employees. The pay rate of our county court employees--I have a survey up here, you're welcome to look at it--we are the lowest by probably 20 percent on average of any neighboring state. These people are woefully underpaid. The Chief Justice came with a proposal to give them 10 percent and 2.5 over the next two years after that. And that wouldn't even catch them up with their counterparts in Kansas and Colorado, Missouri, Kansas, Iowa, and North Dakota. These people are dedicated workers, they're dedicated Nebraskans working for us. You should know that what we're paying them is a little over, on average, a little over

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\$20,000. And as a consequence, I talked to the administrator in Douglas County. She said 40 percent of the 80 employees in Douglas County have second jobs. In Sarpy County, I spoke to someone there this morning, they've lost two employees; one to JCPenney, because they can make more in retail than they're paid in the clerk's office, and another to the county attorney. And the fact that you'd lose an employee to the county attorney's office is a problem if you're trying to run the county courts in the state because the county is paying the folks in the treasurer's office, they're paying the folks in the district court, and many of the offices that you walk by in the courthouse are compensated by the county and they're compensated much better. So the consequences that we have county court employees who are...they start in... [LB321]

SENATOR LANGEMEIER: One minute. [LB321]

SENATOR LATHROP: ...the county court and they leave the county court for the county attorney's office, the treasurer's office, but their responsibilities aren't more. That employee who left the county court in Sarpy County to go work for the county attorney left to be a receptionist. She left a job with a great deal of responsibility to be a receptionist in the county attorney's office because it paid \$2,000 more a year. I appreciate the Appropriation Committee's concern for having a tight budget. I appreciate the Governor's concern for fiscal responsibility. But we owe it to these employees in the county courts. Our county court employees should not be on food stamps. They should not be going through bankruptcy. We should not be telling them this is the equivalent of working at Burger King. They're state employees. They haven't received the raises. They're not up with their counterparts across the Midwest. And we should override the veto and provide these people with a decent pay. Thank you. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Lathrop. Senator Dubas, you're recognized. [LB321]

SENATOR DUBAS: Thank you, Mr. President, members of the body. I rise in support of this veto override. I was in awe of the work that the Appropriations Committee did. At one point, I even thought I wanted to be on the Appropriations Committee, but after looking at what they had to go through, the work that they did, I just commend them for what they did. And they did it always keeping in mind or wanting to keep costs down but yet still take care of the services that our state depends on. So I applaud their efforts. And I was very comfortable with the budget that they brought forward to us. I thought they did an excellent job of holding the line and being responsive. You know, we all knew from the moment we took our oath of office that the people had sent us a very clear message last fall, that they wanted their taxes to be spent responsibly. They wanted to hold the line on spending and I think the Appropriations Committee did that. And I supported the budget the first time around, and I will support this motion to override. Right now, we're in the part of the process where we need to prioritize. We had all of our wants down. Now it's time to look at what we need. And I think we need

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these services that we're discussing in this override. I learned on the farm, it's very easy to be penny-wise and pound-foolish. And sometimes, you know, spending a couple dollars on a bolt can save you several hundred dollars down the road. So you know, what we might be spending up front, we could end up spending a lot more down the road. In some of the e-mails that I've gotten, some of the conversations that I've had with providers back in my district, we're looking at a community-based approach now, and they're working really, really hard to provide those services for these people in need at the community level. But they are struggling financially. They are struggling a great deal just meeting their daily obligations, not to mention providing services to the people. One of the providers I talked to, their health insurance alone is going to be increasing 4 percent. Over the last 15 years, the reimbursement rate for services has increased a sum total of 17.25 percent, while the inflation rate has increased a total of 46.5 percent. There's no way that they can provide services to these people under that scenario. We just definitely need to support this override and this is a very modest increase in what they're going to be able to do with this money. And as far as the court employees--I've been talking to some of the people back in the district--the turnover rate is just horrific. You know, how do you do your job when you're constantly searching for new employees or training new employees, trying to get everybody up to speed? As soon as you get them trained, they can--like Senator Lathrop said--they can go work at Penney's or someplace else and make more money. So we've got to take care of our employees. These are the people who are the foundation of the court system. They're in the trenches. They're at the front line. They deserve to be supported financially. One of my constituents said to me, the tax cuts don't mean much if you aren't making any money to pay taxes. So I do rise in support of this motion to override this. I think we presented a very fiscally responsible budget and I would encourage my colleagues to do so also. Thank you. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Dubas. Those wishing to speak, we have Howard, Schimek, Karpisek, Synowiecki, Rogert, Wightman, Nantkes, and others. Senator Howard, you're recognized. [LB321]

SENATOR HOWARD: Thank you, Mr. President and members. I stand in support of the work that is being done on the ground by the Ford Birthsite Neighborhood Association in my district. These committed people are working neighbor to neighbor to help women who have found themselves engaged in prostitution. Senator Dubas talks about spending money now to save money in the future and I would say you will find no better example of that than addressing the issue of prostitution. There is no answer in sending women to jail and their children to foster care. It's much better, it's much more effective to do diversion. I would like to see these funds utilized for direct service but I think the plan has been made. And the city of Omaha and Douglas County are ready to step up and be full partners in offering life alternatives to these women, these women who have little or no other choice. Thank you. [LB321]

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SENATOR LANGEMEIER: Thank you, Senator Howard. Senator Schimek, you are recognized. [LB321]

SENATOR SCHIMEK: Yes, thank you, Mr. President and members. I really wasn't going to get involved in this debate this afternoon but then Senator Synowiecki's comments caught my attention. And I need to ask Senator Synowiecki if he would respond to a question or two. [LB321]

SENATOR LANGEMEIER: Senator Synowiecki, would you yield to a question? [LB321]

SENATOR SYNOWIECKI: Yes, I would. [LB321]

SENATOR SCHIMEK: Senator Synowiecki, I know you've talked about this issue of prostitution many times on the floor of this Legislature. And it wasn't until today that I picked up on the fact that prostitutes are charged as sex offenders? [LB321]

SENATOR SYNOWIECKI: Well, the very nature of the offense, it's a sex offense; that they're involved in a...they're solicited for sexual favor. It's within the statute that I would characterize them as sex offenders. [LB321]

SENATOR SCHIMEK: So are they on the most wanted list? [LB321]

SENATOR SYNOWIECKI: On the most wanted list or on the... [LB321]

SENATOR SCHIMEK: Well, you know what I mean. Are they on this list that's compiled... [LB321]

SENATOR SYNOWIECKI: No. [LB321]

SENATOR SCHIMEK: ...by the State Patrol for... [LB321]

SENATOR SYNOWIECKI: No, because they're misdemeanor offenses. But nevertheless, they relate to sex offenses. I would consider prostitution a sex-related offense. And what I was trying to do was an analogy of what we do with sex offenders on the predominately male side in terms of treatment. We treat them. We provide treatment resources in excess of \$5 million. We have nothing, we have nothing in the state relative to the treatment of women involved in prostitution. [LB321]

SENATOR SCHIMEK: Okay, but they're...I'm so upset by the terminology of sex offenders because, like you said, in one sense these women are the victims and they are merely, in many cases, surviving. That's what they're doing, so... [LB321]

SENATOR SYNOWIECKI: Senator Schimek, I couldn't agree with you more. That's why

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I profoundly disagree with the administration when they indicate that there should not be any money spent for resources for treatment that specifically is responsive to women involved in prostitution. I couldn't agree with you more. [LB321]

SENATOR SCHIMEK: Okay. [LB321]

SENATOR SYNOWIECKI: I labelled them as sex offenders to draw the analogy to what we do with men that have perpetrated sex crimes. I think you could... [LB321]

SENATOR SCHIMEK: All you did, Senator, (laugh) was you drew me into this discussion. And I appreciate your explanation. And I think I'd like to support you on this part of the override. I think that you are talking about a very small amount of money that could go a long way. And I thank you for your responses. I think that's a very important program. I also, I also think this developmental disability provider rate is critical. How many of you read that federal report about the Beatrice State Development Center? It was enough to make you sick. These people who are housed at the Beatrice Development Center are some of our most vulnerable, most vulnerable citizens and there are all kinds of occurrences that have happened there that aren't being taken care of properly, according to this federal report. And part of the reason is that we do not have enough caretakers in that institution. And those that are there are being asked to work overtime,... [LB321]

SENATOR LANGEMEIER: One minute. [LB321]

SENATOR SCHIMEK: ...they are not being paid adequately, and they are not staying long. And these are jobs that require a great deal of caring and a great deal of work and a great deal of understanding of the clients. I'm extremely concerned about the Beatrice Development Center and I think all of us in this body should be extremely concerned about what's happening down there. And I want to believe the administration and I want to believe the Department of Health, that they are working towards solution, that they are making progress, that we are going to get a clearance. But that really upset me when I read that report, really upset me. And I'm going to vote for this. Even though I didn't intend to vote for any overrides today, except for the developmental disability providers, I realize now... [LB321]

SENATOR LANGEMEIER: Time. [LB321]

SENATOR SCHIMEK: ...that you have to include them all. So thank you, Mr. President. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Schimek. (Visitors introduced.) Returning to discussion, we have Senator Karpisek, Synowiecki, Rogert, Wightman, Nantkes, Engel, and others. Senator Karpisek, you're recognized. [LB321]

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SENATOR KARPISEK: Thank you, Mr. President, members of the body. I stand in support of Senator Rogert's motion 88 to override. We stood, sat, done everything on this floor for a lot of days and we fought tooth and nail over money to go to one place or another place. The Appropriations Committee has come out very united and I really respect that. I wasn't always happy with the side that they took, but I respect that they stuck together. Sometimes we outnumbered them and we got things that we wanted; many times we didn't. But at the end of the session, we came out with a budget from the Legislature. The Appropriations Committee fought tooth and nail to keep what they brought out together. Now when it's time to override what they have told us is such a wonderful budget--and I agree, it was, we all worked on it--no overrides. To me, that's no different than us taking shots at it on the floor, and they stuck up for it. But now they're not going to stick up for their own budget? Well, I'll stick up for it for them. If the provider rates are good enough now at 2.5 percent, why weren't they...why didn't they come out with 2.5 percent? Why did we even try 3? Did we just put things out there for the Governor to veto because that's part of the game and then we don't try to come back? If that's part of the game, I don't think I'm going to play it. I've heard that we'll wait another year and we'll try to fix it if it's not right. How many people have slipped through the cracks in a year? We're here now, let's fix it now. I've also heard...there was two swipes taken at the gas tax increase. Senator White and Senator Erdman both had amendments to get rid of that. They both failed fairly miserably. Where's the override for that? We needed it so bad, where is that override? I don't see it out here. Right now, all I've seen is Senator Rogert have enough guts to bring something out and stand up for us. There's 49 of us here that have put a lot of time, work into this budget. I don't feel that it's the Appropriation Committee's budget anymore, it's the Legislature's, and I think we all need to get behind it and help the people out that this takes out. Most of the people are the ones that can't fend for themselves, the least of us. So I will stick up for them, I'll stick up for the Appropriations Committee and the rest of us. And if the threats come, let them come. We've stood on this floor all 80-some days and we've told each other we're not scared of each other, stood up to Senator Chambers, stood up to Senator Friend, stood up to me, which isn't much, and now we're going to back off? I don't think so. I'd like to thank Senator Rogert for bringing this forward and we need to stand together on this. Thank you, Mr. President. [LB321]

SENATOR FRIEND PRESIDING [LB321]

SENATOR FRIEND: Thank you, Senator Karpisek. Senator Synowiecki, you are next and you're recognized. [LB321]

SENATOR SYNOWIECKI: Thank you, Senator Friend, members of the Legislature. I appreciate the time. I appreciate all the kind words extended to the Appropriations Committee. I had commented on the floor before about how deliberative this particular committee was and how proud I was of the committee's work. I remember Senator

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Harms, Senator Harms repeatedly in committee saying we've got to do what is right. We have to come in, we have awesome responsibility under our form of government. We write the budget for the state. We write the budget for everyone in the state and everyone that relies upon the state for services. Senator Harms and the committee were very deliberative in promoting this budget. And we provided this legislative floor a budget that I think for the most part was responsive, was probably conservative, particularly in comparison to previous years, and met the needs, met the needs overall of our vulnerable citizens. The committee has not taken a position on this override motion of Senator Rogert's. These three items were separated out from all the other vetoes. And essentially what the committee did is we're neutral on these three. I, as a member of the Legislature, am in strong support of the motion to override because I believe in the principles that guided the committee, Senator Harms often talked about, we have to do what is right. We have an awesome responsibility when you have a judicial, a legislative, and an executive branch. We are ultimately responsible to the most vulnerable in our society, in our community. Senator Heidemann, the Chairman of the committee, while I appreciate his willingness to look in the future at the provider rates, the fact is we have an opportunity right now. We have an opportunity right now to make some headway in that. And I think we should. The committee provided that budget increase of 3 percent for a very specific reason, for a very specific reason; the fact that they were zeroed out for several years before. We got to do what is right, like Senator Harms often said in the committee. Supreme Court employees, Senator Pedersen spoke about an employee that just recently left the probation office in south Omaha, was a female officer, she served about 15 years. She was an exemplary employee. She genuinely cared about the offenders that she served and the protection of the community. She was experienced. I know because I was her boss, I was her supervisor. She just left within the last two weeks and I can assure members of this Legislature that pay--among other things, with caseload concerns, as Senator Pedersen spoke of--pay was her number one motivation to leave the Nebraska State Probation System. She's now working in the private sector and started at a wage which exceeded what she left with 15 years of seniority in the Nebraska State Probation System. That we cannot afford. We are in the midst of LB46... [LB321]

SENATOR FRIEND: One minute. [LB321]

SENATOR SNOWIECKI: ...reforms. We're trying to transform our criminal justice system where we rely upon community-based supervision of offenders. When we lose 15-year experienced probation officers that know what they're doing, we're going to fail, folks. We're going to fail. We got to do what is right. We got to do what is right. We can't afford, as a state and with our awesome responsibilities for the protection of the community, for protection of public safety, we can't afford to be losing probation officers left and right that have 10, 15, even 20 years experience at the job, and it's documented that they leave with that kind of wealth of experience. We got to do what is right. We have to do what is right. Thank you. [LB321]

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SENATOR FRIEND: Thank you, Senator Synowiecki. Members, we are discussing motion 88, the motion to override gubernatorial veto. Senator Rogert, you are recognized. [LB321]

SENATOR ROBERT: Thank you, Mr. President. Members of the body, I appreciate the conversation that's going on around the body today and I appreciate the discussion and debate on this. And I thank you for everybody who's supporting this and I thank everybody for listening who may not be in support. There's been some information circulating around, propaganda per se, and I encourage everybody to take a good look at it. I also know I'm sitting here looking at my computer screen and it's rattling off about a message every 20 seconds coming in from across the state. And form e-mails annoy me as much as it does everybody else, but I think it brings to the front the fact that this is a very important issue and it's something that a lot of people are deeply passionate about. And I know we have a lot of providers in the state for different services and we're short still in all those types of services. We need more of those providers. And the biggest reason that we need more of those and we are short is because we just can't pay them and we don't pay them enough. They perform services that nobody else wants to do, nobody here wants to do them. And those are invaluable services to those who need them. Those people who work for the courts, they work with people that, they're in court and they have to deal with personal problems and issues for not very much pay. We need to give them a little raise. And to make sure that we get the right people in those positions, we need to be able to pay them. I know that there...I get reports from Douglas County, for example, the people that work in those courts are at work only because they don't have anything else to do. They don't care enough to continue to better themselves at their job simply because they're really not paid enough to do so. And we need to look at these provider rates very carefully. We're giving them a 2 percent increase with the veto. But as a couple folks already said earlier, we held at zero for many years, no increase, when we know those costs of those services are going up at substantial rates. And 2 percent is just a little bit, 3 percent is just a little bit more, but we've got to continue to push those things forward as much as we can. Those people in need are the biggest reasons, the biggest areas where we need to fund. And we know HHS has its problems and we put a lot of money into that agency. But we need to fund it in the areas that need to be funded to help those people in need. I will give the rest of my time to Senator White. [LB321]

SENATOR FRIEND: Senator White, about 2 minutes. [LB321]

SENATOR WHITE: Thank you, Mr. President. Thank you, Senator Rogert. In light of the long time that we've been here this session, the long time we're going to go forward, and the pure eloquence of my friend, Senator Karpisek, his comments and his observations, I'd like to bring back a phrase that was very common in my neighborhood when I was growing up, and that is, yeah, what he said. Thank you, Mr. President.

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(Laughter) [LB321]

SENATOR FRIEND: Thank you, Senator White. Senator Wightman, you are recognized. [LB321]

SENATOR WIGHTMAN: Thank you, Mr. President. Thank you, members of the body. As I talked to you earlier about, we are paying the providers a very low rate. Now I respect the Governor, I respect the Governor's Office. But we are a separate branch of government, as you've been told. I appreciate the kind words that we've heard with regard to the work of the Appropriations Committee. I will stand here and tell you that some of the people who are promoting and advocating the passage of this motion 88 by Senator Rogert were some of the most conservative people sitting at the desk and at their chairs as we approached the budget. I would say that, numerous times, that I personally was the most conservative. Senator Nantkes, my gosh, she was a giant when it came to being conservative. And I've heard other members of the committee say they were amazed at how conservative she was and expected her to be so much more liberal, I suppose. Maybe that's unfair, Senator. But she stood tall as a conservative. Senator Synowiecki on many issues stood as a conservative and advocated budget cuts. After months of work, we came out with the budget. The budget has been before you. Many of you have said that it was a good budget. I feel it was a good budget. The Governor has said, and I certainly respect that comment, that state government cannot be all things to all people. I even, at one of the meetings with him, suggested that I didn't, I would go him one better. I don't think the government can be all things to any person. But nevertheless, it seems to me that there's a disconnect somewhere when we sit here, and I supported that measure to the 150 wealthiest people or some of the 150 wealthiest people in the state of Nebraska who die every year and would have had an estate tax, do a state estate tax without the repeal of the state death tax. This body came together and voted almost, I wouldn't say it was unanimously but certainly almost unanimously, to give up \$20 million from our revenue stream to support basically or to assist 150 of the wealthiest people of Nebraska on an annual basis. Now we sit here debating whether or not we can give \$3 million or \$4 million to some of the most needy people in Nebraska. And in that regard, I appreciate the comments of Senator Dubas, Senator Dwite Pedersen, and others among you. I'd like to read a little bit from a book that many of you have a familiarity with. Senator Chambers quite often hammers us with quotes from this book. I don't usually read from the Bible, but I will. And when the...comes from Matthew, the 25th Chapter: And when the Son of Man shall come in his majesty and all the angels with him, then shall he sit upon the seat of his majesty and all nations shall be gathered together before him. And he shall separate them one from another as the shepherd separates the sheep from the goats, and he shall set the sheep on his right hand but the goats on his left. Then shall the King say to them that shall be on his right hand, come ye blessed of my Father, possess you the kingdom prepared for you from the foundation of the world. For I was hungry, you gave me to eat. I was thirsty and you gave me to drink. I was a stranger

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and you took me in. Naked and you covered me, sick and you visited me. I was in prison and you came to me. [LB321]

SENATOR LANGEMEIER PRESIDING [LB321]

SENATOR LANGEMEIER: One minute. [LB321]

SENATOR WIGHTMAN: Then shall the just answer him, saying, Lord, when did we see thee hungry and fed thee, thirsty and gave thee drink? Or when did we see thee a stranger and took thee in or naked and covered thee? Or when did we see thee sick or in prison and came to thee? And the King answered...answering, shall say to them, amen I say to you, as long as you did it to one of the least of these my brethren, you did it to me. Now there's more I would, had a few more minutes, I might finish that quote. But I think it does demonstrate exactly what we're doing when we give up \$20 million, which I supported the Governor on that issue, gave up \$20 million from our revenue stream and now we don't have \$4 million left. So again, I urge your support of Senator Rogert's motion. Thank you. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Wightman. Those wishing to speak, Senator Nantkes, Engel, Erdman, Heidemann, and others. Senator Nantkes, you are recognized. [LB321]

SENATOR NANTKES: Mr. President, I yield my time to Senator Heidemann. [LB321]

SENATOR LANGEMEIER: Senator Heidemann, 4:50. [LB321]

SENATOR HEIDEMANN: Thank you, Mr. President, fellow members. I got something very important that I think I need to share with you as Appropriations Chair. The way this veto override is set up, they only did the first year. So when you look at that then, the Governor is, after his veto, let's say the provider rates, would be 2 percent and 2 percent. With the veto override, the first year would go back to 3 percent because they only did the first year. But because they didn't do the second year, in order to fund the percentage increase that they did in the first year and not do in the second year, the second year would be, not 2 percent, but would have to go to 1 percent. Under the Governor's plan, it would be 2 percent and 2 percent; over two years, 4 percent. Under the veto override plan with only one year being funded, it would be 3 percent and 1 percent for a total of 4 percent. Just want to let you know. Also, under the Supreme Court salary adjustments, under the Governor's plan the first year, 4.75 with what the Governor did. In the second year, it would be at 2.5 percent for a total of 7.25 percent raise over two years. Over the veto override, the first year, 7 percent. But because you didn't fund the second year, the only amount of money left to fund the raise in the second year would be at .25 percent, for a total of 7.25 percent. That's the way it works. That's the way it works. I thought I would just share that, maybe to make a little bit more

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sense. I will share one more thing. Say you was to get \$200 from an uncle for a birthday. He was going to give you \$100 one year and \$100 the next year. You threw a fit, didn't like that, said you wanted it all together to begin with. So he says, fine, I'll take it out of the second year, I'll give you \$200 but you don't get any the second year. What did you gain? I really think you need to look at what you're doing and you either need to fund both years or not do this. Thank you. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Heidemann and Senator Nantkes. Senator Engel, you're recognized. [LB321]

SENATOR ENGEL: Mr. President, I will not vote for any of the overrides. I want to refresh a little bit. I was here back in the time when we had the downturns in the economy. And it was very difficult that time. In fact, like he said, we left the providers and so forth at zero, but many other agencies and so forth were cut, actually cut. In fact, we had to cut almost into core services. The university got cut, the colleges got cut, and everybody else did. In fact, it took not only the session itself, it took two special sessions to meet our obligation because the downturn kept turning down. And then besides that we had to raise taxes. So I want to defend this Cash Reserve Fund we have and that's the reason we want to keep it up because we were here, we do know what can happen and probably will happen again because everything is cyclical. And therefore, when it does come up again, another downturn, we will be able to sustain what we have rather than those huge cuts. And I don't know if anybody in this Legislature has been a bigger defender in the past several years as far as the developmentally disabled and those providers. I've done that from the git-go. Before the ink was dry on my appointment, I was working on that, worked on it ever since. We've had our ups and we've had our downs. We're better off than we were at that time and I realize we're not where we should be. But at this point in time, I think we can...and I'll make the same pledge that Senator Heidemann made and I think some others here in Appropriations, Senator Harms and others will make that same pledge, that next year when we get back we'll do everything in our power to make things right. There are other things coming up this next couple of days that I think the opportunity is only now to take care of them and we don't...we can't wait that extra year to do it. And so I think we have to pounce on them this year. And what's why I very reluctantly do this. I don't want to override these. I mean, I don't want us...I'd like to see all these things happen but we don't have the funds to do it. And therefore, I will not vote for any of the overrides. And with that, I'd like to turn the rest of my time over to Senator Erdman. [LB321]

SENATOR LANGEMEIER: Senator Erdman, 2:50. [LB321]

SENATOR ERDMAN: Thank you, Mr. President. Thank you, Senator Engel. Members, let me...I'm not going to speak about the motion but let me speak about the process just briefly. Senator Heidemann talked specifically about this motion. With all due respect to Senator Rogert, we can't vote in a vacuum. The status sheet on May 18 was \$25.2

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million short of the minimum reserve. That would be if we passed every bill that was on Select and Final Reading, we were \$25 million short from being able to do them all. Even with the vetoes, we're \$1 million short from the minimum reserve right now. I'm not going to argue for or against any of these motions. I'm simply telling you that what Senator Rogert would have you to believe isn't real. We have to balance the budget. If you're going to stand on the floor and argue that it's the Legislature's job to balance the budget, then why on earth would you say don't worry about which one of these bills we're going to have to give up to do this, we'll just send them all to the Governor and let him veto one? We will have to balance the budget, and either we as a body will do it, or we will do it in conjunction with the Governor, or he will do it, but it will have to be done. And we can work together to do this or we can stick our head in the sand and act like we can vote for any override you want and any bill that you want and we have the money to do it. We don't. And it's because you have a \$400 million Cash Reserve. That has gone away. We can't tap into that to fund these programs. If you vote for an override, you possibly will have to come up with somewhere else that you wouldn't support. And I'm not saying that every bill that sits on Final Reading or Select File should pass. But I will tell you that we have to pass LB324, because if we don't our State Patrol plan isn't fully funded. That was part of the Governor's budget but that's in LB324. [LB321 LB324]

SENATOR LANGEMEIER: One minute. [LB321]

SENATOR ERDMAN: If you want to go down through here and go any further, there are a number of programs that probably need to pass and there are some that are probably optional. We will have to make that decision at some point. Maybe it's perfectly appropriate to make that decision today, that you want these more than some of these bills, but recognize we cannot do both. We have to balance the budget. Thank you, Mr. President. Thank you, Senator Engel. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Erdman and Senator Engel. Senator Erdman, your light is next. [LB321]

SENATOR ERDMAN: I'd call the question, Mr. President. [LB321]

SENATOR LANGEMEIER: The question has been called. Do I see five hands? I do see five hands. The question before the body is, shall cease debate on motion 88? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB321]

CLERK: 28 ayes, 2 nays, Mr. President, to cease debate. [LB321]

SENATOR LANGEMEIER: Debate does cease. Senator Rogert, you are recognized to close on motion 88. [LB321]

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SENATOR ROBERT: Thank you, Mr. President. Thank you, members of the body, for a delightful discussion this afternoon. I want to make just a few points and we'll get on with the next item. I want you not to get caught up in the process of this. We don't know where we're going to end up in the second year of the biennium. The Appropriations Committee regularly deals with deficit appropriations. And if we get to that point, we'll deal with it then. We're only voting on whether to fund these measures in fiscal year '08. This is not a temper-tantrum and we have the money. The appropriations, these appropriations were part of the balanced budget that was sent down from the committee. And I asked everybody to stand up for the Legislature and stand up for that budget that was sent down from the committee and stand up for these people who need our help. So I encourage you to vote for this motion. And, Mr. President, I'll ask for a call of the house and a roll call vote in reverse order, please. [LB321]

SENATOR LANGEMEIER: There has been a request to put the house under call. The question before is, shall the house go under call? Those in favor vote yea; all those opposed vote nay. Record, Mr. Clerk. [LB321]

CLERK: 40 ayes, 0 nays, Mr. President, to place the house under call. [LB321]

SENATOR LANGEMEIER: The house is under call. Senators, please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Howard, would you please check in? Senator Wallman, Chambers, and Preister, please return to the Chamber and record your presence. Senators Wallman and Preister, please return to the Chamber. The house is under call. All senators are present or accounted for. There has been a request for a roll call vote in reverse order. The question is, shall motion 88 be adopted to LB321? Mr. Clerk, please call the roll. [LB321]

CLERK: (Roll call vote taken, Legislative Journal pages 1763-1764.) 20 ayes, 26 nays, Mr. President, on the motion that this motion become law notwithstanding the objections of the Governor. [LB321]

SENATOR LANGEMEIER: Motion 88 does not pass. Mr. Clerk, next motion? With that, the call is raised. Items for the record? [LB321]

CLERK: Mr. President, thank you, some items. Enrollment and Review reports LB646 and LB530 to Select File. Revenue Committee, chaired by Senator Janssen, reports the following bills indefinitely postponed: LB10, LB32, LB183, LB282, LB354, LB355, LB362, LB409, LB416, LB429, LB431, LB507, LB512, LB531, LB565, LB582, LB628, LB640, LB683, LB684, LB698, LB703, those all reported indefinitely postponed. (Legislative Journal pages 1764-1765.) [LB646 LB530 LB10 LB32 LB183 LB282 LB354 LB355 LB362 LB409 LB416 LB429 LB431 LB507 LB512 LB531 LB565 LB582 LB628

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LB640 LB683 LB684 LB698 LB703]

Mr. President, the next motion I have with respect to LB321 is by Senator McDonald, motion 85. [LB321]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator McDonald, you are recognized to open on motion 85. [LB321]

SENATOR McDONALD: Mr. President, members of the body, this is a motion to override the veto of funding for the AHEC education centers that we voted to add in LB321 on Select File. We added \$250,000 to the budget for the first year and \$500,000 to the budget for the second year. Nebraska has five Area Health Education Centers located in Grand Island, Norfolk, Scottsbluff, Beatrice, and Omaha. With this funding, the AHECs will continue their mission of convincing Nebraska kids to pursue healthcare careers in Nebraska. These careers include EMTs, dental hygienists, X-ray technicians, medical records, mental health, elder care, and other health professions in addition to doctors, nurses, and dentists. AHECs reach these kids while they are in middle school and high school through program presentations, summer camps, and other activities. This funding will allow AHECs to continue to make it easier for healthcare professionals to meet their state's continuing education requirements by holding classes in AHEC facilities, rural hospitals, and community facilities in 24 locations across the state. This makes it easier for the doctor or an EMT in O'Neill to meet the continuing education requirements without taking several days off away from his private practice for their job and allows the professional to remain in their community to make available services to their patients. The funding will allow AHECs to continually setup clinical rotation training aids for health professionals, students, and communities throughout the state. In 2002-2003, there were 29 clinical rotation training sites for 95 students. This year there are 70 clinical rotation training sites working with 110 students. An additional 75 students will complete training sites this summer. It is difficult to list every single activity the AHECs are doing. They're working hard in our communities to recruit kids into healthcare professions, to provide easy access to continuing education classes for healthcare professionals, to bring together hospitals and community leadership to provide clinical rotation training sites for health professional students, to plan conferences across the state, to generally provide leadership and coordination for many healthcare professionals across the state. I firmly believe that AHECs are vitally important to our medically underserved locations in Nebraska. I also would like to clarify some information. For every \$1 that the state will spend for an AHEC, please note that the communities will be providing \$4 in in-kind services and an additional \$4 is received for federal AHEC dollars. What a bargain during the next two years. That amounts to \$3,165,000 federal dollars and \$3,165,000 in community support for AHECs. The dollar value the Governor spoke of included grants we received from a number of different sources. We are only asking the state to help us during the next four years, for a total over the four years of \$2 million, not the \$5,095,335 quoted by the Governor. Again, I

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ask for your support to override the Governor with the AHEC funding. Thank you.
[LB321]

SENATOR LANGEMEIER: Thank you, Senator McDonald. We had a number of lights on when we called the question on the previous amendment. We're going to go through those as they are in the queue. Senator Kruse, you're recognized, followed by Heidemann, and Wallman. Senator Kruse waives. Senator Heidemann, you're recognized. [LB321]

SENATOR HEIDEMANN: Thank you, Mr. President, fellow members. This is something that we've heard before. It was not in our budget package and it was put in through a motion by Senator McDonald, and at that time we had good discussion. At that time I had stood up and opposed it, mainly, probably more than anything is because it has lost the federal funds. I'm not saying that we never do that. Every once in a while I suppose we do step up. Sometimes it's mandatory and we have to do it, but the majority of the time it has been the committee's thought that you do not go in and replace federal funding. That probably would be my biggest concern. The second concern that I have is that down the road this could be quite a bit of money. I know this biennium they're talking about \$250,000 the first year, \$500,000 the second year--total cost \$750,000 over the two. Senator McDonald has indicated that they will be back the next biennium and ask for more money. I would have to guess, if I had to guess, that that will not be the end of it. I would have to think, if we are going to continue to fund these AHECs that we will not be just doing it in this biennium and the next biennium, but in the biennium after that, and the biennium after that, and the biennium after that, and I don't know if we want to go down that road. I think it's a tricky road to go down, because if we start to...picking up all of the federal funds that are lost to this state, there would be a lot of other things that would not be funded. So for that reason, I stand in opposition to motion 85. Thank you. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Heidemann. Senator Wallman, you're recognized. [LB321]

SENATOR WALLMAN: Thank you, Mr. President. May I ask Senator McDonald a question? [LB321]

SENATOR LANGEMEIER: Senator McDonald, would you yield to a question? [LB321]

SENATOR McDONALD: Yes, I would. [LB321]

SENATOR WALLMAN: Do you feel this helps rural America? [LB321]

SENATOR McDONALD: Rural America or rural Nebraska? [LB321]

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SENATOR WALLMAN: Rural Nebraska I meant. [LB321]

SENATOR McDONALD: You know, I really do. It's because many of our children in our rural communities do not understand what the healthcare industry can do for them, as far as a career. If that is not opened up to them,...and many times, even as politicians, you don't know about the political side unless somebody comes to you and says, you know what, you could be a doctor, you could be a politician, you could be anything you want to be. But without that information and letting them have an opportunity to go to a health fair and those types of things, those opportunities do not even enter their mind. [LB321]

SENATOR WALLMAN: Thank you, and I'm on the same page she is, knowing a person that went through this program. It is a tremendous...if we want rural people to go back to our rural communities and go in the healthcare fields, this is a good program. And we're talking about federal funding. We're always going to have this. Federal funding this year, federal funding that year--maybe not, maybe so. And we as a state on some issues we have to step up to the plate, and I think this is one of them. And I thank Senator McDonald for bringing this forth and urge your support. Thank you, Mr. President. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Wallman. Senator McDonald, you are recognized. [LB321]

SENATOR McDONALD: Mr. President, members of the body, I think sometimes we look at this as a rural program, but Omaha does have an AHEC that works with them. The different thing about the Omaha AHEC is they are the last one to come on, which means that they will probably never be without the federal funding. It's just that when Nebraska started the AHEC programs, they staggered them, because they wanted to make sure that one program was up and going. And when that happened, then they did the...developed number two, developed number three, developed number four, and the last one that was developed was the Omaha one, and because they all have to go off the federal funding before they can go back on, Omaha will never go off federal funding. It's just the ones that are in rural Nebraska, and I think that's the ones we're concentrating on. But if we don't have the opportunity to fund the other ones, chances are they all might go down, and I truly believe that we're looking at funding for two years. But you and I know that the funding for the next years after that always have to go through appropriations, always have to have approval from either the Governor...and the Governor or the Appropriations Committee or both. So we can't say, okay, you know, we're going to come back for more funding, which we will for another two years. But that doesn't mean it will happen, because the last word is given by this body, given by the Governor, given by the blessing of the Appropriations Committee. So just because we fund it for the next two years doesn't mean that it's automatically going to be funded for the next two years, and that's all we're asking for. Let us get by this

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interim time so that we can get back on total federal funding, and we'll be able to continue this needed program. Sometimes we look just at the education of our students, but it's more than that. It's telehealth that we've been working with, it's continuing education that we work with, as far as our medical facilities and professionals. So it's a broad-range program. It's put together to help people in rural communities, but it actually works for everyone across the state. So I do hope that you support this amendment, override the Governor, because I think it will do us all well when we look at making sure that we have healthcare professionals in our communities to help serve us in time of need. Thank you. [LB321]

SENATOR LANGEMEIER: Thank you, Senator McDonald. There are no other lights on. Senator McDonald, you'd be recognized to close. Senator McDonald waives closing. The question before the body is, shall motion 85 be adopted to LB321? All those in... [LB321]

SENATOR McDONALD: Would like a call of the house and a roll call vote. [LB321]

SENATOR LANGEMEIER: McDonald, thank you. There has been a request to put the house under call. All those in favor vote yea; all those opposed vote nay. Record, Mr. Clerk. [LB321]

CLERK: 34 ayes, 0 nays, Mr. President, to place the house under call. [LB321]

SENATOR LANGEMEIER: The house is under call. Senators, please return to the Chamber. All unauthorized personnel please leave the floor. The house is under call. Senators Fulton, Ashford, Wightman, please check in. Senator Carlson, please check in. Senator Raikes. Senator Kruse, please return to the Chamber. The house is under call. Senator McDonald, as we await the arrival of Senator Kruse, how do you wish to proceed? [LB321]

SENATOR McDONALD: Roll call vote in regular order. [LB321]

SENATOR LANGEMEIER: Thank you, Senator McDonald. Senator Kruse, please return to the Chamber and record your presence. The house is under call. Senator Kruse, please return to the Chamber and record your presence. The house is under call. All senators are present or accounted for. There has been a request for a roll call vote in regular order. The question before the body is, shall motion 85 be adopted to LB321? Mr. Clerk, please call the roll. [LB321]

CLERK: (Roll call vote taken, Legislative Journal pages 1765-1766.) 14 ayes, 18 nays, Mr. President, on the motion that this component become law notwithstanding the objections of the Governor. [LB321]

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SENATOR LANGEMEIER: Motion 85 is not adopted. Mr. Clerk, next motion. With that, I raise the call. [LB321]

CLERK: Mr. President, the next motion, by Senator Aguilar, motion 86. [LB321]

SENATOR LANGEMEIER: Senator Aguilar, you are recognized to open on motion 86. [LB321]

SENATOR AGUILAR: Thank you, Mr. President, members. I'm not going to spend a lot of time on this. We'll just take it to a quick vote, as soon as we get an opportunity here. But basically what this does is very similar to Senator Rogert's motion, only this just specifically deals with the Supreme Court employees' salaries. I do want to point this one thing: At the request of the Nebraska Legislature, the Nebraska Supreme Court in the year 2000 implemented a step plan for all employees. This action was taken to eliminate unequal salary levels for comparable positions in different parts of the state. All employees were placed on a step within a salary grade, based on their position and years of service. In the two years following, annual step increases were given to employees in January, until the state of Nebraska experienced a fiscal crisis, which resulted in discontinuation of step plan funding. The result has been an ever-increasing slip in the salaries of court personnel, which as of 2006 has significantly impacted the court's ability to conduct business. The judicial branch has been left unable to compete with the salaries paid by cities and counties, and in many cases court employees and city employees work side by side with undeniable differences in their hourly wage. The lack of competitive salaries, accompanied by the significant increase in employee turnover in some counties, adversely affects the system's ability to both serve and safeguard the public. Sarpy County experienced a 25 percent turnover rate in 2006. There's another issue here that it talks about a Supreme Court employee leaving the position and going to work for Goodwill Industries because she was going to be paid \$2 an hour more. That's pretty significant. And I think it's bad, you know, when we talk about how much money we saved this year by the tax refunds, and we're not adequately paying our employees. I feel we owe these employees that. They didn't get their increases over the years because of fiscal problems while other state employees did. We owe this. This is not unlike counties not being funded and reimbursed for jail reimbursements. We have that going on across the state, yet we're supposed to go home and tell our constituents how much we saved them by cutting their taxes. I won't do that, because my constituents are going to say to me, yeah, well, why don't you pay your bills at the same time? My county wrote the Governor about this, and I don't know what his response was, but it's just not right if we don't fulfill our obligations. I think we need to do that. I'd ask the body for a green vote on this. Thank you, Mr. President. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Aguilar. You have heard the opening on motion 86 to LB321. Those wishing to speak are Heidemann, Synowiecki, Rogert, and

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Lathrop. Senator Heidemann, you're recognized. [LB321]

SENATOR HEIDEMANN: Thank you, Mr. President and fellow members of the body. I do rise in opposition. As I said before, I will not be voting for any of the overrides from this point on. After having said that, just to let you know what you're voting for, the first year would be...cost would be \$732,695 and then once again, in the second year, \$732,695; total cost, \$1,465,385. In doing that, they would get a 2.5 percent COLA increase the first year, a 4.5 percent increase step adjustment for a total increase of salary of 7 percent. In the second year that would get an additional 2.5 percent increase in salary. Under the Governor's plan they would get almost that much, not as much. I think it's 2.25 percent less in the first year. There are a couple of things that...well, the one thing that I've heard that I want to address and I'll be done is that I think it's been said on this floor that for a while that they did not get a salary increase. That is not true. If a state employee got a salary increase, we funded salary increases for these people, also. They was never shorted in any year that I know of, or I have been told, that these people were ever shorted. They just never got their step plan. They never got their increase on top of that, but they've always been funded, just like any other state employee. Thank you, Mr. President. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Heidemann. Senator Synowiecki, you're recognized. [LB321]

SENATOR SYNOWIECKI: Thank you, Senator Langemeier, members of the Legislature. I support the motion override of Senator Aguilar's. One thing Senator Aguilar hit on, and I think he's right on, is...I said earlier we have to do the right thing, and Senator Aguilar in his opening hit on this. We got to be very delicate about this and not...let me try to explain this. The employees under the Supreme Court, because they're under the court, do not have access to collective bargaining like your other state employees do. The Supreme Court has jurisdiction over the Court of Industrial Relations and, as a result, if the Supreme Court employees, which would include probation personnel and county court personnel, if they were to organize and collectively bargain, there would be a conflict for the Supreme Court, should a case come through the appeals process. And as a result, the Supreme Court employees, under a prevailing Attorney General's Opinion, members, they can't collectively bargain. So in the interest of fairness and in the interest of equity, it is incumbent upon us to do our work in the appropriations side of things and to do due diligence and to recognize the fact that these employees are not a part of the collective bargaining unit, and therefore, we need to compensate, in terms of fairness and equity, for those employees. This goes beyond...this truly does go beyond, you know, an appropriation to a class of employees, or it goes beyond a lot of...it goes beyond other issues besides appropriations, that we're charged as a Legislature to act fairly and equitably in our appropriations process. And the special master ruling for the employees that are allowed to collectively bargain, the Appropriations Committee rightfully set aside funds, should that special master

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ruling be upheld as it goes through the appeals process. If the enhanced salary is approved from the appeals process, those state employees will enjoy pay raises as adjudicated through the collective bargaining process. Supreme Court employees don't have that opportunity. They're not part of the collective bargaining process, and if we're going to negate that, we need to look seriously--and I've got a bill in to look at it next year--we need to look at the infrastructure of the Supreme Court employees and their lack of collective bargaining and how that has negatively impacted them throughout the years. Senator Aguilar is absolutely correct in his opening; he's 100 percent in what he's saying to you folks, that what we're confronted here is an inequity based upon a lack of a collective bargaining agreement. And it's incumbent upon us, in our due diligence in performing our duties as state legislators, to rectify inequities in our state classifications as far as state employees, and that we recognize and we have fairness and equity for those that have access to a collective bargaining agreement and those that do not. I think it's a slippery slope when we are punitive, and this veto will be... [LB321]

SENATOR LANGEMEIER: One minute. [LB321]

SENATOR SYNOWIECKI: ...this veto will be punitive to state employees that are not a part of a collective bargaining agreement. I think we need to be real careful about this. I think it's unfortunate that the veto came. I respect the Governor, but it's unfortunate that this particular veto came down, and it's based upon an issue of equity and fairness, it's based upon an issue of being a part of a collective bargaining agreement and not being a part of a collective bargaining agreement, and it's up to us to recognize and differentiate that and to provide an equity salary, those that are provided in the enhancements with the collective bargaining unit. I am voting to override. I'm voting for the motion by Senator Aguilar. Senator Aguilar was right on in his opening. Thank you. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Synowiecki. Senator Rogert, you are recognized. [LB321]

SENATOR ROBERT: Thank you, Mr. President. I rise in support of motion 86 by Senator Aguilar, and once again, I'm just going to reiterate briefly that it's very, very important that we give these guys a little bit of a money boost. They have been horribly underpaid for many years, and it's our job to make sure that we have the right personnel in those positions, or else we suffer as a state. And this motion is a little bit different than mine. It includes both years of the biennium and a couple other parts of the package. And I stand in full support of this motion, and I will yield the rest of my time to Senator Lathrop. [LB321]

SENATOR LANGEMEIER: Senator Lathrop, 4:20. [LB321]

SENATOR LATHROP: Thank you, Mr. President and Senator Rogert. I do want to, of

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course, rise in support of this motion. Again, I want to maybe pick up where I left off the last time I spoke, and since then, I've passed around this summary of comparison data, and I wish you'd take a look at it. Take a look at where our folks are paid in relationship to their counterparts in neighboring communities and in neighboring states. You can see...and these are people like your AA and your LA that work for the state, and they're not getting what your staff is. A court stenographer is 22 percent below the average; a division manager, 28 percent below; a probation officer--a probation officer in this state is making 28 percent below what his counterparts are in the neighboring states. We come into this body, when we talk about economic development, and we talk about good jobs. That's the chorus when we're asked to move legislation that deals with economic development. Big business wants something, and we hear the chorus of, it will bring good jobs to the state. These are people who have responsible positions, they deal with the...they are the support staff for our judges, and they are woefully underpaid. They haven't had a step increase, which is...in four years. They got a COLA increase two years ago, which was eaten up by the increase in insurance premiums. These people are losing ground, and the county courts are losing these folks to the counties, as they take different jobs in the courthouse, because they're not adequately paid. I talked to someone in the Sarpy County Court and they told me that three people in that office had to declare bankruptcy. Two of them had left, one of them to go to retail! These people have responsible jobs. They're taking all the fines, they're dealing with all the pleadings, they're dealing with all of the court documents, and they're the support staff. I can appreciate the importance of a tight budget, I really can. I respect the work of the Appropriations Committee, but we have to exercise our own judgment here today. We have to exercise our own judgment here today. These people work hard for the state of Nebraska, they haven't been treated right. We have the ability today to take care of that inequity, and I would encourage your support for Senator Aguilar's motion. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Lathrop. Seeing no lights on, Senator Aguilar, you are recognized to close on motion 86. [LB321]

SENATOR AGUILAR: Thank you, Mr. President. I do want to point out one thing, and that was when Senator Heidemann was talking. He made this amount of money sound like it was terribly unreasonable. I would remind the body that this amount of money was in the Appropriation Committee's original budget. It's something the Governor took out. So it can't be that far off. I repeat to you: This is money we owed. We owe this to our employees. We are 49 members that are inadequately underpaid for what we should value ourselves at. We are underpaid. Our insurance program is nil--we have none. We should at least, as representatives of our constituency, make sure that state employees aren't in the same position we are. I ask for your green light on this motion. Thank you, Mr. President. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Aguilar. You have heard the closing on

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motion 86, offered by Senator Aguilar to LB321. Senator Aguilar, for what purpose do you rise? [LB321]

SENATOR AGUILAR: I'd ask for a call of the house and a roll call vote in regular order. [LB321]

SENATOR LANGEMEIER: There has been a request to put the house under call. All those in favor vote yea; all those opposed vote nay. Record, Mr. Clerk. [LB321]

CLERK: 32 ayes, 0 nays, Mr. President, to place the house under call. [LB321]

SENATOR LANGEMEIER: The house is under call. Senators, please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senators Louden, Friend, Christensen, Janssen, Cornett, Gay, please return to the Chamber. Senators Harms, Karpisek, and Hansen, would you please check in? Senators Stuthman and Ashford, please return to the Chamber. (Visitors introduced.) All senators are present or accounted for. The question is, shall...there's been a request for a roll call vote in regular order. The question before the body is, shall motion 86 be adopted to LB321? Mr. Clerk, please call the roll. [LB321]

CLERK: (Roll call vote taken, Legislative Journal pages 1766-1767.) 20 ayes, 20 nays, Mr. President, on the motion to override. [LB321]

SENATOR LANGEMEIER: Motion 86 is not adopted. Mr. Clerk...with that, I raise the call. Mr. Clerk, next motion. [LB321]

CLERK: Mr. President, the next motion I have, Senator Rogert, with respect to Section 113, Community-Based Aging Services. [LB321]

SENATOR LANGEMEIER: Senator Rogert, you are recognized to open on motion 89. [LB321]

SENATOR ROGERT: Mr. President, I would like unanimous consent to withdraw that motion. [LB321]

SENATOR LANGEMEIER: It is withdrawn. Mr. Clerk, next motion. [LB321]

CLERK: Senator Kruse would move to amend, motion 90. [LB321]

SENATOR LANGEMEIER: Senator Kruse, you are recognized to open on motion 90. [LB321]

SENATOR KRUSE: Mr. President and colleagues, thank you. We have talked about

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this. This is on provider rates. We've talked about it before, and I'm not going to repeat that talk, and I hope you don't feel the need to do it, either. However, this is different, and I want to state precisely what it does. It deals with provider rates in the second year only. The last one was on the first year; this is on the second year, and the reason for that is to reestablish the base that we've been working on for about eight years. It's not so much about the money for these two years but getting that base restored at the rate of 3 percent a year, which is quite a reasonable rate. So I would urge you to think about it in that respect. We're talking here about various ones, and some of the conversations indicated some of these persons are 5 percent behind. You know, that bothers me greatly. They are way behind. My wife ran a nonprofit agency--they got no money from the government--but I can assure you that the government needs these nonprofit providers. We cannot match what they do. We cannot match their employees. We cannot match the salaries that they pay, because they're so low, and the commitment and so on, and we're losing those providers. I would hope for the day when, again, HHS would step in there and say, just out of survival, we have to have these providers. They haven't been saying that for the last few years. They used to say that. But that's what this is about, trying to keep these providers in. We've lost some; we're going to lose more. A chunk of money--yes, yes. But we will balance the budget. This particular amount of money...well, the tax cut that we gave for estates is twice the amount of money as this is, for those...for 150 people, not the whole crowd, just the 150 people that were over \$2 million. We here are proposing one-half of that amount. So it is a question of balance the budget, a little trade on words here. Will be balance the budget? Is there a balance available? I urge that we balance the budget. And, Mr. President, with that, I will stop. Thank you. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Kruse. You have heard the opening on motion 90, offered to LB321. The floor is now open for discussion. Senator Heidemann, you are recognized. [LB321]

SENATOR HEIDEMANN: Thank you, Mr. President, fellow members. Probably no surprise, but I rise up in opposition to motion 90. This will be...give the providers their money in the second year. Just to let you know, out of everything that's been proposed, this is the biggest ticket item. The second year, if we do this, the cost would be \$7,787,599, and I do that to let you know how much this is going to cost, how much you're going to spend. I also want to tell you that I have made the pledge on the floor that we are going to look at this as early as next year, for sure the next biennium, but I'm guaranteeing we'll talk about this the next year. All you're going to do with this motion is to put it in there for the second year of the biennium. We can do this next year. We gain nothing this year except for doing something that we intend to do the year later. So we can do the same exact motion after we look at things next year. I just want you to know that. I think it's also my duty to tell you, and I think Senator Erdman has picked up on this spot, that if we do this, this is going to change the green sheet quite a bit, and with this action there will be some other things that will not be able to be funded. And if that's

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the will of the body, that's fine, but I feel it's important that you know that, that it will be \$7.7 or almost \$7.8 million of spending that we won't do some place else. So with that, I do rise in opposition to motion 90, and thank you. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Heidemann. Senator Schimek, you are recognized. [LB321]

SENATOR SCHIMEK: Yes, thank you. Mr. President and members, I rise for two reasons. The first reason is to correct the record and that is, when we were discussing this issue earlier, I talked about the fact that the Developmental Center at Beatrice was cited for immediate jeopardy and actually they were given three citations. And I talked about the fact that there were some current immediate jeopardy citations out there and, in fact, there was one that came after the three. There have been attempts to get straight with the federal government. But I think I left the misimpression that the facility still had an immediate jeopardy citation against it. It's my understanding, after talking with the committee counsel, that that is not true any longer, and I wanted to correct the record with that. Thank you, Senator Erdman. But the truth of the matter is they will be subject to continuing federal inspections, which is good that they're going to be...there will be some oversight there. But I think of all the overrides that are out there, that this is the one that we really need to be concerned about, and if it's going to cost \$7 million, then there were so many ways that we spent money that I didn't agree with, that I'm going to vote for this one. We gave that \$20 million estate tax refund--or not refund but exemption. We gave \$10 million in training funds to big businesses that could probably do that in-house and wouldn't be hurt that badly. I mean, it's what your priorities are and this is my priority, and I'm going to vote for this. And, Senator Heidemann, I trust that you are going to look at this next year, but I have no idea what you'll do with this next year. So I think the problem is now, it's immediate, and it shouldn't wait for another year. So I would encourage others to vote for this particular one, as well. Thank you, Mr. President. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Schimek. Those wishing to speak, we have Wallman, Karpisek, and Wightman. Senator Wallman, you are recognized. [LB321]

SENATOR WALLMAN: Thank you, Mr. President, and thank you to Senator Kruse. Promises, promises, promises! That's what the healthcare fields gets--promises. We'll fund it next year. We'll give you all the money you need next year. You know what that is? That's BS. Cut the funding to the people who need it the most? What are we doing? Come on, people--use some empathy, use some sympathy, and use some common sense. These people that work at these institutions, you know what? They pay taxes, they go to work, they're responsible citizens, they have children in the schools, they're some of the best people you'll ever find. You go to a grocery store, they'll help somebody out who can't help themselves. You go to hospitals, you see them on the

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bicycles on the streets in Beatrice. I'm proud to know these people that take care of people that can't take care of themselves. They're some of the best people on this earth, and if you're going to quote the Bible, that's what we're supposed to do. We're supposed to take care of those who can't take care of themselves. And I surely hope that I'm not a member of this Legislature that wants to cut the funding to help those who can't help themselves. I will be very disappointed. Thank you, Mr. President. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Wallman. Senator Karpisek, you're recognized. [LB321]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. Although I did stand behind Senator Rogert's motion, this is one of the main ones that stand out for me. Senator Heidemann, that we have nothing to gain--then we have nothing to lose, either. We can look at it next year. As Senator Schimek said, we don't know what's going to happen, what's going to come out. We do right now. It's in front of us. We can vote it up or down. We know what we have. I also heard it would cost \$7 million. This was in the budget. I don't know where we don't understand that this was sent off this floor to the Governor. But we keep arguing about, it's going to cost this much. We know that. We talked about this at length. I was here. Maybe I don't listen very well, and maybe I don't understand very well, but I do understand that. This has been out of here. Starting to know what Senator Chambers talks about--sheep. (Laughter) I had one when I was a kid and it died. (Laughter) I don't understand why on earth we are so scared to stand up for ourselves. What is it? I respect the Governor, too. I respect everyone in here just as much. I don't understand why we can't stick to our guns and say this is what we passed out of here. Senator Heidemann said it everyday, when we tried to go after one of the appropriations bills. This is what we passed out, and we're going to stand behind it. Well, boy, and every time we took a swipe at it, we got swiped back at. I got my can kicked all over this floor for trying to take a swipe at it. Somebody else can take a big, old, ball bat to it. Senator Chambers with his nunchucks--not him, but...and that's okay. We don't mind. (Laughter) Well, we've got "Mr. Nunchucks" on our side this time. (Laughter) He had another name for himself yesterday that I..."Mr. Polygraph," too, I think. So anyway, (laugh) when I get really mad, maybe I try to be a stand-up comedian, and I am mad. We've passed this out of here, we're trying to do something for the least people in our society. We need to keep this money in the budget. I don't care if it's next year or the year after. We got it out of here once. Please, let's stand up and take ourselves a little seriously and stand up for it, and fight for what we already fought amongst each other for. Thank you, Mr. President. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Karpisek. Senator Wightman, you're recognized. [LB321]

SENATOR WIGHTMAN: Thank you, Mr. President. Thank you, members of the body. Thank you, Senator Karpisek. Thank you, Senator Wallman. Those were words well

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spoken. I talked about the \$20 million that we just quickly gave away, and I was kind of cut short on that. But let me just give you a little example of what we've done, when we give \$20 million back. And I voted for that, I want you to know that, and many of you who are speaking in favor of these also voted for the \$20 million that was going to be saved by eliminating the state death tax. Let's say that 150 of the richest people in Nebraska went by and we handed each of them a check for...and that's about what would be affected by this state estate tax, and we handed each of them \$140,000. I think that would amount to about \$21 million. That's what we did. We stood here and we gave back to the wealthiest people in Nebraska \$21 million, and those people, along with many of you, are now standing here saying we don't have the money to give \$4 million or \$7 million to the poorest people in Nebraska. I can't believe that. Now I know Senator Erdman visited with us about maybe we could take some money out of the Cash Reserve Fund to keep from taxing people on the gas tax, but apparently we can't take any money out of the Cash Reserve Fund to do what we're being asked to do now. We aren't broke by any means. We have over \$400 million, I believe, in the Cash Reserve, but we seem to have a lot of money for the wealthiest people in Nebraska, and I certainly am not begrudging them what we've done for them. But to suggest now, because we've given it all away, we don't have \$7 million left for this particular item, just about defies my imagination. Thank you. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Wightman. Senator Synowiecki, you're recognized. [LB321]

SENATOR SYNOWIECKI: Thank you, Senator Langemeier. Senator Karpisek, you're right on. Senator Wallman was right on. I'm going to support the Appropriations Committee recommendation. As a member of that committee, we deliberated long and hard and it was a thoughtful process, and we went back and forth, and back and forth with this particular issue. And I'm...as a Appropriations Committee member, I'm going to maintain the fidelity of where we were at, and I'm going to vote for this override. Thank you. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Synowiecki. Senator Erdman, you're recognized. [LB321]

SENATOR ERDMAN: Mr. President, members of the Legislature, Senator Karpisek, that was the budget that you didn't vote to send to the Governor. Is that correct? I think that's yes. [LB321]

SENATOR LANGEMEIER: Senator Karpisek, would you yield to a question? [LB321]

SENATOR KARPISEK: Yes, I would and, yes, it was, but not for this particular reason, Senator Erdman. [LB321]

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SENATOR ERDMAN: It was probably the same reason I voted no. Is that right? [LB321]

SENATOR KARPISEK: I would say because of the gas tax increase, correct? [LB321]

SENATOR ERDMAN: And that motion is not before us, correct, through override? [LB321]

SENATOR KARPISEK: I haven't seen it. I'm hoping that maybe it's a little farther down the line. [LB321]

SENATOR ERDMAN: Okay, I was just making sure that I understood where you were coming from. Thank you. [LB321]

SENATOR KARPISEK: Thank you. [LB321]

SENATOR ERDMAN: Members, my comments earlier...and Senator Wightman is aware of this, as a member of the Appropriations Committee, is that we can do whatever we want here. If you want to vote for this, go for it. I have not spoken against any of these; I simply pointed out the fact that whatever we do has to balance. That's fine. The will of the body can prevail here if we would like. If you want to put more money into provider rate reimbursement, go for it. That's not my argument. My argument is, is that, as Senator Wightman well knows when he stood up and opposed my efforts to try to fund the roads program without raising the gas tax--that, unfortunately, for those of you that cared about funding for the roads, is no longer before us, and we're going to be \$19 million short--was, if you're going to do some of these things, set priorities. The time to get it out of the Cash Reserve, Senator Wightman, as you well know, was before LB323 passed. But if you want to vote for this, which was in the budget, then don't vote for something that's on the status sheet. That's all the point I'm making. State of Nebraska is number five in Medicaid reimbursement for providers. Does more work need to be done to examine whether or not our provider rates are fair? Sure, they do. Senator Heidemann has said that the committee will look into that. It's always been an issue since I've been in the Legislature, and I'm sure it was an issue from the beginning of time, at least as long as the state of Nebraska was in the business of providing certain services directly. But no one is saying you can't do this. You can do this. There will be a collateral effect that you will have to account for at some point. We all recognize that. I think the passion is fantastic. Thank you, Mr. President. [LB321 LB323]

SENATOR LANGEMEIER: Thank you, Senator Erdman. There are no other lights on. Senator Kruse, you are recognized to close on motion 90. [LB321]

SENATOR KRUSE: Thank you, Mr. President. I ask for a call of the house, so that everybody can hear the fine things I have to say. [LB321]

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SENATOR LANGEMEIER : There has been a request to put the house under call. Your time is running, Senator Kruse. The question is, shall the house go under call? All those in favor vote yea; all those opposed vote nay. Record, Mr. Clerk. [LB321]

CLERK: 29 ayes, 0 nays, to place the house under call, Mr. President. [LB321]

SENATOR LANGEMEIER: The house is under call. Senators, please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senators Preister, Mines, McDonald, Synowiecki, Hansen, Dierks, please return to the Chamber and record your presence. All senators are present or accounted for. Senator Kruse, you can continue as well. [LB321]

SENATOR KRUSE: Thank you, Mr. President. To be clear on what this amendment is about, it is about restoring the second year of the provider rates. We've had the challenge about balancing the budget. We will balance the budget, but this is a question for next year, in terms of transfers and all that type of a thing. We can do it, if that's what we choose to do. This is the body that decides that. The...Senator Heidemann has pointed out that this is a serious matter and that we need to deal with it next year. My concern...and I agree, and certainly we will have to, because this is crisis, folks. My concern is to let them know now what we are intending to do next year, so that they can plan to hang on another year and have a few more bake sales. I urge you to vote for the amendment. Thank you. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Kruse. Senator Kruse, how do you wish to proceed? [LB321]

SENATOR KRUSE: Machine vote. [LB321]

SENATOR LANGEMEIER: There has been a request for a machine vote. You have heard the closing on motion 90. The question before the body is, shall motion 90 be adopted to LB321? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? There has been a request for a record vote. Mr. Clerk. [LB321]

CLERK: (Record vote read, Legislature Journal page 1768.) 18 ayes, 21 nays, Mr. President, on the motion. [LB321]

SENATOR LANGEMEIER: Motion 90 is not adopted. With that, I raise the call. Mr. Clerk, next motion. [LB321]

CLERK: Mr. President, Senator Rogert would move with motion 83. [LB321]

SENATOR LANGEMEIER: Senator Rogert, you are recognized to open on motion 83.

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[LB321]

SENATOR ROBERT: Thank you, Mr. President, members of the body. I'm back. So this motion here is to reinstate the vetoed portion that deals with special education aid to schools in both years of the biennium--fiscal year '08 and '09. The dollar figure would be \$1.7 million in '08, and \$3.6 million in '09. It is a big dollar ticket item. I have 12 or 13 school districts that reach into my district. Every one of them has written me today and the last few days to tell me that this is the largest increasing budget item that they have, and the increases in costs every year, even with the installation of this override, taking it back up to a 4 percent increase, their increases are still more than that each and every year. In 1973 the Legislature decided to put into place a program for schools that allowed them to be reimbursed for special education costs that they incur. That percentage was 90 percent of a certain number of the costs, and it ended up being about 75 percent of the total costs. It has continued to go down the last few years, and most of my schools are now at a reimbursement rate of anywhere from 20 percent to around 70 percent. Most of them are in that 50 percent rate. I ask for your support on this, and I imagine you've heard from several of your schools throughout the day. The increases, on average, the last two years have been between 5 and 10 percent. If we increase our reimbursement to them to 4 percent instead of 3 percent, it still isn't enough to make do for what they have coming to expend. So I ask for your support on this. Once again, we're cutting money from those who need it most. If we don't reimburse this cost, it comes out of their General Funds, and so the cost of special ed will be on the backs of the rest of the students, and other programs will have to be cut. Most of the school districts don't have the staff in place, and I'm talking about in terms of numbers of districts. They don't have the staff in place to handle students with extreme needs, and we have increased numbers of autistic children that are being diagnosed in record numbers, and so these are also huge cost increases to the school districts. And these are very, very essential. Most of them take place in the early parts of the...early years of the children, and they need to diagnose, they need to treat these, so that they can continue on through life, and hopefully in an appropriate and progressive manner. We had a bunch of school children here, I believe, today from a school in Senator Lathrop's district, that were deaf, and this is the types of monies that would go to them. And I don't want to cut programs or cut dollars to special ed students. They receive monies and they need to...the schools need to take care of these kids and do the best they can with them. With that, I ask for your support for motion 83. Thank you, Mr. President. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Rogert. You have heard the opening on motion 83. Those wishing to speak: We have Heidemann, Kopplin, White, Dubas, Wallman, Raikes, and Karpisek. Senator Heidemann, you're recognized. [LB321]

SENATOR HEIDEMANN: Thank you, Mr. President, fellow members. Once again, I rise in opposition to motion 83 to LB321. It is special education funding. The committee did

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decide to do it at 4 percent. The Governor decided to cut it back to 3 percent. I am supporting that. The cost on this, just to let everybody know--Senator Rogert did say \$1.7 million first year, \$3.6 million in the second--the total is \$5,350,401. Once again, that will affect the green sheet. If it is the will of this body to do this, then so be it, but there will be some consequences down the road, as far as the green sheet and the status is concerned. I think maybe there might be some talk that some kids could be hurt. I do believe that the resources will be found, and I think it is important to remember that they are getting a 3 percent increase, also. There's been some talk about some of these veto overrides, that they're taking a cut. But I'm not for sure if any of the vetoes at all were total cut of funding. The majority of these agencies and programs are still receiving an increase, and this one is receiving an increase of 3 percent. Thank you, Mr. President. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Heidemann. Senator Kopplin, you're recognized. [LB321]

SENATOR KOPPLIN: Thank you, Mr. President, members of the body. With all due respect, Senator Heidemann, you should keep on appropriations and not try to explain special education because, you see, while you're saying, well, funds went up 3 percent, what you have to figure out is how much increase there was in services, because schools do not have a choice in this. Schools are being reimbursed from the state at 58 percent of their costs; when they agreed years ago, 90 percent. Now if you call the State Department of Education they will say, well, it's more than that, because we're letting them count their IDEA funds. That's Individuals with Disabilities Education Act. It's federal funds, but there's a catch. IDEA funds have to first go to fund preschools, so there is not money left for the general education. The state is not living up to its promise years ago to fund special education. They're saying use federal funds and count it as our way of meeting our obligations. I believe Senator Heidemann says, well, there will be a way to find the resources for these programs. Absolutely! You know what it is? Property tax, because that's what's going to pay for this stuff that we don't pay for what we promised. You're saying put it in the General Fund. Well, the General Fund is paid with property taxes, so you aren't saving anybody anything. You're making your green sheet look better, you're making the state maybe look a little bit better because we cut some costs, but you stuck it to the property tax owners. So I'm asking you to support this. We have an obligation to fund education in this state. We made promises. We need to do that. It's time we picked up the old papers and said, yeah, we'll do what's right. Thank you. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Kopplin. Senator White, you're recognized. [LB321]

SENATOR WHITE: Thank you, Mr. President. My fellow members of the Legislature, I've sat quietly, except to cheer on Senator Karpisek, but throughout this I've noticed a

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very disturbing trend. What's been cut? And it's all the people Christ used to hang out with. The prostitutes, we'll jail them, but we won't help them off the street. We'll tell people we're pro-life, and I am; you must have that Down's Syndrome child, but we won't educate them. We tell people that we care about health and the poor, but we won't pay to treat the sick. We claim we respect our elders, but we're not going to fund their meals. Enough! Enough of this hypocrisy! Live your religion or admit that you aren't. Thank you. [LB321]

SENATOR LANGEMEIER: Thank you, Senator White. Senator Dubas. [LB321]

SENATOR DUBAS: Thank you, Mr. President, members of the body. I rise in support of this override amendment. Special education is a state and federally mandated program. The school administrations do not have a lot of wiggle room here. This is a program that they have to provide for the students, and there's no choices about it. And the lion's share of their budget are fixed costs. They are costs that they can't control, whether it's wages or etcetera. They just don't have a lot of...again, they don't have a lot of wiggle room. There are continuing to be greater and greater demands on these programs as more children come to school with autism, fetal alcohol, genetic disorders, ADD. You know, these programs are being put to use in greater and greater numbers, and if they do not receive the funding from the state and federal level, they only have one place to go to, and that's what Senator Kopplin said. They have to go to the locals. They have to go to the property taxes to make up the difference, and I think this is a very prime example. Property taxes, we've been told over and over again, property taxes are a local issue. You control property taxes at the local level. They don't involve the state. But this is a prime example of a promise made and then it's backed away from, and that only forces those at the local level to either have to cut services or raise taxes. So while property taxes might be assessed at the local level, there is definitely a connection between property taxes and state funding. I hope that we will consider the needs of these children and of this very, very important program, and support this veto override. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Dubas. Senator Wallman, you are recognized. [LB321]

SENATOR WALLMAN: Thank you, Mr. President. I have to agree with Senator White. It does seem like we have hardened hearts. We've seen...we're for the poor, we're for the needy. I run on this issue, and my opponent...one of my opponents put that number six or seven. Did he get too many votes? No. So what are we doing here? And here, we got special ed funding. I'm sure you people will vote the same way, you know? Go look at your sheets how to vote. I don't care. But I do care. Special ed is another group of people. You either pay now or pay later. You help these kids or you put them in jail--you pay there. We have to step up to the plate to help those who can't help themselves. Special needs children--that's a cost to the government, you think? No. It's a benefit to

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our state. People make a state. Are we going to make a statement here, how we are? I'm a little disappointed here today, and I can see where Senator Chambers comes from some days. But that's okay. Vote your conscience, but by golly, look at your own voice. Don't look at somebody else how to vote. You know, I vote the way I think, and this might be wrong, but it might be right. But one thing, I'll always vote for the people. It's a blessing to have these people in the state. I'm proud to serve this state, and I'm proud to be in this body, to know the friends that do have enough courage to vote the way they think. Thank you, Mr. President. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Wallman. Senator Raikes, you're recognized. [LB321]

SENATOR RAIKES: Thank you, Mr. President and members. This is a tough one for me. If I were going to vote for an override, it would probably be this one. I think the arguments have been made very effectively by a number of people who know a lot about this program. I'll just remind you that the way this operates is that there is a cap on state aid or state funding for special ed services. The law states that it can be anywhere from zero to 5 percent of an increase in that cap, and then the amount of money available after that cap is in place is apportioned to the schools according to their allocated excess costs. So keep in mind, what we're talking about here is not cutting the money available to fund the special ed services, but rather allowing a 3 percent increase instead of a 4 percent increase. The range of funding in the past few years for special ed has been from 3 to 5 percent. I believe in the current year, the increase was 3 percent. I would tell you that if it was less than a 3 percent increase, I would be alarmed and certainly would no doubt consider an override. At 3 percent, I am not going to support the override, even though I have great respect for the school districts' efforts to provide these services. I will also tell you, as has been mentioned by a number of speakers, these services are mandated so the special ed students will not be shorted the services. In effect, the school district is obligated to provide those services, so they'll have to find the money to do it. And I'm not going to tell you that that, in certain instances, won't be a hardship. I will tell you, however, that we have, I think, aggressively undertook the task of funding public schools. With LB1024, passed last session and along with some revisions in the funding formula, we increased TEEOSA funding by somewhere over \$25 million per year. In addition, we're eliminating the temporary aid adjustment for school districts, plus certainly, as you've noticed, we have an aggressive agenda this year to support schools, K-12 schools, financially, including an effort to enhance ESU funding, which is directly related typically to special education services. I would also mention that it is my hope that Senator Friend's priority bill dealing with special education will be adopted by the Legislature. This will give us an opportunity to thoroughly investigate... [LB321]

SENATOR LANGEMEIER: One minute. [LB321]

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SENATOR RAIKES: ...these programs to figure out where we are making mistakes, and being successful in allocating funding, and coming back to you next session with a proposal as to how we should address that. I am urging you at this point to stick with the 3 percent funding. We'll come back to you with the results of Senator Friend's effort, hopefully, and be able to consider this again. Again, I do not support this override. Thank you. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Raikes. Members, our queue system has gone down, so no new lights can add in. If you would like to speak, you need to call the President's desk, and we will put you on a written list and address you at that time. Also, if you have dropped out of the queue, we will recognize you as it is currently on our records. You'll just have to waive your time at that time. Senator Karpisek, you are recognized. [LB321]

SENATOR KARPISEK: Thank you, Mr. President, members of the Legislature. I said I had two big issues on this override. This is probably the number one. Senator Raikes just told us that this is a mandated program, and he's complimented how good they're doing. That's great. They are; they're doing a great job. Have they been getting enough money to do that? I don't think they have been. I think they've been doing a great job on their own. If they don't get enough money, where is that going to come from? Senator Kopplin hit it right on the head. It's either going to be property taxes or they're going to take it away from other programs that they're currently putting out there for the kids. So the special ed kids, it's mandated they have to be taken care of. That's great. I couldn't be happier. What happens to the rest of the kids if we have to cut money somewhere else? Oh well, they'll find it somewhere else. They'll have another bake sale. I don't think so. Could I ask Senator Heidemann a question, please? [LB321]

SENATOR LANGEMEIER: Senator Heidemann, would you yield to a question? [LB321]

SENATOR HEIDEMANN: Yes. [LB321]

SENATOR KARPISEK: Senator Heidemann, if...why...I guess I don't understand today why you are so easily letting all this go. You...this came out of Appropriations with 4 percent, but now you say 3 percent is good enough. Did you vote it out that way? [LB321]

SENATOR HEIDEMANN: I think the budget came out...the budget bills came out unanimous. [LB321]

SENATOR KARPISEK: Well, then, if that's the way it came out, why are you so okay with letting everything slide back? [LB321]

SENATOR HEIDEMANN: I believe, even after the overrides, that the budget still is

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acceptable. I still believe it's a good budget, and I'm going to stand behind that. [LB321]

SENATOR KARPISEK: I believe it's a good budget, too, but I think the one that your committee put out is a better budget. You don't believe that? [LB321]

SENATOR HEIDEMANN: I believe that was a very good budget, too. I will tell you, I was very disappointed when LB321 was voted on and there was 12 nay votes. That hurt me because I thought we had presented something very well. [LB321]

SENATOR KARPISEK: The main reason for the 12 nay votes was the gas tax that I don't see an override on yet. That's why the nay votes were on there. It wasn't any of this. [LB321]

SENATOR HEIDEMANN: I would say a mainline budget bill is a little bit like your wife. You may not like it all, but as a whole, you got to go with it, and you voted no. [LB321]

SENATOR KARPISEK: I would say my wife would say that about me, Senator Heidemann. (Laughter) I'm not quite...I am stupid, but I'm not that dumb. (Laughter) I guess I just don't understand. If we're going to let something out of here, and I...I don't know. This is my first year. I'm a freshman rookie. But it seems like a big game. We're going to throw this out there and it's going to get batted back. I still do not understand why that gas tax hasn't come back. I think it was a softball for the Governor and the Lieutenant Governor. I told him I'd get him in on one of my talks, so...I think that was a softball to make the Legislature look worse. We wonder why they don't want to give us a raise? Well, keep throwing softballs. Where does it stop? I just don't...when we vote on something and then we don't care enough to defend it, I do not understand. I think this is very important. The schools are... [LB321]

SENATOR LANGEMEIER: One minute. [LB321]

SENATOR KARPISEK: ...hurting. We gave that \$400 million budget, or the--I'm sorry, I'm very upset--\$400 million property tax. Hey, that's great! I'm proud of all of us for that. But now we're just turning around and taking it out somewhere else. All I've heard is a rumor on the floor today that there's this big community college bill hanging over our head, that that's what we're scared of, that that's going to get vetoed. Well, you know what? If we stand up and override that veto if it comes, then we'll deal with that at the time. Please, people, stand up for our state and our people, and for us, for crying out loud. We've worked too hard; we've done too good a job. Thank you, Mr. President. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Karpisek. Those wishing to speak that we have: We have Hansen, Pahls, Avery, Christensen, Friend, and McDonald. And we've also had a request to the President's phone number. If you use your phone, it is

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250 will reach up here. Senator Hansen, you're recognized. [LB321]

SENATOR HANSEN: Thank you, Mr. President, members of the body. I rise to speak to this override motion also, trying to explain that special ed is a mandated program. We have federal funds coming in to make up some of the funding, we have property taxes, and we also have state aid or TEEOSA funds coming into the schools. The way I understand it, the TEEOSA funds have increased 7.4 percent this year, 18.7 percent next year, or 10.5 percent, with a total of 18.7 percent over the next two years. Special ed has gone up, after this veto, 3 percent this year, 3 percent next year, for a total of 6 percent in the next two years. It's not that we're not funding special ed. Special ed is getting funded through several different sources--the federal funding, the property taxes, and state aid. Those are the three funding sources for the special ed program. Now what we need to do, since we have extra TEEOSA funds going to our local school districts, we've got to go there...we've got to do the next step. In my area, if you can see a balancing, like the Lady of Justice, we've got two funding sources: We've got state aid and we've got valuation or property taxes. We see TEEOSA going up, we see valuation going up; TEEOSA going up, valuation going up. After a while, we all look like this, and we're all getting held up. Let's go back to our local school districts and make sure that special ed gets funded. It will get done. Now we have to make sure that it gets funded. I will be voting against this, because I think that, through the increase of TEEOSA, I think that the special ed programs in the state of Nebraska will be funded. Mr. President, I yield the rest of my time to my wife, because she's a special ed teacher. [LB321]

SENATOR LANGEMEIER: So noted. Senator Pahls, you're recognized. [LB321]

SENATOR PAHLS: Thank you, Mr. President, members of the body. And several years ago, I wish had known your wife, because I was looking for a good special ed teacher. I just...I do realize, and most of the people realize, this is a mandated program with strings attached to it. And I did like some of the things I heard from Senator Raikes. Would you just give me just sort of another capsule view of the...do you feel the funding is adequate right now, or will be? Would you just run that through one more time, so I...you said the 3 percent is adequate funding for this next year or years? Go ahead. May I have... [LB321]

SENATOR LANGEMEIER: Senator Raikes,... [LB321]

SENATOR PAHLS: Thank you. [LB321]

SENATOR LANGEMEIER: ...would you yield to a question? [LB321]

SENATOR RAIKES: Yes. Senator Pahls, I would tell you that I would be very concerned if the increase were less than 3 percent. I believe that, given the aggressive approach we've taken in general on K-12 funding, that a 3 percent is acceptable; anything less, I

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think, would not be. Again, we're allowed by current statute a zero to 5 percent increase. We've been as high as 5 percent some years, but there have been a number of years in the past several when we've been at 3 percent. So it's not new territory. [LB321]

SENATOR PAHLS: Okay. [LB321]

SENATOR RAIKES: And it is a 3 percent increase in the cap. [LB321]

SENATOR PAHLS: Okay. Okay, thank you. Thank you. Would Senator Friend yield? [LB321]

SENATOR LANGEMEIER: Senator Friend, would you yield to a question? [LB321]

SENATOR FRIEND: Yes, I will. [LB321]

SENATOR PAHLS: I know we've been talking a little bit about a bill that you're very interested in. Would you give me sort of a short version of what that bill is about? [LB321]

SENATOR FRIEND: I don't think I can give a short version of anything but, yeah, I can try. There's going to be...the committee's purview, if you will, is going to examine special education services in this state. What that means is that there's going to be recommendations made on policies, there's going to be recommendations made on potential legislation, and also just general recommendations not limited to...including and not limited to federal and state laws, special ed in other states, how other people are doing things, the least restrictive environment doctrine, the availability of special education services across the state, both public and private, and then use of private providers by school districts and just citizens, and then funding for wards of the state. But it's not limited to all that. [LB321]

SENATOR PAHLS: Okay, you will be discussing funding issues, though? [LB321]

SENATOR FRIEND: Oh, yeah. (Laugh) Yeah. [LB321]

SENATOR PAHLS: It won't make your life that good. [LB321]

SENATOR FRIEND: Oh, I'm not laughing about it. Can I add something, Senator Pahls? [LB321]

SENATOR PAHLS: Sure. Yes. [LB321]

SENATOR FRIEND: If you take the makeup of this committee...the reason I laugh is...you say, are you going to talk about funding? You take the makeup of this

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committee: a parent, just an example, a parent of a child receiving special education services, two parents who have children...two sets of parents who have children receiving special education services in some school district, two educational service unit special ed teachers, one public school special education teacher, etcetera, etcetera. Yeah, funding is going to come up. [LB321]

SENATOR PAHLS: Okay, thank you. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Pahls. Senator Avery, you're recognized. [LB321]

SENATOR AVERY: Thank you, Mr. President. You know, this might be one of my most enjoyable days in the session. I've never seen Karpisek so excited, so impassioned, and so spirited, and so eloquent. And he's right. (Laugh) Senator, you got to do this more often. Senator Heidemann made a comment that struck me early on. He said the funds will be found, and he's right. But the question is not will the funds be found, but where, and I think Senator Kopplin and Senator Dubas nailed it. It's going to be in your property taxes. Now most of us who just got elected got hammered every day on the campaign trail over property taxes, and I haven't forgotten that, and I've got that in my mind right now. I also listened very carefully to Senator Raikes. Senator Raikes made probably the best argument for this motion to override. He convinced me; unfortunately, he didn't convince himself. (Laughter) He's right. This needs to be overridden, and I have been silent on all these others. I've abstained from voting on most of them, but "Karpi," you did it, buddy, you and Senator Raikes. Thank you, Mr. President. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Avery. Senator Christensen, you're recognized. [LB321]

SENATOR CHRISTENSEN: Thank you, Mr. President and fellow senators. I have to agree with Senator Raikes. If there's one to override, this would be it. Many of you know I have a son with Down's Syndrome. You know, you have a whole different goal when you look at special needs kids. My Isaiah will be ten this year. He does not walk, he does not talk, but he's the biggest love bug you'll ever meet. You know, the goal is different with Isaiah. The goal is to make him self-sufficient and capable of being on his own. Yeah, he could walk in here if he had a walker. We're gaining, but it's taken a lot of effort, a lot of time. But what would the costs be if he doesn't learn to walk and take care of himself? That's a total burden on society. You know, I appreciate a number of businesses I go into and I see handicapped people washing dishes, cleaning tables, making pizza, or whatever they're doing. I appreciate that they can...have learned the skills, and that's the benefit and that's the direction that special ed goes at times. And it changes to different kids, you know, whether you're in special ed, you're in ESUs, or whatever it is. You know, I struggle a little bit here with the TEEOSA, 7.4 percent increase, 10.5. Why wasn't this split a little more evenly? If you wanted to use the same

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dollars, then why cut so much on one? I know they can move it around, but do they? I'm going to give you a local example of problems that I see. I know administrations that get 9 percent increase in salary this year; the teachers got 3, the janitors got 3. Is that right? Absolutely not. It makes me want to look at a bill for another year that talks about putting a cap on how much can go to administration, because there's not the accountability there, yet we're giving it to where it maybe isn't right. You know, so I just bring this up, you know. You got to remember when you're dealing with some of these programs, what is the ultimate goal and what is going to save the most in the long run? I give Isaiah as an example because if he can become self-sufficient--which I'll get him there, the Lord will get him there--if he becomes self-sufficient, then he's not a ward of the state when I'm gone. And that's the goal--get him sufficient, you know. So you know, if there's one to override, Senator Raikes is right, it's right here--take care of the kids, help them train and learn skills. So I guess that's all I got. I just wanted to rant and rave a little bit about the disparity that goes on at times, and where some of the special needs is, because what's a special education? There's more they could do if they had the funds. They trim their programs to get to where they need to go. Yeah, they'll make it. They'll make it if we don't override this, I have no doubt. But why don't we give them at least the average budget increase. To me, I would have took some off of... [LB321]

SENATOR LANGEMEIER: One minute. [LB321]

SENATOR CHRISTENSEN: ...the other, you know. So I can't change that. I realize it's either all or none here on changing this. My complaint should have been aired earlier, but you know, I just think we got to think about a long run here. Here's a case, long run--might be cheaper to put them funds back right here. Thank you. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Christensen. Wishing to speak we have Friend, McDonald, Karpisek, Wallman, and Heidemann. And our system, we believe, is working, so if you'd try your lights first before calling. Thank you. Senator Friend, you're recognized. [LB321]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. I don't think this is an issue to demagogue, and I'll tell you why. I spent the last nine months getting paid the same that you all are to analyze this issue and work on creating...and you can ask the Education Committee legal counsel and Senator Raikes about this--he brought this up earlier--analyzing this issue. Dozens of sets of parents and flat-out, God as my witness, not one of them came to me and said, you know what, we're underfunded. You know what they said? It varied, but not much. They said, we don't have a choice for our child. They didn't complain about funding. They said the funding is there. And we're demagoguing an issue that's...it's unfortunate, because you show me 1 person out of the 49 on this floor that doesn't care about these kids; show me 1. I spent nine months analyzing it, had parents come up to me and say, that's not the issue. They said the issue is, we don't have control over our kids' lives, under these circumstances.

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That's their problem. We created this legislation that I've set up to try to analyze that. I had mentioned that funding will come up. Of course, it will. You can't get that many people in a room and not discuss funding. It's going to happen. I'm not mad. I'm amazed. I'm amazed that somebody would actually point to another person on this floor or, in general, point to people on this floor and say we don't care about special needs children. There's going to be analysis if LB316 passes. There may be a heck of a lot more money dumped into special needs in the future. I don't know how much more I can add, except to say that what Senator Raikes mentioned is true. It's true for me, too. If I was going to override a veto, this would probably be it, but we're funding special needs and we're funding it adequately, and we're probably funding it a heck of a lot more adequately than we've funded other areas that have been decimated. I'd yield the rest of my time to Senator Heidemann. [LB321 LB316]

SENATOR LANGEMEIER: Senator Heidemann, you are recognized; 2 minutes. [LB321]

SENATOR HEIDEMANN: Thank you, Mr. President and fellow members. I think I've been quoted a couple times on where the money will come from, and it has been said it's going to go back to local property taxes. That may be true in some instances, but I also want it pointed out the TEEOSA formula, the fund that...the part that we don't fund is going to go back into the GFOE, and I think I'm going to ask Senator Raikes to make sure I'm okay on this. And if it goes into the GFOE, at that time the formula is going to pick it up as a need, and TEEOSA will pay that down the road. So eventually, even if we don't pick it up here, we're going to pick it up later. That's the way I understand it. I also want to point out that it's above the budget lid, so the budget lid on schools, this doesn't affect. I would like to yield the rest of my time to Senator Raikes. I want to make sure that what I said was right and I also want to ask to make sure how he is going to vote on this. [LB321]

SENATOR LANGEMEIER: Senator Raikes, would you yield to a question? [LB321]

SENATOR RAIKES: Thank you, Senator Heidemann. I was going to vote for it, but Senator Avery convinced me to vote against it. (Laughter) Senator, I am not supporting the override, to be clear about that. But Senator Heidemann is correct. In the funding formula, there is appropriately special precaution taken to make sure that school districts have every opportunity to get the money they need or to spend the money they need to serve special education students. So even though the spending is not outside the levy limit, it is outside the budget limit. And he is correct that to the extent that is not reimbursed through the... [LB321]

SENATOR LANGEMEIER: Time. [LB321]

SENATOR RAIKES: Thank you. [LB321]

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SENATOR LANGEMEIER: Thank you, Senator Raikes and Senator Heidemann. Senator McDonald, you are recognized. [LB321]

SENATOR McDONALD: Mr. President and members of the body, I am going to support this override because it affects my schools. And my schools cannot afford to dip into their funds to support the additional needs for special education, nor can they afford to revert back to property tax to fund these needs. I have a question for Senator Kopplin. [LB321]

SENATOR LANGEMEIER: Senator Kopplin, would you yield to a question? [LB321]

SENATOR KOPPLIN: Yes, I will. [LB321]

SENATOR McDONALD: I received a letter from one of my superintendents in Elgin, Nebraska, and I'm going to read you a sentence that she wrote and I want to know if this is correct: I would also point out that the school districts, like Elgin, are facing a double whammy because we are going to become responsible for all students that go to schools such as St. Boniface and Pope John, irregardless of where their home district is. This is a change because of federal law. It will increase our expenses for next year already. Can you tell me if kids that are special needs that go to a Christian school, private school, whatever, that need special needs, does the public school...if they come to the public school, do they have to provide for their needs because of federal law? [LB321]

SENATOR KOPPLIN: You are probably going to catch me on this, but the home district has the right to say where the program is going to be. That's what Senator Friend is talking about; it should change. But in most instances, children that are handicapped that go to private schools do get special ed services from the public school. [LB321]

SENATOR McDONALD: And is that...are those dollars included in TEEOSA when they don't go to that school? [LB321]

SENATOR KOPPLIN: Well, it would be included in their special education...or, yeah, special education funding costs when they turn in their reports. Do they get state aid for that child? I think the state aid would be more based on what their needs were, and that would probably be included in there. [LB321]

SENATOR McDONALD: But unfortunately it's not enough to cover the additional kids. We're seeing more and more kids with special needs. It's something that the number is not going down; it's continually going up. The costs for these services continue to go up and our schools do not have the extra money to maintain these special services. So they're either going to have to take...reduce dollars from the other programs or do the

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tax shuffle that we send to force them to do all the time. So my concern is, we need the funds, we need them now, so let's support this override. Thank you. [LB321]

SENATOR LANGEMEIER: Thank you, Senator McDonald. Senator Karpisek, you are recognized. [LB321]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. I just have to stand up for my unequalized school districts. We've talked about this time and time again. I have five of them in my district. They are not going to get any extra money through TEEOSA because they don't get any money through TEEOSA. So we know what Senator Raikes says they do in these unequalized districts...(laugh)...but they don't; they don't have the money either, and that concerns me greatly. The other point: Off the mike I've been talking to some other senators, and I did not support the budget when it came out of here. I'm getting raked over the coals on that a little bit. Again, I did not support the budget because of the increase in the gas tax that was in it. It was not on any of these other issues. And so one of the senators asked, well, do you want to see an override on that; is that what you want? I said, well, you know, you argued over it so bad for one or two days, why don't you put it up? Well, gas has gone up too much now. It did just start going up, what, this week? No, I don't think so. It's been quite awhile. So I just want to say where I am coming from, try to make my remarks, let you know where I'm coming from. I again applaud the Appropriations Committee. Yes, I was not always happy with them. I think they did a great job. And just because I didn't vote for it, you know, sometimes when you get beat, if you can't beat them, join them. Well, I guess I went to go join them but they switched teams on me, and that's fine. But that's why I have done what I've done today. And, Senator Avery, yes, I am impassioned over this. I don't think that threats should come to play on this. We're here to do a job and do it the way that we're going to do it. I don't like to try to tell anybody, well, I'm not going to vote for that if you don't vote for this. That doesn't play very well in here. So I'm going to stand up for what I do believe is right, try to stand up for my unequalized and equalized districts, and try to get the kids--the kids are the main thing, again, in this battle, and their education. I hope that we can...if any of them that need to be overridden, I feel this is it. I voted for all of them. I'm going to vote for this one too. Thank you, Mr. President. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Karpisek. Senator Wallman...before we do that, wishing to speak we have Wallman, White, Erdman, and Dierks. Senator Wallman, you are recognized. [LB321]

SENATOR WALLMAN: Thank you, Mr. President, and thank you, Senator Karpisek. I, too, was contacted by somebody to please support the Governor on these bills; don't override them. And you probably know who contacted me. But do I listen? I've got my own mind and I wish some other people would too. And education, healthcare: folks, let's look what we're doing. It disappoints me on some issues. Yesterday we was

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hammering on some things about human rights and all this stuff. Wow! Are you proud of what we're doing here? I am not. We have educators in here that should know what it costs. And I'm going to ask Senator Kopplin a question, please. [LB321]

SENATOR LANGEMEIER: Senator Kopplin, would you yield to a question? [LB321]

SENATOR KOPPLIN: Yes, I will. [LB321]

SENATOR WALLMAN: Special ed funding: Is that a front load or on arrear? [LB321]

SENATOR KOPPLIN: A year in arrears. [LB321]

SENATOR WALLMAN: Thank you. So with today's gas prices, fuel prices, 3 percent isn't even going to cover half of that cost, folks. TEEOSA; I've got some schools districts in Russ's edge of the district also. So they're going to pay more property tax. I don't know about you guys, but my statement was against more property tax. And if we think about that, think about property tax, think about kids, who should we take first? I myself, if I've got to pay a little more property tax, I guess I'll take the kids. But let's please vote for this Rogert override, and I'm proud to know people like that who will put it out. Thank you, Mr. President. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Wallman. Senator White, you are recognized. [LB321]

SENATOR WHITE: Thank you, Mr. President. Will Senator Heidemann please yield for a question or two? [LB321]

SENATOR LANGEMEIER: Senator Heidemann, would you yield to questions? [LB321]

SENATOR HEIDEMANN: Yes. [LB321]

SENATOR WHITE: Senator Heidemann, when you brought this budget to us several months ago, as I recall, you stood up and said this is a responsible budget, this is a lean budget. Did you mean those words, sir? [LB321]

SENATOR HEIDEMANN: I remember saying responsible. [LB321]

SENATOR WHITE: When you put in the money for educating special needs children, was that irresponsible money or was that money well spent? [LB321]

SENATOR HEIDEMANN: You could then argue that it wasn't irresponsible that we didn't take it to 5 percent. [LB321]

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SENATOR WHITE: Was it, when you proposed and asked us to adopt this budget, sir, was the money for the special needs children that you proposed responsible money that we should spend? [LB321]

SENATOR HEIDEMANN: Are you talking about as I voted on the whole LB321 or as the special education funding come up? [LB321]

SENATOR WHITE: I'm asking you straight up. The Governor took money out. As I understood it, you urged this body to say this is a responsible budget, we have been lean, we are not wasting money. So now I'm asking you, sir, how can you support cutting money that you came here and told us was necessary and needed and responsible? [LB321]

SENATOR HEIDEMANN: I'm not 100 percent for sure that I voted for the 4 percent increase when we did the budget. [LB321]

SENATOR WHITE: And if it was responsible then, why is it not responsible and needed now? [LB321]

SENATOR HEIDEMANN: I go back to I'm not for sure I voted for the 4 percent. The Governor overrode it. I would say... [LB321]

SENATOR WHITE: Did you vote for the budget, sir? [LB321]

SENATOR HEIDEMANN: Yes, I did. [LB321]

SENATOR WHITE: Then you voted for the 4 percent. And I am concerned, Senator Heidemann. There are people in Omaha who work for the court systems who are on food stamps. Did we calculate the cost we could save in food assistance and county welfare if we gave them a reasonable living wage? [LB321]

SENATOR HEIDEMANN: Is that a question? [LB321]

SENATOR WHITE: Yes. Yes, sir. [LB321]

SENATOR HEIDEMANN: You...yeah, then I suppose you could back to talking about minimum wage. We could jack the minimum wage to \$7 or \$8 bucks and it would change a whole lot of things across the state. [LB321]

SENATOR WHITE: Imagine that. People might actually be able to feed their families, if they worked, without governmental assistance. I'm sure that would be awful. When, ladies and gentlemen, do we admit what's going on here? There is a big pork bill hanging out there, and people came here and said we need this budget, this is lean, this

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is mean, this is responsible. And now we're whacking it out. And who is getting whacked? Budgets are moral documents, and we are kicking to the curb those that Christ pulled to him and we're doing it because you want to bring the pork home to various areas, and you all know it. And that's okay; that's politics. But have the guts to stand up and say what you are and what you are doing. For shame. They are children. We tell people, you must bear these children; then we won't educate them. We tell the old, we honor you, and then we won't feed them. This is wrong and you know it in your heart of hearts. And I will tell you I voted against the budget because it raised gas taxes and it was wrong. And Senator Heidemann and the other members of the committee voted for it. And I asked them, how come they're not moving... [LB321]

SENATOR LANGEMEIER: One minute. [LB321]

SENATOR WHITE: ...to override the Governor on that? At long last, stop calculating when it comes to children, when it comes to the vulnerable, because in the balance we will be measured by what we do to the least among us. Thank you. [LB321]

SENATOR LANGEMEIER: Thank you, Senator White. Senator Erdman, you are recognized. [LB321]

SENATOR ERDMAN: Question. [LB321]

SENATOR LANGEMEIER: 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 motion 83? All those in favor vote yea; all those opposed vote nay. Record, Mr. Clerk. [LB321]

CLERK: 27 ayes, 0 nays, Mr. President, to cease debate. [LB321]

SENATOR LANGEMEIER: The motion to cease debate is successful. Senator Rogert, you are recognized to close on motion 83. [LB321]

SENATOR ROBERT: Thank you, Mr. President. Thank you, members of the body, for that discussion. When we cut these funds, these resources do have to come from somewhere else. Senator Raikes tried to give me a quick rundown a couple months ago on how the state aid formula works. He said, basically you have two things. You have needs; you have resources. Your needs are basically the number of students you have times a dollar figure. I mean there's a lot more things in it but that's about right. Your resources are whatever you can raise from your property tax funds and your state aid coming from TEEOSA. There's a few more things obviously in it, but that's it. If you have a student with special education requirements, it costs \$20,000 a year to keep him in your building, him or her, to teach them, to assist them, and you're getting a figure of, say, of \$8,000 on your figure of your resources from state aid and property taxes for that student. The other \$12,000 has to come from other students. So, yeah, we're going to

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make those funds up. We're going to pick them up but we're going to have to cut a program or a teacher or a para or a janitor somewhere along the line because it's not part of the lid. It's not part of what they can raise without being reimbursed as part of this program. I'm asking you to support this motion, vote the way you think it ought to be done, not the way somebody tells you it ought to be done. Consider what you've listened to this afternoon and vote for these children. Mr. President, I would request a call of the house. [LB321]

SENATOR LANGEMEIER: There has been a request to put the house under call. The question is, shall the house go under call? All those in favor vote yea; all those opposed vote nay. Record, Mr. Clerk. [LB321]

CLERK: 42 ayes, 0 nays, Mr. President, to place the house under call. [LB321]

SENATOR LANGEMEIER: The house is under call. Senators, please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Cornett, would you please check in? Senator Engel, Senator Raikes, the house is under call. All senators are present or accounted for. Senator Rogert, how would you wish to proceed? [LB321]

SENATOR ROGERT: Machine vote. [LB321]

SENATOR LANGEMEIER: There has been a request for a machine vote. The question before the body is, shall motion 83 be adopted to LB321? All those in favor vote yea; all those opposed vote nay. There has been a request for a record vote. Have all those voted that wish to? Record, Mr. Clerk. [LB321]

CLERK: (Record vote read, Legislative Journal page 1769.) 21 ayes, 19 nays, Mr. President, on the motion to override. [LB321]

SENATOR LANGEMEIER: Motion 83 is not adopted. With that, I raise the call. [LB321]

CLERK: Mr. President, Senator Chambers would move that certain components of the Governor's line-item vetoes be overridden with respect to the Department of Health and Human Services, Eastern Nebraska Office on Aging. [LB321]

SENATOR LANGEMEIER: Senator Chambers, you are recognized to open on your motion 91. [LB321]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, Senator Karpisek made it unnecessary for me to do a lot of speaking today. I'm not being facetious. I think he has learned a great deal, not in terms of moral and ethical principles, but about the necessity to express those views and express them forcefully,

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which is what he did. I'm going to claim Senator Karpisek this afternoon as my godson. (Laughter) You have done me proud, son. Members of the Legislature, this that I'm trying to do would override the Governor's veto that he cast on funds for the Eastern Nebraska Office on Aging. There would be \$290,000 the first year, \$290,000 the second year. This is a program which is very meritorious. The mere fact that some federal funds were cut does not take away the validity of this program. It serves some very populous counties and some that are not so populous: Douglas, Cass, Dodge, Sarpy, Washington County. But the thing that's interesting to me is that the executive director addressed a letter dated April 18 to Chris Peterson who is head of HHS, and the director was pointing out the problems with the funding of their program, asking for some assistance and also some help when time came to renegotiate the Title XX contract. Specifics were given in terms of how much additional money was needed for each meal for the Meals on Wheels and...the home-delivered meals, the congregate meals, and then there is also that in-home service and the lifeline where you make something available to help old people who need it. This letter was very detailed, and this is the paragraph that concluded that letter: "For the past two years ENOA has been forced to reduce staff, to eliminate services, and place programs on hold. This agency truly needs some assistance in obtaining additional funding from the state for community-based services. Instead of building and expanding support for our older population, ENOA is having to tear the agency system apart, service by service." This is not an agency trying to pad a budget. When the Governor in his veto message said that this agency should provide services within the funding and the resources they have, what he is saying, continue to cut programs, continue to make fewer services available to those people who have no place else to turn. Two hundred ninety thousand dollars. But I haven't told you the rest of the story. There was a response from Ms. Chris Peterson. It's very brief so I will read the three paragraphs: "Thank you for your recent letter in which you requested assistance in renegotiating the Title XX contract for congregate and home-delivered meals. In view..." and this is the thing, "in view of the Legislature's action, it appears your agency will be the recipient of an additional \$290,000 for each year of this biennium." Now, Chris Peterson who heads HHS was convinced that this \$290,000 for each of the two years of the biennium would be available to this agency. She did not say, you don't need it, you haven't justified the need. And the final paragraph says this, "Therefore, due to the additional funds your agency will receive, I believe we can cancel the May 17, 2007, meeting." She was convinced that this funding was forthcoming. There is, I believe, a moral imperative that we do something to help these people. The amount of money is insignificant, especially compared to what has been spent. But even if you take it as a standalone amount, it is not exorbitant. It is going for a worthwhile program. Documentation can be given of where all of the money is going. Documentation can be given of the cuts in staff, the reduction in services, and the programs that have been placed on hold. This is an agency struggling. The Governor's suggestion that every program is on a par, and if there are some which are not as meritorious or not in as much trouble or are not performing such a needed service that there is no difference between those types of programs and the one that ENOA

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represents. So I am asking that we do what we did when we put this money into the budget. I don't have to repeat everything Senator Karpisek said because I think he did not cover the ground, but for emphasis I'm going to say a few things similar to what he said. Senator Wightman had some good things to say, and Senator Wallman. But the idea is that much money has been given and made available to others who don't really need it. The Governor was upset about some money transferred from some funds into the General Fund, but he didn't say anything about the \$10 million, roughly, that will go from the General Fund to the Department of Roads' programs. He did not say anything about the \$10 million that will go into a training program which already has several millions of dollars unspent. He let all of that go because that money is going to big companies, including Nelnet, which is being investigated for gouging students and the federal government, but that didn't bother him. Now we come to the old people. Other societies honor and almost revere their older people. Maybe it's because they know that had these older people not been here, the current generations would not. In philosophy they have what they call an existentially subordinated group of causes, series of causes. If it's existentially subordinated, it means that each effect is dependent on the cause that preceded it. And if you remove the cause that preceded it, that effect will go away. An example that's simple, first of all, would be a chain. If that chain hangs, and you remove any link above those that follow it, all of those called those effects will cease to be. They must have those causes which preceded them in order to exist. If you have what the philosophers call an accidentally subordinated series of causes, it means that the effect can exist even if the cause ceases. For example, a parent is the cause of the children, but if the parents cease to exist the children who are the effect continue to exist. What we're dealing with here are those causes which don't need to be in existence in order for us, who are the effects, to continue. But we should not forget from whence we came. Senator White was talking about a day coming when we will be weighed in the balance. "Parson" Carlson knows that those words preceded words that followed. There was a guy named Nebuchadnezzar who was a king, and the first record of graffiti occurred during his reign. They were having this great feast, and a hand appeared and began to write on the wall. That's graffiti. Mene, mene, tekel, upharsin: "thou has been weighed in the balance and found wanting." [LB321]

SENATOR ERDMAN PRESIDING [LB321]

SENATOR ERDMAN: One minute. [LB321]

SENATOR CHAMBERS: That is what can be said about the Legislature in this regard because the amount of money is not going to bust a budget, but if that money is made available the help for people who need it will be immeasurable. Thank you, Mr. President. [LB321]

SENATOR ERDMAN: Thank you, Senator Chambers. Members, you've heard the opening on motion 91 that Section 113, Program 571, the line-item vetoes, become law

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notwithstanding the objections of the Governor. Those senators wishing to speak are White, Heidemann, Wallman, Howard, and Chambers. Senator White, you are recognized to speak. [LB321]

SENATOR WHITE: Thank you, Mr. President. I would like to ask Senator Gay a question, if I might. [LB321]

SENATOR ERDMAN: Senator Gay, would you yield to a question from Senator White? [LB321]

SENATOR GAY: Yes, I would. [LB321]

SENATOR WHITE: Senator Gay, do you accept the biblical injunction to honor your father and mother? [LB321]

SENATOR GAY: Yes, I do. [LB321]

SENATOR WHITE: Do you support the Governor's veto of feeding ENOA and the money that I am told by ENOA will cause that the Meals on Wheels will no longer be readily available to all the older people in Douglas County? [LB321]

SENATOR GAY: Are you asking me if I support this override? [LB321]

SENATOR WHITE: Yes. [LB321]

SENATOR GAY: Right now I'm leaning against it, yes. [LB321]

SENATOR WHITE: Okay. So do you support the Governor taking away money that would go to feed older people? [LB321]

SENATOR GAY: Are you trying to pin me down on me supporting... [LB321]

SENATOR WHITE: Yes, sir. [LB321]

SENATOR GAY: ...the Governor, Senator? [LB321]

SENATOR WHITE: Yes, sir. [LB321]

SENATOR GAY: Okay. Give me the question again then. [LB321]

SENATOR WHITE: Certainly. Do you recognize this is money ENOA has told us will be necessary to feed older people in Douglas County? [LB321]

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SENATOR GAY: Yes, I do, Senator. And, Senator, you know what? I've been on their board. [LB321]

SENATOR WHITE: Good. [LB321]

SENATOR GAY: And, Senator, hold on one...can I...? [LB321]

SENATOR WHITE: No, Senator, actually it's my time... [LB321]

SENATOR GAY: Or is this just a question...? [LB321]

SENATOR WHITE: ...and I'll yield you time. [LB321]

SENATOR GAY: Fine. I'll hit my light then too. [LB321]

SENATOR WHITE: And here's the question I have then: Do you agree that Meals on Wheels saves us money, Senator? [LB321]

SENATOR GAY: Yes, I do. [LB321]

SENATOR WHITE: And will we have more people probably going into homes if Meals on Wheels is cut back or eliminated? [LB321]

SENATOR GAY I have no idea on that one. [LB321]

SENATOR WHITE Thank you. Now I yield the rest of my time to Senator Gay, please. [LB321]

SENATOR ERDMAN: Senator Gay, you have 3 minutes and 15 seconds. [LB321]

SENATOR GAY: Thank you, Mr. President. Mr. President, this going on here I somewhat...well, I resent. I think it's a little bit inappropriate to have personal attacks and talk to people when they didn't vote somebody's way and make threats, which is what just happened over here. It's just wrong. Now, we can disagree. [LB321]

SENATOR WHITE: (Microphone malfunction) Not true, sir. [LB321]

SENATOR GAY: We can disagree about policies, about money. This is getting to be where we're questioning on personal integrity and ideas like...that's just wrong. There's a lot of things going on in this whole year that, you know, we haven't done that. This is a budget and I believe that when this is done people are going to return and we're going to do other budgets. In a budget, you cannot do everything every year for everybody. Is there room in here? Probably. But to question somebody on how they're voting and why

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they're voting, that is fine, but let's keep it on why and how. I believe this budget and I believe this Appropriations Committee has done a fine job doing what they're doing. We argued many of these cases and I'm not going to make this...I'll hand this out. Senator Heidemann handed this out, the increases they had--Aging. They do an excellent job all across the state so when we get into this, is like, are you...? You know what, Senator White? I'm not against elderly people or disabled people or anything else, and don't question me on this floor about that. Thank you, Mr. President. [LB321]

SENATOR ERDMAN: Thank you, Senator Gay. Senator Heidemann, you are next to speak, followed by Senator Wallman. [LB321]

SENATOR HEIDEMANN: Thank you, Mr. President and fellow members. I thought I would just give you some background information, more than anything else. We didn't include this in our budget package. It was included in on the floor when we debated LB321. This issue was before the Appropriations Committee when we was putting forth our budget, and we decided not to do it at that time because it was picking out one area of the state and almost...I don't use the word earmarked...but treating one area of the state more favorably than another. And for that, we decided not to put it in. It was...we had talked about, when it was put in on the budget in LB321, about loss of federal funding. I handed a sheet out and, if you would like, you could follow with me. And Senator Gay did touch upon this, that we increased their budget by 3 percent, and actually their budget; not the amount that we give to them, but their budget. And in order to do that, because there was a loss of federal funding, the Appropriations Committee thought that it was important that they got back to their 3 percent. So we gave them enough money to do that. In order to get them to 3 percent, we had to increase their amount that we give them from our General Funds by 9.59 percent--a pretty hefty increase. In the second year, to get them to 6 percent, which would be 3 percent plus 3 percent, we increased it up to 6.09 percent; that's their budget. In order for us to do that we had to increase the amount that we give to them by 19.47 percent. That's almost a 20 percent increase in spending that we give them. I do believe that we treated them fair. I know there is a need there and I don't take that lightly, but I do say that I believe that if we are to recognize a need in one part of the state, I do believe that we need to recognize that need across the state. Thank you, Mr. President. [LB321]

SENATOR ERDMAN: Thank you, Senator Heidemann. Senator Wallman, you are next to speak, followed by Senator Howard. [LB321]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. All these issues today are close to my heart because I'm a people person, I'm a communicator. And if you looked at your e-mails, I think you wouldn't have found very many that didn't say, please override the budget, the veto. All my e-mails about said...I read over 160. So if you look at your machines and pay attention to what your constituents, where you live, and then don't vote how somebody else tells you. We are not supposed to listen to

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the Governor. We're supposed to listen to ourselves, our constituents. And I admire what the Governor does. That's his job. You know, please pay attention to what you're supposed to do for your own district. And sometimes in committee I would pass things out of committee I didn't exactly like because I figured to get it going on the floor and to talk about it. Sometimes those things pass, sometimes they didn't, and sometimes we shouldn't pass them. But the Governor decides to override this and that, and these are all about caring of people. I have to say it again and again: We're put on this earth to care for one another, and not to amass riches. We give breaks to the rich people, like Senator Chambers says, tax breaks; we want to give them this and that. They can take care of themselves. I watch people deliver Meals on Wheels, and they did it for nothing, and they'll probably still do it for nothing. And then we still want to take money away or not give enough money? And I admire Senator Chambers for his humanitarian point of view. It's not very popular nowadays. It's me, myself, and I. And let's not forget that. I'm not made at anybody on this floor. I'm disappointed with quite a few but that's going to happen. And thank you, Mr. President, and if Senator Chambers wants more of my time, he can have it. [LB321]

SENATOR ERDMAN Senator Chambers, you have 2 minutes and 55 seconds. [LB321]

SENATOR CHAMBERS Thank you, Senator Wallman. Thank you, Mr. President. Members of the Legislature, I catch slings and arrows here and everywhere, and you don't hear me whining like some of these senators, like Senator Gay saying, don't question my vote. Then don't make a vote and don't represent yourself as being something. We are all grown people here. He couldn't make it in my community. He couldn't make it in any community where manhood means something. You whine like that and you're the wimp and you would be running home to your mama every day--Mama, Mama, they picking on me; I feel like cotton, they picking on me so much, and it's just unfair. That's silly. We're talking about old people who need to be fed, and the Governor is having his way with this Legislature. And it's just like I, among others, had said. When term limits comes in, you're going to get all these new people and the Governor is going to vise their minds and control them and dictate to them. He wanted to appoint Senator Gay. So Senator Gay has got to know that people are going to see him as a water carrier for the Governor. This is a political body. Senator Nelson may be uncomfortable, Senator Lathrop may be somewhat uncomfortable, Senator White, because they are lawyers and they practice in the courtroom in a different kind of environment. It's not the rough-and-tumble, give-and-take that you have on a floor like this. So they might feel very uneasy. But when you get people like Senator Karpisek, who in his job gets down and dirty when necessary...he makes sausages; that's what I'm talking about. I worked construction. I have never had a job in my life that required any education, including this one--never. I have had calluses on my hands as long as I can remember. [LB321]

SENATOR ERDMAN: One minute. [LB321]

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SENATOR CHAMBERS: I didn't know there were people with hands that didn't have calluses on them. So when you live a hard life, it makes a hard man. And when you get these soft men running around here whining, it's difficult to tolerate them and suffer them easily. But they can be bold when it comes to hurting the vulnerable and carrying out the Governor's orders. That's what is happening on this floor today. And I'm especially disappointed in Senator Heidemann. He asked for the vote to be made, Chairman of the Appropriations Committee, and he's folding. I could make a better spine out of Jell-O than he has shown as Chairman of that committee. He is the one, as people pointed out, who brought this budget to us, proud of what they had done. It's his children, and now his children have been cut down, one by one, and he stands up and justifies the one who did it, and he is just as proud now to go along with losing what that committee worked so hard, he told us,... [LB321]

SENATOR ERDMAN: Time. [LB321]

SENATOR CHAMBERS: ...to do. Thank you, Mr. President. [LB321]

SENATOR ERDMAN: Thank you, Senator Chambers and Senator Wallman. Those senators wishing to speak on motion 91 are Howard, Chambers, Preister, Gay, Hansen, Nelson, Lathrop. Senator Howard, you are recognized to speak. [LB321]

SENATOR HOWARD: Thank you, Mr. President and members. I stand in support of the ENOA program and specifically the Meals on Wheels program. The individuals who are served by this program are asking for the most modest of human needs. Senior citizens will sacrifice their well-being to remain self-sufficient. They will scrimp on food to buy needed medications, and they will take less of the recommended amount of medications to stretch what they have. I have visited with some of these people--people who are relying on the Meals on Wheels program to provide them with one meal a day; one meal a day that costs less, in total, per week, than many people spend for dinner, one night, eating out. Allow me to tell you a story. A few weeks ago...a few weeks ago I went to visit a woman that had written to me regarding the Meals on Wheels program, and I wanted to talk to her firsthand. I wanted to really understand her situation and to spend a little time knowing her and knowing what her life was like. And I picked up some flowers at the grocery store and spent a total of, I think, \$4 for them, and I went off to see her. And she wouldn't let me in. She heard me knock on the door, but being cautious, she was leery of answering the door to a stranger, but I could hear the TV on so I knew that she was there. As it happened, her neighbors were an adoptive family that I had worked with, and I went to their house, and they graciously escorted me back to sit and talk to Betty. And when she saw the neighbors, she felt it was all right to answer the door and let me in. She told me...she told me how she relied on the Meals on Wheels program for the meals, the meals that provided her with the food that she needed, and also for the companionship of the person who brought the meals to her.

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And it was very touching to just spend that time talking with her, and she was so thrilled that I had come to visit, and she told me she had my letter than I had written to her earlier sitting right over there and she keeps it close at hand, and she was just delighted with the flowers and she was glad to be thought of. But as much as it meant to her to have me come and visit her, it meant more to me to talk to her about this program. She is not alone; she is not alone out there. There are many people who are relying on Meals on Wheels to stay in their own homes, to remain self-sufficient. And when we as representatives of the people do not respond to these individuals, do not answer their question, will you provide the funding so the Meals on Wheels program can be there for us, who are we? What are we doing here? When we do not respond to the question of will you feed us, when asked by our seniors and our needy, I question myself who we are. And to the lady who is 94 and a half years old, who took the time to write to me, Crimea, this vote is for you. Thank you. [LB321]

SENATOR ERDMAN: Thank you, Senator Howard. Senator Chambers, you are recognized to speak, followed by Senator Preister. [LB321]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I'm sorry Senator Heidemann is not here to hear what I have to say. I don't talk behind people's back, but if he's not here that's on him. They boasted about how this committee sticks together, how they met all these hours. They constructed this budget. Then he comes trotting out here, proud, and he even read from a big old thick book, and he used to read from a green piece of paper and tell you all this and all of that about where we stand and how proud he is of the committee members. Then he betrays them and all the work that they did. And some of the committee members roll over and swallow spit because that's what the Governor told them to do. The Governor said, your principles don't mean anything to you; I am your boss; I am going to keep my political career intact but I'm going to make you sacrifice your principles in front of everybody. And that's what Senator Heidemann did. This is not what he said he would do when he asked for people's votes to be Chairman of that committee. He talked about being fair and he would stand up for the Legislature. I don't know if he understands what the word "stand" means. When I say stand up, I mean I'm on my feet, perpendicular; not on my knees, crawling, groveling. Do you know what Senator Heidemann's slogan is when it comes to the Governor? I came, I saw, I groveled. And he is somewhere groveling right now and he knows it. He's a grown man. Don't feel sorry for him. He asked to be in that position. And it's a hot seat, and if he can't stand the heat, go run over there to the Governor's Office and get a glass of ice water. And these other men around here, whining because people asked them questions about their position. Whining. What kind of men are these? I won't even say mice, because mice do what they're supposed to do. But if you corner a mouse, the mouse will stand up. Napoleon had an experience. Napoleon grabbed a mouse, and the mouse bit him--bit Napoleon, the emperor, the general. And that assistant was sure that Napoleon was going to crush that mouse, but instead Napoleon gently released him on the ground. And when the man asked Napoleon, why

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did you let that mouse go, he bit you, he said, I want to teach you that there is nothing so small and weak but what if it fights for itself it can't get its freedom. Let that be a message to those who have two feet and are supposed to stand upright and walk like men. They look like men. They walk like men. But it doesn't work like what they say about a duck: It looks like a duck, it walks like a duck, it quacks like a duck, it must be a duck. But when it comes to men that's not true. Oh, they wear britches, putting them on one leg at a time; wear a belt or some suspenders. They wear suit coats and neckties and dress shirts, and they look like they are something of significance and importance. But then, when time comes to stand up, ain't nothing there but a front. So they can look like a man, they can walk like a man, they can talk like a man, but they are not men. Talk about macho. You couldn't survive. You could survive in here because everybody is so nice. Everybody lets you say, I don't want these old people to be fed. And then you say, well, yeah, I know if I vote against this some of them are going to be cut, but don't say that that's what I'm saying. Well, that's what you said. That's what you said. And he is entitled to question you and he did the right thing. And if I have questions of somebody, I'm going to ask them, and the people, if they are that weak, they can say, no, I don't want to answer. And that, in itself, is an answer, and I will use that as the subject for the rest of my speaking. [LB321]

SENATOR ERDMAN: One minute. [LB321]

SENATOR CHAMBERS: Am I concerned about this issue? Do I get angry? No; I get furious. Look how chubby everybody in here is. They can do this and you'll see it shaking like Jell-O. Got plenty to eat. But the old people, where the stomach, as that slogan says, asked the backbone, what happened, did they cut the throat because I don't have anything in my stomach. Look at the bellies around here. And you are fed by the lobbyists and you have the nerve to say, you will not vote to give these old people some food. You ought to stop eating off these lobbyists. And one of these times I'm going to offer a resolution that there will be no more feeding of the senators by the lobbyists, and I'm going to make you stand up publicly and say that you insist on being fed by these lobbyists while you vote to deny food to old people who need it. They can't go the lobbyists like you all can, and you'll probably be running over there this evening if we stay here for awhile. [LB321]

SENATOR ERDMAN: Time. [LB321]

SENATOR CHAMBERS: Thank you... [LB321]

SENATOR ERDMAN: I'm sorry, Senator Chambers. Senator Preister, you are recognized to speak, followed by Senator Hansen. [LB321]

SENATOR PREISTER: Thank you, Honorable President, friends all. I have been voting for the overrides because I have really appreciated the compassion that's been shown

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here this afternoon by the people who have proposed the amendment overrides, the veto overrides. I appreciate that compassion. One of the things that Senator Wightman said was that we were able to give the richest among us breaks and money back--\$20 million a year. I supported that. I helped advance that from the Revenue Committee. I think that we can do that. We have the extra money. But while we have that money, shouldn't we also take care of the women who are addicted to drugs and who are hooked in a life that is so tragic and so senseless, that Senator Synowiecki has been championing the causes of? Shouldn't we look out for the developmentally disabled children also? We are not talking money that we could not afford. We have given back and we have looked out for the taxpayer, and we can also be somewhat additionally benevolent by putting back in a budget what we have already done. This isn't something new. This isn't added on. And I have felt very proud of all of the senators, Senator Karpisek, Senator Wallman, Senator White, Senator Rogert, and others, who have stood up and said we also need to be as equally benevolent with those, the least among us. I think we can do it. If we can't do it now, if we can't provide the basic food in the Meals on Wheels programs to the elderly now, when we have a coffer that has been running over and we're giving it back to the taxpayers, which I supported, when are we going to be able to do it? I got a call from a senior citizen who said, please vote for this; it's very important to us; and we will buy you a meal at Corrigan Senior Center next time you're there...and then the add-on...if we can afford to. Three dollars, and they are chipping in pennies to try and buy me a meal that they can't really afford themselves, and they are still going to struggle to do that--\$3. These senior citizens are what we have labeled the greatest generation of all times. The sacrifices that they have made to give us the benefits that we currently have, and we continue to cut their budget. Yes, this time we have added some to ENOA, and that I appreciate, however, it isn't even getting us back to where they were before. ENOA had to cut out the rides program, the taxicabs to bring the seniors to the center so they could get a meal. And a lot of those seniors are no longer able to go to the senior centers in my district...I'm sure it's true in other districts, as well...because they can't get there. They can't afford cars. They certainly couldn't afford gasoline at the current prices. Those seniors can't get to the centers now, so some of them are at home. They are even more dependent upon Meals on Wheels. And now, now, we are likely to impact that and take the very food that they rely on, in their homes, out of their mouths? Senator Chambers is absolutely right to be indignant and to say we should have more of a conscience. We should practice what we preach every morning when we give a prayer and pray for the elderly, pray for the children, pray for compassion. Here's a chance not just to think it, here's a chance not just to say it; here's a chance to put it into action. And if we can't walk... [LB321]

SENATOR ERDMAN: One minute. [LB321]

SENATOR PREISTER: ...the walk, why do we talk the talk? Here is an opportunity to do something for the elderly that we, to this point, have been unwilling to do for the developmentally disabled who certainly need it, unable to do for schools, unable to do

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for workers who certainly deserve the benefits and the wages that at least take them off of food stamps and poverty level. We aren't willing to do it for the women caught in a life of tragic disaster and drugs and prostitution. Maybe we can find it in our hearts to do it for the elderly, for the senior citizens. This is one of the last of the least among us that we have an opportunity to do it. And the dollar amount is so small, essentially a quarter of a million dollars that we can readily afford that was already in the budget. [LB321]

SENATOR ERDMAN: Time. [LB321]

SENATOR PREISTER: Please, do at least this much. Thank you. [LB321]

SENATOR ERDMAN: Thank you, Senator Preister. Senator Hansen, you are recognized, followed by Senator Nelson. [LB321]

SENATOR HANSEN: Thank you, Mr. President. Senator Chambers, I stood on this floor last week and when we talked about ENOA, and explained my position on feeding the elderly, the seniors, my people, your people, the same age group basically. But we're...the thing that bothered me, I guess, is when Senator Heidemann handed out these figures from the Appropriations Committee, and gave the amounts that we were increasing ENOA and increasing every other aging center in the state. And the question I would have for Senator Chambers, if he would yield for a question, please? [LB321]

SENATOR ERDMAN: Senator Chambers, would you yield? [LB321]

SENATOR CHAMBERS: Yes, I will. [LB321]

SENATOR HANSEN: Why is that every other agency on aging in the state can get by with their increase, and Omaha can't? I mean, is it... [LB321]

SENATOR CHAMBERS: First of all,... [LB321]

SENATOR HANSEN: Go ahead. [LB321]

SENATOR CHAMBERS: First of all, they deal with more people with this agency than all these others. None of the others came here and asked to be put back in the budget. When some of the senators would mention that to me, I would say, well, are they in your district? Why don't you make a motion and I'll support you. Not one of them did and then they want to use that as an argument against supporting this. They had the opportunity. They chose not to. And I was told that these other agencies supported ENOA even though they knew they might not get what they wanted. Those are the facts. [LB321]

SENATOR HANSEN: I guess my question still remains that the percentage increase that the rest of the agencies got across the state was sufficient or they would have

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contacted us, they would have contacted me from the North Platte group, the senior center, and said that's not enough; we need additional money. It may not have...it certainly wouldn't have been \$290,000, but it may have been \$100,000. [LB321]

SENATOR CHAMBERS: I'll accept what you're saying as true. But you have shown why this needs to be taken care of, because they did come to us, ENOA, and told us the programs that are being cut, the staff that have been laid off, the programs that have been put on hold, and none of those agencies you are mentioning have the caseload of this one. But we're not comparing misery at this point; we're looking at what is before us now. So let's say Mr. A is hungry, Mr. B is hungry. The one who asked us for help is Mr. B, but we say we're not going to feed you because Mr. A is hungry too. They used to tell us, as children, there are millions of starving Chinese. What did that have to do with anything? So what you are saying, Senator Hansen, doesn't make sense to me, just being honest. [LB321]

SENATOR HANSEN: Okay. [LB321]

SENATOR CHAMBERS: I understand the words you are saying but I don't see what they have to do with this. The groups you are talking about you say did not come forth and say that not getting what they asked for is hurting them. So then that should let you know why ENOA's situation is different. They have documented the harm that's falling on their programs. [LB321]

SENATOR HANSEN: Thank you, Senator Chambers. You have talked often in here about the accountability for the Department of Roads, and I agree. I think the Department of Roads needs a great amount of increased accountability. I just question the accountability of this program in Omaha. I mean, if the dollars are there, if the increase is there, and I know the need is there, too, but I just think that that program, state-funded program... [LB321]

SENATOR ERDMAN: Senator Hansen, are you asking Senator Chambers? [LB321]

SENATOR HANSEN: No. No, I am making a statement. I think that the level of accountability for a state-funded program needs to be there, too, if they are the only group in the state that needs additional funds. Thank you, Mr. President. [LB321]

SENATOR ERDMAN: Thank you, Senator Hansen and Senator Chambers. Senator Nelson, you are recognized to speak, followed by Senator Lathrop. [LB321]

SENATOR NELSON: Thank you, Mr. President, members of the body. I have not stood up and said anything up to this point. I am rising now to oppose this motion to override. I have to say that I, too, am disappointed. I am disappointed at the personal attacks that I'm hearing on the floor this afternoon. I realize we're all tired. It's been long days. But

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we are arguing to the person instead of the issues that we have before us. I don't consider myself a soft gentleman. Senator Heidemann is certainly not a soft gentleman. We don't take our orders from the Governor. The Governor can ask and say I hope that you will support what I've done. But I certainly don't take my orders from the Governor. I should tell you, as a member of the Appropriations Committee, and I thank you for the appreciation that's been shown, we took a vote on everything, up and down, number of hands. With regard to the increase in the gasoline tax, we were divided on that. We were strongly divided. Some were in favor; some not. Some were certain that we would be vetoed by the Governor so why do it. We went ahead on the basis of a vote, and we did that. Let me direct a question to Senator Chambers, if he will yield. [LB321]

SENATOR ERDMAN: Senator Chambers, would you yield to a question from Senator Nelson? [LB321]

SENATOR CHAMBERS: Gladly. [LB321]

SENATOR NELSON: Thank you, Senator Chambers. Do you have before you the information that Senator Heidemann put out? [LB321]

SENATOR CHAMBERS: No. It might be here somewhere but I will take your word for it. [LB321]

SENATOR NELSON: All right. Well, then let me...and thank you very much, then I won't ask you these questions. But let me point out that the funds received by ENOA from the state of Nebraska are \$6,787,000-plus on this budget. And that on top of that they get another \$9 million to \$10 million from the federal government. We're talking \$16 million, \$17 million. Now, I agree with Senator Hansen. I think we need some accountability here, and I'm not questioning what they are doing. But when you take the \$6,700,000 alone, and you look at the \$290,000 that they're asking for, that is .04 percent; not 1 percent. It's four-hundredths of 1 percent. And when they are telling us that they aren't going to be able to feed people, that Meals on Wheels are going to disappear, I don't believe it. I don't think they will do it. I don't think they need to do it. I think when you're talking about four-hundredths of 1 percent, there is room to switch some programs around. I don't think that anybody is going to go hungry and I don't believe that that should even be part of the argument. We talk again and again, we've got to feed our elderly. We are feeding our elderly and I think they're doing a good job. When we talk about walking the talk, I think we are doing a responsible job here. We have a difference of opinion with the Governor. He has cut some, yes, but not all the way, and it may or may not be reasonable. But I think to say that we are against the elderly, that we're not feeding them, that we're abandoning them, I think that's a gross exaggeration. I agree with Senator Friend. I think it approaches the point of demagoguery. I received a letter from a constituent. I don't know this lady but she voted for me and I appreciate that. But there are 10-12 sentences saying of all the things that are going away, you know,

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mowing lawns, all the things of this sort. I just can't believe that. One of the main things...one of the, I think, the paramount thing that the taxpayers are concerned about are increases in taxes. We have tried to hold the line. We have given money back. We are trying to hold the line now. Personally, I think... [LB321]

SENATOR ERDMAN: One minute. [LB321]

SENATOR NELSON: ...that we have a principle here, yes. But I think to argue this heatedly and this passionately about \$290,000 each year, when we look back on the cuts that we have not approved and the overrides that we have not done on all these other agencies, I think that this is something that ENOA can live with. I know they are doing a great job. The suggestion was here that I'm uninformed about ENOA. I am certainly not uninformed about ENOA. I know very well what they do and I appreciate what they do. But I think to come and ask for another \$290,000 per year in light of the huge amount that they already have, I really think it's ill-advised. Thank you, Mr. President. [LB321]

SENATOR ERDMAN: Thank you, Senator Nelson. Senator Lathrop, you are recognized to speak, followed by Senator Wallman. [LB321]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I rise in support of Senator Chambers' motion, and I think the first thing I should relate to you is that ENOA doesn't just serve Omaha and it doesn't just serve Douglas County. ENOA serves five counties, and it's important when you consider \$290,000, which is a lot of money in some sense but not in the sense for what we're getting for what they do. The Meals on Wheels program, I related this the last time we took this up, I volunteered for this group at one time. In truth, my mother did, and when she couldn't do it, I did it. And you go to the doors of these folks, they're living...they are scattered around the counties, but when I did it, you go to the doors of these people, and they were just...you know, you are checking on them, you're making sure they're fine, they say hello, they accept the meal. And two things happen: Somebody has checked on these older folks and they've gotten a decent meal for the day. I think we should support Senator Chambers' motion because it's the right thing to do. But if you don't regard it as the right thing to do, then maybe you ought to look at it as an investment that it is, because this is an investment. If we do not provide the Meals on Wheels to people in the five counties served by this organization, what you will see is we will lose far more than \$290,000 as these people go into nursing homes because no one is checking on them, because they don't get a good meal every day. And I would just tell you that on its own merits this motion should carry. But if you can't find it in your heart to provide for these people, at least understand that if you don't we are going to pay for it in more people going into nursing homes and increases in Medicaid expenditures for those folks going into nursing homes. This is an investment. This is a good investment for the state and I think the motion should carry. And I would yield the rest of my time to Senator Chambers, if he would like it. [LB321]

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SENATOR ERDMAN: Senator Chambers, two and a half minutes. [LB321]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Lathrop. And Senator Nelson was pointing out that he had misread some of the figures and he may correct those on the mike, but even if what he said was correct, I'm looking at what Chris Peterson wrote, confident that the Legislature was going to make this \$290,000 available for the two years of the biennium. She did not question the facts as presented by the executive director of ENOA, pointing out the increased costs of the Meals on Wheels program, programs that had been cut, staff that had been laid off, other programs that were put on hold, and the deep bite into what it is they're doing. And contrary to what Senator Nelson says, people on this floor are taking orders from the Governor. And contrary to what he likes, when a senator stands on this floor and whines about somebody questioning him I'm going to say, yeah, that's a soft guy; that's a soft guy and he couldn't survive where I grow up. I'm 70 years old, but if I couldn't take care of myself there are people who would chew me up and spit me out. But as old as I am and as gray as my hair is, there are a lot of guys who would take on anybody on this floor, as big as you are. They would take on Senator Hansen, but you couldn't pour them on me because they are not sure what I know and what I know how to do. [LB321]

SENATOR ERDMAN: One minute. [LB321]

SENATOR CHAMBERS: But they've seen some things that make them wonder whether or not I can take care of myself. I don't walk around here in Lord Fauntleroy pants and little bow ties. I behave when I'm in this Legislature, and you all get turned around and upset about the way I do here, and all I'm doing is talking to you. I'm not going to grab anybody by the throat and punch them, although I can't say, Lord, it sure would feel good. But I'm not going to do that, and you all know it. If anything, it should make you feel that this approach by me humanizes me. I am this concerned genuinely about elderly people when you all are not. And I don't make the protestations about being righteous and I don't come in here and pray. I'm trying to think of everything I can to reach you all so that will see that the amount we're asking for is piddling, but the amount of good that it will do is immeasurable. [LB321]

SENATOR ERDMAN: Time. [LB321]

SENATOR CHAMBERS: Thank you, Mr. President. [LB321]

SENATOR ERDMAN: Thank you, Senator Chambers and Senator Lathrop. Senators wishing to speak on motion 91 are Wallman, Chambers, Nelson, Gay, and White. Senator Wallman, you are recognized to speak. [LB321]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. I, too, support

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Senator Chambers on this override. He is a true humanitarian and I would hope that we all are. We walk this earth together. We cry together, we sing together, and we pray together. But if we can't take care of our elderly, we are a third world country. Look what we just did to our youngsters, we couldn't support them; our mentally challenged, we didn't support them. I'm just reading my machine, got a lot of thank-yous for how I tried to get the body to change their mind on issues on this override. Is it about the money? Is it about somebody's decision? I don't know. But I want to tell you this much: That's why we lose respect. We are the ones that make the decisions. If we want to override the Governor, fine; if we don't, fine. But the decision is here, and if we don't have enough courage or gumption to make up our own minds, then we deserve what we get. We deserve what the cartoonists say about us and we'll probably be in the paper tomorrow. I don't know; I don't care. Because I came here to vote the way I think and I campaigned on this issue, help the elderly, help the disadvantaged, and special ed. That's what I campaigned on, basically three issues, and the fourth was property taxes. And I talked to a lot of people, some have handicapped children, and I'm an older person myself and my aunts are still living. One is 93. The first time in her life she let a campaign sign be put in her driveway because that's what she thinks of politicians. But guess what? I talked her into it. And she was proud of it. So I'm trying to make her proud of me today and I hope this whole Legislature can make my aunt proud. Thank you, Mr. President. [LB321]

SENATOR ERDMAN: Thank you, Senator Wallman. Senator Chambers, you are recognized to speak. This will be your third time. [LB321]

SENATOR CHAMBERS: Mr. President, members of the Legislature, Senator Nelson mentioned that one of the services would be that elderly people couldn't get their grass cut. Well, now, he probably has somebody who cuts his grass. I cut...Senator Nelson, I cut the grass for old people. I don't have a lot of extra money and I don't have a lot of extra time. I shovel snow for old people. I'm not saying this to boast or to say that I need credit. I'm telling you there are a lot of old people who need things that they're not able to get. I see old people in the store and I see them going in these little coin purses--some of you all may not know what that is--these little coin purses, and they've got a handkerchief in one hand, trying to get some pennies together, and I'll just quietly say, how much does she need? And the clerk tells me and I say she can keep all of her money; I'm going to pay for it. One old woman was trying to get her papers together and she dropped a piece of paper on the floor. She looked like a proud person so I wouldn't embarrass her. I picked up her piece of paper, but I put something under the piece of paper that she wouldn't see until she opened the paper and I was gone by then. I see people in need. Senator Nelson will not even find himself in the company of people in need like that, so he can readily say he doesn't believe it exists. He said he doesn't believe people will go hungry. I see hungry people right now. And this winter when it was cold, Senator Nelson, I went to old people's houses and they were in blankets, not trying to be warm as toast, but to keep from freezing. I've been in old people's houses in

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the wintertime whose pipes were frozen and I've also been in the homes of older people who don't have running water in Omaha, Nebraska. So when you talk about \$290,000 is not going to hurt anything, if it's that piddling amount then give it. This is not going to break any budget. And when people praise Senator Heidemann, I'm not going to let you get away with that either. He's got a mouth; let him speak for himself. Do I need anybody defending me? Do I cut and run when people attack me? Why, they even attack my patriotism, none of which I have anyway so that's why the shots were wide of the mark. They say something of everything around here about me, and if they weren't such cowards they would say some stronger things and they would even tell me, Chambers, I'll drag you out in that hallway and I'll show you a thing or two, and I just wish they would. Drag me out there. In fact, I would let them drag me out there, and then after they got through dragging me out there, then the dragon would show what a dragon is. But that's not the way we're going to function here. I'm going to use words. And the reason I talk about people's principles and their religion is because those hypocrites bring it in here every morning. They bring that stuff in here every morning, then they don't want me to judge them by what the standard is they set for themselves? I tell them, ain't nothing to any of it. And they ought to be just like me--Ernie, I agree with you. And that's why they take care of the rich and give the back of the hand to the poor. Poor Senator Nelson, poor Senator Hansen, poor Senator Carlson, they're going to be like that rich man in the story that Jesus gave of the rich man and Lazarus. Lazarus was down there eating the crumbs that fell off the rich man's table, and that's the only place in the Bible where you see an animal that has a name. It said, moreover, the dog licked his sores, so that dog's name was "Moreover." [LB321]

SENATOR ERDMAN: One minute. [LB321]

SENATOR CHAMBERS: They died. Lazarus went to heaven. The rich man died and went to hell. Now, that's what the Bible said, and if the Bible is right, it said it. You all don't believe that. If Senator Nelson thought his doing something would get him disbarred, he wouldn't do it. But if a lack of compassion might send him to the nether regions, that's no big thing because he doesn't really believe that. Now you can stand and tell me, yes, he does, but he's going to take his chances and he is going to play right up to the edge. But he would be like that gambler, Senator Nelson. Somewhere in the darkness the gambler, he broke even. That meant he died, he croaked. He wasn't planning on croaking. You don't know the day or the hour when the "International Harvester" will come and put that cold, bony finger on you and say let's go buddy, time's up. He'd say, but I want to help these old people. You had your chance. But the children? I don't want to hear it. But, Senator Nelson, it's not too late; Senator Hansen, who's gone; Senator Carlson; all the rest of us. [LB321]

SENATOR ERDMAN: Time. [LB321]

SENATOR CHAMBERS: Thank you, Mr. President. [LB321]

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SENATOR ERDMAN: Thank you, Senator Chambers. Senator Nelson, you are recognized, followed by Senator White, and Senator Wallman. [LB321]

SENATOR NELSON: Mr. President and members of the body, Senator Chambers, I will have to admit that there have been plenty of times when I've been quite upset by what you've said, but never have I reached the point where I would drag you out into the hallway and pummel you to the...I wouldn't even want to attempt that. Thank you. I have to make a correction, and Senator Chambers has already referred to it. I'm not going to go into any detail, but simply with the chart that Senator Heidemann put out, that didn't apply to just ENOA. It applied to all of the triple As. And so when I cited that percentage there at four-tenths of 100 percent (sic), or however you want to express it, that really wasn't accurate. The fact still remains that all of the agencies in one area are getting a 3 percent increase and a 9.59 percent. And, first of all, I would also, since I have the opportunity, tell you that Senator Chambers, I mow my own lawn, and in the past I have mowed lawns for my elderly neighbors. And I've had a lot of elderly neighbors and I do not lack compassion, certainly. When I go to the grocery store and try to find things, I run into a lot of elderly people and I know how pinched they are for money. The point still remains that ENOA has a great deal of funds. They are asking for a little bit more, and how do we match that with the considerably more substantial needs that some of the other agencies have asked for, and they are...they are all important, but we have denied them? So I think inasmuch as I still do not think that the Meals on Wheels are going to away as a result of denying this \$290,000, I think that we have to be uniform here and be consistent, and let ENOA go with what they have been given here under the budget, which I think is reasonable in light of what all the others are receiving. Thank you, Mr. President. [LB321]

SENATOR ERDMAN: Thank you, Senator Nelson. Senator White, you are recognized to speak, followed by Senator Wallman. [LB321]

SENATOR WHITE: Thank you, Mr. President. With regard to Senator Nelson's numbers, my understanding is the ENOA district is the five most populous counties in the state--the five most populous counties. They also have one of the highest levels of aged who live in poverty or near poverty. They get 29 percent of the statewide funds. Now, with regard to whether they'll shut off Meals on Wheels, as Senator Nelson indicated, he doubts that will happen, I have been told it will happen, by ENOA officials, in July. I have also been told by other members in this body, no, what they'll do is they'll just shut down and won't let new applicants into Meals on Wheels. Whichever the case, I am certain of one thing: When I am well-fed, there will be hungry, and they won't be far from me; they'll be in my district. And as far as things like, oh, well, we'll feed them but we won't mow their lawns, to keep people in their homes you need to mow their lawns. You need to keep the home intact. Senator Chambers would tell you, as he knows in his district or mine, that the failure to mow yards is one of the real problems that starts

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degrading neighborhoods. It's one of the early signs. It makes neighborhoods less safe. It also makes the older person, who lives in the home, a target. Mowing lawns is more than a nice service. It's a matter of dignity; it's a matter of keeping them in their home. The measure of who we are is not what we say. Senator Gay and others have said, and I believe them, that they have done much service for the elderly, and I honor that and I respect what they tell me. I don't deny that. But what I would say is we are measured how we treat the least among us and we are not treating them very well today. We are treating them horribly. I have yet to see any issue today with regard to the override that was caused by the loss of money or services to someone who is rich and/or powerful. All day long, all day long, we have voted for the poor and we have been beaten. One of the senators here said we are demagoguing. Really? If we are demagoguing, we're doing a damn poor job of it because we're not gaining enough power even to get close to an override. I ask nothing more than in this time of great plenty, in this time of record budget surpluses, in this time of a record tax refund, in this case we find \$290,000 this year and \$290,000 next year to feed the poor and the elderly. And I offer to you, if that is not enough moral incentive, that we will save money. We will save money by doing the right thing. And yet our estimates on the vote count is we won't prevail. And people wonder why tempers flair. People wonder why we begin to despair if people are honestly, honorably looking at issues. Please do remember that it is the people who elected you, all of them; not the special interests. And while we have to balance those, and I will represent special interests and I will do it gladly when they have a good cause and they have a need, but I will try to balance it with those who don't have a voice, and I ask you to do the same. And if ever there were a place to balance it are our modest proposals for the elderly and hungry, for the mentally disabled... [LB321]

SENATOR ERDMAN: One minute. [LB321]

SENATOR WHITE: If we cannot find it now in the time of plenty to reach out and do...not give away money. To all the senators who said we're demagoguing, we're giving away money, this is exactly what the Appropriations Committee came here and said was the minimum necessary because we were going to be disciplined in the budget. It's not as though I'm coming back and saying you've got to throw more money in that budget. I'm just asking you to honor what you previously voted and what my honorable colleague said was the minimum necessary to take care of the various pressing needs. That's all. And if we will not do that today, what will we do when times are hard? Thank you, Mr. President. [LB321]

SENATOR ERDMAN: Thank you, Senator White. Senator Wallman, you are recognized to speak, followed by Senator Mines. [LB321]

SENATOR WALLMAN: Thank you, Mr. President. Senator Chambers, I do have a little wiggle in the middle. And members of the body, I appreciate this chance to stick up for those who can't stick up for themselves. They are not going to give you any campaign

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money, are they? No. And I would like to ask Senator Nelson a question, please. This is not animosity, or nothing. [LB321]

SENATOR ERDMAN: Senator Nelson, would you yield to a question from Senator Wallman? [LB321]

SENATOR NELSON: I... [LB321]

SENATOR WALLMAN: Are you going to take a trip on the state...on some kind of education committee? Like a different city, like Chicago, Boston, or something? [LB321]

SENATOR NELSON: You mean, as far as legislative education and things? [LB321]

SENATOR WALLMAN: Yes. Yes. [LB321]

SENATOR NELSON: Yes, I do expect to take one. [LB321]

SENATOR WALLMAN: I do, too, and that will be paid for by the state. So, will all these poor people be able to take this? I don't think so. I don't think so. So, it's been kind of a sad day for me. You know, we can all harden our hearts. I've done it myself. In church, you listen to needs, they need this, they need that, they need this, they need that. But when it comes to food, people, when it comes to special needs children, so far we're batting zero. You like that? Do you like that percentage? I sure don't want to go to my maker and say I was against these people. And thank you, Mr. President, and I'll yield the rest of my time to Senator Chambers. [LB321]

SENATOR ERDMAN: Senator Chambers, you have three and a half minutes. [LB321]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Wallman. I don't think I'm going anywhere when I croak except to the crematorium, and after they burn me, that's it. But I'll tell you what, if I believed what you call claim to believe, nobody could beat me doing every righteous thing I could do. Do you know what you all say? That sometime when you leave here you're going to see your...if you parents have died, as mine have, you will see them someday. I have two sisters, younger; I had. I would see them some day. You think that wouldn't motivate me? And then I'm going to be in a place where there is perpetual happiness? Everybody treats everybody right, and I'm not going to do every righteous thing so that I can get there and see these people? That's why I know you all don't believe it either, but you're not as honest as I am. For some reason you feel like you have to play. And that's why these preachers might give a sermon where they are not going to make people like Senator Nelson mad because he probably gives to the church. Senator Hansen and Senator Carlson, he'll say, brothers, you must forsake your pleasure. You must worship God in a measure. Yes, as it were. You must repent or you'll be damned to some extent, every...a qualifier

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after every statement he makes. And then they all say, amen, wasn't that a wonderful sermon? Because he made them feel very comfortable. What I cannot understand for the life of me, how you all can hear these wonderful things said all the time and be so comfortable in the presence of other people's misery when you can do something to alleviate that misery. All of the giving to the rich people and the powerful corporations, take all of the estate tax away, take the sales tax off labor, construction labor for commercial enterprises, refuse to reduce the sale tax, but give all these other tax cuts to the ones that the Governor thinks will support him politically, that's what you do. [LB321]

SENATOR ERDMAN: One minute. [LB321]

SENATOR CHAMBERS: And the record speaks for itself. And then he is over there with his red pen, saying I'm going to show that there ain't nothing to them. I'm going to insult them by cutting this. I'm going to show they have no principles by cutting that. And I'm going to show they are a bunch of hypocrites by cutting the other, and I'm going to dare them to touch it. Then he starts making phone calls, saying you better support every one of my vetoes. And then here they come, supporting them all. The Governor is having his way with this Legislature. He owns it. He's the one who demagogues. He is the one who intimidates you all. He's the one who makes the threats. He doesn't threaten me because he knows it wouldn't mean anything to me. And if he pushes me, I will push back. You don't hear me whispering and saying, well, I don't want to thump the Governor too hard. Well, he's going to thump me and I ain't going to thump him back? He is going to know there is a price to pay. Everybody will know that. But if he treats me decently, nobody will treat him better than he can treat me, and that's the way I feel about everybody. But when it comes to helping these people who need the help,... [LB321]

SENATOR ERDMAN: Time. [LB321]

SENATOR CHAMBERS: Thank you, Mr. President. [LB321]

SENATOR ERDMAN: Thank you, Senator Chambers. And, Senator Wallman, that was your third time. Senator Mines, you are the last light. You're recog...Senator Mines waives. Senator Chambers, there are no lights on. You're recognized to close on motion 91. [LB321]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, this motion to override addresses an agency's needs for additional money. Despite what Senator Nelson has said, I showed him a letter written and signed by Chris Peterson, who heads HHS, saying that the Legislature was going to make this \$290,000 available to the agency for the next two years, so it's unnecessary to have the meeting that had been set up for ENOA to approach her to see if there could be some state assistance. And then she said: based on the funds that this agency will receive. She believed that

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the agency would get the money. So when Senator Nelson talks about accountability, that's where the accountability can be found. Chris Peterson didn't say, you're not telling the truth. She didn't say, you haven't cut staff. She didn't say, these programs might have to be terminated, or that some that have been stopped in fact have not, and that these people are just lying. She didn't say any of those things. It's like many of the debates that go on, if they can be called debates, on this floor. People ignore facts and bring up all kind of extraneous things that have nothing to do with the issue. The issue that I'm presenting is before us. This is an agency that can document everything. Nobody has asked me where can they get the documentation, because they know that I'm not lying, and they've probably seen it themselves. But they want to find an excuse not to do the right thing. If we override this veto, as we should, it's not going to break the budget. It's not going to go into any Cash Reserve. It won't even be noticed. But after it becomes an accomplished fact, a lot of good will be done for a lot of people who genuinely need it. We're not giving tax breaks to a corporation. We're not doing any of those things. These are people truly in need. You can watch television and see the programs that point out how the elderly are actually mistreated. There are some who are physically assaulted by family members. Some old man had thousands of dollars taken from him by some young guy from Alabama or someplace who bought some stuff at the store for a few dollars and spread it on his driveway and charged him \$3,000 or \$4,000 for it, then took him to some places where he bought clothes and furniture and appliances for this guy. Then the guy took him over to the casino, and the casino, or one of these places, called somebody because they felt too much money was being spent by this old man and somebody needed to look into it, and that's how there was intervention. And the rat was arrested, and the old man was rescued, to some extent. We know the problems that old people are facing. And we will all talk about it, and we will give talks, and if they invite us to address them, we'll express so much sympathy and empathy for their circumstances. And here we can do something, and we won't. Nobody will be hurt if we do this. Nobody is deprived of anything. But you'd probably rest better. You'd sleep better. When you talk to the groups of older people, you can tell them what you did. Senator Heidemann had mentioned something and said his committee will look into it, look at it. I want us to do this, and we can. Mr. President, I will ask for a call of the house. [LB321]

SENATOR ERDMAN: Senator Chambers, thank you. Members, the question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record please, Mr. Clerk. [LB321]

CLERK: 27 ayes, 0 nays, Mr. President, to place the house under call. [LB321]

SENATOR ERDMAN: The house is under call. Would all unauthorized guests please leave the floor. Unexcused senators please report to the Chamber. The house is under call. Senator Engel, would you please check in. Senator Janssen, Senator Cornett, Senator Lathrop, Senator Howard, Senator Fulton, Senator Ashford, Senator Pankonin,

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Senator Christensen, the house is under call. Senator Lathrop, would you please check in. Senator Janssen, Senator Ashford, the house is under call. Senator Ashford, please check in. Senator Chambers, all members are present or accounted for. How do you wish to proceed? [LB321]

SENATOR CHAMBERS: I'll take a machine vote. [LB321]

SENATOR ERDMAN: Senator Chambers has requested a machine vote. Members, the question is, shall certain line-item vetoes contained in motion 91 become law notwithstanding the objections of the Governor? All those in favor vote aye; all those opposed vote nay. Have all members voted who wish to? Senator Chambers, for what purpose do you rise? [LB321]

SENATOR CHAMBERS: I will ask for a roll call vote. [LB321]

SENATOR ERDMAN: Senator Chambers has requested a roll call vote in regular order. Mr. Clerk, please call the roll. [LB321]

CLERK: (Roll call vote taken, Legislative Journal page 1770.) 26 ayes, 9 nays, Mr. President, on the motion. [LB321]

SENATOR ERDMAN: The motion is not successful. The call is raised. Mr. Clerk, next motion. [LB321]

CLERK: Mr. President, may I read a couple of items? [LB321]

SENATOR ERDMAN: You may. Items for the record. [LB321]

CLERK: Thank you. Enrollment and Review reports LB351 and LB351A to Select File with Enrollment and Review amendments attached. (Legislative Journal page 1771.) [LB351 LB351A]

Next motion, Mr. President, with respect to LB321. Senator Synowiecki, motion 92. [LB321]

SENATOR ERDMAN: Senator Synowiecki, you're recognized to open on motion 92. [LB321]

SENATOR SYNOWIECKI: Thank you, Senator Erdman. I essentially opened on this earlier in the day. I think it was Senator Rogert's initial motion. Members, out of all the override motions today, this would be...this would have the most...less...would impact the General Fund the least out of them, and significantly. This override motion is essentially for \$60,000 a year for the biennium, \$60,000 per year. The Appropriations

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Committee voted to be neutral relative to the merits of the override. There will members of the Appropriations Committee that will vote for this; perhaps there will be some that will vote against. As I mentioned earlier, last year, the Legislature passed the Prostitution Intervention and Treatment Act as a response to prevalent activity in prostitution throughout the state of Nebraska. There was a lot of testimony at the hearing last year relative to the rural areas and the prostitution activity going on in those areas, as well as, obviously, in the metropolitan area, where it's become...it has seriously become a revolving-door activity in the criminal justice system, where women cycle through and through and through and through the criminal justice system in the metropolitan area that are involved in this activity. If I recall correctly, I remember Marty Conboy, the city prosecutor in the city of Omaha, telling me that there was one particular offender in the Douglas County area that had something like 23 convictions of prostitution activity, and that that particular individual is essentially spending six months a year in the county jail because of a city ordinance that provides for an automatic six-month jail sentence for individuals that are convicted repeatedly. I think there might be a better response. I think there might be a better avenue. And the bill I introduced this year to fund the Prostitution Intervention and Treatment Act, LB545, the thought there was that we could use existing infrastructure, existing infrastructure within the Douglas County Drug Court, to get these women some specialized case management in the area of substance abuse and mental health. I don't think any reasonable person would argue that women that are involved in this activity certainly suffer from chemical dependency, certainly suffer from substance abuse. They are typically child victims of sexual assault themselves. They suffer from posttraumatic stress disorder, many times. And there's a demonstrated need, with all that background, to have some specialized case management over their supervision for the court. Just recently, within the last couple months, last, perhaps, six months, there's been some pretty dramatic public cases that have gotten media attention relative to the abuse that these women suffer at...police officer, in one instance. And there was a recent arrest of an individual who would take women from the downtown area and take them to a local park and physically and sexually abuse the women and then drop them off at that park. And that's not uncommon. That's not uncommon at all. This appropriation, if the override is successful, will provide for seed money so the Douglas County Drug Court and existing infrastructure--and I thought this was the most efficient way to go about this--can provide a special track, prostitution diversion court, or prostitution drug court. Perhaps a lot of these women that are involved in prostitution are already going through the drug court. But a lot the symptoms involved with these women are not recognized by treatment providers. There's no special case management that identifies these women and the particular problems that they suffer from. This is a relatively, in the scheme of things, a relatively small appropriation. I know many times, throughout the overrides in the afternoon, the motions to override, there's been a lot of reference to the green sheet and so forth. Members, this is \$60,000 a year. We've got bills on Final Reading for dog and cat operators' inspections that run in excess of \$200,000 a year, if I'm reading this right. I think that in response to the Prostitution Intervention and Treatment Act, which

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was passed overwhelmingly by this Legislature last year, that to have some sort of avenue of treatment available for these women, and have this treatment available for women throughout the state,...as being a former probation officer, I supervised probation cases from Columbus, from Grand Island, from Lexington that are transferred into Omaha to get the special services, likewise with this program. If there's a particular offender that goes through, for instance, the Grand Island court system and it becomes apparent that there's some problems in the area of prostitution, there's activity there in the prostitution realm, that case can easily be transferred to the program and the services and the specialized case management that would be available with this program. The Governor did not see to include this \$60,000 program in his...in the budget. He vetoed it. And he did so, indicating, as I said in my opening earlier, that it's kind of inappropriate for us to provide services or treatment services for individuals that are involved in criminal activity. The only...out of all due respect to the Governor, the only problem I have with that was, we do that all the time. I mentioned earlier in my opening on Senator Rogert's motion that we spend in excess of \$5 million a year for LB1199 treatment for men that perpetrate against youngsters in our state, that sexually abuse. I find that objectionable behavior, but yet, we expend an enormous amount of resources to treat those individuals. What I'm asking here is a \$60,000 appropriation to deliver relevant services to this population. I'm asking for \$60,000 that will be collaborative funding with the local area to provide some specialized case management services, so that an individual case manager that's intimately familiar with the intricacies of what happens for women who are going through this process can help navigate these women to hope and rehabilitation, and to get their lives back together, and to get them productive...to have them be productive citizens. As I said, this particular override does not have a great deal of impact on our General Fund. I don't know what members of the Appropriations Committee would support this, but I would hope that individuals are sympathetic to the needs that I'm attempting to address, and I hope that there's a recognition that there is a demonstrated need for some program in this area. And I would hope that as a legislative body, we can demonstrate our autonomy as a separate but equal branch of government and provide these services, if you indeed feel that they're demonstrated and that they're needed. Thank you. [LB321 LB545]

SENATOR ERDMAN: Thank you, Senator Synowiecki. Members, you've heard the opening on motion 92. Those wishing to speak are Senators Wightman, Howard, and Lathrop. Senator Wightman, you're recognized. [LB321]

SENATOR WIGHTMAN: Thank you, Mr. President. I'm going to support this move to override the Governor's veto. It's been suggested to me, after I mentioned that we've given away \$21 million on an annual basis, that that was hardly a correct statement. And I would partially agree with that, that it's not our money; it's our constituents' money. And I said, carried to the extreme, I think we could just as well close down state government, if that's the rule. We don't have any money for schools. We don't have anything. So you know, that concerns me that we don't have any money because none

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of it's our money. And it isn't our money, but that's the nature of taxation and that's the nature of government. As I say, I'm going to...I'm probably a little bitter today, so maybe you could talk to me tomorrow. But I say that if we can't afford \$60,000 for this bill, so much for the separate, coequal branch of government. Thank you, Mr. President. [LB321]

SENATOR ERDMAN: Thank you, Senator Wightman. Senator Howard, you're recognized to speak, followed by Senator Lathrop. [LB321]

SENATOR HOWARD: Thank you, Mr. President and members of the body. I support--and I say this once again--I support the restoration of the \$60,000 for the prostitution diversion court. We have an obligation to save taxpayer money whenever we have the opportunity. This is one of those times where spending \$60,000 in each of the next two years will save us much more in jail costs, court costs, and the costs of associated crimes, like theft and drug dealing, that come along with prostitution. This is not a great sum of money, but it has the potential to save many times more in the long run, if these women and, yes, even some men see that they have the opportunity to make positive changes in their lives. We know that what we are doing now is just not working. Prostitution is not a victimless crime. Just ask my constituents in the Ford Birthsite and the Leavenworth Neighborhoods. For years, they have been working as a community to address the serious prostitution problem that has existed along Park Avenue in Omaha. I am very proud to represent these neighborhoods, people that are working and are forward-thinking about how to address this difficult problem. Simply arresting the prostitutes does not work. Our jails just become revolving doors, because there is no opportunity for prostitutes to change their lives, even if they wanted to. The only option left for them is to return to the streets, and the cycle begins all over again. Some may think that this is just an Omaha problem. Well, you're wrong. Prostitution happens throughout our state, and it is destroying many lives and families, both urban and rural. I ask that you spend some time, just take a moment to think about the community where you live, and how would you feel if this activity was occurring in your yard every night? This is reality for some of my constituents. As a Nebraska taxpayer, and as we all are Nebraska taxpayers, all these people are asking is that the state does its fair share by creating the prostitution diversion court. Thank you. [LB321]

SENATOR ERDMAN: Thank you, Senator Howard. Senator Lathrop, you're recognized to speak on the override motion, followed by Senator Chambers. [LB321]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I rise in support of this motion to override the Governor veto on this particular appropriation, and I do so because I have witnessed the drug court in action. And I think it's helpful for people to understand what it is that Senator Synowiecki is trying to get funded with the \$60,000. The drug court is actually run by a district court judge. And about a year ago, about a year ago I had occasion to be up in Madison County. I was up there on a motion. And

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the bailiff told me that we would get to my motion after the judge took up drug court. And so it was the first time I actually got to see what they do in drug court. And I'm going to tell you something. This is a great program. This is a great program. I happened to see Judge Ensz, who is a terrific district court judge up in Madison County. Judge Ensz comes out on the bench, and there are probably a dozen people, they look like they've had a hard life, and they are being rewarded by the judge. They're in a program. Some of them are in halfway houses. Some of them are simply in 12-step programs. But they would step forward, and he'd say, what's happened since we last met? And one might say, I got a sponsor, or I've completed my second step. Whatever it is, it is the best therapy. This is a cheap program. This program works. And the alternative is, we can keep locking women up who have...who resort to this lifestyle because they have drug dependencies and because they maybe have mental illness or they were sexually abused when they were younger. Or we can help them become productive citizens. I've seen it. I've seen it work. This is a great program. This is a good investment. It is cheap. It is cheap, and it works. I think the drug court is a terrific success. This really is a variation of that same process. The district court judges, I think, are glad to participate in it. I saw, when Judge Ensz came out and he sat on the bench and he was going to take up the drug court, he said, this is my favorite thing to do on the bench, because it is seeing people heal, it is helping people along. Someone would step up and say, I got a sponsor this week, and everybody would clap and applaud, and some of the local folks who had donated gift certificates, they'd award them things. This is really a good investment. I do agree with Senator Synowiecki, it would be easy to say, these are prostitutes, we don't have the money to deal with them. They're human beings. They are human beings that need an opportunity to make a change in their life. This gives them some direction. It is a terrific program. And we'll quit locking them up, because it isn't working for them. Again, not a lot of money, a good investment. I'd ask you to support Senator Synowiecki's motion. Thank you. [LB321]

SENATOR ERDMAN: Thank you, Senator Lathrop. Senator Chambers, you're recognized to speak, followed by Senator Wallman. [LB321]

SENATOR CHAMBERS: Mr. President, members of the Legislature, if the Governor was upset when the Supreme Court gave a stay of execution to Carey Dean Moore and called it judicial activism, I did think it was horrendous and reprehensible for him to say that this program is not a high priority, we ought to just forget it. He's probably one of these people who has seen movies about prostitutes, and they're women who are fine, their hair is fixed, their clothing is...it's like they stepped out of Vogue magazine, and they live in a plush apartment. But in reality, you see these women, some of them are scarred, they are snaggletoothed, they have body odor, their clothing is not clean, their shoes may be run over, and then they might have somebody abusing them. These are the people who people like the Governor deem nonpeople, the "unpeople," like 7Up is the "uncola." These are people who really need help. And it shows the lack of regard that this society has for women. One of the incidents that Senator Synowiecki didn't go

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into involved a cop who told this one woman--she was a prostitute--that he was going to take her to jail for whatever reason, and he said, but if you point out some drug dealers, then maybe I'll give you a break. Well, she knows that's a death warrant. She said, I'm not going to do that. So he said, then you're going to have to give me a blow job--and you all know what that is--or I'll take you to jail. So at first she wasn't going to go along with it, so he's driving her to jail, and then she finally said, all right, she would do it. So he got downtown, then he turned around and brought her back, and had him (sic) suck his member until he ejaculated in her mouth. But she had the presence of mind to take a plastic identification card and spit his semen on that card. Then she notified the police and gave the evidence. And if they didn't have his DNA, they would have believed him...they would have acted like they believed him, knowing he's a liar. But they couldn't let him go, because she had the evidence. And it was clear what he had done because he didn't make the calls to report where he was going, as he was supposed to have done. He couldn't account for blank spaces in his time. So he was fired. Then when he went to trial, the judge excoriated him, told him he had shamed himself, disgraced the uniform, disgraced his family, and gave him probation. And they wonder why people in the black community and poor white communities don't like the cops, don't trust them and, in fact, hate them; hate them. This is a man committing a sexual assault on a prostitute, a woman who is helpless, who is vulnerable, and he will misuse his authority and threaten to take her to jail if he doesn't...she doesn't do for him what he insisted. Then when he first went to court, his wife is there, his family is there, his coach is there; they're all telling what a great guy he is, this sexual predator. And then Governor...that little guy over...I mix him up with the other, whose name I can't call right now. But anyway,...Heineman. Senator Heidemann over there...and I see Senator Johnson sitting over there; he bailed out on the old people. Dr. Johnson bailed out on the old people. But at any rate, this Governor says that the plight of these women does not merit priority status. These are not throwaway people, and we should not throw them away. Some people called Mary Magdalene... [LB321]

SENATOR ERDMAN: One minute. [LB321]

SENATOR CHAMBERS: ...a prostitute. I don't know whether she was or not, but from what is developing lately, she was something much more than a prostitute and something much more to Jesus than a lot of people want to acknowledge. But by hanging that label on a woman, then people feel justified in mistreating her any kind of way they choose. Senator Synowiecki is offering what really can be called a modest proposal, and I think we ought to support it. I applaud Senator Synowiecki for continuing to push on this issue, and he certainly has my vote and my respect. Thank you, Mr. President. [LB321]

SENATOR ERDMAN: Thank you, Senator Chambers. Senator Wallman, you're recognized, followed by Senator White. [LB321]

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SENATOR WALLMAN: Thank you, Mr. President, members of the body. Thank you, Senator Synowiecki. Now we went from the children, handicapped children, to the oldest profession on earth. And let's take care of these people, okay? I've been to a couple of drug courts with judges, and I think they do work. And prostitution is sometimes hooked up with drugs, sometimes not. But I do appreciate people going out of their way to support the people that really have to need help. As...in the town of Beatrice, in the rural areas, we do have trouble with drug abuse. And as you realize, there was a person murdered, you know, two miles from my house, and never did catch the guy that did it. And drugs were probably involved. But inept police let the rich man get away, because they didn't have the evidence, they said. The rental car was there with blood in there and everything. It...I would hope we do something humanitarian today for the people. And it isn't hard for me to vote green on these issues, not at all. You know, I don't care if it costs some money, if it's out of the budget. If we have to suffer something for different things, then that's the way it is. You know, we pass this, we pass that. And it bothered me that one senator on the floor said we've got to be consistent. Consistent about what? Each issue should be taken on its own. Don't you think each issue ought to be taken on its own, Senator Synowiecki? Measure everything as you will. We all have our preferences, whether it be good or bad. And all of these issues are not good; all are not bad. But all these issues today pertain to people, and that's what the Legislature is supposed to do--take care of the people. And that's why our respect goes down. Trust me, folks, it ain't about taxes; it's how you treat the people. You go to these nursing homes, you go to the senior centers for meals. They are good people. And then we don't even want to help feed them. Wow! Let's take good care of at least one group of people. I know that the funding is less or more, or this or that. But we're sending a message out of here: They're not worth anything. That's the message we're sending. That's the message I'm getting. And it hurts me. Thank you, Mr. President. [LB321]

SENATOR ERDMAN: Thank you, Senator Wallman. Senator White, you're recognized to speak. [LB321]

SENATOR WHITE: Question. [LB321]

SENATOR ERDMAN: The question has been called. I see five hands. Members, the motion is, shall debate cease? All those in favor vote aye; all those opposed vote nay. Members, the question is, shall debate cease? Have all members voted who wish to? Members, again, the question is, shall debate cease? Have all members voted who wish to? Record please, Mr. Clerk. [LB321]

CLERK: 28 ayes, 3 nays, Mr. President, to cease debate. [LB321]

SENATOR ERDMAN: The motion is successful. Senator Synowiecki, you're recognized to close on the motion to override. [LB321]

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SENATOR SYNOWIECKI: Senator Erdman, I'd like to have a call of the house. [LB321]

SENATOR ERDMAN: Members, the question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record please, Mr. Clerk. [LB321]

CLERK: 34 ayes, 0 nays, Mr. President, to place the house under call. [LB321]

SENATOR ERDMAN: The house is under call. Would all unauthorized guests please leave the floor. Unexcused senators please report to the Chamber and check in. The house is under call. Senator Synowiecki, your time is running. You may continue while we're waiting for senators to check in. [LB321]

SENATOR SYNOWIECKI: Thank you, Senator Erdman. I appreciate that, and appreciate the members' debate. This is not a significant impact on the General Fund. Out of all the override motions that were considered today, this one represents the least amount of money. We're talking about \$60,000 a year to establish a prostitution drug court, a court that will be available to all women throughout the state of Nebraska that find themselves engulfed in this activity. I think we all know that we're talking here about women...I think Senator Chambers kind of described what we're talking about here, is women that are...that have severe addictions, chemical dependency, severe substance abuse problems. They're typically child victims of sexual assaults themselves, and suffer from posttraumatic stress disorder. And this whole dynamic really needs a specialized case management approach as you try to navigate these women to rehabilitation. I would hope...and I might add that last year, as I've mentioned repeatedly, that this body passed what I would consider to be a major piece of criminal justice legislation relative to this, which included a treatment component. That was...the treatment part of that, the treatment funding, was vetoed. And quite frankly, out of professional courtesy to the Governor, I did not attempt to override it, as he signed into law the criminal justice piece. And I thought perhaps we needed to organize our efforts on the treatment plea...excuse me, on the treatment piece of the Prostitution Intervention and Treatment Act. There were significant changes in our criminal code as it relates to solicitors and prostitution, and there was also a treatment component. But I didn't think that we were entirely ready, once that veto came down, that I was entirely comfortable about attempting override at that time. Now we have all the I's dotted, the T's crossed. I was talking to Senator Pirsch about how almost always, almost always these women come through the court with addictions attached and with some serious mental health problems. So this little bit of money, which will be a collaborative effort with some local money, will go a long way and do a lot of good. It's only \$60,000. We're not going to have an enormous General Fund impact. And I might add, members, since this is the last consideration, that, you know, I think it might be important--and this might be the appropriate avenue to do it--to demonstrate the independence and autonomy of this branch of government relative to some of these overrides. I think that's an important

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consideration as well. Thank you. [LB321]

SENATOR ERDMAN: Thank you, Senator Synowiecki. All members are present or accounted for. Members, the question is, shall motion 92, specifically, shall Section 18, Supreme Court...Senator Synowiecki, for what purpose do you rise? [LB321]

SENATOR SYNOWIECKI: Senator Erdman, I would respectfully request a roll call vote in reverse order. [LB321]

SENATOR ERDMAN: So noted. Members, the question is, shall motion 92, which contains certain line-item vetoes, become law notwithstanding the objections of the Governor? Mr. Clerk, please call the roll in reverse order. [LB321]

CLERK: (Roll call vote taken, Legislative Journal pages 1771-1772.) 27 ayes, 7 nays, Mr. President, on the override. [LB321]

SENATOR ERDMAN: The motion is not successful. The call is raised. Members, the agenda will now refer back to where we were prior to the motions to override, which is LB573. [LB321 LB573]

PRESIDENT SHEEHY PRESIDING [LB573]

PRESIDENT SHEEHY: Senator Kruse, would you like to give us a short summary of your floor amendment, FA130? (Legislative Journal page 1761.) [LB573]

SENATOR KRUSE: Thank you, Mr. President and colleagues. Yes, I will. We are on AM1195, and an amendment to that amendment, FA130. This bill centers on teen drinking. This amendment is about minors drinking at home. A yes vote on this amendment would retain the exemption of the home as the only place teens may drink with permission of the state. Again, to be clear on what we're doing here, "yes" would retain the exemption of the home as a place where teens can drink; a no vote would be to remove that exemption. [LB573]

PRESIDENT SHEEHY: Thank you, Senator Kruse. Senator White, followed by Senator Lathrop. Senator White, you're recognized. [LB573]

SENATOR WHITE: Thank you, Mr. President. I will be brief, given the hour and everything that we've gone through. I want you all to recognize what happens if this amendment is not adopted to this bill. So I'm in an odd place, where I actually, having been corrected by Senator Kruse, going to be voting for this amendment. If ever you have asked your child to bring you a beer because you're in the backyard, if this law is passed, not only is your child violating the law, but you are violating the law by leading...by contributing to a delinquency of a minor. It makes no sense, given how we

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live. By simply asking your child to pick up a beer and bring it to you or your friend, wherever you are, you will have encouraged them to, quote, possess alcohol illegally, and in that you will have committed now a crime yourself, as well as one for your child. That is not Nebraska. That is not rational. That's not enforceable, nor should it be the law. I'd ask you to vote for the amendment to adjust the bill so that that does not occur. For the record, the portions of the bill regarding the kegs, the identification tags, are excellent additions to the law, as is the clarification language regarding religious observances. The use of wine is essential in my own religion, and I can urge the support to anyone who is concerned about that, whether or not you share our tradition or not, that this does not interfere in any way with religious observances. Thank you, Mr. President. [LB573]

PRESIDENT SHEEHY: Thank you, Senator White. Senator Lathrop, you are recognized. [LB573]

SENATOR LATHROP: Thank you, Mr. President and colleagues. A little bit ago, Senator Flood was up here and I told him, put that back up; I think we can get it done in 20 minutes. I really do think that LB573, the underlying bill, we've already worked out the amendment that affects the civil liability, the bill that provides the disincentive to people to provide alcohol to minors. What we have is AM1195, which really has been substantially changed by FA130. So if you vote for amendment FA130, we will essentially leave alone where children...the two exceptions in the bill, will in fact improve those, and AM1195 will simply, in the end, prohibit the removing of a tag, identification tag, from a keg of beer. And I'd join Senator White in telling you that I think that's a good idea, too. We heard in Judiciary Committee why that's happening and why it's a good idea to change that law. So I would encourage you to support FA130, AM1195, and then let's move LB573. Thank you. [LB573]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. Further senators wishing to speak on FA130? Seeing none, Senator Kruse, you're recognized to close. [LB573]

SENATOR KRUSE: Thank you, Mr. President. I was expecting others to do that. Since this is Senator White's bill, I would like to have...include him in the closing. This is his motion, actually, and he stated that. I would state that we are not giving guidance enough as to how much alcohol would be consumed in the home, and that's why I'd be voting against this amendment. But frankly, this is a debate between us, there's good reasons for both sides, and we're ready to leave it up to the floor for you to decide. Again, be clear: a yes vote keeps the exemption of the home for places teens can drink; a no vote would take that away. I would yield to Senator White. [LB573]

PRESIDENT SHEEHY: Senator White, you are yielded about 4 minutes. [LB573]

SENATOR WHITE: Thank you, Mr. President. I understand Senator Kruse's concern. I

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would point out two things. First of all, what is the appropriate amount of alcohol for a six-foot-four-inch, 220-pound 20-year-old, and the appropriate amount of wine at a Thanksgiving dinner for a 14-year-old who weighs 100 pounds? The reason we leave this up to the parents is because it's the parents' business. They know their children. They've managed thus far. We should trust them. I also think that if we want to send messages--and many of the messages Senator Kruse wants to send dearly need to be heard--we don't do it this way. We don't make criminals out of some of our most solid citizens. I ask that you vote for the amendment, and then if that is adopted, please, I would urge you to support the bill as well. [LB573]

PRESIDENT SHEEHY: Thank you, Senator White. You have heard the closing to the amendment. The question before the body is, shall FA130 be adopted to AM1195? All those in favor vote yea; opposed, nay. Have all...for what purpose do you rise, Senator White? [LB573]

SENATOR WHITE: I would like to call the house and call for a roll call vote. [LB573]

PRESIDENT SHEEHY: We do have a request for the call of the house. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB573]

CLERK: 29 ayes, 0 nays to place the house under call, Mr. President. [LB573]

PRESIDENT SHEEHY: The house is placed under call. All unexcused senators please return to the Chamber. All unauthorized personnel please step from the floor. The house is under call. Senator Schimek, would you check in, please. Senator Synowiecki, please check in. Senator Wallman, Senator Burling, the house is under call. All senators are accounted for. Mr. Clerk, would you please start with the roll call. [LB573]

CLERK: (Roll call vote taken, Legislative Journal pages 1772-1773.) 25 ayes, 8 nays, Mr. President. [LB573]

PRESIDENT SHEEHY: FA130 is amended...is adopted to AM1195. The call is raised. We will now return to discussion on AM1195. Senator Ashford, you are recognized. [LB573]

SENATOR ASHFORD: Thank you, Mr. President, members. And just very briefly, I'm not going to prolong the discussion, I just want to commend Senator Kruse for his work with the Judiciary Committee this year. Obviously, this is an issue we all know is very dear to his heart. He's committed, he's passionate. And for one, I've learned a lot about the issue of teenage...or minors and alcohol, things I did not know, I had not realized when I was here before, even though it was an issue of some import at that time. So I certainly urge the adoption of the amendment, and that we...and also a positive vote for LB573, as amended. Thank you, Mr. President. [LB573]

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PRESIDENT SHEEHY: Thank you, Senator Ashford. Additional senators wanting to speak on this item? Seeing none, Senator Kruse, you're recognized to close on AM1195. [LB573]

SENATOR KRUSE: Thank you, Mr. President and colleagues. And since this will be the last closing statement I make, I will make it closing for the bill, as well, since it's on Select File. I want to give a hearty thank you to everybody here who has participated in this. This is a record. Six years ago, we could not even talk about this subject, and we've come this far, to accomplish some very significant changes in law, in particular the liability that's established for somebody who procures for minors. That is huge. That would change a lot of things. And I'm so grateful for the strong support of this body on the basic issues. I also want to extend a sincere and great appreciation to Project Extra Mile. All of these ideas came from them. This is a coalition of teenagers, educators, and enforcement, so that their ideas are not some idealistic statement or unseasoned. They've been at it for years. I've been at it for years. And we looked at the things that would really make a difference. And it is this...their testimony that this will make a difference. So I would dare to predict, friends, that Nebraska is going to lose its number one rating. I hope you can adjust to that. We, at present, are number one teen consumption of alcohol per capita in the nation. We are ready to change that message. I would have a friendly challenge of what Senator White said. This is a message. It's more important than a billboard. It's more important than buying ads in the paper or something. This is a message if we can send this out and if we can get the adults within the state to say, we do not accept drinking as an acceptable behavior for teens, and we're going to say that to each other as well as to the teens. Don't talk to the teens; talk to each other, as parents--a little bit of lecture thrown in there free. I thank you all for a strong debate, showing, and the research that the Judiciary Committee did on this. With that, I urge your support of the amendment. [LB573]

PRESIDENT SHEEHY: Thank you, Senator Kruse. You have heard the closing on the amendment. The question before the body is, shall AM1195 be adopted to LB573? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB573]

CLERK: 30 ayes, 0 nays, Mr. President, on the adoption of Senator Kruse's amendment. [LB573]

PRESIDENT SHEEHY: AM1195 is adopted. The floor... [LB573]

CLERK: I have nothing further on the bill, Mr. President. [LB573]

PRESIDENT SHEEHY: Senator McGill. [LB573]

SENATOR MCGILL: Mr. President, I move LB573 to E&R for engrossing. [LB573]

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PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB573 does advance. Next item, Mr. Clerk. [LB573]

CLERK: Mr. President, LB551, back to Select File, considered this morning. The first amendment I have to the bill, Senator Ashford, FA132. [LB551]

SENATOR ASHFORD: I'm sorry, Mr. President, that's withdrawn, or withdraw. [LB551]

PRESIDENT SHEEHY: FA132 is withdrawn. [LB551]

CLERK: Senator Avery, AM1476. (Legislative Journal page 1773.) [LB551]

PRESIDENT SHEEHY: Senator Avery, you're recognized to open on AM1476. [LB551]

SENATOR AVERY: Thank you, Mr. President. When we voted to support Speaker Flood's FA132 earlier today, I believe the intent of that vote was to exclude private hotel facilities from qualifying for the sales tax turn-back provisions in the main bill, LB551. Later on, after that vote, it was called to my attention that we may not have achieved that objective. On page 2 of AM1456, in lines 10 through 14, that amendment states, referring to the amount of state assistance that can be designated, it refers to: collected by retailers and operators doing business in such facilities on sales at such facilities, state sales tax revenue collected on primary and secondary box office sales of admissions to such facilities, and state sales tax revenues collected by associated hotels. That's the key word...key two words. And you go on down to lines 23 through 25, and the amendment defines "associated hotel" to mean any facility in which the public may, for a consideration, obtain sleeping accommodations and which is located within 200 yards of an eligible facility. After looking at that, I think it would be wrong for me to let this go forward and very possibly create a backdoor way for Lincoln to qualify for these turn-back funds. The change that Senator Flood added to AM1456 was simply to restore the word...the two words "publicly owned" on page 3, line 18. What we needed to do was to also correct the language on page 2, because otherwise this would allow Lincoln to still qualify for these turn-back funds. I don't believe that was the intent of this body. I believe that if we allow this to stay as it is, it would run counter to the intent of the majority. So I offer this amendment to correct this error. If you still want to give Lincoln an opportunity to participate, vote against it. If, however, I am right that your intent was that Lincoln would not participate, this amendment needs to be approved. Thank you, Mr. President. [LB551]

PRESIDENT SHEEHY: Thank you, Senator Avery. You have heard the opening to AM1476 to LB551. Senator Ashford, you are recognized. [LB551]

SENATOR ASHFORD: Thank you, Mr. President. Very briefly, thank you, Senator

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Avery, for the amendment. And Senator Avery brought this to me and indicated that Speaker Flood's amendment earlier in the day did not completely do what was represented. And Senator Avery suggested that it was absolutely necessary that we do this amendment. I support it. I look forward to working with Senator Avery next year on what is a commendable project in Lincoln. And with that, Mr. President, I would support Senator Avery's amendment. [LB551]

PRESIDENT SHEEHY: Thank you, Senator Ashford. Further discussion on AM1476? Seeing none, Senator Avery, you are recognized to close. Senator Avery waives closing. The question before the body is, shall AM1476 be adopted to LB551? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB551]

CLERK: 25 ayes, 1 nay, Mr. President, on the amendment. [LB551]

PRESIDENT SHEEHY: AM1476 is adopted. [LB551]

CLERK: Senator Ashford would move to amend, AM1472. (Legislative Journal pages 1773-1774.) [LB551]

PRESIDENT SHEEHY: Senator Ashford, you're recognized to open on AM1472. [LB551]

SENATOR ASHFORD: Thank you, Mr. President and members. AM1472 is the amendment we discussed on the floor earlier, and I believe it's in proper form now with Senator Chambers, regarding the distribution of the 10 percent of the 70 percent of the turn-back financing. The amendment sets aside two areas of the city, high-poverty areas of the city both, one on north...in north Omaha, and one in south Omaha, for these funds. It sets up a committee made up of the city council person and county board person from each of the districts, two districts. There will be two members for each area, and they will appoint a third person. And those three people will determine how the money shall be spent to enhance...the standard is, to enhance the historic nature of their neighborhoods and to increase...and by so doing, I believe, increase tourism opportunities. These are areas near the Qwest Center, but not necessarily adjacent to the Qwest Center. I think it's a strong amendment. I appreciate Senator Chambers. And if I might, Senator Chambers, ask him a question? [LB551]

PRESIDENT SHEEHY: Senator Chambers, would you yield to a question? [LB551]

SENATOR CHAMBERS: Yes, Senator Ashford may ask him a question. [LB551]

SENATOR ASHFORD: Senator Chambers, here's my question. [LB551]

SENATOR CHAMBERS: (Laugh) Yes. [LB551]

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SENATOR ASHFORD: Are you ready? [LB551]

SENATOR CHAMBERS: Yes, I am. [LB551]

SENATOR ASHFORD: Thank you. Here it is. Have you read this amendment? [LB551]

SENATOR CHAMBERS: Yes, I have. [LB551]

SENATOR ASHFORD: I'm not going to try to be too tough on you now. [LB551]

SENATOR CHAMBERS: I think I can bear up under it. [LB551]

SENATOR ASHFORD: Thank you. (Laugh) What do you think of it? (Laugh) [LB551]

SENATOR CHAMBERS: Well, all things considered, I think it's one of the better amendments that has been crafted on an issue such as this, because it was not easy at all. But the people who worked on it did a very good job. [LB551]

SENATOR ASHFORD: That was the answer I'd hoped for. Thank you. I would like to thank my staff for putting this together and as quickly as it did. And with that, Mr. President, I would urge adoption of AM1472. [LB551]

PRESIDENT SHEEHY: Thank you, Senator Ashford. You have heard the opening to AM1472 to LB551. Senators wishing to speak are Senator Chambers. You are recognized. [LB551]

SENATOR CHAMBERS: Thank you, Mr. President. Everybody is just doing what I like. He said, the "senators" wishing to speak are Senator Chambers. (Laughter) Mr. President, just so that we have something in the record about this amendment, as Senator Ashford pointed out, there is a definition of what constitutes a high concentration of poverty. That area will be found in south Omaha, and it will be found in north Omaha. Each area will be represented on this committee by the commissioner whose district has most of that poverty in his district; the city council person, the same. And since those districts basically overlap, except that the county district is larger, you're going to have people who are accountable directly to the residents. It would be very difficult and foolish for any hanky-panky to occur. There will be an incentive to find projects that will benefit the community, because they're going to have to solicit and receive input from the community. They will have public hearings. And the two men who are in south...in north Omaha right now are going to be responsive, because I will make sure that that happens. But they both have an inclination, especially the city council member, to feel that way. What we realize is that the ones currently in those positions may not be there for the duration. But whoever holds that position is going to be on the

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committee. There will be those two who are on it by operation of that statute. They will then select a third person. That comprises the committee, which will establish this fund and the priorities that will be addressed through the expenditure of money. So the amendment has been drafted about as tightly as it can be. Senator White participated, Senator Ashford obviously, Senator Avery, I had a word or two, so it was a cooperative effort. But ultimately, the staff of the Judiciary Committee consolidated all of these ideas, we looked them over, and arrived at the committee...at the amendment--it's not a committee amendment, although the staff worked on it--but the amendment which is before you now. I will support the amendment. I still don't like these kind of bills, but the amount of money that is involved that the city will be deriving is not that huge. And I'm going to go ahead and say it on the record: There are people in Omaha who are going to see me as a hero, not in my district, but people downtown who thought I was going to kill this bill just to kill it. But they need to realize that Senator Ashford played a very large part in bringing me to the point where I wouldn't go all out to try to kill this bill. I'm going to support the amendment. I can't say how I'll vote on the bill, but I think others who don't have any particular objection to assisting with these programs can vote as their conscience directs. And, Senator Ashford, before I say anything that might hurt your bill, I think I will just stop. Thank you, Mr. President. [LB551]

PRESIDENT SHEEHY: Thank you, Senator Chambers. Senator Synowiecki. [LB551]

SENATOR SYNOWIECKI: Thank you, Mr. Lieutenant Governor. And particular thanks to Senator Ashford. There is...I appreciate the recognition of everything that's going on, northeast Omaha, southeast Omaha, the redevelopment efforts, particularly in the south Omaha business district. This will fit perfectly with what's going on in terms of the museums that are coming up, the developments that are going on. Perhaps, in particular that comes to mind is in what used to be called the Little Italy part of town. We have developments down there. We've got museums throughout the 10th Street corridor, through the 24th Street corridor. The El Museo Latino museum is a tremendous asset in south Omaha, attracts a lot of visitors from throughout the state and throughout Iowa that come to visit the museum there. It's a great asset in the community. And this will only strengthen already existing assets, and perhaps to bring on some more, in terms of development and tourism. And I appreciate the efforts, particularly that you did with regard to the arrangements of the infrastructure and how this will be devised, and appreciate you bringing the amendment. And I think this is vitally important. I think that while we concentrate on the Qwest Center and the surrounding area, it's also important to concentrate in the surrounding areas that make up the entire area, and to recognize the assets, the tourism assets, that are available in that or play an integral role in the economy of both north and south Omaha. So thank you, Senator Ashford. [LB551]

PRESIDENT SHEEHY: Thank you, Senator Synowiecki. Further senators wishing to speak on AM1472? Seeing none, Senator Ashford, you're recognized to close. [LB551]

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SENATOR ASHFORD: Thank you, Mr. President. And thank you, Senator Synowiecki and Senator Chambers and Senator White, for coming up with the...a lot of thought...a lot of the thoughts that went into this final amendment. When the Qwest Center was developed, the idea was to revitalize parts of north and parts of south Omaha that needed revitalization, and secondarily, to capture the history of these vital areas of our city--Little Italy, the areas in northeast Omaha that Senator Chambers has talked about. I'm just very excited about this. I'm proud of this bill. I appreciate Senator Flood's efforts, Senator Avery's, as usual, graciousness, and which he always expresses in this body. And with that, Mr. President, I would urge the adoption of AM1472. [LB551]

PRESIDENT SHEEHY: Thank you, Senator Ashford. You have heard the closing to the amendment. The question before the body is, shall AM1472 be adopted to LB551? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB551]

CLERK: 34 ayes, 0 nays, Mr. President, on adoption of the amendment. [LB551]

PRESIDENT SHEEHY: AM1472 is adopted to LB551. Anything further on the bill? [LB551]

CLERK: Nothing further, Mr. President. [LB551]

PRESIDENT SHEEHY: Senator McGill. [LB551]

SENATOR MCGILL: Mr. President, I move LB551 to E&R for engrossing. [LB551]

PRESIDENT SHEEHY: You have heard the motion for the advancement of LB551 to E&R for engrossing. All those in favor say aye. Opposed, nay. LB551 advances. Next item, Mr. Clerk. [LB551]

CLERK: LB551A. I have no amendments to the bill. [LB551A]

PRESIDENT SHEEHY: Senator McGill. [LB551A]

SENATOR MCGILL: Mr. President, I move LB551A to E&R for engrossing. [LB551A]

PRESIDENT SHEEHY: You have heard the motion to advance LB551A to E&R for engrossing. All those in favor say aye. Opposed, nay. LB551A advances. Next item, Mr. Clerk. [LB551A]

CLERK: Mr. President, LB554A. No E&Rs. Senator Flood would move to amend with AM1471. (Legislative Journal page 1774.) [LB554A]

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PRESIDENT SHEEHY: Senator Flood, you're recognized to open on AM1471. [LB554A]

SPEAKER FLOOD: Thank you, Mr. President. This morning, Senator Wightman introduced an amendment that was adopted that moved the effective date of the requirement to...on the child support that would not be necessary for inmates confined, instead of six months, it would be a year, and then the effective date was pushed from January 1, 2008, to July 1, 2008. So this, by pushing it back those six months, does amend the A bill to reflect the fact that they don't need money in the next fiscal year to pay for the services of the program that he had adopted. I would ask for your adoption of AM1471. Thank you. [LB554A]

PRESIDENT SHEEHY: Thank you, Senator Flood. You have heard the opening on AM1471 to LB554A. Are there any senators wishing to speak on this item? Seeing none, Senator Flood, you're recognized to close on your amendment. Senator Flood waives closing. The question before the body is, shall AM1471 be adopted to LB554A? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB554A]

CLERK: 30 ayes, 0 nays on adoption of the amendment. [LB554A]

PRESIDENT SHEEHY: AM1471 is adopted. Anything further on the bill? [LB554A]

CLERK: Nothing further. [LB554A]

PRESIDENT SHEEHY: Senator McGill. [LB554A]

SENATOR MCGILL: Mr. President, I move LB554A to E&R for engrossing. [LB554A]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB554A advances. Next item, Mr. Clerk. [LB554A]

CLERK: Mr. President, LB142. Senator McGill, I have Enrollment and Review amendments. (ER8116, Legislative Journal page 1688.) [LB142]

PRESIDENT SHEEHY: Senator McGill. [LB142]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB142]

PRESIDENT SHEEHY: The question is the adoption of the E&R amendments to LB142. All those in favor say aye. Opposed, nay. They are adopted. [LB142]

CLERK: Senator Friend would move to amend with AM1431. (Legislative Journal page 1720.) [LB142]

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PRESIDENT SHEEHY: Senator Friend, you're recognized to open on your amendment, AM1431. [LB142]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. Just a quick refresher: LB142 is a bill that I had sponsored on behalf of the Attorney General's Office, Attorney General of the state of Nebraska. And I think, if you recall, a lot of the discussion on General File related to...there are two key sections to LB142. One is an intimidation, or an adult-to-adult intimidation type of statutes that we were trying to enhance. So in other words, telephone calls to somebody, harassing type of calls, we have statutes in place to deal with that type of stuff. That section was enhanced, but, as you remember, we took a good three or four hours of time to trudge through that. What this amendment does, to be really clear, AM1431, is it eliminates that adult-to-adult intimidation section. Doesn't repeal the law in regard to the telephone harassment or anything else, just pulls that section out of there. We're not going to enhance that anymore, mostly because the pledge that I gave to you as a body is that we were going to work on this language between General and Select File; quite honestly, members, we've been so busy, I didn't know if we really had time to work through some of the issues, not only that Senator Chambers brought up, but that Senator Mines and Senator Lathrop brought up as well. So that section goes away. But to me, the important part of this bill, it's always been...as Senator Chambers had fun with last night, the "thrust" of this bill, to me, was the next section. And the next section is intact. But what we do with AM1431 also is that we...if you also recall, members, we had a discussion with language...well, language that reads this way: A person commits the offense of enticement by electronic communication device if he or she is 19 years of age or over and knowingly uses an electronic communication device to contact a child under 16 years of age or a peace officer who is believed by such person to be a child under 16 years of age and in so doing, (a), (b), (c), suggests any indecent, lewd, or lascivious act. We had a good long discussion about the term "suggests." Senator Chambers offered an amendment that more or less said, I believe, "explicitly offers." I chose the term "offers." I'm not sure...maybe "explicitly"...I kind of felt "explicitly" was almost too much. It's an adjective that was not necessary. If somebody is offering some indecent, lewd, or lascivious act, they're offering it. I'm not sure exactly whether you have to be explicit or not. Maybe I'm wrong. But anyway, the amendment says that. So if you go to your Chamber Viewer, look up AM1431, you'll see that we strike the first section and then deal with the term "suggests" in line 18 of Section 3. Members of the Legislature, I know Senator Chambers has two amendments following this. Senator Pedersen has an unrelated amendment that we're going to be able to deal with one way or the other. I have talked to Senator Chambers about this. I wish we could have had more time maybe to go through some of this stuff. I like both of his amendments, oddly enough. One of them...(laugh) well, I shouldn't have put it that way. One of them, in Section 3, lines 7, 8, and 9,...I don't mean to get the cart before the horse. "A person commits the offense of enticement by electronic communication device if he or she is nineteen years

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of age or over and knowingly and intentionally utilizes an electronic communication device." That's one of Senator Chambers', and I don't think that that's too bad. I think that's actually pretty good language. The second one is on line 24, beginning with the...or, excuse me, line 26, beginning with the term "signs." It says: For the purpose of this section, electronic communication device means any device which, in its ordinary and intended use, transmits by electronic means writings, sounds, visual images, or data of any nature to another electronic communication device. I don't think that's too bad either, members of the Legislature. And I think what you've done is you've taken 7 lines...or, excuse me, 7, 8, 9, 10, 11, 12 lines, and reduced it to, more or less, 3. I think that's always a good thing, as long as you're capturing the intent of the legislation. So I'll let Senator Chambers explain those later on. I did talk to the Attorney General's Office, and they are...they're fine, for lack of a better way to describe it, with the changes. Members of the Legislature, I think if this bill was meant to be dead, if this bill was meant to be stopped, it would be by now. Senator Chambers, I wanted to thank him for the time he's put into this. He didn't have to do that. I understand that. There's other things he won't help me with. I understand that, and I understand why. I think he knows that this could be used in a very significant way, and can help in a significant way. With that, I would ask you, members, for the adoption of AM1431 first. We can get on with other amendments after that, and possibly even move this bill. Thank you, Mr. President. [LB142]

PRESIDENT SHEEHY: Thank you, Senator Friend. You have heard the opening to AM1431. The floor is now open for discussion. Any senators wishing to speak on this item? No lights are on. Senator Friend, you're recognized to close. [LB142]

SENATOR FRIEND: Thank you, Mr. President. Members, just to say, again, to the best of your ability, pay close attention. We are significantly changing, if you will, some language here with not necessarily Senator Chambers', I believe, first amendment, but the second one. I think it's decent language. But first and foremost, we really do need to adopt AM1431. We're removing adult-to-adult, or the intimidation statutes. I do also know that some of the conversations that I've had with folks is that we may have an opportunity over the interim and next year, and I think the Judiciary Committee would be happy to take a look at these telephone statutes and...oh, thank you, Senator Mines. Yeah. Hey, when have you...by the way, members, Senator Mines has given me the hand across the throat, like I'm supposed to stop. That's a call to arms at my house. (Laugh) Thank you, Mr. President. [LB142]

PRESIDENT SHEEHY: Thank you, Senator Friend. You have heard the closing of the amendment. The question before the body is, shall AM1431 be adopted to LB142? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB142]

ASSISTANT CLERK: 38 ayes, 0 nays on the adoption of Senator Friend's amendment.

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[LB142]

PRESIDENT SHEEHY: AM1431 is adopted. Next amendment, Mr. Clerk. [LB142]

ASSISTANT CLERK: Mr. President, the next amendment I have is AM1206, offered by Senator Dwite Pedersen. (Legislative Journal page 1748.) [LB142]

PRESIDENT SHEEHY: Senator Fischer, you're recognized to open on AM1206. [LB142]

SENATOR FISCHER: Thank you, Mr. Lieutenant Governor and members of the body. As many of you know, Senator Pedersen couldn't be with us tonight. He does have family obligations and he asked that I introduce this amendment on his behalf. AM1206 is proposed to LB142 to clarify language in Nebraska law relating to the possession of concealed handguns. During the debate on LB454 last year, Senator Flood inquired of bill introducer Senator Jeanne Combs her intent on what the term "school" meant. LB454 prohibited the carrying of concealed handguns in schools or on school grounds, vehicles, or at school-sponsored activities or athletic events. Senator Combs indicated that her intent was for a broad interpretation of the word "school," and was meant to include all K through 12 schools, and all colleges and universities, public and private. The University of Nebraska requested an Attorney General's Opinion on this issue during the summer. The Attorney General opined that "school" did not include colleges and universities, in spite of the clear legislative intent to the contrary. AM1206 provides language that makes clear the legislative intent to include public and private schools and public and private colleges and universities as places where concealed handguns cannot be carried. The language is similar to the language contained in LB491 as originally introduced by Senator Harms. That bill is currently on General File. And with that, I would close. Thank you, Mr. Lieutenant Governor. [LB142 LB491]

PRESIDENT SHEEHY: Thank you, Senator Fischer. You have heard the opening to AM1206. The floor is now open for discussion. Senator Friend. [LB142]

SENATOR FRIEND: Thank you, Mr. President, members of the Legislature. I've read this amendment twice. I understand what it's doing. I have general agreement with the thought process, I guess, or what this legislation is trying to accomplish. I don't know if there...I don't know how the body feels about it. I don't know if you've looked at AM1206. I've talked to Senator Pedersen about it. I told him I would not fight the effort to actually attach it to LB142. I would ask you the same. Thank you, Mr. President. [LB142]

PRESIDENT SHEEHY: Thank you, Senator Friend. Senator Karpisek, followed by Senator Harms. Senator Karpisek, you're recognized. [LB142]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. I support this

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amendment because I think that that was the intent, was to put all schools on, colleges, universities. The part that bothers me is, we've talked about putting hospitals on as an amendment. Senator Harms and I had talked at the beginning of session about putting hospitals on. Right now, it's trauma centers, emergency rooms. Senator Harms said he didn't have a problem with that. But it came back that the NRA did have a problem with that, and if we would try to put hospitals on with schools, the amendment would be pulled. I'm just standing to say that I think that is wrong. I don't think it's right to say, well, we don't want that, so if that happens, we're going to oppose this type of an amendment. I do not want to harm this amendment, because I think it is a good amendment. But I would really like to put an amendment on for hospitals. I don't want to cause a bunch of problem for this bill or the amendment. I just want to be on record to say that I do not think it's right. I don't think that they...that the concealed carry needs to be in a hospital. Thank you, Mr. President. [LB142]

PRESIDENT SHEEHY: Thank you, Senator Karpisek. Senator Harms, you are recognized. [LB142]

SENATOR HARMS: Thank you, Mr. President and colleagues. This bill was one that I introduced earlier. The actual bill went in strictly with colleges, exactly what Senator Fischer has told you was the reason behind that. In the committee, they placed other, put the hospitals in there and they put some other items, other language in there. Most likely, when that bill would have come up I would have pulled it. My intent at this point was really just to do the colleges, because that was the intent of the Legislature. And if this body would have chosen to go to the hospitals, that would have been okay with me. But anything beyond that, I would have pulled it because it just was not my intent. So I rise to support this amendment. I think it is important. It is important for higher education to be included in this law. I also think that we have to put signs up. Being on a college campus, you never know how long they're going to be up and you also don't know what's going to be written on them. And so I think it's important to do this. I think it's important to make sure that they are included. So with that, Mr. President, thank you. [LB142]

PRESIDENT SHEEHY: Thank you, Senator Harms. Senator Carlson, you are recognized. [LB142]

SENATOR CARLSON: Mr. President and members of the Legislature, I'd like to address a question to Senator Harms. [LB142]

PRESIDENT SHEEHY: Senator Harms, would you yield to a question? [LB142]

SENATOR HARMS: Yes. [LB142]

SENATOR CARLSON: Having just looked at this right now, in your original bill was

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there...I don't know the current law that we have. Are all these additional new places where a gun cannot be carried or is it simply the addition of the schools? [LB142]

SENATOR HARMS: It's just the addition of the colleges. The problem with it was when they went through it and they added schools, they had schools in this debate. And in the debate, in the...Senator Flood asked the question to the introducer, does schools mean colleges and universities? And the reply was yes. And then J.B. Milliken, the president of the University of Nebraska, wrote a letter to the Attorney General for an Opinion. And his answer was, no, it does not mean schools in this context. So what this is, just placing in the colleges and universities, fulfilling the intent of this Legislature a year ago. [LB142]

SENATOR CARLSON: Okay. Then Senator Karpisek's comment brought my curiosity. There's not hospitals in here? What is the... [LB142]

SENATOR HARMS: No, there's not hospitals in there. [LB142]

SENATOR CARLSON: What's the opposition? Why is there opposition to a hospital? Do you know if, Senator Karpisek, you don't know...would he yield? [LB142]

PRESIDENT SHEEHY: Senator Karpisek, would you yield to a question? [LB142]

SENATOR KARPISEK: Yes, I will. No, I don't. It seems to be a deal that was cut, that the NRA said we'll be all right with this and not fight it but if you try to put hospitals in, we will. [LB142]

SENATOR CARLSON: Okay. That's hard to understand. I think it's good that it's brought out and it deserves further conversation someplace down the road but not on this bill. Thank you. Thank you, Mr. President. [LB142]

PRESIDENT SHEEHY: Thank you, Senator Carlson. Senator Erdman. [LB142]

SENATOR ERDMAN: Mr. President, members of the Legislature, let me share with you what I think might happen if this amendment is adopted and then it will obviously be up to you to decide. I think we generally would agree with the language in this bill. You know, maybe there's some additional examples that Senator Karpisek would have. Clearly this amendment is not germane. We can suspend the germaneness rule and adopt it, no problem. My ultimate concern is this, that under the Constitution of the State of Nebraska, we are prohibited from including more than one subject in a bill. My concern is not that we would be doing this, as if it hasn't ever been done, but an individual who would be cited under Senator Friend's bill for solicitation of a minor could use that as a defense, that the bill was enacted under an unconstitutional means and be able to challenge that in court successfully. And so while we may be accomplishing two

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things at once, ultimately we may be invalidating both at a later date. We won't know what the courts will do, obviously. But I think out of respect to this process, but most specifically what Senator Friend would ask, I'm concerned that if we put these both in here that we run afoul of what our constitutional provisions are for enacting legislation and then we don't have either issue addressed. But most specifically, we don't have the issue that Senator Friend has brought to us in this bill that says that minors should not be able to be solicited the way that they are being solicited in our state or in other states and that we should have the tools we need to be able to enforce that act. So while I probably would support AM1206, my concern is in knowing that somebody will be in court under this act. It's different than most other laws that we would pass where there may be more than one issue in them. Somebody will likely raise this, if they have an attorney that follows our process or knows how the laws are enacted, and may raise that. So I just wanted to provide that pause and think about this process, not that I'm opposed to this amendment, but I think Senator Friend has worked to have his bill addressed and has merit. I would like to see that pass. If we can assure ourselves that this is not an issue, which I think would be difficult to do, then I think we can go ahead with both. But I just wanted to point that out. I visited with other members that think it could be problematic. But obviously, we wouldn't know officially until a court would rule on it. But reading the plain language of the constitution, I think this may run afoul of that. Senator Friend, you're welcome to the rest of my time, if you would like it. [LB142]

PRESIDENT SHEEHY: Senator Friend, about 2 minutes, 20 seconds. [LB142]

SENATOR FRIEND: Thank you, Senator Erdman and Mr. President, members of the Legislature. A couple issues here: We Christmas tree stuff...(laugh) I've been here five years, we Christmas tree stuff before breakfast. So I'm not sure, you know, if we want to...the couple of issues here, the first one is that we Christmas tree stuff. Is it appropriate? You can approach that any way you'd like. If somebody wants to raise germaneness or something like that, the problem is we've already had three instances this session where that could have been brought to the floor, a germaneness question, and we haven't done it. Just because this one is shorter and easier to read, I'm not really sure (laugh), I'm not really sure that's appropriate that we pick on this one. But anyway, if we have to pick on this one, that's fine. The second issue, the one Senator Erdman raised, look, I'm not a constitutional lawyer and neither is Senator Erdman, he just pointed that out. But what I would say is, if that's going to be a problem, yeah, I have concerns with AM1206. But all I can deal with right now is what I know about AM1206,... [LB142]

PRESIDENT SHEEHY: One minute. [LB142]

SENATOR FRIEND: ...what I know about LB142 in their current form and the job that I'm supposed to end up driving forward here. And that is, AM1206 isn't bad legislation. I like LB142. I'm going to like it even more, I guess, when Senator Chambers is done with

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it. But the bottom line is, that's really, at this point, all I can speak to. I would say use your own discretion but I think AM1206, there's some common sense associated with it. Make your own judgment. I think we're a little bit at a handicap here in that we're trying to judge some constitutionality on the fly. I don't deny what Senator Erdman says. What I have a problem with is verification. I'm not sure we have to be in that much of a hurry, but we'll figure out what to do here. I would say let's just, you know... [LB142]

PRESIDENT SHEEHY: Time, Senator. [LB142]

SENATOR FRIEND: Thank you. I'd say we attach the amendment. Thank you, Mr. President. [LB142]

PRESIDENT SHEEHY: Senator Fulton, followed by Senator Ashford, and Senator Carlson. Senator Fulton, you are recognized. [LB142]

SENATOR FULTON: Thank you, Mr. President. Reading through the amendment, I guess Senator Erdman is...he explains or elucidates what the concern that pops into my head. I mean, if you...you should read the amendment. This is...I think it is different matter than what LB142 is. And what's more, I think it's probably controversial matter. These tragedies that occurred in Virginia Tech, one of the arguments there is that conceal and carry was banned, concealed weapons were banned on Virginia Tech campus. And that that being the case, this lunatic ran free on that campus. So the argument is that conceal and carry shouldn't have been enacted on Virginia Tech campus. Now I will be honest and I don't know if that's legitimate argument or not. I just...I haven't thought through it. But that's what pops in my head when I see AM1206. And so that says, that's completely different matter than cyberintimidation. And so if we put something like this into the bill, being a fairly controversial subject matter that I don't think is germane to the bill itself, some of the lawyers in the body are going to have to help me out on this. I think that's going to be problematic for the bill itself. I'd like to yield the remainder of my time to Senator Ashford. [LB142]

PRESIDENT SHEEHY: Senator Ashford, you have about 3 minutes, 30 seconds. [LB142]

SENATOR ASHFORD: Thanks, Mr. President. I'm going to go it alone without Senator Lathrop and Senator White and I'm going to play lawyer for a second. (Laugh) But they're free to come and correct me after a bit. I think, at least on the issue of severability, it would be my opinion that it is not severable because a court could not determine what the principal bill was, whether it was the bill regarding the permit to carry or whether it was regarding the enticement or intimidation. So I don't think it's severable. However, it's my understanding that no court has ever struck down a statute on the basis, on the single subject question, which is what we're talking about here. I don't believe, and maybe Senator White has some information on this, but I don't

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believe that a court, at least in Nebraska, has ever struck down a statute on that basis. And with that, Mr. President, though it clearly is not germane, as Senator Erdman suggests, and I'm glad we're having the discussion, my opinion would be that we can move forward with this amendment. [LB142]

PRESIDENT SHEEHY: Thank you, Senator Ashford. Senator Ashford, you are next in the queue. [LB142]

SENATOR ASHFORD: If Ernie has got something...all right. (Laugh) Senator Chambers has something so I would ask Senator Chambers a question, if he would. [LB142]

PRESIDENT SHEEHY: Senator Chambers, would you yield to a question? [LB142]

SENATOR CHAMBERS: Yes, I will. [LB142]

SENATOR ASHFORD: Do you have something, Senator Chambers? [LB142]

SENATOR CHAMBERS: Yes, I have. [LB142]

SENATOR ASHFORD: Would you tell us what it is? [LB142]

SENATOR CHAMBERS: Yes, I will. (Laughter) [LB142]

SENATOR ASHFORD: Thank you. [LB142]

SENATOR CHAMBERS: Mr. President, members of the Legislature, when that bill I had yesterday, I think the number was LB475, but anyway, the sexual orientation bill, when that bill died, the A bill was still there and it is there. So we can do as we've done with A bills before. We can gut that bill, because it has no purpose as an A bill, and insert this amendment that's being offered and the discussion we're having now on Senator Friend's bill can go away. We have no issue and we don't have to spend all the rest of tonight on that. Now if there was a bill I wanted to kill I'd want you to stay here till 11:59, but that's not my interest. So this might be the quickest, easiest, and cleanest way to do it and work can begin on doing that right now and we don't have to try to add this amendment to LB142. [LB142 LB475]

SENATOR ASHFORD: Hmm, that does sound pretty good. (Laughter) There you go, let's go with that idea. My opinion is still right, of course, but I think that (laughter) Senator Chambers' idea, I think, may be more pragmatic under the circumstances, Mr. President, and I would defer to him. Thanks. [LB142]

PRESIDENT SHEEHY: Thank you, Senator Ashford. Senator Carlson. [LB142]

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SENATOR CARLSON: Mr. President, members of the Legislature, with Senator Chambers' suggestion, I no longer have any concerns. I think that's the right thing to do. I don't want to see Senator Friend's bill impeded in any way and this is an opportunity to bring the other into proper existence. Thank you. [LB142]

PRESIDENT SHEEHY: Thank you, Senator Carlson. Senator Fischer, you are recognized. [LB142]

SENATOR FISCHER: Thank you, Mr. President and members. I'm glad I could add this excitement this evening and I know Senator Pedersen is also pleased on the work I've done for him. (Laughter) With that suggestion from Senator Chambers, I will withdraw the amendment. Thank you. [LB142]

PRESIDENT SHEEHY: Thank you, Senator Fischer. AM1206 is withdrawn. Next amendment, Mr. Clerk? [LB142]

ASSISTANT CLERK: Senator Chambers would offer FA133. (Legislative Journal page 1775.) [LB142]

PRESIDENT SHEEHY: Senator Chambers, you are recognized to open on FA133. [LB142]

SENATOR CHAMBERS: Mr. President, members of the Legislature, as odd as it might sound, Senator Friend explained this amendment and he did a very good job of it. (Laughter) If you want to follow along for the record, on page 3, in line 9, I would strike the word "uses" and insert three words, "and intentionally utilizes." The purpose of this amendment really is to add the word "intentionally" because when we're talking about a person committing a criminal act, we say that the person knowingly and intentionally does the act. So the key word is that "intentionally" will be added and instead of saying "uses an electronic communication device," we will say "utilizes." Then we save the word "uses" for if a person is speaking and the person is using language or whatever. But that's what the amendment would do. And Senator Friend already explained it so that's as much as I feel I need to say. But if you have questions, I will answer them succinctly, so pay attention. [LB142]

PRESIDENT SHEEHY: Thank you, Senator Chambers. You have heard the opening to FA133 to LB142. Are there any senators wishing to speak on this item? Senator Chambers, no lights are on. You may close on FA133. Senator Chambers waives closing. The question before the body is, shall FA133 be adopted to LB142? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB142]

ASSISTANT CLERK: 33 ayes, 0 nays on the adoption of FA133. [LB142]

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PRESIDENT SHEEHY: FA133 is adopted. Next amendment, Mr. Clerk? [LB142]

ASSISTANT CLERK: Senator Chambers would offer FA134. (Legislative Journal page 1775.) [LB142]

PRESIDENT SHEEHY: Senator Chambers, you are recognized to open on FA134. [LB142]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, for the sake of the record, I'm going to read what the amendment says and then I'm going to read how it will fit with the remaining language. On page 3, in line 26, strike beginning with the word "signs" through line 27 on page 4. So you're going to start striking in line 26, on page 3, continue over to page 4 and strike everything in lines 1 through 7. This is the language that I'm striking: signs, signals, writings, sounds, visual images, data, or intelligence of any nature, in whole or in part, by a wire, radio, or electromagnetic, photoelectric, or photooptical system. Electronic communication device includes, but is not limited to: cellular, wireless, and wire-based telephones, including text-messaging capabilities on such telephones; computers as defined in Section 28-1343; and personal data assistants, a-s-s-i-s-t-a-n-t-s, that operate in a manner consistent with this definition. Here is what will remain: "For purposes of this section, electronic communication device means any device which, in its ordinary and intended use, transmits by electronic means writings, sounds, visual images or data of any nature to another electronic communication device." It eliminates all of that surplusage, it eliminates the cataloging of various specific devices, and it does away with this language which says, on page 4, in lines 6 and 7, "personal data assistants that operate in a manner consistent with this definition." That language is vague. There is, as I stated, surplusage which can be removed. And in order that you will see the thrust of this amendment--Senator Friend likes that word--we're dealing with sounds which could be vocal or oral, we're dealing with writings which could be text messaging, we're dealing with visual images which would be any of these graphic depictions of explicit sexual activity. And by using the word "electronic," we embrace all of these specifically mentioned devices and it will apply to any others that subsequently come into being. That is the amendment. And once again, as odd as it sounds, Senator Friend discussed this amendment, he explained it, and he read what would be the language once the amendment is adopted. So although he did not give as stirring, as rousing a presentation as my godson Senator Karpisek did, Senator Karpisek gave what we call a stump-turner and a gully-washer. (Laughter) Senator Friend was very restrained by comparison but he was so lucid, he was so coherent, he was so much on point that, without being facetious, I really can't improve on the way he explained the amendment. But since it's mine and I'm presenting it now, for the record I had to go ahead and do as I did. So I'm asking that this amendment be adopted. [LB142]

PRESIDENT SHEEHY: Thank you, Senator Chambers. You have heard the opening to

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FA134 to LB142. Senators wishing to speak, Senator Friend, you are recognized. [LB142]

SENATOR FRIEND: Thank you, Mr. President, members of the Legislature. Really quickly, I promise, the reason this was so verbose or at least the language that was in there...let me step back. The reason the language that was in there that Senator Chambers is replacing was in there is because we were taking that out of the United States Code, Section 2510(12). So in other words, we're changing the nature and we don't really know what's going to happen in the long run, I guess, prehistorically. And if there was any reticence, that would be it. But the point is, this language wasn't made up by anybody. I mean, we took that out of federal statutes. I do think this is a little better, it's more concise maybe. I know it's more concise. I do maybe think it's a little bit better. And with that, Mr. President, I'd ask for the adoption of FA134. Thank you. [LB142]

PRESIDENT SHEEHY: Thank you, Senator Friend. Senator Nelson. [LB142]

SENATOR NELSON: Mr. President, members of the body, this is just a quick read but I'm looking on page 2, subsection (4) there, which apparently has the same language that Senator Chambers just amended. And it's gone? All right. Thank you, Mr. President. I've had my question answered. [LB142]

PRESIDENT SHEEHY: Thank you, Senator Nelson. Further senators wishing to speak on FA134? Seeing none, Senator Chambers, you are recognized to close on FA134. Senator Chambers waives closing. The question before the body is, shall FA134 be adopted to LB142? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB142]

ASSISTANT CLERK: 30 ayes, 0 nays on the adoption of FA134. [LB142]

PRESIDENT SHEEHY: FA134 is adopted. Further items on this bill, Mr. Clerk? [LB142]

ASSISTANT CLERK: Mr. President, Senator Lathrop would move to amend. [LB142]

PRESIDENT SHEEHY: Mr. Clerk. [LB142]

ASSISTANT CLERK: Mr. President, Senator Lathrop would move to amend. The amendment is currently being put in the system. (FA135, Legislative Journal page 1775.) [LB142]

PRESIDENT SHEEHY: Senator Lathrop, you are recognized to open on your amendment. [LB142]

SENATOR LATHROP: I'd be happy to, Mr. President and colleagues. The amendment

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is very simple and it is with...I think those that have been involved in trying to make changes to this agree that it is appropriate. We would simply add "or solicits" in line 18 of page 3 so that you could be guilty of this offense if you, and I'll read it, "offer or solicit any indecent, lewd, or lascivious act." We are adding "or solicit." The difference is, basically we cover another circumstance that can happen over an electronic device and that is not just offering a lewd, indecent, or lascivious act, but soliciting one. I think it's more of an oversight than anything. So I would urge your adoption of FA135. Thank you. [LB142]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. You have heard the opening to FA135 to LB142. The floor is now open for discussion. Senator Friend, you are recognized. [LB142]

SENATOR FRIEND: Thank you, Mr. President, members of the Legislature. Really quickly, just to be clear, it may have been an oversight. The term "solicit," Senator Lathrop is right, most of the folks that are looking at that language think that that makes things a little bit clearer. I'm in favor of FA135. I think that it does as well. Thank you, Mr. President. [LB142]

PRESIDENT SHEEHY: Thank you, Senator Friend. Are there any others wishing to speak on the FA135? Seeing no lights on, Senator Lathrop, you're recognized to close. Senator Lathrop waives closing. The question before the body is, shall FA135 be adopted to LB142? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB142]

ASSISTANT CLERK: 31 ayes, 0 nays on the adoption of Senator Lathrop's amendment. [LB142]

PRESIDENT SHEEHY: FA135 is adopted. Additional items for LB142, Mr. Clerk? [LB142]

ASSISTANT CLERK: Mr. President, I have nothing further on the bill. [LB142]

PRESIDENT SHEEHY: Senator McGill. [LB142]

SENATOR MCGILL: Mr. President, I move LB142 to E&R for engrossing. [LB142]

PRESIDENT SHEEHY: Thank you, Senator McGill. You have heard the motion. All those in favor say aye. Opposed say nay. LB142 advances. Next item, Mr. Clerk. [LB142]

ASSISTANT CLERK: Next bill, Mr. President, LR1CA. I have nothing pending on the bill. [LR1CA]

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PRESIDENT SHEEHY: Senator McGill. [LR1CA]

SENATOR MCGILL: Mr. President, I move LR1CA to E&R for engrossing. [LR1CA]

PRESIDENT SHEEHY: Senator Erdman, for what do you rise? [LR1CA]

SENATOR ERDMAN: Mr. President, the Chamber Viewer would note that there are E&R amendments pending to LR1CA. [LR1CA]

PRESIDENT SHEEHY: Thank you. Senator McGill. [LR1CA]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LR1CA]

PRESIDENT SHEEHY: The question is the adoption of the E&R amendments to LR1CA. All those in favor say aye. Opposed, nay. The amendments are adopted. Anything further, Mr. Clerk? [LR1CA]

ASSISTANT CLERK: Nothing further. [LR1CA]

PRESIDENT SHEEHY: Senator McGill. [LR1CA]

SENATOR MCGILL: Mr. President, I move LR1CA to E&R for engrossing. [LR1CA]

PRESIDENT SHEEHY: You have heard the motion. All in favor say aye. Opposed, nay. LR1CA advances. Next item, Mr. Clerk? [LR1CA]

ASSISTANT CLERK: Mr. President, LB653. I do have E&R amendments. (ER8118, Legislative Journal page 1701.) [LB653]

PRESIDENT SHEEHY: Senator McGill. [LB653]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB653]

PRESIDENT SHEEHY: The question is the adoption of the E&R amendments to LB653. All those in favor say aye. Opposed, nay. Amendments are adopted. Additional items, Mr. Clerk? [LB653]

ASSISTANT CLERK: Next amendment, Senator Kopplin would offer AM1444. I have a note he wishes to withdraw this and substitute AM1478. (Legislative Journal page 1776.) [LB653]

PRESIDENT SHEEHY: Without objection, so ordered. Senator Kopplin, you are

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recognized to open on AM1478. [LB653]

SENATOR KOPPLIN: Thank you, Mr. President, members of the body. As I studied this bill, I noted that it referred to comparing Nebraska students to the world and testing. The reason there's a substituted amendment is when, after I turned in my amendment and Bill Drafters were printing, they found another reference there. So the substitute just simply takes care of two. I bring it up because there is nothing in this bill that would in any which way reflect comparisons to Nebraska children to the world. It just simply isn't there. In fact, there aren't a whole lot of things that do. There's a program for international assessment for 15-year-olds. It's a scholastic performance, two-hour handwritten test, part multiple choice and just a sampling of students. Finland does best on that. United States doesn't do very well. And I'm sure you've heard those statistics. My gosh, what's happening to our children? Look where they ranked on this test. It's a two-hour test, multiple choice, sampling of students, and we're making generalizations about what children can do. I found a progress in international reading literacy study, same thing. So I looked up, what do some other countries do? Well, Canada is similar to us. India, they have school for 6- to 14-year-olds. China has nine years of education and then they slip into categories where they place the students. And yet we hear over and over, man, the Chinese are just killing us. Well, what are you comparing? Which kids are you comparing? It doesn't work. So I look further. How about Uganda? We should compare with them maybe; seven years primary ed. Or how about Chile; public and private schools, some preschool. There isn't anything in this bill or anything that reflects comparison to world so we shouldn't have it in there so somebody can say what are you doing. Senator Raikes and his amendment down the way here has wording that will change that. My amendment simply took out "the world." He has wording that will change that and I'm comfortable with that. So, Mr. President, I'll withdraw this amendment. [LB653]

PRESIDENT SHEEHY: Senator Kopplin, AM1478 is withdrawn. Mr. Clerk, additional items? [LB653]

CLERK: Senator Kopplin, AM1445. (Legislative Journal page 1742.) [LB653]

PRESIDENT SHEEHY: Senator Kopplin, you're recognized to open on AM1445. [LB653]

SENATOR KOPPLIN: Thank you, Mr. President, members of the body. This section of the bill has to do with the testing of kindergartners through 3rd graders. Now I'm not opposed to assessment for kindergartners through 3rd graders. But it should be appropriate material used by the teachers to determine where their children are, what they must accomplish, and then did I accomplish anything. The indications of this bill, however, go further in that. It would indicate that we should be using achievement tests for K through 3 children, and I have a problem with that. However, there's an

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amendment following by Senator Howard with language that would correct that, at least in my mind, so I will withdraw this amendment and refer to Senator Howard. [LB653]

PRESIDENT SHEEHY: Senator Kopplin withdraws AM1445. Next amendment, Mr. Clerk. [LB653]

CLERK: Senator Howard would move to amend, AM1464. (Legislative Journal page 1776.) [LB653]

PRESIDENT SHEEHY: Senator Howard, you're recognized to open on AM1464. [LB653]

SENATOR HOWARD: Thank you, Mr. President and members of the body. I am offering AM1464 to clarify language to LB653. This amendment is very straightforward and simple. All it does is insert the words "developmentally appropriate" before the word "assessment" on page 9, line 14. Senator Adams and I have talked about this amendment on the record and this amendment will clarify the intent that we have discussed. Senator Raikes and I have also talked about this clarification and he is in support. During General File debate, I asked Senator Adams to address some of my concerns about the type of assessments that would be used for our youngest students. During that discussion, Senator Adams made it very clear that the intent of this legislation is to allow our educators to use developmentally appropriate assessments for our young children. I think we can all agree that we do not want to see our kindergarten students sitting at a desk using paper and pencil to fill in ovals for hours at a time. Unfortunately, this does happen in some parts of the country. Our teachers work with these children every day and I trust that they have been properly trained to know what is the best way of assessing the progress of their students. Developmentally appropriate assessment guarantees an increased understanding of the progress of each individual child. We need to let our teachers be teachers rather than become test administrators. I ask that you adopt this amendment so that the intent of the legislation is made very clear in LB653. And having said that, I would like to offer the remainder of my time to Senator Kopplin so that he can further discuss this amendment, as we have worked on it together. Thank you. [LB653]

PRESIDENT SHEEHY: Thank you, Senator Howard. Senator Kopplin, you have about 8 minutes. [LB653]

SENATOR KOPPLIN: Well, inserting the language "developmentally appropriate" I think gives school people a better handle on what should be developed for these students and used. I don't believe we should be looking at a way to compare children of this age. They come to school at all kinds of different levels and we need to do the assessments to find out where they are, definitely. And we need to work on their shortcomings, definitely. And then we need to test to see whether they have made progress. But that's

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the key on this. Are these children making progress? I know when we discussed some of this in committee, there are various ways to look at this and some perhaps would prefer a score that we could put up and everybody look and say, well, we're going to have to work with that school or we're going to have to work on that school because their scores are low. And I think that's the wrong approach. I think the approach has to be where do those children come to us, how far can we get them, and do the assessment that has to be done to assist the teacher in getting that far. That's all this amendment is about. It's trying to take away the idea that we have to compare scores for these young children and get to the point where we compare scores but for themselves. And with that, I will close on this opening. And if anybody wants to talk to it, they may. Otherwise we'll go to a vote with it. Thank you. [LB653]

PRESIDENT SHEEHY: Thank you, Senator Kopplin and Senator Howard. The floor is now open for discussion. Senators wishing to speak are Senator Pahls, Senator Synowiecki, and Senator Raikes. Senator Pahls. [LB653]

SENATOR PAHLS: Mr. President, members of the body, I love the word when I heard developmentally appropriate. I'm not going to speak too much on this, but I'm just going to...in my earlier discussion, I talked about how the teacher is constantly assessing those children as they walk in, so there are all forms of assessments. I am familiar with so many different types of assessments but most of us are attuned to the, like, let's say the California Achievement Test or something like that. There are so many ways of trying to understand what makes that child a child. I think if we do let the educators take a look at that...and we do need to compare. I've always thought, when I was a building administrator, I ran that like a business; not that children were widgets but there are expectations and everybody ought to be very clear and understand that. And I can assure you in the next year or so when Lincoln, Omaha, and Millard--the three largest school districts--when they all have the same achievement tests, Terra Nova, you will be able to make comparisons. The part that I caution you on and the part that you may not know because it's not something that you probably thought about, but there is a test that goes along with that achievement test which will let administrators and parents and teachers know what the anticipated level of each child taking that test and also the anticipated level of that school. So we'd like to have you think how the school is improving, not just comparing it to school A, B, C, D. It's going to happen. I can accept that. But I do think we ought to...everybody ought to become more aware of what testing is all about. It's not just a set of numbers that happens to come out in the World-Herald and they sort of somewhat rate the schools like that. That's one indicator. And people say, well, gee, Rich, are you afraid of testing? No, I think once the public truly understands that we're not trying to hide anything, we're trying to make things very available, but we should also make it understandable. And I think that's one of the faults that the people in the field, in the education field, have not really made that clear enough for people. So that is one of the obligations that I would expect of the administrators who will be showing all their wares in the future. But I do caution, if we

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just think about making comparisons, we do need to do that, but we should take a look, and you've heard me say this. And the reason why I'm trying to reinforce this, because this learning community, when they're doing all these neat things, is still going to get down to that individual building and you need to take a look at achievement, but you need to take a look at the total profile of that building, which includes the parents, the teachers, the administrators. There are many variables that you should be taking a look at when you're making those comparisons. Again, we know we are going to compare different schools. We do that right now. When I heard we were talking about LB126, the students, the other smaller schools, people were making comparisons--Well, their test scores are better than these schools' are. You're missing the point because those schools are different. They have different needs and it's how that test is taken, given, scored. Like I made a comment many years ago when I was in a smaller Class I school way out in the middle of the state, I gave the tests, I scored the tests, I did the ranking of the tests. That's not the same as sending it in and having somebody in the company develop the test scores and it gives you sheets of diagnostic information about the children. I don't know if you realize that but on a number of these achievement tests, they'll say where the children were, their shortcomings are, where their needs are, where their strengths are. I think that it's shared with parents at some times but I don't think that, as educators, we have done... [LB653]

PRESIDENT SHEEHY: One minute. [LB653]

SENATOR PAHLS: ...enough to make it clear enough. Again, when I hear the word "developmentally," that sends a message to me. We do need to take a look at the children in the primary grades. We should do that to help them learn. That's why I'm thinking about, I like the word "diagnostic" because that tells the teacher, the parent, and also the child where they are and how we should advance them. I do, like I say, the concept of testing has never scared me as an administrator and I don't think that should be the feeling left to those of you when you hear people stand up with concerns. Thank you. [LB653]

PRESIDENT SHEEHY: Thank you, Senator Pahls. Senator Synowiecki, you are recognized. [LB653]

SENATOR SYNOWIECKI: Thank you, Mr. Lieutenant Governor. Senator Kopplin, can I ask you a question? [LB653]

PRESIDENT SHEEHY: Senator Kopplin, would you yield to a question? [LB653]

SENATOR KOPPLIN: Yes, I will. [LB653]

SENATOR SYNOWIECKI: Senator Kopplin, a very good personal friend of mine who is an administrator in a local school district in the metropolitan area who's been working in

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evaluation and planning for some time has actually been in contact me on precisely this issue that you're addressing. And not being fully cognizant of all the issues in the education arena, he indicated to me kind of the same thesis that you are with your amendment, that it's hard to take the results, to reliably take the results of these types of test and to develop them into any sort of public policy, given that the youngsters are not advanced enough academically at all. And it's those kinds of tests, the kindergarten through 3rd grade, it's very hard to indicate that that's any reflection on the staff at all or what the school is doing right or wrong and it's more to do with what goes on outside the school than inside the school is what I think he's trying to relay to me. My question for you is, does this, this two-word amendment, for you satisfy those kind of concerns? [LB653]

SENATOR KOPPLIN: Yes, they're very big words. They're "developmentally appropriate," and it means that you are using materials or developing materials to fit the age of that child and, perhaps even more, some of his background. They are very important words. I think it gets out of the achievement test because there are achievement tests that you could use. They don't tell you anything though. [LB653]

SENATOR SYNOWIECKI: So you're satisfied that...and I'm probably doing a poor job, quite frankly, of relaying what this administrator, who's a good friend of mine, I trust his judgment, and he had some particular concerns that align precisely with your concerns. And I just want to make sure you're fully confident that this amendment will appease those concerns. [LB653]

SENATOR KOPPLIN: Yes, I think your friend is right on and I think if we tell the teachers to develop the material that fits these children where they are and their age grouping, we are fine. [LB653]

SENATOR SYNOWIECKI: Okay. Thank you, Senator Kopplin. Thank you, Mr. Lieutenant Governor. [LB653]

PRESIDENT SHEEHY: Thank you, Senator Synowiecki. Senator Raikes, followed by Senator Pahls. Senator Raikes. [LB653]

SENATOR RAIKES: Thank you, Mr. President, members of the Legislature. Senators Howard, Kopplin, Pahls, and Synowiecki have expressed the case very well. I support this amendment. The intention is to develop measurements that can be useful to set a benchmark so that we can gauge the effectiveness of programs at that critical early part of the educational career. And I think this amendment makes it clearer that that's what the intent is. So I support it. Thank you. [LB653]

PRESIDENT SHEEHY: Thank you, Senator Raikes. Senator Pahls. [LB653]

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SENATOR PAHLS: Mr. President, members of the body, this will be short and sweet. I worked in a very successful school district. What we are requesting is happening right now. When I was an administrator there, the concerns we have about developmentally appropriate tests happened. This is not something that cannot happen. I worked it for a number of years in a very successful district because they believe that we should know where each child is. Thank you. [LB653]

PRESIDENT SHEEHY: Thank you, Senator Pahls. Further discussion on AM1464? No lights on. Senator Howard, you're recognized to close on AM1464. [LB653]

SENATOR HOWARD: Thank you, Mr. President and members of the body. I appreciate your support for this amendment. I think it's two words but two critically important words that will make a difference, especially to these very young children. And I urge you to vote green. Thank you. [LB653]

PRESIDENT SHEEHY: Thank you, Senator Howard. You've heard the closing to the amendment. The question before the body is, shall AM1464 be adopted to LB653? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB653]

CLERK: 34 ayes, 0 nays, Mr. President, on the adoption of Senator Howard's amendment. [LB653]

PRESIDENT SHEEHY: AM1464 is adopted. [LB653]

CLERK: Mr. President, the next amendment, Senator Kopplin, AM1468. (Legislative Journal page 1776.) [LB653]

PRESIDENT SHEEHY: Senator Kopplin, you are recognized to open on AM1468. [LB653]

SENATOR KOPPLIN: Thank you, Mr. President, members of the body. I bring this amendment mostly because I want to say something. But I am not trying to cause a problem so relax, okay? (Laughter) There are two parts to this amendment. Number one, truly if the language we just adopted and the development of standards and assessment is good for the learning community, why shouldn't it be good for the entire state? Shouldn't the kids in Kearney or Lincoln or North Platte or Adams or Sterling or whatever have standards and be assessed age appropriately in grades K-3? So why do we limit this to the learning community? It should be statewide. The second thing, you were just handed out some material that we got last night and it is appropriate to talk about this with the learning community because I'm going to tell you, when you have a testing program and developing standards and assessments for K-3, there will be some costs to the school districts. All I want to point out on this, this was given to us last night, I really didn't understand it, but today there have been all kinds of meetings between

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legal staff, the state department, various school people. This shows what would happen or what will happen with a common levy if the current year's information was used. And I refer you to about the seventh column, sixth column...no, seventh column. Anyway, it has to do with the...what happens to the levy. There are five school districts, when you put the common levy in, that, in order to meet their needs, are above the lid that the state has placed on school districts. They can't make it. So they have a few options. One is we could raise the lid for those school districts. They could go for an override of the levy. Perhaps we could do something with state aid. I don't know. It's a real concern because this is what the common levy does. But I'm not going to fight with you about the common levy, I lost that battle. But, Mr. President, could I ask Senator Raikes a question, please? [LB653]

PRESIDENT SHEEHY: Senator Raikes, would you yield to a question? [LB653]

SENATOR RAIKES: Yes. [LB653]

SENATOR KOPPLIN: Senator Raikes, what can we do for you to keep your common levy but that these schools can operate fully and completely as independent districts in their finances as they have? [LB653]

SENATOR RAIKES: Senator, good question, I appreciate your bringing it up. I will preface my response, if I may use a little bit of your time. This was an effort to provide you information of a hypothetical nature. It was saying, okay, we've got our current financial structure in place this year. What, hypothetically, if instead of that we had done the common levy that we're proposing instead? And that's where the results that Senator Kopplin mentioned come in. A couple of points, Senator: One is that this, as you know, is phased in over a very gradual time frame. It would become fully effective in 2009-2010 school year, so there's time for adjustment. But I think your real question is, what sorts of adjustments would be appropriate, what might you do? Among the school districts that you mentioned that would end up short of their current level of expenditures, there are at least a couple of them that are rapidly growing districts. One of the things that we had proposed, but didn't end up including in the LB641 proposal, was an adjustment for student growth in the calculation of needs. I'm of the belief that that would be one important contributor, at least for those school districts. You've got another situation or two where, probably for explainable reasons and for probably a short period of time, expenditures per student are very high compared to the other districts. Probably, as I say, there's a reason for that but it may well be that there's adjustments that can be made if a gradual transition is included. You mentioned that school districts would not be able to spend what they need. I would offer only the clarification that our aid formula, including the common levy, assures that school districts would be able to allow, to spend formula needs. What we're talking about here is the amount of money that they spent this year, which ranges all the way from 98 percent of needs to 130 percent of needs. But certainly your point is well made that

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continued work on the needs calculation, which happens regardless of what else we do, is in order. [LB653 LB641]

SENATOR KOPPLIN: Senator, I truly mean this is not to cause problems, but I still have not heard an answer. How are we going to deal with school districts when they have to send money to some other school district and don't have enough to meet their needs? When you say a school might spend 130 percent of its needs, remember these are growing districts. If they show up with...if they open a new school building, their needs are going to be way beyond what your formula will show. Because when you build a school building, the bond issue, everybody gets excited about it, but that's cheap. Then you've got to staff it and all this other stuff so you have huge expenses. These schools cannot make it with the type of data I've seen here. And, yes, I'm concerned about it. I think we have time to fix it. But I really want a commitment from you to fix it. Can you do that? [LB653]

SENATOR RAIKES: I appreciate that, Senator, and I am committed to doing that. I didn't make myself very clear but my belief is, particularly about the rapidly growing districts, one of the features of our current formula is that you don't get the needs calculation, the expression of the amount of money required to operate the school district, at the time the students arrive. It comes one or more years later than that. The adjustment, I think, that would be very beneficial to those districts is to make that money available to serve those students at the same time the students actually come. [LB653]

SENATOR KOPPLIN: Okay. Just so we keep this in mind that we have created a potential big problem, it has to be fixed. Thank you. [LB653]

PRESIDENT SHEEHY: Thank you, Senator Kopplin. You have heard the opening to AM1468 to LB653. Senator Kopplin, you are the next in the queue. Senator Gay. [LB653]

SENATOR GAY: Thank you, Mr. President. Thank you, Senator Kopplin, for bringing this up. And thank you, Senator Raikes, for getting this information out. I was handed out the spreadsheet we're talking about and I highlighted where some of the school districts under the current funding. And that's all we can kind of look at, is what we've been through, where we're going. So this is an estimate. But it is very concerning to many of us, not just in Sarpy County because, if you can see, Elkhorn and Douglas County West has some pretty large increases they would have to do on their levy. So it is an issue. And I know, Senator Raikes, we had talked about it this morning. I'm glad we are having this discussion. I know it's late but it's very important to us on this. And you did agree, and I agree with you on the student, on the growth factor. The more I understand that, the more we need to fix that and take a look at that. And I like your idea, what you're saying if we could get...I talked to our superintendent today from Papillion-LaVista and I said, you know, gosh, what do you do? He goes, well, I'm

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worried because if we don't get that money, we still have the needs. How am I going to come back and get the funding for those students this year? How do we go get that? So if you have any...if Senator Raikes would yield to one question, please. [LB653]

PRESIDENT SHEEHY: Senator Raikes, would you yield to a question? [LB653]

SENATOR RAIKES: Yes. [LB653]

SENATOR GAY: Thank you, Senator Raikes. But I guess the question would be, if these needs are there because you're building the schools, and I discussed that earlier and I don't want to, you know, I do want to get some answers and, like I say, I appreciate this. But if they need those assets and that money now, could there be a mechanism to fund it earlier rather than a year in arrears? [LB653]

SENATOR RAIKES: My opinion, Senator, is that there can. In fact, what we had proposed in the formula and then took out because we didn't have a good fiscal estimate on it was basically that the school district would estimate the number of students they expected to increase. If that number was greater than 25 students, it's assumed in this procedure that 0 to 25 can be accommodated without additional...but if it's more than 25, then the school district's needs would be calculated based on that expected number of students. The accountability provision would be that if the school district overestimated the amount of...the number of students that actually showed up, then there would be an adjustment one year later to undo that, which I think is only fair. But that sort of a mechanism would allow what I just suggested, that providing the estimate is on target, and I think school districts, I know it's a tough job to estimate but I think probably they're pretty good at it. If they can estimate within reason the number of students that they will be serving and if the state aid and other financial resources appear at the same time the students do, I think it'll help a great deal. [LB653]

SENATOR GAY: Okay. And the reason, again, not to be repetitive, but it, we need to look at this. When you look at a development in Elkhorn or Papillion or Gretna or South...these are 600, 1,200 homes at a time that come in here. This is not just like we're putting up 20 houses. So it's very important. And that estimate, I think, is difficult, they do their best. But that's the worry I have, is where the growth could just be...well, we don't want to go there, where school districts start saying we don't want the new development to come in or we don't want the new growth, and they start. Our policy has always been in our school district is if you build those, we will educate your kids. If these homes are built, we'll educate your kids. And I'd hate to see that change because of a financial problem or they start changing their views on that, that would be wrong. But as you look at these districts... [LB653]

PRESIDENT SHEEHY: One minute. [LB653]

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SENATOR GAY: Thank you, Mr. President. As you look at these districts that are getting what would be a major change in their, I think, a change in their revenue that they would have to raise and now they've got the bond issues again that they're going to have to put on there if they're going to build any local schools. It's very nerve-racking to see that because what we're looking at is the choice that our local school board is going to have to make, is raise taxes or lower, you know, get rid of teachers. I don't know what, you know, that doesn't seem like a lot of money to a lot of people but it certainly is when you have to go raise these taxes. And that's really, you know, unless we have a different adjustment and I like your idea and I know you will work on that, on this cost-growth factor. It's a key thing and that's...earlier I said on, as we looked at this, is it a statewide thing? You can't cap...if you're going to go ahead with this program in this bill, you cannot cap... [LB653]

PRESIDENT SHEEHY: Time, Senator. [LB653]

SENATOR GAY: Thank you, Mr. President. [LB653]

PRESIDENT SHEEHY: Senator Kopplin, followed by Senator Gay. Senator Kopplin, you're recognized. [LB653]

SENATOR KOPPLIN: Thank you, Mr. President, members of the body. I will speak once more because I think Senator Gay has something else he wants to say. I'm just going to point out to you that we were very careful in the bills that we did, that we kept money in there for the rural schools that were losing population. I think it's \$2.5 million or something like that; very careful to do that. But you realize, of course, that was to keep your vote because it really doesn't have anything to do with the learning community. But we took out growth for growing communities, which is what learning communities are about. It doesn't really make sense to me. I'm very concerned about this because if we were simply to raise the ceiling or the lid, or the lid on what school districts can raise from \$1.05 to \$1.08 or something, remember, we also have to give away a couple of cents to the learning community and we also have to add another five cents on to build buildings for the learning community. You're suddenly talking about a huge increase in property taxes for people that did nothing except happen to live in the wrong spot at the wrong time. But that's where we are. I think it can be fixed. I think Senator Raikes will...no, Senator Raikes, I know you're going to fix it because I'm not going away. (Laughter) And with that, I will quit for now and let Senator Gay have his say and then I'll speak again. [LB653]

PRESIDENT SHEEHY: Thank you, Senator Kopplin. Senator Gay, you are recognized. [LB653]

SENATOR GAY: Thank you, Senator Kopplin. Thank you, Mr. President. He said what I said and what I wanted to say but I cannot stress enough. When we spoke earlier, when

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I spoke earlier on the first day of this bill, I said it's a statewide, let's look at this statewide. We made amendments to change it, to fix it statewide, maybe. But it still comes down to one county is bearing the brunt of this. Well, I should rephrase it--one county and some other school districts. When I was asking who the winners and the losers are, I was asking for a reason and you can see why. And then we have the building fund and other funds in this bill. But if we cannot as a state support this program, you know, I just question that. We should support it as a state because if this happens in Grand Island or anywhere else or anybody else is looking at this and we're going to limit what we're going to put into it, then we're, that's just not right. You can't just say we're going to create statewide policy and we're for poverty and education plans but we're not going to fund it, you go fund it. You know they won't develop these plans if that's what's going to happen here. They won't. So that would all be talk, I think, at that point. So we need to step up and we need to fix this problem. We have another problem that you read about in the paper on valuations. I'm not going to go there. I don't want to spend any more of your time. I know we're getting off track here. But thank you for your interest in this and paying attention. And it's a problem. I'm convinced, too, Senator Raikes and Senator Ashford and others on the Education Committee, Senator Adams, I don't question where you're coming from and I know you'll help us fix this problem. And as Gail says, hopefully, I'm not going anywhere either. I'll see this through and we need to fix this. And I'd ask for your support when we get to that time. Thank you, Mr. President. [LB653]

PRESIDENT SHEEHY: Thank you, Senator Gay. Senator Erdman, you're recognized. [LB653]

SENATOR ERDMAN: Mr. President, members of the Legislature, I appreciate the dialogue so far this evening. I think it's healthy, whether we have the discussion on LB641 or LB653 or any of the bills that deal with education this session, that we understand what we're doing. But we should also understand that some of the issues that are in the law now were results of last year's legislation. The issue that Senator Kopplin brings up was a result of last year's legislation, not this year's, and that was the stabilization factor that was included in LB1024. And much was made about that last year from those that opposed LB1024 as if somebody's vote got bought. You know what? I didn't vote for that, Senator Kopplin, and I didn't vote for LB1024. I don't really have a desire or a need to vote for LB641. I didn't breakup Omaha Public Schools. I did vote for the Chambers amendment last year because I honestly thought we would get someone's attention at OPS. That didn't happen so we came back to the table. But as we have done this session through a number of bills, we've tried to work together. And I think Senator Gay is right on. The reason why we're in the discussion is because it affects us all. It affects us all from the standpoint of state aid and what that means. There's \$25 million that's going to go to Omaha that wasn't planned to go there with the passage of LB1024 that is reaffirmed in our state aid formula that was passed in LB321. Those things were in existing law as a help to the folks in the metro area to help them

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with the issues that they address. Were there other things included in the bill? Sure there were. Have there been other bills this session that have been addressing rural issues more appropriately or more directly than maybe what LB641 does? Sure do and there sure are. Are they what we would have wanted? Absolutely not. Absolutely not. But there's still hope, right? Because whether we can fix them this year, whether we recognize that just as every other issue we've ever passed in this Legislature doesn't make that issue final, it makes it a process. And then the next year we have to come back and we have to reevaluate whether or not the policy decisions that we made in the prior year were the right ones. I have concerns about LB653. But if you recall the last time we were on this bill, we adopted an amendment that said we're going to delay the implementation of this one year so that we can understand whether or not the application of this law will be effectively understood by the folks in the classrooms. We have delayed that because it is part of that evaluation process. And so I don't need to be a part of this debate or be baited into this. But I think we can have a healthy discussion. And at the end of the day, whether I agree with what we as a Legislature do or not on any issue, I have never questioned the integrity or the intent of the members that were supporting the legislation that became law. Doesn't mean I agreed with it but there's a reality that we will not always agree. We will do the best that we possibly can and I think that's the best that we can do. And so if we...those of you in Sarpy County think we can make LB641 better this year, go for it. Maybe we'll help you. If we think there's a better way to make LB658, maybe you'll help us. But if I understand the push of the State Board of Education and anybody that's involved in education, is that we have some form of equity across the state lines, across the state. To my friends in Omaha, we don't have swimming pools and orchestra pits. Senator Schimek, my wife graduated from Lincoln. There were two swimming pools at her school. We're not...we need to be focused on the delivery of education, whether it's from the kindergarten or to the secondary level... [LB653 LB641 LB321 LB658]

PRESIDENT SHEEHY: One minute. [LB653]

SENATOR ERDMAN: ...or to postsecondary level and our higher education. But we are all in this together and we all have a vote. And I hope at the end of the day that we can be proud of the votes that we all cast and recognize that we're doing the best that we can, whether we ultimately agree with the outcome or not. Thank you, Mr. President. [LB653]

PRESIDENT SHEEHY: Thank you, Senator Erdman. Senator Wallman, followed by Senator Kopplin, and Senator Pahls. Senator Wallman, you're recognized. [LB653]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. This is another issue that we have to pay very close attention to and I do appreciate Senator Erdman's comments. If we don't get it right, we can wait. And this is something that we never did really give them a chance to work on LB1024. Should we have had a few teeth in there?

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I didn't pass that legislation and wasn't involved in it. So it passed, so it's here. But, wow, we're going to change it again and again and again? Educators don't change that fast, folks. It takes superintendents like a little while to get going. And they're not going to change this in two months, three months, four months; are they, Senator Erdman? He's gone. But let's give them time to work things out. And whether it be testing and testing and testing, standardized testing, you're not going to get standard grades. You're dealing with immigration issues in certain areas of Omaha which other areas don't have to deal with. So we do have pockets of poverty--it's getting to be a long day--and we have these pockets so we'll have to find out some way to get help immediately; not next year, this year. And infuse money in those with teachers, mentors, and get something going and it would be not high-priced, folks. Infuse teachers, experienced people, mentors, there will even be some volunteers. If my wife lived in Omaha, she'd volunteer. She does it at our school, free. She's done it for community colleges, free. You have people that will step up, folks. We just have to ask. And we can't solve all the problems in here. We're not supposed to. We're local, independent communities. We're different than Grand Island, North Platte, Hastings. You know, we all have different ideas and they aren't all good, they aren't all bad, but that's what makes this a great state from the west to the east, south to the north, and I'm proud to know them from all over this state. Thank you, Mr. President. [LB653]

PRESIDENT SHEEHY: Thank you, Senator Wallman. Senator Kopplin, you're recognized. Senator Kopplin, this will be your third time. [LB653]

SENATOR KOPPLIN: Thank you, Mr. President, members of the body. Remember, I said there were two things. I truly believe that if standards and age-appropriate testing is good for the learning community children, maybe it ought to be considered statewide. I thank you for the opportunity to get some thoughts off my mind regarding financing. And I'll repeat that it really does have something to do with this bill because there will be expenses in creating these tests. But with that, Mr. President, I'd like to withdraw this motion. [LB653]

PRESIDENT SHEEHY: Senator Kopplin withdraws AM1468. [LB653]

CLERK: Senator Raikes would move to amend with AM1475. (Legislative Journal pages 1776-1777.) [LB653]

PRESIDENT SHEEHY: Senator Raikes, you are recognized to open on AM1475. [LB653]

SENATOR RAIKES: Thank you, Mr. President and members. This amendment includes several, I think, clarifying or technical amendments. It does, I think, pick up on some of the points that Senator Kopplin has made. There's an insertion of the phrase "the assessment and reporting system" on page 4, shall measure to include clarification.

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Senator Kopplin mentioned that we shouldn't include we're going to do comparisons in the world. So we have changed the wording so that it would compare Nebraska public schools to public schools elsewhere. And of course elsewhere, as you know, is Senator Louden's hometown. We also have a few other clarifying changes, nothing substantive, except that I would point out that on the early...the K through 3 education section, we've made some clarifications and in such a way that we preserve the Howard-Kopplin amendment. So if you have any questions on these, I'd be happy to address them. But they are primarily technical and clarifying provisions. Thank you. [LB653]

PRESIDENT SHEEHY: Thank you, Senator Raikes. You have heard the opening to AM1475 to LB653. Senators wishing to speak are Senator Adams. You are recognized. [LB653]

SENATOR ADAMS: Thank you, Mr. Lieutenant Governor. First of all, body, Senator Kopplin, he's been so helpful and I mean that sincerely. Coming from the education community, he understands the struggle that teachers experience with these assessments. And helping us work through this bill cautiously and raising the right questions and still tonight raising the right questions, it's been valuable. My guess is that a lot of you have gotten e-mails from superintendents and teachers and I can understand that. If I wasn't here, I'd be giving final exams in York, Nebraska, and I'd be a teacher sitting at the coffee table tomorrow morning saying what in the world is the Legislature going to do to us today with these tests? For that reason, I want to take just a moment and reiterate for the record, the STARS assessment system, the local assessment system that has been in place since the original passage of the accountability act, we have tried very hard in this bill to preserve that work. Schools can still use their local assessments. They'll be encouraged to develop those local assessments. In part, all we're asking this bill is for the ESUs to further participate in that process and help with the portfolio development. The creation of a statewide reading assessment, not an exam, a statewide reading assessment and math assessment, it can be done the same way that the writing assessments have been created. Is it an additional test or an additional assessment or an additional measurement? It could be if a school chooses for it to be. Or a school may say if those things that are being measured by the statewide assessment, they're being measured so we'll cut out some of our assessments and use the state assessment in lieu of. This is not intended to make more work and it is a compromise. It's a compromise between pressures that are out there to go to a statewide test that is a paper-and-pencil, fill-in-the-oval test for everybody across the board, and the system that we have now, which is local assessment, that has a lot of value but needs some fixing. And I believe that that's what this does. The implementation, '09-10, that gives us a year that we can continue to work with the Department of Education and smooth out rough edges. And I'm confident that the language in this bill has been developed in such a way that there is a lot of flexibility to continue to do what we're doing and improve upon it. Thank you, Mr. President. [LB653]

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PRESIDENT SHEEHY: Thank you, Senator Adams. Senator Avery, you are recognized. [LB653]

SENATOR AVERY: Thank you, Mr. President. Senator Adams referred to e-mails that you have received on this issue. I suspect that one of those e-mails was from the Commissioner of Education. Mine arrived at 5:24 p.m. today. I think you need to know that that is a misleading e-mail. The first paragraph says that LB653 proposes major changes and we have simply not had enough time to analyze it or enough time to fully engage policymakers so that we can understand what is being proposed. I can tell you from firsthand experience that there was frequent, multiple, extensive consultation with the commissioner and with the Department of Education; time after time, hours and hours and hours spent trying to get them to work with us on this. And quite frankly, I don't like this e-mail. It's a deliberate attempt to mislead you. And he says at the end here, it's too important and too complicated to rush it. We haven't rushed this thing. We worked for five months on it. LB653 and STARS could be a great companion with each other or complements to each other. Tell us how because we tried to find out. This is no help. I hope you will advance LB...well, I support the amendment, AM1475, and the main bill. Thank you. [LB653]

PRESIDENT SHEEHY: Thank you, Senator Avery. Anyone else wishing to speak on this item? No lights are on. Senator Raikes, you're recognized to close on AM1475. [LB653]

SENATOR RAIKES: Thank you, Mr. President, members. This again is a clarifying amendment. I appreciate the conversation and the clarification. I urge your support. Thank you. [LB653]

PRESIDENT SHEEHY: You have heard the closing to the amendment. The question before the body is, shall AM1475 be adopted to LB653? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB653]

CLERK: 26 ayes, 0 nays, Mr. President, on adoption of Senator Raikes's amendment. [LB653]

PRESIDENT SHEEHY: AM1475 is adopted. [LB653]

CLERK: I have nothing further on the bill, Mr. President. [LB653]

PRESIDENT SHEEHY: Senator Raikes, would you make a motion to move LB653? [LB653]

SENATOR RAIKES: Thank you, Mr. President. I move LB653 to E&R for engrossing.

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[LB653]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB653 does advance. Next item, Mr. Clerk? [LB653]

CLERK: LB653A. Senator Raikes would move to amend with AM1448. (Legislative Journal page 1777.) [LB653A]

PRESIDENT SHEEHY: Senator Raikes, you're recognized to open on AM1448. [LB653A]

SENATOR RAIKES: Thank you, Mr. President and members. I would draw your attention to the fiscal note, which I think is especially well-prepared and informative. It describes all the provisions of the bill and includes on the second page a description year by year of the costs of implementing this proposal. The A bill is updated accordingly so that \$70,000 in the first year is changed to \$395,000, and \$170,000 in the second year is \$545,000. Again, if you go to that chart on the second page, you can see item by item exactly how that...those numbers are put together. I would call your attention particularly to the first line where there is \$70,000 per year that is required to obtain results, individual student results on nationally assessed tests. Those would be reported directly from the agencies from which those tests are provided--ACT, the MAT test, Terra Nova, and so on--directly to the Department of Education so that they can be included in our student information database. And by the way, this fiscal note includes both the changes in the assessment and the work that we're doing in terms of the student information database. I think actually, or my impression at least, is that there's great value in the amount of money required here, that we can obtain some very important useful policy information for, certainly, money, but a very reasonable amount of money. So if you have any questions, I'd be happy to try to address them. I urge your support of this amendment. [LB653A]

PRESIDENT SHEEHY: Thank you, Senator Raikes. You have heard the opening to AM1448 to LB653A. Any senators wishing to speak on this item? Senator Raikes, no lights are on. You're recognized to close. Senator Raikes waives closing. The question before the body is, shall AM1448 be adopted to LB653A? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB653A]

CLERK: 26 ayes, 0 nays, Mr. President, on the adoption of Senator Raikes's amendment. [LB653A]

PRESIDENT SHEEHY: AM1448 is adopted. [LB653A]

CLERK: I have nothing further on the bill, Mr. President. [LB653A]

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PRESIDENT SHEEHY: Senator McGill. [LB653A]

SENATOR MCGILL: Mr. President, I move LB653A to E&R for engrossing. [LB653A]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB653A does advance. Items for the record, Mr. Clerk? [LB653A]

CLERK: Mr. President, Enrollment and Review reports LB265 and LB358 as correctly engrossed. I have an amendment by Senator Ashford to be printed to LB97. Senator Lathrop would like to add his name to LB573; Senator Ashford to LR169. (Legislative Journal pages 1777-1779.) [LB265 LB358 LB97 LB573 LR169]

Priority motion: Senator Hansen would move to adjourn until Thursday morning, May 24, at 9:00 a.m. []

PRESIDENT SHEEHY: We do have a motion to adjourn until Thursday morning, May 24, 2007, at 9:00 a.m. All those in favor say aye. Opposed, nay. The ayes have it. We are adjourned. []