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Floor Debate  
March 13, 2018

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[LB44 LB694 LB702 LB749 LB776 LB778 LB786 LB891 LB909 LB944 LB945 LB946  
LB950 LB993 LB1030 LB1052 LB1090 LB1090A LB1110 LB1119 LR335 LR336 LR337  
LR338 LR346 LR347 LR348 LR349 LR350]

PRESIDENT FOLEY PRESIDING

PRESIDENT FOLEY: Good morning, ladies and gentlemen. And welcome to the George W. Norris Legislative Chamber for the forty-second day of the One Hundred Fifth Legislature, Second Session. Our chaplain for today Pastor Tom Starkjohn of the Louisville Evangelical Free Church in Louisville, Nebraska, Senator Clements' district. Please rise.

PASTOR STARKJOHN: (Prayer offered.)

PRESIDENT FOLEY: Thank you, Pastor Starkjohn. I call to order the forty-second day of the One Hundred Fifth Legislature, Second Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

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

CLERK: I have no corrections.

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

CLERK: I have neither messages, reports, nor announcements, Mr. President.

PRESIDENT FOLEY: While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign the following four legislative resolutions: LR335, LR336, LR337, and LR338. (Doctor of the day introduced.) We'll now proceed to the agenda, General File budget bills. Mr. Clerk. [LR335 LR336 LR337 LR338]

CLERK: LB946, a bill introduced by the Speaker at the request of the Governor. (Read title.) Introduced on January 10, referred to Appropriations. Advanced to General File. There are Appropriations Committee amendments pending. (AM1701, Legislative Journal page 893.) [LB946]

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PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Stinner, you are recognized to open on LB946. [LB946]

SENATOR STINNER: Thank you, Mr. President. Members of the Legislature, today is budget day, so let's get ready. I want to first start the presentation off with thank-yous. And there's a lot of folks that we need to thank. The first one is the Governor and their budget staff. They prepared this deficit request. We used it as a template in our committee. I felt that it was a very fair and balanced report and proposal, very fair and balanced proposal as it relates to rebalancing the budget. So I want to thank the Budget Office and the Governor for that. I also want to thank somebody really special, somebody that spent 35 years in the service to the state of Nebraska. Mike Calvert has decided to retire in September. His leadership, his expertise has been invaluable. He has developed an above-average, an exemplary staff at the fiscal side of things, and I'd like Mike to stand. And actually, I'd like to have a round of applause for Mike and his service, (applause) a job well done. I'd also like to thank Tom Bergquist. I hope everybody brought their yellow pad today, because I am going to be referring to this as a guide so that you can refer in detail to the detail. Tom Bergquist actually does all of these reports, inclusive of the giant budget package we get at the end that summarizes everything. I do want to thank, also, the Fiscal Office. They are invaluable in this process. Their expertise is unmatched. And I want to thank the Fiscal Office for actually putting up with us over the last two years of a very, very rough situation. And I want to also thank our Appropriations Committee. There's eight members...nine members on there, inclusive of myself. They always came prepared. We did a very deliberative, thoughtful process, and I'm very appreciative of everything that they had to contribute. I will say this, for the members. We got into some really frank and very, very difficult discussions during this year. Nobody got their way, inclusive of myself. I didn't get my way 100 percent of the time. But we came out and we compromised and we came out actually on the main line budget with unanimous and one vote against the transfers, as well as the Cash Reserve. I'd also like to thank the agencies. They're the ones that are really doing the heavy lift. They are the end result of what has happened as far as revenue and the revenue shortfall. So thank the boards, commissions, and agencies. With that, LB946 was introduced by the Speaker on behalf of the Governor. The bill was introduced to make transfers from the Cash Reserve to the General Fund in the amount of \$108 million, and reduces the transfer from the Nebraska Capital Construction Fund by \$2.3 million due to a lower cost of Central Nebraska Veterans' Home project. With that, with your consent, Mr. President, I would like to request to move to the committee amendment, AM1701. [LB946]

PRESIDENT FOLEY: Please proceed with the committee amendment, Senator Stinner. [LB946]

SENATOR STINNER: Thank you, Mr. President. The committee amendment becomes the bill. It contains an emergency clause and will become operative when signed. AM1701 retains the reduction of the veterans' home by reducing the proposed transfer to the General Fund, but

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reduces the proposed transfer from the General Fund from \$108 million to \$100 million. It also accelerates previously planned transfers to the Capital Construction Fund for the HVAC system to the Capitol Building. This is a result of advancing to 90 percent completion bid documents for Phase A, B, and 1. The earlier transfer of Cash Reserve Funds ensures adequate cash flow for this stage of bid development. Cash Reserve Fund transfers do not increase, nor does the total project cost increase, over \$106 million. The adjustment secures an earlier cash flow to meet the change in the timing of obligations. Yesterday we had a budget briefing, and I think that the Cash Reserve was discussed, and maybe we should take time as we talk about what level the Cash Reserve was. The committee got the proposal from the Governor, and the Governor had used \$108 million of the Cash Reserve, which took it from \$369 million to \$261 million. And I have commented on the fact that one of the objectives that I had and the committee had was to maintain at least a \$250 million minimum reserve within the Cash Reserve Fund, the rainy day fund. And I indicated that the reason was is that 5.5 percent was the median contingency fund throughout the United States. That was one of the reasons. But I also had, over the summertime, spent some time with the Pew Charitable Trust folks and actually did a stress test on where the Cash Reserve needed to be at a fully funded reserve. And they did a matrix for me. And one of the matrix was is to take a look at what type of coverage do you want to have within your reserve. And they did a matrix that had a 50 percent coverage over a three-year, two-year, and a one-year period of time. And really the low point over a three-year period of time with a 50 percent coverage rate was approximately \$250 million. So there is a stress test that backs this \$250 million up. But I think now we're at \$296 million, still a low number, still needs to be discussed. This needs to be a priority as we push forward. Remember, too, that where we're at in this business cycle, in May will be the second-longest business cycle state...within the United States, the second-longest business. I went to a recent Federal Reserve Board meeting. Esther George, who is the head of the Kansas City Reserve, talked about the fact we're at full employment, talked about the fact that we will see at least three rate increases, that we are going to see because of full employment, wage growth, wage increase, and ultimately inflation. So they are committed to starting to raise interest rates. That always signals some beginning and end of a business cycle. So we need to be wary of that. I know that next...the template that I received from the Governor as we move forward, if we're able to control spending at a 3 percent level, and I want to repeat that, if we are able to control spending at a 3 percent level and we hit the growth rate, we may be able to add up to about \$200 million to that reserve, which will bring us right to about a \$500 million reserve. And that will put us into, if we have an insurance policy, about an 80 percent coverage factor, given the fact of a garden variety recession, not a deep recession. Of course we went through a black swan event back in 2008, 2009, where we had the extreme recession, one of the worst that we've had since the Great Depression. So those are the things that we need to put into our calculus, we need to put into our priority listing, is to build this reserve back to be ready, to put us on good financial and fiscal ground. I think that this is a beginning. I think \$296 is a good number. Obviously, we have some competing factors that may come into play as we look at what we are able to do with tax reform and job creation and the

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work force development side of things. That Cash Reserve, I believe, should stay at \$250 as a bare minimum. And hopefully we can discipline ourselves as we move forward to position this rainy day fund once again at an 80 to 90 percent level that will provide our cushion, our shock absorber for anything that we see within our recessionary or within our state revenue picture. With that, I would ask for a green vote. And thank you, Mr. President. [LB946]

PRESIDENT FOLEY: Thank you, Senator Stinner. Mr. Clerk. [LB946]

CLERK: Well, Mr. President, Senator Chambers, just so I can...you had an amendment drafted to the committee amendments, but I understand you want to withdraw that, Senator. Thank you. [LB946]

PRESIDENT FOLEY: Amendment is withdrawn. [LB946]

CLERK: Mr. President, Senator Chambers has a priority motion. He would move to bracket the bill. [LB946]

PRESIDENT FOLEY: Senator Chambers, you are recognized to open on your bracket motion. [LB946]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, I would like to bring one of my colleagues into the discussion early on. I would like to ask Senator Brewer a question or two, if he would respond. [LB946]

PRESIDENT FOLEY: Senator Brewer, would you yield, please? [LB946]

SENATOR BREWER: I would. [LB946]

SENATOR CHAMBERS: Senator Brewer, how long were you in the military? [LB946]

SENATOR BREWER: Thirty-six plus years. [LB946]

SENATOR CHAMBERS: Then you must have enlisted when you were three years old? [LB946]

SENATOR BREWER: (Laugh) No, a little bit...a little older than that. [LB946]

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SENATOR CHAMBERS: There are certain phrases that all military people and even some who are not military are familiar with. Are you familiar with the term a shot across the bow? [LB946]

SENATOR BREWER: Yes, sir. That is how you warn someone. [LB946]

SENATOR CHAMBERS: Thank you. See, a military man anticipates. He didn't wait for that next question; he answered the whole thing. Members of the Legislature, this is a shot across the bow. I have been looking at these budget bills, and the main one is LB944. It has 129 pages. All I have to do is write a motion on each page. You think I can't find something on each of those pages to offer a motion on? I know everybody feels that this is the era of good feeling, everybody is in a mellow mood. Look how many people are in the Chamber today. We still have a significant number of absences, but I see some faces here that I don't even recognize because they're not usually here this time of day. And since I'm an android, I do things based on how I'm programmed. And I'm programmed to see and recognize the people who are here. So some people who are here now are not ordinarily here. So I'm offering this motion to get my opportunity to be the first one, other than the Chairperson of the Appropriations Committee, to speak, also to show that I know how to get an...get to the front of the line whenever I choose to do so. This Legislature has not dealt fairly with some of the issues that I think are important. The budget bill brings everybody here. I was waiting for somebody to take a point of personal privilege, but nobody chose to do so. The first basis is one that relates to the reputation of the body, then if you have something personal to yourself that pertains to you. I hear all kind of comments from these conservatives. And you know what I say a conservative is--a person with the face, with the head, and the feet on backwards, running fast into the past. They always talk about taxpayers. I hear my good friend, Senator Groene, we have become friends, you know, using that term advisedly, of course. We don't like to overstate anything. But he often talks about the taxpayers. The conservatives always bring that up. Well, for the reputation of the Legislature, I could have taken a point of personal privilege, but I'm doing it this way. I listened to Chairman Stinner give thanks. Now, he didn't have to give thanks to God, because I don't require that. I did listen to the preacher, though, this morning, and I'm getting back to the idea of thanks. He talked about how great God is, God has great wisdom. He created the eye and sees everything. He created the ear to hear everything, and so forth. But what I really liked, I'll tell you after I mention where he said this room is filled with people made in God's image. Look at me. Look at Senator Walz, who just sat down. Do we look alike? Look at Senator Groene and Senator Brasch. They don't look like each other. They don't look like me. So if this room is full of people made in the image of God, which one of us reflects that image? Which one? Does the image mean literally what we see with our eyes, or an imaginary mental construct? But I'll let all that stand. Here's what I appreciated. He said before there was a Platte River, before there was a prairie, there were the black-tailed prairie dogs. Now, I thought that was really a nice touch. And I think he was sending me a message, and I may be the only one who heard it. Because for whom these messages are intended, those are the ones who will hear it. I bet nobody else on this

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floor heard it, because maybe people on this floor didn't hear anything else that was said. And you may not hear anything that I say today, but I can take all the time that I choose. This is our first long...our first scheduled long day. I want to applaud this Speaker, while I'm going through this, for having gotten rid of that practice of lobbyists spreading the trough so the legislative hogs could run back there and slop it up. You'll have to pay for your own. I don't know if enough people chipped in for an order to be placed for you to have your food. I don't object to you eating. You need to eat. You need to drink water. You need to do all of those things. But some things just seem unseemly, in my opinion. I had offered a resolution to get rid of that. Senator Hadley was the Speaker, and I kind of had the ground cut from under me because the vote that I thought I'd have an opportunity to get, I did not get before he took it off the agenda. I filed a bill, and the...I think it did go to the Exec Board. It was not advanced, which was no surprise. But then the Speaker took control of that situation, and without a lot of fanfare, gave it the kind of burial that it should have. So all of these long nights you'll be able to eat. You all need to eat. And whatever it is you need, do that. But at the same time, there's going to be a lot of discussion, a lot of issues discussed. And when we get to LB944 and that Title X, I'm curious to see how that discussion goes. I don't even know what I will say. I have not even determined absolutely that I will say anything. That's not to say I won't say anything. What about this thanks that I was talking about? When that roll was read, I believe that every individual who was thanked by Chairman Stinner deserved and merited the thanks. But I waited and I waited and I waited, then I waited some more. And I had my ears on high attunation (phonetic). There's no such word as that. Maybe there is now. Once something has been named, it's there forever. The one who names has the most power. You know what God did to show that Adam had power? He told Adam to name everything. Scientists who discover diseases have those diseases named after them: Alzheimer, A-l-o-i-s was how you spelled the person's first name. That tangle of rogue proteins in the brain that robs people of their personality, their memory, their ability to rationate, and all of the things that we see in people who are inflicted by that which I consider the most dreaded of all diseases. If a critter is discovered, let's say one of the thousands of species of insects, it will be named after a scientist. So the one who names has the power. When a nation of people are conquered, one of the first things the conqueror wants to do is to take the language from those people and compel them to speak the language of the conqueror. Not because it is more capable of expressing ideas, but each word in a language is like a tea bag of history of that nation and those people. It's why when somebody who speaks French uses a French word it carries more meaning to a French person who hears it than an American who learned the language. So while the thanks were going forth, I wondered why the ones who are most important... [LB946 LB944]

PRESIDENT FOLEY: Time, Senator. [LB946]

SENATOR CHAMBERS: ...and made all of this possible...thank you, Mr. President. [LB946]

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PRESIDENT FOLEY: Thank you, Senator Chambers. Debate is now open on LB946, Appropriations Committee amendment, and the bracket motion. Senator Bolz. [LB946]

SENATOR BOLZ: Thank you, Mr. President. I just have a few brief comments to share at this point in the debate. And the first is I, too, want to thank Michael Calvert for his wisdom and guidance. He's always been a touchstone for me as I have spent my time on the Appropriations Committee. So my thanks to him and to all of the Fiscal staff members who patiently and respectfully answer all of my questions. I have two brief points that I would like to make on the Cash Reserve bill, and those points are about the priorities that we're protecting by making a transfer from the Cash Reserve and the importance of building back the Cash Reserve. So first, we did make the choice as a committee to make the \$100 million transfer from the Cash Reserve, and that is in the name of, I think, priorities that have consensus on this floor: continuing to protect K through 12 education, which was one of the few areas that we added money to last session; making sure that we continue to keep up our obligations to pension funds, not making the mistakes of other states who don't keep up with their annual retired contributions; protecting the Property Tax Credit Program; and significantly one of the reasons that we see the Cash Reserve level where it is at is the \$75 million investment that we made in the reception and treatment center at the Department of Corrections last year. So first I rise to say that the Cash Reserve transfer is in the name of other priorities, it's in the name of protecting higher education, it's in the name of keeping a lot of the programs and priorities that we have in our state budget stable. But secondly, I want to talk for a moment about the importance of the Cash Reserve. The Cash Reserve has allowed us to smooth out some of the rough spots in the budget and protect our priorities into the future. But I do want to mention that one of the reasons that we left the Cash Reserve at the \$296 million level was because it is important to rebuild our Cash Reserve. After the fiscal forecast was positive for us, we didn't move that money out of the Cash Reserve but just left it right where it was, and that's because the goal, as outlined in your yellow budget book, is to build the Cash Reserve back up to a \$746 million level, which is 16 percent of the budget and what the recommended level is during good times. So I think it's part of our responsibility to build that Cash Reserve back up when we are able to because, as you will see on the main line budget, there are contingencies that we have to manage for. We'll talk about some of the unexpected expenditures that we had to manage for in the main line budget, but I just wanted to rise and articulate on the floor that we have not only goals to protect our priorities but also goals to protect our Cash Reserve and to build that Cash Reserve back up to a level so that we can have comfort into the future to manage the contingencies as they come forward. That is all I have to share on this piece of the budget package. I'd be happy to contribute to the dialogue as it moves forward, but those are my general comments and things that I think are important for the body to remember. Thank you, Mr. President. [LB946]

PRESIDENT FOLEY: Thank you, Senator Bolz. Senator Chambers. [LB946]

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SENATOR CHAMBERS: Thank you, Mr. President. There's a verse in Isaiah that says the "little child shall lead them" after it talks about how the lion will lie down with the lamb, the baby can put his hand over the snake's hole and not be bitten, "and a little child shall lead them." Women often lead the way; it often is not acknowledged or recognized. This month is women's history month. Who even pays attention to it? Adam might have been the father of everything, but without a woman not one human being would be here. Adam didn't even contribute very much of anything. All of the substance that comprises our body was given to us by our mother, not the man. And yet, the one who is most important, the one without whom nothing could be, is taken for granted and demeaned, not appreciated. But the song says you always hurt the one you love. But you also hurt those for whom you have no respect, no appreciation. This morning, Senator Bolz took this opportunity under the motion that I have up there to discuss the bill itself. It doesn't matter what is before the body in the form of a motion or an amendment, but the bill, the underlying issue, can be discussed during the consideration of any motion. So those who are interested in talking about the rainy day fund transfers can do so. But I don't want you all to think that because I'm as old as I am that I forget what it is that I start out to say. I take a lot of detours along the way, a lot of digressions, but my eyes are always on the prize. I know where it is that I intend to arrive, and it has to do with thanking those without whom none of what's being done here today is possible. Now, I see Senator Groene in a high level discussion, so I would like to ask whether or not he'd yield to a question. [LB946]

PRESIDENT FOLEY: Senator Groene, would you yield, please? [LB946]

SENATOR GROENE: Yes. [LB946]

SENATOR CHAMBERS: Senator Groene, we're talking about a number of budget bills before the day is over, but right now we're on this one that deals with these transfers and so forth. Who would you say...or who are they without whom none of what we're doing today would be possible? [LB946]

SENATOR GROENE: Taxpayer. [LB946]

SENATOR CHAMBERS: Amen, brother. Take your seat. You get an A-plus. While the thanks were rolling, I was sitting here contemplating. See, the taxpayers is a word that covers an amorphous, indistinguishable group who fund government. But when we individualize them, they don't count. That will be demonstrated graphically when we get to the discussion of Title X in LB944. The woman-hater, the number one woman-hater in this state is Governor Ricketts. To corrupt, to distort, to misuse the legislative process to put his ideological idiocy into a budget bill is inexcusable. [LB946 LB944]



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PRESIDENT FOLEY: One minute. [LB946]

SENATOR CHAMBERS: But it shows he has no respect for this Legislature. There was one famous guy, I won't tell you who he is or was. He said: If you find a fool, bump his head. That's what the Governor is doing, and it shows him the control he maintains over this Legislature. Your system is being corrupted. You all get upset when I offer motions, when I take a lot of time to discuss things that, to you, seem irrelevant. I am teaching you by example, trying to open your blind eyes to what the legislative process supposedly is, what it's supposed to accomplish. You've got a Governor who belongs to the executive branch of this body who has done more to insult and demean it than anything I've ever said during my time on this floor. [LB946]

PRESIDENT FOLEY: Time, Senator. [LB946]

SENATOR CHAMBERS: Thank you, Mr. President. [LB946]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Erdman. [LB946]

SENATOR ERDMAN: Thank you, Lieutenant Governor Foley. Good morning. Here we are again, talking about the budget. You know, last year, in a late evening session, later part of May, we were talking about the budget. And the budget that was brought forward then was inappropriate, in my opinion. I shared that information on the floor, some of you may remember that conversation. I had an amendment to adopt last year's budget, the '15-16 budget, after we had taken the \$80 million out the first couple of weeks we were here. It got 19 votes. I said that night that this budget is \$250 million too high. October of last year, the Forecasting Board met and they projected it to be a shortfall of \$223 million. Not bad. So we're here today talking about the things we are talking about because we didn't adopt the budget that I proposed to adopt. So now we're talking about it again. So what we did last year is we transferred money from the rainy day fund, and that would be like if you had a child or grandchild who had a college fund and your family fell on hard times, you went in and got their fund and spent that. And then you discovered that wasn't enough so you went in their room and got their piggy bank and opened that and spent that. That's when we lowered the reserve from 3 percent to 2.5. And we stand up here and talk about \$250 million is a good reserve and we're fine with that. If this state was a business and we were applying for a loan and we had 20 days of working capital in reserve, we wouldn't get a loan. This state is in dire needs of cuts. This budget is just as bad as the one last year. We've got to make some decisions on how we do this. If the rainy day fund, the Cash Reserve, is so important, and we hear people stand up and talk about how important it is to build it back, why are we taking it away? If it's that important, leave it where it is. Don't remove it. But now we're going to do it because we don't want to make the tough decisions that need to be made, the nonessential things that this government does and pays for that should be eliminated.

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And we continue to give away billions of dollars in the Nebraska Advantage Act and all the other tax giveaways that we do. But that's okay. No, it's not. And it's time for us to tighten up our belt just like normal people do when they have difficult times. And we need to do that here, and we haven't done none of that. I'm not in favor of LB946. I'm not in favor of this budget. That may surprise some of you, not. So moving forward, I may vote for Senator Chambers' bracket bill. At some point in time we've got to sit up and take notice and do the right thing here. And the right thing is making some cuts, making some cuts in spending, eliminate programs that are unnecessary. But what I have discovered here is the government is the answer to everything, and that is a problem. So I have said this before, and I'll say it again, when you drive into the city of Lincoln, I don't care what direction you come from, what highway you use, when you get into the city limits, if you roll your window down you can smell taxes. And that's exactly what this whole city and this whole area functions on is taxes. And it's time for us to make some decisions that count. Thank you. [LB946]

PRESIDENT FOLEY: Thank you, Senator Erdman. Senator Kuehn. [LB946]

SENATOR KUEHN: Thank you, Mr. President. And thank you, colleagues. I rise today to discuss LB946 and the AM1701 just for a moment. If you look on the committee statement you'll notice that I did not vote for this bill or amendment to advance from committee. I have no intention of belaboring the point. But I did vote no, and I rise today to provide a word of what I see as caution to this body, and to address to a degree some of the ideas and items that Senator Bolz identified with regard to the Cash Reserve. Every year that I get older I find myself becoming more and more, fortunately or unfortunately, like my father and recognizing the wisdom of things that in my 20s, when he repeated them to me, I ignored or brushed off in my youth and vigor that I knew better. And one of the principles that my dad, who has successfully grown an operation from nothing, with no college degree, through multiple farm crises and recessions, was able to do with our operation, with his business, with our family, was to have a commitment and a level of responsibility to understanding that agriculture is cyclical, life is cyclical, and always be prepared for the unexpected. If you take a look in your yellow book, you'll note that our Cash Reserve balance has gone from \$680 million to under \$300 million as projected with these Cash Reserve transfers. I fully understand and respect that this is sometimes referred to as the rainy day fund, and that for many of us, economically, it's raining. The concern and the question I have is I'm not sure how long it's going to continue to rain, and I have significant concerns that we have taken down the balance in our Cash Reserve to a point where some of the other major priorities and large expenses that this body may need to address in the next couple of years cannot be adequately covered through Cash Reserve transfers. These are things like the potential need for a huge infusion of cash into our prison system to accommodate and address needs of overcrowding. I don't see many opportunities for meaningful, long-term, structural reform of how we fund education in this state without significant, to the tune of several hundreds of millions of dollars, of bridge funding over time, whether that's a year or two or

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three. And the Cash Reserve seems like the likely source for that. I have sat for four years on the Appropriations Committee, so I know exactly how difficult making cuts and reductions to spending are, and I know that nagging question in the back of your mind about increasing revenue and finding that balance. What I do not support about these transfers overall is I feel we have hamstrung the options for this Legislature going forward. By taking us down to \$296 million in the Cash Reserve, by doing the Cash Reserve transfers to the tune of \$173 million last year and another \$100 million this year, along with \$50 million for the infrastructure bank, along with the capital construction project that's taking place for the HVAC, we've really tied our hands in terms of our options for dealing with some of the big issues and the big problems going forward. So with a tip of the hat to Senator Schumacher and his continual nagging, maybe is the right word, about what is going to potentially be on the horizon with changes in our demographics, with changes in our economy, with changes in our revenue structure,... [LB946]

PRESIDENT FOLEY: One minute. [LB946]

SENATOR KUEHN: ...I think we need to be very mindful of that Cash Reserve balance. And while I fully recognize there's no going back or unwinding the decision at this point to transfer the \$100 million, I caution those who are going to be serving in this body next year and developing next year's budget to keep a close eye on those one-time transfers which have been used to fund ongoing expenses. The revenue will have to be found somewhere to replace those ongoing expenses and fill those holes. Maybe it's going to be by growth, maybe it's going to be by new revenue sources, but the holes must be filled nonetheless. And I would be remiss to my ethic and remiss to the words and guidance of my father if I didn't admonish this body and advise that they be careful about transferring those dollars and keep a close eye on that Cash Reserve balance. Thank you, Mr. President. [LB946]

PRESIDENT FOLEY: Thank you, Senator Kuehn. (Visitors introduced.) Continuing discussion, Senator Chambers. [LB946]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, I wish Senator Groene and Senator Erdman had just left things alone this morning, because I was going to fabricate, and I use that word on purpose, a wager that I thought Senator Briese could not refuse. But they messed it up, Senator Briese, so I'm not even going to present it to you. But when you talk about this rainy day fund or the cushion, whatever term is applied to it, the "Professor" and I had a few words about it between ourselves, and it will never be restored, never be what it should be. Politicians are not known for courage. It doesn't take courage to do what we ought to do, but the easy way out is what politicians will choose. It may have been Machiavelli who said it, and it may not have been, but all rivers and most men are crooked because they follow the path of least resistance. If a river is flowing and there's a large boulder, the river flows around it. If it's in a

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channel and off to the right there is softer earth, it will move where that softer earth is, always. You will never find a straight river. Now, if you were to build concrete walls on both sides and have a channel, you will force that river to act in a way that is contrary to the nature of a river. You can't do that with politicians. There are people who get into politics not because they are principled, not because they are idealistic, but it's something to do. The Governor tells them to do it. They think it's a good stepping stone to something else. And as a result, the agency, the department, the branch, the division of government which I personally feel is the most important, the one that directly represents the people, does not do its job. It is the butt of all kind of jokes. It is the whipping creature. That's why the Governor beats up on the Legislature. Governors have done it ever since I've been in the Legislature and there is not one Governor that I have not had a contentious relationship with. Somebody has to do that, and the Legislature is not going to do it. I don't know why they're afraid of that man. This is your Legislature, to be handled in a way to represent the best interests of the people. But if you cannot even defend your own system, how in the world are you going to do anything for anybody else? Yes, I am smarting under what the Governor did by putting that Title X language into that budget bill, then a supine majority of the Appropriations Committee left it there. They're not due any thanks. They wanted to be on that committee. They chose to be in this Legislature and they should be held to a standard of excellence. And each of us can determine what we think that standard ought to be. But like everything else where the Legislature is concerned, people may see that standard not being reached but they won't say anything openly. Well, the Appropriations Committee openly and notoriously succumbed to the Governor and licked his boots. Look at them, you can see the boot polish on their lips. That's how you know they've been bootlickers. That's what they are. To deal with these numbers, you think that takes courage to deal with these numbers? [LB946]

PRESIDENT FOLEY: One minute. [LB946]

SENATOR CHAMBERS: There are certain things that the Legislature is going to have to do no matter what, so that's what the committee will basically do. There are some people who have tried to salvage the reputation of this Legislature, but the Catholic influence is too strong. Yeah, the Catholic influence is too strong. I see why they didn't want the Catholic...the Pope of Rome, the Bishop of Rome running things in England, although when they got that church that they got, they're not much better off. But that Bishop of Rome and the minions and the followers are the ones who are corrupting this legislative process. But the Governor is a hypocrite even when it comes to things that the Bishop of Rome says ought to be done. He's one of the ones most fervent in trying to kill people through the power of the state. [LB946]

PRESIDENT FOLEY: Time, Senator. [LB946]

SENATOR CHAMBERS: Thank you, Mr. President. [LB946]

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PRESIDENT FOLEY: Thank you, Senator Chambers. And that was your third opportunity. Senator Schumacher. [LB946]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. This is indeed an odd institution. My final days down here and I find myself in agreement with Senator Kuehn and Senator Erdman. But maybe it's because there's some truths that are self-evident, and the truth that is self-evident is we are in really bad financial shape and we are making it worse. We have played every accounting trick in the books, much to the credit of a very brilliant accountant who is working on the Appropriations Committee, and done a really good job in this yellow book. For the first time, I can read it and understand what's in it and understand what's happening. But that doesn't make it any better for our financial situation and our future. Incidentally, if you want to have something fun to do today, there's a \$5 million error in here. See if you can find it. And we'll maybe have a contest of some kind. We're going to meet in Revenue Committee in Executive Session in a few minutes to continue a trend: cutting taxes. We've got five bills, three of the five are revenue reducers, two of the five are just administrative. It's not helping matters any going the wrong direction. Think about it. The sun has been shining, ag is normalized if you look at the long trend line. There's no great depression, there's no plague, there's no drought. Sun shining and we bled over half of the money out of our rainy day fund. And, no, it's not coming back. Yes, we should put it in the queue, we should prioritize it. Well, baloney, we're all smarter than that. It's not coming back. We're not paying our bills and have not paid our bills for some time now. We're spending more than we're taking in. We're robbing those kids' piggy banks and now they are empty. That leaves us with a really bad thing somewhere in the near future--raising taxes--and you know how that goes. Cutting what? We cut. Do you close the three state colleges? Do you sell public power? Do you shut down the four-lane road program? Do you turn a bunch of people loose out of the penitentiary to reduce the numbers and then blame that on the federal judge because we were grossly negligent in it for the last ten years? Folks, I do feel bad for you guys, because we were able to skirt our responsibilities in the time I was here and not act in a financially responsible manner and play Santa Claus--give away, give away, give away--as if somehow, magically, it was going to produce growth. Well, we found out we were wrong. And we knew all along we'd be wrong but we wanted to pretend, because playing Santa Claus is really good and it's fun. But you are in free fall with a noose around your neck. And you may hope and pray that there will be a gust of wind to take you back up, but you all know where you're headed, and that's a pretty painful jerk at the end. Realistically, I don't know if there's time to do anything to make changes in this. Oh, incidentally, we're bleeding to the tune of hundreds of millions of dollars a year in lost revenue to an Advantage Act and other economic incentives that... [LB946]

PRESIDENT FOLEY: One minute. [LB946]

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SENATOR SCHUMACHER: ...almost everyone admits aren't working or aren't working as well as they should to even pay their own. And we're just merrily dancing down the stream. Going to cut taxes, for gosh sake; got to do that, not just \$10-\$20 million, no, hundreds of millions. This isn't working. Folks out in Nebraska, we're going broke. And all we can say is, well, we have to put it in the queue that we increase our Cash Reserve sometime in the future, but this year we're going to take another \$100 million out of it. But we promise we'll bring it back, magically, without any tax increases, without any systemic cuts in infrastructure. Gosh, guys, I do feel sorry for you. [LB946]

PRESIDENT FOLEY: Time, Senator. [LB946]

SENATOR SCHUMACHER: Thank you. [LB946]

PRESIDENT FOLEY: Thank you, Senator Schumacher. Mr. Clerk for an announcement. [LB946]

ASSISTANT CLERK: Mr. President, the Revenue Committee will hold an Executive Session at 10:00 in Room 2022.

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Morfeld. [LB946]

SENATOR MORFELD: Thank you, Mr. President. As Senator Stinner said earlier, happy budget day. I actually wasn't going to say anything about this particular part of the budget either, until I heard my good friend and colleague, Senator Erdman, get up and hypocritically talk about a lot of the different government programs and subsidies that he avails himself of but wants everybody else to cut, probably every program except for his own. Colleagues, if we're going to have an honest discussion and an honest debate about priorities and the need to tighten those belt buckles, pull up those bootstraps, then let's do it in a way that is intellectually honest and not hypocritical. Senator Erdman has received in the last ten years \$170,000 in federal farm subsidies. So to sit here and talk about how we need to cut government and all he sees when he drives in the morning is government programs, government programs, government programs is a bunch of hypocritical nonsense. He only needs to wake up every morning and look out his window and there's a big government program right there. It's called his farm operation. And so to stand up here and talk about how all we need to do is cut, cut, cut and not to look in the mirror is nonsense. So for everybody who gets up here and talks about how we need to cut government but yet I go through the list of government subsidies that I see them receiving each and every day, I'm going to bring it up, because this is hypocritical nonsense. And \$170,000 may not be a lot of money for a big man with a lot of property like Senator Erdman, but for my mother that's four years of salary. So let's be intellectually honest and not hypocritical about what we're talking

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about here, because a budget is more than just a spreadsheet of numbers and columns. It's policy, it's people's lives, it's who we are as a state, and it's who we are in terms of how we look at taking care of our fellow farmers, mothers, fathers, brothers, sisters. It's time that we be fiscally responsible, but we also look in the mirror. We look in the mirror and realize that there is a social compact, a social compact to ensure that the farmer is successful so that we have plentiful food and supplies to feed our nation and feed the world, and that it's cost-effective and people can afford it. But we also have the social compact to ensure that the mother and the father that is in urban Nebraska has the ability to feed their family and afford those farm subs...excuse me, afford those farm products. We have to look out for one another and we have to preserve the social compact that ensures that we are all successful. But the comments that are made on this floor by Senator Erdman the last four years that he's been in the body...or the last two, I can't remember which, it's been too long either way, are just nonsensical and it's hypocritical. And I'm sick and tired of listening to it without calling it out for what it is. It's two-faced, it's hypocritical, and it needs to be called out as such, because otherwise it's a disservice to the people across the state who, yes, rely upon critical government services and resources, like Senator Erdman, like my mother, like our brothers and our sisters and our children in many cases, whether they're going to the university, whether they're farming, or they're working in a factory in the city. [LB946]

PRESIDENT FOLEY: One minute. [LB946]

SENATOR MORFELD: I want us all to be cognizant of that as we move forward, and respectful of that because it's important to remember that we have a social compact. A social compact in this country that ensures that we all look out for one another. And that includes the farmer and it includes the worker in the city. Thank you, Mr. President. [LB946]

PRESIDENT FOLEY: Thank you, Senator Morfeld. Senator Krist. [LB946]

SENATOR KRIST: Thank you, Mr. President. Good morning, colleagues. Good morning, Nebraska. I will have comments on each one of these three budget bills, just to make sure to warn those that think that I'm not going to be vocal, no matter what my present circumstances are. I have spent ten years in this body, and the first year when I was appointed we had a special session and we cut \$1 billion out of the budget in ten days. Those of you in Appropriations, who are there now, how difficult do you think that actually was? It was difficult for the committee; it was difficult for the Governor at the time, Governor Heineman; it was incredibly difficult for those of us who were sitting in this Chamber, because we watched education, services, and even the most critical things go away. Since then, we have not restored to the level of funding in terms of any percentage, any consequence. And yet, we continue to take money out of the rainy day fund. I don't think that the university can cut itself any more than they have already. I don't believe that we can cut services any more than we have already. I think we need new revenue.

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And I find it extremely ironic, if not impractical, that some of the best minds in this body who are on the Revenue Committee are not here for this debate. They're having an Exec Session at the last minute to, again, as Senator Schumacher said, look at more cuts, rather than doing their job and bringing revenue into the state. We have not had one substantial bill on the floor or talked about this year that has anything to do with property tax relief, reduction, or adjustment. Whose job is that? Is it the Health and Human Services Committee, Senator Riepe? Is it the Judiciary Committee, Senator Ebke? Is it the Government Committee, Senator Murante? Should I go any further? Point made. It is the Revenue Committee. And you all had an opportunity to hear Galen Hadley talk to us at our off-site before you began your careers as young, brand new people in this body. And I agree 100 percent with Senator Hadley: We have given away the farm, no pun intended, and we don't have the intentional fortitude to get some of those revenues back. My plan moving forward would be to adjust the taxes, so that in those days when we were giving 30 percent of our income tax to education, we would restore that. By the way, we're less than 2 percent right now. So who does that put the burden on for education? It puts the burden on the local school districts and counties and the levies. And what is that? That's property taxes. I didn't go to brain surgery school, but it didn't require that for me to realize that when you reduce the money that goes from the state to education, you put the burden back on local concept, on the local control, on local officials to try to find where ends meet. And if you want to start cutting the...or talking about more cuts in the university, go back down to your local level and ask them how they got the AstroTurf on the field, and ask them what they're doing at the local level. Most of that has been done in a very judicious, prudent way. [LB946]

PRESIDENT FOLEY: One minute. [LB946]

SENATOR KRIST: And I'm certainly not saying that those folks at the local level are not doing their job. It's easy to point down now and say, you're not doing your job, you need to do more to cut. It's a little more difficult to look internally and say, why hasn't the Revenue Committee given us something on this floor that we can debate in terms of property tax relief? When we got done in 2009, '10, and '11, we had \$250 million left in the Cash Reserve. And you know where that came from? President Obama. If we wouldn't have gotten that influx of money, we would have nothing in our savings account. Digest that when you're talking about this appropriation bill, the three bills that we have in front of us. Thank you, Mr. President. [LB946]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Pansing Brooks. [LB946]

SENATOR PANSING BROOKS: Thank you, Mr. President, Mr. Lieutenant Governor. I'm standing to just try to help remind everybody to...this is a tense day. Trying to remind everybody to again be civil and kind, try to not name-call. But remember that we are all working for the good of Nebraskans. It is a very tense day. And I had trouble sleeping last night because I knew



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what battles lay ahead today, battles that we care about, battles, as Senator Morfeld said, that deal with our people. The budget is not numbers alone; it's a social document. And to claim otherwise is disingenuous. And we have to work together for the good of our people. We all represent approximately 36,000 people, so I would ask us all to take a breath, to be willing to recognize that passions are running high, and that we have got to try to listen to one another, communicate, and understand that some of the anger lies in fear, fear that our constituents won't be appropriately represented or that we are not dealing with the things that some of us find more important than others. So again, I would ask us to try to take a deep breath, try to avoid name-calling, and move forward in a positive and appropriate manner. And I have more to say later on some other issues coming up. Thank you, Mr. Lieutenant Governor. [LB946]

PRESIDENT FOLEY: Thank you, Senator Pansing Brooks. Senator Chambers, you're recognized to close on your bracket motion. [LB946]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, Senator Morfeld was exactly right. And ever since I've been down here I've talked about these sponging, mooching farmers. They are some of the most hardhearted, cruel, unsympathetic people you can find. Yet, they got their hands stuck out, never to pat on the back, palm always upward--gimme, gimme, gimme. Then you all get embarrassed and say, don't talk about them. Nobody invited them to be farmers. That's what Senator Groene, these other conservatives say when people wind up in prison. Nobody invited them to go to prison, Senator Lowe. Nobody invited them to go into farming. Nobody said that you should spend more to produce a product than you can sell it for. But knowing how dumb farmers are, the federal government said, well, we need some suckers out there to grow. So we'll see what the market is, we'll see what the dumbbells are out of because they paid more to produce it than they can see it for, and we're going to make up the difference. They didn't do that for city workers. Farmers are the ones who don't like to see unions, and they're the ones who are taking, taking, taking. And the big corporations have seen what a goldmine farming is. And a lot of them are run by people who don't live in Nebraska, and they know they've got flunkies. What do they care about giving them this money they sponge, mooch, and suck up? It's not hurting them. It benefits what they're doing in the long run. There are some businesses who like to manufacture losses in farming so it could be a write-off against their real cash income in another operation. And farmers are not the only ones. You all ought to read a little history and find out what is meant by the oil depletion allowance. Say you're drilling for oil. Drill a dry hole that you know is a dry hole. Well, you all aren't interested in that. I understand how my goddaughter, Senator Pansing Brooks, wants to pour oil on the troubled waters. My job is to trouble the waters. We don't need a bridge over the troubled waters. We need to trouble the waters and throw these spongers and moochers in it and say, sink or swim, stop begging. And if you don't want to be called out, don't do the thing you're being called out for. I was called out on this floor for saying that the police are black people's ISIS. I didn't go hide behind a post. I stood right here while the senators stood up in the mob instinct movements that

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they do whenever they're dealing with a black man. They're the "master race," but they never go to a black man one-on-one. They always came with a mob, always. And they wanted to mob me here because they thought I was a coward like them and I would take off and run down to my office. And then at the end I laughed at them because they were fools and foolish.

Senator/"Professor" Schumacher invoked the name of Santa Claus. I pay attention to letters and words and so forth. You know that Santa, if you rearrange a couple of letters spells Satan. That's Satan, S-a-t-a-n. Santa Claus is Satan. What is he known for? Sneaking in people's houses at night when they're asleep, and you don't know what else he's doing under that guise. Maybe the hash tag MeToo started with "Satan Claus." [LB946]

PRESIDENT FOLEY: One minute. [LB946]

SENATOR CHAMBERS: But we're going to talk about these things today. You all may not talk, but I'm going to do a lot of talking about it. There's no way to get around it. I'm going to talk about your Jesus also, how your Jesus talked about the difference between a hireling and a good shepherd. You all are not those...you're the hirelings. You're not even good hirelings. But that's a term that Jesus used pejoratively, and I'm going to do a lot of that kind of talking today. And I have got a motion prepared to reconsider the vote on this one so that I can kind of direct the way things are. Look what Chambers has wrought this morning. You see how we have kind of broken through that artificial shell of sham etiquette? That's what we need to do, we're all grown people. [LB946]

PRESIDENT FOLEY: Time, Senator. [LB946]

SENATOR CHAMBERS: All grown people. [LB946]

PRESIDENT FOLEY: Time, Senator. [LB946]

SENATOR CHAMBERS: Thank you, Mr. President. I would ask for a call of the house and a roll call vote. [LB946]

PRESIDENT FOLEY: Thank you, Senator Chambers. There has been a request to place the house under call. The question is, shall the house go under call? Those in favor vote aye; those opposed vote nay. Record, please. [LB946]

CLERK: 13 ayes, 2 nays to place the house under call. [LB946]

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PRESIDENT FOLEY: The house is under call. Members, please return to your desks, check in. The house is under call. Senator Quick, if you would check in. Senator Hilkemann, Speaker Scheer, please return to the floor and check in. We're waiting for Senator Hilkemann and Speaker Scheer. Senator Chambers, we're lacking Senator Hilkemann and Speaker Scheer. All unexcused members are now present. The question before the body is the adoption of the bracket motion. A roll call vote has been requested. Mr. Clerk. [LB946]

CLERK: (Roll call vote taken, Legislative Journal page 942.) 2 ayes, 41 nays, Mr. President. [LB946]

PRESIDENT FOLEY: The bracket motion is not adopted and I raise the call. Mr. Clerk. [LB946]

CLERK: Senator Chambers would move to reconsider that vote, Mr. President. [LB946]

PRESIDENT FOLEY: Senator Chambers, you're recognized to open on your reconsideration motion. [LB946]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, my goddaughter did point out that there is a lot of tension and feelings are running high. So I'm going to quote from one of my favorite songs to kind of tone things down. This took place up in Canada or somewhere. Out of the night, which was 50 below, and into the din and the glare, a man staggered in who was haggard and thin, his face was filled with despair. He looked all around until he had found the lady that's known as Lou, and then the stranger turned and his eyes they burned on dangerous Dan McGrew. Then suddenly, wham, all the lights went out and a voice cried, die you must. A woman screamed, a shot rang out, and somebody bit the dust. Then the lights came on and the northwest Mountie police came crashing through. They drew their gun and said, which one is dangerous Dan McGrew? Now dangerous Dan was playing his hand and keeping his mind on the game. That's all I'll tell you about that, I want to get back to the business at hand. The issues that these bills deal with are being discussed, that's as it should be. But I wanted to break through the usual facade and get down to some of the things that we need to discuss. I had said I would tell you what a hireling is, Jesus talked about that in the context of these people who take care of sheep. They're called shepherds. Way back in the Old Testament was a little fellow named David, and he was a shepherd. And the book said...now, if it's not true, I'm not responsible for that. I'm just saying what the book said, that David bearded a lion in his den and killed him, being what Jesus referred to as a good shepherd. Jesus claimed that the good shepherd gives his life for the sheep. The people in here shear the sheep, no pun on the Speaker's last name. But the shearers of the sheep are not good shepherds. The good shepherd gives his life. You'll notice the pronoun always is masculine because they always had male shepherds, from what we're told. But that may not necessarily be true. So what is a hireling? A hireling flees

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and leaves the sheep to their fate when a threat is perceived. And that's what this Legislature comprises, a group of hirelings. The Governor is the lion which would maraud and lay waste to the timid sheep on the floor of the Legislature. The sheep, the legislators serving as shepherds of, are the people. And the legislators run when the marauding lion, and I apologize to the lions for comparing them to the Governor, because you know that the lion is known for that flowing mane, and the Governor does not have a flowing mane. So I apologize to the lion, but I often speak metaphorically, I use analogies. The senators flee. A more up-to-date version of that is when you see this old-time record player and it had what looked like a megaphone on top of it, and sitting in front of it was a little dog. It may even be a pit bull, but the caption under it was "his master's voice." When the legislators hear their master's voice then they sit up, take notice, and do what that master said. When the Governor sends a proposed budget over here, that is a wish list in many Legislatures. Here it goes beyond a wish list, it goes beyond a recommendation, it becomes a mandate. And the senators have to maneuver around and make sure they don't disturb that mandate too much. Now the Governor is running for reelection and he's going to take care of lining up his ducks, so to speak. So he makes the legislators roll over and do his will, even though it's detrimental to the public and the long-term health of this state. He won't be here to have to pick up the pieces, and he probably can't win a seat to the U.S. Senate. I said what I said. So we find ourselves in this position toward the posterior portions of every legislative session trying to maneuver around and find little, tiny cracks and crannies where the senators can weasel in and do a little something and make it look like we're interested in the welfare of the people and are taking care of the concerns of the people. But that's not the case, and the senators know it. I don't go to any social functions. I don't eat with senators. I don't drink with them or lobbyists, but I just imagine that they go and whatever they drink they cry in their liquor and whine about the Governor, and they can't do this, they can't do that. Well, yes, they can; they just won't. And they cry because they know they can do and should do better, but they're determined not to. Why if you're a coward would you even come here? Why? What are you here for? Not to do that which benefits the people. How is it that over 90,000 people can be invoked who don't have adequate healthcare? And it means nothing to the legislators, nothing whatsoever. And if you happen to be out there knocking on doors and lying about what you say you're going to do when you get here, and somebody comes to the door who is sick, then you know how to pretend to be very empathetic--oh, that's so...oh, we're going to do something about that--knowing that you have no intention to do anything about it. We can do something about that. People shouldn't have to circulate a petition and get signatures. When they mark your name on the ballot, they sent you here to do what they're having to circulate a petition to do, because you don't care about the people at all. The big shots...you heard discussions earlier, Senator Bolz kind of led the way. These giveaway programs that take hundreds and millions and ultimately billions and give all of that to these big businesses who couldn't care less for this Legislature. There was one senator here, he came from out there in the rural hinterlands, and he was very offended because he said I referred to the senators as prostitutes. I never used that word. I gave a description and he gave it a name and then applied it to himself and his colleagues. I told how

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they had their price, and the business people were willing to pay it in terms of a little mooched meal here, a little sponged drink there, and then the senators rolled over. While these senators up here whining and crying about property taxes being too high, they're the very ones who wouldn't do anything to cut out these giveaways to the big companies. And I'll mention what I always mention when I talk about that. If you have a tub and everybody is putting in money in the form of taxes that should be paid...Jesus said render under Caesar what's Caesar's. These churches ought to pay property tax. They get the benefit of street lights,... [LB946]

PRESIDENT FOLEY: One minute. [LB946]

SENATOR CHAMBERS: ... paved streets, police and fire protection that others who don't even believe in church are paying so these churches can take a free ride. But be that as it may, when these big shot businesses and big shot individuals don't put their share into the pot but a certain amount needs to be there, they're going to have to make that up by taxing others in a way that is unfair and unjust. But those are not words that are often used on the floor of this Legislature when we're talking about sharing the burden, shouldering the cost of government, which everybody acknowledges does have to exist. Thank you, Mr. President. [LB946]

PRESIDENT FOLEY: Thank you, Senator Chambers. (Visitors introduced.) Continuing discussion, Senator Krist. [LB946]

SENATOR KRIST: Thank you, Mr. President. Good morning again, colleagues. Good morning, Nebraska. Thank you, Senator Pansing Brooks, for your words earlier. But my increase in fervor has nothing to do with anger. It has to do with ten years of frustration in not watching anything come out of Revenue that is responsive to 1.9 million people across this state. And what I keep hearing in the last...particularly in the last six months about this Governor and this Revenue Committee not putting anything out to be discussed of any substantive value when it comes to property tax relief and the proper funding of education. So why...I would just like to explain my votes as they will come up. I appreciate what Senator Stinner and the Appropriations Committee has done. I do know that there's going to be some amendments put on the bill. When it's a substantive amendment I may vote green or red. When it's not substantive, in terms of not moving the budget bill forward, I will continue to not vote. So those of you as young senators who came in and said, when is it ever appropriate not to vote green or red, this is one of those cases. My intent is to vote green or red on substantive amendments and on the final bill, and to continue not to take a stand, green or red, when it comes to these kind of things. And it's not that I don't appreciate Senator Chambers in the bracket motion and the reconsider, because it gives us an opportunity to speak to the issue without racing through. Having said that, I'm up on the mike this time to let you know again and to emphasize the fact that in 2009, '10, and '11 we were left with approximately the same amount of money, about \$250 million in our rainy day fund, that

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was given to us by the federal government. And to remind you over and over again that you can't go to the bank and borrow. You can't write a check and put it into your rainy day fund and your savings fund. It's an accumulative value that is added up when you can find and when you are told to put money into the fund as policy dictates. And the Revenue Committee and Senator Stinner can describe all of that to you. If you take the time to go over to...over probably 300 or 350 years of experience collectively that's sitting over at that table that represents our Fiscal Office, in terms of the experience that they have, they can explain to you how it has to happen. And it doesn't happen because some sugar daddy writes a check and puts it into the bank. It happens over years and years and years of conservativeness that saves money and puts it away for that "rainy day." It was a scary thing after we did that, because we couldn't handle another of those hits without again being bailed out by the federal government. And that's essentially what it was. We've always said in business and in government that you have to have a certain amount of reserve in terms of the months of operating expenses to move forward in good times and in bad. We have always said that that number is somewhere in the neighborhood of six to eight months of actually operating this state in bad times. [LB946]

PRESIDENT FOLEY: One minute. [LB946]

SENATOR KRIST: We have always said...thank you, Mr. President. We have always said that that number is somewhere in the \$600 to \$800 million bracket, and the first thing this Governor said when he came into office was there's too much money in the rainy day fund. Check it out, Google it. Do a fact check. Ignorance is no excuse for not understanding the law or the law of physics. One or two more dips into that rainy day fund in the next couple years and you will truly, truly be at hell's door. Thank you, Mr. President. [LB946]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Chambers. [LB946]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, Senator Morfeld said some things that needed to be said on this floor. I have talked, well, railed against these giveaways that are made to these big companies and did it from the first time a bill with the number LB775 came before us. But that kind of led the day to special carve-outs for different groups and individuals, and there's a bill on today's agenda--but we won't get to it--LB921, introduced by Senator Lowe, that wants to create a licensing exception under the State Electrical Act for certain farm building construction. Here come the farm groups, and I bet it's not a little farmer. I haven't even looked at the bill. But I've been here long enough and when I detect a certain odor, I know what that odor has to do with. So I think this is an appropriate time for me to read a little rhyme, and it has to do with those special protection laws that have been passed by the Legislature. No one is a sweller feller than the honest, loyal bank teller. Nor a sweller, teller dame who wears the sweller, teller name. Difficulties rise, but none is like a desperate robber's

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gun. Even a cursory inspection shows the teller needs protection. Sure as donkeys say, heehaw, tellers need a special law. So when the robbers get the word, all of them will be deterred, because such special protection laws are thought to give some miscreants pause because they hear this loud and clearly: thou will be punished more severely. Not all miscreants are dense, but rather, have some common sense. In other words, not all are clods who failed to total up the odds, nor do they suffer mental paralysis but do a benefit/risk analysis. Too high a risk? Then to save their pelts they take their business some place else. Voila. There you have the cause, why we need such special laws. Then this thought occurred to me: should not everyone be free from threat of harm at anyone's hand? Such it seems does justice demand. Therefore, justice sounds the call. Let there be one law for all. There need be no other sequel, all before the law are equal. Then a second thought took a bow, that's the way it is right now. There is one law for everybody, but special interest groups want to carve out niches and say but these are entitled to more because they're of a higher order and of greater worth than ordinary citizens. That's the way it is. A little old woman hobbling down the street. These are the images we can kind of relate to. And she is waiting to go across the street. There's no Boy Scout or Girl Scout to assist her. So a cop toddles over and says, well, old woman, what are you doing here? Shouldn't you be in the old folks home, sipping tea and knitting and doing what old women do? (Laughs) Bet you ain't even married. Then somebody doesn't like what the cop has said and will say, I think you ought to leave that woman alone. He says, you better get away from her, or I'll put you in jail. So the guy says, this is what I think of you, and spits on him. [LB946 LB921]

PRESIDENT FOLEY: One minute. [LB946]

SENATOR CHAMBERS: And that spitting is a special crime because the cop is given a special place by this Legislature. And if he spit on the old woman, that's not a special crime. She's the one who needs the special protection if anybody does. And I'm going to tie that into the discussions we're having on these money bills. There is a seamless web that I see when it comes to the Legislature, the legislating, and the other things that we do here and that we fail to do. Thank you, Mr. President. [LB946]

PRESIDENT FOLEY: Thank you, Senator Chambers. You're recognized for your third time, Senator Chambers. [LB946]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, you know that I have additional motions, priority motions. We're going to consider whether or not this bill should be recommitted to committee. Why is that? Because amendments are being offered already. But while my motions are pending, if you're just chomping at the bit to discuss the bill itself, you can do so. But I'm going to do what I think I ought to do and give you all an example. If I'm not a good legislator, I'm demonstrating why I'm not a good legislator. That's because I do

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and say what I think I ought to; not think, what I know I ought to do and ought to say. Are you a good legislator, are you doing and saying what you know you promised to do? Are you saying what you promised to say? Not by a long shot. There is something that people refer to as street fighting. That is supposed to connote the notion of no holds barred. You stab people in the back. You kick them between their legs. You do anything you want to, gouge out their eyes, pull the nose off their face. That's street fighting, supposedly. I was never in a street fight in my life. Now, I had some fights in the street but never like that. Unlike Muhammad Ali before he met Joe Frazier in one of those unfortunate encounters, I didn't win every fight that I was in. But because of the way I judge what I do, I never lost a fight either. Because when I have done the best that I can, whatever the outcome is, I have not lost. Winning and losing in my perspective has to do with how I perceive what it is that I have done. Nobody would expect me to be able to whip Muhammad Ali when he was in his prime. But if Muhammad slapped me and he didn't knock me cold, you think I would turn away and whimper? I'd do the best I could against him for as long as I could. I might not get to hit him one time. I might swing and miss, but it wouldn't be where I would turn away and whimper and cry. People knew that if they were going to whip me it couldn't be one time. And that's the way I feel about all the things that I do. It's why I can stand on this floor alone and say what you all wish you could say, what you know you ought to say, and what you're glad somebody will say. The Governor wishes that I was not here, but he knows that I provide a standard against which to judge the rest of you. You're going to play in the sandbox that he creates for you when he sends his budget bill over here. You're not going to disturb it too much. You know what a sandbox is? That's where you put very fine sand, put it on the playground, let little children play in it. None of the sand to any great extent is kicked out of the box. And they make their little footprints and they roll around in it and play in it, and when they leave somebody can come with a rake and just smooth it over, and there's no evidence that they ever were there. The Governor lets you all play in the sandbox when he sends you his budget bills. You don't have to do what he tells you to do. And I think Senator Krist did the right thing by pointing out that the Revenue Committee...he didn't say this. I say it's a misnomer. I don't think they know the meaning of revenue. I'm trying to figure a way to rearrange those letters... [LB946]

PRESIDENT FOLEY: One minute. [LB946]

SENATOR CHAMBERS: ...that will adequately describe what they are. Revenue is the raising of money needed to fund the government. They had revenue cutters in the old days that you'd find on the sea. Matthew, a disciple, sat at the receipt of customs. He was a tax collector, collecting what Jesus said you Christians ought to give to Caesar. When your cities are taken care of, when your churches are protected, that's Caesar doing it. It costs money, but you don't want to pay your fair share, so you're never an example. You're like the farmers, you learned from the wrong example. And they watch you and get a bad example. That means you sponge and you mooch all the time and let other people bear the weight of it. [LB946]



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PRESIDENT FOLEY: Time, Senator. [LB946]

SENATOR CHAMBERS: Thank you, Mr. President. [LB946]

PRESIDENT FOLEY: Senator Chambers, you are recognized to close on your reconsideration motion. [LB946]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, I am enjoying what I'm doing this morning because I have taken over the Legislature and there's no way that I would try to take over the whole day. There is work in the sandbox that we must do. However, I'm not through with what I intend to try to do with this bill. I think I ought to put a kill motion up there. That's not even a priority motion. So if there are motions before it that have a priority, then they will be taken. Then you can call all those mice out of the holes, wherever they ran to hide, and they can discuss what they think ought to be discussed. But you won't be rid of me. What will be discussed, I believe, would be AM1791, an amendment. And amendments can be amended. So I will run through my priority motions, not all of them, and then maybe I'll give some attention to the amendment that is being offered to the bill. I think that might be a good idea. But I haven't made up my mind yet. See, I have alternatives. I can decide to do something or not do it. I can decide among and between alternatives A, B, and C which one I want to use, if any, and the order in which I will take them. And there's nothing you all can do about it. See, I'm treating you like the Governor does. You have shown that you are a masochist. You like to be punished. You like it. And the Governor is a sadist, so you all complement each other. He likes to inflict pain, and you all enjoy feeling pain, so you're made for each other. And since I am ordained as a minister, I purchased my ordination papers from a Chicago outfit and I do perform marriages. I have performed over a dozen marriages, most of them in the Rotunda of this building. And sometimes I'm an emergency performer of marriages. There were two young people, and one of the persons who worked for the Legislature came to my office and said they're in a family way and they want to be married before a birth occurs, and would I perform the wedding. And I thought it was a joke at first, but it was no joke. So I came up, Cindy was a witness, the person who came and got me was a witness. And right back out there, off to the side of the Rotunda was the Ernie Chambers wedding chapel, and I performed the marriage, and it is legal. So what I'm offering to my colleagues today is to make it official by performing a marriage between the senators and the Governor. He is a sadist; you all are masochists. You're made for each other. You just have not formalized it. I will formalize it, I will memorialize it. We don't have to buy a license. And then you will have a certain recognized status. You will have announced to the world what you are and what the relationship is. I'm going to have a chance to listen to you all stumble and fumble over the bills. [LB946]

PRESIDENT FOLEY: One minute. [LB946]

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SENATOR CHAMBERS: You all will praise each other for what was done. The Appropriations Committee members work hard, but so do the members of the Judiciary Committee, so do the members of other committees. Then there are committees like the Government Committee, which is corrupt, which is very bigoted, which is very ideologically slanted to the right. We know these things, and I'm not going to be one who won't talk about them. If people don't want these things discussed, don't do them. Mr. President, is this my close or my last chance to speak? [LB946]

PRESIDENT FOLEY: This is your close, Senator, and time is expired. [LB946]

SENATOR CHAMBERS: And I will ask for call of the house and a roll call vote. [LB946]

PRESIDENT FOLEY: Thank you, Senator Chambers. Been a request to place the house under call. Those in favor of placing the house under call vote aye; those opposed vote nay. Record, please. [LB946]

CLERK: 9 ayes, 3 nays to place the house under call. [LB946]

PRESIDENT FOLEY: The house is under call. Senators, please return to your desks. The house is under call. Senators, please return to your desk, check in. House is under call. Senator Schumacher, if you could check in. Senators Riepe, Clements, and Quick, please return to the Chamber and check in. Waiting for Senator Quick. All unexcused members are now present. The question before the body is the reconsideration motion. There has been a request for a roll call vote. Mr. Clerk, please call the roll. [LB946]

CLERK: (Roll call vote taken, Legislative Journal pages 942-943.) 3 ayes, 42 nays, Mr. President. [LB946]

PRESIDENT FOLEY: Thank you. The reconsideration motion is not adopted. I raise the call. Mr. Clerk. Return to debate on LB946 and the pending committee amendment. Senator Stinner, you are recognized to close on the committee amendment. [LB946]

SENATOR STINNER: Thank you, Mr. President. Members of the Legislature, this has been a good debate as it relates to the rainy day fund. I think everybody understands that this is a priority for our Legislature. It's our economic shock absorber, and it is an important part of sustaining policy over some very rocky times. I also will bring your attention to the fact when the committee did get an up report that we actually did put most of the dollars into the rainy day fund, exceeding what the Governor had in his, from \$261 million to \$294 million. So we did take

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that as a priority and we acted upon it. The other thing that I would like to emphasize is the budget, and the budget process is a puzzle. All of these parts of the puzzle help us to get to that 2.5 percent minimum Cash Reserve, get to a level where we have a sustainable situation where receipts and structural balance is maintained, receipts that are equal to or greater than what we're expending so that we can continue to maintain our cash position, maintain our checkbook balance if you will, and actually we need to grow it to that 3 percent by the beginning of the next biennium. If we follow through with what we're doing today, all the projections indicate that we will be at a 4 percent without actually the normal \$50 million transfer. So this is an important piece of the puzzle, and I would ask you to vote green on this amendment. [LB946]

PRESIDENT FOLEY: Thank you, Senator Stinner. Members, you heard the debate on AM1701, the Appropriations Committee amendment. Those in favor vote aye; those opposed vote nay. A roll call vote has been requested. Mr. Clerk, please call the roll. [LB946]

CLERK: (Roll call vote taken, Legislative Journal page 943.) 37 ayes, 9 nays. [LB946]

PRESIDENT FOLEY: The committee amendments are adopted. Mr. Clerk. Items for the record, please? [LB946]

CLERK: Mr. President, a new resolution. Senator McDonnell offers LR346, that will be laid over. Amendment, Senator Friesen to LB993. Government Committee reports LB694, LB749, and LB786 to General File. (Legislative Journal pages 943-944.) [LR346 LB993 LB694 LB749 LB786]

Mr. President, Senator Chambers would move to indefinitely postpone LB946. [LB946]

PRESIDENT FOLEY: Senator Chambers, you're recognized to open on your motion. [LB946]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, you all love this bill. And so I'm going to make sure that we have plenty of time to discuss it. You'll either discuss it on its merits, if it has any merits, when you get to an amendment, if somebody offers an amendment, or you'll discuss it on the motions that I put up there and the amendments that I put up there. If you choose not to discuss, then it makes me no difference. I'm going to take my time and say what I think needs to be said. [LB946]

PRESIDENT FOLEY: Senator Chambers. [LB946]

SENATOR CHAMBERS: Yes. [LB946]

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PRESIDENT FOLEY: Could I interrupt you, please? I neglected to announce a group that needs to leave and they're up in the balcony now. (Visitors introduced.) Thank you, Senator Chambers. You may continue. [LB946]

SENATOR CHAMBERS: Thank you, Mr. President. I'm always being willing to be accommodating and collegial. And for Senator Lowe, who is standing there smiling like a Cheshire cat, if I were religious I would also be ecumenical. I don't think anybody has the whole truth. There will always be something more that can be learned or taught or discovered about anything that human beings come in contact with. Before they had magnifying glasses cave people thought...but then, let me back up. I never met a cave person way back in prehistoric days. Maybe they had microscopic eyes. Maybe they could see bacteria, viruses. Maybe they knew what these were, maybe they reacted to them. What I would like to know, if I could find it out, provided there really were cave people, how they disappeared. I saw a funny paper account dealing with daylight saving time. And this man was explaining it to his little girl. And he said that daylight saving time came because hunters wanted to kill certain creatures. So by having save...daylight saving time, then the creatures would be asleep when the cave people got up. So when the hunters came out the creatures were asleep and they were able to kill whatever quarry they needed. That included dinosaurs. So one fateful day a comet was headed toward the Earth and the cave people had already been out hunting, so they had retired to their cave. And the dinosaurs came awake and they were out there foraging. And when the asteroid or comet hit the Earth it killed all the dinosaurs because they did not understand daylight saving time, but all the critters who were the forerunners of human beings were in their caves and that's how they survived and were not wiped out when the dinosaurs were wiped out. So for those people who think that daylight saving time is a new thing, they've got another think coming. And if they think it has never served a worthwhile purpose, they've got another think coming. Had it not been for daylight saving time, probably nobody would be on this floor, nobody would be listening to me. Nobody would have been bulldozed and bullied by the Governor. But what I intend to do is show my interest in the legislation that is before us. I had tendered the offer facetiously that when I'm out of the Legislature I ought to be hired to start with page 1 of Volume I of the Nebraska Statutes and go through each one word by word, line by line, page by page, and offer amendments, not to change the thrust of any legislation, not to change any policy, but to improve the grammar, to deal with these situations where ambiguity exists because punctuation is not used. There are not commas that set off clumps of words, so there's no way to tell whether that clump of words applies to that which preceded the clump or that which followed the clump. Sometimes a comma can make all of the difference in the world. For example, Jesus said, this day shalt thou be with me in paradise. Or Jesus said this day, thou shalt be with me in paradise. If you take it the first way, it meant Jesus was going to paradise and you'd be there with him. If you put the comma afterward, it meant that at some point Jesus would be in paradise and at some point you would be there also. Maybe it makes no difference, but it is unclear and ambiguous. That's all right in the book because Gershwin gave that good advice: the things that you're liable

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to read in the Bible, they ain't necessarily so. When it comes to legislation, it's different. Therein are criminalizations of conduct. There are directives as to how businesses should be conducted, what is allowed, what is prohibited. Whether or not a violation is to be criminal or civil. Whether, if it's civil, it's up to the individual harmed to use the courts to initiate action. It may be civil, but the enforcement will be undertaken by an agency of government. There are a lot of things that are involved in legislation. There are some expressions that are found throughout the statutes which I find to be bunglesome. So I think I'm going to use this bill to touch on some of those things. Now, whether you adopt the amendments that I offer will make no difference to me. I see our being here as a seamless web, a continuum. Things flow like a river. But unlike a river, where no drop of water passes the same place twice, we sometimes will go in circles in the same place for a long period of time, as we are doing today. Now, there are what are called whirlpools. And that's where the funnel of water remains in one place, but no drop that comprises that will be in the same place more than once or for more than an instant. Philosophers talk about things that other people are not even concerned about. But there are other people who are not philosophers who will read what philosophers have said and will be able to extract from that a principle they can use for the purpose of inventing something that will be of great practical value. I don't know whether that man who painted the Mona Lisa was a scientist, an anatomist, a philosopher, an artist, and maybe he was all of those things, which would indicate that when human beings are pigeon-holed, given a label and restricted by what that label says, we cheat ourselves and rob our own till if we are functioning as a society. There will be talents that people have which, if unleashed, instead of inhibited, would move the entire society forward. History, philosophy, various activities often are given a name,... [LB946]

PRESIDENT FOLEY: One minute. [LB946]

SENATOR CHAMBERS: ...a person's name to designate a period of history, a type of literature. But the public as a whole was not moving in step with whatever that period in history was named. Right now we are engaged in a great "uncivil war" on the floor of the Legislature, us against him, not us against them. The Legislature versus the Governor. The Governor has the upper hand. These bills are here and in the form they're in because of what the Governor did, originated, and dumped on the Legislature. There might be some minor changes, but the kind of wholesale reworking that ought to be done, the Legislature will never do it. [LB946]

PRESIDENT FOLEY: Time, Senator. [LB946]

SENATOR CHAMBERS: Thank you, Mr. President. [LB946]

PRESIDENT FOLEY: Thank you, Senator Chambers. (Visitors introduced.) Continuing discussion, Senator Chambers. [LB946]

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SENATOR CHAMBERS: Thank you, Mr. President. Some people can walk and chew gum at the same time. I met a triple threat the other day. She was walking...I forget the second thing. Oh, she was walking, she was drinking coffee, and then she told me she was also chewing gum--triple threat. And she didn't run into anything or anybody. Now, I thought that was amazing. But I'll tell you how these women do things that we don't even think about. I was tip-toeing down the hall today, and I was going to do what I sometimes do, which is to touch somebody on the opposite shoulder to where I'm standing. And that person saw me without turning her head, without looking back, and knew that it was me. Called me by name. Now, you know I'm afraid of her, except that we have a relatively good relationship, so I don't think it will be used to harm me. But see how quickly and easily we can put limitations on people. I don't even know when Senator Clements is sitting in his seat. He sits there most of the time like a knot on a log, but he sometimes moves. But I always know how he's going to vote, except when he's not concentrating on what's before us and he takes his cue from me. You see, he's on Mars and I'm on Venus, so to speak. And when I say, because my name is before his, aye, he says no. I say no, he says aye. Well, sometimes I'm unpredictable. I said no, so he said aye. But he meant no. Then it came to him, well, no, no, and changed his vote. Ask him. So now, instead of just automatically doing the opposite to what I do, he pays attention. Do you see how I serve as a teacher? That's what I'm doing this morning. And I think the best way to teach is by example, to show people they are not as smart as they think they are. They make a mistake to predict what somebody else is going to do. I really am not an android. And as an android, I can say that. If I were an android, I'd say exactly what I'm programmed to say. But now artificial intelligence is reaching the point where these concoctions may begin to behave in a semi-human fashion. They will begin to put things together and it will appear that they are engaging in thought. And if the day ever comes when somebody can produce a machine that produces other machines, the machines will do a better job. They have machines right now that can do measurements that no human being can do. They can be unerringly made in terms of these measurements time after time after time after time: automation. A human being could never do that if he or she tried. You get tired, you get distracted. Whatever equipment you're using might get warped, might not be sharp like it needs to be, you'll go outside the line. When you're going to put a straight line on a piece of paper and at the top, the beginning of the line at the top of the page that will come down to the bottom of the page, is one and three-quarters of an inch from the left margin. Maybe when you get to the bottom, you put the dot one and one-half inch from the margin. So although you draw a straight line, when you look at in relationship... [LB946]

PRESIDENT FOLEY: One minute. [LB946]

SENATOR CHAMBERS: ...to the margin, it's diagonal. So you drew a straight line, but it's not parallel to the margin. And that's something they do with poetry. Some people write poems so that their lines are straight up and down. This free verse, or whatever they call it, has a left margin, a left side, that is very uneven, very imprecise. So the appearance can be a part of

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conveying the message that the words are designed to give when poetry is being written. So there are so many things we can learn if we just look at a piece of paper and see how the words are arranged, how the paragraphs are formed, whether or not there will be more than one subject in a paragraph. [LB946]

PRESIDENT FOLEY: Time, Senator. [LB946]

SENATOR CHAMBERS: Thank you, Mr. President. [LB946]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Chambers, you're recognized for your third time. [LB946]

SENATOR CHAMBERS: Thank you, Mr. President. There was something that people are not aware of that just happened. I had not put my light on yet, but I was headed for it. And the presiding officer knew where I was going. See, I pay attention. And he was correct, because I was heading to put my light on. But in order that we do all things decently in order, I went ahead and put it on so that nobody would say Chambers was given an opportunity to speak when he hadn't even turned his light was on. Brothers and sisters, friends, enemies, and neutrals, guess what I'm going to do after I call for a call of the house and get a vote on my indefinitely postpone motion that will be voted down? I will tell you so you don't have to guess. I'm going to offer a reconsideration motion. And while that is being discussed by me alone, I'm going to be crafting some amendments. I've got two of them already. And the way I'm going to have to do it, even though AM1701 has been adopted, I have to draft my amendment and mention AM1701 so that it will be clear what the language is that I'm amending and where it can be found. And when I look at the existing language in AM1701, that is not amending anything in the statute, I see some things in the existing statute that I think should be amended. And you probably won't agree with me. I know that Senator Clements won't. I think he is probably constitutionally unable to agree with me on anything of consequence. But I'm going to have the opportunity to test that. Now, this is a serious question that I'd like to put to the Chairperson of the Appropriations Committee, if Senator Stinner will yield. [LB946]

PRESIDENT FOLEY: Senator Stinner, would you yield, please? [LB946]

SENATOR STINNER: Yes, I will. [LB946]

SENATOR CHAMBERS: Senator Stinner, not that I will try to kill this bill, we know this motion is not going to be adopted. Why...first of all, is this bill necessary? [LB946]

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SENATOR STINNER: It's necessary to get to the 2.5 percent minimum level to be maintained in our checking account in the General Funds, and it actually puts us to a level where we attain structural balance. And we do have to get to 3 percent next biennium. So this obviously is part of that puzzle. [LB946]

SENATOR CHAMBERS: This man to whom I am speaking anticipated where I was going. And instead of me taking it a step at a time, he went all the way to where my questioning would have taken us. And that is where I was going, Senator Stinner. Thank you for your response. Members of the Legislature, what Senator Stinner did with his answer was to indicate without saying it, we don't absolutely have to do this. The world will not end, the state will not fall. But there's a purpose to be achieved by this bill, and he stated what that purpose is. And in order to get from here to where that purpose will be realized, this bill that I'm hounding and harassing must be passed. You are going to pass it because, as I told you, I'm God's surrogate here, the world is not going to come to an end unless a joke has been played on me. [LB946]

PRESIDENT FOLEY: One minute. [LB946]

SENATOR CHAMBERS: So this bill will be moved across the board. It will be voted on. It will be passed. And the goal that Senator Stinner and his committee wanted to achieve will be achieved. But I don't necessarily think that is the ideal that we ought to be seeking when we consider these bills. It is necessary that the Revenue Committee complement, c-o-m-p-l-e-m-e-n-t, the work of the Appropriations Committee. And that's what has been lacking all session. And I think it's too late to expect anything of consequence to occur. So all I'm doing is delaying the inevitable. But since we have to be here until 9:00 or later, there's no need to hurry. You can settle down, you can relax. You don't just take one breath, as Senator Pansing Brooks suggested, you can breathe... [LB946]

PRESIDENT FOLEY: Time, Senator. [LB946]

SENATOR CHAMBERS: Thank you, Mr. President. [LB946]

PRESIDENT FOLEY: Senator Chambers, you're recognized to close on your IPP motion. [LB946]

SENATOR CHAMBERS: Thank you, Mr. President. When it comes to my amendments, they are like the people who work for President Trump. The same thing applies to the people who work for him that applies to my amendments. And there's a song and there's a bass guitar, I think that's what it is, and it plays a refrain: (singing) And another one down and another one down



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and another one bites the dust. I'm going to get you too, another one bites the dust. See, that's what Trump was singing when Tillerson was over there going to Africa and other places, and talking and indicating that he's going to be here today, he's going to be here tomorrow, and the rest of the year. And Trump was just sitting there humming, he might have been playing it: I'm going to get you too. And what to our wondering ears and eyes should appear, but the announcement that Tillerson is gone. The President fired his Secretary of State and replaced him with the head of a spy agency. The head of the CIA is now the Secretary of State. Do you all pay any attention to what happens in government? How much confidence do you think other countries are going to have when they see that the man they had been talking to, making agreements, tentative agreements with, is gone? It means that all those things that they said and that he said mean nothing. And that is not the way to conduct international relationships. But when you have an erratic, unbalanced, unhinged psychopath in the White House, that's what happens. How much would you trust the head of the Russian spy agency? That's what Donald Trump did. He is like a child, but far more destructive than any child could be. Something pops into his nutty head and he says, that's what I will do, that's what I'm going...and then he does it. And everything is thrown out of kilter. My amendments are not going to be adopted, and I know it. But they give me the opportunity to digress and talk about things of the kind I just mentioned. Now, Senator Murante has been sitting on a resolution that I offered last session. Has not scheduled a hearing. Time ran out, so I'm going to draft that amendment, that resolution, and I'm going to offer it again this session. Then I'm going to make a motion to pull it from his committee. See, he sits on that committee and he thinks he controls everything. But he really doesn't because it doesn't matter to me. Do you think I really believe that these people in this Legislature would vote for my resolution that has to do with asking the people in Washington to consider the 25th Amendment to the U.S. Constitution as a way to remove somebody who's no longer capable of carrying out the responsibilities of the presidency without going through the two-step impeachment process, which would not be successful? But if you get rid of Trump then you've got Pence. But at least Pence has sense enough to recognize... [LB946]

PRESIDENT FOLEY: One minute. [LB946]

SENATOR CHAMBERS: ...that this is not a children's game that's being played. This that is happening is for real. Since I'm closing, I won't be able to finish this time. But I can offer another motion, I could move to reconsider. But I don't know if that's what I'm going to do. But if I'm like Trump, yes, I do, I know what I'm going to do. I just don't want you to know that I know what I'm going to do. And you don't know what I'm going to do. So I'm going to cogitate for a moment. I think I will tell you all what. Now, there was a guy named Billy Joel. [LB946]

PRESIDENT FOLEY: Time, Senator. That's time, Senator. [LB946]

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SENATOR CHAMBERS: He said...thank you, Mr. President. [LB946]

PRESIDENT FOLEY: Thank you, Senator Chambers. (Visitors introduced.) Members, you heard the discussion on the IPP motion. The question before the body is the adoption of the motion. Those in favor vote aye; those opposed vote...Senator Chambers? [LB946]

SENATOR CHAMBERS: Roll call vote. [LB946]

PRESIDENT FOLEY: There has been a request to place the house under call. Shall the house go under call, yes or no? Record, please. [LB946]

CLERK: 12 ayes, 8 nays to place the house under call. [LB946]

PRESIDENT FOLEY: The house is under call. Senators, please return to your desks and check in. The house is under call. All unexcused personnel please leave the floor. The house is under call. Senators Geist and Riepe, please return to the floor and check in. The house is under call. We shall proceed. The question before the body is the adoption of the IPP motion. There has been a request for a roll call vote. Mr. Clerk. [LB946]

CLERK: (Roll call vote taken, Legislative Journal page 945.) 0 ayes, 43 nays. [LB946]

PRESIDENT FOLEY: The IPP motion is not adopted. I raise the call. Mr. Clerk. [LB946]

CLERK: Senator Chambers would move to reconsider that vote, Mr. President. [LB946]

PRESIDENT FOLEY: Senator Chambers, you're recognized to open on your reconsideration motion. [LB946]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I listen to how each one of you votes and I detect a bit of weariness in some of you. I don't know if you're tired of voting or if you're tired from voting, but I'm detecting that I'm making progress. I'm wearing you down. We're going to be here at least till 9:00 tonight. But I believe in being reasonable, Senator Linehan. You can carry on, I just want to know that I acknowledge. Members of the Legislature, I'm in a mood where I will bargain now. Who would like to represent the Legislature in bargaining with me? Well, I see no hands, so here's what I'm going to say. How many people would like to see me terminate, for now at least, what I'm doing? I'm going to make a deal with you. I see enough hands. You're tired of this. I'm going to take a vote on my reconsideration

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motion. If I get 15 yes votes then I will stop this for the morning on this bill, if I get 15 yes votes. Now, greater love hath no person than this, that he or she gives his or her life for his or her friends. Are these your friends? Do you feel they are being worn down? Fifteen, are there fifteen? See, God was going to destroy a city and old Abraham wanted to bargain with God. He said, suppose there are 20? I'll spare it. Well, suppose 15? I'll spare it. Suppose there are 10? I'll spare it. Well, now that I have undertaken to bargain with you, don't become angry. Would you destroy it for the sake of there not being five? Well, God knows everything, but that didn't make any sense. He said, Abraham, say what you got on your mind. So Abraham said, if there are five people, will you spare the city? Well, God knows everything. He knew there wouldn't be five people. So he said, sure, Abraham, if five of your kind are in that city and they are righteous, I'll spare it. There were not. Abraham was sure there have got to be 5 people, just like I feel there's got to be 15 sane people in here. But Abraham was mistaken. Abraham thought there would be five, but there were just four. And we can say three-and-a-half because one of those was not going to be obedient. So the moment of truth came and the city had to be destroyed because with God the promise being made must be kept. They had to degrade women early on in the "Bible." So God, knowing the way he built a woman, told them when you leave this city, don't look back. So when Lot and his two daughters and his wife were fleeing from the city because they had heard the early warning system, and they were moving as fast as their little legs would carry them. And God said, don't look back. They said, don't worry, it's all we can do to look forward and do what we are doing, which is running as fast as we can. God said again, don't look back. Knew what he was doing. He planted the seed in their mind. And guess what happened? The alpha woman looked back and she turned into a block of Morton iodized salt. Whoever heard such a crazy thing in your life? But that's an analogy, a metaphor. The Legislature can be spared the rest of the morning from what I'm doing if there are 15. If 15 votes support what I'm doing here for the morning, I will stop dead in my tracks and you can then move this bill and you can go to lunch and enjoy yourselves and prepare for what might be in store in the afternoon. But what Billy Joel said: Come on, Virginia, show me a sign. Send me a signal, I'll throw you a line. Show me a sign, and I've offered the line. I don't have anything more to say. And if nobody else does then I'm willing to take the vote. But that depends on whether other people want to speak. Thank you, Mr. President. [LB946]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Schumacher. [LB946]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. I'd like to cover two things in this five-minute period. One is the revenue growth presumptions that are in the budget. For a long, long time, 30 years, things projected out that there was roughly 5 percent growth per year, year over year. It would bounce up and it would bounce down with a few years above that line, a few year below the line. But that's kind of where the easy-going thing rolled. And you could kind of say, well, it's going to be 5 percent growth in our revenues. And we screwed around with the tax codes a little bit to make a little variation of that to bring it down,

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because we indexed for inflation and things. But basically a good old rule of thumb number, we are going to do 5 percent a year and life is going to be good into eternity. That was at a time when a good portion of it we had double-digit inflation in the 1980s. It was a time when the baby boomers, instead of wanting to ride on the wagon, were hitching themselves up to the wagon and pulling. We had GDP, we had activity coming on-line. And we also had the same thing happening nationally. So we had some booster shots from that too. Then some bad things started to happen. Two thousand eight happened. The age of leverage began to disappear. We had to take over at a government level, the federal level, and federal government had been a bit of a Santa Claus, a bunch of bank debt in order to make the thing float. Baby boomers started to come off-line. International competitions started to gear up as the Pacific Rim countries started gearing up their competitive potential. Lots of things happening. And one of them not happening was 5 percent revenue growth, because unless you raise taxes or you have a whole lot more activity, you can't get more money out of the tax system. And in fact, in that same period we cut taxes, according to Senator Hadley's numbers, about three-quarters of \$1 billion a year because that was going to make us really, really great. Now in the budget, if you look at it, the jumps across the line here, it jumps from 2017 to '18, to 2018 to '19 about 3.8 percent, then the next year about 4.79 percent, the next year after that about 6.5 percent. God, good times are here again. You know, play the band. Well, that's because there's this assumption of 4.5-5 percent year over year. If you believe that and you have a lousy 3 percent year, then some year pretty close down the line you must have a 6 percent or 7 percent year. Well, nobody in their right mind believes we're going to have that kind of revenue growth anymore. So all these numbers and all of those bottom lines that you see, and all the money we're going to have to flow into the rainy day fund and pay for the penitentiary, and the baby boomers, and the highways, and the whatnots, all of that is make-believe. We are in some serious, serious stuff here. And, yeah, the Appropriations Committee did the best they could, but this is not good. And the second thing, I'll probably run out of time, but I'll talk on later today, is running... [LB946]

PRESIDENT FOLEY: One minute. [LB946]

SENATOR SCHUMACHER: I'm out of time? [LB946]

PRESIDENT FOLEY: No, one minute. [LB946]

SENATOR SCHUMACHER: Okay...is running government like a business. It's how we all want to run a business, right? When your business gets in trouble, what do you do? You tighten your belt. That's one thing. You try to accelerate your sales or your production to generate some more volume. That's another thing. In the short term you go see your banker, because you can borrow money in a business. You can't in government. Can't do her. When that rope hits, you're done, unless you want to raise taxes all of a sudden. There's another thing you do. It's called a

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corporate raid. And we'll talk about...more about corporate raids and how that's what's going on right here, and has been going on. And how this is going to be a terribly bad thing to unwind. Good luck. [LB946]

PRESIDENT FOLEY: Thank you, Senator Schumacher. Speaker Scheer. [LB946]

SPEAKER SCHEER: Thank you, Lieutenant Governor. Colleagues, I think what we have before us is a negotiated agreement. I don't believe that 15 is an unreasonable number to request, it moves us along. We make deals every day. I don't want any of us to be too generous. I think 15 is more than enough. But I would encourage, as we do our next roll call, that we watch those green numbers. And as we get to 15, we can go ahead and vote our consciences. But I think in the interest of moving along, I think this is a fair and reasonable agreement to reach this part of the morning. So I would encourage 14 of my fellow colleagues to vote in favor of this. The rest of you, obviously, vote against. Thank you very much. [LB946]

PRESIDENT FOLEY: Thank you, Mr. Speaker. Senator Stinner. [LB946]

SENATOR STINNER: Thank you, Mr. President. And thank you, Senator Schumacher, for your dissertation on where we are going and what that revenue does look like. But I will say this, just for the record, we're at about 8.2, 8.3 nominal growth right now. If you adjust it back for taxes about 2 percent, we're right on top of that 6.3 that we have in the book. The other thing I would like to take you to is page 14. And if you just look at the middle part of this thing, skip over some of that, but you've got the average, the average growth when you're above the average, the average revenue growth. And if you can see the above-average years, and there's 23 above-average years, they have averaged 7.3 percent. Now, when you're below that, which is 13 years, you're at 1 percent in terms of growth. You know, I get what everybody is talking about. I get how nervous we are about projections. And I'm one that always tries to hedge my bet, and that's why I talk about the rainy day fund. But if you believe in business cycles, if you believe that we are in a recovery mode, we are in probably one of those up years. And right now it looks like, even though we can't predict what refunds are going to look like, it looks like that we will have decent revenue growth. I wouldn't say robust revenue growth. But I think we ought to be able to hit those projections. Just wanted to put that out there to kind of balance this conversation. I don't like hand-wringing. I'm an optimist and I try to stay optimistic and a positive thinker. But that's what this book tells us and that's really, historically, you reflect on it, you try to use those projections as best you can. So thank you. [LB946]

PRESIDENT FOLEY: Thank you, Senator Stinner. Senator Chambers, you're recognized to close on your reconsideration motion. He waives close and the question before the body is the adoption of the reconsideration motion. There has been a request to place the house under call.

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Those in favor to place the house under call please vote aye; those opposed vote nay. Record, please. [LB946]

CLERK: 21 ayes, 2 nays to place the house under call. [LB946]

PRESIDENT FOLEY: Members, the house is under call. Please return to your desk and check in. The house is under call. Senator Kuehn, Vargas, Smith, Riepe, Friesen, Groene, please return to the floor and check in. Senator Vargas, would you check in. Senator Smith, please return to the floor. Mr. Speaker, we are waiting for Senator Smith. Would you like us to proceed? A roll call vote has been requested. The question before the body is the adoption of the reconsideration motion. Mr. Clerk, please call the roll. [LB946]

CLERK: (Roll call vote taken, Legislative Journal pages 945-946.) 16 ayes, 30 nays on the motion to reconsider. [LB946]

PRESIDENT FOLEY: The reconsideration motion is not adopted. I raise the call. Pending before the body is the advance of LB946. Senator Stinner, you're recognized to close on the advance of the bill. He waives closing. The question before the body is the advance of LB946. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? There has been a request to place the house under call. Members, please...record, please. [LB946]

CLERK: 34 ayes, 9 ayes, Mr. President, on the advancement of the bill. [LB946]

PRESIDENT FOLEY: LB946 advances. Items for the record, please? [LB946]

CLERK: Mr. President, a new resolution, LR347, by Senator Brasch. It will be laid over. Senator Groene, an amendment LB776 to be printed. (Legislative Journal pages 946-950.) [LR347 LB776]

Senator Ebke would move to recess the body until 1:30 p.m.

PRESIDENT FOLEY: Members, you heard the motion to recess. Those in favor say aye. Those opposed say no. We are in recess.

RECESS

PRESIDENT FOLEY PRESIDING

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PRESIDENT FOLEY: Good afternoon, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber. The afternoon session is about to reconvene. Senators, please record your presence. Roll call. Mr. Clerk, please record.

ASSISTANT CLERK: There is a quorum present, Mr. President.

PRESIDENT FOLEY: Thank you, Mr. Clerk. Do you have any items for the record?

ASSISTANT CLERK: Mr. President, one item: your Committee on Revenue reports LB1030 to General File. (Legislative Journal page 951.) [LB1030]

PRESIDENT FOLEY: Thank you, Mr. Clerk. We'll now proceed to the agenda. Next bill, please.

ASSISTANT CLERK: LB945, introduced by Speaker Scheer at the request for the Governor. (Read title.) The bill was introduced on January 10; referred to the Appropriations Committee. That committee placed the bill on General File with committee amendments. (AM1700, Legislative Journal page 895.) [LB945]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Stinner, you're recognized to open on LB945. [LB945]

SENATOR STINNER: Thank you, Mr. President. Members of the Legislature, this is step two, round two in a three-round fight, I guess is what I'd like to say right now, but step two in rebalancing our budget. LB945 introduced by the Speaker at the request of the Governor is part of the Governor's 2018 midbiennium budget adjustment recommendations. The bill, as introduced, authorizes and provides for fund transfers and changes certain fund transfer provisions. With your consent, Mr. President, I would request that we move to the committee amendment, AM1700. [LB945]

PRESIDENT FOLEY: Thank you, Senator Stinner. Please proceed with the introduction of the committee amendment. [LB945]

SENATOR STINNER: Thank you, Mr. President. The committee amendment becomes the bill. It also contains an emergency clause that will become operative once the bill is signed into law. The amendment contains the Appropriations Committee's recommendation for funds transfers, creation of funds, and changes governing the administration and use of those funds in those instances where statutory changes are necessary or desirable. Details of the committee's recommendations may be found in your yellow copy, Appropriations Committee budget

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proposal. For a list of transfers into the General Fund, including those transfers requiring statutory authorization in this bill, turn to pages 16 and 17 in the yellow copy of the committee's budget proposal. Transfers being authorized during this session may be found on page 17, toward the bottom of the table labeled General Fund transfers in 2018 Session. And I may add also that these funds are funds that we have determined to be sustainable and stable funds. They have a source of revenue that is at least equal to the expenditures or may be greater than the expenditures, so we are taking excess funds and leaving them at about a break even. The committee took certain actions, and I don't want to go through all the 29 or 30 different transactions, but the committee did do some of the changes. They reduced the transfers from Game and Parks from \$4.5 million to \$4 million. It was determined that Game and Parks had some emergency funding that they needed to have, so that was reduced accordingly. We transferred Nebraska Progress Loan Fund, which was actually in the Governor's recommendation to put into the General Fund. Upon review, we found out, yes, we could put it in the General Fund, but if they audited it, this was federal funds and it would go to the federal government. So a good place for that was to put it in the InternNE Cash Fund, which was an applicable transaction. We also transferred \$200,000 from Affordable Housing Fund to the Lead-Based Paint Hazard Control Cash Fund. We transferred \$125,000 and \$150,000 in the first year of the biennium and a second part of the biennium from the State Settlement Cash Fund to the Rural Practice Loan Repayment Assistance Fund. Water sustainability transfers were maintained at \$1.5 million and \$3,470,000. We did create the following funds. We did create the Nebraska Film Office Fund, although no funding was put in place. We did create the InternNE Cash Fund, and that basically is pulled out of the Job Training Fund, and it was done so, so that we could have better transparency and we could track what was happening with the intern program and hopefully have a way of determining how well-used that fund is. We also set up a Commission Promotional Cash Fund for Nebraska Tourism. There were dollars that were being netted as a practice against marketing expenses. That practice was changed. This fund was set up, and now the tourism funds can be used for tourism purposes. So that's basically the committee's action over and above what was presented to us by the Governor. And I would ask for your green vote on the committee amendment, AM1700, and for LB945 as amended. Thank you, Mr. President. [LB945]

PRESIDENT FOLEY: Thank you, Senator Stinner. Mr. Clerk. [LB945]

ASSISTANT CLERK: Mr. President, Senator Krist would move to amend the committee amendments with AM2288. (Legislative Journal page 912.) [LB945]

PRESIDENT FOLEY: I do not see Senator Krist on the floor. Is anyone authorized to carry that amendment for Senator Krist? If not we can pass over it and come back. Anything further on the bill, Mr. Clerk? Debate is now open on LB945 and the pending commitment amendments.



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Seeing no discussion, Senator Stinner, you're recognized to close on the committee amendment. [LB945]

SENATOR STINNER: I could probably handle Senator Krist's bill. He's adding \$50,000 to the Gamblers Fund...from the Gamblers Fund...to the Gamblers Fund, excuse me, Gamblers Anonymous Fund (sic--Compulsive Gamblers Assistance Fund). And I believe that you will see that amendment. It's AM2288, and he's adding \$50,000 to make it \$100,000 to Gamblers Anonymous Fund (sic--Compulsive Gamblers Assistance Fund). [LB945]

PRESIDENT FOLEY: Thank you, Senator Stinner. We'll post AM2288 for consideration. Senator Crawford. [LB945]

SENATOR CRAWFORD: Thank you, Mr. Lieutenant Governor. I wonder if Senator Stinner would rise...yield to a question. [LB945]

PRESIDENT FOLEY: Senator Stinner, would you yield, please? [LB945]

SENATOR STINNER: Yes. [LB945]

SENATOR CRAWFORD: Thank you, Senator Stinner. So you introduced Senator Krist's amendment. Is this an amendment that was discussed with you? Is this something that you have considered in the budget numbers as you've been working on the cash transfer part of the budget? [LB945]

SENATOR STINNER: It was discussed with me very briefly. I think Senator Krist would like to increase this fund to \$100,000 from \$50,000. I can't remember if it came to committee for hearing. But it is just a cash fund transfer. [LB945]

SENATOR CRAWFORD: It is a cash fund transfer. And the transfer comes from? Oh, here he comes now, so. [LB945]

SENATOR STINNER: It comes from the Charitable Gaming Operations Fund. [LB945]

SENATOR CRAWFORD: Into this... [LB945]

SENATOR STINNER: To the Compulsive Gamblers Assistance Fund. [LB945]

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SENATOR CRAWFORD: Okay. So it is money that is related to gambling that now is coming into this fund to further help people who are dealing with gambling addiction. Is that correct? [LB945]

SENATOR STINNER: Yes, that is correct. [LB945]

SENATOR CRAWFORD: Okay, great. Thank you. Thank you, Senator Stinner. I also rise in support. And it looks like Senator Krist is here, so he will probably tell us a little more about this amendment. It seems to me like an appropriate transfer, but I'll allow Senator Krist to also speak to it. I also rise in support of AM1700. I appreciate the attention that the Appropriations Committee gave to the importance of making sure our InternNE program is funded. It's critical. That's a critical program that really provides job-training opportunities for Nebraskans and encourages our college and high school students to work here in the state and have opportunities to be in our work force and hopefully continue to stay here and be a part of our work force. And so I appreciate their attention to making sure that we have that as a program in our state that has a sustainable future funding path. And that's going to be our continued issue as we move forward to make sure that this InternNE program is not only funded this next year, which we have an appropriate source of funding for it for next year, but that we are all working ahead to make sure that we have a sustainable funding program for InternNE in future years. Thank you, Mr. President. [LB945]

PRESIDENT FOLEY: Thank you, Senator Crawford. Senator Friesen. [LB945]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. Senator Stinner, would you yield to a question? [LB945]

PRESIDENT FOLEY: Senator Stinner, would you yield, please? [LB945]

SENATOR STINNER: Yes, I will. [LB945]

SENATOR FRIESEN: I was just reading through some of the transfers that are happening there, and one thing that you do create but it doesn't show any transfers of money is the Nebraska Film Office Fund. Is that funded with any money or you're just creating a fund? [LB945]

SENATOR STINNER: We are just creating a cash fund. And actually it...this is the film fund that you're talking, that I was talking about? I couldn't quite catch what you were saying. I'm sorry. [LB945]

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SENATOR FRIESEN: I was just curious if you're putting money into a fund or if you're just creating a place...? [LB945]

SENATOR STINNER: It was just creating a fund. [LB945]

SENATOR FRIESEN: Okay. [LB945]

SENATOR STINNER: And, Senator, this is Senator Wishart's bill. Senator Wishart wanted to create a fund. She is going to create an LR and try to bring tourism together with all the other stakeholders that are related to the film industry to see if we can find some kind of funding that may be available for promoting film within the state of Nebraska. No funds were provided for it. [LB945]

SENATOR FRIESEN: Okay. Thank you, Senator Stinner. Again, as I look through here, we've done a lot of transferring money around. To me it seems like we are kind of digging ourselves a deeper hole all the time as we go forward not knowing what our revenue might be in the coming days or coming years. And it bothers me a little bit when we're doing these one-time transfers, funding our budget with money that we're sweeping out of accounts. We're doing the same thing as we did last year. It does cause me a little trouble. Would Senator Stinner yield to another question, please? [LB945]

PRESIDENT FOLEY: Senator Stinner. [LB945]

SENATOR STINNER: Yes, I will. [LB945]

SENATOR FRIESEN: So when we're sweeping money out of these cash funds, what kind of agreements have been made to back fill any of these funds in future years to make up for the money that we're taking? [LB945]

SENATOR STINNER: Well, as I tried to explain before, these funds are looked at as sustainable funds, so they do have a source of revenue that's coming in that's equal to or greater than the expenditures that they are appropriated. So they have increased many times in balances over a period of time. We take those excess funds. But like the insurance fund, the investment fund, those types of funds, they are a sustainable cash flow that we've utilized on a consistent basis at about \$50 million on a consistent basis to help us balance our budget. [LB945]

SENATOR FRIESEN: Okay. Are there any of those funds where we do not consistently do that and we are going to be expected to back fill them at some point in the future? [LB945]

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SENATOR STINNER: Well, we believe that those funds are sustainable based on the fees that they're collecting, the assessments that they have, and they are greater than or equal to the expenditures. So we think they're sustainable. Is there something that happens to that cash flow? That's a little hard to predict. But we believe that in the funds that we've selected, the funds that the budget director has selected, and the Governor has selected, are sustainable and stable funds and can be swept. [LB945]

SENATOR FRIESEN: Okay. Thank you, Senator Stinner. Again, I look at the numbers. I look at what we're doing with the budget, and we do need to be aware of future years and the obligations we've created, and I do think it's something we need to watch... [LB945]

PRESIDENT FOLEY: One minute. [LB945]

SENATOR FRIESEN: ...and it will be something that I think we have to deal with in future years. Thank you, Mr. Lieutenant Governor. [LB945]

PRESIDENT FOLEY: Thank you, Senator Friesen and Senator Stinner. Senator Bolz. [LB945]

SENATOR BOLZ: Thank you, Mr. President. I turned my light on when we proceeded with the discussion on AM2208 (sic--2288). The question was, what is the purpose of the amendment and what was the process in having the conversation about this subject matter? As Senator Stinner articulated, it's a cash transfer; transfer from Charitable Gaming Operations to aid in the Gamblers Assistance Program. It is my understanding that there is demand for that aid, and it is also my understanding that Senator Krist had a bill that discussed this in another committee, so there has been an opportunity for public input. So I am in support of the amendment, and I will yield the remainder of the time to Senator Krist if he would like to discuss the amendment further. [LB945]

PRESIDENT FOLEY: Senator Krist, you've been yielded four minutes. [LB945]

SENATOR KRIST: Thank you for your courtesy, Senator Bolz. Thank you, Mr. President. Good afternoon, colleagues. Good afternoon, Nebraska. And first of all, I want to apologize for my tardiness. I didn't think Senator Stinner would be that concise on his introduction of the bill or appropriations. I thought I had a few more minutes. But again, I apologize for my tardiness. Don't be late to school, kids. Right? That's a lesson you learn. So charitable gaming and the changes that we've made in the recent years with this problem gambling funds has been substantial in the fact that...let me give you just a little bit of history. Back when we approved gambling in the state, we set aside certain funds going certain places. So the problem gambling

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fund was an amount of money that was being taken out of our charitable gaming revenues, okay, which is to Senator Friesen's question, a sustainable fund that has grown over the years and they have never used the corpus as it has grown into what its grown into today. It started out being \$50,000 20 years ago. It is still \$50,000. The folks who deal with the gambling issues across the state demonstrated to us, to me, to most of you--they that came to talk to you--and they told you that the funds that they were getting were not sustainable in terms of their services and the growing demand on their services as they go forward. We did hear in General Affairs positive proponents that came in and laid out some groundwork. We had an active discussion with Senator Blood who made sure that we were doing everything we could do to be as efficient and effective. We had discourse with the folks, David Geier and his folks with the Gamblers Assistance Program, and this is simply a transfer from that fund to make sure that they have adequate funds to move forward. Now, I will say in caveat at this point, the initial ask in terms of what they wanted to do was establish a \$500,000 transfer that the Secretary...or the Treasurer would transfer \$500,000, which they felt would start building up their own cash fund to a point that they would never have to come back to the Legislature again. Given the current situation and our budgetary concerns, I think that's unrealistic at this time. And I thank Senator Stinner and the Appropriations Committee for allowing me to have the discussion about AM2288, because essentially it just adds \$50,000 to the existing \$50,000 from that fund, which again is a sustainable fund. This will have to be, obviously, a discussion that you'll have to have in the Legislature for years to come, because adequately funding...the ramifications, unintended consequences of gambling and the increase in gambling in the state... [LB945]

PRESIDENT FOLEY: One minute. [LB945]

SENATOR KRIST: ...is something that we obviously should look at very closely moving forward. With that, thank you, Senator Bolz, for your courtesy. And again, I apologize for my tardiness. Thank you, colleagues. I'd like a green vote on AM2288. [LB945]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Krist, you're actually next in the queue if you care to use additional time. [LB945]

SENATOR KRIST: I think I'm good for right now, thank you, sir. [LB945]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Schumacher. [LB945]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. Would Senator Stinner yield to a question? [LB945]

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PRESIDENT FOLEY: Senator Stinner, would you yield, please? [LB945]

SENATOR STINNER: Yes, I will. [LB945]

SENATOR SCHUMACHER: Senator Stinner, these funds that we are confiscating here to make things float, do we set those in the Legislature or does the administrative agency set those funds? [LB945]

SENATOR STINNER: Do we... [LB945]

SENATOR SCHUMACHER: Set the income? So when the...like for example, one of the things that we're pulling money out is the Securities Act Cash Fund. That looks like one of the big ones. Okay. Is that a fee that we assess by some law here per securities licenses, or is it something that the Banking Department sets? [LB945]

SENATOR STINNER: I think some are set in law and then some may be fees or assessments set by the actual agency. It depends on what we're talking about. [LB945]

SENATOR SCHUMACHER: Okay. Thank you, Senator Stinner. You see what we're doing when we're raiding these funds? These...many of them, not all, Senator Stinner is correct, were set up in order to fund some type of regulatory mechanism. The Banking Department has to regulate securities issues and all kinds of things under our Securities Act, and we want to make sure that they have the money to regulate them. So we've granted authority for a fee to be collected from whoever is being regulated, if you issue stock or something like that and have to go through that process. And to the extent we've given that to the administrative agency, the legitimate authority to regulate a fee up or down to meet its needs, and then the agency acts prudently and builds up a little cushion just in case there's a bad year or something, and maybe even overtaxes, we raid that fund. And in doing so, we prevent the administrative agency from building up a fund or from reducing it if they're bringing in too much money and they have excess left over. So in effect, each one of these raids is a...where we're preventing a reduction of the fund in response to the assignment we've given them is a tax increase. And there's no two ways about it, it's a tax increase. We are causing the administrative agency to continue to levy at a higher level than it would otherwise were it allowed to float in response to the demands and the duties we assign it. We may think it's a free lunch on the backs of these various things in this long list that we have, but it's not. And then you begin to ask your question, well, if we're going to increase taxes this way so we can pretend we're not, then would it not be more logical to do something straight and clear that everybody understood how we were getting into their pockets? We've never really seriously considered things like Senator Briese has in his bill for a whole number of different taxes because, by gosh, they're a new tax. But in our own little clever way, these raids are not

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free money. They are a way that we can get a tax assessed under the label of fee against somebody and preventing the reduction of those fees. There's a lot of money here, and we've taken all that reserve that has been built up, and we've grabbed every nickel of it. Sure, we're going to do this. We have no alternative. Sure, you're going to do this. You'll have no alternative. And to a certain extent, what we're doing today... [LB945]

PRESIDENT FOLEY: One minute. [LB945]

SENATOR SCHUMACHER: ...is we're among the orchestra on the Titanic. We're blowing in the tuba. We're pounding on the drums. We're playing the music. We're pretending that it's going to be a great dance, and we know what's going to happen. So I wanted to point that out. What we're really doing is causing these agencies to impose a tax that we can grab and run into the General Fund to try to keep ourselves afloat for just a little bit longer. Thank you. [LB945]

PRESIDENT FOLEY: Thank you, Senator Schumacher. Senator Wayne. [LB945]

SENATOR WAYNE: Thank you, Mr. President. I rise in today, I'm supporting...I'm not sure if I'm supporting the amendment, because it is in our committee and that we have not voted it out, so I have to talk through how that works and I'm going to talk to Senator Krist off the mike about that. But the reason I'm rising today is because there's a lot of faces in here that I don't always get to see when we're talking about budget or anything, really, for that matter. And so I just want to take a step back and say every year we pass a budget...well, first, I was in court this morning. I got on the interstate about 9:00 and I started listening to the debate, and it got a little heated, a little emotional. And what I want all my colleagues to understand, that Senator Erdman is not wrong, Senator Morfeld is not wrong, Senator Schumacher is not wrong. We continue to put a band-aid on our infrastructure problem with passing budgets, passing band-aids here and there, passing a new tax break or a new tax increase. We haven't done that yet. But we have an infrastructure problem. I just want everybody to think about population. Nebraska as a state reached 1 million people in 1890. Over 130 years later, 120 years later, we haven't even broke another million. We have 93 counties. We have over 256 school districts, all which have a superintendent and assistant superintendent, all which have multiple principals. We have county officials. We have many people in our judicial branch, court reporters, bailiffs, who don't work for a judicial branch but, rather, work through a local county. We have an infrastructure problem. So when the debate gets upset and gets a little emotional, it's because we represent different constituents where that infrastructure problem is affecting their daily life. If Medicaid expansion were to pass, my district would jump for joy. So I support that. But I also have a lot of historic Florence areas where they're on retired living, retired Social Security, and they are truly renting their house now from the government. Because when they had a mortgage, it was actually less than what they're paying now in property taxes many years ago. So if we want to...and this isn't

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the time in the budget, but I have to stress our budget is simply a band-aid. It is a band-aid to get through the next year, to get through the next biennium, because we won't talk about the big issues. We won't talk about public power. We won't talk about natural resources and how come 80 percent of our water leaves our district, yet we know the young generation wants a higher quality of life with lakes and rivers and cricks to walk through. And I said cricks, not creeks. We won't talk about. We won't talk about an education system where no matter where you are in Nebraska you are getting funded somehow through the state level on an equal basis by still supplying and supporting the local-need efforts. We won't talk about that. So we have a TEEOSA formula here that only helps 40 to 50 school districts, although we have over 250 of them. We hear cries for property tax relief. We hear cries for income tax relief. We hear cries for Medicaid expansion. But we're afraid to have these big conversations. We're afraid to do some real studies... [LB945]

PRESIDENT FOLEY: One minute. [LB945]

SENATOR WAYNE: ...on how to get it done. So we continue to kick the can down the road with a new budget. It's not Senator Stinner's fault. It's not the Appropriations fault. We're not having these conversations on this floor. So we're giving them a hand of cards that is not a full deck, and they're doing the best they can to come up with a proposal. But at some point, we, as a body, have to have conversations that are bigger than just our one little districts, one district, but will impact the whole state to move us forward so maybe one day we can reach 2 million in population. Thank you, Mr. President. [LB945]

PRESIDENT FOLEY: Thank you, Senator Wayne. Senator Larson. [LB945]

SENATOR LARSON: Thank you, Mr. President. Colleagues, I'll admit I was a little surprised to see AM2288 come up onto the floor, specifically from Senator Krist. I hear many times from Senator Krist the respect for the institution and the processes that are in place and the following of those processes, I believe, he's lectured me on that or attempted to a number of times. And yet here AM2288 is, and it looks awful similar to a bill that was introduced in the General Affairs Committee. A bill that was not asked to be "execed" on by the introducer, Senator Krist; was not prioritized by Senator Krist, but, as I said, is very similar to the bill introduced by him. So it appears to me he is trying to circumvent the committee process with a bill that he introduced to my committee and do nearly the exact same thing through the appropriations process. Yet as I said, he has never sat down with me and asked me to Exec on it or if I'd voted for it or if I supported it. And I don't know if he's done that with other members of the committee, and if that's why he didn't ask me to Exec on it, but therein lies my fundamental concern. And I've also heard, and it will go on the bigger budget debate, many members on this floor, and I would disagree with some of these members on the floor, that public policy shouldn't be in the budget. I



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think that's an argument that we've heard about Title X that's coming up. This is public policy, and the reason it is public policy, as I said, this is a policy decision. It was introduced into the General Affairs Committee. We had the hearing, and as I said, it was never followed up on. Now, there are a number of committee Chairs in here, and many of you that will soon be committee Chairs. How would you take to that concept of a bill being introduced, the introducer, again, not asking you to Exec on it or even discussing the bill with you, and then have it show up in an appropriations to do the exact...nearly the exact same thing? I don't think many of you would appreciate it; and I don't. So I have grave concerns about AM2288, not that I necessarily disagree with the policy, but specifically what I've continued to hear from some members of the body in terms of following the process, but in the end they don't like following the process. Thank you, Mr. President. [LB945]

PRESIDENT FOLEY: Thank you, Senator Larson. Senator McCollister. [LB945]

SENATOR MCCOLLISTER: Thank you, Mr. Lieutenant Governor; and good afternoon colleagues. Wanted to rise and indicate that I support AM2288 for a couple of reasons that I'd like to share. First off, our population is expanding, and as the population expands we need to adjust accordingly some of the budgets that we have for some of our separate committees. Secondly, the opportunities for gambling is expanding, and so as those expand we need to make sure that we have the resources to deal with those people that have problem gambling issues. So a moderate increase that AM2288 suggests is certainly within reason. Plus, the agency that's currently doing that function is doing a great job. Senator Wayne got up and reflected on the debate this morning, as he drove to Lincoln to participate this afternoon, and recall that our company in the '80s was suffering through the farm recession that we had at that time, and we almost bought the farm, as they say. How did we deal with those issues? The way we dealt with those issues was maximize our revenues to the extent we could, but we also trimmed expenses. So the approach that Senator Erdman suggests is certainly a wise action for us to do, but also I think we need to maximize some of our revenues. And so I support Senator Briese's effort to bring some of the budget issues to the body out of the Revenue Committee. What can we do? I think we need to talk about LB44 some more. We need to pass that bill and move it forward because it...should the high court reverse its position on that, we need to be ready to jump forward. Secondly, we need to expand sales tax on some professional services. As time goes on, as time has changed, we find that taxing only goods is no longer advisable. We need to tax some professional services, and I think that wouldn't have a regressive effect on some of the lower incomes. And cigarette taxes is certainly another area. Nebraska's in the lowest ten states in the country in term of cigarette taxes. So we certainly could raise some of those cigarette tax without further loss. So, not only do we need to raise revenues, but we also need to watch our expenses. So thank you, Mr. President. [LB44 LB945]

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PRESIDENT FOLEY: Thank you, Senator McCollister. (Visitors introduced.) Continuing discussion, Senator Krist. [LB945]

SENATOR KRIST: Thank you, Mr. President; and again good afternoon, Nebraska; good afternoon to my colleagues. If Senator Larson thinks he's going to goat me into a conversation about respect, he's not going to get there. Getting something out of his committee or asking for it is futile at best, so we're not going to have that discussion. We're going to talk about the bill at hand. The bill was introduced in the General Affairs. The bill was heard and had public testimony come in. The bill was scrutinized the way it is. The bill did ask for \$500,000 to be transferred. And in my opinion and in many of your opinions, when David came around and talked to you, he told you what his needs were, and now we have to assess how we can help them or not. If AM2288 goes down in flames because Senator Larson doesn't think it should be up there or any other committee Chair doesn't think that I should be able to do this, I'll remind you again, you don't have to beg a committee Chair to try to get something out of committee. You can hold an Executive Session. If you've got five votes, in most cases, you can get it out yourself. I do respect the committee process. Maybe it's the Chairman that I don't respect at this point. So let's keep it on a personal level; let's keep the personal level where it needs to be. And for me, that's the last comment I'll make about his leadership capability, having lunches at his desk while he is supposedly watching over a committee hearing, and his lack of presence at most of the Revenue Committee hearings. That will be it for me and Senator Larson on a personal level, unless he intends to carry this on. You have a choice. AM2288 gives a mere \$50,000 more than they were getting before, for 20 years. And, Senator Schumacher, I have never had the opportunity to get up on this floor before and say you are wrong, but you are wrong. This is money that comes from gambling, and that revenue from gambling continues to increase and increase and increase, not as much as it would have if you would have gotten something passed in the last few years with gambling. But it increases and increases and increases, as do the problems that we have in unintended consequences of people who have a gambling problem. So this is a modest attempt to try to show you and draw attention to the fact that we do need to continue to fund these folks at an appropriate level. And anyone who has a problem with that can vote no on the amendment. We're not going to live or die over this one. It's just my attempt to try to get a little more money into the hands of the people that are doing good work in this state. As far as substantive issues in the appropriations, some of you I've handed a package out with Attorney General's Opinions on what is policy and what is a substantive approach in putting an issue like Title X into our appropriations process. I hope you'll find that educational. And I'll also find that I'm not made my mind up on where I'm at, and I hope you haven't either. That's the next debate. So vote for AM2288 or don't. Support the people in problem gambling or don't. And if your issue is that I pulled something out of committee, let the record show that I have supported pulls from committee in my ten years here, and I have not asked or supported pulls from committee. That issue is not at stake at this particular time. Thank you, Mr. President. [LB945]

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PRESIDENT FOLEY: Thank you, Senator Krist. Senator Larson. [LB945]

SENATOR LARSON: Thank you, Mr. President. As I said, we did hear this. And I understand that a lot of us are in our last years of state government and we'll never be back in government, pretty much. That would be most of us being term limited out here, myself included. So we are looking to get things done that we care about, because this is our last shot. But in the end, as I said, AM2288 was in the committee. Senator Krist never even asked for it to be "execed" on. Senator Quick, he asked for a bill to be "execed" on it, and it got out. So for Senator Krist to say that my committee is...I don't "exec" on things, I don't "exec" on it unless it has five votes. I don't know if Senator Krist worked the committee on this issue. None of the committee members have said that Senator Krist worked the committee or told me that they were going to vote for this. But he never asked for it to be "execed" on. Instead, he decided to completely go around the process. This isn't one of the bills that are stuck in committee. No, it's not stuck there. It was never asked to be "execed" on. Therefore, therein lies the difference of a regular pull motion. I know Senator Linehan had a bill last year that they "execed" on many times in Education Committee. It couldn't get out of Education Committee, and then they pulled it. This bill, never asked to be "execed" on. So, as I said, I get that Senator Krist has been passionate about this issue for a long time, and this is his last shot in state government to get it done. But, again, the process should be followed. Thank you, Mr. President. [LB945]

PRESIDENT LARSON: Thank you, Senator Larson. Senator Stinner. [LB945]

SENATOR STINNER: Thank you, Mr. President. I just want to take a brief moment here and talk a little bit about the request from Senator Krist. The fund that he's taking money from is a sustainable fund. It is not going to impair or impede on anybody else's territory or where funds go. This is extra funds. And actually, many times, if you looked at past bills, we have increased appropriated amounts or transfer amounts from \$50,000 to \$100,000; \$100,000 to \$120,000. So I don't know all there is to know about the appropriate process, but this does not seem anything extraordinary. The money is there. The money is available. It doesn't harm anything else. The other thing, and I checked with Fiscal on this, is I know that Senator Schumacher is concerned about increase in fees, increase in assessments, increase in taxes, and the like of that from these transfers. I am not aware, nor is Fiscal aware, of any agency that has increased any taxes, any assessments, anything due to the taking of these funds and the transferring of these funds. So I just wanted to make that clear. I wanted to get that on the record. And thank you, Mr. President. [LB945]

PRESIDENT FOLEY: Thank you, Senator Stinner. Senator Harr. [LB945]

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SENATOR HARR: Thank you, Mr. President. Let's be clear. Nothing is extraordinary about AM2288 as far as procedure. We do this all the time. We take a bill that's in committee and we amend it on to another bill. That is not extraordinary one bit at all. I've done it. I think everyone in this room has done it. This is not a pull motion. That is a completely separate way and procedure of doing things in procedure. What this is, is a way around the fact that we had a rule that said any bill with a fiscal note couldn't get past Select. Now, I don't disagree with what Senator Krist is doing here at all on AM2288. I think it's probably the right thing to do to help out gambling problems. That being said, I don't have a problem with how he did it either. Is it different than everyone else? Probably. But it is a good idea, you bet. But I do have a question if Senator Stinner would yield to a question. [LB945]

PRESIDENT FOLEY: Senator Stinner, would you yield, please? [LB945]

SENATOR STINNER: Yes, I will. [LB945]

SENATOR HARR: Thank you, Mr. Chairman. I have a question for you as far as how much cash we have in the rainy day fund. If we end up passing this LB945, along with the other budget bills, how much money would remain in the rainy day fund? [LB945]

SENATOR STINNER: Rainy day fund will still have \$296 million. [LB945]

SENATOR HARR: Okay. And with that \$296 million, how much of...well, and how much in...I'll be honest with you, in my eight years I have tried to read the budget, and I can read the budget proposals that you put out, and they're like the Berkshire Hathaway, I like them, I read them, but I don't always understand everything that's in it. How much money is in this proposal for property tax relief outs with new legislation? [LB945]

SENATOR STINNER: Right now the property tax relief fund is \$221 million per year, so that's \$442 million in the biennium. [LB945]

SENATOR HARR: Okay. But nothing for new legislation this year? [LB945]

SENATOR STINNER: I'm sorry, I guess I'm not sure what you're trying to get to. [LB945]

SENATOR HARR: Well, there are several property tax bills that were proposed in Revenue. Does this save any money for any of those bills? [LB945]

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SENATOR STINNER: Well, we do have 500-and-some odd thousand dollars of money that is demonstrated on the financial status report. [LB945]

SENATOR HARR: Maybe that's a better way. So we have \$500,000 reserved for the floor. If we wanted to pass new property tax relief bills, what is the minimum out you would feel comfortable keeping in the rainy day fund? [LB945]

SENATOR STINNER: Well, let me put it this way. Any spend bills, anything that has appropriations or dollars associated with it actually comes out of the rainy day fund. [LB945]

SENATOR HARR: Yep, okay. So we have \$296 (million). Would you be comfortable if the rainy day fund got down to \$250 million? [LB945]

SENATOR STINNER: There is a pucker factor, but that would be as far as I would go. [LB945]

SENATOR HARR: Okay, what is so magical about the number 250? [LB945]

SENATOR STINNER: Well, as I tried to explain in my opening remarks on the Cash Reserve is, number one, \$250 (million) is about 5.5 percent reserve. And that is really kind of a minimum reserve. It's a median reserve of all states that have a rainy day or contingent fund. Additionally, I had the Pew Foundation come in and actually do a stress test. And they really created a metrics that works almost like an insurance policy. So if you want to have...if you put \$250 million in a fund, and you have a garden variety recession, you'll be able to have coverage of about 50 percent. You have to think of that in terms of maybe having an insurance policy. Your deductible is about...your coverage is 50 percent, so your deductible would be \$250. [LB945]

PRESIDENT FOLEY: One minute. [LB945]

SENATOR HARR: Okay. And you say approximately 5.5 percent. Is that above or below 5.5 percent? [LB945]

SENATOR STINNER: I haven't worked that out yet. I round things. I'm sorry. [LB945]

SENATOR HARR: Okay. Okay. Four million dollars isn't going to make or break the state, is it? [LB945]

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SENATOR STINNER: At this point, every dollar you're going to have to fight me for, so; but, no, probably not. [LB945]

SENATOR HARR: Okay. Thank you very much. That's all I have. Thank you. [LB945]

PRESIDENT FOLEY: Thank you, Senators Harr and Stinner. Senator Krist. [LB945]

SENATOR KRIST: Am I the last in the queue? [LB945]

PRESIDENT FOLEY: No. [LB945]

SENATOR KRIST: Okay. I think I'll just reserve my comments for my closing. Thank you. [LB945]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Blood. [LB945]

SENATOR BLOOD: Thank you, Mr. President. Fellow senators, friends all, unfortunately I stand against Senator Krist's amendment. And I do that based on the information that was gleaned during the hearing. The concern that I have is that last year expenditures for this organization were \$1.8 million out of an appropriation of \$1.88 million. And I hear them saying things like people that may or may not be able to receive insurance can receive help through this organization, period. So if somebody has health insurance that covers this type of abuse, we should be allowing them to use their health insurance. And we were told that insurance companies don't cover gambling. But I checked into several insurance companies and they do. Some just ask that you add a secondary type of condition, such as depression, because I know that if I were a gambler and had spent all my money I would certainly be depressed. But what I hear and what I think needs to be resolved before we give them money is that I don't feel they're being efficient with their money. I don't feel that they understand the many, many departments that have really had to tighten their belts. And the other concern that I have is that we don't do this for any other addiction. We have a major opioid problem in Nebraska. And thanks to Senator Howard and Senator Kuehn and Senator Lindstrom and other senators who have gotten on board with that type of legislation, they've been able to do things in a cost-effective manner. But I don't see us throwing money at them, and well we should be, because that's a much bigger problem than the...and I want to say it was 300 people, I think, they told us that they served in a year. So \$1.8 million to serve 300 people, do the math. And I noticed the director who came to us in our hearing that was so concerned about needing more money got a raise last year, a substantial raise to \$75,000. And so, do I fault him for wanting a raise? No. But he's certainly not living along the poverty level here in Nebraska, not that I would wish that on anybody. I just feel that I have no...I

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don't take issue with how Senator Krist brought his amendment forward. It's every man for himself in a short session. But I do take issue with giving an organization money of any amount that is not proving to me that they are truly being efficient and spending the money that they have currently, wisely. And so with that said, I stand in favor of the LB945 and the Appropriations amendment, but I stand against, unfortunately, Senator Krist's amendment, with all due respect. [LB945]

PRESIDENT FOLEY: Thank you, Senator Blood. Senator Bolz. [LB945]

SENATOR BOLZ: Thank you, Mr. President. I was asked to rise and say a couple of notes about the process in the Appropriations Committee process. I appreciate Senator Larson's thoughtful thinking through what process means in terms of this issue. I would like to share with you that the Department of Revenue did have an agency hearing. Gamblers assistance does fall under the Department of Revenue. Gamblers assistance was discussed in the agency hearing, though this particular transfer wasn't discussed in detail. After the hearing, I was given information as an Appropriations Committee member about this issue. At that point in the process it was too late to make these changes. And so in terms of what it means to make a change like this in the budget process, it is preferable to have a bill in front of the Appropriations Committee that is best practice, but sometimes things come up later in the process. So I would say that this is not the preferable process, but because this amendment deals only with moving dollar amounts, and there was an agency hearing, I would encourage the body to vote on the merits of the amendment. Thank you, Mr. President. [LB945]

PRESIDENT FOLEY: Thank you, Senator Bolz. Senator Chambers. [LB945]

SENATOR CHAMBERS: Mr. President, members of the Legislature, I would have to give Senator Bolz an A for what she said. Senator Larson and I don't see eye to eye on many things, and that is not difficult to understand why. He is so much taller than I that our eyes are not on the same level, so the only way we could see eye to eye is if he sat down or if I stood on a chair. What Senator Krist is doing is what anybody who is trying to get something into law would do. It is not unusual for a person who cannot persuade a committee to do something to offer the floor an opportunity to do it. On the floor we can override a committee. There is no rule that indicates that any committee is sacrosanct, that it comprises infallible people. And no rule that says that a person cannot by means of an amendment attempt to bring to the body any matter whatsoever. I listened to my seatmate, Senator Blood. I've had occasions to be very proud of her. I am not unproud of her today, but I have to make a distinction. When you're trained in the law, you deal with nuances and you divide divisions. Philosophers, especially of the Jesuit variety, know how to split the head of a pin between the north and the northwest side. So the difference between opioid addiction and gambling addiction is that the constitution was not amended so that the

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constitution of the state advanced opioid addiction. The constitution of this state advances gambling. There are people on this floor who advance gambling. The state has a guilty role in advancing gambling. So it reminds me of something I read when I was much younger. I believe it was in a book called The Apostle by a person named Sholem Asch, A-s-c-h, I think that's where I read it. When Paul was sitting at the feet of a rabbi, there was a goblet, and there had been some sweet substance in it, and Paul saw a gnat crawling around the rim, and Paul took his finger and his thumb and crushed it. And the rabbi stopped, he said, Paul...well, his name was Saul then, he hadn't gotten saved. Saul, make good that which thou hast done. And Saul said, I don't understand. What did you just do? He said, I crushed a gnat. He said, did you convert a living thing into a non-living thing? Saul said, yes. The rabbi said, can you restore to that now non-living thing the life which you took from it? Saul said, no. The rabbi said, then be careful when you do that which you cannot undo. If the state is going to advance gambling knowing that there are people with a severe addiction, knowing that families have been broken, businesses have gone under as a result of gambling, and the state not only advances it, but the constitution contains language to provide a remedy or an antidote... [LB945]

PRESIDENT FOLEY: One minute. [LB945]

SENATOR CHAMBERS: Did you say time? [LB945]

PRESIDENT FOLEY: One minute. [LB945]

SENATOR CHAMBERS: ...for what it had done, that's the way you try to soothe a guilty conscience. I'm going to support Senator Krist's amendment. The way that it gets before us is really irrelevant to the substance of what the amendment offers. And I do see, and I've always opposed it, the state being guilty in encouraging people into one of the worst addictions that can befall people. And you even saw this when Jesus was crucified, because the soldiers cast lots for his robe. Thank you, Mr. President. [LB945]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Blood. [LB945]

SENATOR BLOOD: Thank you, Mr. President. Fellow senators, friends all, I'd like to thank Senator Chambers for schooling me on the state constitution. However, I think it needs to be made clear that although we must, and are obligated to do so, allow for this organization to exist to help people with this addiction, it is also our job as policymakers to demand that they control their budget like every entity that we work with through our budget process. And in the hearing it was made clear to me that they can do better. I'm not saying we should permanently deny them money, because obviously it is our job to support them financially because it is in the constitution, because we have put gambling out there to better Nebraska and we use it for



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multiple programs that there are good things that are done with that money. But it is our job to make sure that when we allocate additional funds beyond what they've been budgeted, that they can verify and show us how those funds are being used and they're being used to the best of their ability. And I did not feel that during the hearing we received that information in a fashion that makes me want to give them an additional \$50,000. Thank you, Mr. President. [LB945]

PRESIDENT FOLEY: Thank you, Senator Blood. Senator Chambers. [LB945]

SENATOR CHAMBERS: Mr. President, you heard point, now counterpoint. I am not disputing what Senator Flood...Senator Blood has said in terms of this process. Sometimes, many times, perhaps most of the time, in some cases all of the time substance trumps form. Form often is a means by which to defeat that which is substantial or substantive because there is no valid argument against it. How the matter got before us is irrelevant to me. I know people who have been devastated by gambling. The person I defeated for this office, and it wasn't because of that, was very intelligent--bookwise. Had been successful to a marked degree as a lawyer, and gambling played a role in destroying the things that she had built. So I know what gambling can do. When I make my wagers with Senator Briese, that could be called gambling because neither of us can control the outcome except me because I know the answer and what the outcome is going to be. It's not a gamble for me, it's a gamble for him, and it teaches him--don't gamble. And everybody who gambles should know never bet against the house, never. On this matter it would be like a person who had a million dollars, gambled it away at some casino, went to a bar and made people think because he had been rich that he's got some money and said, buy me a drink and I'll take care of it and he's got no money. So he gets smashed. Then he hails Uber to get a ride. And that driver knows him. He used to have money. He has no money now. And he's driven to a hospital. And by now he has had bumps and bruises put on him because people who saw him whipped him. So if you wanted to, if you're at the hospital, you could say there are only certain ways we will allow people to come to us and be treated. We want to examine how they got here. That's not what hospitals do. They shouldn't. If the person is there and needs to be ministered to, that's what should happen. In that tale about the good Samaritan, we're told by the one telling the tale that robbers fell upon this person who was in need of help and had left him in a bad way. The good Samaritan did not say, well, he shouldn't have been where he was and had no business being. He saw that the man needed tending. So he took him to this inn and told the guy, dress his wounds, feed him, take care of him, then whatever the bill is I'll pay when I come back. And the innkeeper knew this guy who would pay. Jesus used the Samaritan because the Samaritans were people looked down upon. They were the unpeople. They were the black people of black people today. They were the black people of those days. Well, it was the black man who took this poor beaten up white man who had been beaten by his brothers and had him tended. If we look behind what people are and say that some are worthy of help and others not, then we're in the kind of business that I cannot put myself into. [LB945]

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PRESIDENT FOLEY: One minute. [LB945]

SENATOR CHAMBERS: It would be different if a person knowingly jumped off a building, then something bad happened. You would say, well, he's responsible for what he did because he knew in advance, but still we will give him whatever treatment we can. As strange as it might be, I've seen instances where cops shot somebody, then began administering CPR to try to keep the person from dying. These people need help. The state assisted in putting them into that situation. The state practiced, if we're talking about crimes, entrapment, and now they say it's good enough for you. When you take advantage of somebody who's weak, then the one who takes advantage is more to blame than the one who, because of weakness, is taken advantage of. I appreciate what Senator Blood is doing and that she stands for her principles, and I don't think this is where our principles, one is better than the other. [LB945]

PRESIDENT FOLEY: Time, Senator. [LB945]

SENATOR CHAMBERS: We're legislating, and I think the better action is to support that amendment. Thank you, Mr. President. [LB945]

PRESIDENT FOLEY: Thank you, Senator Chambers. (Visitors introduced.) Continuing discussion, Senator Larson, this is your third opportunity. [LB945]

SENATOR LARSON: Thank you, Mr. President. You know, I thought Senator Blood raised some excellent points on the mike. And as I said, maybe that was part of the reason that Senator Krist never had asked for this bill to be "execed" on. I don't know what would have happened in the General Affairs Committee. And Senator Chambers is right, this is an option for Senator Krist. And Senator Harr said we attach bills as amendments all the time on the floor. Oftentimes those bills have been passed out of a committee, though. So I do see some differences with AM2288 verses how we usually operate or usually do that process. Second of all, as I said, I've continued to hear, and I'll be interested to see who votes for this and then who talks about, on the more mainline budget, the concept of public policy shouldn't be in a budget, because that's what this is. This is public policy. So I'm going to be really interested to watch those members who stand up on Title X funding, who have made that argument, but vote for this, because this was public policy. This was in the domain of the General Affairs Committee. Nobody asked for it to be "execed" on. Nobody counted votes. I don't know if it would have come out or not, but it was never asked of me. Senator Krist wanted to say that it's hard to get things out of my committee. As I said, I had two members ask me to "exec" on bills that were in the General Affairs Committee this year, and they both got "execed" on. So when it was asked, it happened. So moving forward, I don't want there to be a misconception that I was holding this bill up or anything of that nature. It was never brought to me to "exec" on. And as I said, I look forward to

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seeing who votes for AM2288 and then compare that to the Title X funding debate. And I can understand then exactly where that is moving forward if that's a valid argument for yourself. Thank you, Mr. President. [LB945]

PRESIDENT FOLEY: Thank you, Senator Larson. Senator Chambers, you're recognized. This is your third opportunity. [LB945]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, Senator Larson graduated from George Washington University. He does not use logic when he thinks. And I should give Senator Bolz an F for saying that Senator Larson gave a thoughtful presentation. What we're talking about with this amendment does not impinge on anybody's particular religion. It's not the Catholic Church sponsoring this amendment. It is the Catholic Church, the Nebraska bishops, the bishops of Omaha, Lincoln, and Grand Island who are cracking the whip over that Appropriations Committee. That's why that Title X is in that bill, not on its merits. And the Governor made it clear, he wants to show this is a so-called right-to-life state when he's the most rabid seeker of executions, to the point of trying to get illegal drugs into the state to do it. For Senator Larson to stand up and make such a boneheaded, invalid comparison means that George Washington University ought to take back the degree...if they gave him one. I don't know that he graduated from anywhere. If I went by the way he comports himself, I'd say he did not. But I don't care if he says he graduated from some place. It means nothing to me, because I'm not going to be moved by badges and titles. I want to see what the individual wearing the badge and title has underneath that badge and title. He's rarely on this floor. How does he know what practices may have become routine? It could happen every day. He's rarely here. You all should know that when we get to these budget bills there's going to be some very frank discussion by me, and I hope Senator Larson stays here, when we talk about that Title X. That is a Catholic action, and I will oppose anything that Catholic Church tries to foist on the people. The Catholic Conference of Bishops have made an agency tell the bishops we want to clear this provision before you implement a rule. The Catholic Church is running parts of this state government, and I'm going to sit up and let some bonehead talk about we should let the Catholic Church do it and try to equate this attempt to help all gamblers with a bigoted, based on religion, attempt that hurts women. I will be glad when we get to that discussion, and I'm going to see if he's going to be here. He said he would. I'm going to see. And I want to listen to what he has to say. Let him bring us some of that wisdom. I don't know if George Washington is a Catholic school, but if it is, they'd make everybody take Thomistic Philosophy. When I graduated from Creighton, what they call philosophy was really Catholic theology, but I mastered it, better than the Catholic students,... [LB945]

PRESIDENT FOLEY: One minute. [LB945]

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SENATOR CHAMBERS: ...better than some of the professors. Because I read more than what they taught in the textbook and more than what they talked about. And the shamming they did when they stood in front of the class and could intimidate the students because the teacher knew 3 points and the students knew no points, but a qualified teacher should know 15 points and I knew 25 points. And they would not call on me when we were discussing Thomistic Philosophy. And he was a Catholic; may have graduated from St. Louis University. So when this stuff comes on the floor, get ready to hear it from me. Thank you, Mr. President. [LB945]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Bolz, you're recognized. This is your third opportunity. [LB945]

SENATOR BOLZ: Thank you, Mr. President. I very briefly just wanted to provide a bit of technical information as it relates to the discussion about substantive change in an appropriations bill versus this bill. This bill is a funds transfer bill. And I don't...I'm not intending to split hairs here, but I do want to articulate that this bill is different than the mainline appropriations bill. There are a number of changes here that one could argue are substantive law. So, for example, we have changes on page 16, line 16 that reimbursement to the state of Nebraska from other member states operating in accordance with the Emergency Management Compact shall be credited as receipts to the Governor's Emergency Cash Fund. Other changes relate to the InternNE Fund, relate to legal repayment, relate to underground storage tanks. So I only rise to share the insight that this is a bill that is different than the mainline appropriations bill. And if we have future debates on future issues, I want the body to understand how the different budget mechanisms work. And so if the body decides to have this debate on this bill, the funds transfer bill is one place in which we can do it. And I encourage all of you to take a look at all of the things that are contained in the bill, because there are some substantive changes. But I think the committee stands behind all of them...or at least most of the committee stands behind all of them, and we'd be happy to explain any of them further. Thank you, Mr. President. [LB945]

PRESIDENT FOLEY: Thank you, Senator Bolz. Senator Krist, you're recognized to close on AM2288. [LB945]

SENATOR KRIST: Thank you, Mr. President; and once again good afternoon, colleagues and Nebraska. There was a bill introduced into General Affairs. That bill by itself was similar. It was dissimilar in the way that it asked for a half a million dollars, which was probably unattainable at a time when we could not give it. Senator Blood had some words, based upon her opinion, of how that organization has been run. I will respectfully disagree. I've been involved with them now for ten years. I've watched the revolutionary process. I think that the professionals that are providing the care for those who have been afflicted by a disease, an addiction to gambling, the 300 people she talked about are very much a rotating number. What they can handle is about

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300. What they've touch is probably closer to 600 or 700 people over the last few years, and that's just the way that business works. I would remind you also Senator Bolz has brought forward that the...this issue was brought up to them separately within their committee. No one pursued it in the committee. And I went back and asked both the Chair and Vice Chair of Appropriations if they would consider a lesser amount than what I proposed in General Affairs. And then I'm going to get on my soapbox again and I will tell you that in Executive Committee, which is also your Referencing Committee, there was a move, because this is simply a transfer of money from A to B, to put it where it should have been, and that was in Appropriations instead of applying it into General Affairs where it was labeled as a gambling bill. I would label it an antigambling bill in some ways. But it could have been referenced into Appropriations straight on. Maybe, in my opinion, misappropriated or misreferenced to General Affairs, but we're not going to argue about that. Because I have the last word, I will tell you that these folks do great work; that your kids and grandkids and even some of you are on your machines, you're on your laptops, you're on your iPads, you're on your telephones gambling. You participate in keno and other legal gambling in the state of Nebraska, and you, too, are vulnerable and they are vulnerable to an addiction, and it will be these people who come forward. And I would also say that the reason that we divided them away from behavioral and mental health, a bill that I carried several years ago, was to specify a smaller amount of money that went specifically to this group. So, again, to Senator Blood's comments, behavioral and mental health is treated in a different pot of money. This is, by constitution, required and was put in place 20 years ago by the people of Nebraska because they had the foresight to understand there would be some unintended consequences for the gambling. With that, I would ask you to vote green on AM2288 so we can move on and proceed with the budget process and the appropriations approval. Thank you, Mr. President. [LB945]

PRESIDENT FOLEY: Thank you, Senator Krist. Members, you've heard the debate on AM2288. The question before the body...Senator Krist? [LB945]

SENATOR KRIST: Call of the house, please. [LB945]

PRESIDENT FOLEY: There's been a request to place the house under call. Those in favor of placing the house under call vote aye; those opposed vote nay. Record, please. [LB945]

ASSISTANT CLERK: 29 ayes, 2 nays to go under call, Mr. President. [LB945]

PRESIDENT FOLEY: The house is under call. Senators, please return to your desk and check in. The house is under call. Senator Pansing Brooks, Senator Wayne, please return to your desks, check in. Senator Krist. [LB945]

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SENATOR KRIST: Have a board vote, but I'd like a record vote, please. [LB945]

PRESIDENT FOLEY: Record vote has been requested. We'll do a board vote. You've heard the debate on AM2288. The question before the body is the adoption of the amendment. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB945]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 951.) The vote is 25 ayes, 13 nays, Mr. President. [LB945]

PRESIDENT FOLEY: AM2288 is adopted. I raise the call. Is there a continuing discussion on LB945 and the pending Appropriations Committee amendment? Seeing none, Senator Stinner, you're recognized to close on the committee amendment. [LB945]

SENATOR STINNER: Thank you, Mr. President. Members of the Legislature, I appreciate the comments about the cash and cash transfers. That would not be a preferred way, but these are extraordinary times. This is necessary in order to achieve that 2 percent minimum reserve and rebalance our budget. And I would appreciate a vote of green on AM1700. [LB945]

PRESIDENT FOLEY: Thank you, Senator Stinner. Question before the body is the adoption of the committee amendment, AM1700. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB945]

ASSISTANT CLERK: 38 ayes, 0 nays on the adoption of committee amendments. [LB945]

PRESIDENT FOLEY: AM1700 is adopted. Senator Stinner, you're recognized to close on the advance of the bill. He waives closing. The question before the body is advance of LB945 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please. [LB945]

ASSISTANT CLERK: 35 ayes, 8 nays on the advancement of the bill, Mr. President. [LB945]

PRESIDENT FOLEY: LB945 advances. Items for the record, please? [LB945]

CLERK: Mr. President, a new A bill. (Read LB1090A by title for the first time.) Senator Chambers would like to print an amendment to LB702. Senator Harr, a new resolution that will be laid over, LR348. And the Education Committee reports LB1052, LB1110 to General File;

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LB778 to General File with amendments. That's all that I have, Mr. President. (Legislative Journal pages 952-955.) [LB1090A LB702 LR348 LB1052 LB1110 LB778]

PRESIDENT FOLEY: Thank you, Mr. Clerk. We'll proceed to the next bill. Mr. Clerk.

CLERK: Mr. President, LB944 was introduced by the Speaker at the request of the Governor. (Read title.) Introduced in January, referred to the Appropriations Committee. The bill was advanced to General File. I do have committee amendments, Mr. President. (AM1699, Legislative Journal page 895.) [LB944]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Stinner, you're recognized to open on LB944. [LB944]

SENATOR STINNER: Thank you, Mr. President. Members of the Legislature, LB944 was introduced by the Speaker on behalf of the Governor. The bill was introduced as a mainline budget bill and makes changes to the current 2017-18 and fiscal year 2018-19 appropriations transfers and intent language. This is step three, round three, if you will, of the three-round process, the three-step process. But I do want to once again thank the Governor, as well as the budget staff, for LB944. Our committee actually used this as a template for our preliminary budget and was pretty much in sync across the board with their preliminary budget. LB944 utilizes in the Governor's budget 2.5 percent minimum balance. It does not require anything to be taken out of provider rates. He recommends a 2 and a 4 percent cut, across-the-board cut, in both higher education as well as agencies, and there's 43 agencies that were involved. It requires a reappropriations reduction of \$1.1 million, a reduction of water sustainability transfers of \$1.5 million and \$3.470 million, and cash transfers of \$16.6 million, a transfer out of the Cash Reserve of \$108 million. This budget recommendation by the Governor only affects 30 percent of the total budget. With that, Mr. President, could I proceed to the amendment? [LB944]

PRESIDENT FOLEY: Yes, Senator Stinner, please proceed with the committee amendment. [LB944]

SENATOR STINNER: Thank you, Mr. President. The committee member...the committee amendment actually becomes the bill that also contains an emergency clause and will become operative once the bill is signed into law. I think we've talked about this in the briefing, and if you do remember back, and you can look in the yellow book, we were actually \$210 million off in October from the forecast, off in terms of revenue forecasts. That was reconciled down to \$173 million. The committee also received deficit requests of \$82.8 million, which brought the total up that we had to deal with in the Appropriations Committee, a shortfall of \$256.8 million. So that was the starting point, but we established some ground rules and some objectives right

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away. Obviously, the number-one objective is to bring ourselves back into compliance with the 2.5 percent minimum Cash Reserve. We also wanted to reestablish the structural balance that would obviously bring us back to a 3 percent reserve in the next biennium. Both of those objectives were obtained. We did maintain priorities just like last year: K through 12 was a priority, property tax relief was a priority, corrections was a priority. Maintaining the rainy day fund, as we've talked, was one of my priorities, and certainly we tried to work around that--\$250 million was really the absolute bottom of where I thought this budget needed to be. The other thing that the committee had to deal with is trying to measure what the outcomes or the cumulative fiscal impact on all the agencies. If you remember we did institute a 4 percent across-the-board cut. If you also remember there was a veto involved, so it became 4.5 percent. The 2 percent and 4 percent then becomes 6.5 and 8.5 percent. But that's not the total story, folks. The total story is to measure what normally would have happened within that agency, within the university, within the state college, within the community colleges. Normally they would have 3 percent minimum increases for salaries and benefits. We all know what happened on health insurance: it continues to go up, many times double-digits. So if you add 3 plus 3, that's 6. So you would have \$106 million in your baseline appropriation at the end of two years. That is a normal situation. If we held the budget completely flat, didn't cut anything, they would have to deal with a 6 percent reduction in their normal operations. And that is called a de facto cut. So if you take the 6 plus the 8.5, you're at 14.5. So we were trying, as we worked ourselves through the hearings we were trying to get a feel for what the total fiscal impact was, where the agencies were relative to their mission and statutory requirements, where they were at in terms of vacancies. And the importance of the vacancies was is we are not coming back to pre-cut levels. I want to emphasize this, we are not coming back to pre-cut levels. If we only come halfway there, if we only come a third of a way there, those vacancies start to become permanent vacancies. So one would say standing back maybe we shrunk the size of government, permanently shrunk the size of government. But that was some of the things that we had to deal with, and of course we had to deal with the requests. And we spent a considerable time...amount of time taking a look at DHHS and their requests for child welfare funding of \$55 million. In fact, the total was \$73.4 million requests out of Department of Health and Human Services. The outcome of all of that, and I can tell you that you can go to page 1 and take a look at the deficit request. There's other pages that deal with this, but the committee utilized \$1.3 million of reappropriations. Cash transfers into the General Fund was a negative \$1.398 million, and the negative was because we moved a lot of what was in this biennium to the second biennium in hopes maybe something would improve so maybe we could restore some of that lapsing of extra cash. We also...in the second half we then transferred, or recommending a transfer of, \$16.1 million. And that is on page 17, and it is also contained in LB945. Transfers out of the...on the transfers outside, we've reduced the transfers out by \$1.5 million and \$3.470 million on page 15, and that is a reduction in the water sustainability. And I will report to you that the water sustainability actually suffered \$5.6 million on a \$22 million transfer over a biennium. That's quite a little bit percentagewise, and I have heard from those folks. That's something that I have



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on my radar screen to take care of as we start to drive out of this situation that we are in. Transfers then were \$100 million to the rainy day fund, and I will tell you that we anticipated a better report to come out on the fiscal side of things in February, so we reduced. We reduced the second half cuts from 4 percent to 2 percent, from 2 percent to 1 percent on higher ed, because that is what the committee decided was a priority, to try and protect our higher education from any further additional deterioration. And then obviously we did get back a favorable report of \$25 million. This, as you look at the fiscal status, that went into the rainy day fund. The amount that the 2 percent...or the 4 percent to 2, the 4 percent to 1 actually was equal to \$30 million. Thirty million actually came over from the second half of the Forecasting Board. So we kind of netted that, and of course we also have the new federal tax law. And the reconciliation of that actually netted out a positive \$9 million. We did adjust the Governor's budget. We actually lapsed the reappropriation on PRO, as well as the Governor's budget. We utilized those funds to basically negate the cuts to the smaller agencies. It was the blind and the hard-of-hearing, the Indian agency, the Hispanic agency. There was maybe one or two more but some of the smaller agencies that we knew couldn't take those cuts. But I will tell you this, that through the hearing process all the agencies, all of the higher ed said, okay, we can deal with this 2 percent cut; this 4 percent cut, though, goes a little bit too far. We didn't necessarily hear from the code agencies, but we certainly, after investigating where they were at in manpower requirements, where they were at pre-cuts to where they were at today, there was a significant deterioration in the number of units that they had, the number of FTEs. And so that was really where we were taking a look at maybe we would back off to 2 percent on the agencies, maybe we would back off a 3 percent in the second half of the biennium with the higher ed side of things. You know, I think we talk about future risks, we talk about where we are at with the rainy day fund, we talk about as we move forward, this economy, where it's at in terms of business cycles. We still have to be mindful that there are some extraordinary risks out there as it relates to the economy, as it relates to the interest rates, and all the things that we discussed. We have yet to solve our corrections problem. We continue to have deferred maintenance both at the university to \$600 million; state colleges, \$10 to \$20, \$30 million in state colleges. [LB944 LB945]

PRESIDENT FOLEY: One minute. [LB944]

SENATOR STINNER: Thank you, Mr. President. We also have at the state level applications for \$200 million or so that need to be handled in terms of deferred maintenance. Those are costs. If you go to page 50, you can look at TEEOSA formula. You can look at what is projected. It's much greater than the 3 percent that is templated in the Governor's proposal as we move forward. So we have some real challenges. We have some things that we have to measure and continue to measure. I think one of the things that we found, for an example at the State Patrol, they are down 50 units is what my memory is. They are going to try to hire back 30, 35 people, hopefully get up to a full squad. Well, no, they are not. We can't go back there. He's been living on the vacancies. We can go back somewhere there, but we need to reassess what that all means. And

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that will be the challenge for the next biennium; that will be our challenge as we move forward. And my priority still is taking a look at restoration of the rainy day fund... [LB944]

PRESIDENT FOLEY: Time, Senator. [LB944]

SENATOR STINNER: ...in order that we have a stability. Thank you, Mr. President. [LB944]

PRESIDENT FOLEY: Thank you, Senator Stinner. Mr. Clerk. [LB944]

CLERK: Mr. President, amendments to the committee amendments. Senator Bolz, I have AM2274, Senator. (Legislative Journal page 876.) [LB944]

PRESIDENT FOLEY: Senator Bolz, you're recognized to open on AM2274. [LB944]

SENATOR BOLZ: Thank you, Mr. President. And thank you to Senator Stinner for his thorough analysis of AM1699. I do hope that we'll have the opportunity for some substantive policy debate on our budget choices related to child welfare and higher education and everything in between. However, I offer this amendment as an option for the committee, for the body to discuss, related to an issue that came to my attention from the federally qualified health centers. So, as many of you know, the Title X program provides essential healthcare to 28,000 Nebraskans. The program provides cancer screenings, treatment for sexually transmitted infections, prenatal care, and more. These are important services that protect people's lives. They are provided by a number of healthcare providers, including our federally qualified health centers, which provide a number of healthcare services to people, especially those in low-income communities, regardless of their ability to pay. The federally qualified health centers provide services under Title X to 12,000 Nebraskans. They brought to the Appropriations Committee a concern that the language proposed in LB944 would not allow the FQHCs to continue providing services in a manner that complies with federal regulation. This amendment seeks to protect the FQHCs' ability to provide cancer screenings, treatment for STDs, prenatal care, and other services under their federal Title X program. This is important, not only for Title X, but also in order to protect the \$18.8 million in federal funds that flow to the federally qualified health centers overall, because these centers must show their ability to follow federal regulations on all kinds of programs. The amendment also reflects an issue that I have heard from my constituents and that we heard in the hearing, which is interest in assuring that there is a clear separation between taxpayer dollars and abortion providers. Let me walk you through the pieces of the amendment. First, it reiterates existing law that no funds appropriated or distributed through the Title X program shall be used for abortion or abortion counseling. Second, it repeats the federal regulation language regarding referral. The federal regulation states organizations may provide neutral, factual information, nondirective counseling, or referral upon request. This reflects all

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kinds of referrals for all kinds of services and may only include relevant, factual information, and may not include taking any affirmative action. Third, the amendment requires objective independence, requiring legal, physical, and financial separation between the provision of abortion services and the services provided with Title X funds. Finally, the amendment states the intent that the Department of Health and Human Services shall ensure that a network is maintained that is sufficient to provide cancer screenings, prenatal care, and all of the other services under Title X without unreasonable delay. I would also like to note that I will be passing out the legal analysis from the federally qualified health centers, and I would ask that you all review it. It addresses a federal amendment, the Weldon Amendment. This amendment states that federal, state, and local governments may not discriminate against a healthcare entity that does not provide, pay for, provide coverage of, or refer for abortions. The intent of the Weldon Amendment was to keep doctors who have moral qualms about performing abortions from being put to the hard choice of acting in conformity with their beliefs. The amendment does not...the analysis provided by the FQHCs determined that the amendment...that the language does not justify the proposed language, which would create state law that is out of compliance with federal regulation. AM2274 seeks to both clarify the requirement of healthcare providers to have objective independence, requiring legal, physical, and financial separation between the provision of abortion services and the services provided with Title X funds, and the amendment seeks to protect the ability of the federally qualified health centers to provide life-saving and life-protecting services, including cancer screenings and prenatal care. I look forward to serious and thoughtful debate, and I thank you for your consideration of this amendment. Thank you, Mr. President. [LB944]

**SPEAKER SCHEER PRESIDING**

**SPEAKER SCHEER:** Thank you, Senator Bolz. (Visitors introduced.) Waiting in the queue: Senators Blood, Watermeier, Hilgers, Clements, and a multitude of others. Senator Blood, you are recognized. [LB944]

**SENATOR BLOOD:** Thank you, Speaker. Fellow Senators, friends all, I never thought I would be standing here saying the same words I said last year. I wish there weren't grade-schoolers in the balcony, because they may have to do earmuffs. This is not a good topic for grade-schoolers to be hearing. But nonetheless, it's my turn to speak and my words need to be said. This is a way that lawmakers can pass controversial provisions, by wrapping it into something that we must address. Title X is a policy measure. It does not belong in a budget bill. Because of that, I believe I stand in favor of Senator Bolz's amendment if we don't have any better alternatives. If Title X is removed, I do stand in support of both the Appropriations amendment and the bill, LB944. But the bottom line is that policy measures need to be dealt with separately, and Title X is a policy measure. Budget items belong in a budget bill. So welcome to "vagina-gate 2018," same song, same dance. It's going to be the same topic we had last year. And it's time that we understand

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that policy is a separate issue and not to be hidden in budget bills. I have had a lot of people come to me in reference to this bill, prior to it being presented, asking me for their support...to support it. And I said no, unless they were able to prove to me that there were other clinics that were going to be taking up the slack. Should Senator Bolz's amendment not be passed, there are clinics that are going to close down as a result and not to be able to provide services to people, services to victims of sexual assault, services to victims of incest. Last year they blew smoke up our skirt and they told us that these people were going to be served by religious-based clinics. I have asked four different organizations and upper management for that list. It does not exist. If anybody stands on this mike today and tells you that if any of these clinics have to close down because we move this bill forward without Bolz's amendment or without taking Title X out, that is not the truth. No one is going to take up the slack. And for those of you that live in rural Nebraska, I want you to think really hard about what happens to these victims when they can't go to their doctor's office because the downtown cafe is across the street and the next-door neighbor is going to ask your mom why Mary Jo was at the doctor's office. Was she sick? Or when Mary Jo happens to be on the family's insurance and the parents are going to receive the bill and then Mary Jo has to explain to them, I had an incident and this is what happened. And maybe she wasn't prepared to share that with her parents or maybe it was a family member who was doing the abuse. And now the parents are embarrassed and unwilling to support that victim. These clinics that are across Nebraska allow people animosity. They are able to go to other communities and get the services that they need, be it to find out they have an STD, to be able to find out if indeed they are pregnant as a result of the assault. Think really strong and hard. This is not a pro-life issue. And quite frankly, please stop calling my office and saying that since I'm Catholic I need to prove I'm pro-life. Because what I'm doing right now is I am following Pope Francis' advice, which is to be more like Mary. I will persevere. I will make sure that I am treating those in need with love and mercy. This is not a pro-life issue. This is a policy issue in a bill where it does not belong. You are going to punish people who need these services. [LB944]

SPEAKER SCHEER: One minute. [LB944]

SENATOR BLOOD: And it is not necessary for Senator Bolz to do this amendment if we just go ahead and pull it out. Thank you, Mr. Speaker. [LB944]

SPEAKER SCHEER: Thank you, Senator Blood. Senator Watermeier, you are recognized. [LB944]

SENATOR WATERMEIER: Thank you, Mr. President. Good afternoon, Nebraskans and those colleagues that are watching today from their office. I was really hoping to stand up and talk about more budget issues and really get to sing the praises of our esteemed Senator Stinner, who did do a good job of guiding us now in a short 14 months through basically three budgets. I

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really do think we need to make...tip our hat to him, and also the Fiscal Office with the leadership of Mr. Calvert. It's been a great experience for me to be on Appropriations. But I am forced to visit and speak towards the amendment from Senator Bolz. I stand in opposition to AM2274, and I would like to contradict some of the testimony that was even brought up by the very first person on the mike today, is that this is going to take away funds for rural Nebraska. It is not. This is going to take away care and services to the women and the children who definitely...women, mainly, who need these funds. It is not. That this didn't have the right process. It has. Last year, it did not have a hearing, and it was argued on the floor that it should have. But it could have at that point in time. This year, it clearly had a hearing. Senator Stinner offered the whole entire day. We had 15 or 16 people in proponent, 17 people in opposition to the Title X funding and the language that is placed in the budget bill. It's completely appropriate to be in the Appropriations budget bill. There's no reason that it cannot be. Just to give a little background, Senator Bolz had mentioned the Weldon Amendment, and I want to just give a little bit of time line as to what's happened in the years in the federal and state level. The argument has been made that denying Title X funds to organizations that refer for abortions is inconsistent with federal law. That opinion is based on a misunderstanding. Here is the time line: 1970, Congress enacted federal Title X program; 1988, the Reagan administration issued regulations that provided, among other things, that no one receiving Title X funding was to refer for abortions. In 2000, under the Clinton administration, HHS reversed course and issued regulations that provided, among other things, that Title X clinics would be required to, required to refer for abortion upon request. In 2000, later on, this is where the opponents will tell you that the story stops. That's not where it stops. In 2004, Congress passed a federal budget rider known as the Hyde-Weldon Amendment. Hyde-Weldon provided that no federal program provided for in the Consolidation (sic--Consolidated) Appropriation Act, including Title X, may discriminate against healthcare entity on the basis that the healthcare entity does not refer for abortions. You're going to hear lots of debate about that word "refer" in the next six hours. We have taken care of that in the budget bill. It's very clear. It was offered at least five or six times to renegotiate or reconsider that vote. Each one failed. The effect of the Hyde-Weldon is that any discrimination by the Title X program against a clinic for that clinic's refusal to refer for abortions would be a direct violation of federal law. Therefore, the idea that any clinic in Nebraska will lose Title X funds because of that is false. In the budget bill on LB944, and I don't have the page number on it, I think it's the third page, line 25, "None of the General Funds provided under this program shall be used to perform of facilitate the performance of abortion or to counsel or refer for abortion." This has been in our budget bill for a number of years. The language that we put in the budget this year... [LB944]

SPEAKER SCHEER: One minute. [LB944]

SENATOR WATERMEIER: ...reaffirms...thank you, Mr. President, reaffirms exactly what we have been doing and need to do to make darn good and sure we don't lose Title X fundings. We

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have \$1.5 million in Title X fundings that come from the federal level in Nebraska; \$300,000 of that goes to Planned Parenthood. And this...everybody says this debate is about Planned Parenthood. In my mind and in my district I have been telling people it is not. If every single one of these dollars went to Planned Parenthood for them to provide services, I'm fine with that. We need to have a very strict, concrete wall so that we do not lose the \$1.5 million of Title X funding, and this motion and this amendment inside of the budget bill does exactly that, no more and no less. Thank you, Mr. President. [LB944]

PRESIDENT FOLEY PRESIDING

PRESIDENT FOLEY: Thank you, Senator Watermeier. Senator Hilgers. [LB944]

SENATOR HILGERS: Thank you, Mr. President. Good afternoon, colleagues. I want to echo Senator Watermeier's comments and thank Senator Stinner, Chairman Stinner, and the work of the Appropriations Committee throughout. And I do look forward to having the discussion about the broader bill, the budget bill, here hopefully later this evening. I do stand in support of the language in AM1699 and in opposition to AM2274. And let me say that I have appreciated the thoughtful and compassionate conversation that I have had with proponents and opponents of this particular amendment, both on and off the floor today, and over the last few days. But I want to tell you the reason I support the original language in the bill, and that is for a simple reason. I do not support taxpayer funds going to provide for the provision of abortions, pure and simple. That's what I believe. That idea, that notion, that taxpayer dollars that are taken from taxpayers under the compulsion of law and used for something that they find deeply and morally objectionable, I think, it has bipartisan opposition. And you don't need to take my word for it. Look to the U.S. Congress, look at the Hyde Amendment, for instance, passed in the 1970s. That amendment was passed and reaffirmed with bipartisan support. The Weldon Amendment, that Senator Watermeier has mentioned, has passed and been reaffirmed with bipartisan support. Appropriations bills from this Legislature have been passed and reaffirmed with bipartisan support. Title X itself has a provision prohibiting funds from using...from going to the provision of abortion. This idea is a common one. It's one that has widespread support. And for that reason, I support the original language. And I look forward to having this discussion. At the outset, let me make three observations. The first is to disagree with Senator Blood's contention that this has no place in the appropriations bill. To the contrary, this is exactly the place the historical record suggests it ought to be. Most of us on this floor, if not all, have heard of the Hyde Amendment. I referenced it a second ago. The Hyde Amendment is a federal appropriations rider that helps...that bans the use of federal funds for certain types of abortion services. That is not a bill in the common sense of the word. It has statutory authority, and it was passed through an appropriations bill just like this one. The Weldon Amendment is the same story: appropriations rider, has the power of law, also not passed through the normal policy process that we would think of. LB880 from 1999, which is a bill from this Legislature, also an

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appropriations bill. What we are doing is appropriating money. That is what we're dealing with today, is an appropriations bill. We're talking about where those dollars can be appropriated to. It is actually squarely within the Appropriations Committee's province, and I think it's totally appropriate to address it here on the floor with this budget rider today. The second observation that I will have is that I think this is also entirely constitutional. We are dealing with the provision of a constitutional right, that much is true. But the Supreme Court, in the Rust v. Sullivan case from 1991, addressed a very similar, if not nearly identical, federal regulation that did exactly what this particular piece of AM1699 purports to do. And the Supreme Court said, while you may have a constitutional right to something, you do not...it does not follow that you have a right to have taxpayer monies be paid in furtherance of that right. Now I expect to have some conversation about the constitutionality of this, but I think Rust v. Sullivan is directly on point and answers that question here today. The third observation I would like to make is that this does not take away funds from federally qualified health centers. What it does is it provides those medical clinics a choice. [LB944]

PRESIDENT FOLEY: One minute. [LB944]

SENATOR HILGERS: Thank you, Mr. President. They can choose to provide abortions or they can choose to have Title X funding. They can't do both. If they want to provide abortions, they can do that so long as they are operationally independent from another entity. So it provides a mechanism. Now, it very well might be that some medical clinics will choose to give up Title X funds in favor of being able to continue to refer or provide abortions. I think most will not, and the evidence that I believe that was in front of the Appropriations Committee in the testimony was that there are providers there that will do this work. The last comment I will have, and I look forward to the conversation of AM2274, I have read the amendment. I have read the memo from Senator Bolz. I deeply disagree with its legal conclusions and look forward to having the opportunity to have that discussion on the floor. But, colleagues, this is something that fits within the appropriations process. It's within our authority to do. I strongly support this language in AM1699, I oppose AM2274, and I look forward to a thoughtful deliberation in this body. Thank you, Mr. President. [LB944]

PRESIDENT FOLEY: Thank you, Senator Hilgers. Mr. Clerk. [LB944]

ASSISTANT CLERK: Mr. President, a priority motion: Senator Morfeld would move to bracket the bill until April 18, 2018. [LB944]

PRESIDENT FOLEY: Senator Morfeld, you're recognized to open on your motion. [LB944]

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SENATOR MORFELD: Thank you, Mr. President. Colleagues, I threw up this motion because I saw that there are 12 or 13 people in the queue that may not hold a differing opinion than what was just laid out by Senator Watermeier and Senator Hilgers. First, I think we need to talk about what is at stake here and the practical reality. We can wax philosophical about how this isn't going to restrict access to people, this is no big deal, other people will be able to take up the services, etcetera, etcetera. But that's just false. Why is that false? Because out of the 28,000 Nebraskans that actually utilize Title X funding for family planning services, 8,000 of them are served by Planned Parenthood, the exact agency and organization that this bill is targeted towards. So to say this is not going to have an impact on people that receive family planning services when this bill is specifically or this language is specifically designed for an organization like Planned Parenthood is false. Now, for Senator Hilgers to get up on the floor and state, well, it's no big deal, if you provide abortions you can just separate everything, you can just have a different organization, we all know that that's not operationally how organizations that are nonprofits can work. And take it from somebody who runs one. If they had to do that, what would happen is they'd have to create a completely different entity to provide abortions. What would that require under the requirements under the statute? That would require a completely separate executive director, a completely separate accounting and HR system, separate staff. Colleagues, we know exactly what that is meant to do. It's meant to make it so that Planned Parenthood cannot provide these Title X services. That's the whole purpose of this. And maybe, maybe, just maybe that argument would pass the smell test if 8,000 out of 28,000 Nebraskans that receive those Title X services weren't receiving them from Planned Parenthood. I would submit to you that there's not enough agencies that can provide the services as it is, and that's one of our big problems. And I'm sorry, but when this comes from the same people that I have seen get up on this floor for the last four years and try to make it harder to access family planning services for low-income women in particular, this includes men, too, but primarily women, then it's really hard for me to just listen to the nonsense that's said on this floor of, well, it's just about making sure people...that abortion providers can't have access to these funds and services. That's not what this is about. This is about trying to shut down an agency that provides a lot of non-abortion services, actually vastly that's what they provide is non-abortion services, to the detriment of low-income people, particularly women. That's the purpose of this. And if Senator Hilgers is worried about this funding going directly to abortion services, all he needs to look is no further than the federal statute itself. I'm reading from the Federal Register right here. Section 1008 of Title X statute 42 U.S.C. 300a-6 states, quote: none of the funds appropriated under this title shall be used in programs where abortion is a method of family planning. If we suspect that these funds are being used for that, then simply file a lawsuit. There's plenty of people that are pro-life in this state that would probably be happy to file a lawsuit pro bono if that section is being violated. It's simply not. These protections already exist, and what this does is it simply makes it harder for low-income folks to get family planning services, something that has an immeasurable impact on people's lives and ability to be successful and the ability to provide for their families and for themselves. These services are critical, and we do not have enough



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providers as it is. And I would tell you that the healthcare clinics, the federally qualified healthcare clinics, that do provide these services but don't provide abortion services, if that was actually the case, if it didn't actually impact them, they wouldn't be out there in the lobby really concerned about this. They wouldn't have their attorneys put together a memo saying, hey, we need an amendment, which I think Senator Bolz has introduced for them. So for Senator Watermeier behind me to get up and state that this isn't going to restrict any access to these types of services in rural Nebraska is nonsense. If that was the case, you would have the federally qualified health centers probably laying low. But that's not the case. Why is that not the case? Because this has a real impact on the funding, and it's unconstitutional, and it violates the Supremacy Clause, which we'll get into in just a few minutes. Colleagues, this is addressing a problem that quite simply does not exist. Right now, Title X dollars do not go to abortions. They simply do not. And even if they were, there's already a federal law that is restricting the ability for the funding to go to abortions. I urge all of you to adopt not only Senator Bolz's amendment, but preferably the amendment that will be coming from Senator Patty Pansing Brooks. I haven't decided whether or not I'm actually going to vote in favor of the Bolz amendment because, quite frankly, this has no business being in the budget, absolutely no business. And this is a dangerous precedent to go down is to put controversial issues such as this in a budget bill. It's essentially holding a gun to some of our heads and saying, well, if you don't like it, don't vote for the budget. And all the other things that you care about in the budget, which is pretty vast, you'll just have to vote no on. And we will talk in just a little bit about the single-subject rule and some of the other constitutional implications, both federal and state, that adopting this type of language in our budget will have. Thank you, Mr. President. [LB944]

PRESIDENT FOLEY: Thank you, Senator Morfeld. Continuing discussion, Senator Clements. [LB944]

SENATOR CLEMENTS: Thank you, Mr. President. I want to thank Senator Stinner for his hard work on this whole budget, but I'm up to speak about this bracket motion, which I oppose, and the amendment, AM2274, I oppose. And we had a hearing on February 5 in the Appropriations Committee regarding Title X. I wanted to read some excerpts of people who testified. One was Bo Botelho, chief operating officer of the Nebraska Department of Health and Human Services. He said the proposed amendment is needed to ensure program integrity through enhanced clarification. Currently there are 42 sites across the state and each organization that currently receives funding and can continue to do so as long as their policies and practices are consistent with the adopted language. We don't foresee a decrease in available services because of the proposed language. The department believes other facilities would step forward if current grantees choose not to participate. And he said, I think it's important to mention it's common to lay out use of fund parameters in the state budget. The state budget is full of instances in which further clarity and direction is provided about the way funds are used. And he said the amended language in Section 71 provides greater program integrity through enhanced clarity needed to be

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good stewards. The other person that I wanted to share with you that testified was Creighton law professor Richard Collin Mangrum. And he said he was a proponent. He said, in this particular case the language is designated...designed to replicate the original language that relates to what was authorized and validated by U.S. Supreme Court in Rust v. Sullivan. This is for program integrity. If in fact the program is being administered properly, the language doesn't hurt anything because the language is actually clarifying and validating what Congress actually did and what they set up. All it does it make it more accurate and reflective of the original content. I asked Professor Mangrum was the Supreme Court validating prior law or regulations? He said, both. The regulation that was in place under Rust v. Sullivan had the language in it "counseling concerning referrals for and activities advocating abortion." That was the language of the regulation that Rust v. Sullivan validated, so the language that is being proposed for Nebraska is the language that was in place at the time Rust v. Sullivan was decided in 1990. And he concluded with, it makes it easier to be in compliance by having more specificity. It's not Nebraska creative language; it's the original regulatory language that's already been upheld by the U.S. Supreme Court. And with that, I would like to yield the rest of my time to Senator Watermeier. [LB944]

PRESIDENT FOLEY: Thank you, Senator Clements. Senator Watermeier, 1:45. [LB944]

SENATOR WATERMEIER: Thank you, Mr. President. Thank you, Senator Clements. I feel compelled to visit a little bit about what we already heard in the first two or three senators standing up and speaking that this is something that we don't have a problem of. We clearly do have a problem with this. State Auditor, even though small, of about a \$50,000 or \$60,000 audit of a \$300,000 or \$250,000 of funding, clearly found issues that where dollars were spent that should not have been, were clearly spent on abortion services. That right there should be enough red flag for all of us to say, whoa, do we want to put \$1.5 million of Title X funding in jeopardy? Clearly, \$1 spent, the feds can come in and say, you're not getting any of it. You're going to hear the fact, well, that audit was taken care of, it was just a coding error. They've done better, they did another audit, found a few little things. It was just a coding error, it just wasn't really much. Well, how does the federal government define "much"? One dollar is enough to be "much." We cannot afford to put on the line the loss of Title X funds. That's clearly what our objective is here, to clear it up and to make darn good and sure they're not subject to being taken away. As I stated earlier, it's been falsely accused that we're trying to take away all the funding to Planned Parenthood. I don't care if Planned Parenthood gets all \$1.5 million of this fund. If they can clearly put up the financial, the administrative barriers to make sure that no dollars cross over, to make sure that we don't lose Title X funding, it can all go to Planned Parenthood. They do a decent job of providing those services. [LB944]

PRESIDENT FOLEY: Time, Senator. [LB944]

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SENATOR WATERMEIER: If they can prove that...time? [LB944]

PRESIDENT FOLEY: It's time, yes. [LB944]

SENATOR WATERMEIER: Oh, thank you, Mr. President. [LB944]

PRESIDENT FOLEY: Thank you, Senator Watermeier. Senator Albrecht. [LB944]

SENATOR ALBRECHT: Thank you, President Foley. And, colleagues, I rise in opposition of the bracket motion and AM2274. I wanted to address some concerns and misunderstandings about Title X funding from some of my constituents in northeast Nebraska. I have heard some express concern that funding to the public health centers would be cut, resulting in communities losing access to quality healthcare. And this is just not true. Under the new provision, health and family planning services...service providers will be held accountable to ensure that the Title X funds are kept separate from abortion-related activities. If a clinic currently provides abortion-related services, they have the option to physically, legally, and financially separate its abortion-related activities from its Title X services or completely stop its abortion-related activities and remain a clinic providing Title X services that receive Title X funding. Clinics that do not aid in or perform abortions will not, let me repeat that, clinics that do not aid in or perform abortions will not be affected, and communities will not lose access to affordable healthcare. This measure is put into place to enforce already standing law that requires that no taxpayer money is used for abortion. Ladies and gentlemen, I think we are just providing and protecting the Title X tax dollars that we have. And I just ask all colleagues to consider AM1699 and LB944. And I would like to yield my time to Senator Hilgers, if he would like it. [LB944]

PRESIDENT FOLEY: Thank you, Albrecht. Senator Hilgers, three minutes. [LB944]

SENATOR HILGERS: Thank you, Mr. President. Thank you, Senator Albrecht. I rise now certainly in opposition to the bracket motion, but I want to start to build some of the legal foundation for my conclusion that we have to act in part justifying this action because failure to do so I do think puts our Title X dollars at risk. And I think I agree with and certainly echo the comments made by Senator Watermeier regarding some of those funds being used for abortion services. But I want to discuss in a little more detail the Weldon Amendment which we have mentioned a couple of times before. And the Weldon Amendment is very important because it's a federal statute that supersedes...and sort of in the pantheon of legal authorities we have our Constitution at the top, we have the U.S. Constitution at the top, then we have federal statutory authority, and then below that we have federal regulations. So the Constitution trumps, then statute, then the regulations. And the statutory authority here that's at play, that's at issue, this Weldon Amendment, I think is absolutely critical. And what it says is this: none of the funds

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made available in this act...and this the Consolidated Appropriations Act, so this is...this isn't just Title X. This is all funds within the Consolidated Appropriations bill. None of the funds made available in this act may be made available to a federal agency or program or to a state or local government if such agency, program, or government subjects any institutional or individual healthcare entity to discrimination, and here is the key part, on the basis that the healthcare entity does not provide, pay for, provide coverage of, or refer for abortions. So the statute says you don't get any money, you can't get any money if that program or that federal agency or state agency discriminates against people who do not want to refer for abortions. Well, the regulation...now remember: Constitution, statute, regulation. The regulation cited in Senator Bolz's memo and been referenced here on the floor that causes this preemption issue... [LB944]

PRESIDENT FOLEY: One minute. [LB944]

SENATOR HILGERS: Thank you, Mr. President. The regulation says that you must, upon request, you must refer. If we apply that language, colleagues, we are in direct conflict with this statute, direct conflict. We cannot sit here and say that that regulation compels us to act when this statute is in existence. We do put our Title X funding at risk if we compel providers to refer upon request. Thank you, Mr. President. [LB944]

PRESIDENT FOLEY: Thank you, Senator Hilgers. Senator Geist. [LB944]

SENATOR GEIST: Yes, thank you, Mr. President. I, too, rise in support of the language in LB944 and AM1699, in full support of that. I am against the bracket motion and against the Bolz amendment, AM2274. I want to reaffirm to my colleagues and to Nebraskans, these are taxpayer dollars we are talking about. The government has no money that's not your money, so this is your money, not private dollars, not dollars that we can have discretion over where those dollars go. These are taken by the government on your behalf. I would also like to respond, and briefly, I believe that Senator Morfeld contended that Planned Parenthood doesn't use these taxpayer dollars, our dollars, to fund abortions. And I...Senator Watermeier referred to this briefly, the findings of the 2015 audit that was done statewide. And I just want to give you a few more facts on that, I want to go a little bit deeper. Planned Parenthood of the Heartland received a total of \$297,976 in Title X funds in fiscal year 2015. The statewide single audit tested only \$54,572 of those funds. Of the \$54,572 tested, \$3,537, or 6 percent, had been used improperly for abortion services. In other words, more than \$1 of every \$20 was misappropriated to pay directly for abortion services. As State Auditor Charlie Janssen testified in his February 8, 2018, testimony before the Appropriations Committee: In this case, where funds were used from a grant to pay for abortion-related services, that's where federal regulations could be triggered in that situation. What that means is this put Nebraska at risk of losing the Title X funds in their entirety. It might have been an inadvertent error, but it was in fact an error and one that cannot happen. It's one of

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the reasons this language needs to stay in this appropriations bill so that we retain all of the funding that's appropriated to us as a state. Thank you, Mr. President. [LB944]

PRESIDENT FOLEY: Thank you, Senator Geist. Senator Halloran. [LB944]

SENATOR HALLORAN: Thank you, Lieutenant Governor. And I would like to just extend the balance of my time to Senator Hilgers. [LB944]

PRESIDENT FOLEY: Thank you, Senator Halloran. Senator Hilgers, 4:45. [LB944]

SENATOR HILGERS: Thank you, Mr. President. Thank you, Senator Halloran. I just want to continue my conversation regarding the interplay between the Weldon Amendment, which I believe is critical to this analysis, and the regulation that has been cited, I believe in the legal memo amongst others, to support or support the opposition, I suppose, to the language in AM1699. And that...just so the record is clear, because we are making a record, the regulation itself, I think that this is what Senator Watermeier is referring to, is sort of the history that is incomplete. Right? There's a regulation that has been referred to on the floor, that was a late-era Clinton regulation. And that regulation does say, it does say that upon requests you must...you being on a particular project, so the service provider, must refer upon request. There is no disagreement from me certainly on that part of the historical record. Now, that postdates a Reagan-era regulation that said the exact opposite. That actually said language very similar to AM1699. But if we were debating this, colleagues, in 2000 or right after that regulation was in place, I think we might have a different conversation. Because I would agree then with Senator Morfeld and others that potentially this language would contradict and conflict with a validly issued federal regulation which might preempt it. But we aren't. And this is what Senator Watermeier is saying when he says that the rest of the story needs to be told, because the rest of the story is the Weldon Amendment which was passed in the mid-2000s with bipartisan support and has been reaffirmed at every opportunity since that time. And that Weldon Amendment is statutory in nature, which means it is of a higher authority, and it directly conflicts, directly conflicts, with the regulation. If you are a provider that does not want to refer abortions, and you have a request to refer but you do not want to, the regulation says you must. The Weldon Amendment says they can't discriminate you for not wanting to...against you for not wanting to refer. Those are in direct conflict, colleagues. So in the direct conflict the statute holds. It is later in time and is of a higher authority. The regulation itself is in Title 42 of the Code of Federal Regulations. It's part 59, 59.5. And I won't read all of that to you, but that is the piece that is really the legal framework, I believe, for the opposition. And again, if that was standing on its own, we might have a different conversation, but it is not. It is not. And the memo that was circulated, at least one version of it, there might be multiple versions of this particular memo, the memo tries to address the Weldon Amendment. And this is the memo that you probably have

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seen. I believe Senator Bolz has circulated it. And if I could find the quote from the memo amongst all my papers, it really gives short shrift, and it really just sort of ignores the Weldon Amendment entirely. Mr. President, how much time do I have left? [LB944]

PRESIDENT FOLEY: 1:30. [LB944]

SENATOR HILGERS: Next time at the mike let me...I will find the memo so I can quote from it and not do it from memory. So with that, Mr. President, I appreciate it, Senator Halloran, for your time. Thank you. [LB944]

PRESIDENT FOLEY: Thank you, Senator Hilgers. Senator Kuehn. [LB944]

SENATOR KUEHN: Thank you, Mr. President. And thank you, colleagues. I rise in opposition to the bracket motion. I also rise in opposition to AM2274, consistent with my positions as we've considered that amendment and changes multiple times in the Appropriations Committee, and stand in support of the language as in the Appropriations Committee amendment and in the bill. I do want to address a couple of things technically regarding some comments which were made about if we suspect that funds have been inappropriately used for abortion services, file a lawsuit, etcetera. We don't have to suspect. We don't have to speculate whether or not Title X funds have inappropriately been used for abortion services because we already have clear, definitive evidence that it has taken place in a State Auditor's report. I distributed to each and every one of you's desks a letter from Courtney Phillips, the CEO of Health and Human Services, which summarizes...and I want to read into the record so that everyone is clear and unambiguous about what has taken place. CEO Phillips writes: There has been discussion of a single state audit findings. The audit found Title X funds were used to pay for abortion-related services, impermissible expenditures. Again, Title X funds are distributed at the beginning of the month, spent on services, and then followed by monitoring of expenditures. Even though Title X funds were internally reimbursed by the sub-recipient, the expenditures had already occurred. The finding is not a judgment of whether the funds were intentionally or unintentionally used for this purpose; this is to stay that these expenditures placed the entire program at risk. The proposed language in LB944, Section 71 provides greater clarification and, with it, program integrity. This helps ensure Title X funds are not misused and protects access for all Nebraskans. So that leads to a question: Why in a budget bill? Well, let's take a look at what kinds of things when federal funds are at issue we address in budget bills. When there is a Title IV-E disallowance that the state has to pay, where does it go? The budget, appropriations. When we do a legislative resolution about clawbacks for inappropriate use of the federal funds, where does it go? Appropriations, the budget bill. Controversial issues dealing with biomedical science, take a look. I don't think there's probably anything more controversial than stem cell research. It's in the budget bill. All of these arguments are obfuscation and attempts to divert away from what we all

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know where we're really at. We know where we stand. We know how we feel about pro-life, pro-choice issues. We're doing a lot of bluster and creating a lot of legislative record to get fundamentally down to what we feel about the use of public funds, taxpayer dollars, that are taken from us without our consent for the purposes of terminating a pregnancy. I do take offense of the dismissal of these audit findings as a coding error. Coding errors happen, they are pretty common. A coding error is when you bill for a service and you miscode it and the bill comes, and you go whoops, we caught it. Let's recode it and make sure we pay for it out of the correct account. Because these funds are advanced to the Title X providers before the services take place and reimbursed from that pool, a simple coding error means that funds were used to pay for the services. Read the audit report, it's on page 210. That's where you can see what it was: physician services. [LB944]

PRESIDENT FOLEY: One minute. [LB944]

SENATOR KUEHN: Fetal tissue. These aren't coding errors, this is life. Life is not a coding error. We are talking about protecting a vital program to the tune of \$1.7 million. And as the audit report says, the error rate for the sampling of our State Auditor was 98.48 percent, which estimates the total potential dollars at risk for the fiscal year to be \$1,787,608--\$1.7 million of healthcare for family planning services. It's a budget issue, folks. And it's a big issue we should not take lightly. We know where we are on the life versus choice issue. Let's protect the funds, let's protect the access, and let's continue our discussions on the budget. Thank you, Mr. President. [LB944]

PRESIDENT FOLEY: Thank you, Senator Kuehn. Senator Wishart. [LB944]

SENATOR WISHART: Thank you, Mr. President. I rise in support of AM2274, and actually in opposition of the motion to bracket this bill. I did want to speak a little bit, too, since I was in the Appropriations hearing when we heard from providers. And I do, with all due respect to Senator Kuehn, my fellow Appropriations Committee member, I don't think that this is blustering. We are talking about healthcare services to low-income men and women, many of whom utilize these services when they are seeking to get pregnant. So I think it's very important that we make sure that the decisions we're making are not going to affect their access to healthcare. And what I have been hearing from, and heard from this in the hearing, and I've heard it from providers who provide these healthcare services, providers who do not provide abortion services. I'm talking about the federally qualified healthcare centers and other providers, especially those in rural areas. What I have heard, and I will quote from one of the providers in the hearing is, I have heard that there is concern over the vagueness around the word "referral." So Jeff Tracy, who represented the community healthcare centers, when he came before us, he's from Scottsbluff and came before us in the hearing, he said: many of the community healthcare centers have been

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providing reproductive healthcare services through Title X for a number of years, and I think we're comfortable with how things currently are. The concern with the proposed language is that potentially the word "referral," depending on how it is defined, could be a problem because, as was pointed out earlier, I think actually from both sides, that we are required to provide referral options. What he's saying is on the federal requirements right now, in terms of Title X, require a Title X provider to, upon request, provide a referral. It doesn't mean that we make the referral, but it means that we provide that information if somebody says, for whatever reason, that I feel like I need to terminate this pregnancy. So our concern as an association and then for our own particular agency is that if that word "referral" is interpreted broadly, it could mean that somebody could accuse us of having referred a patient for an abortion when in fact we were providing that information to them to let them know where they could receive an abortion if they choose to do so. So I think the concern I have is that the language, and why I think Senator Bolz's amendment is a very moderate amendment, it still does what I'm hearing some of the body want to do and make sure that we have a clear distinction, even more than we did before, that federal dollars are not being used for abortion services. But what it does is it makes sure that we don't have a conflict between the state language that we're passing in our budget and the federal regulations. And these are concerns we're hearing from the providers themselves, and I don't think we should take that lightly when those that provide the service are coming to us with a legal opinion saying they are very concerned. Because if you look at, and I will get up and speak a little more to this later, but if you look at some states, they have a road map who have passed similar legislation in the sense that it reduces the amount of Title X providers in the state. When you look at Texas and you look at Iowa, they have some very negative unintended consequences that have occurred where they have had a drastic reduction in those receiving Title X services. And in Texas they have seen a surge in abortions, in teen abortions and pregnancies. So with that, I strongly support Senator Bolz's amendment. I think it's a moderate way forward that protects the federally qualified health centers and the other small providers in our state. And I will yield my time to Senator Bolz. [LB944]

PRESIDENT FOLEY: Thank you, Senator Wishart. Senator Bolz, one minute. [LB944]

SENATOR BOLZ: Thank you, Mr. President. Since discussion of the Weldon Amendment has come up and Senator Hilgers didn't have the memo at his immediate disposal, I will read the memo's analysis of the Weldon Amendment. The memo from the federally qualified health center argues the budget rider commonly known as the Weldon Amendment does not change previous results from North Dakota in reference to the referral language. In that amendment, federal, state, and local governments may not discriminate against a healthcare entity on the basis that the entity does not provide, pay for, or refer coverage of abortions. As a result...but the memo goes on to say that the Weldon Amendment's intent was to keep doctors who have moral qualms about performing abortions from having to risk their loss or professional livelihood. However, the conclusion of their amendment says that, given Congress' intent, it is questionable



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whether the amendment would protect a healthcare entity that refused to provide referral...  
[LB944]

PRESIDENT FOLEY: It's time, Senator. [LB944]

SENATOR BOLZ: ...services based solely on a directive from the state... [LB944]

PRESIDENT FOLEY: Time, Senator. [LB944]

SENATOR BOLZ: ...and not based on a religious or moral reason. [LB944]

PRESIDENT FOLEY: Thank you, Senator Bolz. Senator Morfeld. [LB944]

SENATOR MORFELD: Thank you, Mr. President. Colleagues, I think there is a few different things that have to be corrected for the record and discussed. First, I'm really glad that Senator Hilgers gave us all a lesson on federalism. First, when it comes to this federal Weldon Amendment or statute, budget rider, however you want to put it, yes, you're right, it is federal law. But the bottom line is, is it deals with conscience. It's a conscience clause for individual providers. It's a conscience clause for individual providers. The Weldon Amendment is not in any way, in any way meant to take funding away from agencies. Would Senator Hilgers please yield to a question? [LB944]

PRESIDENT FOLEY: Senator Hilgers, would you yield, please? [LB944]

SENATOR HILGERS: Absolutely. [LB944]

SENATOR MORFELD: Senator Hilgers, since you're familiar with the Weldon Amendment, can you point to where in the amendment it states that federal funding will be taken away from agencies if they violate the conscience clause? [LB944]

SENATOR HILGERS: What conscience clause are you referring to, Senator Morfeld? [LB944]

SENATOR MORFELD: That is what the Weldon Amendment is. It's a conscience clause for providers. [LB944]

SENATOR HILGERS: Where does it say that? [LB944]

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SENATOR MORFELD: Well, it states that in the Weldon Amendment. Do you have it with you? [LB944]

SENATOR HILGERS: I don't see...I do not see any...I do, I have it right in front of me. I don't see anywhere that says it's limited to conscience protections. [LB944]

SENATOR MORFELD: Well, that's exactly what the Weldon Amendment does. That's what you stated on the mike is that it provides... [LB944]

SENATOR HILGERS: I'm sorry, I did not state that. I didn't state that. [LB944]

SENATOR MORFELD: That's not what I heard, Senator Hilgers. Thank you. Colleagues, the Weldon Amendment and the rider is a conscience clause for providers of medical services. That is the whole point of the Weldon Amendment. But it is not meant to, and it was stated by the person himself, it was not meant to actually restrict providers of abortions. So we can stand up here and keep talking about how we need to protect this funding because of the Weldon Amendment. The bottom line is, is that the Weldon Amendment is completely irrelevant when it comes to the funding of abortion providers. And the bottom line is, is that you can fund abortion providers under Title X, but they cannot use those funds for those purposes. Which then leads to the audit. Okay, so there's an audit out there, and the audit found coding discrepancies and other issues. And I can understand why there would be concerns when you see an audit like that. But the bottom line is, is that when one agency is not coding right or using the funding improperly, either way, the result is not to just simply take away any possibility of funding for any agency that is a good actor moving forward in the future. Now, if that was the case, we wouldn't have a Department of Corrections. We certainly wouldn't have a Department of Health and Human Services if we just shut everything down every time we had a bad audit. The point of the audit is to, number one, enforce compliance but also to ensure corrective action moving forward. And if a certain agency needs to be punished for a certain amount of years or their funding being taken away for a certain amount of years, then so be it. I would like to also note that Planned Parenthood simply does not have any problems with their federal audits either. Colleagues, the bottom line is, is that this action will make it so that 8,000 people a year no longer have their provider for Title X services. And to say that this is not targeted against Planned Parenthood is disingenuous, because they're the only provider that provides abortion services that receives Title X funding. This is 100 percent targeted towards Planned Parenthood. [LB944]

PRESIDENT FOLEY: One minute. [LB944]

SENATOR MORFELD: When we're talking about Rust, yes, Rust does control in some cases, but since then we've moved on from Rust. And actually, Rust also stated that you cannot simply

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exclude funding going to agencies that provide abortions in terms of Title X. So Rust actually cuts against you in that argument. I think it's also important to point out some of the other things that were said in the legal memo provided by the federally qualified health centers. They stated: Compliance with both Title X regulations and LB944 is impossible and, therefore, a court is likely to find LB944 is invalid. Title X regulations require, federal Title X regulations require grantees to make referrals to abortion providers under two circumstances--one, when the patient requests such a referral; and two, when that referral is medically indicated because of the patient's condition or the condition of the fetus. [LB944]

PRESIDENT FOLEY: Time, Senator. [LB944]

SENATOR MORFELD: Thank you, Mr. President. [LB944]

PRESIDENT FOLEY: Thank you, Senator Morfeld. Senator Pansing Brooks. [LB944]

SENATOR PANSING BROOKS: Thank you, Mr. Lieutenant Governor. Well, this is what I have been stressed out for a couple of days, is sitting here arguing about whether or not we're going to cut low-income women and men from having their appropriate healthcare. And, you know, we got to try not to tie it to Medicaid expansion, because we also don't want to...we don't want to pretty much take care of the health of people after they have been born. My amendment that is coming up at some point takes all of the Title X language out of this bill. We have had Title X since the 1970s. Removal of the Title X language will hurt real low-income people, 28,000 Nebraskans. This is not related to the state budget. It doesn't add or subtract to our state budget. No case has been made for a need for change. Nebraskans will be losing services and access. Again, last year I called out for women to rise up, light up the phone lines, fill up the e-mail boxes, drive down here to the Capitol and stand shoulder to shoulder in the lobby with your low-income brothers and sisters who need support and need people to realize that this is about real healthcare issues. Everybody wants to couch it in the terms of Planned Parenthood and abortion. If you read the federal law, this has nothing to do with abortion. They cannot use any of the dollars for any abortion services. Senator Watermeier started his comments by saying he wanted to stand up and talk about the budget. I would like to do that too. I think that would be a really, really important thing for our state, to stand up and talk about the budget. But it looks like every year we need to stand up and talk about whether or not we're going to cut nearly \$2 million to...for health services to our low-income men and women in this state. Senator Hilgers said that no taxpayer funds should be going to pay for abortion. They're not. The dollars cannot go to abortion services. Julie Reno, the former coordinator for Title X, spoke in the hearing. If you want to read through the hearing, I have the entire hearing printed off. She talked about that if the money...if we don't allow the money to be used then it will go back to Washington for reimbursement or disbursement to other entities and groups. So to act as if, oh, well, this is just

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going to probably be disbursed across Nebraska is not true. We are talking here about referral. The entities involved here do not want to refer. If you don't approve of the lifestyle or the beliefs or the religion, then what they're really talking about is that the code of ethics for the American Medical Association should not be followed to allow referral. And this is exactly what one of my bills was about this year. My bill, LB891, dealt with referrals of LGBTQ patients. [LB944 LB891]

PRESIDENT FOLEY: One minute. [LB944]

SENATOR PANSING BROOKS: It's been in flux since 2008 that the Psychologists Association could not...were not required to refer, as opposed to their code of conduct. So I brought a bill to talk about referrals. That was a bill that had a full committee hearing. But let's just stick it in the budget, has nothing to do with the budget, and pretend that we're doing something good for the state of Nebraska. And I have more to say. Thank you. [LB944]

PRESIDENT FOLEY: Thank you, Senator Pansing Brooks. (Visitors introduced.) Continuing discussion, Senator Murante. [LB944]

SENATOR MURANTE: Thank you, Mr. President. Members, good afternoon. I rise in opposition to the bracket motion, in opposition to the Bolz amendment, and in support of the mainline budget as given to us by the Appropriations Committee. I think what we're talking about here is a good discussion to have. I think it's important that the people of Nebraska understand that we are taking a detailed, line-by-line look at the budget. What we're talking about right now is whether taxpayer dollars ought to be given to abortion providers. I will tell you, based on the latest polling that I've seen from across the country, the overwhelming majority of Americans have come to the conclusion that the answer to that question ought to be no; that politicians ought to have no role in appropriating taxpayer dollars to abortion providers. I stand with the overwhelming majority of Americans, Republicans, Democrats, and Independents across all racial and gender lines who believe that it is inappropriate for taxpayer dollars to be spent in this way. And this is in the budget, one way or the other. And I find it ironic...I was going to read some of the other provisions within our mainline budget that already contain policy...answers to policy questions, because there are numerous provisions in our budget which deal with policy questions. But the fact of the matter is earlier today we took a bill out of the General Affairs Committee and put it in the budget. And we're supposed to sit here with a straight face and say we're absolutely against putting policy in budgets, now at 4:00. At 2:00 we had no problem with it. It's crazy. That's the sort of argument that only works within the confines of this Chamber. This is not a pro-life bill, it's been said on the floor. This has nothing to do with the pro-life issue. Giving taxpayer dollars to abortion providers is not a question of pro-life values. Are you kidding me? Let's all take a walk down to O Street and pick ten random

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people and ask them if they think providing taxpayer dollars to abortion providers has something to do with a pro-life stance, again, an argument that only makes sense in this Chamber. It's been told that this cuts funding. The truth of the matter is, whether you adopt Senator Bolz's amendment or not has absolutely nothing to do with the dollar amount appropriated for Title X funds. It remains the exact same whether you vote for it or against it. A little bit later, we're going to have another amendment which just seeks to strike the Title X language out of the budget entirely. Whether you vote for or against that, the dollars appropriated for Title X funding remain the exact same. This has nothing to do with the number of dollars which are appropriated for Title X funding. This has entirely to do with whether that funding ought to go to abortion providers. And I will tell you, if you believe that is appropriate policy you are in a fringe extreme in this state. If we put this on the ballot, it would be rejected overwhelmingly. And I believe at some point or another this body ought to stand up and reflect the values of the people we represent. It's been said this is already covered by federal law. So at the worst, if you accept that argument, the worst we're doing with this is creating redundant language. If you accept that argument, then we're not making any actual policy changes. We're just adopting a federal standard and putting into state law. That's not a reason to strip this language out of the budget. It's been said affirmatively several times it's impossible,... [LB944]

PRESIDENT FOLEY: One minute. [LB944]

SENATOR MURANTE: ...federal law prohibits money from going to abortion providers. It says so. It's in state law. One little problem: Our State Auditor actually checked. Taxpayer dollars have already gone to abortion providers for abortion services. It's too late. That ship has sailed. That argument is gone. It's already done. So don't say that it's impossible that taxpayer dollars can be given to abortion providers. We already know that it has. Friends, this is the right time to have this discussion. This is the right vehicle to have this discussion. This has been about as vetted and transparent as an issue can be. It's been about as discussed as an issue can get. Now is the time to take action to reject the bracket amendment, to reject the Bolz amendment, and to adopt the Appropriations Committee budget with the applicable language in. Thank you, Mr. President. [LB944]

PRESIDENT FOLEY: Thank you, Senator Murante. Senator Riepe. [LB944]

SENATOR RIEPE: Thank you, Mr. President, colleagues, and Nebraskans. I rise in opposition to the bracket motion and opposition to the Bolz amendment. And I would like to yield the balance of my time to Senator Hilgers. [LB944]

PRESIDENT FOLEY: Thank you, Senator Riepe. Senator Hilgers, 4:50. [LB944]

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SENATOR HILGERS: Thank you, Mr. President. Thank you, Senator Riepe. I want to turn to the conversation that Senator Morfeld was engaging in regarding the scope of the Weldon Amendment. And I know...I believe the memo, which Senator Bolz was kind enough to give me a copy, I did locate my copy. There were two versions of the memo with varying reasoning of the inapplicability in the memo's view of the Weldon Amendment in this case. And both of them, both Senator Morfeld and the comments of the memorandum that I read, argue that, well, the Weldon Amendment just applies to conscience protections. And, as may have been indicated by the back-and-forth between Senator Morfeld and I when he asked me about the conscience protections that are contained in the Weldon Amendment, I looked in the wording of the amendment, I have it right here in front of me, and nowhere in here does it reference...does it say explicitly that these are conscience protections. Nowhere does it reference words that we might infer relate to conscience protections, such as a good faith...you know, strongly held religious belief or the like. Colleagues, legislative history does help, we do have a record, but what guides us is unambiguous language in a statute. And the statute, which I read before but I will read this part again because it goes directly to Senator Morfeld's point and the point in the memorandum, it says if none of the funds...none of the funds made available in this act, so in other words, Title X funds, made available to a federal agency, in other words federal DHHS, none of the funds can be made available if that entity or agency subjects any institutional or individual healthcare entity to discrimination on the basis that...now here is where if there was a conscience protection we might expect the words the healthcare entity had some deeply held religious belief, it had a validly exercised right of conscience, or something of that nature, that proponents of this argument I think we would expect to find. It says, on the basis that the healthcare entity does not provide, pay for, provide coverage of, or refer for abortions. Colleagues, the plain language of the statute is far broader than conscience. In fact, there is nothing here that limits it to conscience. Now this statute has been litigated, at least in one instance that I'm aware of. And that case went before the D.C. Circuit Court, and it was a challenge by the National Family Planning and Reproductive Health Association. And it was challenge to the law and I believe...and I don't have the case in front of me. I do have the citation. It's 468 Federal Reporter 3rd 826. It's a 2006 D.C. Circuit Court Opinion. And in that case I believe the D.C. Circuit Court affirmed the dismissal of standing, saying that the individual recipient of a grant did not have standing, did not have a recognizable legal injury to sue, relating to the Weldon Amendment. They could not challenge the Weldon Amendment. But in that case...now it's not a holding. I think we got to be very precise about what's a holding, and what's not a holding, what's dicta. The court recognized and acknowledged that this...that the Weldon Amendment was not limited to conscience, which comports with the plain language, the direct language within the statute. Now what has been cited in opposition to that, or in support of the contrary argument, that it does, in fact, is only limited to conscience, that at least I've heard on the floor so far, are references to legislative history, so maybe some comments from the sponsor. The memorandum itself refers to various portions of the legislative record. Colleagues, it used to be the case, decades ago, far before the time in which I became a lawyer, where... [LB944]

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PRESIDENT FOLEY: One minute. [LB944]

SENATOR HILGERS: ...thank you, Mr. President, where courts and others would look to the legislative history as a defining, definitive lodestar guide to statutory construction. That approach to the law over the last several decades has been discredited. And currently today, if you were to argue in front of the United States Supreme Court or any, I would submit, any federal court or any state court anywhere in the country, the first thing, and oftentimes the very last thing that they consider, is the language of the statute. Colleagues, that language in the statute before us: the Weldon Amendment which creates a direct conflict with 59.5 is unambiguous. It is not limited to conscience. It is far broader. Thank you, Mr. President. [LB944]

PRESIDENT FOLEY: Thank you, Senator Hilgers. Senator Hughes. [LB944]

SENATOR HUGHES: Thank you, Mr. President. Good afternoon, colleagues. I rise in opposition to the bracket motion and the AM2274 as well. This discussion we're having is a lot reminiscent to what we had last year when this issue came up, and there was a lot of confusion about whether or not Title X funding could be included in the budget. I've had a lot of opportunity to make up my mind since last year. It is clear to me that this is the correct place for Title X funding, is in this budget, in this place. And it is also last year there was some initial concerns that this did block funding for some health clinics in more rural parts of Nebraska, including one in my district. I am very comfortable with the language that is used now that there will not be any reduction in funding for health clinics in rural Nebraska. I just wanted to get that on the record. And if Senator Hilgers would like the balance of my time, I would yield to him. [LB944]

PRESIDENT FOLEY: Thank you, Senator Hughes. Senator Hilgers waives the opportunity. Senator Chambers. [LB944]

SENATOR CHAMBERS: Mr. President, members of the Legislature, you will not see me get agitated about this. This is the Catholic Church running the Legislature. I know it, you all know it. But what they've done by putting this language in the budget bill is to open the way for me to read a lot into the record about guns not being...the source of guns not being tracked down by federal, state, or local law enforcement officials; about my opposition to the death penalty; and these hypocrites on this floor, and they're all hypocrites who say that tax money should not be spent for abortions because a lot of people don't believe in abortion. A lot of people don't believe in the death penalty, but state funds are used for that. State funds were fraudulently used by the Governor, the Catholic Governor, the Catholic Attorney General to try to get illegal drugs imported into this state, which the D.C. Circuit Court that Senator Hilgers quoted from, because it suited his purpose, said that the FDA could not authorize the importation of these drugs into

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America. That was a D.C. Circuit Court decision. And rather than challenge it in court, the Catholic Attorney General, the Catholic Governor started doing everything they could to circumvent the law and import illegal drugs--drug dealing. If a person who is not a Catholic official tried to do it, that person would be charged with a crime. Anybody who assisted would be probably made an accessory or part of a conspiracy. Now, these people who are talking this stuff will not have their minds changed. Their minds are not operational; their Catholic doctrine and dogma are what we're hearing. Now Senator Murante, who is busy, as an Italian, trying to take the right to vote from black people, he said, and acknowledged his racism, that this Legislature ought to represent the attitudes of the people represented, reflect the values. Well, the Dred Scott decision did that when the Catholic, the Roman Catholic Chief Justice of the U.S. Supreme Court, Roger B. Taney said black men have no rights that white men are required to respect, representing the attitudes and values of racists such as Senator Murante. The Thirteenth Amendment to the U.S. Constitution reversed slavery that such people believed would be right thing because it reflected their values, but after slavery was struck down these Jim Crow or discriminatory and segregative laws were put into place even in schools. In 1953, the U.S. Supreme Court, by unanimous decision in the Brown v. Board of Education, struck down segregation of the public schools. That's a broad statement of what the Opinion was. There remains segregation in the schools throughout the country because those who represent the attitudes and reflect the attitudes of Senator Murante and these other racists want to circumvent what the court said. Knowing that's the way they operate, why get agitated... [LB944]

PRESIDENT FOLEY: One minute. [LB944]

SENATOR CHAMBERS: ...because they're going to do what Catholics do. Now, I was in the Legislature and was the only one who voted against a so-called late-term abortion law, and guess what? I was the only one who was right. My view that the law was unconstitutional was upheld by the Federal District Court, the Eighth Circuit Court, and then the U.S. Supreme Court, and some of my comments were quoted. So some things take time. You should be careful what you do. Now, you Catholics have got the budget bill opened. Now I'm going to run through the opening that you gave me. I have much material I shall read during the debate of these 129 pages of the budget. And I want to thank my Catholic colleagues for producing this unwanted consequence. [LB944]

PRESIDENT FOLEY: Time, Senator. [LB944]

SENATOR CHAMBERS: Thank you, Mr. President. [LB944]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Larson. [LB944]



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SENATOR LARSON: Thank you, Mr. President. I rise in opposition to Senator Morfeld's bracket motion. And just a point that Senator Chambers has made in the past is Senator Murante, he continually calls a minority and therefore can't be racist. I'm pretty sure he called Senator Murante an Italian, and they are minorities in Senator Chambers' book, a number of times. But to the point, colleagues, this, as again Senator Murante stood up, Senator Hilgers stood up, and many others, is centered around the pro-life debate. Regardless if it's a coding error or any other error, our State Auditor found a misappropriation of funds going to fund abortion services in the state of Nebraska. And that is an issue, and one that we need to continue...doesn't happen again, and that's what LB944 does. Now, that doesn't mean I'm necessarily in support of all of LB944. I have plenty of issues with the university funding, which we haven't touched upon yet, and a number of other things. But when it comes to this debate, in AM2274, this body is doing the right thing. And we weren't wrong at 2:30, I saw nearly everybody that has said that public policy shouldn't be entered in to a budget debate vote for an amendment that dealt directly with public policy. Those individuals that are making that argument that public policy shouldn't be are now making the argument...or that voted that public policy be put into the budget are now arguing that public policy shouldn't be put into the budget. So I don't quite understand what changed in two and a half hours, but again, as Senator Murante said, that's only something that can happen in this Chamber when it comes to the state of Nebraska. So, as we move forward with this debate, I urge my colleagues to vote against MO259, AM2274, and then we can start in on the rest of this budget debate, whether that's university salaries, university funding compared to its peer Big Ten institutions, tuition, our university ranking compared to its Big Ten peers, how much per-pupil student funding we give compared to our Big Ten peers. There's a number of things that, well, I guess I'm focused a little more on the university on that front, but there's a lot of things in the budget that a lot of people want to discuss. Thank you, Mr. President.  
[LB944]

PRESIDENT FOLEY: Thank you, Senator Larson. Senator Krist. [LB944]

SENATOR KRIST: Thank you, Mr. President. Good afternoon, colleagues. Good afternoon, Nebraska. I am not a lawyer; I did not spend the night at the Holiday Inn Express last night. That's an old joke. I won't use it again, I promise. But I do have a piece of issue being passed out to you, issues relating to Article III, Sections 22 and 25, and some questions that follow. I would like to read just a piece of it, and I'm hoping that Senator Hilgers and Senator Morfeld and Senator Hughes, who I don't see right now, and the rest will listen very carefully, because the conclusion is my curse on you: While appropriations language is substantive in a bill valid as long as the appropriation is necessary to carry out the purpose of a directive in a bill, substantive language in appropriations bills has questionable validity. Why? Two possible reasons emerge. First, an appropriations included in a substantive bill creating an office or a fund or establishing new duties is related to and part of a single purpose of legislation. However, generally substantive language in an appropriations bill is related to one of many appropriations and not

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integral to the appropriations bill as a whole and, therefore, inclusion of the substantive language could be a violation of the single-subject rule. A second possible reason is noted by the Nebraska Supreme Court in Rein v. Johnson. The purpose of the constitutional provisions above noted, Article III, Section 22, was to prevent designing legislators from including in bills appropriating money to carry on government of the state, measures and objects foreign to that purpose, and thus, taking advantage of the necessities of the state, force the Legislature to adopt them, or defeat the appropriation and therefore stop the entire machinery of government for the want of funds to carry on, which is a perfect example of what the Governor has done to us today. Several of our colleagues have tried to ask him to take this out of the bill and deal with it in the way that he should, and that is with a standing committee, Senator Riepe's committee. Have a public hearing, change it, change the process, and put the words into a standing committee bill. Now, I'm hoping you're all listening right now, because, including the Lieutenant Governor, because when we do that this way, the conclusion that you'll read on page 46, which is actually the third page of the handout: In conclusion, it appears...and this is my curse on you. In conclusion, it appears that substantive language in an appropriations bill remains questionable, but if the language is valid, if the argument is either on Senator Morfeld's behalf and he wins the argument or Senator Hilgers' argument, either way, I continue, the language is viable for only the period of the appropriations. Let me summarize that--one year. So you're going to have this conversation every year because it's in a budget bill, every year. Read it. Argue it. Come back and tell me, Senator Hilgers, Senator Morfeld, that that isn't the single-subject that we're talking about here. It is only valid for one year, because this bill is only valid until we take up the appropriations next year. And I won't be here. Have fun with it. Whether you agree or disagree with that, and Senator Murante got up in his time on the floor and said this is a pro-life bill and it needs to be within here, you're right, Senator Murante. It is a pro-life, pro-choice matter, and maybe it needs to be discussed. But not one year at a time, because that's what this says. This bill has a one-year life, and as soon as the appropriations process starts all over again... [LB944]

PRESIDENT FOLEY: One minute. [LB944]

SENATOR KRIST: ...you're going to have to discuss it again. And if that's what you want to do and you want to have this discussion year after year after year, I, quite frankly, think it's stupid. I think you should send it back to the committee of jurisdiction, and I told that to the Chairman from the very beginning, six months ago. Send it to HHS, have a hearing, bring it out, we'll discuss it, and then you'll get something that lasts forever, or until somebody decides to change it. One year. You're going to argue this year after year after year. Good luck with that. [LB944]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Harr. [LB944]

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SENATOR HARR: Thank you, Mr. President. I was so close. I was that close. I thought I was going to be able to bring up that this was only a bill for a year and Senator Krist just got in front of me. And I've been listening to a lot of this debate and it's interesting because I think some people make some very good points along the way. Senator Chambers says this is a Catholic bill. I don't know if it is or it isn't. I'm a Catholic. I don't know if I'm a good or a bad and only one person will decide that and that will be long after I'm out of here, hopefully. But what I do know is I've been looking at the Weldon Amendment. And I apologize, I hadn't heard of the Weldon Amendment before today. And although he's a graduate of Creighton Prep, Senator Hilgers has a bit of a southern drawl. And so I thought he was saying the "Wellman," as in Paul Wellman from Minnesota (sic), and I couldn't find what in the world he was talking about. I was trying to find it, trying to find, trying to find. So then I just finally did a Google search. Some people say Google know more than anyone else and maybe there's some truth to that because when I did "conscience objector, objection, abortion," the Weldon came up, W-e-l-d-o-n. It's the Weldon Amendment. And so then I clicked on it and it's an HHS site: [HHS.gov](http://HHS.gov), conscience objector, is where that's found. It's not my words. HHS has those words. And I can...anyone who wants to come and look, they can see it on my, Senator Chambers calls, gadget. And Weldon is a protection of conscience. This Weldon Amendment protects conscientious...a conscious (sic) objector's rights, the rights of "health care providers who do not want to participate in certain services that go against their convictions and values." Federal funds will be shut off "from any agency, program, or state or local government that discriminates against" a provider. I got that from the Illinois Right to Life page, so this is obviously a conscientious exempt...objector. And, look, it is what it is, and it's fair. Folks, federal government is very clear we cannot use state dollars or any dollars to fund abortion, period, no exceptions. Now does that mean mistakes were made? Yes. Does that mean we'll lose the funding? You know, I go back to when Lieutenant Governor, Mr. President, was a State Auditor and the guy was good. He was really good. And you know what he found? He found massive cases of problems in HHS, whether it was embezzlement by Judith Widener, whether it was HHS misfund...used mis...for energy assistance intended for low-income people, whether it was developmental disability, \$32 million, folks, \$32 million. And then of course we have the death penalty where, as Senator Chambers said, our Governor and our Attorney General tried to obtain drugs illegally. Thank goodness for the FDA and the DEA who stepped in and said no can do. Did I see the Governor step up the next year and say, we got to get rid of that death penalty, my God, I almost got prosecuted, I got a little too close to the fire on that one? No. It was just the opposite. Right? Senator Murante is exactly right. We will lose no funding if we pass this bill. We will get the same amount of Title X money. So why are we spending all this time as... [LB944]

PRESIDENT FOLEY: One minute. [LB944]

SENATOR HARR: Thank you. As Senator Krist said, it comes down to two words: Planned Parenthood. And if there's one thing I've learned in Revenue, there are ways around any law. And

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so all you have to do is have Planned Parenthood provides the services to poor over here; on Planned Parenthood over here provides the abortion. But we're going to sit up here and fight for hours, to the death, maybe, over something that's pretty easy to fix if we want to. And so let's have a talk about how can we...what this really does. Does it have the effect that we want? And do we really care about mismanagement and do we really fear losing that money? Because we've violated the law a lot worse and we've stolen from the feds a lot worse, and nothing has ever happened. Thank you. [LB944]

PRESIDENT FOLEY: Thank you, Senator Harr. Senator Hilkemann. [LB944]

SENATOR HILKEMANN: Thank you, Mr. Lieutenant Governor. When we began the Appropriations hearing on Title X, I went in with one question, and it came from our debate from a year ago, which was, our clinics that do not provide abortions, are they protected? That was my number-one concern from...are they going to continue to get Title X funding? Well, when we got to the committee hearing and I heard the presenter on it start talking about the language that was here, I began to learn about some of these proposed changes, and I felt like I needed more information. And in that hearing, because of that, those gray zones that I...I ask a lot of questions. In fact, the next day, an organization here in the state wanted to know where I stood because, they said, you were asking too many questions, we didn't think you were with us. Well, ladies and gentlemen of the state and members of this body, that's exactly what we are supposed to do while we are in hearings, and that is to ask the questions. I represent over 33,000 people. It is my job to ask the questions. And asking questions allows us the opportunity to learn and to clarify. I used to encourage my students when I taught back in Table Rock to ask questions, because I knew that if they wanted to further their learning, expand the knowledge, it's important to ask questions. I am pro-life, and the reason I asked the questions in that hearing that day, and many of the same questions I have asked since fully support the mission of the National Right to Life which is to protect and defend the most fundamental right of humankind: the right to life of every innocent human being from the beginning of life to natural death. As I thought about the possibilities that the Legislature could unintentionally enact a law that would cause any of these federally qualified health centers across the state to lose their Title X funding, my first thoughts that...were of the women who are in need of the contraceptive care, the prenatal care, and also the men, that Title X services provide. I did not want us to unintentionally create some lack of access for the thousands of women that need these services because, if we do, we have states that have done this and we know what happens. There are more abortions; there are persons who go without...with undetected cancers. It is contrary to everything that my pro-life beliefs tell me we should be doing. I voted to support the language coming out of this committee. I am not certain that the Bolz amendment is really going to change anything for our federally qualified clinics. The services that they are providing are certainly critical to the healthcare of women and men and so I...question still is. We need to make sure... [LB944]

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PRESIDENT FOLEY: One minute. [LB944]

SENATOR HILKEMANN: ...that those clinics that are not providing abortions are protected. It's part of the Hippocratic Oath that I took: First do no harm. The decisions on this language have not been easy for me. I want there to be fewer abortions, period. That's what pro-life means. I've listened to my constituents on both sides of this issue. They are obviously, as you know, very passionate. And I appreciate the time that they took to contact me. I've been very interested in this debate. I think it's been a good debate, a very good debate. And the question still remains. Are we going to make sure that those clinics that do not provide abortions are protected?  
[LB944]

PRESIDENT FOLEY: Time, Senator. [LB944]

SENATOR HILKEMANN: One...okay, thank you. [LB944]

PRESIDENT FOLEY: Thank you, Senator Hilkemann. Senator Bostelman. [LB944]

SENATOR BOSTELMAN: Thank you, Mr. President. I rise in opposition to the motion, the bracket motion, as well as in opposition to AM2274. And I yield the rest of my time to Senator Hilgers. [LB944]

PRESIDENT FOLEY: Thank you, Senator Bostelman. Senator Hilgers, 4:50. [LB944]

SENATOR HILGERS: Thank you, Mr. President. Thank you, Senator Bostelman. Again, I want to echo all...everyone. Almost everyone on this mike has said this afternoon, this evening that this has been a really thoughtful and engaging debate. And I certainly agree and appreciate all the thoughtful comments, especially from my colleague Senator Pansing Brooks. I know I took her words to heart, and I think she's one of the most compassionate members of this body, and appreciate her words today, along with everyone else, throughout this debate this afternoon. I wanted to turn back to some of the points made by Senator Harr and I just want to sort of tie off this conscience argument. And to kind of reset the stage, the argument of those, including Senator Morfeld and Senator Harr, is that, well, wait a second, the Weldon Amendment, that's just conscience, it doesn't conflict with this, like that's too narrow, that can't form the basis of your decision. And to support that I've heard two things. One is an HHS guide, and I've heard legislative history both from Senator Morfeld as well as from the memo that was circulated by Senator Bolz. In opposition to that or in...as part of my argument what I have said is that what we look to is the plain language of the statute, and there is nothing in the plain language of the statute whatsoever that in any way restricts it to just conscience protections. And I want to add to

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that argument. I've cited before this D.C. circuit case and there's two pieces of this case that I want to reference. One is the plaintiffs who were challenging the law took the same position that I am taking today; in other words, the national health reproductive center that challenged the Weldon Amendment argued and understood its meaning as applying far more broadly than conscience protections. So that's point one. I think that's significant. The second point is, and that's...this is from the amendment, I'm sorry, from the case as well, but it's Title 42 U.S.C. 300a-7(d). That's a mouthful. But the reason I'm citing this, and I went back and double-checked to make sure this is good law, is that this provides an individual right of conscience for medical providers. It says: In 1974, Congress passed this provision saying that no individual could be compelled to perform a service in conjunction with an HHS program that would be, and I'm quoting, "would be contrary to his religious beliefs or moral convictions." That's in state...that's in federal statute. So if it is true that this is just a conscience protection, why is it also in an appropriations rider, colleagues? Congress knows how to write a statute that's limited to conscience. I just read a quote from one in which it was limiting to conscience. This is not limited in the same way. The plain language of the statute, it's far broader, it's in direct conflict with 59.5 of the Code of Federal Regulations. Turning to some of the arguments raised by Senator Krist, which, again, I think are very good arguments for us to discuss, the first one is whether or not the Legislature has the power in an appropriations bill to also affect substantive policy. And I think you could agree with Senator Krist's principle and disagree, as I do, with its application in this case. I think it is certainly true if, in this particular appropriations bill, we were passing an appropriations bill and we were also modifying the section of statute that had some bill that we might consider in Government Affairs, some actual chapter of the Nebraska Revised Statutes. This is not that case. This is not that case. There is not one of the chapters in the Nebraska Revised Statutes that is being modified by this portion of AM1699. So at an initial level, I believe... [LB944]

PRESIDENT FOLEY: One minute. [LB944]

SENATOR HILGERS: Thank you, Mr. President. I do not think that this modifies policy in the same way, and to bolster that argument I would point you to the Hyde Amendment from the '70s, which was an appropriations bill; the Weldon Amendment itself, which we have talked and we've spoken about in detail today, also an appropriations bill; the 1999 budget bill, LB880, which restricted funds from being used for abortion, also in an appropriations bill. Colleagues, this is, I believe, entirely within the scope of our appropriating authority, and I think the history of using appropriations in this way is consistent with that argument. Very quickly and briefly, I do agree with Senator Krist in that this is something that will only go insofar as this appropriations bill is in effect. That is true. But it is also true that with the Hyde Amendment and Weldon Amendment and previous budget riders from this body that have, over time, been reaffirmed with bipartisan support. So I think it's important to note that, yes, that is the case, but

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history tells us that that will not cause a fight every single year. Thank you, Mr. President.  
[LB944]

PRESIDENT FOLEY: Thank you, Senator Hilgers. Senator Vargas. [LB944]

SENATOR VARGAS: Thank you very much, President. I want to echo some of the sentiments that my colleague Senator Hilgers said of I think this has been a good conversation so far. We're going to continue this conversation. That's very, very clear. And it's not an easy conversation to have. I'll be honest, I think underlying this is this conversation about pro-life, pro-choice, which concerns me because it's not why I ran for the Legislature, to focus just on this issue or it come up every single year. It is coming up. But I want to focus on some more of the merits of why we should not be moving forward in this direction. I voted against this in committee to have the language in there, and it was...I don't want to say my reasoning was simple, but, one, I urge everybody to look at the transcripts of the hearing. If you haven't and you're voting on this, I think you might be missing out on information from both sides. I'm going to highlight just a couple different pieces that came out from the hearing. The first is my conversation with our Chief Operating Officer--I can't pronounce his last name, first name, Bo--and he came and testified in support of the language and I had a back-and-forth with him specifically about asking him a very simple question: Is this required? Do we need to do this because we're solving some problem that exists? And we had this back-and-forth. I kept repeating the same question. He had a really hard time answering it. I was having a really hard time keeping calm because, when I keep asking the same question but not getting a very clear answer, it really concerns me, especially from somebody that is leading a really large component of DHHS and is testifying for something that we haven't done. And when he specifically is stating that we don't need to do this, I want to ask them do we need to do this, and then he eventually, after much prodding and questioning and trying to get to the answer, he said we don't need to do this and that the committee wasn't saying last year that we needed to do this. That wasn't part of the testimony. That's not what we said here on the floor, that HHS was saying we need to do this to solve a problem. So then I asked them, why are we doing it? They came back to program integrity. And I said, when you're considering how to improve program integrity for DHHS in some specific entity, is the first line of defense to go and change and uphold and create statute and something that's going to be in there forever? His answer, he didn't really have an answer to that. So I did a little digging. When you look at the audit, there are recommendations, internal recommendations for how to go about improving our program integrity. Now there's a lot of questions as to what did or did not happen, how far miscoding...I'm not talking to that. I'm talking about whether or not this is a prudent measure to going forward to ensure program integrity. How often do we go and then put in language as a reaction to something that may...to what extent may or may not have happened; and if it has happened and we've seen some things come through the audit, there are internal processes. We recommend the agency implement procedures to ensure expenditures are for allowable activities in accordance with federal regulations with sub-recipient monitoring

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procedures. We recommend written procedures. There's procedural things that we can and should be doing. So I ask the members of the body, why are we not going down that route first? There was also a conversation I had with Professor Mangrum. This is in response to Senator Clements. Professor Mangrum, Creighton University, came and he said: We really need to do this; I'm a constitutional law professor; we need to do this. And I asked him, if since 1991 when there was language that was created and it came through as a result of the Rust v. Sullivan, I asked him, have we been in noncompliance for the last 20 years? And he really struggled because he kind of said, yes, that we've been in noncompliance for the last 20 years. And I said, does that mean that every body of the Legislature has purposely been in noncompliance by not having this language in statute and appropriations? [LB944]

PRESIDENT FOLEY: One minute. [LB944]

SENATOR VARGAS: Is that what has been happening? And he couldn't answer the question. What he did answer eventually is that I think it's an...I think it will help, not that it's required or needed. And, colleagues, I struggled with it. When I was questioning him it became very clear that every single body before us hasn't been getting it wrong. We haven't been in noncompliance in some way, shape, or form. We have not had funds taken away from us as a result, for the existence this program has been there. So what are we really doing? And if the answer is we're doing this more because of pro-life, pro-choice conversations, well, that's a different question. So I don't want this to be under some veiled argument that this is for program integrity when there are so many different solutions that we can go down that are reasonable legislative policy solutions to go down ensuring program integrity. [LB944]

PRESIDENT FOLEY: Time, Senator. [LB944]

SENATOR VARGAS: Thank you very much. [LB944]

PRESIDENT FOLEY: Thank you, Senator Vargas. Senator Howard. [LB944]

SENATOR HOWARD: Thank you, Mr. President. I apologize. I was out in the Rotunda talking to a few students who were very excited to be here and were very interested in our debate today. For those of you that don't know, in a past life, I used to work at a federally qualified health center. And I concluded my tenure there as the director of development, but prior to that I had been a development specialist, which basically meant that I wrote grants. And so I think I may be the only person in the room who has ever written a Title X grant, who has ever managed a Title X grant for a provider, and who has really dug into some of the regulations as they relate to providers as a whole. So I want to talk a little bit about why I support the Bolz amendment and why I agree with the analysis that the federally qualified health centers have provided to us. One



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of the biggest pieces of Title X is ensuring that there is an adequate referral upon request. And so when you look at the green copy, when you look at the language of LB944, the real concern is that it essentially says that you can't provide that referral. And so if a provider isn't able to meet that federal regulation, that regulation that requires the referrals, because they are misaligned with state statute, there's no incentive for a provider to take these funds if they're just going to have to give them back. The other piece of this is that...and I think I'm a little confused because Title X is a competitive program. We as a state have to apply for these funds and competitively be granted them, and then we subcontract out to different providers. So if the Governor or his administration would prefer not to take Title X funds, why not direct your administration to not compete for these funds anymore? Why have us take hours and hours on the floor debating it in a budget bill that has quite a lot of merit? Why not just say, hey, we're not going to apply for them anymore? The language as it stands in LB944 precludes Planned Parenthood, but it would also preclude those federally qualified health centers who are required to offer that referral. If those two are taken out of the equation--there are 28,000 individuals in the state of Nebraska who receive Title X services, a very small portion of them are men: 8,000 of them receive services through Planned Parenthood; 12,000 receive services through the federally qualified health centers. That means that of the 28,000 who are currently receiving this service, 20,000 would no longer have access through their regular provider, be that a Planned Parenthood clinic or a federally qualified health center. I certainly support the Bolz amendment. I absolutely support the Pansing Brooks amendment that is sitting behind there. And unfortunately, with this language sitting in the budget, I would be uncomfortable voting for the budget as a whole, even knowing that there are pieces of it that are incredibly important to the state. That being said, I would be happy to yield the rest of my time to Senator Morfeld. [LB944]

PRESIDENT FOLEY: Thank you, Senator Howard. Senator Morfeld, 1:50. [LB944]

SENATOR MORFELD: Thank you, Mr. President. Thank you, Senator Howard. I just want to address a few different things. First, the Weldon Amendment is narrow in scope, and I just think it's a little bit laughable for Senator Hilgers to get up and say that this is not a conscience, that this is a conscience amendment, this is broader. I actually didn't know the exact language of the Weldon Amendment until we started on this debate. And so what I did was I went in and I went to Google, like many of us do. I typed in "Weldon Amendment" and look where it pops up under the federal official government HHS Web site. It pops up under conscience clauses. This is clearly a conscience clause and it's clearly limited to those individual providers and even some of those healthcare providers, so larger organizations as well, who do not want to provide abortion services, which is perfectly fine. It has no bearing, it's completely irrelevant to what the language in LB944 is doing, which is making it so that if you do provide abortion services you cannot receive any funding at all, which, to Senator Hilgers' point, is actually in our levels and our systems of federalism impermissible because federal law states that you have to be able to refer if somebody asks for a referral services for abortion or if it's medically necessary, which is why

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the FQHCs are so concerned about losing their funding, because they would not be able to comply with current federal regulation and law, lawfully promulgated and supreme to any state law that we may pass, LB944. They would not receive the funding because they could not comply. [LB944]

PRESIDENT FOLEY: Time, Senator. [LB944]

SENATOR MORFELD: Thank you, Mr. President. [LB944]

PRESIDENT FOLEY: Thank you, Senator Morfeld. Speaker Scheer. [LB944]

SPEAKER SCHEER: Thank you, Mr. Lieutenant Governor. Colleagues, real quickly, just to interrupt for a second so everyone knows what our plan is for the rest of the evening, I plan on running the debate through 6:00. We will take approximately a half-hour recess for dinner and then we will start again at 6:30 and probably run till 9:30 for a cloture vote on this if we, indeed, do not reach some type of decision before that time. After 9:30, the votes on this bill, I would like to do the state obligations next and hopefully still get into a few bills after that later this evening. So that's my intent for the rest of the evening. If there's any questions, please let me know. But we will be breaking at about 6:00 for dinner. [LB944]

PRESIDENT FOLEY: Thank you, Mr. Speaker. Senator Blood. [LB944]

SENATOR BLOOD: Thank you, Lieutenant Governor. Fellow Senators, friends all, I stand very, very disappointed right now because I look around this room and I want to know where everybody went. I think the days of people actually listening to the debate and making decisions based on good information are starting to disappear in this Legislature and I worry for myself and for the people that I represent that more people aren't actively involved in this discussion, at the very least listening to this discussion. I would ask that Senator Hilgers yield to some questions. [LB944]

PRESIDENT FOLEY: Senator Hilgers, would you yield, please? [LB944]

SENATOR HILGERS: Absolutely. [LB944]

SENATOR BLOOD: Senator Hilgers, do you remember how many clinics we're referring to in Nebraska,... [LB944]

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SENATOR HILGERS: How many clinics who is referring to? [LB944]

SENATOR BLOOD: ...clinics this bill refers to? We discussed it on the floor already today. [LB944]

SENATOR HILGERS: I'm sorry, Senator Blood. What are you...I'm sorry. Were you asking me how many does the language in AM1699 refer to? [LB944]

SENATOR BLOOD: The Title X health centers. [LB944]

SENATOR HILGERS: I don't have a copy of the bill, Senator Blood. I don't recall it actually referencing any number of... [LB944]

SENATOR BLOOD: We discussed it on the floor today. So there's 42 clinics that this bill is referring to that are considered healthcare centers across Nebraska. Can you tell me if all FPC clinics are Title X in Nebraska? [LB944]

SENATOR HILGERS: You mean Title X in...are you...Title... [LB944]

SENATOR BLOOD: Sorry, Title X, sorry. It's a long day and I have "X" written down and it means ten, yes. [LB944]

SENATOR HILGERS: Just want to make sure the record is clear that I...so are you... [LB944]

SENATOR BLOOD: Thank you for that correction. [LB944]

SENATOR HILGERS: Are you asking how many of the 42 are receiving funds? [LB944]

SENATOR BLOOD: Can you tell me if all of these 42 are Title X? [LB944]

SENATOR HILGERS: By Title X, you mean are they receiving funds? Is that what you're asking me? [LB944]

SENATOR BLOOD: Right. [LB944]

SENATOR HILGERS: I don't know the answer to that question, Senator Blood. [LB944]

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SENATOR BLOOD: Okay. Do you know if all family planning council clinics are Title X? [LB944]

SENATOR HILGERS: If you're representing to me that they are, I have no reason to disagree with that. [LB944]

SENATOR BLOOD: Okay. But not necessarily...all Title X clinics are not necessarily all FPC clinics. I just think that that's important to clarify, and the reason I say that is that I do agree with Senator Hilkemann who said it very well on the mike that there is unintended consequences. And one of the things I did besides look up all the great amendments that you brought forward...and I would agree that Weldon is in reference to religious freedom, and I do support that people can say no if they choose not to provide abortion. Out of these clinics, Senator Hilgers, how many of these actually provide abortion? [LB944]

SENATOR HILGERS: I don't know the answer to that question, Senator Blood. [LB944]

SENATOR BLOOD: Three. Three clinics out of the forty-two actually provide abortion. Can you tell me what consequences happened to the clinic that was audited and supposedly misspent Title X funds? What was the punishment for that? [LB944]

SENATOR HILGERS: The letter I saw from Director Phillips suggested that it put the Title X program at risk but I didn't see anything further in terms of a consequence. [LB944]

SENATOR BLOOD: But we've stood here and said that it's a grave issue. Why was there not a punishment, do you believe? [LB944]

SENATOR HILGERS: I'm not...I don't know if there was or was not. I'm just...I only...what I saw was Director Phillips' comment about putting the program at risk. [LB944]

SENATOR BLOOD: All right. That's fair. Thank you, Senator Hilgers. So I looked up what these clinics do provide and they actually are on the Web site [nefamilyplanning.wordpress.com](http://nefamilyplanning.wordpress.com) if you'd like to see what these agencies provide. And they provide reproductive care to males and females on a sliding-fee scale, which means our fees are based on the patient's income and household size. They also accept all insurance plans and Medicaid and can assist you in enrolling in the Every Woman Matters program. No one will be denied service due to inability to pay, and services will be provided without regard to someone's race, ethnicity, language, sexual orientation, gender identity, or religion. Services provided are: well-woman checkups and physical exams; screening for breast and cervical cancer; birth control prescriptions, dispensing,

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and counseling and education; pregnancy testing and unbiased all-options counseling; testing for sexually transmitted infections,... [LB944]

PRESIDENT FOLEY: One minute. [LB944]

SENATOR BLOOD: ...HIV; counseling and referral for infertility; preconception health screening and counseling; counseling and referral for natural family planning. Senator Hilgers, did you hear the word "abortion" on this list? I'm sorry, would Senator Hilgers yield? [LB944]

PRESIDENT FOLEY: Senator Hilgers. [LB944]

SENATOR HILGERS: Yes, I would. [LB944]

SENATOR BLOOD: Did you hear the word "abortion" on that list, yes or no? [LB944]

SENATOR HILGERS: I don't think that I did. [LB944]

SENATOR BLOOD: Thank you. [LB944]

PRESIDENT FOLEY: Thank you, Senators Blood and Senator Hilgers. Senator Linehan. [LB944]

SENATOR LINEHAN: Thank you, Mr. President. Good evening, colleagues. First, I'd like to thank Senator Stinner and the rest of the committee for all their hard work, and it has been a difficult 18 months and I especially think we owe a great gratitude to Senator Chairman Stinner for his work of keeping...pulling forward even though we've...I look forward to the day where I might serve and we might actually have money to argue about how to spend it. This is a difficult issue. There are good people with good intentions who disagree over the abortion issue. I am pro-life. I rise against the Morfeld amendment and the Bolz amendment, though I'm not questioning anybody's motives. I do take a little bit...I mean earlier, whether this is, to Senator Harr's point, whether this is a Catholic or non-Catholic, Catholic amendment, I don't see it that way at all. I've worked in politics in Nebraska for 30 years. There are many, many Nebraskans who are offended at the idea of using taxpayer money for any kind of abortion services, whether it be for abortion or even referring for an abortion. And they're not...they're Lutherans, they're evangelicals, they're nondenominational. This is clearly, when you ask Nebraskans if we should use taxpayer funding in any way for abortion services, they will say no. So I understand the emotion here. I understand it's very difficult. I understand it's very personal. And I don't question anybody who feels strongly about this issue, one way or another. But I do think we need to

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understand that if we did a poll and we had any crowd of Nebraskans, they would be offended at the idea of using taxpayer money for these services. And I think that's what we're doing. And I, quite frankly, am astounded that for 20 years Nebraska hasn't done this. This was an argument that I've watched back and forth nationally and in the state and I've never had any doubt where Nebraskans stood on this issue. So again, I'll be against the Bolz amendment and the Morfeld amendment and I support the committee. And I would yield the rest of my time to Senator Hilgers. [LB944]

PRESIDENT FOLEY: Thank you, Senator Linehan. Senator Hilgers, 2:20. [LB944]

SENATOR HILGERS: Thank you, Mr. President. Thank you, Senator Linehan. For those Nebraskans who might just be getting home from work and tuning in and saying what is this Weldon Amendment, why do you keep talking about it, and I've pulled it up and I cannot find religious freedom or conscience anywhere in it. I think it's helpful to recap a little bit of why it's important and why I believe it is far more broad than opponents of the application of this amendment would have you believe. Senator Morfeld...or the Weldon Amendment says no funds of this act, which is the entire appropriations bill, including Title X, "can be made available to a Federal agency," or a state agency that...if...on the...to...cannot be provided to the individual health care entity to discriminate "on the basis that the health care entity does not provide, pay for, provide coverage of, or refer for abortions." Colleagues and Nebraskans, that's the language of the statute that applies. That's the language of the statute applies. There's nothing in there that says anything about conscience protection. When we contrast it with statutes in which Congress did intend to create a conscience protection where it says something about the individual's religious beliefs or moral convictions, we know what a conscience protection looks like. It's not in this particular statute. Now in response, what I continue to hear is I looked it up on the HHS Web site... [LB944]

PRESIDENT FOLEY: One minute. [LB944]

SENATOR HILGERS: Thank you, Mr. President. And there was a previous regulation that applies here. Colleagues, I don't believe there's a court in the country that would look at plain language of a statute that doesn't reference conscience at all that would say that it applies only to conscience protections based on some representation on a Web site. That is not the type of legal basis on which we should be drawing conclusions about the scope of a statute. It doesn't apply. Now Senator Morfeld--this is important--Senator Morfeld did also say that this would conflict with a regulation, and earlier in this debate we did talk about that regulation. And that regulation did mandate referral upon request. That regulation also was in 1999 and it directly conflicts with the Weldon Amendment. That is...the importance of the Weldon Amendment is that it

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contradicts, conflicts with, and supersedes that regulation that Senator Morfeld relied upon. Thank you, Mr. President. [LB944]

PRESIDENT FOLEY: Thank you, Senator Hilgers. Senator Groene. [LB944]

SENATOR GROENE: Thank you, Mr. President. I stand in support of LB944 and its AM1699 and I stand opposed to any other attempts to alter it. Last year I stood on this floor and I was the 25th vote to stop the amendment...not the amendment, the language, because I didn't think it was done correctly, it was sleight of hand, it was not what Christians do. We do it under the light. We don't put a bucket over what we're trying to do. And I said on the floor I'm firmly against abortion. In fact, I stood on this floor before and have said there's no such thing as a pregnant woman to me. When you're pregnant, you're a mother. I see a mother. I firmly said let's just put into the state language what the federal language says. I'm not a lawyer. Somebody might throw that at me. But I can read English. And there was one clear line in this Title X regulation that says, "None of the funds appropriated under this title shall be used in programs where abortion is a method of family planning." In the first section it says the Secretary shall authorize voluntary family projects...give grants. It's all about grants from the federal government "which shall offer a broad range of acceptable and effective family planning methods...(including natural family planning methods, infertility services"--infertility services--"and services for adolescents)," nothing about abortions, nothing, because it goes back to the clearest language in this document that says they cannot do anything or give money to anybody who does abortions. And then the informational and educational materials: The Secretary is authorized to make grants to public or nonprofit private entities and to enter into contracts with public or private entities...(including educational materials)." It goes back to the language of the grant. There's always a debate in pro-life: When does life start? Conception? When does abortion start, with the referral, with the recommendation, with the pamphlet you hand out? Where does abortion start. Title X says...I don't know why we're talking about abortion at all. Title X says, "None of the funds appropriated under this title shall be used in programs where abortion is a method of family planning." To me, that's the printing material, the ink for that brochure they hand out that the federally...by the way, I'm going to tell you so, my friends who thought I made the wrong decision last year. Who's brought this amendment? The federally qualified health centers are against the language. You know what that...what it said in the language last year, who the first people we would give Title X money to? (Inaudible) federally qualified health centers, that's who we were going to give money to, and they're arguing now that they want to be able to refer abortions. Thank God we did not pass that last year, thank God. Thank God he's got somebody hardheaded that stood up and said no. This language fits Title X. This language is correct. This is what we need to adopt. Why are we talking about abortions? Title X money specifically says it has nothing to do with abortions. You cannot use it for abortions. My family health clinic out there, I went and seen it last year when they called me. I hadn't gone and seen it. So one day last summer I went. I walked in the door and I tripped over children's books and toys. It's run by a Catholic woman. She gets

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Title X money. One thing I learned in this argument last year, I was like everybody else. Title X money is abortion money. Do you understand that there's a lot of clinics out there that use it correctly and use it right... [LB944]

PRESIDENT FOLEY: One... [LB944]

SENATOR GROENE: ...and did not ever refer abortions? [LB944]

PRESIDENT FOLEY: One minute. [LB944]

SENATOR GROENE: Do you understand that? Title X is not a bad program when used correctly, and it's being used correctly by a lot of clinics, and they don't want to refer abortions and they do not refer to abortions or give any information about the prospect of abortions. We need to match the federal language. LB944 does it. I don't know why we're talking about it. Title X is not about abortions. You can't do it. So what are we defending people doing abortions for on the floor and wasting all this time? Let's make it right, let's do it right, let's give the grants out correctly, and help some women, some poor women. Thank you. [LB944]

PRESIDENT FOLEY: Thank you, Senator Groene. Senator Watermeier. I do not see Senator Watermeier at the moment. We'll move on. Senator Hilgers. [LB944]

SENATOR HILGERS: Thank you, Mr. President. Good evening again, colleagues. I want to circle back to one of the points made by Senator Krist regarding this language in an appropriations bill, which again I think is an important consideration for us to deliberate on. And I want to turn the body's attention to another part of our budget from last year. Before I do that, I'll refer, and I may pass this out, I don't...I only have my copy, but in 2002 this body passed in an appropriations...now it wasn't Title X, so this is why it doesn't apply to precisely this appropriation, but it does apply to what we're talking about today, and this is on page 56 of the budget bill from 2000, LB543 as amended by AM1049. This is line 1-3: None of the general funds provided under this program shall be used to perform or facilitate the performance of abortion or to counsel or refer for abortion. Okay, colleagues? So that's 2000 language, very similar, not identical but very similar in material respects to the language we're dealing with today, a prohibition on referral and provision of abortion through taxpayer funds. Two thousand and seventeen, I have the Final Reading copy of the budget bill, page 54, line 19: None of the general funds provided under this program shall be used to perform or facilitate the performance of abortion or to counsel or refer for abortion, the exact same language. So we...the Legislature before us, in 2000, had this language, very similar to what we have now, and it has been...I haven't checked every single budget year, but I presume that every year it's been reauthorized. So what does that mean? Well, I think it means several very important things. One thing is that



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we've used this language in the past. This is not necessarily the big break from previous experience that we've seen when it comes to abortion. This is something the state has done before and has reauthorized time and again. Point two is this is also an appropriations bill. What we did, the Legislature did, in 2000 is the Legislature said you cannot use certain funds for referring of abortion. That was something that was in the initial budget bill, wasn't through another policy or through another standing committee, was reaffirmed every year since then through the Appropriations Committee. And the third point I think from this goes to Senator Krist's point which I, you know, since we did this last year and we're doing I again this year, you know, I think is a...I think it's a very strong point for us to consider which is, are we going to have this fight every year? You know, is this what it's going to be? Every year we try to do a budget, are we going to do this? And I think past experience, not just in this body but in regard to the Hyde Amendment, which I have referenced before, which bans use of federal funds for certain abortion in the Medicaid context, reauthorized year after year after year with bipartisan support; the Weldon Amendment, which we have discussed in significant detail, reauthorized with bipartisan support year after year after year; the 1999 budget bill that I referenced before reauthorized again and again; and now, another example, this language that I've quoted from the 2000 and 2017 budget bills. So I think history tells us and the historical record tells us that that kind of a concern will not play out, that this will not be the fight year after year after year. How much time do I have left, Mr. President? [LB944]

PRESIDENT FOLEY: 1:10. [LB944]

SENATOR HILGERS: I will deal with the next topic on the next time at the mike. Thank you, Mr. President. [LB944]

PRESIDENT FOLEY: Thank you, Senator Hilgers. Senator Thibodeau. [LB944]

SENATOR THIBODEAU: Thank you, Mr. President, and good evening, colleagues. I stand here today in opposition of the motion to bracket and AM2274. However, I do support LB944 with the Appropriations Committee's amendments and do want to thank Senator Stinner and the Appropriations Committee for their hard work on this budget. I wanted to address two things that have been brought up that keep getting brought up over and over today. One is a lot of people keep questioning: Is this a budget bill or is this a pro-life policy? Well, it's both. Title X is part of our state budget. Title X are funds that we receive, that we need to budget within the state. It's also taxpayer money. We are using taxpayer money. It becomes pro-life, as I have heard from over hundreds of people that they do not want their tax dollars paying for abortions. So, therefore, it is in both a budget as well as a pro-life policy. I am a pro-life senator. I am a senator who wants to protect children. We've had a lot of bills in front of us this session protecting children. We have bills that we have heard protecting children from depositions, giving children

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legal counsel. We just passed a bill the other day regarding car seats. So we are protecting all the children. Do we not care about the children in the womb? And that's what I would like to ask this body. If we say we want to protect children, we have to protect children from conception until adulthood. Thank you, Mr. President. I would like to donate the balance of my time to Senator Murante if he so chooses. [LB944]

PRESIDENT FOLEY: Thank you, Senator Thibodeau. Senator Murante, three minutes. [LB944]

SENATOR MURANTE: Thank you, Mr. President. Members, good evening already, so that's exciting. I remain in opposition to the bracket motion, to the Bolz amendment, and in support of the mainline budget as it existed. But I did, do have to say that I heard an argument that I was not anticipating but I do think needs to be addressed, which is to say that we should take the Title X funding language out of the budget, because if we keep it in the budget then there will be a policy discussion that we have to keep having going forward. Think about that for a second. There will be issues that we will have to deal with in the Legislature that we are going to have to talk about again and again and again. I just sat here writing down, just off the top of my head, a couple of issues like this. We talk about Medicaid expansion, medical marijuana, mountain lion hunting, prairie dogs, seat belts as a primary offense, banning texting, banning tanning, two-man crew, income tax relief, property tax relief, the death penalty, payday lending, E-911, winner take all, voter ID. And that's what I came up with just off the top of my head of issues that we talk about every single year because someone thinks it's important. So again, we're establishing a brand-new precedent on Title X funding in the budget. We are going to take a vote so that we never have to talk about a policy position going forward. And let me just say, I mean aside from the fact that most of our committees deal with substantially similar subject matters on an annual basis, you really think that pulling...that this language out of the budget this year ends the discussion, that we'll never talk about it again? You really think that, that we won't continue to have a discussion about whether to provide taxpayer dollars to abortion providers? [LB944]

PRESIDENT FOLEY: One minute. [LB944]

SENATOR MURANTE: All we have to do is take this language out of the budget this year and we're done forever, we can stop talking about it? That's the argument that's being used, the latest argument, anyway, that I've heard being used as to why we should keep this in the budget. Come on. Let's get serious. Last time on the microphone we talked about how most of the arguments that have been used to pull the Title X funding language out of the budget have been employed to enact legislation earlier today, for example. We know what this is about. We know what we're talking about here. I think it's time for us to take a vote. We have to enact a budget. We have a constitutional obligation to the citizens of this state to pass a budget. We cannot leave this session without passing it. Now there are going to be parts of this budget I don't like, believe me.

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There...this spends money in some areas that I really think ought not to be spent. That does not mean we should take the irresponsible approach... [LB944]

PRESIDENT FOLEY: Time, Senator. [LB944]

SENATOR MURANTE: ...of shutting down government because we didn't get our way on a policy issue. Thank you, Mr. President. [LB944]

PRESIDENT FOLEY: Thank you, Senator Murante. Senator Schumacher. [LB944]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. In analyzing this particular measure in the context of its entity, this is not about abortion. That's a red herring. This is not about abortion. It is about something far more profound. And we are haunted by the words of Aristotle: As regarding the sexes, "the male is by nature the superior and the female the inferior," the male the ruler and the female the subject. Those words of Aristotle spanned the ages and landed in medieval times, when very bright minds had nothing more to do but think about how many angels could dance on the head of a pin, and the role of a world where the globe was in the center and the sun went around it, and primitive thoughts filled the land. It was in the 1960s, with the advent of oral contraception, that beings found the same freedom in the female body as they had been finding in the male body: the freedom to choose the role of one's body. Profound change in culture followed--profound. Suddenly women were truly equal. That did not sit well, and in various ways and various machinations effort has been made to put the smoke of freedom back into the cigar of subjugation. That is what this bill is about. It's about shutting down those organizations which enable a woman to have adequate health coverage for her reproductive capacity, a woman to choose when to have children. And abortion is such a tiny fraction off to the side it doesn't even play into this game, but it can be manipulated to make people shut down access, particularly for poor women, to healthcare that they absolutely are entitled to and need, by standing between them and their established providers, by making them run through the hoops to get a new provider, by trying to get that smoke back into the cigar, because thinking of certain institutions is such that it cannot rethink the path since medieval ages. They say this isn't right, this isn't about contraception, this isn't about that kind of thing, women's health, it's about abortion. Let's run a test. Let's run a test to see. I'll bet you we're going to find some interesting results as a result of the test, because I filed an amendment on this on Select File. We want to get into reproduction? We'll get into it. And the Select File amendment is very simple. It incorporates a bill... [LB944]

PRESIDENT FOLEY: One minute. [LB944]

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SENATOR SCHUMACHER: ...that's sitting in Health and Human Services to facilitate contraception and save the state somewhere on the order of \$10 million, give or take a year, proven in other states. We're not just talking a mere \$1.7 million, \$10 million. And let's see who shows up in the lobby, who starts sending the notes in. I'll bet you it's the same people. This is about the right of women to equality and parity in our society, and to have choice and command over their bodies, and anything else is an attempt to obfuscate that, an attempt to get the smoke back in the cigar. Thank you. [LB944]

PRESIDENT FOLEY: Thank you, Senator Schumacher. Senator Clements. [LB944]

SENATOR CLEMENTS: Thank you, Mr. President. Excuse me. It's been a long day. Well, I wanted to comment about federal health clinics losing funds. Since the February 5 Appropriations hearing, I've not heard from any federal health clinics saying they lose funds, and there is one in my district. Then regarding abortion providers having to separate their Title X activities, it reminds me of a situation I had at my bank. For years we used only one teller drawer, cash drawer shared by four tellers. Then we hired a new teller. Soon we started having regular cash shortages, but there was no way to tell who made a mistake or who took some money. So we purchased individual teller drawers and required each person to use only her own drawer. We no longer had cash shortages after that change. Requiring a legal separation of abortion services from Title X services is also necessary to make sure funds are not misused, accidentally or on purpose. And with that, I would like to yield the rest of my time to Senator Hilgers, if he's available. [LB944]

PRESIDENT FOLEY: Thank you, Senator Clements. Senate Hilgers, 3:26, if you care to use it. I don't see him, Senator Clements. We'll pass on that. Senator Geist. [LB944]

SENATOR GEIST: Thank you, Mr. President. I would just like to stand and speak in response to Senator Schumacher's reference to strong women. I would suggest that whether you have an abortion or not is not the test of the strength of a woman. I believe it takes a very strong young woman to go to high school every day, pregnant, carry a child to term, deliver that child, raise that child in her own home, all by herself. I think that takes a strong woman. I happen to have that strong woman in my family, and I'm very proud of her. I don't think abortion is the test of the strength of women. The strength of women is being able to stand up and say what you think in public, no matter what the cost. I don't think it has to do with what you choose to do or not do with your body. That is not the test of a woman. I also think that as a society we've come a long way in the way we treat women and the way we treat men. I believe women have the potential to be everything that they are created to be, and certainly the potential to serve in this body alongside our colleagues who happen to be men equally. However, I don't believe that it makes me a strong woman to have had an abortion or not. I think that's irrelevant to the conversation of

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the strength of women. I don't think I can say that any better than that, so I will yield the rest of my time to you, Mr. President. [LB944]

PRESIDENT FOLEY: Thank you, Senator Geist. We'll move on to Senator Wishart. [LB944]

SENATOR WISHART: Thank you, Mr. President. Again, I rise in support of AM2274 and against Senator Morfeld's motion to bracket this legislation. You know, I have heard from some senators that they have not heard from the federally qualified health clinics. I do want to emphasize that these clinics came to our hearing and shared their concerns, specifically around the word "referral" and the conflict with the language that we're passing in this legislation and federal regulations. And then I would encourage you. They have representatives out in the Rotunda today. They have talked to me consistently about this legislation. And from what I'm hearing from them, if we do not pass Senator Bolz's amendment, there is concerns whether they would even be able to apply for this funding, and that could drastically reduce people's access. I'll give you an example is in Lincoln. Setting aside even the amount of people that utilize Planned Parenthood for Title X services, if Planned Parenthood no longer provides these services, it would be up to our local federally qualified health center, which I've talked with Director Courtney Phillips about. They would be the center that would be providing the services. I'm very concerned then to hear from them that without Senator Bolz's amendment, to hear from the federally qualified health centers that they have concerns whether they would be able to move forward in accepting these funds as well because we would be out of compliance with federal regulations. Again, you know, I am not a lawyer. I have listened carefully to Senator Morfeld and Senator Hilgers debate, and I'm always in awe and inspired by them. But I'm looking at this in, I think, just a very straightforward way that I am hearing from the providers who provide these services that they are concerned with being able to access these funds if we pass language that conflicts with what the federal regulations are. So I'm not...I just...I'm not quite sure why a moderate approach like what Senator Bolz has is getting so much opposition. I also wanted to speak a little bit to the audit. When I heard in the Appropriations hearing that there was a clinic that had, whether it was a mistake, I mean a mistake, regardless, to hear that there was a clinic that could potentially put in jeopardy our entire state's access to Title X funds concerned me. So I followed up with Director Phillips to make sure that the Department of Health and Human Services had moved forward on a corrective action plan. And she wrote back that...she said: In your letter, you asked what measures the department has taken to address the recommendations in the audits and what procedures have been implemented to ensure compliance with the federal Title X regulations, and she goes on to talk about the detailed corrective action plan that's ensued. And then at the end she outlines the action plan that they underwent, and I really want to commend the department for moving forward quickly on this to make sure that we don't jeopardize our Title X funds again. And the department did say that no additional errors were noted after the implementation of the corrective action plan, and no further action was then warranted. And I did want to follow up again. I spoke with the Auditor,

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as well, when he came in to testify in front of us on his budget, and I asked him whether his recommendations for the Department of Health and Human Services to implement procedures to ensure expenditures were made for allowable activities, I wanted to follow up with him and know what the department had done. And he said that... [LB944]

PRESIDENT FOLEY: One minute. [LB944]

SENATOR WISHART: ...he believes that the department has implemented programs and guidance that he thinks will correct any of the problems that had occurred in 2015 and 2016. So I just wanted the body to know that this was taken very seriously and the department has taken action to make sure that Title X funds are used appropriately in the future. Thank you. And I'll yield my time to Senator Morfeld. [LB944]

PRESIDENT FOLEY: Thank you, Senator Wishart. Senator Morfeld, 30 seconds. [LB944]

SENATOR MORFELD: How generous of you, Senator Wishart. Thank you. Just kidding. Thank you, Mr. President. I'll just move on to my time, if that's okay. [LB944]

PRESIDENT FOLEY: Thank you, Senator Morfeld. Actually, you're next. Go ahead. [LB944]

SENATOR MORFELD: Excellent. Thank you, Mr. President. Colleagues, I just want to correct the record on a few things. First, it does matter to talk about the intent of legislation and then also the statements of the introducers. So first, the Weldon Amendment, in the floor speech by Weldon himself, he stated: The provision only applies to healthcare entities that refuse to provide abortion services. Furthermore, the provision only affects instances where government requires a healthcare entity provide abortion services. The right of conscience is fundamental to our American freedoms. That matters. Also in the Federal Register it states that: Protections from discrimination for healthcare entities and individuals who object to the furthering and participating of abortion under programs funded by the department's yearly appropriation acts, the Weldon Amendment, it's actually under their conscience protections. So intent matters, and I can get out my statutory interpretation book and talk about how legislative intent, particularly introducer and sponsor intent, matters and is used by the courts to interpret this, but that would be futile because I know that many of us have already made up our minds and our decisions on this. I would like to ask a few senators some questions here. Would Senator Riepe yield to a question? [LB944]

PRESIDENT FOLEY: Senator Riepe, would you yield, please? [LB944]

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SENATOR RIEPE: Yes, I will. [LB944]

SENATOR MORFELD: Senator Riepe, do you support Planned Parenthood? [LB944]

SENATOR RIEPE: Do I support Planned Parenthood? [LB944]

SENATOR MORFELD: Yes or no? [LB944]

SENATOR RIEPE: As it's written, no. [LB944]

SENATOR MORFELD: As what's written, Planned Parenthood or...? [LB944]

SENATOR RIEPE: Well, you said yes/no. [LB944]

SENATOR MORFELD: Do you support the organization Planned Parenthood, yes or no?  
[LB944]

SENATOR RIEPE: I would say no. [LB944]

SENATOR MORFELD: You would say no. Okay, second question: Is your goal with this legislation, supporting this legislation, to defund Planned Parenthood of the Title X program?  
[LB944]

SENATOR RIEPE: My intention on this from my personal perspective is that to fund the services with the carve-out for any abortion piece needs to be in a separate facility and separate and apart so that there's no commingling of any funds. [LB944]

SENATOR MORFELD: So is your intent, yes or no, to defund Planned Parenthood of the Title X program? [LB944]

SENATOR RIEPE: Not in its entirety. [LB944]

SENATOR MORFELD: Okay. Thank you. Would Senator Geist yield to a question? [LB944]

PRESIDENT FOLEY: Senator Geist, would you yield, please? [LB944]

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SENATOR GEIST: I would. Sure. [LB944]

SENATOR MORFELD: Thank you, Senator Geist. Senator Geist, do you support Planned Parenthood? [LB944]

SENATOR GEIST: I do not support abortion on demand, so. [LB944]

SENATOR MORFELD: So you don't support Planned Parenthood? [LB944]

SENATOR GEIST: I didn't say that. I said I... [LB944]

SENATOR MORFELD: So you do support Planned Parenthood? [LB944]

SENATOR GEIST: I said I do not support abortion on demand. I support services other than abortion on demand that Planned... [LB944]

SENATOR MORFELD: So do you support Planned Parenthood or not? [LB944]

SENATOR GEIST: I support a clinic that does comprehensive healthcare for women. [LB944]

SENATOR MORFELD: So you...do you support Planned Parenthood or not? [LB944]

SENATOR GEIST: Does Planned Parenthood give comprehensive healthcare to women? [LB944]

SENATOR MORFELD: Yes, they do. So you do support... [LB944]

SENATOR GEIST: There you go. [LB944]

SENATOR MORFELD: So you do support Planned Parenthood? [LB944]

SENATOR GEIST: I support clinics that give comprehensive healthcare to women. [LB944]

SENATOR MORFELD: Do you support Planned Parenthood, though? [LB944]



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SENATOR GEIST: I'm not falling into your trap, Senator Morfeld. [LB944]

SENATOR MORFELD: It's not a trap, Senator. The question is, is do you support Planned Parenthood? [LB944]

SENATOR GEIST: I do not support abortion on demand. I do not support the portion of Planned Parenthood... [LB944]

SENATOR MORFELD: Okay. [LB944]

SENATOR GEIST: ...that performs abortion. I... [LB944]

SENATOR MORFELD: So you do support certain parts of Planned Parenthood though? [LB944]

SENATOR GEIST: I support STD...I... [LB944]

SENATOR MORFELD: Okay. Thank you. That's a fair answer. [LB944]

SENATOR GEIST: Sure. [LB944]

SENATOR MORFELD: Would Senator Murante yield to a question? [LB944]

PRESIDENT FOLEY: Senator Murante, would you yield, please? [LB944]

SENATOR MORFELD: Oh, he must be eating dinner already. Would Senator Thibodeau respond to a question? [LB944]

PRESIDENT FOLEY: Senator Thibodeau, would you yield, please? [LB944]

SENATOR THIBODEAU: Yes. [LB944]

SENATOR MORFELD: Senator Thibodeau, do you support Planned Parenthood? [LB944]

SENATOR THIBODEAU: Again, I don't support abortion on demand. [LB944]

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SENATOR MORFELD: But do you support the organization Planned Parenthood or not?  
[LB944]

SENATOR THIBODEAU: Do you mean like with my personal donations? [LB944]

SENATOR MORFELD: Do you support the organ... [LB944]

SENATOR THIBODEAU: I don't support them with donations. [LB944]

SENATOR MORFELD: The question is very simple. Do you support Planned Parenthood?  
[LB944]

SENATOR THIBODEAU: I support... [LB944]

PRESIDENT FOLEY: One minute. [LB944]

SENATOR THIBODEAU: ...giving healthcare to women, but I do not support organizations that perform abortions. [LB944]

SENATOR MORFELD: Okay. So you don't support Planned Parenthood. Thank you, Senator.  
[LB944]

SENATOR THIBODEAU: That is, for the record, Senator Morfeld, that is not what I said. I said I do not support organizations that perform abortions. [LB944]

SENATOR MORFELD: Okay, thank you, Senator. [LB944]

SENATOR THIBODEAU: But I support... [LB944]

SENATOR MORFELD: Okay. [LB944]

SENATOR THIBODEAU: ...organizations that give comprehensive healthcare to women.  
[LB944]

SENATOR MORFELD: Thank you, Senator. Here's the problem with that answer though. You just said you don't support organizations that provide abortions. Planned Parenthood provides

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abortions, so, therefore, you would not support an organization like Planned Parenthood. The bottom line, colleagues, is that this bill is simply targeted only to organizations like Planned Parenthood, and Planned Parenthood is the only organization that I know of in this state that provides abortions and also receives Title X funding. That is the purpose of this legislation. And the fact that people cannot answer simple questions on the floor simply shows that that's the true purpose of this legislation. [LB944]

PRESIDENT FOLEY: Time, Senator. [LB944]

SENATOR MORFELD: Thank you, Mr. President. [LB944]

PRESIDENT FOLEY: Thank you, Senator Morfeld. Senator Hansen. [LB944]

SENATOR HANSEN: Thank you, Mr. President, and good afternoon, colleagues. I would actually yield my time to Senator Bolz. [LB944]

PRESIDENT FOLEY: Thank you, Senator Hansen. Senator Bolz, 4:50. [LB944]

SENATOR BOLZ: Thank you, Mr. President. I appreciate all the passionate debate on the floor today. I think a lot of people have done research and been thinking about what this bill is and what this bill means. This is one of those times and one of those circumstances where maybe floor debate is not moving us to the type of analysis and legislative change that would really move this conversation forward, because I do believe that there is some shared concern on the floor about protecting the federally qualified health centers and protecting access to cancer screening and prenatal care and all of those other lifesaving and life-protecting issues. So I'm going to use this time, and thank you very much, Senator Hansen, for yielding me that time, to offer to anyone on this floor that I would be willing to sit down and have a face-to-face, over-a-table conversation about how we move forward in a way that is thoughtful and share...and achieves common goals, and I think those common goals include protecting access to healthcare. So I'm putting that offer out there. I might even be willing to consider pulling the amendment and discussing it again on Select File. But I need real commitments and I need real commitments from people who are willing to work with me and talk with me and roll up their sleeves and get this job done. So I put that out, I suppose, as an opportunity, and I look forward to anyone who takes me up on that offer. Thank you, Mr. President. [LB944]

PRESIDENT FOLEY: Thank you, Senator Bolz. Senator Pansing Brooks. [LB944]

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SENATOR PANSING BROOKS: Thank you, Mr. President. I just stand up a little bit confused because something else was going to be happening and it hasn't. So I wanted to just stand up, number one, and say thank you to Senator Schumacher for clearly stating exactly what really is happening here. There is obfuscation. And some arguments from last year have been co-opted that, oh, everybody is so worried about the Title X funds and, oh, my gosh, they might be taken because of what happened last year. And clearly I've talked to the people that underwent the audit at Planned Parenthood and it was a full-blown surprise. There have been multiple full-blown surprise audits which intended to catch them at all sorts of nefarious...doing all sorts of nefarious things, including, I'm sure, just doing abortions right in the lobby, because I think that's what people want to make it out to be is just really terrible things going on, even though it's a constitutional right and we are...we have avoided all of those back-alley hanger deaths. And again, it's so hard to talk about this sometimes because I'm...I feel so passionately about protecting women's healthcare and women's ability to get access to appropriate healthcare. Again, we've had this ongoing argument about, oh, is it a conscience clause or isn't it? Clearly what we're talking about here, my friends, is the Weldon Amendment keeps doctors with moral qualms about performing abortions from being put into the hard position of acting in conformity with their beliefs or else losing their livelihood. So whether you call it a conscience clause or not, I think many of us would basically think it was an ability for doctors and providers to be able to say, I cannot perform an abortion. And I have no problem with that. I don't think somebody should be required to perform a medical service if it's against what they believe in. They wouldn't, number one, they wouldn't be good at it. Who wants them doing it if they don't believe in it and think they should? But what we're also balancing is the referral. And again, I told you, I talked about that before, that--with LB891--there are those who don't even want to refer a mentally ill patient to a provider if they're LGBTQ. So somebody could be really having serious problems, but the people that came to oppose it, who were the Catholic Conference and the Nebraska Family Alliance, they say we shouldn't have to refer; even though somebody is truly sick and hurting, we don't have to refer. This is the same issue here. We don't have to refer on. That's what we're talking about. We're not talking about performing them. We're talking about referral. Senator Linehan talked about, you know, what the statistics were in the state, and I just want to quote. There has been a study out there. The first question was, do you believe that there should be a federal program that makes sure women have access to healthcare for cancer screenings, family planning, and preventative services? Sixty-eight-point-eight percent of Nebraskans said yes; thirty-one-point-two percent... [LB944 LB891]

PRESIDENT FOLEY: One minute. [LB944]

SENATOR PANSING BROOKS: ...answered no. Then they said, do you believe that birth control should be easily accessible? Eighty-three-point-six percent of Nebraskans answered yes; sixteen-point-four percent answered no. So, colleagues, what...you know, this is about fitting in to people's expectations. And woe to you if you don't fit within the moral parameters of our

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current "Big Brother's" church and state. Woe to you if you are a young woman whose life is in danger due to pregnancy. And woe to you if you have the gall to be poor, cancer ridden, or in need of sexual health services. Woe to you. That's what we're saying today. Thank you, Mr. Lieutenant Governor. [LB944]

PRESIDENT FOLEY: Thank you, Senator Pansing Brooks. Senator Chambers. [LB944]

SENATOR CHAMBERS: Mr. President, thank you. Members of the Legislature, I'm not wasting my time trying to change the minds of these people. When Senator Geist stood up, I knew what she was going to say. I've read about her religious views in the newspaper, all these other people. She doesn't know and nobody on this floor knows, except probably me, that the Catholic Church had said that a male gets a soul sooner than a female. What Senator "Professor" Schumacher was talking about couldn't be understood by the likes of Senator Geist, whose minds are closed. He wasn't saying, and he never said, that getting an abortion is the test of the strength of a woman. He mentioned how the pill gave women a choice not to be kept barefoot, pregnant, and ignorant, like these Catholics and other fundamentalist preachers would do. That's what they want, and they persuade the women that they're carrying out God's will when they have all these babies. That's crazy. The issue was the choice that a woman had. She did not have to get pregnant. And if she did not take a birth control pill, wasn't on the pill, or the man didn't use any contraceptive measure, then there was a morning-after pill. Men didn't like that who wanted to keep these women pregnant. And they get them in these churches, then they tell the nuns, your job is to scrub these floors, wash these nasty clothes, don't tell on these priests when they're running around here having sex with these little boys and girls and adults, then they're going to listen to what these preachers say? Then when the children come into the world and we're talking about these issues, where is Senator Geist? Not on the floor. Where's Senator Thibodeau? Where are all these people? You know why so many of them are here now? Because this is a Catholic-fueled effort. I'll say three words and then I'll give it to Senator Hilgers. And you know what? I've...I studied him. I can tell when he took off his cloak of a lawyer and put on that of ideology, because then suddenly he parses words he can't understand. And he knows that this is a conscience matters and he would know it if he wasn't in that religious clutch right now. And I can look at the ones that the Governor gave money to and predict what you're going to say and what you're going to do. That's why I don't waste my time trying to change your mind. You're not acting on the basis of what you think. You're acting on the basis of what you're told. They call you out there or they get the word to you: This is what you're supposed to say, this is what you're supposed to do. And when we talk about giving legal representation to children, Senator Groene leads you all to say, uh-uh, no, no, they don't need it out here in the hinterlands, we do something different, our kids don't need that. But he's worried about a zygote. He's worried about an embryo. He's worried about a fetus. With that craziness that you Catholics and the others who agree with you are talking about, I cannot go in a restaurant and order scrambled eggs anymore. I have to order scrambled chicken. When I see an acorn, that's an oak tree that I

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have in my hand. That's crazy, and the only time people are crazy enough to do that is when they're under the hypnotic spell of these cults like the Catholic Church and these fundamentalist churches. [LB944]

PRESIDENT FOLEY: One minute. [LB944]

SENATOR CHAMBERS: And I grew up in one of them. [LB944]

PRESIDENT FOLEY: One minute. [LB944]

SENATOR CHAMBERS: And I know the way they talk, I know the way they treat women. And for you Christian Republicans, did you see where one of your number had to step down and resign from the Iowa Legislature, one of the strongest antiabortion people, and he was dealing with a woman and tried to get her to have an abortion? And when it came out, he decided he had to break camp. Senator DeCamp was always saying he was against abortion, and it was written in the paper about him. He's dead now, but he did what he did. He tried to get a woman to have an abortion. Politicians are dishonest, they're crooked and they're liars, and they fool those fools out there by saying they're strongly antiabortion. And like Senator "Professor" Schumacher tried to do, bring it back and show you all the reality, I'm not going to waste my time, but I'm going to spend a lot of time on the other parts of this budget when you all are going to be gone. You won't be up here. [LB944]

PRESIDENT FOLEY: Time, Senator. [LB944]

SENATOR CHAMBERS: And I have a lot that I will read. Thank you, Mr. President. [LB944]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Riepe. Senator Riepe. [LB944]

SENATOR RIEPE: Thank you, Mr. President. I have chosen to yield my time to Senator Thibodeau. [LB944]

PRESIDENT FOLEY: Thank you, Senator Riepe. Senator Thibodeau, 4:50. [LB944]

SENATOR THIBODEAU: Thank you, Senator Riepe. Thank you, Mr. President. I just wanted to talk a little bit about the questioning from Senator Morfeld because he was questioning about Planned Parenthood and what I had said is I do not support places that do abortion. And he is saying that this is just going against Planned Parenthood. This Title X is not about Planned

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Parenthood. It is about not giving tax dollars to organizations who perform abortions. We know the majority of taxpayers in this state do not want their money to pay for abortions. And if you want to try to make this out to be about Planned Parenthood, if Planned Parenthood is doing abortions, then they just need to stop and they will continue to receive their Title X funding. Clinics that do not perform, assist with the performance of, counsel in favor or refer for abortions are not affected in any way. Such clinics can carry on as usual and continue to receive their Title X funding. Those clinics are involved in abortion, just merely need to comply with the separation requirements that remain in Title X. So again, this is not defunding Planned Parenthood. Planned Parenthood would still keep their Title X money as long as they abide by the separation requirements in this bill. Thank you very much. And with that, I would like to yield the remainder of my time to Senator Hilgers if he so chooses. [LB944]

PRESIDENT FOLEY: Senator Thibodeau, that's not possible. That time was yielded to you. [LB944]

SENATOR THIBODEAU: Oh. Oh, sorry. [LB944]

PRESIDENT FOLEY: Items for the record, please? [LB944]

CLERK: Mr. President, Enrollment and Review reports LB1119 and LB946 to Select File. Transportation Committee reports LB909, reports it to General File with committee amendments. Senator Vargas offers LR349, LR350; both will be laid over. (Legislative Journal pages 956-959.) [LB1119 LB946 LB909 LR349 LR350]

Mr. President, Senator Clements would move to recess the body until 6:30 p.m., 6:30.

PRESIDENT FOLEY: Members, you heard the motion to recess till 6:30 p.m. Those in favor say aye. Those opposed say nay. We are in recess.

RECESS

PRESIDENT FOLEY PRESIDING

PRESIDENT FOLEY: Good evening, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber. The evening session is about to reconvene. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

PRESIDENT FOLEY: Thank you, Mr. Clerk. Do you have any items for the record?

CLERK: I have nothing at this time. Thank you.

PRESIDENT FOLEY: We'll pick up the debate right where we left off. Senator Krist. [LB944]

SENATOR KRIST: Thank you, Mr. President. Good evening, colleagues; and good evening, Nebraska. I just wanted to highlight the last time that I had remember Senator Hilgers being on the mike he was referencing the language that's in every budget bill going back a few years, which is very similar, if not identical, to this language. I pointed out to him off the mike that that language applies to general affairs appropriations, which is...we as a state can restrict that money in any way that we want and that, potentially, that's not the same comparison. It's a bit of an apples and oranges comparison. But just want to bring that and put that on the record. I think that we, obviously, are at a point in the debate where those of us that are pro-life and those of you who are pro-choice will have your heels dug in, in terms of one way or the other. I still contend in that handout that I gave you that this is the inappropriate, completely inappropriate place to discuss this if your intention is putting it into statute on a permanent basis. Okay? That's all I'm saying. If you decide that you want to do this and you want to get it done, you're going to have to come back to this subject matter year after year after year. Now, Senator Hilgers made the comment that he...I think he said he didn't think that it had to be this contentious, something to that effect, every year. So I would tell you that there are many of you who are up for reelection--and best of luck to all of you--but it's not a sure thing that you'll be back. In addition, Senator Baker, Senator Kuehn, Senator Larson, Senator Smith, Senator Brasch, Senator Schumacher, Senator Harr, and quite possibly Senator Watermeier, should he win his election bid, will not be back. So there will be a minimum of seven, possibly eight, who will want to weigh in to this subject matter again and again and again. So I half kiddingly said it's the "curse of Krist," because I'm telling you there are people who are going to want to talk about this over and over again--that was the "curse of Krist," Senator Chambers, not the "curse of Christ," just wanted to make sure, okay--that you're going to have to deal with this in subject matter every year when it comes to appropriations. And so for me it's...I called it stupid, I'll call it ludicrous, I'll call it inappropriate, just don't think that this is the place to do it, no matter whether you are pro-life as I am, or pro-choice as some of you others might be. Or if you're really pro-life, and you believe from conception to natural death, you don't believe in the death penalty and you take care of people through the continuum of care and have voted continuously to have some kind of a Medicaid look. All of those things I think are important. I think I've said what I need to say for this evening. Thank you, Mr. Speaker. [LB944]



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PRESIDENT FOLEY: Thank you, Senator Krist. Senator Hilkemann. [LB944]

SENATOR HILKEMANN: Thank you, Mr. Lieutenant Governor. I want to just follow up a little bit with where I was when I finished up my conversation. Would Senator Hilgers take a question, please? [LB944]

PRESIDENT FOLEY: Senator Hilgers, would you yield, please? [LB944]

SENATOR HILGERS: I would. [LB944]

SENATOR HILKEMANN: Senator, I ended up my comments talking about the whole process of words and how that came to play a lot in the hearing. And you and I had a conversation back here. You're confident that the words that came out of the committee include all of the healthcare clinics in the state of Nebraska that do not provide abortion services. Is that correct? [LB944]

SENATOR HILGERS: You're saying, just so I understand your question, Senator Hilkemann, you're saying am I confident that healthcare clinics that do not provide abortions that are otherwise qualified can apply for Title X funds under the amendment? [LB944]

SENATOR HILKEMANN: That's correct. [LB944]

SENATOR HILGERS: Yes, sir. [LB944]

SENATOR HILKEMANN: Okay. And I also think that you and I had the conversation about the Planned Parenthood and using the words that were put out by one of the persons who testified in that committee that brick and mortar is not necessarily a factor, as long as they keep those services completely separate one from another. The illustration I used in the question that I asked in the hearing was if they were in a strip shopping center and they had one bay that was for their Title X services and another bay that was for abortion services and they never mixed the two, that according to how this is written that would qualify them. Is that how you understand this as well, Senator? [LB944]

SENATOR HILGERS: That hypothetical, Senator Hilkemann, yes, I believe that's correct. [LB944]

SENATOR HILKEMANN: Okay, thank you. Thank you. [LB944]

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SENATOR HILGERS: Thank you. [LB944]

SENATOR HILKEMANN: That's what I wanted to get clear. There was a little question earlier about...Senator Morfeld was asking senators what they felt about Planned Parenthood. And I'm going to share true stories. In fact, one of the members of one of the Appropriations remembers one of these conversations I had with a Catholic priest regarding this before this hearing was all on. And I'm going to keep these names because they're not...I called several priests. I'm not of the Catholic faith, but I have developed some relationships with some of the priests in the area and I asked them about this Title X and I asked them about Planned Parenthood. They said, you know, we hate the fact that they provide abortions, but their Title X services are necessary and important. And so I want to make sure that we are not putting legislation out here that is going to take away the Title X services that they provide. And I've been convinced through the conversation I had from that hearing on February 5 through the conversation that we've had, and I've had some here...even with some today. And, Senator Hilgers, you've kind of confirmed it. We do not need the Bolz amendment. The language is adequate at the present time. And therefore, I will be voting against the bracket and I'll be voting against the Bolz amendment because I think that as a committee... [LB944]

PRESIDENT FOLEY: One minute. [LB944]

SENATOR HILKEMANN: ...we did our homework. We asked the questions. And therefore, I'm quite confident that the concerns I had that clinics that do not provide abortions are going to be protected with the language that we have at this time. Thank you, Mr. Lieutenant Governor. [LB944]

PRESIDENT FOLEY: Thank you, Senator Hilkemann. Senator Albrecht. [LB944]

SENATOR ALBRECHT: Thank you, President Foley. I didn't think I'd get in the queue here. So maybe everybody else turned their light off, I'm not sure. But, colleagues, if I were to be asked from Senator Morfeld whether I supported Planned Parenthood or not, it would be a resounding no, because when I first went on-line after Senator Blood informed us of 42 clinics that are out there, only 3 of which do abortions. I had to go on-line just to find out who that might be. And right away I put in Planned Parenthood Nebraska, and up pops Planned Parenthood. I said I lived in Thurston, you can go 70 miles to Omaha and get an abortion. There's two ways of ending a pregnancy--in-clinic abortion and the abortion pill; both are safe and very common. If you are pregnant and thinking about an abortion, you may have lots of questions, we're here to help. They go on to say that considering the abortion, trying to decide if an abortion is right choice for you, here's some questions that you might ask yourself. Here's the abortion pill. The abortion pill works up to ten weeks of pregnancy. You can usually have your abortion in the privacy of your

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own home. In-clinic abortion: in-clinic abortions are safe, simple medical procedures provided by doctors and nurses at the health center. I'm sorry, that is something I absolutely cannot even fathom, but more importantly, if there are 39 other women's clinics that can give the ladies what they need, or gentlemen, they're out there and the money is there for them, the Title X. I don't want to compromise or jeopardize that Title X funding. So, again, they'd have to take this off their Web site before I could embrace what they do at Planned Parenthood. Thank you. [LB944]

PRESIDENT FOLEY: Thank you, Senator Albrecht. Senator Erdman. [LB944]

SENATOR ERDMAN: Thank you, Lieutenant Governor Foley. Been an interesting conversation this afternoon; sat and listened to Senator Hilgers and Senator Chambers and Schumacher. I do appreciate the discussion. You can draw conclusions from those people who have been learned in the law, studied the law. I understand that; I appreciate that. My position is I'm against the bracket motion and the Bolz amendment. I would want to say that I appreciated what Senator Thibodeau said and Senator Geist. I appreciate women who have the ability to say what they did. I do appreciate that. And so I'll be voting against those two motions. I'm in favor of AM1699 and LB944, and I would yield the rest of my time to Senator Hilgers if he would like it. [LB944]

PRESIDENT FOLEY: Thank you, Senator Erdman. Senator Hilgers, four minutes, if you care to use it. [LB944]

SENATOR HILGERS: Thank you, Mr. President. Thank you, Senator Erdman, for the time. I do want to follow up on Senator Krist's comments because we did have a conversation off the mike, and I've listened to him just now on the mike, and I will do a little more diligence on this particular issue just to reframe it for everyone. What Senator Krist has pointed out, has said, well, these are things...putting language like this in a budget bill is something that is not appropriate in a budget bill and because it's really a policy matter. My counter to that has been, well, there are a number of bills, appropriation bills, in which this type of language has been in those bills. And Senator Krist has responded and said, well, you know, the difference between the example...one of the examples you have provided and the one in front of us at the moment is that one dealt with General Funds, state General Funds, rather than Title X dollars. I don't think that that makes them conceptually different, but that's something that I certainly will do my due diligence on and make sure that we're sound on the law. So I appreciate Senator Krist raising that point. We've had a lot of conversation for the last several hours, and I know people probably watching at home have tuned in and out throughout the day, throughout the evening, and I just wanted to...I think it's valuable to recap a little bit of the conversation we've had as to the Weldon Amendment, which I know everyone is excited to hear me speak about again. But the Weldon...I do think this is...this is a really important sort of set of layered federal regulations in statutes that are at play here. I think it's really important because it goes to some of the crux of the

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disagreement. And there is a federal regulation in Title X and it's in Title 42 of the Code of Federal Regulations, part 59.5, and that regulation, which is a Clinton-era regulation, does say that a provider, a grantee, has to refer for an abortion upon request. That's what it says. It must. It shall. It's mandatory. It's not discretionary at all. And if that regulation were standing alone, there is the potential that the language in AM1699 might conflict with that language...would conflict with that language, and therefore would be preempted, as Senator Morfeld has pointed out, under the Supremacy Clause of the Constitution. The reason why I do not believe that that's the case here is because, in effect, although I'm using a term of art, "preempted," that I don't want to...that has a certain meaning, but I want to use it in a different context; that regulation is in effect itself preempted by the Weldon Amendment that we've been discussing. And the reason why is because the Weldon Amendment, unlike a federal regulation, is a statute, and statutes trump regulations when they conflict. And there's no doubt in my view that these two...the Weldon Amendment, the statute conflicts with the regulation. And the reason is, is because the regulation says you have to... [LB944]

PRESIDENT FOLEY: One minute. [LB944]

SENATOR HILGERS: Thank you, Mr. President. ...you have to refer upon request and the Weldon Amendment says you cannot discriminate against someone who just doesn't want to refer. Those two things are in absolute conflict. And so the Weldon Amendment, because it's higher in authority, later in time, controls, and does not...and provides the authority here because it takes away sort of the federal regulation with which it is in conflict and allows for AM1699 to be valid under federal law. Thank you, Mr. President. [LB944]

PRESIDENT FOLEY: Thank you, Senator Hilgers. Senator Halloran. [LB944]

SENATOR HALLORAN: Thank you, Mr. President. Unlike last time, I'm going to stand and speak to the fact that I'm not supporting the bracket motion nor AM2274, in support of AM1699. I know it's been mentioned that it would be a hardship for Planned Parenthood to separate the two functions; one, the healthcare they're providing for women, and for the function of abortions. And while I think that may be a bit of a challenge for them to do that, I don't find that their numbers support the fact that they're doing more women's healthcare from year-to-year versus abortions. This is rather dated, but it's hard to get real current information in regard to Planned Parenthood, but 2014-2015 report, Planned Parenthood reports performing 328,348 abortions and that was an increase of 4,349 over the previous year. The organization also reported 2,945,059 contraception services in 2014-15. That dropped, part of their healthcare program, dropped to \$2,808,000. Similarly, Planned Parenthood reported 9,419 prenatal services in its latest report. And that was a significant drop from the previous year of 17,419; nearly 8,000...almost a hundred percent...50 percent decrease, I should say. So while there's been a lot

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of talk about, that's one of the primary focuses, and indeed numbers-wise it is, the trend is suggesting that abortion numbers are going up and the healthcare numbers are going down. Now, all those healthcare issues that they provide, I'm fully supportive of; abortion I'm not. With regard to its revenue, and I talk about revenue here because that's speaking to the question of how difficult it might be for them financially to separate the two. The report shows Planned Parenthood total revenues on a national basis of course, \$1,354,000,000, an increase of \$1,296,000 over the previous year. So I could go on and on, but the point I'm trying to make here is, is that while in fact healthcare that they provide is a commendable purpose; abortions are not. When I pay my taxes, I don't want to have to tell myself that I contributed to that process. And I'm fully aware that we could lose Title X. We could lose Title X if we're unwilling to address this properly, as I believe AM1699 will. So if that is what some folks want to have on their shoulders, that we run the risk of losing Title X in total, then that's on your shoulders if that happens. Thank you, Mr. President. [LB944]

PRESIDENT FOLEY: Thank you, Senator Halloran. Senator Vargas. [LB944]

SENATOR VARGAS: Thank you, President. Last where I left off, we were talking about the hearing; I just wanted to come back to a couple of different points. The first is, and we were talking a little bit about the audit process and the recommendations. And I received some reports from the Department of Health and Humans Services that...and I saw that from Courtney Phillips, that there was a miscoding, there was an audit done, there was something done that was in noncompliance. When I looked at the audits and I looked at the cause/effect and the recommendations and I looked at the recommendations from the audit it says we recommend the agency implement procedures to ensure expenditures are for allowable activities in accordance with federal regulations. This is consistent language in both the years of the audits: that we further recommend sub-recipient monitoring procedures be improved and include review of program income. Essentially, they believe that we need to do some more monitoring of the program, which I think is a very fair step in the right direction when we're considering when we are providing funds for a specific reason. Now, these funds are a lump sum funds. This is as a result of an audit. Simply changing and putting in statute doesn't change what people are doing on the ground. So I understand some of the intention, but this is not ensuring that we have more appropriate internal procedures at the Department of HHS; this is not ensuring that we have more appropriate monitoring procedures, or that we are allocating more funds to monitoring these procedures. And I'm concerned that we're saying this is somehow solving a problem, or it's solving the problem that came out these audits. That's not how we tend to solve internal program integrity problems. It's a way to ensure that there's maybe not as much litigation or to protect us in some way, shape, or form, and I can concede to that argument. However, I want to ensure people that when you look at these audits, and please read them, the recommendations were not to put this language into statute. And again, furthermore, language already exists in federal regulations that prohibit the use of funds for abortion-related services in Title X. So we're created

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something even if it's redundant. We're doing something potentially redundant and that's one thing I wanted to make sure was very clear in the process, not only in the hearing. I will give the remainder of my time to Senator Morfeld. I have some other topics I'll talk about later. [LB944]

PRESIDENT FOLEY: Thank you, Senator Vargas. Senator Morfeld, 2:20. [LB944]

SENATOR MORFELD: Thank you, Mr. President; and thank you, Senator Vargas. Colleagues, my purpose for asking senators whether they support Planned Parenthood or not is because I think that the intent of the legislation is really important and that the intent of the body be made clear. And there's been a lot of subterfuge, a lot of talking in legalese. Senator Hilgers is very good at that; I can be good at that from time to time too. He's a little bit better at it than I am sometimes. But the bottom line is, is that it was pretty telling that all three or four senators that I asked that question either wouldn't answer the question or would simply state in another way they didn't support Planned Parenthood: I don't support organizations that perform abortions, but I'm not going to answer your question whether or not I support Planned Parenthood. Well, Planned Parenthood performs abortions. Still not going to answer your question; I just don't support organizations that perform abortions. Okay, so you don't support Planned Parenthood. That's the bottom line. That's what this is about. We can be cute about it, you don't have to answer the direct question, whatever you want to do that's fine. But the bottom line is, is that this is targeted toward a certain organization that a lot of the members in this body simply does not like. And when we talk about whether or not taxpayer dollars are going towards abortion, the bottom line is, the fact is that they're not; that this audit was conducted, it was found out that an abortion provider was sitting at their computer coding things and they coded things wrong. Planned Parenthood didn't have to give back any of that title money simply because none of it was actually expended on abortions. But we'll go about our business here today ignoring that fact and we'll keep saying, well, you know taxpayer dollars are being spent on abortions, when that just simply isn't true. It's a nice tag line; it's a nice thing for you to say so you can sleep at night and say that you're voting to end taxpayer-funded abortions when they're not actually happening, but it's not the facts, it's not the truth. It's really unfortunate that we're having a debate about an issue and a problem that doesn't exist. It's much...it reminds me actually of some of the voter ID things that we talk about with voter impersonation. And I think it's Senator Erdman actually, this is just a feel-good bill. Well, if the rest of the budget wasn't in it, it would be just a feel-good bill, but this portion in here... [LB944]

PRESIDENT FOLEY: Time, Senator. [LB944]

SENATOR MORFELD: Thank you, Mr. President. [LB944]

PRESIDENT FOLEY: Thank you, Senator Morfeld. Senator Linehan. [LB944]

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SENATOR LINEHAN: Thank you, Mr. President. So I wasn't going to jump into this, but the more I listen the more I become a bit irritated. So if you Google, which is what I do to find everything, women's healthcare, free healthcare in Omaha, Nebraska, it brings up 11 clinics, none of which are Planned Parenthood. There's Magis Clinic, 1131 North 18th Street; OneWorld at Saint Joseph's Church at 1723 South 17th Street; the Stephen Center, Omaha, 2723 Q Street; Methodist Hospital, Renaissance Healthcare, sorry forgot to write down the address; Charles Drew Health Center, 2915 Grant; Charles Drew Health Homeless Care Clinic, 1490 North 16th Street, which provides family practice, internal medicine, pediatric care, and ob-gyn services; NOAH Free Clinic; North Omaha Health Clinic, 5620 Ames Street; OneWorld Community Health Center, 4920 South 30th Street, Suite 103; Mobile Dental Van Care Mobile, granted, not women's healthcare; Charles Drew Sienna Francis, Omaha, 1111 North 17th Street; and Creighton Community Health Center, 1520 Northwest Radial Highway. In contrast, let me get my computer up here and it locked me out, as these, I think, too frequently do. If you Google Planned Parenthood, I'm sorry, can only hope I get this right, the first thing that comes up-- Planned Parenthood, Omaha, Nebraska; birth control, STD testing, and abortion...first line. Health centers, second line, I'm sorry, third line, abortion services in Omaha, Nebraska--Planned Parenthood; STD testing, Omaha--Planned Parenthood. Planned Parenthood of the Heartland, and if you go to their site, they will tell you they'll get you the morning-after pill; you can call for services, they can get you in right away. I understand this debate is emotional, but to say that Planned Parenthood somehow, somehow manages to separate these funds when you Google them and it's the first thing that comes up, I have a hard time believing that. So are all these ads on Google not part of Title X funding? How do they keep that separate? I understand women needing healthcare services and we ought to make a great effort that there's clinics in Nebraska that provide these services and they ought to be accessible to women, poor women. We have CHIP for kids. I believe in that. Pregnant women can get services. They can get covered by Medicaid. I understand that we have that responsibility. But to stand here and kind of pretend that Planned Parenthood, a big part of what they do is not abortion services, is just not realistic. It's right here in black and white...blue and white as Google runs. So I would yield any time I have to Senator Hilgers. [LB944]

PRESIDENT FOLEY: Thank you, Senator Linehan. Senator Hilgers, one minute, if you care to use it. He waives the opportunity. Actually you're next in the queue, Senator Hilgers. [LB944]

SENATOR HILGERS: Thank you, Mr. President; and thank you, Senator Linehan. I didn't realize I was next in the queue; otherwise I would have just kept going. Last time on the mike I sort of reiterated and kind of refocused us on the Weldon Amendment and how this conflicts with the regulation that there's been some discussion of. I also want to recap the conversation we had regarding the scope of the Weldon Amendment, because those who say that the Weldon Amendment doesn't apply here, the argument they make is, well, well, well, it doesn't really conflict with this regulation because the Weldon Amendment only deals with conscience, rights

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of conscience. If so, we might not have a conflict, although I wouldn't necessarily agree with that, but I don't see how you get there in any manner of reasonable...any reasonable manner of interpretation. When you look at a statute, this is first-year law school, when you look at a statute, the first thing you're supposed to look at, and usually the very last thing, and oftentimes the only thing you look at is the language of the statute. That's what you look at. And so here, the Weldon Amendment, which we've referred to several times already today, is the statute that we're talking about. And nowhere in the Weldon Amendment does it say anything explicitly about rights of conscience. Neither does it use language that might indicate a conscience right. We spoke earlier about another companion statute in Title 42 of the U.S. Code, I believe it's Section 300b-(c)(d), if I remember correctly, that did deal with the right of conscience. And it very explicitly said in that instance...very explicit in the statute that someone could refuse to provide certain medical services if those services were contrary to the medical providers' religious beliefs or moral convictions. So Congress very clearly knows how to create a conscience exception in law, very clearly does; it's done it before. The Weldon Amendment makes no reference to those types of words. The amendment on its face is very clear, it's unambiguous. It is also...this argument was argued by a...I believe an abortion provider who is the plaintiff, the National Family Planning and Reproductive Health Association, which challenged the Weldon Amendment. And the exact argument made by the plaintiff in that case is the plaintiff said, judge, we need clarity because the Weldon Amendment conflicts directly with the regulation we've been talking about. The plaintiff provider in that case agreed with the interpretation that we're offering here on the floor this evening and agreed with what the actual language says. The only arguments I've heard to suggest that the Weldon Amendment does not apply to what it says it applies, which is without limitation anyone...you cannot discriminate a provider who refuses to refer...or two things that I've heard so far, and I may have missed one. One is legislative history and the other is a reference to an HHS Web site, neither of which, neither of which are things that a court would rely upon when you have unambiguous language. So I don't...it might be one thing if there was a reference in the statute to rights of conscience or moral beliefs or good, deeply held religious beliefs. None of that is in there. So on the question of the scope of the Weldon Amendment, which is critical to this conflict which is at the core of the debate this evening, on that question I do not think that there is...I do not believe that there is a real question as to the scope of that particular amendment because the language of the statute is unambiguous and the legislative history are things that we tend to not refer to. By the way, the reason why we don't and why the Supreme Court often does not refer to legislative history is because the legislative history... [LB944]

PRESIDENT FOLEY: One minute. [LB944]

SENATOR HILGERS: Thank you, Mr. President,...can...you can find all sorts of things in legislative history. We are creating legislative history today. And if someone were to pull up the transcript from this debate, they could pick something that Senator Harr said and Senator



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Morfeld said, or Senator Pansing Brooks what they said and say, aha, legislative history, this is the intent of the bill, whereas there are other people who disagree with those positions that they might ignore. Legislative history is very messy, it's very unclear, and that is why we don't use it as a lodestar for statutory interpretation. What we do is we look at the statute. And there's nothing in this particular statute that limits it to rights of conscience. Thank you, Mr. President. [LB944]

PRESIDENT FOLEY: Thank you, Senator Hilgers. Senator Brasch. [LB944]

SENATOR BRASCH: Thank you, Mr. President. And good evening, colleagues. This is the first I've stood this evening or today to speak on this bill. And I do support LB944 and the AM1699 from Appropriations, and thank Appropriations and their Chairman, Senator Stinner, for introduction of this. I do not support the amendments that follow. And I found it very interesting, this is not the first time I've stood on the floor to defend life and unborn babies who are innocent life. And actually I was...went to my office during the dinner hour because I'm sure I printed out somewhere in my volumes of paper a discussion Senator Chambers and I had about another bill and he had said a sperm plus an egg equals a baby. And I thought that's a keeper. So it's printed, it's filed, and I was going through the books. But this evening I'm hearing all kinds of things about that this is a Catholic bill. I don't think it's a Catholic bill. I do believe that there are many who support pro-life and protecting innocent life. And I found some paper articles and I decided to try to update them and they were about Planned Parenthood, since we're being called out on do you support Planned Parenthood. And I'll read from a Web page. It says: Planned Parenthood is the largest provider of healthcare services to women, only if you define healthcare services as abortion. Facilities in the U.S., Planned Parenthood, are fewer than 700 in 31 states. And 31 states have fewer than ten clinics. And then community health centers, there are more than 9,000 of them located in 98 percent of Congressional districts. And then when it talks about the number of patients served, men and women, Planned Parenthood serves 2.7 million; where our nationwide community health centers, they serve 21 million compared to the 2.7 million. It says Pap tests, Planned Parenthood has had 378,692; where the community health centers have had over 1,700,000-some. Mammograms, Planned Parenthood had zero; the community health centers, over 424,000. And when it comes to abortion, Planned Parenthood has had 327,653; where community health centers have had zero. And from this same site there's a news release that says, yes, we should defund Planned Parenthood. And it says for many years many people have challenged the appropriateness of government funding of Planned Parenthood because the organization concurrently has received both funding to counsel pregnant women and to perform abortions. It's a basic principle of ethics that no one can have any self-advantageous incentive, financial or otherwise, to counsel another person about a moral decision of such great magnitude. It goes on to say that according to Planned Parenthood's annual report in 2014-15 that they served... [LB944]

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PRESIDENT FOLEY: One minute. [LB944]

SENATOR BRASCH: ...2.5 million people, and 323,000 were abortions and only 17,000...a little over. If you'd like more information about this, this comes from the Web site, Democrats for Life of America, so it's supported by Republicans and Democrats alike. And this is from the [DemocratsForLife.org](http://DemocratsForLife.org) Web site, a lot of good facts there that answers questions. Thank you, Mr. President; and thank you, colleagues. [LB944]

PRESIDENT FOLEY: Thank you, Senator Brasch. Senator Groene. [LB944]

SENATOR GROENE: Thank you, Mr. President. I'm a rule of law guy. I don't even want to talk about abortion. What this is about is following the federal law about family planning. By the way, if this was a Catholic bill, they would be trying to tell the state not to take any Title X money because, remember, they don't like contraceptives either. This isn't a Catholic bill. This is a bill to try to clarify that we follow existing law. And by the way, we don't need to bring a bill to HHS. The law is there. The federal guidelines are there. We have to follow the federal guidelines. You cannot use Title X money in any relationship to abortions, period. That's what we're trying to do here. If the pro-abortion, pro-choice people want to bring a bill to make sure that abortion is acceptable in the state of Nebraska, they should bring a bill to HHS. Bring one. Bring five. You have the Supreme Court on your side, just go ahead and do it. This has nothing to do with that, about clarifying anything about abortion in the state of Nebraska. This is about following federal guidelines. Planned Parenthood does a lot of good services. I will guarantee you 90...80 out of 100, some number like that, of individuals who go there just want their testing, pregnancy testing, mammograms, whatever they do, their shots. It's the 20 percent that call...I had my staff look up Planned Parenthood and it came up with the Northwest Health Center, Omaha, Nebraska. It gives all the services: LGBT services, men's healthcare, morning-after pill, abortion. Then it goes into a section about abortions. It's the same phone number, folks. It's the same address. Now tell me that money doesn't mingle. How do they separate the phone call bill? How do they separate the phone call that comes in looking for abortion and the part of the bill that comes in for services? Tell me how they do that? They don't. All this statute does is clarify. Separate, have two separate boards; have two different names on the door--family services, abortion. That's all you got to do. The bill is not anti-Planned Parenthood. Doesn't mention it. It says: provides directive counseling in favor, or refers abortions; an otherwise qualified organization shall...yeah, provides directive counseling in favor, or refers for abortion; otherwise qualified organizations shall not be disqualified--we don't put in the statute that Planned Parenthood can't get money--from receipt of these funds because of its affiliation with an organization. They can be affiliated. All they have to do is separate their management, their cost, their phones, their rent, their addresses to make sure Title X money, by federal regulations, cannot be tied, one penny of it, to abortion. We are trying to follow state law...federal law. That's what we're doing here. This has nothing to do with abortions. This has to do with a federal

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program that says you cannot do something and we got to make sure, as a state, that the money does not go there, even one penny of it. That's all it's saying. You show me that phone bill when the young lady calls in there and looking for abortion versus that goes in there and says she wants a drug test. You show me how they separate that phone bill. I don't think you can. [LB944]

PRESIDENT FOLEY: One minute. [LB944]

SENATOR GROENE: This is good language. It is not anti-Planned Parenthood language. It is a statute that clarifies that this state, this state will follow federal guidelines. That's what this bill does. Thank you. [LB944]

PRESIDENT FOLEY: Thank you, Senator Groene. Senator Thibodeau. [LB944]

SENATOR THIBODEAU: Thank you, Mr. President. Senator Watermeier, I was wondering if you would yield to a question. [LB944]

PRESIDENT FOLEY: Senator Watermeier, would you yield, please? [LB944]

SENATOR WATERMEIER: Yes, I would. [LB944]

SENATOR THIBODEAU: I guess I'm looking to you to see what...what is your opinion on this Planned Parenthood, or if there's any way to make sure they're not doing abortions or these funds are getting mingled? [LB944]

SENATOR WATERMEIER: Thank you for the question. What I had mentioned early on in the debate, and one of the first people up to speak, was that I believe that Planned Parenthood provides an awful lot of good services to the women in the state of Nebraska and across the country. They serve a role in cancer screenings and lots of services that are not being provided, and especially to low income. And I believe the language clearly helps us to get to that point. And what I said early on was that if Planned Parenthood was the only provider in the state, I would be okay with them receiving every single dollar of the \$1.7 million that we have in this state. If they're the only one that steps up and does it, I just want to be very clear that they didn't fall into a trap of providing something, referring to something that they should not do according to the federal law. [LB944]

SENATOR THIBODEAU: Thank you, Senator Watermeier. Senator Bolz, would you yield to a question? [LB944]

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PRESIDENT FOLEY: Senator Bolz, would you yield, please? [LB944]

SENATOR BOLZ: Yes, I'll yield. [LB944]

SENATOR THIBODEAU: Senator Bolz, I would also like to know, since you have an amendment up there, what your opinion is on Planned Parenthood. And I agree with Senator Watermeier, as long as they are not using Title X funds to refer for abortions. If you could explain your amendment or how that comes in play. [LB944]

SENATOR BOLZ: Sure. So my goal with my amendment is to clarify what is meant by objective independence, which in the amendment language references physical, legal, and financial separation. And the goal I'm trying to achieve with that is drawing a bright line to try not to subsidize services for abortion, which I think taxpayers, to points made earlier on the floor, are not comfortable with. [LB944]

SENATOR THIBODEAU: Thank you. And currently are you working with any other senators on revising language? [LB944]

SENATOR BOLZ: Yeah, thank you for that question, Senator Thibodeau. We did meet over the dinner break. I do believe that there are lots of people on the floor who are making good-faith efforts to try to come to a compromise. And so, Mr. Clerk, I will withdraw my amendment in a good-faith effort to try to come forward with a compromise on General or Select File. I think there are two issues that remain to be addressed. One is the language relating to referrals, and the other is language relating to objective independence. And I will do my very best to make sure that those things are addressed to both create that bright line separation and to make sure that healthcare providers can offer prenatal care, cancer screenings, and all of those other essential healthcare benefits. [LB944]

SENATOR THIBODEAU: Thank you, Senator Bolz. And thank you, Mr. President. I would like to yield the remainder of my time to Senator Bolz if she so wishes. [LB944]

PRESIDENT FOLEY: Senator Walz, (sic--Bolz) you're yielded 1:50. Time is waived. Thank you. Senator Bolz, regarding your mention of withdrawing the amendment, currently the bracket motion is pending. So until that is taken care of...thank you, Senator Bolz. Senator Clements, you're recognized, this is your third opportunity. [LB944]

SENATOR CLEMENTS: Thank you, Mr. President. I just wanted to make it clear that I also don't...very much don't like the fact that Planned Parenthood does abortions, but I'm willing to

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allow them to do the women's health services, as long as they separate them. I believe this language is necessary to ensure that separation. And so that maybe we could get to where that Bolz amendment is withdrawn, I think I will just yield my time back to the Chair. [LB944]

PRESIDENT FOLEY: Thank you, Senator Clements. Senator Hansen. Is Senator Hansen on the floor? I do not see Senator Hansen. We will move on to Senator Pansing Brooks. This is your third opportunity, Senator. [LB944]

SENATOR PANSING BROOKS: Thank you, Mr. Lieutenant Governor. Well, just as a reminder, I just wanted to repeat one of the wonderful things said today that Senator Schumacher said that the smoke of freedom can't be put back into the cigar of subjugation. Subjugation means slavery. I love that quote. It's a wonderful quote. Right now I'm highly aggravated because there's a lot of pressure being put on people to remove brackets and to remove the amendments because we need to get on to discussing the budget. Exactly. That's what we need to be doing now is discussing the budget. I have an amendment too. But instead, we need to continue discussing all sorts of extraneous social ideological matters that are placed within this budget. Why couldn't this be brought forward as a bill from all of you who support it so wholeheartedly? Why does it have to be in the budget? So when you all are complaining about the fact that we cannot get to the budget, and how many years are we going to do this? Nebraska taxpayers, no matter where you stand on this issue, you better rise up because we are not discussing the budget because of what's being placed in this budget--social ideological ideas rather than budget ideas. Where's the bill? We told them last year, bring a bill and we'll deal with it in the normal manner and normal method set forth in our rules. But, nope, they're determined to go ahead and place these social ideals into our budget and stop women, especially, from getting the healthcare that they need, the reproductive healthcare, the cancer, monitoring, all of the healthcare issues that low-income people in my district, 36 percent of my district live at or below \$25,000 household income. This is something important to me. It relates to my district. It relates to the people whom I work with and volunteer with every day in this community and in this state. So, oh, let's all fold over the interim and then we're...or over the next week and then we'll come up with a really good idea. All that does is reward this kind of action to continue to happen. Let's continue to blow up our budget. Everyone knew this was going to blow up the budget, and yet they persisted. And if that's the choice, if that's your choice that you want to have it here to roll it along and...I have all sorts of things I could have put into the budget that I care about, let's just start putting things in the budget and then we don't have to talk about dollars and cents. We don't have to talk about providers' cuts. We don't have to talk about child welfare. And instead we can just be...listen and discuss the obfuscation issue of the day. And you can make whatever cuts you want. We don't have to talk about anything that regards dollars and cents. This certainly does not deal with anything that relates to sense, in my opinion. And I'll give the rest of my time to Senator Wayne; he wanted some time. [LB944]

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PRESIDENT FOLEY: Thank you, Senator Pansing Brooks. Senator Wayne, one minute. [LB944]

SENATOR WAYNE: Thank you. And this will be very quick because I stayed out of this debate for most of the night. Those who don't know and don't know my history of how I got here know that I'm very pro-life. But that's not what this bill is about. Read the bill. I heard that many times said negatively on this floor. But I'm just going to give you a scenario that won't work. Charles Drew, young lady walks in and says, I'm pregnant, I'm having some complications, please check me out. They do. They say, for medical reasons, if you go forward with this pregnancy you could die. That doctor, by this language, cannot refer her or cannot give her a complete education on what is needed because the word says "assist." Assist in the performance of counseling. Read the language. It's not written very well. [LB944]

PRESIDENT FOLEY: Time, Senator. Thank you, Senator Wayne. Senator Chambers, you're recognized; your third opportunity. [LB944]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I'm glad to see that Senator Wayne is feeling that frustration that anybody who is intelligent would feel reading this hash that we have here. I see Senator Bostelman has got his light on, Senator Briese. Why do you think all of these people are turning their lights on are here? It's a Catholic-coordinated effort and you shouldn't be ashamed to say what it is. If you're Catholic, admit that's what you're doing. You can't even do that. That's what Jack Nicholson meant when he said: You cannot stand the truth. But I'm going to tell it. And I'm going to work this bill and I'm going to offer amendments to the committee amendment. Now I've been here all of this time. I haven't had an amendment of mine dealt with yet. I want to show you all that I can stay until midnight and we don't have to get beyond this because I don't have to offer priority motions. If other people have amendments up there, that is going to take time and keep us here. And I can offer some amendments and I will show you the kind that I can do. So you won't think they're brain busters, in this provision that we're talking about, the first sentence says, "pursuant to the requirements of," I would strike "pursuant to" and substitute the words "in accordance with." I can do things with grammar, a lot of grammar on this provision dealing with Title IX (sic--X). You all brought it here. Now we're going to stay on it. I've tried to stay out of it also. You all locked up the board because that was the plan given to you and you've got your marching orders and that's what you're doing. You think I don't know, maybe some people don't. Maybe they believe the lies that you tell about it not being a Catholic bill. That's precisely what it is. And now you've gotten on the fighting side of me. You can get cloture, because you've got enough for that. But you're going to still have to spend time on this bill. And I'll tell you what. If you think you can pull the rug out from under me by getting cloture on this bill, note my brothers and sisters, friends, enemies, and neutrals, there are additional bills on this agenda, aren't there? You think I cannot make motions on every one of these bills? I've shown you that I can do it. And I didn't push any one of them to

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the limit. Somebody stand on this floor and dare me. Somebody stand on this floor and say you don't think an 80-year-old man can keep us here until midnight for the rest of the session, and I will show you what I'm made of. You have no idea what I can do. You think you know. Don't judge me by you. And I'm sick of what I've been hearing. All this hypocrisy and phoniness; these religious people jumping up here talking nonsense. And you know why they couldn't answer Senator Morfeld's question? Because when they were programmed. They were given one issue to deal with and that's what they could deal with, and when you went beyond that one they couldn't answer because they weren't told what the answer would be. And then Senator Hilgers is the fall back position. And I told him that I see him dropping his cloak as a lawyer and putting on that of ideology because he's got to become a part of this nonsense. Senator Wayne tried to tell you, by reading the language, but it's no point. You're not going to pay attention to that because you were not told to listen to anything, just get out there and say, Polly wants a cracker, (whistles) Polly wants a cracker (whistles). Senator "Grites," I'm making up a name, I'd like to ask you a question. Whatever the questions is, Polly wants a cracker. Senator Bostelman,... [LB944]

PRESIDENT FOLEY: One minute. [LB944]

SENATOR CHAMBERS: ...such and such, Polly wants a cracker. That's what I'm hearing. You all may think I don't have any education just because you don't have any. You think I can't speak English because you don't...or understand. Senator Groene, I watched him on television tell Senator Harr they did not need his state law on ivory because there was a federal law and the federal law would take care of it. Then he stood there and said the federal law takes care of this. Then he ought to be saying don't put it in the state statute. And if he says put it here, but it wasn't good, because he didn't like Senator Harr, then he is a hypocrite. I'm saying it to his face. Let him straighten it out. He's got two contradictory positions. One of them is a lie or one of them is based on stupidity, and I'm going by what he said. You all won't call names here, I will. I'm sick of it. And you're not going to tell me be nice, be nice, when you're trying to mess over women. You must be out of your mind and think I am. I've been nice today. [LB944]

PRESIDENT FOLEY: Time, Senator. [LB944]

SENATOR CHAMBERS: I want to see if we'll stay until midnight. [LB944]

PRESIDENT FOLEY: Time, Senator Chambers. [LB944]

SENATOR CHAMBERS: Thank you, Mr. President. [LB944]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Harr. [LB944]

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SENATOR HARR: Thank you, Mr. President. I'd like to, unbeknownst to me, follow up with what Senator Chambers said. January 11 of this year, it was a snowy day. You guys might remember it; some of you won't because you weren't here. We had a bill on ivory. And what I wanted to do was to say, hey, let's have state enforcement of federal law. Senator Groene asked me some questions. And I said, well, the answer is it's not really a problem at this time. But the other issue I would bring up is there's no enforcement going on right now on the state level, only on the federal level. And I probably should do my Groene imitation here, but I won't. So you're implying that all them state, federal income taxes that I pay and that Nebraskans pay we get no enforcement in the state of Nebraska for federal laws? Right? Why, we pay as Nebraskans an awful lot of federal taxes. So you're implying that we get no enforcement to federal law in the state of Nebraska with the taxes we pay to the federal government? Folks, there it is. I keep hearing over and over again--federal law. Right? We have federal law now. We are changing state law. And when we change that state law, this is appropriations bill, folks. And ask yourself, what is an appropriations law...bill? It is merely a way to spend the money of the people. That's what it does. And we say we're going to spend money on this and we're going to spend money on that; and this is how much we're going to spend. You know what we can't do by Article III, Section 22 of this here state of Nebraska Constitution? We can't make policy; it violates the single subject. You can't make federal policy or, excuse me, policy outside of how to spend the money in an appropriations bill. That's why you constantly hear, bring a bill, bring a bill. This is a policy change. We are not in one way, shape, or form in conflict with the federal statutes. I keep hearing the Weldon Amendment. And I read it and I think that's maybe a false lead. But what I do know is that we cannot spend money, Title X, on abortions, period. We know that. That is federal law. No one denies that. No one is up here saying we should allow that, no one. But what we have here, folks, is a constitutional problem, not a consistency with the federal law problem. We have an issue here...and, by the way, the feds are already enforcing this. I haven't heard one person say the feds are not enforcing federal law. And that's why we pay them taxes to the fed government. They're enforcing it. What we're saying, folks, though, is we're doing a change in policy. Can't do that in an appropriations bill, cannot, cannot. And so what happens now is, yes, federal law, we can do...preempts, federal regs preempt our state constitution, but we can require more out of our state constitution. [LB944]

PRESIDENT FOLEY: One minute. [LB944]

SENATOR HARR: And so we got a real problem. You may have someone go out and sue the state of Nebraska and say you can't do this, a policy change. And then they may win and then Senator Albrecht or someone else will be on the floor with a claims bill paying legal fees. We have in our claims bill legal fees that people said this bill is unconstitutional. We passed it. It was found unconstitutional, and we're going to pay for it. So, folks, before we go forward, think very carefully if this is constitutional. Is this a change in policy or is it not? Because if it is, you can't do policy in an appropriations bill. Thank you. [LB944]



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PRESIDENT FOLEY: Thank you, Senator Harr. Senator Murante. [LB944]

SENATOR MURANTE: Thank you, Mr. President. Members, good evening. I had some remarks that I wanted to prepare, but Senator Groene's name was invoked on the floor and that got him aggravated and he has asked me to yield him my time and I would be happy to so, Senator Groene. I'll yield the remainder of my time to Senator Groene. [LB944]

PRESIDENT FOLEY: Thank you, Senator Murante. Senator Groene, 4:30. [LB944]

SENATOR GROENE: Let's clarify the difference between a federal law and a federal grant program. Federal law--OSHA, EPA, no grants involved, you have to follow the rules. You have to follow the rules on our rivers and our waters. You have to follow the rules...rules, everybody does. The citizens do; that's a federal law. Let me talk to you about a grant program. All right? This is a grant program, Title X is. You can decide to take the grant money and then you have to follow the rules. It is the duty of the state to enact the rules. Federal highway money, you want federal highway money? You don't have to take it. But here's what you have to do in your statutes and your rules to get that grant money. This has nothing to do with a federal law on shooting elephants. I can't shoot an elephant. The state can't tell me not to shoot an elephant; the federal government already told me not to. This is about a grant, a federal law that manages a grant. If I want to take the grant...if I don't want to take the grant...Iowa decided not to take it, did you know that? They just didn't take it. They funded \$3 million themselves and then they decide what clinics get it. By the way, you pro-choice people, let's do that. Let's don't take any federal money from Title X and then let's start funding abortion clinics because we could do it because it would be our money. This isn't our money. This is federal money to have statutes that says you cannot recommend abortions, you cannot use the money for abortions. So in order to take the grant money, we have to enact the rules and follow the rules. Duh. Simple as that. The state doesn't need to pass a rule that says I can't shoot an elephant. The federal government, that's their law. I'm a federal citizen. It's that simple, folks. Senator Harr knows better. Senator Chambers knows better. This is grant money. You follow the rules the federal government puts into place if you want the grant money. I as a state senator have a duty to follow the rules if I want to take the federal money. If Senator Harr would call the federal government and get some money so we don't shoot elephants, I might consider passing a law that says we won't shoot elephants. There is no federal money. There's no grant program. There are no rules about shooting elephants. You just can't shoot them. Do you understand the difference? I think most of you do. Senator Brewer said he understands it. He's not going to shoot any elephants and he's not looking for any grant money he says. But...so let's make that clear. I'm a rule of law guy. I follow the rules. If I'm going to take the grant money, by God, my state is going to follow the rules. I don't know why we're talking about abortion. That's like a farmer going in and getting a federal program and the program says you're going to plant corn and he starts talking about I want to plant soybeans. And the federal government says, no, no money for you, you got to plant corn. He said, by golly, I'm

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planting soybeans and you ain't going to stop me. That's how stupid this is talking about...here I go, I used the word "stupid" talking about abortion on a federal program that outlaws it. Why are we doing that? If you want to have a law that says anybody can have an abortion and the state is going to fund it, bring a law to HHS committee next year. [LB944]

PRESIDENT FOLEY: One minute. [LB944]

SENATOR GROENE: We'll look at it; it might come out of committee. We'll appropriate some money that the state of Nebraska will pay for abortions. You can do that. Do it. Thank you. [LB944]

PRESIDENT FOLEY: Thank you, Senator Groene. Senator Bostelman. [LB944]

SENATOR BOSTELMAN: Thank you, Mr. President. Good evening, colleagues and Nebraskans. Senator Watermeier, would you yield for a couple of questions? [LB944]

PRESIDENT FOLEY: Senator Watermeier, would you yield, please? [LB944]

SENATOR WATERMEIER: Yes. [LB944]

SENATOR BOSTELMAN: Senator Watermeier, are you on the Appropriations Committee? [LB944]

SENATOR WATERMEIER: Yes, I am. [LB944]

SENATOR BOSTELMAN: Did this...was this heard in committee, was there a hearing on this? [LB944]

SENATOR WATERMEIER: Yes, Senator Stinner dedicated one whole day to Title X funding and the debate on it. We had 27 people come in and testify. [LB944]

SENATOR BOSTELMAN: And as a result of that hearing then, was it passed out of Appropriations by the committee members? [LB944]

SENATOR WATERMEIER: Yes. [LB944]

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SENATOR BOSTELMAN: So this bill did have...this portion of this bill did have a hearing and it was passed out by the committee members. [LB944]

SENATOR WATERMEIER: Correct. [LB944]

SENATOR BOSTELMAN: Thank you, Senator Watermeier. A couple other things as I was looking at this, we were talking about before about the audits. And does...in the audits itself from 2015-2016 it does specify specific language in there--products of conception; speaking for referrals to doctors; physician fees for abortion services. So again, I think my aspect on this is what we've been talking about is ensuring that the clinics are able to continue to receive Title X funding and just make sure things are separated by a clear separation. And when we do that, then there is no conflict; there is no conflict for them to receive those funds, and those funds should continue...those Title X funds should continue to go to those clinics, those facilities that can do that. And if they don't, then they're in violation. And that's intent on this is to make sure that we have a clear separation between what services are being provided, what are being funded by Title X and what are not. And with that, I would yield the rest of my time to Senator Watermeier if he'd like it. [LB944]

PRESIDENT FOLEY: Thank you, Senator Bostelman. Senator Watermeier, three minutes. [LB944]

SENATOR WATERMEIER: Thank you, Senator Bostelman. Mr. President, three minutes you said? I appreciate where you were headed with that conversation, Senator Bostelman, because it brings us back to where we need to have this and where I have come completely full circle on this. I mean, I was for the bill last year, but I am more convinced today that we need to follow through with this language. Keep in mind, we have \$1.7 million in the state of Nebraska that we're receiving for federal dollars to implement Title X services, which are very specific, very specific what Title X pays for. And all we are trying to do with this language is to create both a corporate structure, a physical structure in which dollars will not be jeopardized in the future. As Senator Bostelman had mentioned, there was a State Auditor that went in and audited a very small amount of the entire \$1.7 million and clearly found issues that dollars were spent for services that are outside of Title X, putting them into jeopardy, clearly. The other point I'd like to make, and this is dangerous for me, I'm not an attorney, I don't want to get into specifics, but Senator Wayne had brought up a point about...clearly a member would not be able to...a doctor would not be able to refer someone to have an abortion if it jeopardized their life. Well, clearly in the bill, and what I understand is, the regulations and the rules that the department does, is it allows for them to refer to the nearest hospital. But also what the language does, it talks about education, and education of abortion is one of those options. They cannot refer to, guide to, or promote a abortion, but they clearly can educate to the option of the abortion. That's my

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understanding, that that is an option for them. They cannot refer to go down the street and go do it. But that is my understanding. A second point that I'd like to talk about a little bit is Senator Patty Pansing Brooks had brought this up, and I didn't write it down exactly, I tried to do it from memory. [LB944]

PRESIDENT FOLEY: One minute. [LB944]

SENATOR WATERMEIER: She said clearly this is unconstitutional, can't talk about it now. Earlier this morning, and I'll have...if Senator Brooks wants to correct me, I wrote down something that she said--the budget is not numbers alone. And I think she went on to say--it's a social document, to claim otherwise is disingenuous. I don't say that it's a social document. But the idea of Title X clearly belongs in the Appropriations Committee because we are talking about protecting the funds. The policy of having Title X funds has already been decided. And what they're used for? We did not decide that in Appropriations. We clearly made a decision to protect Title X funds. I'll say it again--I am okay if Planned Parenthood receives every single dollar of the \$1.7 million that we get in the state. If they're the only provider and they can get to that point, I'm okay with that, I'm perfectly all right with that. Thank you, Mr. President. [LB944]

PRESIDENT FOLEY: Thanks, Senator Watermeier. Senator Bolz. [LB944]

SENATOR BOLZ: Thank you, Mr. President. Colleagues, we're four hours into this debate and I have done my best to find opportunities for compromise and made those commitments to do that. And so, while I respect other people's motions and amendments on the bill, I'm going to take this opportunity to move on from the issue on the board and talk about some of the issues within the mainline budget that I think are important. And I do respect the importance and the weightiness of this issue, but there are other important issues within this mainline budget that deserve our time and attention. So I'm going to address some of those now. Colleagues, we had to make significant increases in our child welfare system, \$24.6 million this year and \$31 million next year, in part because of increased demand, increased utilization driven, in part, by methamphetamine use. And, colleagues, one of the most important issues that we will need to work on in the next legislative session is mental and behavioral health and substance use. Those are pressures that are not going away in our community and they are showing up in this budget. And one of the things that I think is very important is that we did make that significant and important commitment to protecting the safety of our kids. We need to continue that commitment. However, I am concerned about some of the offsets that we used. We used offsets in public assistance programs and I would argue that those programs serve some of the very same populations that are struggling in the child welfare system and we need to keep a close and careful eye on the appropriateness and the adequacy of funding of our emergency assistance

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programs and our child-care assistance programs. Those will be our responsibilities in the coming year. Colleagues, we were able to put \$3.1 million into the Homestead Exemption program, which, as a refresher, serves seniors over the age of 65, disabled veterans, and individuals with disabilities through property tax relief. Every year we retain that commitment, and it was very important that in this deficit budget we appropriated the \$3.1 million necessary. I don't need to tell anyone on the floor or remind anyone on this floor that we have significant and stressful and challenging problems in our Department of Corrections that have been occurring year over year. And one of the important investments that we made was providing just a little bit of an uptick from the Governor's proposed budget to the Supreme Court. And one of the important things that we are investing money in is post-release supervision so that we can move more people out of our correctional institutions and into community-based services with the appropriate supervision necessary to protect the public safety. Colleagues, that was an investment we made in spite of tight budget times. We made investments in our retirement programs so we keep up with our annual required contributions, and I think that's so very important. We need to do that every year because it's a little bit of a slippery slope. And when you look at other states who have not kept up with that prioritization, you see how quickly they fall behind. And so I'm very proud of the committee's choice to keep up with those pension obligations. There were two things that we were not able to invest in that I think that are important, two things that we were not able to fully make right and I think they're worth a conversation on this floor. One was provider rates and the other was investment in economic development programs. So last year we took \$16 million out of our Medicaid and child welfare developmental disabilities and nursing facility services. And I need to share with you, colleagues, that those entities came into our Appropriations Committee and told us about the challenges that those budget sacrifices caused for them. Nursing facilities are tightening belts, they're significantly underpaid when we're talking about serving Medicaid clients. Developmental disability providers talked about having to... [LB944]

PRESIDENT FOLEY: One minute. [LB944]

SENATOR BOLZ: ...take out lines of credit, having to keep vacancies open, even when they wished they didn't have to. And Medicaid providers came in as well. On the economic development side, we are not able to put in any new money in the Job Training Cash Program or the Building and Site Development Program, and we'll have to take another hard look at that next year if we want to grow our economic opportunities in our state, especially as it relates to work force development, which, of course, I've talked about on this floor as a priority, not just of myself but also of the chamber of commerce and of business interests. And the building and site development fund, colleagues, is one of the best programs we have for helping rural communities move forward economically. So, while I appreciate all of the conversation had this afternoon and this evening, I do think that it is important to also have substantive policy debate on all of these other issues that impact the health and well-being and welfare and future of this

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state. So, colleagues, I stand ready for questions and I hope that we'll have additional debate on all of the other issues within the mainline budget. Thank you, Mr. President. [LB944]

PRESIDENT FOLEY: Thanks, Senator Bolz. Senator Schumacher. [LB944]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. Earlier today I pointed out that there was a \$5 million error in the figures in the budget document you were given. That was just fair warning. Anybody who does not certify they found that answer is going to be subject to prominent exposure in the Sine Die Program. That being said, one of the things I did on this bill is file on Select File a amendment which would create a program modeled after Colorado for contraceptive services. And as predicted, it didn't take very long before somebody found something wrong with it. And you always learn something in this body. I was told, you know, it's constitutionally suspect to do that; to which the response is, well, isn't it constitutionally suspect to stick this substantive provision into a budget document where we're just appropriating money, essentially filling accounts up with money out of our big bucket? And I was provided a very good paper put together by a...for Senator Warner when he was head of the Revenue Committee. And this is what it says: Generally, substantive language in an appropriations bill is related to one of many appropriations, so just one thing, which is what we have here or what I have in my amendment, and not integral to the appropriations bill as a whole. This one little provision isn't integral to the whole appropriations bill. And therefore, inclusion of the substantive language would be a violation of the single-subject rule. A second reason is noted by the Supreme Court in a case called Rein. The purpose of the constitutional provision, that's the single-subject rule, was to prevent designing legislators, that's whoever put this in this bill, and me in my bill, I guess we're designing legislator, from including in bills appropriating money to carry on the government of the state measures and objects foreign to that purpose and, thus, taking advantage of the necessities of the state, force the Legislature to adopt them or defeat the appropriation and thereby stop the entire machinery of government for want of funds to carry it out. Isn't that what we're facing when this comes up to a filibuster at the end? One way or the other this one measure that's related to only one appropriation of a whole bunch is in a position to hold government hostage, exactly what this indicates cannot be done. Now you can say, well, it's just directive, it doesn't have any force, it's intending in nature. Well, if it's all just nothing but just kind of spouting off, then why are we spending all this time spouting off? It has no effect. So I submit to you, we're wasting a lot of time and we may even be putting the appropriation bill in constitutional jeopardy, unless there's some severance provisions or something in there, because of an inclusion of two subjects in a single bill. That seemed to me we're just dealing in risky behavior here and maybe clearly unconstitutional behavior. And if this is good, then I still find no reason why the amendment I have positioned on Select File isn't good. And maybe it's time to cut out the nonsense. Now, assuming we go through all this and we pass this or we pass the thing I have on Select File... [LB944]

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PRESIDENT FOLEY: One minute. [LB944]

SENATOR SCHUMACHER: ...the paper goes on: How long do substantive provisions within an appropriation bill survive? And the answer it posits is: In conclusion, it appears that substantive language in an appropriation bill remains questionable, but if the language should be valid, the language is viable only for the period of the appropriation. So less than a year and we're back here again doing the same thing over again. If this is really such a grand idea to put restrictions on this, that the federal government has already put on, then let's do it in a separate piece of legislation, not in the risky way of doing it under the appropriations law. And this is one of the characteristics way that we can kill a lot of time and accomplish very little. Thank you. [LB944]

PRESIDENT FOLEY: Thank you, Senator Schumacher. Senator Vargas, you're recognized. I believe this is your third opportunity. [LB944]

SENATOR VARGAS: Thank you very much, President. Colleagues, I have a couple points I want to touch on. We're here talking about consequences. We've been saying that a lot, there's consequences; we have to make sure we protect ourselves. I want to point out a fact that we protect funds when there is something that is at risk. Based on our audits and based on all the information I received--and if somebody has other information otherwise, please tell me, I don't want to be quoting something wrong--that there were no sanctions from the federal government for this program. There has been no consequence as a result of anything that has happened, even what's come out of the audits. They haven't done an audit of us that's telling us we're doing something wrong. We've done nothing wrong. For the amount of funding that we get, we've done nothing wrong. And yet, based on this audit, we're saying we have to put something in statute because we have to protect ourselves. I don't know how often we do that when we receive federal funds and we make this argument that we have to protect ourselves in statute. And I've said this before and I keep harping on it. What we tend to do is say we need to protect and figure out what are the mechanisms to then ensure program integrity. For those that don't know the way these funds are disbursed, they're disbursed in a lump sum. So when we're saying that they were misused, it is more appropriate to say they've been miscoded, or the expenditures have been appropriated...or miscoded wrong, which means on the back end when reports are being submitted, they're not being submitted correctly. We could fix that. If that's a problem, we can fix that. That probably is the reason why the federal government isn't coming and sanctioning us and telling us they're going to take away our funds. It's also the reason why we probably don't have a letter from them telling us they're going to take away our funds, because if we got to that point we would absolutely do something to address that. We do that. We're not being told there's a problem from the federal government. We're not being told there's an inherent problem from the Auditor that is telling us we need to do this specific action. Instead what we're being told, that we should be changing and improving our internal program measures to ensure that our accounting practices and our accountability is there. We debate here about regulations all the

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time. We debate that regulations don't actually lead sometimes to the changes that we want. And in result, sometimes we talk about local control, we should ensure that individuals are enacting change. And in this instance, we're saying this one law is going to ensure that nothing like this ever happens again, when I think we know that it is possible for it to happen again in terms of miscoding. That actually can. The only way we're going to fix any type of expenditure changes is going to be as a result of accounting practices, more money in support to ensure that Department of Health and Human Services can then oversee this. So I wanted to make sure that's said. The other part I wanted to make sure is that when we're referencing this amendment, there's a lot of back-and-forth on what it does and doesn't do. But there is Congressional record and there's testimony from the individual that wrote the amendment themselves saying that wasn't the original intent. So the intent wasn't originally to then be so generalized, and it was very specific in scope. I think we need to make sure to take that into account. We have studies, not even just studies, but recent articles that are referencing what has happened as a result of when states and representatives like ourselves, well-intentioned, are making decisions that are more grounded in even sometimes partisanship or sometimes even more grounded in trying to ensure that there's less funding going to some abortion-related services in their opinion. And what we see is, and this is from a Texas Legislature, launched a series of attacks... [LB944]

PRESIDENT FOLEY: One minute. [LB944]

SENATOR VARGAS: ...in this arena when it restructured the way it allocates the remaining funds. The measures closed more than 80 clinics, including 11 Planned Parenthood Clinics. One of the purported goals, said this backer, was to decrease abortion rates. And the Governor said, we will continue to pass laws to ensure abortions are as rare as possible under existing law. Okay. Now what we found is that the state's funding cuts and reappropriations...reallocations had the opposite effect--the state's teen abortion rate rising by an average of more than 3 percent over three years in the wake of these consequences, these change in funds. The same thing happened, we're seeing, in Iowa as a result--nearly a 50 percent drop in the number of people enrolled in family planning programs since the state-funded changes to abortion providers that were, including Planned Parenthood, were changing some of the ways that they were being appropriated funds. There are dramatic impacts to what we do. So if we really want to solve the problem, let's focus on program integrity,... [LB944]

PRESIDENT FOLEY: Time, Senator. [LB944]

SENATOR VARGAS: ...let's focus on internal measures to... [LB944]

PRESIDENT FOLEY: Time, Senator. [LB944]



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SENATOR VARGAS: ...make sure accounting practices...thank you very much. [LB944]

PRESIDENT FOLEY: Thank you, Senator Vargas. Senator Wayne. [LB944]

SENATOR WAYNE: Thank you, Mr. President. Will Senator Hilgers yield to some questions? [LB944]

PRESIDENT FOLEY: Senator Hilgers, would you yield, please? [LB944]

SENATOR HILGERS: Absolutely. [LB944]

SENATOR WAYNE: Do you have the statute in front of you? [LB944]

SENATOR HILGERS: I have a version, it's not line numbered, but I do have the language. [LB944]

SENATOR WAYNE: Okay. So the first underlined part of the new Section 5 says pursuant to the requirement of Section 42 U.S.C. 300a-6, and it goes on to explain things. Underneath that language, what would happen if the section of that statute changed to our law, "pursuant to," what would happen? [LB944]

SENATOR HILGERS: I'm sorry, which section would change to what? I'm sorry, Senator Wayne. [LB944]

SENATOR WAYNE: Page number 5, line 5, it says pursuant to the requirement of 42 U.S.C. and it gives a federal statute. What would change to this section if the federal law changed? [LB944]

SENATOR HILGERS: So you're giving me a hypothetical where you're asking what would impact here if the federal law changed? [LB944]

SENATOR WAYNE: Correct. [LB944]

SENATOR HILGERS: How would the fed...in what way would the federal change (inaudible)? [LB944]

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SENATOR WAYNE: Well, if the federal Congress changes their law pursuant to this statute, would that not change our law? [LB944]

SENATOR HILGERS: Oh, I see, you're saying because it says pursuant to the requirement of,... [LB944]

SENATOR WAYNE: Yes. [LB944]

SENATOR HILGERS: ...if that section changed. [LB944]

SENATOR WAYNE: Yes. [LB944]

SENATOR HILGERS: If that section changed, yes, we would probably have to do some sort of cleanup change. [LB944]

SENATOR WAYNE: So then please explain to me how this is not a unconstitutional delegation of power to the federal government. [LB944]

SENATOR HILGERS: Oh, I...Senator Wayne, I don't think...this is not...there are...I think you will find references all throughout our code, including our tax code which is the purpose of LB1090 in which we base things based on things that are federal statute. [LB944 LB1090]

SENATOR WAYNE: We do, but we always put a date certain in there so we know which federal law we're referring to at that time because if it were to change, it cannot change based off of that certain date. Next question is, looking at the word "assist" in the performance of, and then it says "directive counseling." Because we're building a record because I believe we're going to get sued, please tell me what directive counseling means in your idea. [LB944]

SENATOR HILGERS: Well, by the way, I don't think that we will get sued, because I don't think someone has standing for that. Directive counseling is...it contrasts...term of art contrasts with nondirective which is you're sort of giving counseling to push people towards a certain end result, so. [LB944]

SENATOR WAYNE: And then when it says assists, are we...is it referring to assist in directive counseling or is it assist in referring for abortion? [LB944]

SENATOR HILGERS: On line 9 it says assist with the performance of. [LB944]

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SENATOR WAYNE: So what's the end of that? [LB944]

SENATOR HILGERS: Performance of...for abortion. [LB944]

SENATOR WAYNE: For abortion? Not about...not referencing... [LB944]

SENATOR HILGERS: So you're saying does it say assist with the performance of referencing for abortion, is that how you read it? [LB944]

SENATOR WAYNE: Performance and it's not reading right. That's my whole...I guess that's part of my concern. If two attorneys here on the floor are having some ambiguity problems with this, where would they turn to? What we heard today, Senator Hilgers, you said they would turn to the legislative history. And they just have on the floor right now two attorneys who don't know the legislative history because we don't know what it means. [LB944]

SENATOR HILGERS: I disagree that there's ambiguity. I'm sorry. I was just following your question. I don't think there's ambiguity. [LB944]

SENATOR WAYNE: So you believe this is clear? [LB944]

SENATOR HILGERS: I do. [LB944]

SENATOR WAYNE: Would it be clearer if we defined "directive counseling?" [LB944]

SENATOR HILGERS: I believe that is a term of art that is previously defined, but if it's not, then potentially, yes. [LB944]

SENATOR WAYNE: And then would it be clearer if we were to define "assist in the performance of," like what it actually means? [LB944]

SENATOR HILGERS: I don't see the need, but I certainly...if you have some proposed language, I'd be willing to look at it. [LB944]

SENATOR WAYNE: Okay. Thank you, Senator Hilgers. So again, I've stayed out of this for most of the debate; many people saw me underneath. And then I decided, well, let me go back and read the bill. And when I read it, first I think it's unconstitutional delegation of power because we... [LB944]

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PRESIDENT FOLEY: One minute, Senator. [LB944]

SENATOR WAYNE: ...say pursuant to federal statute without a date. You ask any committee legal counsel, by not including a date it is a clear unconstitutional delegation of power. Second, "assist with the performance of," I think it refers to...referring to abortion, not necessarily abortion. And I just think I don't know what directive counseling is. And anytime I'm writing a statute where I'm using even a term of art in the industry, at least in my committee, we try to make sure we define what it is so there is a clear intent. I still think "refers" is unclear. I know there's a legal delegation of what "refer" means in the medical community, but it's not in the statute. And so I think we, at a minimum... [LB944]

PRESIDENT FOLEY: Time, Senator. [LB944]

SENATOR WAYNE: Thank you. [LB944]

PRESIDENT FOLEY: Thank you, Senator Wayne. Senator Krist, you're recognized. This is your third opportunity. [LB944]

SENATOR KRIST: Thank you, Mr. President. Good evening. Isn't late night great? It's a little brighter in here than usual. I think we may have changed some light bulbs since two years ago. Good evening, Nebraska; good evening, colleagues. I'm skipping ahead, at Senator Bolz's recommendation, and talking about the budget and talking about a specific area of the budget. Senator Erdman has an amendment coming up, and I would invite him to talk about his amendment, because when we go to cloture, if that's the case, and we don't have 33 votes, if we do have 33 votes then we're going to talk about everything on the board; and anything that's not on the board is not going to be discussed and voted on. That's the reality. And if we don't, then it will be carried over at the Speaker's discretion to bring it back up again. That's the reality. And we'll spend another two, three hours talking about this silliness and then we'll have another cloture vote. And then if that doesn't make it, then we'll go on again and again and again. And I hope we don't get there, but I'm just giving you the reality of the situation. So Senator Erdman's amendment that I want to bring to your attention has always been...and there's a group in here that has always been concerned that the University of Nebraska System and our college systems can do better, more efficiently, more economically, and that the cost of administration and overhead is too expensive. Now I'm hearing...I'm seeing a lot of head nods, and that's fine. But I bring to your attention, when you live in a glass house, you better not support the first stone to be thrown. What I passed out to you is a schedule of expenditures by major account category, all funds. I want you to go skip down to the third category--the Governor. I want you to look at personal services across the board. While the Governor has made us, Senator Watermeier and the Appropriations Committee, cut our budget, turn our money back in, be more frugal, be more

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economic, and we are chastising the university for not doing better at what they can do, look at the Governor's personal budget--1.435, consistently a 1.4. And this goes back into the Heineman years. The Governor, in the last two years, has had a 5.8 percent increase in his spending in his personal services, 1.755252 from 1.4 and change. Glass house? Stone thrown? Increasing personal services, increasing what you're spending while you're telling everybody else to hold the line? Is this a campaign issue? It might be. Take it for what it's worth. Do as I say and not as I do? Do I need to go on? I argue that that line on that budget has been an over expenditure in that area, and traveling to a foreign country may be part of it. I don't know. Getting ahead of yourself when a state department has not agreed that we're going to sell beef someplace might be part of it. I don't know. But you can't dispute the numbers, Governor. And you can't tell me that you want everybody else to take a 2 percent cut when you've had a 5.8 percent increase over the last couple of years. Senator Erdman, get up and talk about the university. Let's talk about the stuff that we want to talk about. Let's talk about this budget, because we're stuck on something and you know why we're stuck here? Because Pete is over there laughing at you; he doesn't want us to discuss this budget. The Governor does not want us to discuss this budget. He wants us to be tied up on this issue. Get off the mark and talk about this budget and let those that want to continue to talk about what they want to talk about go away and let's discuss the real data. [LB944]

PRESIDENT FOLEY: One minute. [LB944]

SENATOR KRIST: Am I passionate, Senator Pansing Brooks? You bet. Am I upset? I'm not, because the numbers don't lie. So let's talk about the budget for a while, shall we? Because what's going to happen right now is we take the cloture vote, as I said before, and you don't have 33 votes, then we're going to take it over the next day, and take it over the next day until we finally get a budget passed. Is there a method to the madness? I think so. I'd yield the balance of my time, what's left, to Senator Chambers if there's anything respectable left. [LB944]

PRESIDENT FOLEY: Senator Chambers, you've been yielded 22 seconds. [LB944]

SENATOR CHAMBERS: Twenty seconds? [LB944]

PRESIDENT FOLEY: 19. [LB944]

SENATOR CHAMBERS: The...the...the...that's all, folks. [LB944]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Murante, you're recognized for your third opportunity. [LB944]

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SENATOR MURANTE: Thank you, Mr. President. Members, good evening. I rise again in opposition to the bracket motion. I suppose I don't need to state my opposition to the Bolz amendment, as she has already indicated her intention to withdraw that. I do believe that at the end of the day what we're talking about here, folks, is a pretty simple concept. Taxpayer dollars should not be given to abortion providers. This isn't about Planned Parenthood uniquely; this is about an industry. All abortion providers would be treated the same way and I wanted to make that very clear. However, we're sitting here at 8:12 and, based on the floor discussion, it is interesting as to where we are going from here. I think the implication that the budget would be held hostage is probably the most irresponsible floor speech I have ever heard observing this Legislature. The idea of filibustering the budget because there is a line item in it that you do not like is perhaps the most irresponsible approach to legislating I can imagine. That is not what a serious policymaker would do. I can assure you that all 49 members in this body would do something differently as it relates to this budget, that there are some points in the budget in which we would spend more, some where we would spend less. There's no doubt about it. I know that I certainly feel that way. But at the end of the day we have a constitutional obligation to do our job and to pass a balanced budget. Shutting down the government because you didn't get your way on \$1.5 million of Title X funding is morally unconscionable and I hope that we take that into account if what has been implied comes to fruition, which I sincerely hope that we take our job seriously and don't go down that road. Where we are right now on this budget, I really want to thank Senator Bolz for initiating the conversation of the mainline budget itself, because it's so important and it's what we're here to do. It would be my hope, although it's certainly not my expectation, that Senator Morfeld would withdraw his bracket motion. I certainly don't believe that killing the budget bill is a reasonable approach to legislating and we ought not do that. I certainly would encourage your defeat of the bracket motion. But let's work together. I think Senator...the conversations that I've heard taking place behind the scenes of trying to find a common ground to make sure that women and children and the men who receive these Title X funds get the healthcare that they deserve is protected and that an assurance within state law that these Title X dollars are not spent on abortion providers, it needs to be in the budget. This is the right place to have that conversation. We're spending the Title X dollars through the budget and it's perfectly appropriate to direct how those dollars are being spent through the budget process as well. Senator Kuehn has already given you a list. And perhaps it's appropriate at this time to print that list out and distribute it of all the different ways in which in the budget we're directing how appropriations are spent, where they can and cannot be spent, which is exactly what the budget as it was sent from the Appropriations Committee does. It's a common practice. So if what is being done in AM1699 violates... [LB944]

PRESIDENT FOLEY: One minute. [LB944]

SENATOR MURANTE: ...the constitution, then we have a considerable number of provisions within our budget that violate the constitution. But I don't think that's a serious point. That's a

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point that is being brought up. As has been discussed on the floor, when we don't like a provision we say it's unconstitutional and that's just part of the narrative that we have to endure here in the body. So I would encourage your defeat of the bracket motion. When Bolz withdraws her amendment, we'll move on to the next thing. And I would be interested to hear what Senator Erdman has to say on his amendment, because I think there will be a considerable amount of disagreement of opinion on that as well. So, hopefully, we get to that in very short order. Thank you, Mr. President. [LB944]

PRESIDENT FOLEY: Thank you, Senator Murante. Senator Bostelman, you're recognized. [LB944]

SENATOR BOSTELMAN: Thank you, Mr. President. I, too, would like to get on to other parts of this bill so that we can talk about some of the other issues, especially in some funding areas. However, before we get to that, I would yield the rest of my time to Senator Hilgers. [LB944]

PRESIDENT FOLEY: Thank you, Senator Bostelman. Senator Hilgers, 4:45. [LB944]

SENATOR HILGERS: Thank you, Mr. President. Am I in the queue next? [LB944]

PRESIDENT FOLEY: Yes, you are, Senator. [LB944]

SENATOR HILGERS: Okay, thank you. Thank you. And thank you, Senator Bostelman. I'll echo the comments of several of my colleagues...of our colleagues over the last several times at the mike saying what I believe to be true, which is this is time to start to talk about the budget. We have talked about this particular issue for several hours now. This is something that has gone through the procedural process, had a hearing, had multiple opportunities for debate within the Appropriations Committee, in Exec Session, in public. They had a vote, they passed to the floor, we've spoken now for several hours, gone through many of the issues and concerns of the bill--several of which I will address in a minute--but I do think that this is time shortly I hope to have a vote. And if it does go to a cloture vote, which I'm not certain but it seems likely, I greatly hope that we have more than...far more than 33 votes to continue with our work on the budget. I do want to briefly address some of the arguments that I heard against this particular provision from over the last hour or so. And I'll take them in no particular order. One of the arguments has been that this provision is unconstitutional. This could be unconstitutional and we might get sued. And, boy, you know that...you know, we might pay attorneys fees if we get sued and this could be something that could send us down a thorny road and a road that we don't want to go down. And, colleagues, I just don't think that claim really stands up to much scrutiny. The first reason, and one that I spoke about, about six hours ago now, is that the Supreme Court, the United States Supreme Court in the Rust v. Sullivan decision in 1991 addressed a nearly identical, in all

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material respects, an identical provision in the federal regulation that was instituted by the Reagan administration. And the Supreme Court in that case said, although this deals with a constitutional right, this provision is constitutional. And the reasoning is, is while you might have a constitutional right it does not follow that that gives you a right to government funds, either to spend those funds in favor of your position or a right to prohibit the government from spending funds in a way that might oppose your position. So the Supreme Court has said this is constitutional. So from that perspective, I don't think that claim holds much water. We haven't heard it much during this debate, but I did hear it recently so I did want to address that. The second point I want to address is one Senator Wayne and I had a conversation on some of the wording. And I don't want to refer back to that, but there was a time before when I was hearing him talk about, well, this might not cover...what happens if there's someone who's in a dire medical situation who needs to go to a hospital and their life is at stake. Boy, this might not cover it. And I do not think, in general, that sort of the appeal to the emergency awful anecdote is where we ought to be going with a lot of our arguments because I think what we ought to do is be looking at what's grounded in the language and how this interacts in the day to day. But at the same time, I understand Senator Wayne's point. But I want to point out that nothing in here, nothing in this provision restricts someone from referring an individual who needs emergency medical services to a hospital. So nothing in here restricts that and so I do not...I think it's a red herring to say that this would cause people to come to imminent harm or possibly--as I inferred from what Senator Wayne said--possibly death or something of that kind of magnitude because of this bill. I think that's inflammatory. I don't think it's supported by the language in the amendment itself, and I just don't think it holds up to scrutiny. The third point that we've kind of spoken about a few times is... [LB944]

PRESIDENT FOLEY: One minute. [LB944]

SENATOR HILGERS: Thank you, Mr. President. Can I just continue through? [LB944]

PRESIDENT FOLEY: You may. [LB944]

SENATOR HILGERS: Thank you...is this idea that this doesn't have a place in our appropriations bill, that this is a policy that just ought not to be here. And there's kind of two elements, two flavors to this argument. The first one is this idea that this just...it doesn't feel right. This is policy. Policy should go through a standing committee, not Appropriations Committee, and so therefore, this just is the wrong procedure, the wrong time, and the wrong place. The second flavor of this argument is the constitutional argument, this single-subject idea. Now I want to address both, but I'll start with this policy notion, this idea that this has no place in the budget bill. And from the beginning of this debate we have pointed out that there are a number of instances in federal and state law in which the federal or state government,



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respectively, has placed explicit restrictions on the use of taxpayer funds for abortion. Now they didn't put those in a statute that went through some standing committee that wasn't the appropriations bill. It didn't go through some, you know, the sort of what we think of as the standing committee process, it's marked up and then it goes into statute. They went through appropriations bill, and naturally so, because what we are doing is dictating the flow of particular funds. Now when you do that, when you say some funds go here and not there, that does have some inherent policy aspect to it. And you will find no disagreement from me on that particular point. But that does not take it out of our ability to put this in the appropriations bill. And I've cited several instances going back 40 years or more in which this has occurred. The Hyde Amendment, restricting taxpayer funds through the Medicaid process in certain circumstances, that is a mid-1970s, early-1970s bill, bipartisan appropriation rider from the U.S. Congress. That has been reauthorized every time it has come up since then. The Weldon Amendment, which we have discussed significantly today, a mid-2000s appropriations rider. Again, not something that went through the standing committee, is through the appropriations process. The Weldon Amendment has also been reauthorized by bipartisan majorities year after year after year and remains good law to this current day. But it's not just federal law; it's state law as well here in Nebraska. I cited earlier, the 1999 appropriations bill, LB880, in which this body determined that none of the General Funds provided under this program shall be used to perform or facilitate the performance of abortion or to counsel or refer for abortion. If that...if it is so inappropriate for us to dictate where funds can go in an appropriations bill, why have we done it? I used this earlier. This, the Final Reading copy of the budget this body approved and was signed into law last year, page 54, line 19 through 22, "None of the General Funds provided under this program shall be used to perform or facilitate the performance of abortion or to counsel or refer for abortion," substantially identical language to what we're dealing with here, also in a budget bill, also in a budget bill. So this idea that this has to go through a standing committee, that it is deeply inappropriate to go through the Appropriations Committee and be heard by this body as part of the appropriations package and the budget bill on the floor I think is totally inconsistent with the historical record and what this body and others, including Congress, have done in the past. Now, that somewhat, although not entirely, I believe...that addresses the policy point of this question that I refer to, the sort of two aspects of this. There's the policy question, does this feel right? Is this the right place for this bill to be? The second aspect of it is the constitutional aspect and that's the single-subject rule. And that's what Senator Krist and I have had a back-and-forth with on the mike and off the mike. And as I understand Senator Krist's point, it is if you're doing appropriations and policy, it might render it unconstitutional. And even though it's happened in the past, like Senator Krist has pointed out, well, those are General Fund obligations, these are federal fund obligations. I take Senator Krist's point. I don't...I certainly am aware of no law that would support a distinction from a constitutionality perspective between those two types of appropriations, but as I told Senator Krist and I've mentioned on the mike, that's something I'll do my due diligence on. Certainly, there's nothing that has been provided that would say that these appropriations that we're dealing with and those of its kind would be unconstitutional.

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Again, I've pointed to two references in our state laws from the last 20 years, along with...  
[LB944]

PRESIDENT FOLEY: One minute. [LB944]

SENATOR HILGERS: Thank you, Mr. President,...along with the ones from federal law. So I don't...I'm very skeptical of the constitutional argument as to that of the single-subject rule. And so I don't think...I think this is the appropriate place to have it and I think this is consistent with what this state has done on several occasions before. This is probably my last time on the mike and so I would encourage my colleagues to vote red on the bracket. And I believe Senator Bolz is withdrawing her amendment. And, by the way, I'm deeply grateful for the conversations that I've had with Senator Bolz and her willingness to work together to see if there's some clarification that could happen. I'm committed to working with her to see if we can reach some ground on which we can both stand. So I appreciate Senator Bolz's efforts in that regard. I hope we don't get to a cloture vote, but if we do I'd urge everyone to vote green on cloture so that we can pass the budget bill to Select File. Thank you, Mr. President. [LB944]

PRESIDENT FOLEY: Thank you, Senator Hilgers. Senator Quick. [LB944]

SENATOR QUICK: Thank you, Mr. President. This is the first time I spoke on the mike tonight and I will be voting against the bracket motion. I do have concerns that this is within the budget. I didn't really care that it is in there. For me, it's about making sure the people...all the people across the state who receive all these services, that we can maintain those Title X fund dollars for them people. The facility in Grand Island, last year alone they serviced 3,426 people from 38 different counties in Nebraska. Some people were traveling over 200 miles to see these providers; 1,842 of these individuals were below the federal poverty level, which is increasing from the previous year, and 2,172 of those served had no public or private health insurance. So that's really all I have to say on this matter tonight. And I'm going to give the rest of my time...yield the rest of my time to Senator Pansing Brooks. [LB944]

PRESIDENT FOLEY: Thank you, Senator Quick. Senator Pansing Brooks, 3:50. [LB944]

SENATOR PANSING BROOKS: Thank you, Mr. Lieutenant Governor. Thank you, Senator Quick. Well, I just wanted again, as you've heard, I've been getting some pressure: oh, we should pull the amendments and move forward. And at 8:30, in three minutes, we will have discussed this bill for five hours. We have spent 19 hours in years past. Last year we spent 30 days on the rules. So to act as if, oh, we should hurry up and get this through, when all sorts of shenanigans are going on, where we put in...yeah, I guess Senator Hilgers said, it's perfectly appropriate to put it into the appropriations bill and it is. We're arguing it. Nobody is really trying to take it out

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of there. But the point is that we will continue every year to argue this. I will help extend debate on this every year. You have a choice of doing it through a bill, which we suggested last year, or we can continue to extend debate and avoid talking about the other issues in the budget bill that are important. Nebraskans, here's some things that are important that we could be discussing if we didn't have to also talk about the fact that women's healthcare is at risk in this state, low-income woman. We could be talking about the correct amount that we will have in the rainy day fund. How much is appropriate? What do you think is appropriate? Well, unfortunately, you don't get to hear the debate on that, at least tonight, because we had to discuss the fact that women's healthcare is at risk in this state. And they keep saying that the money shouldn't be used for abortion. I agree. It's not being used for abortion. Again, quit changing the facts. Quit making up myths. Nebraskans, we could also be talking about the fact that the Water Sustainability Fund has had some significant cuts this year. Again, those are important issues, the elimination of the superfund under the DEQ. Senator Watermeier talked about the fact that I had said that the budget is a social document. Absolutely. I still say it's a social document and that's fine. You can choose to put whatever things you want to into this social document, but by doing the actions that have been done in this budget, we will be talking about women's healthcare and we will be talking about the fact that we're putting \$2 million at risk. We're putting 28,000 Nebraskans at risk. [LB944]

PRESIDENT FOLEY: One minute. [LB944]

SENATOR PANSING BROOKS: So, again, I feel that if we'd gone...done a regular bill, we'd be done in one hour at 9:30. Appropriations decided to move this forward. This is not my problem because I'm not willing to withdraw an amendment. Feigning shock that we are discussing this again on the same position is absurd. We are balancing our desire not to refer against the health of a woman. I don't even think it's a question that if some woman is in dire need and her health is at risk and you don't want to refer her on, you're just going to leave her? This is continual mean-spirited acts. And I am very sorry about that as a Nebraskan. Thank you, Mr. Lieutenant Governor. [LB944]

PRESIDENT FOLEY: Thank you, Senator Pansing Brooks. Senator Kuehn. [LB944]

SENATOR KUEHN: Thank you, Mr. President. And thank you, colleagues. I spoke much earlier in the afternoon and I want to circle back around to a couple of the items that I discussed, because there's been a few things that have been stated on the record, including Senator Pansing Brooks, you're saying stop spreading myths and nonfactual issues. Senator Vargas has made the statement several times that the funds were never at risk. And, again, this is not my interpretation. This is not how I feel about this position. This is the position that is in the report of the State Auditor. You can go and look it up. I provided for you documentation from the CEO

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of Health and Human Services. And the question becomes the process by which these Title X funds are disbursed, because they're disbursed in advance. This isn't simply a matter of something was billed incorrectly and we figure it out and the payment is made. So in terms of consequences, yes, the funds had to be returned and put in the appropriate category. That's in the audit report. The audit report specifically says that the entire program was at risk. And they have taken and looked at objective actions to correct the issues that were in the audits over the last several years and the decision has been made that the best way to ensure that this does not happen again is objective separation. If there's no risk of this happening, if federal law covers it, if this isn't going to take place, then objective separation is easy. One of the things that came out multiple times in the hearing was the issue of fungibility. So how is one dollar interchangeable for another in a provider that provides both abortions as well as women's healthcare and family planning services? You can't at the same time, which Danielle Conrad with the ACLU said, the fungibility argument is dismissed. But then in the next breath say, objective separation is not possible. If you can't objectively separate your operations on a ledger, then the fungibility of money that the dollar goes in and the ability to substitute one out for another is absolutely in play. You cannot simultaneously make both arguments and claim that they carry weight. These...there are certainly emotional issues and I'm emotional about the issue as well, but the facts are in the Auditor's report. If you choose to take issue with the Auditor's report, then make that claim that the Auditor was wrong and recognize that the department agreed with the recommendations. It's all there in black and white. It went through the process. With that, I would also like to pivot just real briefly and a bit to the budget, which is what I originally was going to talk about when I put my light on before some people again tried to dismiss what is factually presented in black and white by a constitutional officer of the state of Nebraska, and encourage support of a cloture motion if we get to it in the budget. There's been some good discussion. I will be the first to tell you, I don't agree with everything that's in this budget. I expressed my concerns, both with my votes, I expressed my concerns in committee, and I expressed my concerns with some of the larger issues regarding the use of cash funds and our rainy day funds earlier today. So despite the fact that I'm a large animal veterinarian, I won't beat a dead horse. But that said, there's a lot I don't like in this budget, but I will support it. The budget that we will be voting for on cloture is not perfect, but it does represent the best we could do with the committee members and the resources that we have available. Everybody lost a little bit of something. It's no secret that the very language... [LB944]

PRESIDENT FOLEY: One minute. [LB944]

SENATOR KUEHN: One minute or time? [LB944]

PRESIDENT FOLEY: One minute. [LB944]

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SENATOR KUEHN: It's no secret that the very language we're discussing didn't come out of the committee unanimously, but it did come out by a majority. There are a number of other funding issues. Senator Erdman has an amendment relating to higher education funding. The higher education funding decisions were not unanimous, but we're here and I will support them. I will vote for cloture. I will support the budget as we move it forward with this process. And the continued discussion and dialogue, whatever form that takes on Select File, that's all valuable and that's a good thing to discuss. But we also have an opportunity to talk with each other. So those of you who are really wanting to talk about the budget, all of us on the committee are here to answer questions. We've got the Fiscal Office staff, which hopefully is getting overtime and maybe a little hazard pay for being here tonight late into the evening to address your questions. There's lots of opportunities, both on this floor, individually, and with staff to discuss the elements of this budget. It's got some good things; it's got some bad things. [LB944]

PRESIDENT FOLEY: Time, Senator. [LB944]

SENATOR KUEHN: But in the end, we should support it. Thank you, Mr. President. [LB944]

PRESIDENT FOLEY: Thank you, Senator Kuehn. Senator Watermeier, you're recognized. [LB944]

SENATOR WATERMEIER: Thank you, Mr. President. Good evening, Nebraska. I hope the bright lights do help the NET to get our pictures on screen. I hate to have everybody looking at a dark black light. This is actually the first time I've used my own time on this motion tonight as far as the bracket motion. I still stand in opposition to the bracket motion. I do fully support the discussions that I've had with several of us behind the scenes on our break and I do hope that we can follow through with some of those conversations tomorrow. But when the time does come, I hope that we can vote red on the bracket motion, and what I understand is the pull motion is following that, and green on the appropriations amendment. I'm just going to follow up on a little bit of notes that I had taken the last couple of days and read from script that I had. I apologize for doing that, but it talks about good substantially and appropriate for the budget for Title X funds. Most importantly, it puts an end to the one source of the public subsidization of abortion in our state. Too, that there will be no collateral damage to clinics that aren't involved in the abortion business. Clinics that do not assist with the performance of, counsel in favor of, or refer for abortions are not affected in any such way at all. Such clinics can carry on as usual and continue to receive Title X funding. There is no danger that Nebraska will lose federal Title X funding as a consequence. With regard to referral, the Hyde Amendment states that any program under its federal funding umbrella, which includes Title X, may not discriminate against any organization or clinic that refuses to refer for abortion. Nebraska clinics that comply with this proposal and refuse to refer for abortions, therefore, will not lose Title X funding. They will not. With regard

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to counseling, which has been brought up several times about an emergency, current Title X regulations require that Title X clinics agree to provide factual, neutral, nondirective counseling to pregnant women on their options. And these options include termination. That is part of counseling, termination. This proposal does not run afoul of that requirement. It forbids only directive counseling in favor of abortion. It is constitutionally sound. U.S. Supreme Court in Rust v. Sullivan: No obligation for state government to subsidize or exercise the right of any fundamental one. Free speech: Title X guarantees their employment remains free to say and advocate for whatever they wish about abortion outside the scope of Title X projects. U.S. Supreme Court in the Eighth District in 1999: Legislation that simply dictates the proper scope of government funded program is constitutional. The Constitution does not guarantee that recipients of state funds will not be required to expend effort, effort to comply with funding restrictions. The fact that a law which serves a valid purpose, one does not designate it to strike at the right itself, has incidental effect of making it more difficult or expense to procure an abortion cannot be enough to invalidate it. It does not introduce new or substantive policy. This measure would bring Nebraska's budget into compliance with the express will of Congress. I've got several points here to make. You've heard most of these, but I will read them. None of the funds appropriated under this title shall be used in programs where abortion is the method of family planning. The U.S. Supreme Court: Indeed, if one thing is clear from the legislative history it is that Congress intended that Title X funds be kept separate and distinct from abortion-related activities. This is from the Rust v. Sullivan case in 1990. One of the inherent characteristics of money is its fungibility. Any dollar can be moved and replaced by an equal dollar amount from one source to another. Every dollar an abortion facility gets, its Title X bank account frees up another dollar elsewhere in the organization. In 1988, the Reagan administration... [LB944]

PRESIDENT FOLEY: One minute. [LB944]

SENATOR WATERMEIER: ...saw that the same problem as Governor Ricketts sees now, that mere bookkeeping is not enough to make sure the intent of Congress is followed. The DHHS Secretary at that time stated this, and I quote: Meeting the requirement of Section 1008 mandates that Title X programs be organized so that they are physically and financially separate from other activities which are prohibited from inclusion in the Title X program. Having a program that is separate from such activities is necessary predict to any determination that abortion is not being included as a method of family planning in Title X. I have several other points, but I will end with that. Thank you, Mr. President. [LB944]

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SPEAKER SCHEER: Thank you, Senator Watermeier. Senator Stinner, you're recognized.  
[LB944]

SENATOR STINNER: Thank you, Mr. President. Members of the Legislature, this is my first time back on the mike since introducing the bill. I've stayed quiet, I've listened. Title X is obviously a contentious subject. It draws out passion. We knew that, we knew that coming in, we knew that in committee. That's why we planned to have a whole day with Title X. And what I heard in the testimony was...and I found a new respect for Planned Parenthood and what they've done for women and women's health. But I also heard from...and my take away really was--and I'll kind of read the testimony, I had to drag it out--from Richard Collin Mangrum from Creighton University, he's a lawyer. He says: The language is designed to replicate the original language that relates to what was authorized and validated in a U.S. Supreme Court, Rust v. Sullivan. This is for program integrity. And he goes on to say: Now if the fact that the program is being administered properly, the language doesn't hurt anything because the language is actually clarifying and validating what Congress originally did and what they said. He also goes on to say: So, for an example, Planned Parenthood has been mentioned more than once and makes it clear to them that if you're going to operate under Title X money you have to have an office here with separate bookkeeping and separate operations in one office, and providing abortions in another office. You can keep every penny. So there was a little bit of assurance that Planned Parenthood may have to change their business plan to comply with Title X. And this is, in my mind, a compliance issue. I'm going to leave Title X because I have listened to the debate, I understand the two sides and what you're talking about, I understand what the issues are. And I'm going to now talk about why we have to pass the budget. And we're getting right to that point where we're going to have cloture. And, you know, at the beginning of this whole thing and actually when we polled the Legislature for the briefing we talked about what objectives we have. Why do we have to do this? We have to have budget certainty. Budget certainty means that the agencies that we talked about in cuts that are now having allotments being withheld need to have certainty, they need to know where they're at. We need to balance the budget. We need to come back up to that 2.5 percent minimum balance. And we need to have structural balance so that we're positioned to get to that 3 percent minimum Cash Reserve in the next biennium. We also talked a little bit about--and maybe I need to reemphasize this--if we don't pass a budget, page 1 becomes moot. And page 1 is a deficit request. And in the deficit request, you've got DHHS Child Welfare. They are requesting--and if the light was better I could tell you what they're requesting--\$55.6 million. DHHS, we have an FMAP recalculation problem; that's \$15 million. We also had the Homestead Exemption Act that won't be reimbursed to our counties, \$6.2 million. Three point eight million dollars goes into the TEEOSA formula as a reimbursement for the shortfall in the projections of premium insurance. So...and it goes on two or three other items, so those won't get funded if we don't have a budget. The other side is, is that that is one of our biggest responsibilities. That's our main responsibility, is to protect the financial integrity of the state of Nebraska. I would urge you when cloture comes up to vote

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"yes" on cloture, make sure that we get passed what we're doing right now. And I have an abundance of confidence in this body to come together and resolve what Title X is all about in the best way possible. Thank you, Mr. President. [LB944]

SPEAKER SCHEER: Thank you, Senator Stinner. Senator Harr, you're recognized, and this is your third time at the mike. [LB944]

SENATOR HARR: Thank you, Mr. President. Folks, we've heard a lot of debate. We've heard that all we're doing is following federal law. We've heard Senator Groene say, we don't need states to follow federal law if the federal law is there. We've heard of audits, up to \$32 million where the feds didn't take our money away when it was discovered. And this is pennies compared to \$32 million, compared to outright fraud, compared to people stealing. The cases where HHS has screwed up, I couldn't even tell you the number of times. And yet, we always seem to come out okay, as long you're willing to correct it. Is this a coding error? I don't think it was anything intentional. I haven't heard if it was. I haven't heard any proof that it was. This is about politics and policy and, yes, we're putting it into the budget. Is that appropriate? I don't think so. I think we should be dealing with it in a proper way, which is a separate bill. But why aren't we? Well, I think we know why: because there aren't 33 votes to do it that way. With that, I would yield the remainder of my time to Senator Chambers. [LB944]

SPEAKER SCHEER: Three, forty-five, Senator Chambers. [LB944]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Harr. Members of the Legislature, I have a recommit motion up there. We'll go to cloture. I'm going to vote against cloture. I don't care how...what form the budget takes. And now I'm going to give you a promise. If I'm alive, I'm going to take us to cloture on Select File also and I'm going to take us to cloture on Final Reading on the budget. And there are other bills on which--I'm not going to tell you which ones--on which I'm going to file motions and I'm going to offer amendments. You all think that I get tired, don't you? When 9:00 comes, my energy level rises. I have trouble going to sleep at night, like Dracula. This is my time. And I don't care what you do tonight. You've got tomorrow to deal with. And I'm going to get a copy of the agenda. You shall not be rid of me. Not every bill that I put motions on will be for the purpose of killing the bill. My purpose will be to kill as much time as I can and that's what I intend to do. I've heard all of these kind of statements that people made here. Why do you think they're all staying here? Because they got their marching orders. They repeat and repeat and repeat. The only way some of these issues will be resolved definitively is in a court case. I'm glad Senator Murante is here, because he said that anybody who would hold up the budget, he'd find that morally unconscionable. Yet he threatened First National Bank because they cut ties with the NRA. And he's not even in office and he's making a threat against the biggest bank in this state because he doesn't like what they did. That's



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him, the moral man. And then he's trying to restrict the vote of black people. The terms "morally unconscionable" shouldn't come out of his foul mouth. And I mean what I say. I mean every word that I say. This has been a travesty and I've got an amendment that will say this provision on Title X is designed to be a campaign issue for the Governor in his seeking reelection. You all said we can put anything in a budget bill we want to. Maybe it won't go there. We're going to talk about it, because unlike other people I'm not going to withdraw it. I'm going to debate it, and I'm going to debate other things too. I have much material that I thought I'd get a chance to tonight. So all you will do if you succeed in voting cloture, you're going to stay here with me tonight... [LB944]

SPEAKER SCHEER: One minute. [LB944]

SENATOR CHAMBERS: ...and whatever the next bill is, we're going to be on that until midnight. I'm going to test you-all's mettle. I am 80 years old. There is nobody as old as I am in state government. I want to see all you whippersnappers outlast me tonight. We're going to stay till midnight. I have decided to take over the Legislature at this point. Now, the Speaker can run us out of here if he gets tired, but I assure you I shall not get tired. I shall not quit. And the longer I go the stronger I shall wax. Now, test me. Maybe I'm bluffing like Senator Groene and some of these other people who raise their voice and can't carry it out. And I don't have to run to some staff member to try to get that person to tell me some nonsense that doesn't even fit the issue that is being discussed. Let them come over to the mike and talk, unless Senator Groene is not properly relaying the message that was given to him. Some of these staff members are overpaid. I look at the work that they produce. [LB944]

PRESIDENT FOLEY PRESIDING

PRESIDENT FOLEY: Time, Senator. [LB944]

SENATOR CHAMBERS: Thank you, Mr. President. [LB944]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Hansen. [LB944]

SENATOR HANSEN: Thank you, Mr. President. And good afternoon, colleagues. This is my second chance to speak on the budget, but earlier tonight I had yielded my time, in the spirit of compromise, to a compromise that ended up not happening. So this is my actual first time getting up and talking on the budget. And I'm appreciative that we've got an opportunity to discuss kind of the budget in the last few speakers. I just kind of want to take a step back and actually talk a bit about the process as opposed to talk about the budget or about the Bolz

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amendment or about the Morfeld bracket which, frankly, I kind of forgot about for a little while. We have been dealing with these issues for going on five and a half hours, getting close to six. And I look at the amendments that have been filed on the budget and there are at least ten different amendments. I know some very similar in at least spirit if not exact wording, but I believe many of them are very sincere. We have that many issues that we are dealing with in this budget, that many issues that are going to affect people's final opinions of the budget. So that is why I, when we hear, when I hear, when we're told that cloture is going to happen after six hours when we're still on the first amendment--granted, it's being held up by the first motion--we're going to cloture and we lose one round of debate. And I presume if that holds true, we're going to have six hours of debate left, either four on Select and four on General File. I have great reservations saying this has been a productive enough budget debate. This has been enough to do and we can just move on because we've got other business to care to. I'll let somebody else...I was hastily pulling out a calculator trying to figure out...I was trying to figure out that if we deal with this budget in six hours, how much of appropriation per minute that is, how many millions of dollars my speech was. And I kind of got two different numbers two different times and I didn't necessarily feel comfortable saying it, so I'll let maybe somebody else pop up and say it, but it's a considerable amount. And that is something that we have to kind of step back and think about of kind of the speed. I know this is frustrating. I know this is, frankly, an agonizing debate for a lot of us. Is the right move to just stop and move on and try again and try and think that Select File is going to go better when we'll only have nine amendments left to deal with in four hours? Just some kind of parting, late-night thoughts for you all, because even if I turned on my light again I doubt I'd get another chance to speak. So with that, thank you, Mr. President, and good evening, colleagues. [LB944]

PRESIDENT FOLEY: Thank you, Senator Hansen. Senator Bolz. [LB944]

SENATOR BOLZ: Thank you, Mr. President. The hour is getting late and I don't know how much more substantive debate we may actually cover this evening. But one thing I didn't get a chance to speak about on the mike the last time that relates to the mainline budget is some of the important choices we made around higher education. And I know as the debate continues we will talk about those issues more. But one thing I want to reference as it relates to higher education is that some of the tough budget choices that we had to make this year were on top of previous years' tough budget choices. And I'd be happy to share this document with anyone who has interest. But I want to remind the body that our cumulative reductions to higher education over the last three years have been: negative 11.4 percent to the University of Nebraska System; negative 11 percent to the Nebraska State College System; and negative 11 percent to community colleges. And you've heard me speak on the mike before about how important work force development is to the state economy. And so I'm concerned about the deep cuts that we are making to our higher education system, not just because of the impact of cuts and the impact on the system but also because of the impact on tuition. And I'll share that tuition rates at the

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community colleges have had pretty steady increases: 4 percent, 4 percent, 3.6 percent. We also saw significant increases at the university. And for the students that we're talking about, particularly those at the State College System who many of whom are first-generation students and many of whom are working jobs, those are significant. And I know you've heard some of these statistics before, but I think one that's worth highlighting even at this late hour is that the university sends 11,000 graduates out into the work force every year and each graduating class grows our state's earnings by \$50 million annually. And, colleagues, I would argue that even that is not nearly enough. So I do think that we need to have some substantive debate around our higher education funding system. I think we've done the best that we can with the circumstances that we have, but I think that it is vitally important that we hold the line with what the Appropriations Committee has offered. While I have the mike I'll also make one procedural note. I have every intention to work on my amendment between General and Select. Procedurally, depending on how the process goes, if we get to cloture without a withdrawal of the bracket amendment, we will have a procedural vote on the amendment. If that is the case, I plan to abstain. I would encourage others to do so as well if we don't procedurally get that to be pulled, because it is my intention in good faith to work over the next few days to try to find a compromise. So, colleagues, I continue to reiterate the importance of some of the funding choices that we've made, particularly those related to higher education. I think we've gone as far as we can go for higher education and, in fact, in the future I hope that we can do nothing but move up and move forward in terms of our investment and our commitment to not just the university but to our state and community colleges as well. So with that, I'll end my remarks. Thank you, Mr. President. [LB944]

PRESIDENT FOLEY: Thank you, Senator Bolz. Senator Lowe. [LB944]

SENATOR LOWE: Thank you, Mr. President. We have been talking most of the day today on the budget and that's a good thing. You know, I'm going to use a phrase that Senator Chambers used probably five hours ago, a shot across the bow. I believe that's what this year is. With us drawing the rainy day fund down to \$250 million, what's going to happen in a couple of years maybe? We've talked about this earlier this year, with the ACLU and the prison system. What's going to happen when the ACLU comes down and says, you need a larger prison? Where do we get that \$500 million from, minimal, to build a new prison? Normally, you'd take it out of the rainy day fund. We don't have it, folks. We don't have it. Where's that money going to come from? Which other agencies do we get rid of to make up for that emergency that we have that year? We need to build our rainy day fund back up. Senator Stinner and the Appropriations Committee did a fantastic job of keeping us as close to status quo as they possibly could, and that's where we're at. Everybody took a little bit of a hit this year. When we come down to that point and we need to build a new prison or we need to update the prison or we need to do something very drastic, what's the university cut going to be like that year? What's HHS's cut going to be like that year? How many government jobs will we need to lose that year? We have a

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shot across the bow. Senator Schumacher was exactly right. We're in trouble and we don't even know it yet. Senator Schumacher, this will be the last year you have to deal with all of us and the budget. From now on you get to make your own decisions on all your budgets and not have to worry about us. Please, worry about us though. We are in trouble and we don't even know it yet. We haven't even come across talking about the true thing of the budget, money and where it goes, the hardworking people that pay taxes. You know, Senator Watermeier has LB44 and that's the Internet sales tax. And I'm not quite on board with it yet, as you've seen by my vote. But the problem is the Internet and the sales and we are not getting any of those taxes. I believe the Supreme Court needs to have a ruling on that. But I talked to some students last week and I asked them how many of them bought things on-line and they all raised their hands. Matter of fact, they bought most everything on-line. And I expressed to them that if they would buy everything locally they would also support the brick-and-mortar stores, the people that help support them at their games, that there would be about \$65 million more that we could deal with this year that we wouldn't be scrambling for in sales tax. [LB944 LB44]

PRESIDENT FOLEY: One minute. [LB944]

SENATOR LOWE: Thank you, Mr. President. Sixty-five million more dollars. We wouldn't have had to cut the university so deep. We wouldn't have to cut the other programs so deep. We wouldn't have to dig into the other agencies if we would just buy locally. I support our local businesses. I will look on-line for things, but then I go ask a business to order it for me. I don't mind paying a little extra, because I know that guy supports our local sports teams, I know he supports our schools, our Boy Scouts, our Girl Scouts. Somebody from somewhere else doesn't support us. Let's look at ourselves and our actions. We need to be very careful about how we spend our people's money. Thank you, Mr. President. [LB944]

PRESIDENT FOLEY: Thank you, Senator Lowe. Senator Kolowski. He waives the opportunity. Senator Quick. Is Senator Quick on the floor? I do not see Senator Quick. We'll move to Senator Friesen. [LB944]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. I want to start talking a little bit about the budget. And if Senator Kuehn would be willing to answer a few questions, I will wait for him to get to his seat. But I was just looking through some numbers again and a few questions I guess on a few budget items that I ran across. And when you look in our '17-18 biennium, our budget, we...there was some savings to be had by delaying some openings of like the Lincoln Regional Center and delaying the Norfolk sex-offender beds. Those budget savings we had back then, what happens to those today? Did they get funded? [LB944]

PRESIDENT FOLEY: Senator Kuehn, would you yield, please? [LB944]

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SENATOR KUEHN: Yes. Refresh me. Get me up to speed on exactly what you're asking about. Do you have a page you're referencing specifically? [LB944]

SENATOR FRIESEN: Yes, it's on page 34. [LB944]

SENATOR KUEHN: Okay. [LB944]

SENATOR FRIESEN: And so it's under...it would be under Health and Human Services. And we showed some savings by not doing some things to help balance the budget last year and so the next few years also show a zero, I believe, if I'm reading it right. [LB944]

SENATOR KUEHN: So you're looking at things like...under 25, Health and Human Services, 250, health insurance savings, vacancy savings, those types of issues? [LB944]

SENATOR FRIESEN: Or 365. [LB944]

SENATOR KUEHN: Three sixty-five? Okay. [LB944]

SENATOR FRIESEN: So those one-time...were those savings back then? [LB944]

SENATOR KUEHN: Well, as you'll notice, because they're bracketed it means it's a negative number, so it goes down to the bottom balance. So if you go to the total, it's adjusted into the net balance. So it represents an appropriated expenditure that is not going to be used. [LB944]

SENATOR FRIESEN: Okay. Are there ongoing expenses with that or it just discontinues at that rate? [LB944]

SENATOR KUEHN: Well, you will notice there are zeroes in the out years, so there is no appropriation going into those out years. [LB944]

SENATOR FRIESEN: Okay. So when I've been looking through the budget and we've done a lot of transfers again, how many dollars worth of one-time cash transfers have we done to try and balance our deficit this year? [LB944]

SENATOR KUEHN: The exact number will be in your cash transfer section. I can tell you that we've done right at about \$273 million of cash rainy day funds transfers and about \$250 million in cash fund transfers over the two budgets. So I don't have it broken down in front of me. In

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the...looks like \$98,589,993 would be the total General Fund cash fund transfers in for this year. [LB944]

SENATOR FRIESEN: So if we don't pass this budget, we just continue to operate under of our other current budget and the rainy fund declines by quite a bit more than what we're dealing with now. Would that be correct? [LB944]

SENATOR KUEHN: Well, there's an operative budget in place and so we would operate under the current existing law, which would have been passed last year. And then the lack of those transfers in would be offset on any potential revenues that may come in. We'll have another Forecasting Board in October and then the General Fund financial status at that point in time would be reflected at the end of the biennium next year. And so in next January, adjustments, if we weren't in balance, would have to be made. [LB944]

SENATOR FRIESEN: So would our rainy day fund drop below \$200 million? [LB944]

SENATOR KUEHN: If that's what was needed to make the budget balance, it could if that transfer would happen. The transfer would not be automatic from the rainy day fund. Those have to go through operative law. [LB944]

SENATOR FRIESEN: Okay. Thank you, Senator Kuehn. So, again, when we look at finally talking about the budget and the numbers and how we're going to balance our budget again this year with a lot of cash transfers to fix things and we still haven't addressed a lot of the other issues that we've wanted to talk about, which includes property taxes, but it's not going to be in this budget and we all know that. So I look at this and I keep watching the budget and I'm concerned about how we're doing it. I agree with Senator Schumacher when he talks about us digging ourselves into a fiscal hole two, three years from now. We keep doing this over and over and sooner or later it has to show up. And if our revenues suddenly do not jump the way we anticipate, which it's hard to say what's going to happen in our revenue stream right now, I'm still very concerned. [LB944]

PRESIDENT FOLEY: Time, Senator. [LB944]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. [LB944]

PRESIDENT FOLEY: Thank you, Senator Friesen and Senator Kuehn. Senator Williams. [LB944]

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SENATOR WILLIAMS: Thank you, Mr. President. Good evening. We can talk about the glass being half full and the glass being half empty all you want. I think those that know me know I have always been an optimist. I choose to dream, I choose to dream big. And I really want to, first of all tonight, say a big thank you to my friend, Senator Stinner, but then also to all the other members of the Appropriations Committee for the time and effort and the hard work that they have done looking at numerous issues that they sit in, in that hearing room. When the rest of us are doing other things, they continue to do that over and over and over. And all the things that they do affect the committees that we sit in, because the appropriations that they make or suggest or don't make or suggest have those effects on us. What we're really talking about, to me, with the budget is a bigger picture vision for what we believe is the direction that we, as government, can nudge our state towards. And each one of us in here comes from a different geography, but even more importantly from a different background, different skill sets, different ages, all those things that make us different. But I hope our greatest commonality is that we are all trying to work together to do what we believe is the best thing for our state. Now, knowing that, each one of us will clearly have our own priorities. And those priorities become extremely evident when we get into a discussion on the budget. My first two years I sat on the Judiciary Committee when we were passing LB605 and very involved with that. And knowing what the cost to our state is of maintaining a safe society by providing prisons that do their job, that was a priority. Every time you go down that line item on the budget, for someone you're going to hit a priority, whether that's education K-12, whether that's higher education or community colleges. But I think we need to choose and choose wisely with our priorities and be sure that we fall in line with being excellent with what we want to do. I don't think anyone in here will want to work as hard as we try to work for mediocrity. And yet sometimes that's what we sound like we're doing and I hope that that's not the case. Is this a perfect budget? Absolutely not. But this budget is full of thoughtful compromise and democracy is based on thoughtful compromise. Without that thoughtful compromise we have nothing. And without compromise, every bill becomes a filibuster and I think that's the wrong place for us to be. So tonight as we wind down and we think about where we started this week on Monday morning at 9:00 gathered in a hearing room... [LB944]

PRESIDENT FOLEY: One minute. [LB944]

SENATOR WILLIAMS: Thank you, Mr. President,...hearing Senator Chambers show us and walk us through the yellow book, we went through some discussion yesterday and we started first thing this morning walking down and marching down the trail on the budget. I would encourage each one of us to stand by our convictions. Stand by what your priorities are, but recognize that if you want to get everything you want to get you're likely to get nothing. Together we can move this state forward. Together we can have a vision that matters. Together, we can choose to dream big. Thank you, Mr. President. [LB944]

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PRESIDENT FOLEY: Thank you, Senator Williams. Senator Hilkemann. It's your third opportunity, Senator. [LB944]

SENATOR HILKEMANN: Thank you, Mr. Lieutenant Governor. I just wanted to talk about the budget that we're finally getting to at this point. And I've been a little distressed by just several of the comments that I've heard and I just want to point out a couple of things. Senator Lowe was very concerned that we're down to \$290 million in our rainy day fund. I know Senator Schumacher thinks that the world is coming to an end because our numbers are getting down there. I just want to share with you that as a freshman senator serving on the Appropriations four years ago that we had a rainy day fund of about \$750 million. And we thought it was so much in the rainy day fund that we put \$62,500,000 into the Property Tax Relief Fund, not one year but two years, and that's now \$128 million. And I sort of thought at the time that we were doing it that that's a one-time expenditure. But you know what? It wasn't a one-time expenditure. We kept it going. And so now we've got that rainy day...the Property Tax Relief Fund up to over \$231 million. Do you realize if we had just made that the one-time expenditure, because we had \$700 million in it, that our rainy day fund today would be standing at probably \$500 million? Now, does that mean that that was...I just want to point that out as a fact. That's where a lot of the rainy day fund went, because we carried that money on over. And so it is going back to the people as a...and I can assure you that when we had that discussion everybody was real excited to get that \$128 million into the Property Tax Relief Fund. So, yes, I'm concerned that we're getting down to \$300 million, but when I look at the Pew Charitable Trust and I look at the other states around us with their rainy day funds, we stand fairly tall in comparison to some of our surrounding states. As Senator Stinner says, he doesn't want us to get below that 5 percent. We're not below the 5 percent now. We're lower certainly than we were several years ago. But at either rate, what I want to...I just hate this idea that the sky is falling, the sky is falling. And when we took our...when the Governor met with us, the Appropriations Committee, and went through his budget early this year, he was saying that we could go ahead with the cuts that he was proposing, which were 2 percent and 4 percent from all of the agencies, and that going forward with the revenue that is expected in the future, that by 2021, by 2021 our property...our Cash Reserve would be back at the \$500 million level. And if you turn to page 14 you could see that if we look at the general revenue growth that is projected, we will be well back into that \$500 million figure. So, you know, I loved what Senator Williams said. Let's be optimistic. We've got issues. I think we need to be concerned. We can't just spend money. [LB944]

PRESIDENT FOLEY: One minute. [LB944]

SENATOR HILKEMANN: We're not spending money we don't have. I just got back from a meeting in Chicago for the NCSL, the fiscal officers, and you know what? Nebraska is doing pretty well when you compare some of the states out in those areas. So let's be positive as we go forward on this. I was so pleased that, even though there was such disparity and as Senator



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Kuehn talked about the different issues that we came across, this budget came out of the committee 9-0. There's a lot about this budget I don't like. It just pains me that we have taken such huge cuts again to the University of Nebraska. I liked what President Bounds said during his testimony, what... [LB944]

PRESIDENT FOLEY: Time, Senator. [LB944]

SENATOR HILKEMANN: Thank you, Mr. Lieutenant Governor. [LB944]

PRESIDENT FOLEY: Thank you, Senator Hilkemann. Speaker Scheer. [LB944]

SPEAKER SCHEER: Thank you, Mr. Lieutenant Governor. I believe that Senator Stinner would like to address the body before we get to cloture. And I have the time available, so I would yield my time to Senator Stinner. [LB944]

PRESIDENT FOLEY: Thank you, Mr. Speaker. Senator Stinner, 4:45. [LB944]

SENATOR STINNER: Thank you, Senator Scheer. Senator Chambers, I'm revved up, too, so let's go. Okay? All right. Let's go back just a year or so ago. Let's talk about the committee. Let's talk about the budget. Let's talk about the \$1.1 billion that we solved. And we talked about how we solved it. We talked about priorities. We took the Governor's priorities. K-12 was a priority, property tax relief was a priority, corrections. And the committee and this body agreed that justice reinvestment, LB605, was a priority. But I'm going to tell you something about our committee, about how we went about it. We went in a fair and balanced approach on everything that we tried to do. Sure, we set priorities. Sure, we used across-the-board cuts. Sure, we lapsed funds. Sure, we took reappropriations. It balanced, but we were fair and balanced in our approach. This time around, \$173 million revenue shortfall and we have deficit requests of \$83 million, \$250 million-plus that we had to solve. We took a fair and balanced approach, across-the-board cuts. We did back off when we saw clear to do that. We heard it in committee, we heard what was happening to agencies, to higher education. And actually, the committee backed off higher education, because that's our future. So let's look at these priorities. Let's go through it again. K-12, education, equitable to future. Higher ed, education, future. Sure, I'm an optimistic person, just like Senator Williams, Senator Hilkemann. We have a future, folks. We have to provide for a future. We have to be as good as we can be. And this committee took a fair and balanced approach. But we have an amendment up there that wants to pick on one body because somebody thinks, oh, we got too much cash or we can cut these folks or they don't deserve it. Whatever the case, that is not a fair and balanced approach, folks. Higher ed took their beating right along with everybody else. We didn't back off. But we saw ourselves clear, we did make them just a little bit better. The other thing that we tried to do is obviously we had to reestablish,

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reestablish the 2.5 percent reserve. And thank goodness, thank goodness the budget committee and the Governor agreed the 3 percent was harsh. That's \$45 million of additional cuts and/or rainy day fund that we would have had to pull from. That was a break, folks. But we do have to build up, up to 3 percent. So that \$45 million has to be made up between now and next year. It's in that budget. We figured it in. Look at the projections. Everybody wants to pull on the projections. We're sitting at 8.2 percent, 8.3 percent nominal gains after tax. If you figure that in, it's about a 6.3 (percent), right on top of what the projections are there. And we can quarrel and quibble about where that rainy day fund is. It's been a plug. It's been used. It's been used for various things. It's been used for the prison. It may have to be used for the prison. [LB944]

PRESIDENT FOLEY: One minute. [LB944]

SENATOR STINNER: But it also is our economic cushion. We pass long-term policies. We pass long-term initiatives. We can't have business cycles interrupting that policy every time we turn around in those initiatives. That's why it's there. It's equity in your company, if you will. It's right where it needs to be. But we need to make it a priority and we need to bring it to a level that assures us economic stability. And make sure that what we do here, what we pass here, what we prioritize here can be completed. This budget needs to be passed. Cloture needs to happen. Let's get with it. Senator Chambers is all revved up, I'm revved up, let's go. Thank you, Mr. President. [LB944]

PRESIDENT FOLEY: Thank you, Senator Stinner. Senator Wishart, you're recognized. It's your third opportunity. [LB944]

SENATOR WISHART: Thank you, Mr. President. I rise in support again of Senator Bolz's amendment. And I wanted to talk a little bit about why I will be voting for cloture tonight and why I advanced the bill; I was one of the nine who advanced the bill out of Appropriations Committee. For those of you who are following along and for those of you who have asked me, what happens if we don't pass this deficit budget, I'd ask you to turn to page 19. Our committee...of your yellow budget book. Our committee, with our looming deficit, made significant investments in child welfare and restoring funds owed to the developmental disability providers. And you can see this on page 19, line 1, and then also line 5. In terms of child welfare, we were approached by the Department of Health and Human Services with a substantial deficit request. The primary reasons for their deficit request was that more children are being served and more children entering into our child welfare system, which has increased while the rate at which cases are closed has remained relatively flat. The number of services per child is up by 11 percent compared to fiscal year 2016. And of those services, family support increased by the largest amount. Subsidized adoptions and guardianships are up. These costs are offset initially by reductions in foster care payments, but the costs compound over the time as they continue until

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the child reaches age 19. And then there were a significant disparity in payments for tribal contracts. And also, it appears that the savings from kinship care is less than they projected. So in order for Child Welfare to receive this necessary funding and increase, we have to pass this deficit budget. Otherwise, we jeopardize their ability to pay their bills. I checked with our fiscal analyst and they would be...if we don't pass this deficit budget, Child Welfare would be at least a month and a half short, as they're averaging over \$16 million a year, \$16 million a year. So this alone...excuse me, a month. So this alone, not taking into account other structural deficits in the budget due to not passing this deficit budget, would force...would likely force us back into a special session, so I just want you to think about that when we're coming to a cloture vote and determining whether we pass this budget. I also wanted to speak really quickly about developmental disability providers. For those of you who don't remember the debate on this issue over the budget last year, due to a billing error with our Department of Health and Human Services, the federal government withdrew their matching dollars for DD day services. Our providers continued to provide these day services as they were contracted by the department, but only received half of the money they were owed due to the federal grab back. The \$2.7 million we're appropriating this year is half of the dollars those providers are owed due to this error from our state agency. And I want to thank Senator Walz for introducing a bill that was heard by our committee on this issue. Her bill asked for \$5.4 million, which would make the providers whole so that they can continue to provide these services to people with developmental disabilities in our state. This budget only restores \$2.7 million and I want to establish in the record that it's my intention to make sure that DD providers are whole in our next budget cycle, so to restore an additional \$2.7 million. And then lastly, if I have time, I've had other people ask me why we don't reduce...why we didn't continue to cut our budget and why we reduced the cuts from the Governor's proposal of 4 percent to 2 percent. What we heard from state agencies in hearings is that in order for them to deal with the significant cuts from last year and from this year... [LB944]

PRESIDENT FOLEY: One minute. [LB944]

SENATOR WISHART: ...I'll finish that up, but I did promise Senator Morfeld I'd yield him my time. [LB944]

PRESIDENT FOLEY: Thank you, Senator Wishart. Senator Morfeld, you're recognized for one minute. [LB944]

SENATOR MORFELD: Thank you, Senator Wishart, for more than 30 seconds. I appreciate it. But, no, thank you, Senator Wishart. Colleagues, I introduced the bracket motion so that I would have time to speak during those 15 first speakers and I would like to withdraw my bracket

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motion. I would like to also note that since we have not resolved this Title X issue, I will be voting against cloture on the bill. Thank you, Mr. President. [LB944]

PRESIDENT FOLEY: Thank you, Senator Morfeld. The bracket motion is withdrawn. Senator Bolz, you spoke earlier about withdrawing AM2... [LB944]

SENATOR BOLZ: Yes, I'd like to withdraw. Thank you. [LB944]

PRESIDENT FOLEY: Thank you, Senator Bolz. That amendment is withdrawn. [LB944]

SENATOR BOLZ: Thank you. [LB944]

PRESIDENT FOLEY: Mr. Clerk. [LB944]

CLERK: Mr. President. I have a priority motion. Senator Stinner would move to invoke cloture on LB944, pursuant to Rule 7, Section 10. [LB944]

PRESIDENT FOLEY: It's the ruling of the Chair that there has been a full and fair debate afforded to LB944. Senator Stinner, for what purpose do you rise? [LB944]

SENATOR STINNER: To invoke cloture and to make a call of the house to the house. [LB944]

PRESIDENT FOLEY: There's been a request to place the house under call. The question is, shall the house go under call? Those in favor vote aye; those opposed vote nay. Record, please. [LB944]

CLERK: 35 ayes, 1 nay, Mr. President, to place the house under call. [LB944]

PRESIDENT FOLEY: Members, the house is under call. Please return to your desks to check in, please. Senator Groene, check in, please. Senator Bolz, check in, please. Senator Murante, check in, please. All unexcused members are now present. The first vote is to invoke cloture. Those in favor vote aye; those opposed vote nay. A roll call vote has been requested. Mr. Clerk. [LB944]

CLERK: (Roll call vote taken, Legislative Journal page 960.) 33 ayes, 3 nays, Mr. President, to invoke cloture. [LB944]

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PRESIDENT FOLEY: Cloture is invoked. The next vote is the adoption of the Appropriations Committee amendments, AM1699. Those in favor of the committee amendments vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB944]

CLERK: 41 ayes, 1 nay, Mr. President, on the adoption of committee amendments. [LB944]

PRESIDENT FOLEY: Committee amendments are adopted. The next vote is on the advance of the bill, LB944, to E&R Initial. Those in favor...a roll call vote has been requested. Mr. Clerk. [LB944]

CLERK: (Roll call vote taken, Legislative Journal page 961.) 38 ayes, 6 nays, Mr. President, on the advancement of the bill. [LB944]

PRESIDENT FOLEY: LB944 advances. I raise the call. Next bill. Mr. Clerk. [LB944]

CLERK: Mr. President, LB950 was a bill introduced by Senator Albrecht. (Read title.) Introduced on January 10, referred to the Business and Labor Committee. The bill was advanced to General File. There are committee amendments, Mr. President. (AM2359, Legislative Journal page 929.) [LB950]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Albrecht, you're recognized to open on LB950. [LB950]

SENATOR ALBRECHT: Thank you, President Foley. Colleagues, LB950 provides for the payment of claims against the state. The Business and Labor Committee hears the claims bills every year at the request of the Risk Management Division of the Department of Administrative Services. Without the amendment, this year's bill contains two tort claims, one miscellaneous claim, three workers' compensation claims, and ten agency write-off requests. The committee amendment adds two new claims to the bill. One of these is a tort claim and the other is a workers' compensation claim. The amendment is necessary because additional claims are processed after the bill was introduced. So in Section 1 of the bill, in the first claim in the amendment of the list of three tort claims, these are to be paid out of the Roads Operations Cash Fund. Tort Claim 2014-13451 stems from an incident on August 5, 2013, where Gary Lee lost control of his motorcycle on the Nebraska Highway 92 when the road suddenly changed to gravel. He injured his shoulder and his motorcycle. His claim is for \$800,000. Section 1 also awards his passenger, Deborah Lee, \$350,000 for injuries to her back, ribcage, lungs, shoulder, and throat. The other tort claim is part of the amendment, so I'll read that in as well. The AM2359 adds another tort claim to Section 1. This claim is for the loss of life to Elaine Schmid

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in the amount of \$112,500. While the Nebraska Department of Transportation was repairing or replacing stop signs for eastbound traffic on Highway 32 about 13 miles south of Pilger, Nebraska, Elaine Schmid failed to stop at the intersection and was struck by a southbound semi. Section 2 is a claim stemming from fees and costs from Stewart v. Heineman, which is the case where three same-sex couples challenged an administrative memorandum that restricted gay and lesbian persons and couples from becoming foster and adoptive parents. The district court awarded cost and attorney fees, which the Nebraska Supreme Court upheld. This amount was for \$197,330.63. Section 3 of LB950 and the second paragraph of AM2359 are workers' compensation claims to be paid out of the Workers' Compensation Claims Revolving Fund. The first is for \$100,000 to be paid to Judith Williams. On July 23, 2013, Judith Williams, who was a former Beatrice State Development Center employee, slipped on a puddle of water on the floor and injured multiple lower extremities; she caught her foot on an orange plastic fencing and injured her knee on October 13 of 2014; and on October 20, 2015, she was accidentally hit with an office chair that another employee was moving, which aggravated her knee injury from the previous year. The second workers' compensation claim was \$106,250 to Annette Halsey, who is a former employee of the contractor who performed work for DHHS. She was involved in a two-car collision in Hall County when she was driving to supervise a mother and juvenile visit in Kearney, Nebraska. She sustained injury to multiple body parts. The third workers' compensation claim found in the bill is to Terry Armstrong for \$100,000. Terry used to work for an Eastern Nebraska Veterans' Home, and while there she injured her left shoulder while moving a patient from a chair to the wheelchair. The injury led to complex region pain syndrome in both her left and right arms and hands. This also aggravated preexisting depression and anxiety. The fourth workers' compensation claim is found in AM2359, which on May 27 of 2015 Edward Rinehart grabbed two sheets of steel and felt immediate pain in his lower back while he was working for the Nebraska Department of Roads. He later received back surgery for this. This claim is for \$272,213. Section 5 lists the write-offs requested by state agencies. The first is a request from the Nebraska Accountability and Disclosure Commission. The commission is requesting to write-off \$5,800 worth of civil penalties for violations of the Nebraska Political Accountability and Disclosure Act. These penalties were not paid due to the death of the debtor and the close of business. The next request was for \$214.70 by the Nebraska Supreme Court for past-due amount accounts for unpaid statements for faxes, copies, certificates of good standing. These are accounts that remain unpaid after multiple attempts to collect were made. The third request is from the Nebraska Public Employee Retirement Systems for \$22,091.91 in write-offs. The retirees were drawing benefits and NPERS was not timely to notify when they had passed away. NPERS attempted to collect this debt and now believes it is uncollectible. These were four different deceased members. The next is the State Fire Marshal is requesting \$630 in write-offs for ten debts that are deemed uncollectible. These debts stem from unpaid annual registration fees for underground storage tanks and unpaid inspection fees. Reasons that the debts have been deemed uncollectible are as follows: one is notice of bankruptcy, one was a refusal of owners to pay, the third one is owners who withdrew from the license process due to deficiencies, failure to

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send the IBT and another state entity in a timely manner. The Nebraska Game and Parks Commission requests \$14,643.40 to be written off for uncollectible checks, permit vendors, accounts receivable, an event accounts receivable, and theft. Multiple attempts have been made to receive payment. The Nebraska Department of Revenue requested \$19,291.14 in write-offs for uncollectible accounts in the Lottery Division of the retailers that sold lottery tickets to customers but failed to make the required payment to the Nebraska lottery when the retailers stopped doing business, and in the Property Assessment Division, where the requester of the public records is now out of business or he can't be located for the property tax penalties sent to a company that was out of business. The seventh write-off in this section is from the Department of Health and Human Services. DHHS is requesting to write-off \$723,678.25 of uncollectible debts where the agency made overpayment or provides a service which has not been reimbursed. DHHS pursued recovery of the debts through one or more of the following efforts: number one, regular billing statements; number two, recoupment; number three, demand letters signed by the program, one of the agency directors, and/or by one of the agency's attorneys; number four, referral to a collection agency and the use of credit reporting; number five, litigation. Each of the debts is currently uncollectible either because: number one, the debtor has passed away with no probate recovery; or number two, the debt discharged in bankruptcy; or number three, the debt has passed the applicable state statute of limitations to include debt owing from persons who remain on needs-based assistance at the time the limitation period passed, or where the debt was referred to an outside collection agency and/or to DHHS legal counsel and returned as uncollectible; or number four, the debt is for less than \$100 and remains unpaid, despite program efforts. The Nebraska Secretary of State is requesting to write-off \$1,175 for outstanding IBTs that were never paid by other state agencies and are now past the statute of limitation. The next request is from the Nebraska Department of Correction Services in the amount of \$1,571.06. This is for 27 invoices between February 2014 and May 2014 for work on a Braillewriter repair that was done but never paid for. [LB950]

PRESIDENT FOLEY: One minute. [LB950]

SENATOR ALBRECHT: Finally,...one minute? [LB950]

PRESIDENT FOLEY: One minute. [LB950]

SENATOR ALBRECHT: Oh, I'm almost there. Finally, the last request is from the Department of Transportation, \$188,902.22 for collectable debts due to the damage to the state property. Letters from the agencies to the debtor, phone calls, and letters from the agency's legal counsel have all gone unanswered for multiple reasons, including but not limited to: the debtor cannot be located, bankruptcy, or deceased with no assets. I would ask for your support of both AM2359 and LB950. I have read both of them into this particular bill. [LB950]

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PRESIDENT FOLEY: Very good, Senator Albrecht. So we won't need a separate opening on the amendment. Mr. Clerk. [LB950]

CLERK: Mr. President, Senator Chambers would move to bracket the bill until April 18. [LB950]

PRESIDENT FOLEY: Senator Chambers, you're recognized to open on your bracket motion. [LB950]

SENATOR CHAMBERS: Thank you. Excuse me. Mr. President, members of the Legislature, I support this bill. I'm going to vote for it. But I have something I want to read into the record, and it relates to a man who obviously is mentally ill, and a judge allowed action to be taken which placed that man on death row. I said that I could stay here until midnight, and I can. I'm going to read this and I have other things I intend to read. And I'll tell you why. We have set a precedent this evening by allowing things into an appropriation bill that ought not be there. So in a sense, the rules are out the door. The Governor's plan was what was in operation earlier in the evening. So I'm going to go ahead and make good use of the time that the Speaker is giving us by keeping us here until midnight. That's how long I think he intends to keep us, because he also obviously wants to see how long somebody my age can carry on. The man I'm talking about is Nikko Jenkins. This letter that I sent to Judge Peter Bataillon, he's the Douglas County District Court judge, and this is dated March 27, 2014: regarding withdrawal of your order granting accused murderer Nikko Jenkins the right to represent himself at trial. This that I'm reading about shows the travesty of the system, but what this judge did is a greater travesty than what the Legislature allowed the Governor to do, because this involved a man's life: Dear Judge Bataillon, good sense, sound judicial policy, and the law militate against your problematic order granting a man with a history of mental problems the right to represent himself in a case where he is charged with four counts of first-degree murder and multiple other serious offenses. I shall make no reference whatsoever to the merits of the case, that is to say no reference to anything that could in any manner be construed as an inappropriate attempt to influence the outcome of the trial. I do not believe that the concerns I express herein are inappropriately called to your attention. Everything that transpires in court proceedings of the type being discussed is open to public scrutiny, evaluation, and judgment. And while I'm speaking on this, we do need more light, just like in Jaws that captain said, you need a bigger boat. Continuing: I strongly believe that the dignity of the judiciary and the judicial system itself must be maintained inviolate to the extent that such is humanly possible. Even the appearance of impropriety and or questionable decisions should be avoided. The issuance of your order is grounded on a flawed, invalid premise, namely that since you found Nikko Jenkins competent to stand trial you are compelled, pursuant to the Sixth and Fourteenth Amendments, to find him competent to represent himself. The U.S. Supreme Court in the case of Indiana v. Edwards, 554 U.S. 164, 128 Supreme Court 2379, 171 Law Edition, 2008, ruled that the right to represent oneself pursuant to the Sixth and Fourteenth



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Amendments is not absolute. The Constitution permits limitation of a defendant's right to self-representation in a criminal case by court imposition of representation by counsel on the ground that the defendant lacks the mental capacity to conduct an adequate and effective defense. The court declared that granting the right of self-representation will not affirm the dignity of a defendant who lacks the requisite mental capacity to allow self-representation in such a situation undercuts the most basic of the Constitution's criminal law objective--providing a fair trial. This is something that goes to the concept of justice in this society, and it underscores the racism in this society. This man, who ultimately was not convicted, he was allowed to plead no contest. And that went against what this very judge said could not happen. This was a black man. He was convicted of killing four people. The outcry did not occur until a white woman was killed. When the white woman was killed, everything changed, the outcry from the public, the attitude by the police. The others were nonwhite: two Latinos and a black man. But as soon as the white woman was killed, everything changed. That's the way it is in this society. So this late at night it's appropriate for the kind of things to be touched on that I'm reading about. I'm going to have to do what anybody who reads glasses has to do on occasion. They have these magical little cloths, and they clean anything off your glasses. In fact, it increases the acuity of your vision from 20/40 to 40/20. In other words, whichever way you put it, you see twice as well as you would see if your vision were 20/20, meaning you see at 20 feet what somebody should see. That's much better: No trial can be fair that leaves the defense to a man who, by reason of his mental condition, stands helpless and alone before the court. The constitution does not prevent the courts from acting to preserve the very process that the constitution itself prescribes. At the trial level, the government's interest in ensuring the integrity and efficiency of the trial outweighs a defendant's interest in acting as his or her own lawyer. In other words, the dignity of the court, the majesty of justice, the integrity of the judiciary itself overrides this notion that everybody should be allowed to defend himself or herself, regardless of mental ability to do that. Continuing: Furthermore, allowing a man with a history of mental problems, which bespeaks the lack of capacity to mount an adequate defense, threatens an improper conviction or sentence. The constitution permits a judge to take realistic account of a defendant's mental capacity and to satisfy himself that a defendant is mentally competent to conduct an adequate defense without the assistance of counsel. I'm going to digress from time to time because I won't have time enough to read all of these letters. And tomorrow I'm going to read the brief that was filed in Nikko Jenkins' case to overturn the death sentence. And when you consider that this man had been in solitary confinement for over five years and you know, or don't know, but it has been determined that excessive solitary confinement constitutes torture in accord with international law and even military law, they have found that a person who starts out sane will go insane when there is too much solitary confinement. But to show how incompetent Mr. Frakes who runs... [LB950]

PRESIDENT FOLEY: One minute. [LB950]

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SENATOR CHAMBERS: ...the Department of Corrections is, this man is locked up 23 hours a day. He's under constant surveillance seven days a week, 24 hours a day all the time. Yet, he managed to obtain razor blades with which he severely mutilated himself. On one occasion he cut his throat and it took 26 stitches to close it. Mr. Frakes could not explain, when he appeared before the Judiciary Committee on another issue, how this man under constant surveillance procured a razor blade and was allowed to cut himself like that. On another occasion, he obtained the badge... [LB950]

PRESIDENT FOLEY: That's time, Senator. [LB950]

SENATOR CHAMBERS: Thank you, Mr. President. [LB950]

PRESIDENT FOLEY: Thank you, Senator Chambers. Items for the record, Mr. Clerk? [LB950]

CLERK: Mr. President, a series of amendments to LB944 to be printed, as well as a motion. (Legislative Journal pages 961-965.) [LB944]

I also have a priority motion, and that would be Senator Baker would move to adjourn the body until Wednesday, March 14, at 9:00.

PRESIDENT FOLEY: Speaker Scheer, you're recognized. [LB950]

SPEAKER SCHEER: Thank you, Mr. Lieutenant Governor. We are...I would appreciate a red vote on this motion. For those of you that are not aware, we have a lot of work left to do, and if we're going to be utilizing time we need to get the time under our belts. We have 11 more late nights, and we will be going late nights. I have a minimum of 51 bills still on General File. Yesterday we worked on three bills all day. If we are wanting to get anywhere close to a conclusion with priority bills, we're going to have to put in some additional time. So having said that, I would appreciate a red vote so that we continue to put our time in on this bill so that we can move through this. This bill has to be passed. Thank you very much. [LB950]

PRESIDENT FOLEY: Thank you, Mr. Speaker. Members, you heard the motion to adjourn. Those in favor of adjourning say aye. A roll call vote has been requested. Mr. Clerk. A call of the house has been requested. Those in favor of calling the house vote aye; those opposed vote nay. Record, please. [LB950]

CLERK: 22 ayes, 3 nays to place the house under call. [LB950]

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PRESIDENT FOLEY: Members, the house is under call. Please return to your desks and check in, please. The house is under call. Senator Groene, check in, please. Senator Quick, Senator Smith, Senator Linehan. Waiting for Senator Linehan. All unexcused members are now present. The question before the body is whether or not to adjourn. A roll call vote has been requested. Mr. Clerk. [LB950]

CLERK: (Roll call vote taken, Legislative Journal pages 965-966.) 2 ayes, 38 nays, Mr. President. [LB950]

PRESIDENT FOLEY: The adjourn motion is not successful. I raise the call. We will proceed to debate on the bill, LB950, and AM2359 and the pending bracket motion. Senator Chambers, you're recognized. [LB950]

SENATOR CHAMBERS: Thank you, Mr. President. Unfortunately, this little light won't rise high enough to do me any good, so I'm going to have to ad lib and speak the way I ordinarily do when I'm trying to pass time. In talking about Nikko Jenkins' situation, the Supreme Court, in dealing with matters of this kind, ruled that the fact that a person is competent to stand trial does not equate to competency to represent oneself. The person may not have the capacity to understand the law, to understand the consequences that are awaiting that individual. And therefore, one competent to stand trial is not necessarily competent to represent himself. There was a case in Lancaster County where the Judge Merritt had ruled that a person charged with having killed a doctor at the regional center was competent to stand trial and wanted to let him defend himself in court. This man was disruptive. He did the kinds of things which were not faked that would show he was totally incompetent to defend himself. I wrote Judge Merritt a letter intervening as I am wont to do, w-o-n-t, on such occasions. I laid out the arguments, based not on emotion, not on indignation, but on rulings by the U.S. Supreme Court. Judge Merritt, being a judge with an open mind, amenable to well-argued points of law, changed his mind and said this man would not be allowed to represent himself. A former judge of the Nebraska Supreme Court saw me in the parking lot. He knew about the letter that I had written. Judge Merritt had not yet made a decision. That judge said to me: Senator Chambers, you're going to win because the U.S. Supreme Court just handed down a decision that said exactly what you argued in your letter. And subsequent to that, Judge Merritt did rule that, although the man was competent to stand trial, he was not competent to defend himself and appointed counsel. There was another incident that arose and I intervened. It dealt with a matter far more serious than representing oneself. Carey Dean Moore had been on death row for, oh, several decades. I had offered a bill to abolish the death penalty. It got about 23 votes. It failed. A few days after that, the Nebraska Supreme Court issued a death warrant for Carey Dean Moore, and that warrant would be carried out not too far in the future. I was irate. So I fulminated from the floor of the Legislature against what the Nebraska Supreme Court had done. I said I thought it was

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vindictive, that it was aimed against me, and more was at stake than them trying to get even with me. [LB950]

PRESIDENT FOLEY: One minute. [LB950]

SENATOR CHAMBERS: The dignity of the court was compromised by what they did. So I didn't stop there. I wrote a letter to the Supreme Court indicating why that death warrant should be withdrawn. Carey Dean Moore had created a difficult situation for himself. A Christian preacher had persuaded him that Jesus wanted him to die, so Carey Dean Moore, being vulnerable, decided to contact the court and withdrew any pending motions he had, stated that nobody should be able to intervene and file any papers on his behalf except himself, and he had no intention to do so, that he had been on death row a long time, he was tired, and he was ready to die. [LB950]

PRESIDENT FOLEY: That's time, Senator Chambers. But you're next in the queue for your third opportunity. [LB950]

SENATOR CHAMBERS: Thank you, Mr. President. I was not prepared to see him die. I was not prepared to see anybody killed at the hands of this state, although that had happened a couple of times before while I was in office. So when I wrote to the Supreme Court I pointed out that...oh, but first, here was the situation. There was no way for the matter to be brought to the court's attention to challenge that death warrant because Carey Dean Moore himself had agreed to go along with it and had refused to allow any intervention. I was told by various people, legal experts, that a letter would not have any influence on the court. I wrote the letter anyway. I released it to the media. A World-Herald reported contacted the court. The Chief Justice, who was Mike Heavican, said that they had gotten the letter, the court had considered it, but they were not prepared to comment on it publicly. I had argued that the court on its own motion could withdraw the death warrant, that it had a basis for doing that. Never had there been in the history of the utilization of the electric chair any record compiled at the trial court level of what execution by electrocution did to a human body. There were a lot of myths. One was that a person would be rendered unconscious almost instantaneously. There was testimony from an electrical engineer, some other doctors, I believe a neurologist, and they pointed out that contrary to that myth the person was not rendered unconscious instantaneously; that the electricity would not go through the skull, it would follow the skull down through the body and make contact with that metal that they attach to the leg. The theory was that it would pass through the brain, rendering the person unconscious, pass through the heart, stopping it from beating, raise the temperature so high that the brain would be destroyed. A lot of things that had never been demonstrated. These experts showed that all of those things were false and that there indeed was suffering, and how long a person may stay alive. And because of that, the protocol had indicated

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that they should continue with these intermittent jolts of electricity. The law had said that there should be electricity applied continuously until the prisoner died. But to do so would have probably ignited the prisoner, so they had these jolts. But what was shown was that if a person should happen to be rendered unconscious, if the heart had stopped, then that next jolt was like a defibrillator and it started the heart beating again. In other words, this record had been compiled. So I made note of that and pointed out that the lower court judge said that but for the fact that the death penalty was allowed and the Nebraska Supreme Court and the U.S. Supreme Court had upheld it as constitutional, he would not and could not under the law give a decision that the death penalty was unconstitutional... [LB950]

PRESIDENT FOLEY: One minute. [LB950]

SENATOR CHAMBERS: ...on the basis of cruel and unusual punishment. So I argued to the court that they should follow what the U.S. Supreme Court had done on occasion. They would be considering a case, subsequent to that another case would be in the pipeline with a more fully developed trial record. And once that second case were heard and decided, it would not only decide the issues in that later case, but the case pending before the court at that point. So I said, since the U.S. Supreme Court did this, they could stay Moore's execution, wait until that fully developed case came before them. The evidence was there. It would resolve the case that was farther down the line and also Moore's case. [LB950]

PRESIDENT FOLEY: Time, Senator Chambers. [LB950]

SENATOR CHAMBERS: Thank you, Mr. President. [LB950]

PRESIDENT FOLEY: Senator Chambers, you're recognized to close on your bracket motion. [LB950]

SENATOR CHAMBERS: Thank you, Mr. President. What the Nebraska Supreme Court should also look at, I stated, was the fact that they had the inherent power to do whatever justice required. The inherent power of the court is that power that automatically attaches to a court to do any and everything required to...not expedite, but to dispense justice, to carry out its orders, and it would retain jurisdiction over its orders until whatever that final decision was had been carried out. I pointed out that Carey Dean Moore, even though he was the one to be executed, had said he did not want any intervention. The court had a duty to follow the law and do that which justice required, even against the wishes of the defendant. The defendant or prisoner had no right to dictate to the court what the court ought to do when by doing so justice was not done. Well, interestingly, the court took that case under advisement. And I was in a grocery store...not a grocery store, one of those...well, it was Target, I believe. And I happened to be in the section

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where the television sets were located, and a woman came up to me and she congratulated me on saving the man's life on death row. I said, no, I wrote a letter. It's my intention, and by the way, I had followed some action in Lancaster District Court also. She said, no, the Supreme Court said that they were not going to let him die. And the way I described it was like being hit in the stomach. I just wasn't prepared to hear that. And I told here I thought she might have been mistaken. And she said, well, there's the news, watch it. And the court had ruled that they had prematurely issued the death warrant, that on their own motion, and pursuant to their inherent judicial powers, they could do that which justice required. Since there was a case coming up with a fully developed record, they would put Moore's case on hold and decide that case first. And to shorten the story, when they reviewed the record in that case a determination was made that execution by electrocution was cruel and unusual punishment. And the utilization of the electric chair was done away with. The man whose case was brought up had his execution overturned, the death warrant against Moore was withdrawn, and he remains on death row today. But because the Governor is so obsessed with the need for him psychologically to kill, he is hastening to try to find a way to execute Carey Dean Moore. Because, once again, Moore has not chosen to introduced any legal action on his behalf. All he would have to do is file an action and a death warrant would not issue. The Nebraska Supreme Court has ruled... [LB950]

PRESIDENT FOLEY: One minute. [LB950]

SENATOR CHAMBERS: Thank you, Mr. President,...that if there is any pending action in a death row case, no death warrant can issue. There have been attempts by people to persuade Moore to do something. I don't know whether he will or not, but that's getting ahead of what I was talking about. My intervention gave the court a basis to rule in a case that seemed impossible. The Chief Justice dissented, along with two other judges, saying that Moore did not want any intervention, there was nothing pending, the court ought not to have taken the case. But they did. And the experts had told me my letter wouldn't do any good. And one of the judges told me, the only way they were able to look at that case was because of the letter that I had written. And the proof of it is in the way the case turned out. Thank you, Mr. President. [LB950]

PRESIDENT FOLEY: Thank you, Senator Chambers. Members, you heard the discussion on the bracket motion. The question before the body is whether or not to adopt the motion. All those in favor vote aye...Senator Chambers? [LB950]

SENATOR CHAMBERS: Vote and a call of the house. [LB950]

PRESIDENT FOLEY: The question before the body is whether or not to place the house under call. The question is, shall the house go under call? Those in favor vote aye; those opposed vote nay. Record, please. [LB950]

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ASSISTANT CLERK: 14 ayes, 2 nays to go under call, Mr. President. [LB950]

PRESIDENT FOLEY: The house is under call. Senators, please return to your desks and check in. The house is under call. Members, please return to the floor. The house is under call. Senator Murante, please return to the floor and check in. The house is under call. All unexcused members are now present. The question before the body is whether or not to adopt the bracket motion. A roll call vote has been requested. Mr. Clerk. [LB950]

ASSISTANT CLERK: (Roll call vote taken, Legislative Journal page 966.) 0 ayes, 41 nays, Mr. President, on the motion to bracket. [LB950]

PRESIDENT FOLEY: The bracket motion is not adopted. I raise the call. Mr. Clerk. [LB950]

ASSISTANT CLERK: Mr. President, Senator Chambers would move to reconsider the vote on the bracket motion. [LB950]

PRESIDENT FOLEY: Senator Chambers, you're recognized to open on your reconsideration motion. [LB950]

SENATOR CHAMBERS: Thank you, Mr. President. And I have another motion prepared, so there won't be any delay. The next motion is going to be to recommit, and we should obviously vote that down because I like that bill, and I will have the motion to reconsider already prepared so that there won't be any delays. I mean, we want to use this time in a way that is very thoughtful. It looks like the printing in the Supreme Court Opinion is easier to read than the typed material I was trying to read. So I'm going to read what I can until the light makes it impossible. Judge Gerrard delivered the Opinion of the court: The court, on its own motion, which was my first point, the court, on its own motion, has reconsidered its order for the issuance of a death warrant for Carey Dean Moore. Our constitutional responsibility to decide whether electrocution is lawful requires us to consider whether any convicted person should be electrocuted before that question is answered. We conclude that we acted prematurely in ordering a death warrant before resolving that constitutional question. State v. Mata... [LB950]

SENATOR LOWE: Give you a little more light. [LB950]

SENATOR CHAMBERS: Thank you. For the following reasons, we stay Moore's execution and withdraw the order of our clerk directing the warden of the Nebraska State Penitentiary to electrocute him. In deciding whether to exercise our inherent power, we are mindful of the especial concern that is a natural consequence of the knowledge that execution is the most

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irremediable and unfathomable of penalties and that death is different. Our unique constitutional responsibilities impose a heightened standard of vigilance as we administer and supervise implementation of the death penalty. Notwithstanding the issuance of a mandate to a trial court or death warrant to the warden, we retain jurisdiction to set an execution date or suspend the execution of a death sentence. And every court has the inherent power to control the execution of its orders or processes, to the end of preventing an abuse of them. Such power is not derived from legislation...from legislative grant or specific constitutional provision, but from the very fact that this court has been created and charged by the state constitution with certain duties and responsibilities. Though...through this court's inherent judicial power, which is that power essential to the court's existence, dignity, and function, we have authority to do all the things that are reasonably necessary for the proper administration of justice. A warrant ordering Moore to be electrocuted implicates different responsibilities for this court, and places the case in a different procedural posture. Had we properly considered those responsibilities at the time, we would not have ordered the issuance of a death warrant. As already noted, another case on our docket, on a complete briefing and fully developed record, squarely presents us with the question whether electrocution is consistent with the prohibitions of cruel and unusual punishment imposed by the U.S. and Nebraska Constitution. That case is scheduled for submission to this court in September 2007. It would be premature to permit this electrocution to proceed without the benefit of deciding, on a developed record, whether electrocution is a lawful punishment. And if we were to conclude that electrocution was cruel and unusual after Moore had been electrocuted, our citizens' confidence in this court and the rest of the judicial branch as a bastion of civil rights might suffer irreparable harm. The purpose of a stay is to prevent a state from doing an act which is challenged and may be declared unlawful in a pending proceeding. The unique problem presented by this case is that Moore has not asked for a stay. It is a natural reaction for some to wish to be rid of an admitted murderer who asks to be executed. We are nonetheless required to ensure the integrity of death sentences in Nebraska. In this case, that Moore requires...that this case that requires Moore to cede control of his defense to protect the public's interest in the integrity and fairness of capital proceedings. I appreciate Senator Lowe's help, but I think that gives you a flavor, a taste of the flavor of the court decision. Too many times people will say that because a thing has not been done it cannot be done, or that it will not be done. But as I have stated before on this floor, I have to act on the basis which seems appropriate for me. So nothing is done before it is done. I did not believe that this man ought to die, and I used everything at my disposal, even against what the legal experts told me, in order to try to save this man's life. And this is where I am better than every so-called pro-life senator, the so-called pro-life Governor. Those who say they believe that life begins at conception. I want to save the life even of those that the pro-life people want to throw away and think are unworthy of being saved. I have no religion, not one corpuscle of religion. But still, I'm willing to go the last mile to preserve the life of somebody that religious people think ought to die. My standards are not those of religious people, I would have to lower my standards to their level to carry on in the way that they do. I would have to lower my standards to be in the position of so-called pro-life



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people like the Governor and the other senators who believe in the death penalty. This is one case where the Bishop of Rome, and some that preceded him, is right. He said that the death penalty should not be carried out in any case, under any circumstances, against anybody. And that was my view before I heard the Pope say anything, before I heard other people finally come around to that realization. Other people in other states have abolished the death penalty, and it has stayed abolished because they did not have a Christian, Catholic, pro-life Governor who, together with his daddy, were willing to spend over half a million dollars to have the death penalty reinstated by way of a petition drive which would not have been successful without the expenditure of all of that Ricketts money. But I am not deterred. I have a bill languishing in the Judiciary Committee whose purpose is to abolish the death penalty. Am I naive enough now, was I naive enough at the time I introduced the bill, to think that the senators would advance the bill from committee? Not on your life. But because they have cold feet it does not influence and affect me in terms of what I think is right. Did they change their mind and now they believe that the death penalty is appropriate? I'm not a mind reader. [LB950]

PRESIDENT FOLEY: One minute. [LB950]

SENATOR CHAMBERS: But I'll tell you what I do know, that political considerations have been known to alter the conduct of people, even when supposedly their convictions have not changed. So I will continue as long as I am in the Legislature, and even after I'm out of here, to the extent that I can, to try to prevent the state from executing anybody. The death penalty is a corrupting influence. It was so corrupting that, as I pointed out, the Governor and the Attorney General were spending state money to procure illegal drugs. And I wonder how many people, if you polled them, would say that the Governor and the Attorney General should spend taxpayer money to bring illegal drugs that had been banned by the FDA. You all talk about polls. The poll would have said the Governor and the Attorney General ought not to have done that. [LB950]

PRESIDENT FOLEY: Time, Senator, but you may continue. [LB950]

SENATOR CHAMBERS: Thank you, Mr. President. [LB950]

PRESIDENT FOLEY: You may continue on your next opportunity. Please proceed. [LB950]

SENATOR CHAMBERS: Thank you, Mr. President. When things are going your way then your convictions change. I don't know that there are many people on this floor who, if they told me they hold certain convictions, I don't know that I would believe them. I don't know that I could believe them. I have been here too long, I have seen too much. And I think I will see a lot more before I'm through in this place because, unfortunately, after this session is over I have two more years on my sentence. I voluntarily ran for the Legislature. Had I known those many years ago

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that I would be here this many years of my life, I would not have done it. I would not have done it. When I did it way back in those long-ago days, I thought I would be here long enough to finish the term of a senator from our district who had died during the first two years of his four-year term. Since he died before the halfway mark, the Governor appointed an elderly black man named Althouse. He didn't know his age. I don't know if he could read. He may have been in the early stages of dementia. But what he had said on the floor of this Legislature during a special session, that God had put the white man in command and black people should do what white people tell us to do. And he got a standing ovation from the racist senators in the Legislature, and that was reported by the three newspapers. During those days there was a separate paper called the Lincoln Star. On Sunday...oh, and a daily Lincoln Journal. On Sunday they combined to become the Sunday Lincoln Journal Star. All three of them, the Journal, the Star, and the World-Herald gave substantially the same account. I was well-known in my community (singing) when I wore a younger man's clothes. I was so young that I was in high school. People would come to me when things happened in our community. In those days, black people were not often on television. Whenever the reporters wanted to interview a person about things in our community, people would ask me, people from the community, would I come and talk to these people. And I told them that I would, and I did. When there were problems with the police, I couldn't solve them. I can't solve them now. But I worked with people on police problems, housing authority problems. In those days, the housing authority was segregated in their housing units. This won't mean anything to anybody who lives other than in Omaha, but 22nd Street was the dividing line. On the west side of 22nd Street black people lived; on the east side white people lived. And the units were strictly segregated racially in the same way that the Nebraska Penitentiary was segregated by race when I came to the Legislature. That changed. There are a lot of things that I've changed by being in this Legislature. So maybe all of that time was not wasted. But I was asked by people in the community would I run against Althouse, whom some people called "Outhouse." I ran against him; I won. And as they say, the rest of it is misery...I mean history. [LB950]

PRESIDENT FOLEY: One minute. [LB950]

SENATOR CHAMBERS: I and nobody else could have foretold that I would be here this long. Other things that I had done along the way when I was younger, Lyndon Johnson had become convinced that racism in America needed to be addressed. So he put together a commission, presided over by then-Governor Otto Kerner of Chicago, and it was called the Kerner Commission. Some people called it the "Riot Commission." Their conclusion, after all of the testimony they got, involving cities all over the country, was that America had developed into two societies, one white, one black. I testified without notes. I was younger. My testimony was noted by columnists. [LB950]

PRESIDENT FOLEY: Time, Senator. [LB950]

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SENATOR CHAMBERS: Thank you, Mr. President. [LB950]

PRESIDENT FOLEY: But you may continue on your third opportunity. [LB950]

SENATOR CHAMBERS: And it was written about nationally. Ebony magazine did a multipage spread on it, and the members of the commission talked about their...they said "our," they always claim ownership of black people. Our young black militant had us white-knuckled around the table. And all I did was told the truth. And I didn't need notes. I had read a lot. And I guess I told them things that they had not expected to hear. Martin Luther King had testified, Stokely Carmichael, Rap Brown, all of the so-called Negro leaders, as they were denominated. But my testimony was the only testimony that these reporters obtained. The testimony was taken in secret, but mine was released. The Lincoln Journal Star had done an editorial. A guy named Drew Pearson was well-known in those days and he wrote the editorial that set the standard, and it interested others in what I was talking about. A documentary was made called "A Time for Burning" and I was in it. People thought that I was a paid actor because I was so comfortable in the way that I presented what I had to say. But I told the people who were making the movie: All I'm going to do is tell you what I believe and what I think, and you can do whatever you want to with it. And you'll probably mess it up, because that's the way white people do. But because we were not getting the kind of coverage that we needed from the local media, I was willing to risk it. So I did. And that documentary was considered one of the best that was ever made, not just because I was in it, but that might be part of it. The Lutheran Church commissioned it to be made. All of the advertisements that were put out when they made it into videos that were for sale, that were for lease, they used my picture to promote it. My role was written about in The New York Times, Look magazine, a lot of national magazines. They said that it was too explosive to be shown on any of the three major networks--ABC, NBC, CBS--so it was shown on Public Television. And most of the editorial writers said that the commercial networks missed one of the best things that had ever been presented. That's what other people said. You know what amused me? There was a feature in Life magazine, and they referred to me as "an astonishingly articulate, young, black, militant firebrand." Why was it astonishing? Because they wouldn't expect a black man to be able to put ten words together and make sense. Nothing that I said was astonishing. Nothing that I said was different from what I said wherever I went. I was invited to universities all over the country. Some of you may have heard of Vassar, you may have heard of MIT, you may have heard of Pittsburgh University...oh, Colorado has a university. They invited me. I spoke in California. I spoke wherever people wanted me to talk. I never carried an entourage with me. I was investigated by the FBI, and that was amusing. They didn't need to sneak around. [LB950]

PRESIDENT FOLEY: One minute. [LB950]

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SENATOR CHAMBERS: They talked to neighbors, they talked to people at the post office where I worked until I was fired for what they called insubordination. And that occurred because one of the supervisors called me "boy" and my aim was not too good or he moved too fast for there to be contact between my balled-up fingers and his jaw. But I wound up being fired from the post office and other things of that nature caused people in my community to want me to come to this Legislature. I tried to get other people to run, but they chose not to. One young guy did, because he had family members who had been to the Legislature before, and some family members told him he had an obligation to uphold the family name. And when he and I appeared, there were not debates. His name was Michael Adams. I said, if I weren't running, I would support Michael. Michael said, if I were not running, I would support Ernie. [LB950]

PRESIDENT FOLEY: Time, Senator. [LB950]

SENATOR CHAMBERS: Was that my last time? [LB950]

PRESIDENT FOLEY: You have your close remaining, but Senator Wayne is in the queue. [LB950]

SENATOR CHAMBERS: Thank you. [LB950]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Wayne, you're recognized. [LB950]

SENATOR WAYNE: This will be very short, but Senator Chambers just reminded me of one of my pet peeves and I thought it would be a great time to talk about it for a quick second. So when Colin Powell was thinking about running for President, every news media station...so I'm saying this to help people who have a complex and don't know it. And Senator Vargas is going to know what I'm about to say, because I have said this to the board of the OPS Board many times to remind them. CNN, NBC, everybody started saying, well, you know, Colin Powell, he's so articulate, he's so well-spoken. Please do never use that describing me, never use that describing somebody who may look like me or is a minority in nature. I put myself through law school. I put myself through a pretty productive career. I don't ever expect to get up and not be well-spoken or articulate. But you don't ever say that of somebody who doesn't look like me. So just when you're in a crowd and you hear, they're so well-spoken, nine chances out of ten it's a minority. So I'm just throwing that out there because he brought up the word that was used to describe him in the '60s. When I was in high school and early college and Colin Powell was thinking about running, that's all they talked about: how well-spoken and articulate he is. And I find some of our colleagues on this floor describing myself--I won't speak for Senator Vargas, but he put his hand up back there--you guys are so articulate, you're so well-spoken. That is a

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very demeaning and racist thing to say. So while we have a second here, I also want to say we took a moment of silence for the victims in Florida, but since Florida there has been four to five...there has been five murders in Omaha, and this body has never taken a moment of silence. So how much time do I have left? [LB950]

PRESIDENT FOLEY: Just under three minutes. [LB950]

SENATOR WAYNE: So I'm going to use a minute of that to honor those people who have passed away in Omaha to gun violence. Thank you. (Moment of silence) Thank you, Mr. President. [LB950]

PRESIDENT FOLEY: Thank you, Senator Wayne. Senator Chambers, you're recognized to close on your reconsideration motion. [LB950]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, after this bill there will be another bill. I'm going to show you all that I will stay here until midnight. And I will stay here until midnight and I will challenge the Speaker, who has the right to alter the agenda, to keep us here until midnight starting tonight. And let's see who quits first. You all can rest. I'm on the floor all the time, even when you're talking about things I have no interest in. I'm always here. So I will be here. And I haven't seen anybody on this floor in my entire career in this Legislature who could hold forth consistently in the way that I do. I have persuaded or insisted that when I spoke at length it not be called a filibuster but, rather, extended debate. See, when white people did it in the Senate, they read recipes, they read from the phone book. They did things like that, and I was amazed when I found out that's what they would do. When I speak, I don't use notes. I was reading this evening because I don't have a recollection of all the details, and not a boast, but there's so many things that I have done, not for the purpose of being able to say I did it, but there are so many things that happen to black people that require somebody to withstand them, and I happened to have been the one who would do it. And I intend to keep doing it as long as I possibly can. I remember how the first Lee Terry, his daddy, used to say "black militant" Ernie Chambers. How many people have you ever heard of where J. Edgar Hoover told these agents: do not confront this man because he will embarrass the bureau? When John F. Kennedy, the President, was shaking, when Robert F. Kennedy, the Attorney General, was shaking, here was this young, black man who was wearing a younger man's clothes, who had FBI agents...excuse me, and J. Edgar Hoover shaking. Why was that? First of all, they couldn't frame me for anything. I didn't drink, didn't smoke, didn't use profanity, didn't chase women or men, didn't chase little girls or little boys, so there were not things they could accuse me of that people in my district, in my neighborhood it was in those days, or even my white enemies would have accepted. So they didn't try to frame me. I didn't carry weapons, so they couldn't say I had a gun hidden under my shirt. And when I'd reach, they thought I was going to

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pull out a gun. And in those days they did, and they do it now, they had throw-downs. They would have an extra gun or a knife, and when they killed a black man they would drop a gun by him or a knife, and lie and say that this man, while he was surrounded by these white cops, went for a gun. And white people knew that was a lie but they accepted it, because our lives are not worth anything. There is, I think it might be in Texas now...these places are the same, whether they're in the south or someplace else. There have been four explosions,... [LB950]

PRESIDENT FOLEY: One minute. [LB950]

SENATOR CHAMBERS: ...all affecting black people: two people killed, the other two seriously hurt. Suppose it was what racist Trump calls an "illegal." What would he be hollering? This is what happens when these people are here. Well, black people are dying. You haven't heard Trump say anything, have you? The papers don't report it. I see it on national news, and you all wonder why I'm upset. Because upsetting things happen to my people every day. I don't expect you all to be concerned, I don't expect you to do anything about it. That's what drives people crazy, that's what frustrates them. That's what creates depression, when you expect something from people and it does not come to pass. If you don't expect anything, you don't experience any of those emotions. You don't expect anything and you don't get anything. [LB950]

PRESIDENT FOLEY: Time, Senator. [LB950]

SENATOR CHAMBERS: Thank you, Mr. President. [LB950]

PRESIDENT FOLEY: Thank you, Senator Chambers. Members, you heard the discussion of the reconsideration motion. The question before the body is the adoption of the motion. Those in favor vote aye...Senator Chambers? [LB950]

SENATOR CHAMBERS: I would like a call of the house and a roll call vote. [LB950]

PRESIDENT FOLEY: There has been a request to place the house under call. The question is, shall the house go under call? Those in favor vote aye; those opposed vote nay. Record, please. [LB950]

CLERK: 12 ayes, 5 nays. [LB950]

PRESIDENT FOLEY: House is under call. Senators, please return to your desk and check in. The house is under call. Senators, please return to your desk and check in. The house is under call. All members please return to the floor. The house is under call. Senator Linehan, check in,

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please. Senator Linehan, if you could check in, please. Senator Bolz, check in, please. Senator McCollister. All unexcused members are now present. The question before the body is the adoption of the reconsideration motion. There has been a request for a roll call vote. Mr. Clerk. [LB950]

ASSISTANT CLERK: (Roll call vote taken, Legislative Journal page 967.) Vote is 0 ayes, 40 nays, Mr. President, on the motion to reconsider. [LB950]

PRESIDENT FOLEY: The reconsideration motion is not adopted. I raise the call. Mr. Clerk. [LB950]

ASSISTANT CLERK: Mr. President, Senator Chambers would move to return LB950 to committee. [LB950]

PRESIDENT FOLEY: Senator Chambers, you're recognized to open on your recommit motion. [LB950]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, now I'm going to talk a little bit about this Legislature itself. When I came down here there was a man named Terry Carpenter, they called him "Terrible Terry," and he had people terrified. Before I came down here they passed what they called a "riot bill" and Terry Carpenter had never seen me in his life. He probably had never heard me in his life, but he had heard of me. And he had given an interview, or at any rate, his words were carried in the Omaha World-Herald. And he frankly acknowledged that Chambers is not going to violate any laws that are on the books now, he's too smart for that. So we have to look at what it is he does and make that a crime. So Terry Carpenter persuaded the Legislature to put some cockamamie stuff into the law, which by the way I was able to get repealed when I got to the Legislature. When I got here everybody thought that Terry Carpenter and I would clash, we would be at each other's throat. But iron sharpens iron. A mutual respect developed between us almost instantaneously because he had contempt for a lot of what the Legislature did in the same way that I did based on the idea, from my standpoint, that there was so much good that the Legislature could do that it was not doing. I had no idea what to expect when I came down here. I never had a black teacher in my life. Every school I attended was predominantly white. I had always been around white people, although I lived in a black community, so I knew more about white consciously than white people knew about themselves. I had to study white people. I had to be aware of what it was they were thinking. I had to study their body language. Because when I was a small child, white adults would do things to black children. So white people could not be my friend, they could not be trusted because my experience taught me that. And as quiet as it's kept, Senator Larson made a remark today that misquoted me. He claims I said no minority member could be racist. I didn't say "minority," I

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said no "black person." But because of his garbled thinking, if what he does in his head can be called thinking, having graduated from George Washington University and not gotten much out of it, to him, black and minority are synonymous. White people label us. I don't accept their labels. You know why I won't accept the label "atheist"? That's arrogant of these Christians. Suppose I believe in the gods of Homer. Am I an atheist if I believe in Homeric gods? If you don't believe in those gods are you an atheist? Are you so arrogant that you think the notion that you have of God is the only one that is valid? Perish the thought. But if I were to accept any label that white people put on me--they don't even know me--that does away with any individuality. It dehumanizes. You become that label. And once they say that, all discussion is at an end. Atheist is a handy word. People don't know what I believe. They don't know what I disbelieve unless I tell them. But they presume that because I don't believe what they believe then I'm the opposite. They claim they believe in God; since I don't believe like they believe I disbelieve in God. Let me tell you all one thing. I can no more disprove the existence of your God than you can disprove the existence of the Homeric gods. You can no more prove the existence of your God than I can prove the existence of the Homeric gods. All of us say things that we've heard. We don't know. You all pray and the prayers are never answered. What I intend to do is get the Old Testament and show you where there was a contest of the gods. The Jewish God, Yahweh; Jehovah; Lord with all capital letters, the daddy of Jesus; and Baal, B-a-a-l. Their respective adherents wanted to have a contest, so this prophet, as he was called, said, what we are going to do is set up an altar and we are going to put a sacrifice on this altar: killing an innocent animal because of some nonsense about a god. But anyway, that's what they were going to do. They were going to dig a trench around the altar and they were going to fill it with water. And whoever god answered by fire was the true god. So since the ones who believed in Jehovah wrote the book and the story...before I tell you that, let me tell you something that happened between a black man and his little son. The little boy went to the show with his father and he saw Tarzan for the first time. And Tarzan would holler and animals would run from him. And if a lion stood up to Tarzan, Tarzan won. And that little boy was amazed. In fact, he was astonished. And he wanted to know from his father, how can they say that? No old white man can beat up a lion. And his father said, son, as long as the white man can write and make movies and the lion cannot, the white man is going to win against the lion. So if you grow up and white people can write and you cannot, you will be whatever they say in their writing that you are. That's the way black parents have to talk to their children. White people don't have to do that, you don't have to shield your children against other human beings that they might see in the store, on the street. And you talk about us being paranoid. It's not being paranoid. It's being intelligent and responding to the environment in which you live in a way that will allow you to survive. Survival is the driving feature of every living creature. You see a little ant and you make a move or put something in its path that makes that ant afraid and that ant will try to get away to save its life. Bees will fly away if you let them. Human beings are the same way: kill or be killed. Will this kill me or will I kill it? And nature wants the species to survive. The individual counts for nothing, but the species must survive. And that's where the theory of evolution comes into play.



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Any trait, any bodily modification that occurs is designed to serve a function that evolves that creature so that it can better survive and maintain its own species. That's why they say... [LB950]

PRESIDENT FOLEY: One minute. [LB950]

SENATOR CHAMBERS: ...that the alpha male is the one that the female will automatically submit to, because in both of them is built this urge, this necessity to survive. So they don't even have to think about it. And people will develop a collective consciousness, something like an ant colony. And whether they grow up in California, Watts, or on the south side of Chicago, or the north side of Omaha, never have spoken to each other, the language is the same, the slang is the same, as though you've known each other forever. I don't know why that happens, but it does. So our experiences in this society... [LB950]

PRESIDENT FOLEY: Time. Time, Senator. [LB950]

SENATOR CHAMBERS: Thank you, Mr. President. [LB950]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Kolterman. [LB950]

SENATOR KOLTERMAN: Thank you, Mr. President. Good evening, colleagues. I was wondering if Senator Albrecht might answer a few questions for me. [LB950]

PRESIDENT FOLEY: Senator Albrecht, would you yield, please? [LB950]

SENATOR ALBRECHT: Yes, I would. [LB950]

SENATOR KOLTERMAN: Senator, this is an important bill. And if we're going to have to waste time on it, we just as well talk about the bill itself. Could you talk a little bit about...you indicate you read...you read a list of the claims. Could you go over those claims again for me, please? [LB950]

SENATOR ALBRECHT: Every one of them? [LB950]

SENATOR KOLTERMAN: Pardon me? [LB950]

SENATOR ALBRECHT: Every one of them? [LB950]

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SENATOR KOLTERMAN: Yeah, just slowly and kind of reexplain them to us. [LB950]

SENATOR ALBRECHT: No. (Laugh) [LB950]

SENATOR KOLTERMAN: Well, I'd really...I'm serious. I'd really like to hear what they are again. [LB950]

SENATOR ALBRECHT: Really? [LB950]

SENATOR KOLTERMAN: I think we've lost track of why we're here. [LB950]

SENATOR ALBRECHT: Well, let me just run through them for you. [LB950]

SENATOR KOLTERMAN: Thank you. [LB950]

SENATOR ALBRECHT: I hate to take time off the floor for Senator Chambers, but I can do that for you. Okay, we have three tort claims, one for \$800,000, one for \$350,000, one for \$112,500. We have another one for \$197,330. We have another...we have four workmen comp claims. [LB950]

SENATOR KOLTERMAN: Can you talk a little bit about those tort claims? [LB950]

SENATOR ALBRECHT: You want to know about every one of those? [LB950]

SENATOR KOLTERMAN: I'm just curious what they're about, the tort claims. [LB950]

SENATOR ALBRECHT: Okay, let's go there. So we have...let's see, the Roads Operation Cash Fund. A tort claim for an accident on August 5 with Gary Lee, who lost control of his motorcycle on the Highway 92. And that was to the tune of \$800,000, and his passenger received \$350,000 for injuries. And then there was our AM2359 that was another tort claim. And it consisted of \$112,500 when the Nebraska Department of Transportation was repairing and replacing a stop sign for eastbound traffic on Highway 32 and Ms. Schmid failed to stop at the intersection and she was struck by a southbound semi. And I have another claim, two more, that were stemming from...let's see, costs of Stewart v. Heineman, which was a case where three same-sex couples challenged an administrative memorandum that restricted gay and lesbian persons and couples from becoming foster and adoptive parents. The district court awarded cost and attorney fees, which was held up in the Nebraska Supreme Court to the amount of

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\$197,330.63. And then we have another one which came out of the AM2359, this is the second one, workers' compensation claim to be paid out of the Workers' Compensation Claims Revolving Fund. And that was for \$100,000...yes, \$100,000 to be paid to Judith Williams. On July 23, Judith, who is a former Beatrice State Development Center employee, slipped on a puddle of water on the floor and injured multiple lower extremities. She caught her foot on an orange plastic fencing and injured her knee on October 13, 2014. On October 20, 2015, she was accidentally hit with an office chair that another employee was moving, which aggravated her knee injury from the previous year. The second workers' compensation claim was for \$106,250 to Annette Halsey, who is a former employee of a contractor who performed work for DHHS. She was involved in a two-car collision in Hall County. [LB950]

PRESIDENT FOLEY: One minute. [LB950]

SENATOR ALBRECHT: Did you want to say any more, or are you still listening? [LB950]

SENATOR KOLTERMAN: Well. I'm just curious. [LB950]

SENATOR ALBRECHT: Okay. [LB950]

SENATOR KOLTERMAN: Do you know, do you have a total amount on all those claims? [LB950]

SENATOR ALBRECHT: I do. I do. The total amount, including the tort claims, the indemnification claims, the workers' comp claims, and the total write-offs adds up to \$3,016,291.31, so. [LB950]

SENATOR KOLTERMAN: Can you tell me, are those in the budget at the present time, those claims? Are we budgeted for them? [LB950]

SENATOR ALBRECHT: You know, I wish Senator Schumacher was still here because I believe when he asked earlier if anybody could find the \$5 million, I'm imagining that that's for things like this and anything else that would come later on. [LB950]

SENATOR KOLTERMAN: I appreciate that. I'll ask... [LB950]

PRESIDENT FOLEY: Time, Senators. [LB950]

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SENATOR KOLTERMAN: ...some more questions in a few minutes. [LB950]

PRESIDENT FOLEY: Time, Senators. [LB950]

SENATOR KOLTERMAN: Thank you. [LB950]

PRESIDENT FOLEY: Thank you, Senator Kolterman and Senator Albrecht. Senator Kuehn. [LB950]

SENATOR KUEHN: Thank you, Mr. President. Thank you, colleagues. So since Senator Chambers wants to talk a little bit, I did want to address one of his comments a little bit. We'll have a little dialogue about the nature of evolution, because there are a lot of misconceptions. And if we're going to be here at 11:07, and I'm hoping the pages are getting college credit that will help you with your liberal arts education tonight. We're going to talk a little bit about some of the fundamental principles of dissent with modification. So one error, Senator Chambers, if I may correct you, was you were a bit teleological in your description of evolution. So, Senator Chambers, would you yield to a question? [LB950]

PRESIDENT FOLEY: Senator Chambers, would you yield, please? [LB950]

SENATOR CHAMBERS: Yes. And I would be happy to have my education improved. [LB950]

SENATOR KUEHN: Would you? Do you know what the term "teleological," when it comes to scientific principles, means? [LB950]

SENATOR CHAMBERS: Uh-huh, but I'm going to say no. [LB950]

SENATOR KUEHN: Okay. So teleology is the attribution of intent or purpose to that which does not have intent or purpose. And so the raw material of evolution, which is DNA, the genes which are encoded, which is a region of DNA that transcribed is one specific protein which gives us our characteristics, does not have intent. Therefore, the desire to survive of the species is actually an accidental thing. And while he is true and accurate in saying that it is about the survival of the species, one common misconception about the nature of evolution is that it is not concerned with the individual. And it is. The raw material of speciation begins with an accident, a mutation, a variation in an individual. And it is the fitness of that individual that promotes its ability, that individual organism, to reproduce, to pass its genes on to another generation. And it is the accumulation of those genes over time that creates new traits that results in the variation that we see. So it is...it's an individually based process that we see and observe on a species level. The

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other one I just want to ask Senator Chambers if he is aware of, he mentioned alpha males. We'll introduce a new term into your lexicon tonight, possibly. Senator Chambers, have you ever heard of the sneaker male phenomenon? [LB950]

SENATOR CHAMBERS: The what? [LB950]

SENATOR KUEHN: The sneaker male phenomenon. [LB950]

SENATOR CHAMBERS: I don't know what the sneaker male phenomenon is. I said improve my education. You're going to talk to me, since you said that's what you want to do. [LB950]

SENATOR KUEHN: So there is often a misconception that it is the alpha male, the most ostentatious of the species which will pass on its traits. And if you're near your computer and you want to look up something, look up the sneaker male phenomenon, which is that which who is most nimble and adept, who often interferes with the pair bond, has the ability to pass his genes on. So it's not always the grandest or the most ostentatious but sometimes the most nimble who is evolutionarily successful. With that, hopefully I have increased your knowledge a little bit about some of the basic principles of evolution. And if we're going to go late nights and take time, I've got hours of this kind of stuff, so. [LB950]

SENATOR CHAMBERS: May I respond to the question you asked? [LB950]

SENATOR KUEHN: You certainly can. [LB950]

SENATOR CHAMBERS: Now, this sneaker male and his activity is what is accidental. He does not, he is not in a position to on a regular basis do what he might sneak up and do every now and then. The low-hanging fruit is often taken by one who can't get other fruit. But the alpha male is the one who more consistently is going to be able to carry out this function of passing his genes on. Sometimes an alpha male may lose in a physical contest. [LB950]

PRESIDENT FOLEY: One minute. [LB950]

SENATOR CHAMBERS: Maybe the one who is weaker will get in a lucky blow, the alpha male may stumble. If they are horned animals, then that might give the opening so the one who is not the stronger will win. So when you say an accident, there are all kinds of accidents that happen. And evolution is just what I consider to be a generalized flow, not anything that goes in a straight line without deviation or diversification. [LB950]

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SENATOR KUEHN: Point taken. Thank you, colleagues. [LB950]

PRESIDENT FOLEY: Thank you, Senators Kuehn and Chambers. Senator Chambers, you're next in the queue. You're recognized. [LB950]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, that man who was just talking to me is very humble. Not really. I'm using the term advisedly. He knows a lot more than people would think that he knows. (Laughter) That is not meant the way it might sound. But I've listened to Senator Kuehn and I've listened to him talk about different subjects, not just on the floor of the Legislature but in the...we're on the Exec Board together. And he's one of that group that consistently misreferences bills, but I don't hold that against him because they are his friends and I'm not. He has to maintain a kind of camaraderie with them, but not me or the Rules of the Legislature. But despite how upset I get at that, it doesn't cause me to be blinded to what he knows, the logic that he uses. And when I agree with what he says, I'm not going to disagree just because there are other things that I disagree with him on. And I think if people would listen to Senator Kuehn, not on everything...let me give you the high sign in terms of whether you ought to accept what he's saying is true. But he is a sharp individual, and I'm not trying to cheese up to him. And I let him know that I was concerned when he hadn't shown up for several days, because he had always been here and nobody had commented on why he was absent. But he told me. And he can tell you, if he's interested. But there are different ones of you who stand away from the pack. And since it's late at night when people tend to have their guard down, and they will be more forthcoming than ordinarily would be the case, and also they will forget by tomorrow what they heard, you might get more in the way of a frank discussion than would be the case. But since I often stay up late, I listen to people, I pay attention to people, even Senator Halloran over there sitting under the balcony. A mistake is made when, because you have differences with a person, you discount everything that person would say. And I'm going to tell you all a trick, if you want to call it that. When I'm talking to somebody who is supposed to be smart and I disagree with them, I'll interrupt. And they'll be talking and I'll interrupt. Then they become irritated, then they become angry, then it just all tumbles out, then I stop talking. And then I listen. And when they're angry, they speak what they feel and what they think. But since they're not thinking while they're doing that but reacting to me, they don't remember everything they said. But I'm taking in every word. Then at another time I will give back to him what he gave to me. And he thinks I can read his mind. I can't read anybody's mind, but I know how to pay attention and I know how to observe people and see when they're speaking and not paying attention to what they themselves are saying. And as a result, I have a cup half full, you have a cup half full. You don't listen to me, your cup doesn't get anything. I listen to you, then I've got a full cup and you've still got a half cup. And that is a principle of my theory of evolution, "Professor" Kuehn, that I don't know whether an animal thinks, I don't know whether an animal has self-awareness. They just discovered not long ago that there's a species of ant in Africa... [LB950]

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PRESIDENT FOLEY: One minute. [LB950]

SENATOR CHAMBERS: ...and they take care of their injured colleagues. When they raid the nest of termites, some of them will lose a leg, some will have the termite's mandibles hooked to its body. And if one of those ants is not too severely injured, that ant will be picked up and taken back to the nest and ministered to. They have found, the scientists, those they call medics, who will lick this injured ant's wounds. They think that's because there's a natural antibiotic in their saliva, and these ants are healed. The reason they know it, they dug up some of these nests and built artificial nests in their laboratory so that they could observe what happened. And they saw activities and interreactions among these ants they never thought could be the case. Sometimes human beings are too arrogant... [LB950]

PRESIDENT FOLEY: Time, Senator. [LB950]

SENATOR CHAMBERS: Thank you, Mr. President. [LB950]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Kolterman. [LB950]

SENATOR KOLTERMAN: Thank you, Mr. President. Senator Chambers, would you yield to a couple of questions? [LB950]

PRESIDENT FOLEY: Senator Chambers, would you yield, please? [LB950]

SENATOR CHAMBERS: Happily. [LB950]

SENATOR KOLTERMAN: A couple of things I've heard you say today, you say we don't listen a lot, but I listened to you recite some Robert Service poetry. Do you remember what that was this morning? [LB950]

SENATOR CHAMBERS: Oh, yes, part of Dangerous Dan McGrew. [LB950]

SENATOR KOLTERMAN: That's correct. Thank you very much. The other thing I just heard you say was you indicated that possibly Senator Kuehn is not a friend of yours. Is that true? [LB950]

SENATOR CHAMBERS: I don't think I said he's not a friend. [LB950]

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SENATOR KOLTERMAN: Yeah, you did. You said he's not one of your friends in that group. But anyway... [LB950]

SENATOR CHAMBERS: Oh, that term was used advisedly in the context of the discussion. [LB950]

SENATOR KOLTERMAN: Okay. Well, my question to you is, do I have to sing to you again? [LB950]

SENATOR CHAMBERS: You're a grown man and you can do whatever you want to do, despite what I may want or not want. [LB950]

SENATOR KOLTERMAN: All right. Well, do you remember what I did sing to you? [LB950]

SENATOR CHAMBERS: Unfortunately, I think I'll never forget. I've got a friend,... [LB950]

SENATOR KOLTERMAN: In me. [LB950]

SENATOR CHAMBERS: ...except when you sang it you said "you've got a friend." Isn't that what you sang? [LB950]

SENATOR KOLTERMAN: I sang, (singing) you've got a friend in me. There you go. Anyway,... [LB950]

SENATOR CHAMBERS: See, I paid attention, didn't I? [LB950]

SENATOR KOLTERMAN: Yes, you did. [LB950]

SENATOR CHAMBERS: And had I not given you the name of the song, you might not have remembered what you sung, huh, sang? [LB950]

SENATOR KOLTERMAN: Thank you very much. Now, back to the bill. Senator Albrecht, would you entertain a couple more questions? [LB950]

PRESIDENT FOLEY: Senator Albrecht, would you yield, please? [LB950]



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SENATOR ALBRECHT: Yes, sir. [LB950]

SENATOR KOLTERMAN: Senator Albrecht, in all seriousness, we're talking over \$3 million here. [LB950]

SENATOR ALBRECHT: Uh-huh. [LB950]

SENATOR KOLTERMAN: That bill gets paid by the state of Nebraska. Does that come out of a revolving fund, do you know? [LB950]

SENATOR ALBRECHT: Well, I think it comes out of all of these different areas that I was talking about: the workmen's compensation; the...well, yeah, the Department of Health and Human Services; Secretary of State; Department of Revenue. [LB950]

SENATOR KOLTERMAN: And what about the tort claims? Do we self-insure as a state, do you know? [LB950]

SENATOR ALBRECHT: I would not know that for sure. I would think we do. [LB950]

SENATOR KOLTERMAN: Okay. Well, Senators, the only reason I bring this up is \$3 million is a lot of money, especially in light of the fact that we don't have the money to spend. And I know we need to pass this bill. But at the same time, I think it's important that we do take this very seriously, because \$3 million is \$3 million. And we're paying out some claims here that apparently we lost the fights. And so I think it's important that we do pay attention to this bill, in all seriousness. And I would like to thank Senator Albrecht for trying to answer some of my questions, and I would hope that we could keep this discussion on topic. Thank you very much. [LB950]

PRESIDENT FOLEY: Thank you, Senator Kolterman. Senator Murante. [LB950]

SENATOR MURANTE: Thank you, Mr. President. Members, good evening. Senator Kolterman inspired me to have a little bit of discussion on the budget, as well as I can see we have a supermajority of the membership of the Government, Military and Veterans Affairs Committee, which I believe proves that we are the hardest-working committee in the Unicameral Legislature. They've heard me say a lot about the issue of election technology and the challenges that this state has going forward. And I would like to give you just a brief background because it's something that the Legislature is going to have to address in the appropriations process in the years to come. And it all starts in the year 2000. In the year 2000 we conducted a Presidential

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election and the state of Florida was plunged into a state of chaos. And the challenges that we saw that resulted from that election was that the election equipment in the state of Florida was insufficient for the number of ballots that they had. You may recall chad technology, where it was punch-through ballots. And they weren't being read by machines. And the issue went all the way up to the Supreme Court and resulted in a Supreme Court decision that was Bush v. Gore. Many only remember the concluding remark, the split decision that was 5-4. But that same ruling had a 7-2 ruling which stated that there is an equal protection violation when states have ballots which are counted in one jurisdiction but are rejected in another. There was a 7-2 ruling on the Supreme Court that that violated the Constitution of the United States. Fast-forward and Congress took action. Four years later, Congress passed the Help America Vote Act, which did a number of things. It created the United States Election Assistance Commission, on which I serve; it established guidelines for the creation of election equipment and the procedures by which election equipment would be authorized, all of that is voluntary; and it created guidelines and standards. And it also appropriated significant amount of money to the states for the purposes of the states investing in new election technology. Nebraska took use of that election technology in the years that followed the Help America Vote Act, and we purchased new election equipment in the mid-2000s. That election equipment is now reaching the end of its life cycle and we have now researched, both on the Government, Military and Veterans Affairs Committee side and through Senator Hansen's legislative resolution, which created the Election Technology Special Committee, studied what the new generation of election technology is going to look like. And I can tell you, one thing is abundantly clear: we do not have until 2022. Literally in Douglas County the counting devices, one counting device is being held together by duct tape, literally. It is only functioning because it is being held together by duct tape. The system in Douglas County crashed so badly that ballots were not counted in the 2016 election until well into the morning, 6:00 in the morning. So the election workers who were working were working 12-hour shifts on election technology that malfunctioned and broke down. The same is true across the state of Nebraska. And what we also know is that we cannot push the cost down to the local level. Outside of Douglas, Sarpy, and Lancaster County the truth of the matter is they don't have the capacity to raise the amount of money necessary to purchase the equipment that will become necessary within the next four years. [LB950]

PRESIDENT FOLEY: One minute. [LB950]

SENATOR MURANTE: The Election Technology Special Committee estimates that the cost of replacing our system will be in the \$20-25 million range. Of course, the longer we wait, the more expensive that equipment will be. But at the end of the day, if the investment is not made, and the counties cannot...and we know they do not have the money and will not have the ability to get the revenue to purchase the equipment, that we will not be able to count ballots in the state of Nebraska on a systemic level going forward after the 2022 election. All of this is readily knowable information. The challenge is, where do we come up with the \$20-25 million

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investment that is required? And I believe that this is a state issue, I believe that elections are inherently a state issue and it is not the responsibility of the localities to pay for the costs of running elections. [LB950]

PRESIDENT FOLEY: Time, Senator. [LB950]

SENATOR MURANTE: Thank you, Mr. President. [LB950]

PRESIDENT FOLEY: Thank you, Senator Murante. Senator Ebke. [LB950]

SENATOR EBKE: Thank you, Mr. President. And I promised the Speaker that I would cut this very short. First of all, I rise in support of LB950 and AM2359. Second, given that we've talked so much about history and science and the like tonight, I would like to call to your attention the death of the man who wrote A Brief History of Time, physicist and author Stephen Hawking, at the age of 76, and read just the lead paragraph from the story in The Guardian: Stephen Hawking, the brightest star in the firmament of science, whose insights shaped modern cosmology and inspired global audiences in the millions has died at the age of 76. I thought that was great rhetoric and a great way to end the evening. Thank you, Mr. President. [LB950]

PRESIDENT FOLEY: Thank you, Senator Ebke. Senator Wayne. [LB950]

SENATOR WAYNE: Thank you, I'll be brief too. It took us until 11:26 for Senator Murante to say something that I agree with him on. I just wanted to put that on the record. Murante and Formaldehyde's not here, or he's downstairs's I all went out to a conference, and I just wanted to confirm that I agree with Murante. We have to do something about our election, which is why we need to have more conversation, election technology, which is why we have to have more conversation around our budget, hopefully soon on the second round, because all of this factors in. But I had to put on the record that Senator Murante said something that I finally agree with, and we've been here for a long time. Two years, first time ever. Thank you. [LB950]

PRESIDENT FOLEY: Thank you, Senator Wayne. Senator Chambers, you're recognized for your third opportunity. [LB950]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, regarding what Senator Murante said, he ought to spend time trying to get that money rather than trying to impede black people's right to vote. That's what he's spending all of his time doing, and that's why I say he would be, if he were black, he would be an Uncle Tom. He's doing the white people's work for them. They tried every way they could to deprive us of the right to vote, even

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after black men had fought in the Civil War and died. These ignorant white people in the South created what was came to be known as grandfathering. These ignorant white people could not read, they could not write, they could not figure. So how are you going to let the white ignoramus vote when black people who could read and write and spell and figure not vote? Well, if your grandfather voted in a certain election at a certain date then you can vote without any of these tests that are necessary, and they picked a date when black people could not vote. And that's why a lot of white people in the South are ignorant today. Their school systems are inferior. They spent so much time trying to hold black people down that they hurt themselves. And you did have ignorant white people not only voting but holding offices, and they hold those offices today. Every time a white person or a brand X white person, like Senator Murante, says something, then it reminds me of the wrongful things done to black people. You will never find me trying to be white or trying to make white people like me. White people can't like a black man in reality. You can't, it is impossible. And there is a conversation about evolution that Senator Kuehn and I could have and it would be different from what happened this evening, but I wanted you to have an opportunity to see what this man really knows, what he really understands, because sometimes he occasionally is right on an issue and I want you to be aware of that and I accept what he says. And when he's wrong, I'll let you know about that too. But what we have to be able to do as black people is function, no matter what the circumstances. If I were depressed, which I don't get depressed, but watching what happens to people when they're depressed, I couldn't act like somebody who is depressed. I have to always be hitting on all cylinders. You show me any 80-year-old white man who can do what I do and have been doing it as many years as I've done it--43 years in this pestiferous swamp. My brain is still functioning, although at only 2 percent of its capacity, 2 percent of its capacity. I have lost 98 percent of the mental ability that I had, and I still don't come in second here. I don't remember things, I fake it. I remember rhyming words, and since you all don't know anything about poetry you don't know whether what I'm saying and quoting is really a rhyme. If I say Edgar Allan Poe said this, you'll listen, and maybe I said it. But because I hooked it up to some person you respect, then you feel, uh-huh, that's really something,... [LB950]

PRESIDENT FOLEY: One minute, Senator. [LB950]

SENATOR CHAMBERS: ...which means that Poe really wasn't any smarter than me, as far as you're concerned. But I'm smarter than you because I made you believe that something that was not said by Poe was. So it must have at least equated to what you heard Poe say, you heard that he said, you read that he said. But I'm really not saddened, but I'm disappointed that Stephen Hawking died. He had to die at some point, but he's one of those persons that I just never thought of as reaching the point of where he would die. And he wasn't in the best of health either. And that man showed that as long as your mind is functioning, no matter what your body, which might be a casket in a sense that holds your brain and everything that you are, it could be totally

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incapacitated. But if your mind is functioning and you don't give up and you don't give in then, as that song by the Mechanics say, Mike and the Mechanics: you just might be amazed. [LB950]

PRESIDENT FOLEY: Time, Senator. [LB950]

SENATOR CHAMBERS: Thank you, Mr. President. [LB950]

PRESIDENT FOLEY: Senator Chambers, you're recognized to close on your recommit motion. [LB950]

SENATOR CHAMBERS: Members of the Legislature, I have no intention of holding this bill up. I didn't take into consideration the time that the Clerk's Office needs to do certain things, but I was under the impression that we were going to stay until midnight. And I wanted to not just be a person who sits around, and I've said over and over I'm going to be here. I'm going to talk about something, so I may as well talk about what I want to or talk about what you all bring up. But I'm not going to be sitting around here like some of you all, looking like if a mortician came in here he wouldn't know which ones to take and which ones to leave. You all have a sense of humor. But here's what it is, it's so late, your guards are down, so you laugh when ordinarily you wouldn't. But I'm not going to have anything more to say on any bill, not because I'm giving up or giving out, but to be sure that this bill does move and there's time to do whatever processing is necessary. So I will say, as Merrill Workhoven used to say, "My time is up. Thank you for yours." [LB950]

PRESIDENT FOLEY: Thank you, Senator Chambers. Did I understand you are going to pull this motion? [LB950]

SENATOR CHAMBERS: Yes. [LB950]

PRESIDENT FOLEY: The motion is pulled. Senator Albrecht, you're recognized to close on your amendment. She waives closing. The question before the body is the adoption of the committee amendment, AM2359. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB950]

ASSISTANT CLERK: 33 ayes, 0 nays on the adoption of the committee amendments, Mr. President. [LB950]

PRESIDENT FOLEY: Committee amendments are adopted. Senator Albrecht, you're recognized to close on the advance of the bill. She waives close. And the question before the body is the

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advance of LB950 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please. [LB950]

ASSISTANT CLERK: 36 ayes, 0 nays on the advancement of the bill. [LB950]

PRESIDENT FOLEY: LB950 advances. Items for the record, please? [LB950]

ASSISTANT CLERK: Mr. President, I have no items at this time. I do have a priority motion for Senator Walz to adjourn until Wednesday, March 14, 2018, (inaudible).

PRESIDENT FOLEY: Members, you heard the motion to adjourn. Those in favor say aye. Those opposed say nay. We are adjourned.