

January 19, 1989

LB 53, 57, 662-682

SPEAKER BARRETT: Thank you. Discussion on the advancement of the bill? Anything further, Senator Weihsing, there are no lights on?

SENATOR WEIHSING: Nothing further, thank you.

SPEAKER BARRETT: Thank you. The question is then the advancement of LB 53 to E & R. Those in favor vote aye, opposed nay. Record, Mr. Clerk.

CLERK: 27 ayes, 0 nays, Mr. President, on the advancement of LB 53.

SPEAKER BARRETT: LB 53 is advanced. Anything for the record, Mr. Clerk?

CLERK: Mr. President, new bills. (Read LBs 662-682 by title for the first time. See pages 313-17 of the Legislative Journal.)

SPEAKER BARRETT: The Chair also reminds members of the body of the Lied Center tour today. Transportation is available at the south door of the Capitol, south door, Lied Center tour. Returning to General File, Mr. Clerk, LB 57.

CLERK: Mr. President, LB 57 was a bill introduced by Senator Coordsen. (Title read.) The bill was introduced on January 5, referred to Urban Affairs, advanced to General File. I have no amendments to the bill, Mr. President.

SPEAKER BARRETT: Senator Coordsen, please.

SENATOR COORDSEN: Thank you, Mr. President, members of the body, this bill last year existed in the form of a friendly amendment to a bill that later came up on consent calendar, and I subsequently withdrew the bill and introduced it this year as a...or withdrew the amendment and introduced it as a separate bill. What this bill does in the use of wheel tax funds in a city, if we remove from statute the words "or for related equipment purchases as a use of the wheel tax funds", words that were put into by the...put in statute by the bill last year. To the best of my knowledge there are four cities in the State of Nebraska that currently levy a wheel tax, none of which use those funds for purchasing of equipment up to this time. It was

March 13, 1989

LB 49A, 77, 161, 162, 183, 215, 226A
258, 272, 279, 319, 325, 335A, 357
377, 415, 431, 468, 477, 498, 537
539, 541, 568, 569, 572, 575, 586
591, 628, 630, 633, 646, 660, 662
671, 678, 714, 720, 747, 766

LB 335A for the first time by title. That is offered by Senator Korshoj. Read LB 49A for the first time by title. Read LB 226A for the first time by title. See pages 1100-01 of the Legislative Journal.)

Mr. President, Business and Labor Committee reports LB 415 to General File with amendments, signed by Senator Coordsen as Chair of the committee. General Affairs reports LB 477 indefinitely postponed, LB 568 indefinitely postponed, LB 572 indefinitely postponed, LB 660 indefinitely postponed, LB 766 indefinitely postponed. Those are signed by Senator Smith as Chair. Urban Affairs reports LB 498 as indefinitely postponed, LB 633 indefinitely postponed, LB 671 indefinitely postponed. Those are signed by Senator Hartnett. (See page 1101 of the Legislative Journal.)

I have amendments to be printed, Senator Wesely to LB 279; and Senator Schellpeper to LB 357. Mr. President, Health and Human Services Committee reports LB 537 to General File with amendments, LB 645 to General File with amendments, LB 662 to General File with amendments, and LB 539 indefinitely postponed, those signed by Senator Wesely as Chair. (See pages 1102-07 of the Legislative Journal.)

Mr. President, priority bill designations; Senator Morrissey selects LB 569; Senator Kristensen, LB 586, Senator Chizek, LB 747 as his personal priority bill, and LB 215 and LB 377 as Judiciary Committee priorities; Senator Warner has LB 468 and LB 258 by Appropriations Committee; Banking, Commerce and Insurance offers LB 319 and LB 272 as priority bills; Senator Barrett has LB 575 as his personal priority bill; Senator Warner, LB 77 as his personal priority bill; Senator Coordsen offers LB 541 and LB 630 as Business and Labor priority bills; Senator Goodrich has selected LB 591 as his priority bill; Senator Rod Johnson has selected LB 161 and LB 162 as committee priority bills, and LR 2CA as his personal priority resolution; Senator Wesely selects LB 431 as his personal priority bill, and LB 678 and LB 720 as Health and Human Services priorities; Senator Hefner selects LB 325 as his personal priority bill; Senator Lowell Johnson selects LB 646 as his personal priority bill; Senator Robak, LB 628 as her priority bill; and Senator Conway, LB 714 as his priority bill.

And Senator Baack, Mr. President, has amendments to be printed to LB 183. (See pages 1109-10 of the Legislative Journal.) And

about occasionally there have been decisions made about when to remove a child from a home, and because of the legitimate statement in the Family Policy Act about our desire to leave children in the least intrusive and least restrictive settings and whenever possible to keep families together, there have been isolated instances of decisions made where a child has been left in a home and what I think most of us would agree is under questionable circumstances, and, in fact, has in some cases clearly been at the expense of the child's best interests. I think that is partly a problem with training that has not necessarily always taken place adequately within the agency, which I think we're going to try to address through some of the budget recommendations that we've made, and I've brought specifically this language to another bill before the Health and Human Services Committee and I don't think anybody objected to it. In fact, many people who weren't absolutely certain about the bill we were going to attach this to were strongly in favor of this language. And so I'm asking that you help me suspend the rules on this so that we do not let another summer, another fall go by waiting for perhaps that particular bill to pass, where a child might in some instances be inappropriately left in a family where that child's emotional and physical development might be threatened. I think this sufficiently clarifies the language in 637 so that there shouldn't be recurring instances of children inappropriately left in families where clearly their best interests aren't being served. I'd be happy to try to answer questions, and if there are no questions, I'd simply ask for you to suspend the rules and adopt this amendment. Thank you.

SPEAKER BARRETT: Thank you. Before recognizing Senator Wesely, Senator Hartnett announces some guests in our north balcony, 60 fourth graders from Bellevue with their teacher. Would you folks please stand and be recognized. Thank you. We're pleased to have you with us this morning. Senator Wesely, further discussion.

SENATOR WESELY: Thank you, Mr. Speaker, members, Senator Scofield did refer to this amendment. It was adopted by the Health and Human Services Committee as an amendment to LB 662. It was brought to us at the hearing and, as she stated, I think most people were in agreement that it did help clarify in a positive fashion concern about the Family Policy Act. It does recognize one of the concerns I've had and others have had about that act and does, I think, further leave the notion and clarify

January 4, 1990

LB 662, 830, 845, 895, 897, 905, 953
1011-1013

the house is under call. Senator Dennis Byars, the house is under call. The house is under call, unauthorized personnel, please leave the floor. Senator Byars is on his way. We'll proceed with the vote on the adoption of proposal number ten. A roll call has been requested. Proceed with the vote, Mr. Clerk.

ASSISTANT CLERK: (Roll call vote taken. See pages 181-82 of the Legislative Journal.) The vote is 18 ayes, 21 nays on amendment number ten.

SPEAKER BARRETT: Motion fails. The call is raised. Any messages on the President's desk, Mr. Clerk?

ASSISTANT CLERK: Yes, Mr. President, three new bills. (Read LBs 1011-1013 by title for the first time. See pages 182-83 of the Legislative Journal.)

I have proposed amendments to the rules from Senators Lamb, Schmit and Withem. And I have consents to add names to LB 895 from Senator Bernard-Stevens; LB 897 by Bernard-Stevens; LB 953 from Bernard-Stevens; LB 662, Bernard-Stevens; LB 845 from Senator Crosby; LB 830 from Senator Schellpeper; and LB 905 from Bernard-Stevens. That's all I have, Mr. President.

SPEAKER BARRETT: Thank you. Senator Lynch, for what purpose do you rise?

SENATOR LYNCH: Mr. President, members, I move that we adjourn until nine o'clock in the morning on January 8th.

SPEAKER BARRETT: You've heard the motion to adjourn until nine o'clock, Monday morning. All in favor say aye. Opposed no. Ayes have it, motion carried, we are adjourned.

Proofed by:


Marilyn Zank

January 10, 1990

LB 662, 742, 1098
LR 238

E & R. Those in favor please vote aye, opposed nay. Have you all voted? Record, Mr. Clerk.

CLERK: 32 ayes, 4 nays on the advancement of 742, Mr. President.

SPEAKER BARRETT: LB 742 is advanced. For the record.

CLERK: Mr. President, new resolution, LR 238 by Senator Chambers. (Read brief description. See page 269 of the Legislative Journal.) That will be laid over.

Mr. President, hearing notice from Health and Human Services and from Education and Revenue, signed by their respective Chairs.

And, Mr. President, new bill. (Read LB 1098 by title for the first time. See page 270 of the Legislative Journal.) That's all that I have, Mr. President.

SPEAKER BARRETT: Thank you. Moving to the next bill on General File, Mr. Clerk, LB 662.

CLERK: Mr. President, 662 was a bill introduced by Senator Scofield and Chizek, Coordsen, Wesely, Landis, Barrett, Pirsch, Labedz, Baack, Smith, Moore and Bernard-Stevens. (Title read.) The bill was introduced on January 19 of last year, Mr. President. It was referred to the Health and Human Services Committee for public hearing. The bill was advanced to General File. I do have committee amendments pending by the Health and Human Services Committee.

SPEAKER BARRETT: The Chair recognizes Senator Wesely on the committee amendments.

SENATOR WESELY: Thank you, Mr. Speaker. If I could, I'd like to ask that the committee amendments be divided into two parts. There are two distinct sections and I'd like to take them up individually if you don't mind.

SPEAKER BARRETT: Mr. Clerk.

CLERK: Senator, just so I know, just divide them where they...

SENATOR WESELY: There is two new sections, take the first...

CLERK: Right.

SENATOR WESELY: ...and then the second.

CLERK: Okay.

SENATOR WESELY: Is that all right, Mr. Speaker?

SPEAKER BARRETT: The Chair has no objection.

SENATOR WESELY: Okay. The first element of the committee amendments deals with a report that is required under the Family Policy Act to be submitted by the Departments of Corrections, Health, Public Institutions, Social Services and Education to the Legislature. Under the bill which was considered last year, that report was due November 15 of 1989. I understand there is an amendment to that section that we would need to adopt before we adopted this particular new section. But the Family Policy Act, if you recall, was legislation championed by Senator Scofield and what it did was establish a mechanism for different state agencies to work together to deal with family issues, families at risk getting support to try and deal with their problems and there was a need to identify the roles of the different agencies in carrying out this policy and this section would clarify the need to report back to the Legislature on that but we do need a date change. So I guess at this time I'd want to take up the amendment to that section.

SPEAKER BARRETT: Mr. Clerk.

CLERK: Senator, so you want to amend Section 1, just again to ensure you and I are in the same...

SENATOR WESELY: Right.

CLERK: It talks about Department of Education submitting the plan.

SENATOR WESELY: Right.

CLERK: And you want to change 1989 to 1990?

SENATOR WESELY: That's right.

CLERK: Okay. Mr. President, Senator Wesely would move to amend

Section 1 of the committee amendments by changing the date.

SPEAKER BARRETT: Senator Wesely.

SENATOR WESELY: Yes, Mr. Speaker, all this does is clarify the report that was due last year, since the bill carried over, would now be due this year, so I'd move the change in date.

SPEAKER BARRETT: Is there discussion on the amendment to the amendment? Seeing none, those in favor of the adoption of that amendment please vote aye, opposed nay. Record, Mr. Clerk.

CLERK: 21 ayes, 0 nays, Mr. President, on adoption of the amendment to the committee amendments.

SPEAKER BARRETT: The amendment to the amendment is adopted. Mr. Clerk.

CLERK: I believe, Mr. President, we're back to Section 1 of the committee amendments.

SPEAKER BARRETT: On Section 1 of the committee amendments as amended. Senator Wesely.

SENATOR WESELY: Yes, now I'd like to move the adoption of that committee amendment as amended.

SPEAKER BARRETT: Thank you. Discussion? If not, those in favor please vote aye, opposed nay. Please record.

CLERK: 25 ayes, 0 nays, Mr. President, on adoption of Section 1 of the committee amendments.

SPEAKER BARRETT: Section 1 of the committee amendments is adopted. To Section 2, Senator Wesely.

SENATOR WESELY: Thank you, Mr. Speaker, members, the second section deals with the clarification on the Family Policy Act and deals with the question that was of great concern with us about children left in environments that are harmful and whether or not they should be removed from families or remain with their families. If you remember the Family Policy Act, the intent was to try and preserve families, to intervene before problems grew out of control and we have the sort of issues that we saw earlier this week as we talked about child protective custody,

foster care, things like that. Hopefully, the Family Policy Act and initiatives that we've started with that will help to stop families from ever breaking apart to that point. This clarification deals with when you remove or do not remove children from those family environments. There was concern on the part of myself and other individuals about having children remain with families in dangerous situations, remain with families too long as an attempt to keep families together. Sometimes that simply isn't possible and children are put in endangered situations. Evidently this issue was considered last year by the Legislature and language was adopted to LB 330, I guess it was, that helped to clarify that circumstance and so at this point, recognizing that that hopefully has been addressed by trying to balance off the needs of children with the need for families to be encouraged to remain intact, that we've dealt with that issue. So I guess, Mr. Speaker, what I'd like is to not have the second section adopted. I don't know if we move to adopt and vote no or how we do that, but we don't need the second section any longer, as I understand it.

SPEAKER BARRETT: Any discussion? If not, Senator Wesely, would you care to restate the position that you've just enunciated?

SENATOR WESELY: Right. I'd like to have this second amendment rejected. I don't know if that...move to reject or just move to adopt but I'd ask you to vote no.

SPEAKER BARRETT: Thank you. That constituted the closing. The question is then the adoption of Section 2 of the committee amendments. Those in favor vote yes, opposed no. Record, Mr. Clerk.

CLERK: 0 ayes, 13 nays, Mr. President, on adoption of Section 2 of the committee amendments.

SPEAKER BARRETT: Motion fails. They are not adopted. To the bill as amended, Senator Scofield, would you care to explain the bill?

SENATOR SCOFIELD: Thank you, Mr. President and members, this bill has a fairly long history and I won't go through it all with you because so many of you have been involved in the activities of the Select Committee over the last three or so years, however many years we've been doing this. We brought forward last year a package of five bills and I think probably

this one and 663 are perhaps the two most significant pieces of the entire package and are most closely aligned with getting us to the point where we'd like to be in this state with children and families. This is not an entirely new concept, it simply builds on initiatives that have been started over the years and gradually expanding it and trying to coordinate services. And in case Senator Lamb is in the room, I want to assure him this is not the evil twin 662 that we killed a few years ago. This is the good 662, so I don't want to hear any debate about school consolidation around this bill. When we first started this whole project one of the first things we did was went out across the state and talked to communities about the status of children in families and what their needs were and we found that there were, in most communities, a lot of resources fairly fragmented, not very well coordinated, lots of gaps, lots of needs that weren't being filled. At the same time on the state side, we had many, many, many requests for additional CPS workers which we have continued to try to address, lots of requests for additional juvenile probation officers and so on. It became obvious to me at that point that we could fulfill all of those budget requests and spend an awful lot of money and still not make things any better. Now, thankfully, we have addressed that a bit on the front of additional CPS workers. We haven't begun to address the juvenile justice side, but the thing that the people in the communities told us is, you know what we really need is some help in coordinating local services. We need to make sure that what state government does enhances what we're trying to do and work together in a cooperative fashion. And the other thing that we discovered that the first time that a number of us, state agencies, senators, judges, child advocates and so on, met at Fort Robinson is that we found out that there were all kinds of agencies all out there with different jurisdictions having something to do with kids and all spending money coming from different sources and that wasn't particularly well coordinated either. And so our first step was to pass the Family Policy Act. Now this really puts us into the serious implementation phase of getting there and with putting whatever state support we can finally afford to do out into the communities. We have done some of that and this simply takes the most, I think, one of the most important steps into really making some kind of significant step out into reaching out from the state to help communities hold together their resources, leverage those resources and get us to the point where we're really improving the ability to serve kids and families all over the state. Major provisions of the bill, and you have a handout

that you got just before lunch, the primary piece of the bill are incentive grant programs that go to communities. On page 7 of the bill, outlined the kinds of services but the primary focus are preventive services and early intervention services, in other words, those kinds of things that a community might be able to do with a small grant from the state that could very effectively mobilize their own resources and address whatever needs that community identifies their primary needs are. Maybe one community, and Omaha is a good example, Omaha has a big problem with drugs and gangs. Omaha's plan that they might come in and apply for money under is going to look a lot different, for instance, probably than maybe what somebody in Senator Coordsen's district would try to bring in. A good model that's already in existence is what has happened in Beatrice, and I think Senator Byars is probably going to talk a little bit about that, where that community brought all of their child-serving agencies under one roof and made it easier for people to access services. So the first big piece of the bill is to add to a small pool of money that is already out there and put more money out there for incentive grants that go to communities so that communities can identify what the needs of children and families are, bring forward this proposal and then mobilize locally the state resources to best address issues at the early end of the continuum before we get to the point of having kids and families with lots and lots of problems. Second, pieces of family advocate project, this is a pilot project. We'd like to do three of them around the state. There is a sample of that going on in Lincoln right now through the Community Action Agency, but one of the things we've found, and there is information available about this about the initial success that we're having is that if there is just somebody in place that can show families how to access services and how to make good use of the resources, that we can make a tremendous difference in terms of strengthening families and, again, preventing problems before they get so serious that they become a major jeopardy to the family and to the child and also very expensive sometimes to the state. Thirdly, we create a Nebraska Commission on Families which is a 15-member group appointed by the Governor, the rationale being that, again, this group will help us know for sure that this project is being truly responsive to the needs across the state which, quite frankly, are quite different depending on the community you come from and also assure coordination. It's a way for the grass roots voice to be heard in state government. And finally, a big piece of this involves training and it's very important I think that we have an

interdisciplinary training approach and so we create this program. Under the current draft of the bill, we still house this with the Center for the Children, Family and Law at the University of Nebraska. Some of you have had individuals speak to you about concerns about placing it there and I'm convinced that there is not a full understanding of how we envision this working. I see that as a clearing house process. They, frankly, don't have the staff to do all of the training, but we need somebody to make sure that the trainers out in the communities get trained and that the right kinds of training resources are brought to bear to help these communities address whatever needs they identify. I don't know if you've ever been involved with a community trying to dream up a solution to a problem, but sometimes it's very, very hard to pick the right one and then decide, is this going to make a difference? Professional training activities will be invaluable. As I said, there is some disagreement yet about whether that actually should be housed at the way we have it and also should the same entity do the evaluation to the program. I'm still listening to people who have brought those concerns. You'll notice on the bill, when it was first heard, there is an impressive list of supporters. Father Peter and his social workers opposed the bill and it was based on their concern about the training and evaluation piece. What I would like to propose, and I've talked to all the people just within the last day that are involved in this, is that rather than get this thing involved in a logjam at this point, I'd like to ask you to help me move the bill today and then I'm going to pull everybody in a room and simply sit on the bill until everybody understands and agrees exactly how this process is going to work and I do have an amendment drafted, incidentally, that would simply change where that is housed and that may be what the right solution is. But I want everybody to look at that so that everybody really does understand how it's going to function. This is quite a complex procedure and if you're going to do meaningful training and meaningful evaluation and not get caught up in a turf battle, I think everybody has to sign off on it and really understand how it is going to work. So I will give you my commitment that the bill will not go past Select until we resolve that particular question. It is, I think, largely, a technical question and some failure to communicate and some forgetting over the summer perhaps of where we've been, and so I'm sure that we all want the same things and we can resolve that. But those are basically the four major points that you need to know that the bill accomplishes. I have also visited with the Governor's person, Karen Stevens, and I

believe that this fairly closely tracks the kinds of activities that the Office of Children and Families which is a newly formed office, again, that grew out of the initiative here in the Legislature, fairly closely tracks what they are trying to do. I have asked them to take a look at this to make sure that it conforms with what they are trying to do. They have assured me they will and so we will also take care of that on Select File if there is language that would inadvertently somehow conflict with what is happening there. But I think the key things to remember about this bill is that it is a community based bill. My desire is not to get bogged down in a lot of bureaucracy, to get as much help as quickly as we can out to the communities because that is where the solutions are going to be found, that's where the needs are and I think sometimes, quite frankly, we have a lot of resources in the state that communities don't know about. I know that is true in my communities and if we can get them out there and help them with the training, help them with just knowing what is going on around in other parts of the state, that we can make a tremendous difference in the quality of lives of children and families in this state. I can think of my own district and you can probably think in your own districts where this most likely might be used, but a lot of the communities along the northern line of this state are close to Indian reservations. We're seeing a lot of Native American children come into our communities. One of the things that motivated me to get interested in this, in the first place,...

SPEAKER BARRETT: One minute.

SENATOR SCOFIELD: ...is a schoolteacher of mine who happens to be my aunt, said we've got kids coming to school that don't even have breakfast in the morning. We need to do some things about this. So I would guess out of my community we'll see maybe a Native American center with other people in the community come forward and say, we can solve our own problems with a little help. Beatrice is another good model. There are some things going on in Omaha. There is, obviously, lots of room to do other things and there are little projects popping up around the state that if we just give them a little nurturing, I think we're going to make a big difference and I think maybe our successors in here won't have to build as many prisons, quite frankly, if we are successful in starting these kinds of prevention and early intervention programs. You may have other questions that have been raised. I know some of you have been asked about them and so I will turn on my light and try to

respond to other questions that I haven't had time in my introductory statement to address. With that, I would urge your advancement of the bill. Thank you.

SPEAKER BARRETT: Thank you. Discussion on the advancement of the bill, Senator Byars followed by Senators Labedz and Wesely.

SENATOR BYARS: Thank you, Mr. Speaker. We do have a success story that we like to brag about down in the southeast corner of the state in Beatrice, and it's a success story that was built by a combination of public and private ingenuity in combination with Southeast Community College. We have had, because of a tremendous amount of effort that's been expended on the part of many people, been able to bring into one location 13 separate agencies that were widely spread throughout southeast Nebraska and, by doing this, we have been able to not only make it easier for people with needs to receive information about how to receive assistance with dignity, but we have...we're making this efficient in the manner in which we're being, it's being presented. You know, one of the toughest jobs that any of us can have is in the area of parenting. The daily pressures of child care and rearing children, combined with the lack of knowledge about child development, creates, in many instances, child abuse. And in order to be able to help parents, particularly young parents, expectant, and expectant parents, cope with the challenges of parenting can go a long way toward preventing that abuse. We have found that all families need a variety of community services especially families in distress, and difficulties, as I said, arise in locating the appropriate programs or services and coordinating those segments that are being offered. In Beatrice, we've established what is called the Family Resource Center, which has combined all of these agencies under the same roof. Some of these participating agencies at this time, so that you'll be able to identify with them, Blue Valley Mental Health, CISDV, which is a Coordinated Intervention System for Domestic Violence, Family Health Services, which is family planning, Job Training of Greater Nebraska, Legal Services of Southeast Nebraska, Lutheran Family Services, Mother to Mother, Nebraska Department of Social Services, Southeast Community College and WIC which is Women, Infants and Children. The goal of the Family Resource Center is for these service systems to work together to develop and to promote educational programs and early intervention systems for the prevention of family crisis and we have been able to do that, and in addition to this, to stabilize families in crisis

by providing coordinating services rather than fragmented services to be able to keep family units together and to assist economically disadvantaged families and help them to become economically self-sufficient. And we have found, after we have established this center, that we're the first resource center of this type not only in the State of Nebraska, but in the nation, and because of this a tremendous amount of focus has come to bear on us and we have people visiting of a regular basis now from many other states and many other parts of the country and they can see how valuable it is to bring all of these agencies together.

SPEAKER BARRETT: One minute.

SENATOR BYARS: But we aren't completed. We need to continue to work and strive in our efforts to combine government, to bring more of these agencies together to provide better services and LB 662 would assist us in continuing that effort that have already enabled us to better serve the children and families in southeast Nebraska and I'd like to share with you that this can work in all of Nebraska and I would encourage you to support and advance LB 662. Thank you.

SPEAKER BARRETT: Thank you. Senator Labeledz.

SENATOR LABEDZ: Thank you, Mr. President. I'm sorry you're going to have to listen to my voice, but I do have a bad cold and I apologize for that. Senator Scofield, I want to commend you for the hard work and the several meetings that you had in regard to LB 662 in the past year and a half and I do share with you a concern about the integrity of the family unit and doing as much as we can in regard to the protection of children and that is one of the reasons that I decided to join you on this bill, but, in the meantime, after reading the synopsis, there are some concerns that I have with respect to the broad sweep and the open-endedness of the bill, particularly regarding the bill reference to statewide comprehensive family centered array of services. As an example, I would like to go to Section 6 and 7 of the bill on page 6 and 7 and part of Section 5, and it says, it is the intent of the Legislature to phase in a statewide comprehensive family-centered array of services. It is further intended that services established through grants shall become a part of the comprehensive service system. The Director of Social Services, upon the recommendation of the commission, shall award start-up grants to eligible applicants

in accordance with the Family Services Act. Some of the things that are listed, the prevention, early identification, intervention services, prevention and early identification and intervention services eligible for funding shall include, but this is what scares me, but not limited to home-based services, family services, including home-aid programs and parenting skills programs, educational programs aimed at prevention. Number 7, information and referral services; go down further on page 7, to proposals where the service is available in accessible and nonstigmatizing locations such as schools, neighborhoods or community centers and the home. Now since I received that I've had inquiries and as an example of the school based health clinics, Senator Scofield, would you be willing to amend the bill so that it is clear that a school district would not use one of the start-up grants to start a school based clinic? And I'm sorry, I don't want to be paranoid about a subject like this, but I certainly don't want to be naive, so I'd like you to answer the question.

SENATOR SCOFIELD: Thank you for asking that, Senator Labedz, and I want to say I appreciate your support on this particular issue. A school would not probably even be eligible to do that because if you'll notice the way this is directed, it has to have the entire community's support to even apply for a grant. No individual entity could come in and say this is our own little idea and we want to do this. It would have to be based on a community consensus. In Omaha, I would guess you would divide that into even smaller communities than the whole city, but I'll use a community that is smaller, namely Chadron. Now any entity, not the school, not the community action agency, not a single church, not anybody could come in and say I want to do this and apply. They have to show that they have people signed off communitywide that are in agreement with, one, the needs assessment that the community has conducted saying this is what our need is and, two, this is what we're going to do, and I would expect you to see a lot more kinds of things rather than a school based clinic which I don't think you have enough money here to even do if you wanted to, but it would never pass the muster of...

SPEAKER BARRETT: One minute.

SENATOR SCOFIELD: ...first, public community scrutiny and, secondly, this state level scrutiny. You'd more likely see somebody doing a mother-to-mother program such as Senator Byars

indicated where you try to put together a network of families that support each other and you know yourself we don't have those extended families like we used to. So that might be a better example. And, no, I do not anticipate the building of a school based clinic out of this kind of activity.

SENATOR LABEDZ: Thank you, Senator Scofield. Well, I do have some deep concerns and between now and Select File I will be looking at it very closely, but the fact that any nonprofit group or organization can apply for a grant and have a referral service and, I believe you all know what I'm talking about. Thank you.

SPEAKER BARRETT: Senator Wesely, please.

SENATOR WESELY: Thank you, Mr. Speaker, members, LB 662 brings back a lot of memories to me, the number anyway. This bill is not the 662 that we all recall having quite a time over and I think Senator Landis or somebody wants to talk about certain bill numbers ought to be retired like certain jerseys, like jersey number 20 for Johnny Rogers and 662 may, first glance, have you a little concerned, but let me tell you that this is a piece of legislation that, hopefully, will wipe out some of those other memories that weren't as pleasant over the fight over that other LB 662 because what this one does is recognize the problem that leads to the sort of things we talked about earlier this week when we talked about caseworkers. We have, as I said before, between seven and 8,000 cases of child abuse reported a year, four to 5,000 substantiated and many more cases out there we don't even know about and, frankly, we shouldn't, hopefully, have anywhere close to that number, we shouldn't have any of these cases at all. And the only way I can see that we can actually get at that problem is through the sort of thing Senator Scofield is talking about with 662. We've got to intervene early on. We've got to identify these problems before they get to the point that we need a child protective custody worker coming out there, before we need to take that child out of the home and put in foster care. We need to spot those issues, those problems. We need to intervene and help those families because, by and large, you're just going to find that the love of a family is irreplaceable in most cases despite the terrible things that can happen, there is that bonding that occurs. And if we can somehow allow people to understand their problems, to cope with their problems and not escalate to the point where they hurt their children and where they hurt their

spouse, where they lose control, if we can stop that from ever happening, that is really the best course of action. I think after it occurs, unfortunately, when it does we need to have workers there to intervene to deal with the problem, to place children in protective care and to stop the abuse from continuing and I think this Legislature recognizes that and LB 720 that we advanced on Monday will help us deal with that. But it would be nice if we didn't have the problem in the first place. That's really what we're talking about here. Let's not have these sort of problems in the first place; let's not have the child abuse; let's not have the family disruption; let's not have the family violence that we're seeing in Nebraska today. We don't have any reason to tolerate four to 5,000 kids being abused every year. That is simply intolerable. How do we stop it? We've got to help these families. I don't think any parent in their right mind, and there are a lot of them out there maybe that are not in their right mind, wants to hurt their child. Pressures build, financial problems, other things build and they don't know how to cope and this sort of program, these family preservation teams, these family advocates out there through this sort of an initiative under LB 662 can intervene and help the situation, help people cope. Now getting back to the concepts involved here with 662, the family preservation teams that were established four or five years ago or more were established in six different cities. These family preservation teams have been a big success. Beatrice is one location of those and that family preservation team ended up in the establishment of that Family Resource Center that Senator Byars was talking about in Beatrice. We toured that as a Health and Human Services Committee and we found that it was a very successful effort to try and join force, to join together to intervene on behalf of families in need and that sort of experience and the one in Lincoln where we have a family preservation team that has been very successful as well should be repeated across the state. Every area of the state should be able to have this sort of resource, not just the few that now have it, but under 662 we could expand access to family preservation teams, access to family resources that a few of us are already having in our cities. These sort of efforts, I think, joining forces, having state agencies work together, having state and local agencies working together because there are many involved in this topic, and the private sector, you have churches involved and other types of support groups out there, they are all out there trying to do what they can to help families help children and if we can keep them in touch working

together...

SPEAKER BARRETT: One minute.

SENATOR WESELY: ...cooperating, then those limited resources we have can be stretched as far as possible and we can reach out to those many families, those thousands of children and thousands of families that are now in need of this sort of assistance. This program is, I think that we're looking at a half a million dollar funding for LB 662. It is not going to solve the problem, but it certainly will help and I think, as we talked before of the child abuse cases and other problems, this intervention early on as envisioned by this bill will do a lot to help families, to save families and to stop the abusive situations that are going on right now in our state. So I very much support LB 662 and ask your support as well.

SPEAKER BARRETT: Thank you. Senator Smith, followed by Senator Scofield.

SENATOR SMITH: Thank you, Mr. Speaker. I would like to also thank Senator Scofield for carrying on the leadership role that she has so ably demonstrated in the last couple of years to all of us in the body in this thrust which we've taken in the area of children, families in the community and most recently in this bill that we're dealing with today, LB 662, but I would also, and I'm really proud that my name is on this bill with you, Senator Scofield. But on behalf, and I want to make really clear that this is really on behalf of some children's organizations and specifically the Foster Care Review Board and Voices for Children in Nebraska. I would like to, for the record, since they brought this to me and I just wanted to make sure that there is a comfort level here that these concerns will be expressed when we all get together in this group you're talking about. So I would like to ask if you feel that you could expand a little bit further on these three concerns specifically that I'm going to bring up. Now, I don't know, Senator Scofield, did you receive the same letter that I received which has like a listing of two pages...(inaudible)

SENATOR SCOFIELD: Is this it?

SENATOR SMITH: Okay, right.

SENATOR SCOFIELD: Yes.

SENATOR SMITH: And I can summarize that down after meeting with them in three main issues. One of them is what they feel to be a conflict regarding the provisions which are made for not only the training, but also for the evaluation that would go on through that center that we're talking about which is being proposed and that we need some kind of resolution there because they feel that's a kind of...that would be a conflict, and I think I tend to agree with them on that. The second issue is they feel that if we ended up putting into the bill the fact that there would be one center that would have the responsibility for, giving the illusion that they had the responsibility for training services, that what we could actually effect in the state, given the track record of some of the different departments and agencies of the state, is that they would then shrink from their responsibility that they presently bear which is for training, that we don't want to see a loss of training which should be going on that they are now providing that has to be integrated some way, and I think you've already talked about their cooperation and coordination efforts. And, thirdly, that they feel that they have a real concern that the training center that we're talking about in the bill being a new one really is an untried institution, if you want to call it that at this point in time, and that maybe that is not quite the appropriate way to go and, again, that's something that we're going to have to hash out. But they also have a concern about the funding source for the center, given the way it is written. So those are issues that I'd like to have you discuss a little bit more if you would. You can take the rest of my time. I know your light is on next and if you need more time, I'll put my light back on again for you, and that's really all I have. I just wanted to raise this on their behalf. Thank you.

SENATOR SCOFIELD: Thank you, Senator Smith, and I'm glad you raised those and I may need my time as well, but I appreciate your raising those because I want the people behind the glass today who are child advocates to feel assured that we have heard their concerns and that we are addressing them. I think what's happened here is over the summer some of this has not continued as smoothly as we'd like if people go home and things don't get done and these issues have been there and continue to be there and I think if we can get this over to Select, then you have my word we will sit down with everybody under one roof and make sure that we all know high this is going to function and that everybody understands clearly how it is going to be. It's

important that I think we bring in, as well, Karen Stevens into this and the various agencies so that everybody is speaking the same language. All of you who have been involved in this for some three years now know that it isn't easy when you're working across three branches of government as well as private interests and so to make this work and work right, everybody has to understand who is going to do what, everybody has to be in agreement with it. It has to be clear how the money is going to flow, who is going to train, who is going to evaluate and so on, and the two questions that keep popping up are these questions about training and questions about evaluation. I don't think anybody disagrees...

SPEAKER BARRETT: One minute.

SENATOR SCOFIELD: ...with the need to do the training, but there is some concern about centering it in one place and I hear that concern and we will continue to address that. As I envision it right now, that is merely a clearing house function. Incidentally, that Center for Children, Family and the Law is nationally recognized. We should be very proud that we have it here in this state. It is doing training already here in the state. I won't bother to read all of them, but I do have a list of the kinds of training that they have been doing here in the state up till now, but they, themselves, admit that they don't have the resources to do all the training currently going on in the state, nor is that the intent of this bill. The training that is being done by agencies right now won't be affected at all. Our thrust right now is to get assistance out to those communities that are going to need some help in probably needs identification, probably designing programs, probably even designing their grant application and then evaluating it to make sure they work because if...you and I have both worked with enough committee groups sometimes to know that you're well-intentioned...

SPEAKER BARRETT: Time has expired.

SENATOR SCOFIELD: ...and you want to solve a problem, but you don't know how. If I can continue, Mr. Speaker, I'll just use my own time.

SPEAKER BARRETT: Please proceed.

SENATOR SCOFIELD: Thank you. So the role that we envision

there is more or less a clearing house so that everybody knows what training resources are available in the state to continue to draw on those. For instance, a lot of the training right now is being done out at UN-O with Ann Coyne who is a social worker. I would envision us using probably ESUs in some cases, community colleges in some cases, perhaps other higher education resources but the thing that distresses me right now is we don't have any kind of mechanism that identifies all those qualified trainers and gets them to the communities that need the training and so often the community sits out there with no training, and so we do need to address that with all these folks who are concerned about training to make sure there is a smooth coordinated system that training gets addressed. And so that is one of the things that I envision us making sure we all agree on when we pull the people together one more time. The other thing that I don't want to conflict with is, since we've got executive branch activities going on already in response to the initiative this Legislature started, is I want to make sure that we don't do anything to get in their way with what they're trying to do that, in fact, we enhance what they are trying to do. I visited with Karen Stevens just yesterday and there will be one more opportunity to bring them in and sit down and look at that as well. The center has assured me that if the misunderstanding that persists, that they'd rather have their name taken out of this than to mess up what is they believe is a good process, and so I think everybody is open to talking to each other and we'll get them there. But I think we just have to get everybody in a room and get everybody to listen to everybody else and make sure that everybody understands how things are going to be done. And so you have my commitment that we will get there. Thank you. In fact, you're invited to come help me.

SPEAKER BARRETT: Thank you. Senator Hartnett, please, followed by Senator Labeledz.

SENATOR HARTNETT: Mr. Speaker, members of the body, I'd like to ask, I think it came and maybe Senator Scofield answered the question, as I listened to her answer of the question by Senator Labeledz, and how do you get this bill to work, I guess? It seems like it's too good, you know, everybody gets up and, you know, throws bouquets at it and maybe it is that good, but my question is, how do you get a group consensus, I guess, number one? You know, what parties are you going to have as part of this consensus making because, you know, I can see different communities being different, and then what basis will the...as I

read the summary of the bill is that the Department of Social Services will make a decision on the grants? Do you get this consensus ahead of that time, Senator Scofield, after that time, because I can see, you know, how do they...the rules and regs that they will develop in developing something for choosing this?

SENATOR SCOFIELD: Thank you. Thank you, Senator Hartnett. The bill specifically says that in order to even apply for a grant and to be considered, that the community has to use either an established child and family services team or put one together and it has to be communitywide representative so if some fringe group comes in and it isn't representative of the community and they, obviously, haven't tried to involve other interested entities in child and family issues in the community, they wouldn't even be eligible for the grant.

SENATOR HARTNETT: Can I stop...do they...are there some communities with something like Senator...at Beatrice or something? What groups are involved in it? That may be for maybe something Senator Byars might want to answer that question for me. What...what...how does it work, I guess, I'm...

SENATOR SCOFIELD: I can tell you what happened in Scottsbluff, and it's somewhat sim...Beatrice really is a model. They've done such a good job of getting everybody together in that community. Scottsbluff is close enough to me that I know what they've done and essentially they brought in school people, community action people, social service workers, law enforcement people and so on and built this team. And they sit down and identify their needs and decide what their emphasis needs to be. I don't know the current status of what's going on in North Platte, but I met with people in North Platte a couple of years ago and they had identified a specific need for a holdover facility. Again, they brought in people from all sectors of their community and worked together on that. Kearney has done a little bit. We've got all these little flowers kind of blossoming out there and, with just a little nurturing, we will have more of those around the state. There is one in Norfolk that is starting that I know of. There is one in North Omaha that I know of. There is one here in Lincoln. The communities that we've really left out so far are the smaller communities and that would be the next circle in a series of concentric circles that I would like to see us reach.

SENATOR HARTNETT: Thank you.

SPEAKER BARRETT: Thank you. Senator Labedz, please. Thank you. Senator Smith. Senator Bernard-Stevens.

SENATOR BERNARD-STEVENS: Thank you, Mr. Speaker. I will speak just a minute or two and I will give the rest of my time to Senator Scofield, if she so desires, which is what Senator Smith I think wanted to do with her time. Senator Scofield mentioned a project going on in North Platte, and it kind of spurred me to say just a couple of things in explanation to some members of the body who may not be...particularly, I guess, to Senator Labedz, in particular. That was one of the areas of the 42nd District, specifically, North Platte, that I was very, very pleased, in a way, proud of the way a community got together to help juveniles and our young people in that particular area. And the reason I say that is not because it may be an election year coming up or I am trying to make the people back home feel good, but what, in essence, happened is you had people from the county attorney's office, people from the county sheriff's office, from the city police, from the municipal organizations, from probation, from the courts, people who traditionally hassle and kind of work against each other sometime because they are protective of their own turf, finally got together and worked actually together to coordinate and combine things into one or two particular programs that would best serve the community. They had to overcome some mistrust. They had to overcome some letting turf go and adding some more responsibilities, and they did that. And it is a tremendous example of a community that got together to solve the problem in the best way that would fit that particular community and the region. And I think that is one of the things about 662 that really appeals to me is that it allows that local control, and I know Senator Labedz is concerned about particular clinics and what have you, but the community must get together, as happened in North Platte, and the community will decide what is in its best interest, and there will need to be some type of unanimity within that community in order to proceed. These holdover, this particular holdover facility and other programs like that are, as Senator Scofield mentioned, budding possibilities. They can continue for only a short period of time, and they need more nurturing, they need a little fertilizer, they need a little water, and they need a little help and, with that help, we can have some tremendous local support groups for children at risk and for some of our youth that we profess on the floor to have a

tremendous amount of concern for. And that is one of the things that really I appreciate very much Senator Scofield and those on her staff and others who have worked so hard to try to put this before the body. And that is one of the reasons why I co-sponsored, with others, 662, and I believe that we can work through whatever difficulties remain and move the bill onward, and I give whatever time remaining to Senator Scofield, if she so desires.

SENATOR SCOFIELD: Thank you. I only have one thing to say about that, and you seem to be using my name an awful lot here and, frankly, there have been an awful lot of you in this body involved in this bill, and I really think the Legislature can feel good about how far we have come. We have got a long way to go yet, but we have come quite a ways in here and have been recognizing some other states for the work we have done and the work our staff has done. You have before you, I think, a copy of a chronology of what has happened with children services in Nebraska since 1974, and there were a couple of very good studies that were done in '74, and later on, and they were kind of shelved, and that is when this Legislature got involved in that process. And so the history, since this Legislature has gotten involved, is something that we can feel good about, and 662 is just a logical progression out of where we have been and where we are going. And so I hope we can quickly add on this list at the bottom, on the back of the page that our next step will be 662, and that we will successfully enhance our relationship as state government agencies with local communities. So don't give all the credit to me because it has taken all of you, many of whom have spent hours and hours of your time and staff time helping us get there, and I thank you.

SPEAKER BARRETT: Thank you. Any other discussion? Seeing none, Senator Scofield, did you complete your discussion? If not, this will constitute the closing.

SENATOR SCOFIELD: Mr. President, I am all but finished but I do want to reemphasize because of the concerns which I think are largely at this point technical in nature, but if any of you have had conversations with people that have concerns about this whole training and evaluation continuum and you want to be involved in this meeting that we will be calling very shortly to make sure that everybody irons this out, and that we get...I would expect an amendment on Select File to address whatever suggestions come out of this group, if you want to be a part of

January 10, 1990

LB 662, 662A, 692, 832, 850, 861, 881
896, 952, 965, 1015, 1034, 1055, 1099
1100, 1101
LR 229

that, I hope you will let me know because we are going to take these concerns seriously and draft amendments as required to move this bill and get it to work as quickly as possible out there in the communities. Thank you. I ask you to move the bill.

SPEAKER BARRETT: Thank you. The question before the body is the advancement of LB 662. Those in favor of that motion please vote aye, opposed nay. Voting on the advancement of the bill, have you all voted? Record, Mr. Clerk.

CLERK: 27 ayes, 0 nays, Mr. President, on the advancement of LB 662.

SPEAKER BARRETT: LB 662 is advanced. The Chair is pleased to take a moment to recognize a guest of Senator Bernard-Stevens. Under the north balcony, we have from ESU 16, Ogallala, Mr. Ken Wilcox. Ken, would you please stand and be recognized. Thank you. We are glad to have you with us. Mr. Clerk, matters for the record.

CLERK: Mr. President, Senator Weihing has amendments to be printed to LB 692. I have notice of hearing from Revenue Committee. (Re: LB 850, LB 1015, LB 832, LR 229CA, LB 952, LB 881, LB 965, LB 1034, LB 1055, LB 861, LB 896. (See page 272 of the Legislative Journal.)

Mr. President, new bills. (Read for the first time by title: LB 662A, LB 1099, LB 1100, LB 1101. See pages 273-74 of the Legislative Journal.) That is all that I have, Mr. President.

SPEAKER BARRETT: Thank you, sir. Senator Kristensen, for what purpose do you rise?

SENATOR KRISTENSEN: Mr. Speaker, I would move that we adjourn today until tomorrow morning, January 11th at 9:00 a.m.

SPEAKER BARRETT: Thank you. You have heard the motion to adjourn until tomorrow morning at nine o'clock. A machine vote has been requested. Those in favor of the motion to adjourn please vote aye, opposed nay. Have you all voted? Record, Mr. Clerk.

CLERK: 17 ayes, 13 nays to adjourn, Mr. President.

January 18, 1990

LB 37, 50, 159, 259A, 409, 422, 465
503, 503A, 543, 662, 742, 953, 1220-1242
LR 8, 244, 245

not, the question is the advancement of the A bill. All those in favor vote aye...say aye. Opposed nay. It is advanced. Mr. Clerk, do you have anything for the good of the cause?

CLERK: Mr. President, I do. Mr. President, your Committee on Retirement Systems, whose Chairperson is Senator Haberman, to whom was referred LB 953, instructs me to report the same back to the Legislature with the recommendation it be advanced to General File. That is signed by Senator Haberman. (See page 397 of the Journal.)

Mr. President, I have a series of hearing notices from Judiciary Committee, Appropriations Committee, Health and Human Services and Revenue, all signed by the respective chairs.

Mr. President, Senator Kristensen has amendments to LB 159 to be printed. Enrollment and Review respectfully reports they have carefully examined and reviewed LB 37 and recommend that same be placed on Select File; LB 742, LB 662, LR 8CA, LB 50, LB 543, LB 422, LB 409, LB 503, LB 503A, and LB 465 all to Select File, some of which have Enrollment and Review amendments attached. (See pages 398-408 of the Legislative Journal.)

Mr. President, new bills. First of all, Mr. President, two constitutional amendments, LR 244, offered by Senator Schmit. And LR 245 offered by Senator Hefner. (Read brief summary of resolutions. See pages 408-11 of the Journal.)

Mr. President, new bills. (Read LBs 1220-1242 by title for the first time. See pages 411-17 of the Legislative Journal.)

Mr. President, reminder, Reference Committee will meet at three-thirty today in Room 2102, Reference Committee at three-thirty in 2102. A final reminder, Mr. President. Chairmen's meeting tomorrow morning at nine...I'm sorry, at eight-fifteen in Room 2102, Chairmen's meeting, eight-fifteen, in 2102. That's called by the Speaker. That is all that I have, Mr. President.

PRESIDENT: I understand that we have 434 new bills introduced this year. This is the last day, of course. So you might be interested in that. Senator Baack, you're close to your microphone, would you like to adjourn us until nine o'clock tomorrow morning, please.

January 25, 1990

LB 369, 503A, 610, 662, 769
LR 246

has amendments; Senator Scofield to LB 610, LB 662 and LB 369. Senator Goodrich has amendments to LB 503A. Mr. President, I believe that's all I have at this time. (See pages 500-06 of the Legislative Journal.)

PRESIDENT: While the Legislature is in session and capable of transacting business, I propose to sign and do sign LR 246. Now, where are we? We are back to discussing ceasing debate on the Chambers amendment to the Schimek motion. And the question is, of course, shall debate cease? Senator Landis, your light is on first. Senator Langford made a motion to cease debate. So we must act on that first to cease debate. And the question is, shall debate cease? All those in favor vote aye, opposed nay. Have you all voted? Senator Langford, please.

SENATOR LANGFORD: I guess we better have a call of the house, please.

PRESIDENT: Okay, the question is, shall the house go under call? All those in favor vote aye, opposed nay. Record, Mr. Clerk.

CLERK: 9 ayes, 2 nays to go under call, Mr. President.

PRESIDENT: The house is under call. Will you please record your presence. Those not in the Chamber, please return to the Chamber. Please return to your seats and record your presence, please. Please record your presence. Looking for Senator Pirsch, Senator Robak, Senator Lamb, Senator Bernard-Stevens, Senator Goodrich. Senator Langford, do you wish to authorize call ins, or did you want a roll call? Okay. Roll call vote has been requested, in reverse order. Senator Goodrich, will you record your presence, please. Thanks. Senator Lamb we're looking for now. Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman, would the...do the rules allow when we're under call to seek all those who are not here and compel their attendance? I'm just asking, and this is not for the purpose of challenging what you said. I'm making an inquiry as to the status of the rules.

PRESIDENT: As I recall from memory, yes, you may wait for them and, yes, you may demand that they come back.

SENATOR CHAMBERS: That's what I want.

January 26, 1990

LB 163, 359, 662, 720, 742, 871, 1022
1063, 1070

open to it certainly. In fact, it used to become an issue in confirmation, as I recall, on some of the various appointed boards as to which side they were on. I think, as I've said several times now I guess, that it's important to retain that responsibility with an elected official who does not initiate them, but only has that review authority to say no to a particular contract and I think that protection ought to be there for the state as well as for the employees who are covered by those plans.

PRESIDENT: Thank you. Senator Warner was closing on the indefinite postpone motion and the question is, shall LB 359 be indefinitely postponed? All those in favor vote aye, opposed nay. Simple majority. Have you all voted? Record, Mr. Clerk, please.

CLERK: 18 ayes, 2 nays, Mr. President, on the motion to indefinitely postpone the bill.

PRESIDENT: LB 359 is indefinitely postponed. Mr. Clerk, anything for the good of the cause?

CLERK: Yes, Mr. President, I do. Senator Wesely has amendments to LB 720 to be printed, and to LB 742. Senator Rod Johnson has amendments to LB 163 and Senator Labedz to LB 662. (See pages 542-45 of the Legislative Journal.)

Health and Human Services Committee reports LB 871 to General File, LB 1022 to General File, LB 1063 and LB 1070 to General File, those signed by Senator Wesely as Chair. (See page 545 of the Legislative Journal.) I believe that's all that I have, Mr. President.

PRESIDENT: Senator Emil Beyer, would you like to adjourn us until Monday, the 29th of January at nine o'clock, please.

SENATOR BEYER: How about adjourning sine die? No, I would move that we adjourn until nine o'clock on Monday.

PRESIDENT: You've heard the motion. All in favor say aye. Opposed nay. We are adjourned.

Proofed by:


Sandy Ryan

January 30, 1990

LB 81, 239, 249, 299, 662, 832, 850
864, 871, 894, 915, 1034, 1047, 1059
1061, 1074, 1146, 1199
LR 8

CLERK: (Read record vote. See pages 573-74 of the Legislative Journal.) 9 ayes, 25 nays, Mr. President, on the adoption of the amendment.

PRESIDENT: The amendment fails. Anything for the record, Mr. Clerk? The call is raised.

CLERK: Yes, Mr. President, Senator Scofield has amendments to LB 662 to be printed, Senator Korshoj to LB 81. See pages 574-75 of the Legislative Journal.

Banking Committee whose Chair is Senator Landis reports LB 1146 to General File, LB 1199 General File, LB 1061 General File with amendments, those signed by Senator Landis. (See pages 576-79 of the Legislative Journal.)

Mr. President, your Committees on Education and Revenue to whom was referred LB 1059 reports the same back to General File with committee amendments attached, signed by Senators Hall and Dierks as vice chair of the committee. (See pages 597-81 of the Legislative Journal.)

Revenue Committee reports LB 239 indefinitely postponed, LB 249, LB 299, LB 832, LB 850, LB 894, LB 1034, those are reported indefinitely postponed, all signed by Senator Hall. (See page 581 of the Legislative Journal.)

Health and Human Services offers a corrected committee report to LB 871. General Affairs Committee reports LB 1074 to General File and LB 864 indefinitely postponed. And Health and Human Services reports LB 1047 to General File. (See page 581 of the Legislative Journal.)

Last item I have, Mr. President is a request by Senator Nelson to add her name to LB 915 as co-introducer. (See page 582 of the Legislative Journal.)

PRESIDENT: No objections? So ordered.

CLERK: That's all that I have, Mr. President.

PRESIDENT: Senator Emil Beyer, would you please adjourn us until tomorrow at nine o'clock.

February 14, 1990

LB 313, 313A, 602, 618, 662, 858, 875
891, 906, 907, 1013, 1051, 1059A
LR 254, 255

I can go to the hospital, even...and have them stick a knife in my body and work on it. I don't think people are going to do that. And, if they're injured, I don't think they're just going to be lapping up all this cream that we're so concerned about. There are times when you're drawing workmen's comp when you can be taxed by the federal government. In certain situations, if you are on a light duty status, where you can't make it on the existing workmen's comp, and the employer says, well, come back, we'll give you light duty and we'll give you a little bit of a wage, not your total wage, and then your workmen's comp makes up what your total wage would have been, then that is all balled into a wage, and that is taxed. You can check it out if you'd like. So there are times it is taxed on the federal level, when you can't make it and are forced to go back to work, often times after further aggravating your injuries, but you just can't make it. So that's what...that's how light duty came into existence, because of poor workmen's comp. We know you're injured but...and we know you can't make it, so come on back and we'll give you a little bit to do a little bit. It might further aggravate your injury, might make things worse in the long-run, but we know you can't make it, so come on back, you'll help us out at a cheap rate. And, oh, by the way, you will be taxed on your workmen's comp, too. They probably leave that part out. But I don't think we're going to have people, part-time employees, rushing out to injure themselves so they can draw this extra 20 bucks a week, or whatever it is. I don't think we have a big concern about that and I would support Senator Hall's amendment.

PRESIDENT: Thank you. While the Legislature is in session and capable of transacting business, I propose to sign and do sign LR 254, and LR 255. Mr. Clerk, do you have something to read in?

CLERK: Mr. President, Education Committee reports LB 618 to General File; and LB 1051 to General File, those signed by Senator Withem. New A bills. (Read LB 1059A and LB 313A by title for the first time.) Senator Smith has amendments to LB 662. I have a motion for introduction of a new bill that will be laid over, that's offered by Senator Coordsen. And, Mr. President, LB 602, LB 858, LB 875, LB 891, LB 906, LB 907, and LB 1013 are reported correctly engrossed. That's all that I have, Mr. President. (See pages 788-91 of the Legislative Journal.)

February 20, 1990 LB 656, 662, 771, 939, 1055, 1079, 1183
1187, 1202, 1221, 1236

PRESIDENT: The bill is advanced. You have an amendment on 915, so we'll not take it up. Something for the record, Mr. Clerk?

CLERK: Mr. President, I have a confirmation report from the Banking, Commerce and Insurance Committee, that's signed by Senator Landis. Revenue Committee reports LB 1202 to General File; LB 939, General File with amendments; LB 1055, General File with amendments; LB 1079, indefinitely postponed. Those signed by Senator Hall. Health and Human Services Committee reports LB 1187 to General File. That is signed by Senator Wesely. I have a series of amendments to LB 1221 by Senator Withem; Senator Smith has amendments to LB 1236; Senator Nelson to LB 656; Mr. President, Senator Wesely to LB 662. And, Mr. President, finally, an announcement from the Speaker. (Re. LB 771.) And that's all that I have, Mr. President. (See pages 874-79 of the Legislative Journal.)

PRESIDENT: Senator Rogers, you haven't said much today. Would you like to adjourn us until tomorrow at nine o'clock.

SENATOR ROGERS: Mr. Speaker, I move we adjourn until tomorrow morning at 9:00 a.m., February 21st.

PRESIDENT: You've heard the motion. All in favor say aye. Opposed nay. We are adjourned. Thank you.

Proofed by:

Debbie Smith
Debbie Smith

February 27, 1990

LB 445, 662, 854, 923, 945, 976, 1023
1042, 1057, 1062, 1146, 1147, 1151, 1212
LR 233

SPEAKER BARRETT: Thank you. Shall the house go under call? All in favor vote aye, opposed nay. Record.

CLERK: 18 ayes, 1 nay to go under call, Mr. President.

SPEAKER BARRETT: The house is under call. Members, record your presence, please. Those outside the Chamber, please return. Senator Lynch, please. Senator Nelson, please. Senator Haberman. All members return to your seats for a roll call vote. The question again is the indefinite postponement of the resolution. Mr. Clerk, please call the roll.

CLERK: (Roll call vote taken. See pages 998-99 of the Legislative Journal.) 17 ayes, 19 nays, Mr. President.

SPEAKER BARRETT: The motion fails. The call is raised. Anything for the record, Mr. Clerk?

CLERK: Mr. President, I do. Your Committee on Urban Affairs reports LB 945 indefinitely postponed, and LB 1057 indefinitely postponed, those signed by Senator Hartnett. Judiciary Committee reports LB 445 to General File; LB 854 to General File; LB 976 to General File; LB 1023, General File; LB 1042, General File; LB 1147, General File; LB 1212, General File; LB 1062, indefinitely postponed; LB 1151, indefinitely postponed, those all signed by Senator Chizek as Chair of the Committee. (See pages 999-1003 of the Legislative Journal.)

Mr. President, I have a series of amendments to be printed. Senators Lynch and Wesely have amendments to LB 923, Senator Conway to LB 1146, and Senator Scofield to LB 662. (See pages 1003-07 of the Legislative Journal.)

Mr. President, Senator Hall would like to announce that the Revenue Committee will meet at one o'clock this afternoon for their hearings as opposed to one-thirty. Revenue Committee, one o'clock, as opposed to one-thirty. That's all that I have, Mr. President.

SPEAKER BARRETT: We are back to the motion to advance the bill or the resolution. I have only one light. Senator Landis, would you care to....

SENATOR LANDIS: If we wish to run over it, I will be happy to

February 28, 1990 LB 42, 315, 348, 446, 542, 662, 663A
791, 792, 863, 896A, 922, 1004, 1004A
1199
LR 262

driver, if that's who was involved, would no longer be able to drive the truck as well. If it were a secretary or somebody in that capacity, the duties of that job would not be carried out as well. So all my words will do is focus on what the words "affect the employment relationship" will mean. So if you have any questions, I am prepared to answer them.

SPEAKER BARRETT: Thank you. An amendment...or motion on the desk, Mr. Clerk.

CLERK: Mr. President, Senator McFarland would move to recess until 1:30 p.m.

SPEAKER BARRETT: You have heard the motion to recess until one-thirty. Have you matters for the record, Mr. Clerk?

CLERK: If I may, Mr. President. Your Committee on Enrollment and Review reports LB 42, LB 663A, LB 863, LB 896A, LB 922, LB 1004, LB 1004A, LB 1199, as correctly engrossed. Those are signed by Senator Lindsay. (See pages 1045-46 of the Legislative Journal.)

Mr. President, I have a corrected committee statement with respect to LB 446 offered by Senator Chizek as Chair of the committee. (See page 1045 of the Legislative Journal.)

Urban Affairs reports LB 791 and LB 792 as indefinitely postponed.

Mr. President, amendments to be printed; Senator Langford and Wesely to LB 348, Senator Labedz to LB 662, Senator Lindsay to LB 542. (See pages 1046-47 of the Legislative Journal.)

And a new resolution, Mr. President, LR 262, offered by Senators Lamb, Scofield, Dierks and Peterson. (Read brief description of LR 262. See pages 1047-50 of the Legislative Journal.) That resolution will be laid over, Mr. President. That's all that I have.

SPEAKER BARRETT: Thank you. You have heard the motion to recess until one-thirty. All in favor say aye. Opposed no. The ayes have it. Motion carried. We are recessed. (Gavel.)

RECESS

PRESIDENT NICHOL PRESIDING

PRESIDENT: Roll call, please. Record, Mr. Clerk, please.

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

PRESIDENT: Do you have anything for the record to start with?

CLERK: Not at this time, Mr. President.

PRESIDENT: May I introduce some ladies in the south balcony. Senator Wesely has asked me to announce that we have several AAUW, that is the American Association of University Women, visiting the Legislature. I understand you're from all areas in the state. Would you ladies please stand and be recognized. Thank you for visiting us this afternoon. Mr. Clerk, LB 662.

CLERK: Mr. President, 662, the first item I have are Enrollment and Review amendments. (E & R amendments can be found in the Legislative Journal on page 405.)

PRESIDENT: Senator Lindsay, please.

SENATOR LINDSAY: Mr. President, I move the adoption of the E & R amendments to LB 662.

PRESIDENT: You've heard the motion. All in favor say aye. Opposed nay. They are adopted.

CLERK: Mr. President, Senator Scofield would move to amend her bill. Senator, I have AM2211 in front of me. (Scofield amendment AM2211 can be found on page 502 of the Legislative Journal.)

PRESIDENT: Senator Scofield, please.

SENATOR SCOFIELD: Thank you, Mr. President, members. As you know, we delayed acting on this bill for a while to see if we could address some of the concerns that interested parties have brought us. I have to tell you we didn't get every one of them, but I think we got the major ones. You have before you three handouts which will describe for you, essentially in graphic form, how 662 is envisioned working. And I'm going to go through the amendment with you. If you take a look at the top

one on community grants, that tells you essentially how the grant process would work. Underneath that it tells you some of the training concerns that people raised, and who does what. The bottom one is the evaluation concerns. Some of the issues that were brought to us by Voices for Children and Carol Stitt and others were, we're not sure exactly who does what here and we want this all clarified. So we had meetings with Karen Stevens, we had meetings with Voices for Children and with Foster Care Review representatives. We had meetings with the Center for Children, Family and the Law, and Department of Social Services, and so on. So these are how we chose to address their concerns, and this is what the amendment does. It first establishes a process for reviewing grant applications, and it determines how the recipients of these community funds will work. Essentially, we just replicate what the department is already doing with the \$80,000 that we put in the budget last year. You will recall that we put in 80,000 for small grants that require that representatives of the Departments of Social Services, Public Institutions and Education come together to determine how the money would be allocated. Our goal all along has been to encourage some interagency collaboration and some priority setting. This amendment retains that process and adds two things. It adds the Department of Health to that decision-making team, and it adds the Commission on Families, which we create in the bill. The second thing the amendment does, it addresses a concern that Senator Hannibal raised, and it simply says that unallocated grant funds would not be retained by the Department of Social Services, that they would be lapsed back into the fund. So there is no advantage to an agency for hanging onto funds rather than putting them out to communities. We change, in this amendment, the number of family advocate programs. You will recall the bill allowed three, asked for three family advocate programs. As a reminder, a family advocate is somebody that helps families work their way through the system, it's complex. And sometimes people just have trouble finding their way through the maze. We don't make this quite as strict as the original bill did, in that we say they can do up to three. But there may be other proposals that are more worthy of funding than that, and so we don't want to be too restrictive. The fourth thing we do, we take the Commission on Families, that is created by the bill, and we break up their duties. Upon discussion we found under the original bill the commission simply had too much to do, so we split the duties into mandatory duties and discretionary duties. It also provides that the Director of Family Policy Office, who is now

Karen Stevens, will staff, as chief staff person, the commission and be responsible to the commission. Senator Wesely is going to bring up a suggestion on this later. Karen Stevens will not, 100 percent, sign off on this. Karen Stevens would prefer not to have a commission. She and I met together and discussed that, and I agreed that I saw the cumbersomeness of that, perhaps, from her point of view, given where she is right now. But upon taking this back to interested community groups and some of these other advocacy groups, they felt that the commission was a key piece in making this whole process work. They want the commission left in. Karen has been on vacation for some time and is still going to be on vacation for some time. And I guess I feel like right now that we cannot accommodate her wishes. And I'm not convinced that it's the wisest thing to do anyway. We further clarify in this amendment the role of the center and the commission with respect to evaluation. And you can take a look at that page 2, or page 3 on your handout, under evaluation. When we had the negotiating meeting, one of the things that I was able to understand better was that people were defining evaluation differently, depending on what their perspective was. The center was seeing it as evaluating the policy environment, fine-tuning programs and so on. And the issues that were being raised by Carol Stitt and the Voices for Children representatives and others, they were looking at evaluation more as a auditing and monitoring procedure. And that made perfect sense to me, and we can accommodate that. So, under the amendment, we put, under the commission, their role is to audit and monitor this project to see how many clients the program is serving, has the program or service expended funds wisely. And the Center for Community, Families and Law, at UN-L, takes a look at our prevention and early intervention services now available and accessible to communities, are families receiving services, and how satisfied are clients with the program or the service, and have the programs or services had an effect on children's safety, and are children safe who remain in the homes, are children safe who remain in the homes, are children safe who have been removed from the homes? So it more carefully divides out who is responsible for evaluation and what kinds of evaluation will be required. So the commission does the auditing or monitoring, which is perfectly appropriate for a group like that, and they also have the authority to evaluate the center, which was a concern, a legitimate concern that people raised. The commission can contract to have this evaluation done. And, finally,....Let me just say one more thing about evaluation,

because I think that is extremely critical. The university has, by virtue of its location, the ability to access some of the best evaluators across the state. And this evaluation process is critical to the entire bill. Typically, agencies are not monitored or programs evaluated in any degree of detail, so we don't know sometimes how much good we're doing. That's not to be critical of any of the processes we have. It's just that when you have a lot of agencies and a lot of programs all working out there on some times at cross-purposes it's awfully hard to really get a good look at evaluation. We, obviously, do not have a lot of money out there, so we need to be careful to know whether a program that we fund is actually accomplishing the objectives that we say it will, and accomplishing the objectives of the Family Policy Act. And I want this to be more than rhetoric. We worked on this a long time. I don't want to have to go out and say, well, we think this will work. We want to know. And so we want to know if this is really making a difference in the lives of children and families, and quite frankly, if it isn't, we shouldn't be funding it. And so that is the attitude that I take into this. Finally, we clarify the role of the center with respect to training. There was, again, some enlightenment as a result of the discussions that we held with people about who's going to train what. There was a question about, well, you mean you're going to give the center everything? No, we're not. The training that is currently going on through agencies and so forth will continue to go on. The amendment specifically says that the center is to collaborate with community based providers, educational agencies and so on to carry out the training. The philosophy has been and always will be the purpose of this is to train trainers. Where we have experienced and trained people out there in the field to do training, we want to use them. We don't want to reinvent the wheel. The center is charged with the responsibility of finding those people and working with them. And I would see people working with such varied groups as the Extension Service, social workers, technical community colleges, state colleges, wherever there are resources, it's their job to go out and find them and to work with them and to make sure that they are employed in the training process. In the middle sheet is the diagram that illustrates how training would be done under 662 and what the center would do. Their first task would be, after this bill passes, is to work on the mechanics of the application process and provide technical assistance to communities making grant applications upon request. I think sometimes a community is pretty good at identifying problems

that they have, and then sometimes there is a whole array of solutions that people throw out. Again, it gets back to the issue of will a particular solution really have a positive outcome, will it make any difference? And so we believe we have some people there with some expertise that can help communities design programs that are cost-effective, that gets them going and makes them successful. I will have further clarifying amendments on this training issue when AM2231 comes up, which even clarifies this further. It doesn't depart from anything I've said here, it's just we want to make this so clear that nobody can possibly have any questions about where we're going. The handout here you have essentially shows what it's going to look like...

PRESIDENT: One minute.

SENATOR SCOFIELD: ...upon the adoption of both of my amendments. With that description and with your handout, I would ask that you adopt these amendments. Thank you.

PRESIDENT: Thank you. There are no other lights on, Senator Scofield, did you wish to close, or...Okay. The question is the adoption of the Scofield amendment. All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 26 ayes, 0 nays, Mr. President, on adoption of Senator Scofield's amendment.

PRESIDENT: The Scofield amendment is adopted. May I introduce some guests of Senator Hartnett, please. Under the south balcony we have John and Rose Meuret of Brunswick, Nebraska. Would you folks please stand and be welcomed by the Legislature. Thank you for visiting us today. Mr. Clerk.

CLERK: Mr. President, Senator Labedz would move to amend the bill. The Labedz amendment is on page 545 of the Journal.

PRESIDENT: Senator Labedz, please.

SENATOR LABEDZ: Thank you, Mr. President. My amendment, as you can see, is found on page 545 of the Journal. And the language of 662 is very broad. On General File I asked Senator Scofield if it would be possible for the provisions of this bill to have the grant money used to start a school based health clinic. Her response to my question was that she does not anticipate this

kind of activity by the provisions of this bill. However, she did not guarantee that the grant money will not be used for such a purpose. When you read LB 662 you will notice that it establishes no meaningful parameters as to what constitutes "Prevention, early identification, and intervention services." So my amendment would simply add a sentence which says that the type of "services eligible for funding shall not include performance of or counseling or referral for abortion or distribution of or counseling or referral for contraceptives." Obviously, my concern is that public funds could be funnelled into a range of programs and activities. I would hate, through the broad grant of authority and financing, to end up supporting ideas and programs that I would vigorously oppose, if they were specifically proposed. And I did vote, on General File, to advance LB 662. I think it's important that we tighten this bill up. The intent of the incentive grant program and the way in which it is ultimately implemented are two different things. Adoption of this amendment will give me and others a measure of assurance that the bill will carry out its original intent. I ask your support for my amendment and the amendment would read, as I said, or you have a copy of that in your daily Journal, "Prevention, early identification, and intervention services eligible for funding shall not include performance of or counseling or referral for abortion or distribution of or counseling or referral for contraceptives." I urge the adoption of the amendment.

PRESIDENT: Thank you. Senator Scofield, please, followed by Senator Schmit.

SENATOR SCOFIELD: Thank you, Mr. President. Senator Labeledz and I have talked about this amendment and I would restate the point I made on General File, and that is really this particular bill is not geared at a population that is of the age that this would be a relevant issue. We are essentially looking at little kids, we're trying to do early intervention and prevention of a range of problems that communities would identify. I appreciate Senator Labeledz's concern about her issue. I think she feels a commitment and obligation to bring it up. But you have before you a handout of how the small grants that have been put out so far under this, it says Liz Hruska at the top, it's in the center, and it is a memo from the Budget Office of Research and Planning, subject: Community Incentives Grants. If you look at the kinds of things that money is currently being put out for, it is, for instance, \$5,000 to the Task Force on Severe

Emotional Disturbances for "Family Preservation, for Children and Families with Severe Emotional Disturbances"; \$5,000 to Saunders County for the Saunders County Interagency Council; \$4,920 to the Nebraska Indian Child and Family Consortium for Indian Cultural Community Training Workshops; \$5,000 to Mid-Nebraska Community Services, Inc., for the Kearney Area Parenting Project; \$5,000 to Grand Island Case Coordination Team for "Parent/School/Community Partnerships"; 4,950 to Connections--Children and Family Services for the "Youth and Family Action Network"; \$5,000 to Chadron City Schools for "Family Preservation Teams; Case Coordination for Cheyenne County for the "Development of Family Preservation Teams"; \$700 to Region III Mental Health and Substance Abuse Services for the "Region III Interagency Collaboration Council"; \$2,000 to District 13 Probation for "Red Willow County Child Advocacy Teams." I think that will give you a sense of how the money is currently being spent. And through this grant process we've had a tremendous response already from communities saying, I think we had 72 grant proposals last year for the 80,000 that we put in there. It's clear to me that there isn't any way in the world that there is enough money here to fund a community health clinic, even if that were the intent. The competition for this is fierce among communities, which is the intent. We want communities to bring creative ideas in to try to address problems that they identify in terms of early intervention and prevention services for kids. It really does not have anything to do with the abortion issue. Really doesn't have anything to do with what this amendment proposes. And I guess, given the rather difficult time we've already had on that issue, I would prefer that we just not drag that issue into this. I know Senator Labedz has the same commitment to kids that I have. And I would just ask you not to accept this abortion amendment and respect Senator Labedz's position on that and mine, but I think this has....This bill has great potential to address the problems that kids have right now. It has great potential for community involvement. Let me just say the process that's in place here, if you take a look at page 10 and 11 of the bill, for instance, there isn't...if any controversial measure is proposed in one of these grant proposals, you can imagine with 72 competing for 80,000 how many more we might see. It's just...I think it's unlikely...it's not unlikely, it's impossible that anybody is going to take time to fund something that is controversial. You have to have community...a community team to submit this. You have to have sign-offs from everybody in sight out there to apply for the money. And I don't think

this language, in any way, improves the bill. And it might actually hinder the bill. Let me give you one example of when it might. As you know I have a counseling background. I've only done career counseling, I'm not really qualified to do family counseling.

PRESIDENT: One minute.

SENATOR SCOFIELD: But I have talked to people who have. And once in a while, even when you're working with a kid, the kid's mother may exhibit an interest in some kind of service that might involve a desire to find contraception services. It's an acceptable and ethical practice for a counselor to give information to a client when they ask for it. It is not acceptable for counselors, it's unprofessional for counselors, as a matter of fact, unethical to give people advice. You only give them information when they ask for it. But I think this bill or this particular amendment might so jeopardize the possibility of some counselor in the line of duty from actually giving information that was directly requested by an adult woman or man, for that matter. I think it's language that doesn't improve the bill, and really misses the real objectives of the bill. So I would ask you to reject this amendment. Let's make it apply to kids, let's all make sure that it continues to go out to communities, and that it gets at these problems that we're seeing that we're all so terribly aware of right now. I think we can do a lot to fight child abuse. I think we can do a lot to increase responsiveness of governmental services to kids. And I would ask you just not to bog this bill down with what has become a very contentious debate on this floor. Thank you.

PRESIDENT: Thank you. Senator Schmit, please, followed by Senator Labedz and Senator Dierks. Senator Schmit, please. Senator Labedz, please.

SENATOR LABEDZ: I'll close.

PRESIDENT: Senator Dierks, please.

SENATOR DIERKS: Mr. President, members of the body, I just would like to stand here and approve the amendment that Senator Labedz is bringing. Senator Scofield, I think that if the intent is not there to do the things that Senator Labedz wants not done, then it shouldn't hurt the bill to have the intent language put in that she does want done. I think it's just as

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simple as that. It is a controversial issue, and it could spark some debate. But I think for those of us who have this strong feeling about this issue that we should be looking at the possibility of not allowing something like this to go into the legislation. So I'm sorry, but I'm going to support Senator Labedz's amendment here. Thank you.

PRESIDENT: Thank you. There are no other lights on. Senator Labedz, would you like to close, please.

SENATOR LABEDZ: Thank you, Mr. President, yes. I was trying to listen to Senator Scofield and everything she has to say. But I do want you to know, Senator Scofield, LB 662 is a good bill. I voted for it on General File and intend to vote for it, if the amendment is adopted. You mentioned something very quickly that it would prohibit a counselor from talking to or counseling adult men or women. From the very beginning I thought LB 662 was drafted and passed on General File because it was your intent and my intent that it would be simply for children. And one of the questions I was going to ask you was, there is nothing in the bill that defines children. Is it teenagers? Is it infants? Maybe you could answer that question now. I thought the bill was drafted for children and families and had nothing to do, and you say nothing in the bill about teenagers or adult members. Can you answer that question for me? Wasn't this bill intended strictly...

SENATOR SCOFIELD: Yes, I can, Senator Labedz.

SENATOR LABEDZ: ...for children and families?

SENATOR SCOFIELD: Yes, yes, it is. But I have to make the...the point I made was it's impossible to counsel a child outside the circle of his or her family. And as a counselor you inevitably, if you're effective, visit with the parents on occasion. You certainly wouldn't want to exclude the parents from that discussion.

SENATOR LABEDZ: Absolutely not, that's why I want a notification bill.

SENATOR SCOFIELD: And you and I agree on that. And so I'm just saying you have to recognize that the counselor will not see that child as an isolated entity. This bill is, in fact, designed to deal with children and families. It could deal with

teenagers. Again, that is...the proposal that would be driven by what the community says they identify as their major problem and what they want to address. Again, I would refer you back to that list of the things that have been funded so far. Those appear to me to be largely community (inaudible) and little kids.

SENATOR LABEDZ: Thank you, Senator Scofield, you're speaking on my time.

SENATOR SCOFIELD: You can't do it without the mom and dad involved in the process.

SENATOR LABEDZ: Thank you. I must also bring to your attention that the...I think the fiscal note says it's \$510,000, approximately, for 1990-91, and 508,000 for 1991-92. And the list that Senator Scofield sent out I approve of wholeheartedly. I think what she's trying to do here, of the grant amounts, the grantees and projects, is wonderful. She, like I said on General File, had no problem. Said that this would never happen in LB 662. This is an amendment that will guarantee and give us some intent language in LB 662 which I think is a very good bill. Thank you.

PRESIDENT: Thank you. The question is the adoption of the Labeledz amendment. All those in favor vote aye, opposed nay.

SENATOR LABEDZ: Mr. President.

PRESIDENT: Senator Labeledz.

SENATOR LABEDZ: I know there are several people excused. It looks like I'm going to have to have a call in...I mean a roll call vote...call of the house, roll call vote and take in....

PRESIDENT: Okay, would you like a call of the house also?

SENATOR LABEDZ: No, thank you.

PRESIDENT: Would you like a roll call vote?

SENATOR LABEDZ: No, thank you.

PRESIDENT: Okay. Record, Mr. Clerk.

CLERK: 25 ayes, 7 nays on adoption of the amendment, Mr. President.

PRESIDENT: The Labeledz amendment is adopted.

CLERK: Mr. President, Senator Scofield moves to amend. Senator, I have AM2331 in front of me. (Scofield AM2331 appears on page 575 of the Legislative Journal.)

PRESIDENT: Senator Scofield.

SENATOR SCOFIELD: Thank you, Mr. President. If I could just comment on the earlier amendment adopted. I don't anticipate that ever becoming an issue. But I did want to make clear that we have denied a counselor the right or the counselor better be very careful, under this program, about should a parent of a child involved in one of these programs, ask for any information on counseling or on contraceptions, for instance, that that person can't do it now. And I think that limits the role of a counselor beyond what I would prefer, because I think a counselor primarily is a giver of information. It does not cripple the bill. And I will move ahead with the next amendment, which is essentially a technical amendment that was again addressing some of the questions that people had about the training issue. This amendment, 2331, amends the original bill and the amendment you just adopted in the following ways: it specifies, first of all, that the organization selected to do the auditing and monitoring function of the evaluation component of this bill will not be doing the training. That addresses the problem that people brought to us about the center might be evaluating itself. This clarifies that that could not possibly happen. The amendment further clarifies the role of the center with respect to training in that it states that training is only in relation to this act, and that those trained shall be individuals responsible for carrying out the objectives of this act. There was some confusion about, again, the scope of the center's involvement. Some people were afraid that they were suddenly going to be mixed up in other kinds of training already going on, either with other agencies or so forth. That has never been the intent. But to clarify and remove those concerns this language is added. It also makes clear that if training materials already exist some place else, the center should go find those materials and only develop new curriculum when there isn't any acceptable curriculum out there right now. Again, there was some concern about duplication out there, since

there's a lot of good training material, a lot of good training activities going on out there. I believe that addresses in particular some of the concerns that were addressed early on by the Foster Care Review Board and by Voices for Children. I know we've got their blessing on this amendment. With that explanation, I would ask you to adopt what is basically a technical, clarifying amendment. Thank you.

PRESIDENT: Thank you. Senator Schmit, please.

SENATOR SCHMIT: Mr. President, members, just a question of Senator Scofield. I read the preamble and some of the rest of the material. Can you tell me, Senator, what need this program will fill that is not being filled at the present time by one of the many programs we have which is designed to assist with child advocacy programs?

PRESIDENT: Senator Scofield, please.

SENATOR SCOFIELD: Essentially, as you know, Senator Schmit, and particularly probably from your difficult task you face with Franklin, we have a good many programs out there, and we don't have any coordination across the board of programs. We've got a lot of them going on out there. There isn't any coordinated interdisciplinary training effort. But perhaps most importantly of all there isn't a genuine partnership between the communities around the state and state government. One of the frustrations that was expressed at our meeting out at Fort Robinson, a couple of years ago, and were reiterated at the Governor's family summit this fall, was the sense that communities had that they didn't have any place to go and voice their concerns. So this is a coordinating effort, it is a commitment by the state to say we think communities know best how to solve their problems, we know that government at the state level cannot solve all its problems alone. We're going to join in a partnership with communities, give them some money, make some professional training resources available to them, which they will decide what they want in terms of training, and see if we can't build a better child advocacy network across the state, build a better array of services, some of which will continue to be state, some of which will be driven at the community level.

SENATOR SCHMIT: And what percentage of the communities will we be able to reach with this program, or what percentage of the children will it be able to reach?

SENATOR SCOFIELD: Obviously, Senator Schmit, that is determined by essentially how much money we might decide to put in here. At this point, if you take a look at what we've been able to do with the initial half of the initial program we have before us ten programs, spread across the state in relatively small amounts, and I can't tell you because we simply don't have that good a data right now. But by putting in another 160,000 this year, I think that opens up the opportunity for a lot more communities to go out and leverage more resources at their own local level, they can make a big difference. Whether we will ever actually be able to measure that at this point, until we get this evaluation component into place, I can't tell you that. That's why we desperately need this evaluation component.

SENATOR SCHMIT: Thank you, Senator Scofield. I appreciate your dedication and your interest, Senator Scofield. I just...I am concerned somewhat, as I have said earlier, that we frequently begin these programs, and I've had my name on my share and will continue, I suppose, to add my name to some and to advocate some. But I'm really concerned that you wouldn't think we were in a drought right now, you wouldn't think we were in some financial situations that may prove to be embarrassing, if not down right impossible in future years. And the modest amount of money which you are requesting here today is, of course, not really a problem. What does become a problem is if this program grows, as it will grow to 8, or 10, or 20, or 30 times what it is today, and maybe because there is a justifiable need out there. But I wonder then if there is going to be any chance to get rid of something if we institute a program such as this which does work. Do you envision this to replace any existing program, or is it just an additional program to fill a need which I am sure you and I would agree is probably there?

SENATOR SCOFIELD: I'm sorry, Senator Schmit. Would you ask me that again.

SENATOR SCHMIT: Yes. Do you envision this program as replacing something which is now in existence, or is it just an additional program?

SENATOR SCOFIELD: No, it is not. In fact the grant mechanism is there with the evaluation component. As I mentioned earlier,...

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PRESIDENT: One minute.

SENATOR SCOFIELD: ...I have no intention of just throwing more money at this problem. It seems to me that...well, one of the reasons I got interested in this area was I looked at the child abuse statistics and what was being requested by agencies to fight that. There isn't any way that we can just keep throwing money at these programs. What we do has to produce results. And we don't have anything in there right now that has the kind of evaluation component that we envision here to see if we're getting our money's worth. The other purpose of this would also be to identify what funds are out there now being spent that might possibly be reallocated that would more effectively address the problems that you and I are both concerned about.

SENATOR SCHMIT: Well, thank you, Senator. I was luke warm about the project, I'm still not committed yet totally. But in view of your last explanation, I think that you do have a very legitimate objective, because there is undoubtedly a substantial amount of money which is being expended today which apparently is not accomplishing the goal which this Legislature, and I'm sure which the Governor and other agencies would like to see accomplished.

PRESIDENT: Time.

SENATOR SCHMIT: And so maybe we can accomplish some good. I'm going to go along with you at least for a while, Senator. Thank you very much for your explanation.

PRESIDENT: Thank you. Senator Scofield, would you like to close?

SENATOR SCOFIELD: Yes, I would, because Senator Schmit has touched on a topic near and dear to my heart and it's been the bottom line driving this from day one. That is when we started looking at children and family services in Nebraska we discovered tremendous fragmentation of services. Much of the money that came into those is driven by virtue of what federal source it comes from, some of it will go to one agency, some of it will go to another. There has never seemed to me to be sufficient communication and collaboration among agencies. And that is one of the reasons why we've put into place this kind of mechanism that requires that agencies sign off on this, so that they are in fact strongly encouraged to communicate with each

other about what the goals of the project are. It also puts some pretty heavy evaluation tools into place so that we can figure out whether we're getting our money's worth. Currently there just isn't any structure in place to do this. This bill, the most important thing this bill does is puts a structure in place to encourage this coordination, to encourage this communication among agencies, gives the Legislature and the Governor a tool to evaluate how well our money is being spent, and a tool to reallocate that money. Frankly, Senator Schmit, my dream would be some day that we would have a separate budget dedicated to children and families where we know where every penny is going and we know what's doing good and what is not, and that we could reallocate money as needed. As I talked to other states they get very excited when they hear about that. We're not there yet, it is a major undertaking. But there is a lot of interest out there and a lot of recognition that there is a tremendous need for this. This is really the very first step in that direction. Should we put this in place, as I believe we will, we're going to know where our money is going and we're going to be able to target money in places that we can cut down on such things as child abuse, childhood disease, all kinds of things that if left unattended just become more serious societal problems. So I thank you for asking that question, that gave me a chance to talk a bit more about the underlying philosophy of the bill.

PRESIDENT: Thank you. The question is the adoption of the Scofield amendment. All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 26 ayes, 0 nays, Mr. President, on adoption of the amendment.

PRESIDENT: The Scofield amendment is adopted.

CLERK: Mr. President, Senator Smith would move to amend the bill. I have a note, Senator.

SENATOR SMITH: I would like to withdraw that amendment and the additional funding that was attached to the A bill.

PRESIDENT: Okay. It is withdrawn.

SENATOR SMITH: Thank you.

CLERK: Mr. President, the next amendment I have is by Senator Wesely. Senator, your amendment is on page 879 of the Journal.

PRESIDENT: Senator Wesely, please.

SENATOR WESELY: Mr. President, members, this amendment I've discussed with Senator Scofield and I believe she's in agreement with it. The bill sets up a number of funding mechanisms and grant incentives and responsibilities for coordinating services and talks about the director of the Family Policy Office, which was established last year by the Governor. This position is one of, under the bill, quite important. And the commission that is established by the bill is appointed by the Governor and confirmed by the Legislature. But the director of this office, I noticed, was not. So this amendment would simply have that position confirmed by the Legislature.

PRESIDENT: Any further discussion? Senator Scofield, please.

SENATOR SCOFIELD: Just to, Mr. President, just to confirm that Senator Wesely discussed this with me. I saw no problem with that. One of the objectives of this project all along has been to get the three branches of government to work together. And we're a little closer to that than we were. We will hopefully continue to move closer together on that. Perhaps this will help that. Thank you.

PRESIDENT: Senator Crosby, please.

SENATOR CROSBY: Thank you. Senator Wesely, I just have a quick question, if you'd yield and answer one for me. This...is this somewhat unique? I guess nothing can be somewhat unique. Unique is unique. But agency heads or, for instance, the Director of the Arts Council is hired by the board, and there is no confirmation. Does the Governor appoint other people that the Legislature...in that kind of thing that we confirm?

SENATOR WESELY: We confirm a lot of people.

SENATOR CROSBY: Like whom, for instance?

SENATOR WESELY: Well, if you look at the chart, you have the Department of Social...

SENATOR CROSBY: Well, I didn't...

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SENATOR WESELY: Do you have the chart in front of you?

SENATOR CROSBY: I don't know.

SENATOR WESELY: There is a chart...

SENATOR CROSBY: Well, anyway, just tell me. Oh, well, that. Okay.

SENATOR WESELY: Yeah, the chart that's...

SENATOR CROSBY: I'm sorry.

SENATOR WESELY: If you look at that, it runs across...

SENATOR CROSBY: I wasn't looking at that from that point of view, so...

SENATOR WESELY: Right. Department of Social Services, that's the same situation I'm talking about, the Governor appoints, Legislature confirms; Department of Public Institutions is the same, Department of Education, it's an interdependent agency that is hired and fired by an elected board, so that's unique to this situation. Department of Health is the same, appointed by the Governor, confirmed by the Legislature; Commission appointed by the Governor, confirmed by the Legislature, and I'm simply adding...

SENATOR CROSBY: You're talking about the paid directors, paid directors of something.

SENATOR WESELY: Right, well this is the...

SENATOR CROSBY: Okay, well I'm...

SENATOR WESELY: ...paid director...this is the paid director of this office, so it's the same sort of function, it runs right across.

SENATOR CROSBY: Okay.

SENATOR WESELY: The commission, likewise, is appointed and confirmed by the Legislature.

SENATOR CROSBY: I guess since I've been in the Legislature I haven't been fully aware of that confirmation procedure on paid directors, that's why I'm asking my question. I'm not being....

SENATOR WESELY: Yeah, all paid directors end up being confirmed by the Legislature, unless they are an independent...

SENATOR CROSBY: I just hadn't focused on that, because...

SENATOR WESELY: Right.

SENATOR CROSBY: ...there are some, though, that are hired by whatever board, like the Arts Council hires the director. There isn't any Governor appointment there, gubernatorial appointment.

SENATOR WESELY: Right, an independent entity like that, the Arts Council, Humanities Council, (inaudible)...

SENATOR CROSBY: Is not an agency, yeah.

SENATOR WESELY: Historical Society would be like this. But this isn't that way. The commission doesn't hire this person, it's through the Governor, see, so...

SENATOR CROSBY: Okay.

SENATOR WESELY: I think it's consistent. I think to be consistent we would need to do that, but...

SENATOR CROSBY: And then my other question, Carol Stitt asked me about this, I think she had some apprehensions. Have you talked to her, that she felt like what she had worked with, it was working all right without any change.

SENATOR WESELY: That was before the bill was coming along and all the different changes.

SENATOR CROSBY: So we worked all that out.

SENATOR WESELY: I haven't tal...I didn't realize that she had any problems.

SENATOR CROSBY: Sandra is nodding her head, so I guess maybe we have. Okay, I just wanted to be sure of those things because I was a little...

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SENATOR WESELY: Sure, sure.

SENATOR CROSBY: ...fuzzy. Thank you.

SENATOR WESELY: Absolutely. Good question.

PRESIDENT: Thank you. Senator Scofield, please.

SENATOR SCOFIELD: Yes, Mr. President, members, Senator Crosby, I think Carol would still prefer to have the commission hire this person than the Governor. But my belief is that the Governor should, in fact, hire this person. And one of the major advantages of Karen Stevens' office is that she has almost, I think, the equivalent of cabinet status, in fact she does. And I think it's the Governor's intention to make her play quite a powerful role, which is what we need as an advocate for children and families right up close to the Governor, that has that. And at the same time to make this work, obviously, we have to have the Legislature and the courts all on board to handle these issues. That has been one emerging theme ever since we started. And so I think it's appropriate that this office be treated in that respect, that the Governor continues to hire that person and that we confirm.

PRESIDENT: Thank you. Senator Smith, please, followed by Senator Landis, please.

SENATOR SMITH: Thank you, Mr. President. I would like to continue this conversation just a little bit further here. I would like a little further clarification either from Senator Wesely or Senator Scofield pursuing the distinction, for instance, between the Director of Policy...Family Policy Office versus department heads.

PRESIDENT: Which one do you wish...

SENATOR SMITH: There is quite a bit of difference, isn't there, in the establishment of this office where she has, at this time, no staff, to my understanding?

PRESIDENT: Senator Smith,...

SENATOR SMITH: Yes.

PRESIDENT: ...which one do you wish to have...

SENATOR SMITH: Well, I'll talk to Senator Scofield, I guess.

PRESIDENT: Okay.

SENATOR SMITH: Senator Scofield, under the provisions of this piece of legislation, what would she have as staff?

SENATOR SCOFIELD: We are giving her a partial staff person in this bill,...

SENATOR SMITH: Yeah.

SENATOR SCOFIELD: ...which may not be enough, as time goes on, but again recognizing what our financial constraints are right now. The other thing that Karen has been effective at, with the Governor's support,...

SENATOR SMITH: Now, wait a minute, Sandy, I want to continue on this...

SENATOR SCOFIELD: Okay.

SENATOR SMITH: ...because my concern is that I don't really see her as comparable to a head of a Department of Social Services, or a head of the Department of Public Institutions, or the Department of Health. I don't know if either one of you can tell me, but they have a large number of staff that they supervise, and a lot of areas of responsibility that they deal with, not just one particular area which deals with family policy.

SENATOR SCOFIELD: Right.

SENATOR SMITH: And so I can't, at this point in time I don't think that I'm supportive of that amendment, unless you can give me a better reason than what you just gave us for being...the reason for making her have to be confirmed by the Legislature. Are there other, forgetting these, because I don't see them as comparable, are there other appointments that she makes or I guess hiring in this case because they are paid, people that are directors of like offices where there is either no staff or maybe one or two people that deal with a specific topic of concern?

SENATOR SCOFIELD: This is a unique position in that it's the first time, I think, we've created anybody in quite this particular role. And the Governor has created this office as an advocate and to coordinate. So...in fact, Karen has told me, and I don't want to put, I think I can accurately reflect her conversation, that she sees herself more as a facilitator and coordinator of these various state agency activities, which appeals to me very much.

SENATOR SMITH: Yes, I agree with that.

SENATOR SCOFIELD: That would be the role that I would continue to see her play. She needs the Governor's blessing, obviously, she needs to have the...

SENATOR SMITH: Absolutely.

SENATOR SCOFIELD: ...confidence of the Governor to do that. I think at the same time, given the nature of this beast, and you've been in these battles, too, Senator Smith, that it has to be somebody that can work with both branches of government. And I think all we're really doing here is sending a message that the Legislature will be very supportive of this and is very, very interested and wants to be directly involved in this rather than having somebody out there that functions more like an independent agency director, that we very much see this person in a facilitative role. And she...I think Karen is in a unique position to do that with the support of the Governor and with the Legislature.

SENATOR SMITH: I guess that I would...the last reason given by Senator Scofield is a better one than the comparison of her being equal to or the same as the department head. That doesn't quite, unless Senator Wesely has some other information that he can provide to me. Thank you.

PRESIDENT: Thank you. Senator Landis, please.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, it is a hybrid and one that strikes me as questionable when one person hires you, but in fact you work for a different set of people. I'm not exactly sure under what management theory that works. I, for example, would not like the Governor appointing my legislative aide, nor yours, nor the committee counsel to my

committee, that is somebody who is to be the loyal employee of a committee or another operating body but to be selected not by that operating body but by another party altogether. I understand it's a hybrid, but in the hopes that you're creating coordination by having one foot on the dock and one foot in the boat you also, at least as easily, create the possibility for dissension, in which the board has as its executive director somebody that it does not hire and fire, somebody that it does not choose, somebody that it does not discipline, but who is responsible for carrying out the directions of the commission as I get it. And that, I think, has at least as much opportunity for mischief as it does for better coordination. The cleaner pattern, it seems to me, is to have the normal model that is followed. And in questions by Senator Crosby and Senator Smith I think the normal, the normal pattern is to appoint the committee, or the commission, and then the commission chooses for themselves the employee that they think is best able to carry out their will. That's the model we normally follow. And in this situation I intend to vote against the Wesely amendment. I think the stronger model and the one that is more appropriate is consistent with good management principles, and that is you work for the person who hires and fires you. That's the person for whom you work. And in this case you have an interesting hybrid in which the Governor appoints the commission, and then you have an executive director that is working for the commission, but who is in fact hired by the Governor. Well, particularly since the Governor may well have interests with respect to the harmonization of or particular administrative positions and departments under the Governor's control that the commission may feel should have greater cooperation than what they are exhibiting now. It's possible that the commission and the Governor will have different attitudes about what level of cooperation is going to occur. At that moment who does the executive director follow? It seems to me that the commission should be able to direct the executive director rather than the Governor. That, I think, is a better and more appropriate mechanism. I intend to vote against the amendment.

PRESIDENT: Thank you. Senator Scofield, followed by Senator Smith.

SENATOR SCOFIELD: Thank you, Mr. President. Senator Landis has characterized this office as a hybrid, and I would agree with him it is. And I think it's necessary just in terms of the tremendous coordination task that is here. I have asked my

staff to draft some clarifying language. The current...Currently the bill says that Karen would serve and be responsible to the commission. It is not clear who would actually do the hiring. We need to clarify that. That's simply an oversight in drafting. And I guess this is an important discussion for us to have. It is my sense that if this person is going to be able to adequately coordinate state resources and have the necessary influence and support of the Governor to coordinate across agency lines and work with directors, that that person, first and foremost, has to serve the Governor, has to have the Governor's confidence. I think it is a hybrid and you probably might not see this in all management theories, but I think there is an increasing trend toward more of a facilitative role in management. And this is, indeed, that kind of position. But I would first and foremost say that the Governor has to hire, then the role that I would envision the Office of Family Policy taking would be to work, on the one hand, with state agencies in a coordinating mode, with the Governor's blessing so that we get better use out of those resources, and at the same time working with that commission in an advisory capacity so that that person, in fact, knows what the wishes of communities are. That may not be as clean as you'd like it under the older hierarchical forms of management, but given the fact that state government is the unwieldy beast that it is, I think that's perhaps the only way we're going to get at the coordination we desire.

PRESIDENT: Thank you. Senator Smith, please, followed by Senator Wesely. Just a moment, Senator Smith. (Gavel.) Let's hold it down so we can hear the speakers, please. Senator Wesely. Just a moment. Okay.

SENATOR WESELY: Thank you, Mr. President, members. I understand what Senator Landis is saying, but I would agree with Senator Scofield. This person should be hired and fired by the Governor. The person now is hired by the Governor, and I want to continue that. The director should be appointed by the Governor. And it's not clear in the bill, I don't think, particularly at this point, that that's the case. And you can disagree that the commission should hire and fire this person, but I think Senator Scofield is right. It's more than just being a staff person for the commission. The role of this person is beyond that, and into a coordinating role and a functional role of working between different agencies. It's because of that, as I agree with Senator Scofield, that the

Governor should have the power to hire and fire, and this Legislature then, as a result of that, have the right to confirm. And so I think it's a good amendment. And I think it clarifies the situation in an appropriate way. It's not illegitimate to disagree, as Senator Landis is saying. But at this point the introducer of the bill has clearly indicated her preference, and I agree with it and would hope that we could clarify the situation by adopting this amendment.

PRESIDENT: There are no other lights on. Senator Wesely, would you like to close?

SENATOR WESELY: Yes, again, I'd move adoption of this amendment which would clarify the Governor hires and fires this position. And there would be a confirmation by the Legislature.

PRESIDENT: Thank you. The question is the adoption of the Wesely amendment. All those in favor vote aye, opposed nay. Record, Mr. Clerk.

CLERK: 26 ayes, 4 nays, Mr. President, on adoption of the amendment.

PRESIDENT: The Wesely amendment is adopted. Anything further on the bill?

CLERK: Mr. President, Senator Scofield would move to amend. Senator, this is your amendment 2690. (Third Scofield amendment is on page 1006 of the Legislative Journal.)

PRESIDENT: Senator Scofield.

SENATOR SCOFIELD: Thank you, Mr. President. This is, again, just another technical language to make sure that it's consistent with everything else in the bill. Once again it reiterates the role of the various agencies in the reviewing process for the grant application process. This just seemed to be the easiest way to clean the bill up and make sure that the language is consistent in that direction. So I'd ask that you adopt it. Thank you.

PRESIDENT: Thank you. The question is the adoption of the Scofield amendment. All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 26 ayes, 0 nays, Mr. President, on adoption of Senator Scofield's amendment.

PRESIDENT: The Scofield amendment is adopted. Anything further on the bill?

CLERK: Mr. President, Senator Labedz would move to amend the bill.

PRESIDENT: Senator Labedz, please. It's my understanding that Senator Labedz is on her way, but she wishes to withdraw the two amendments that she has, and we'll verify that as soon as she gets here. But is there anything else, Mr. Clerk?

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

PRESIDENT: Okay. On the advancement of the bill, Senator Scofield.

SENATOR SCOFIELD: Thank you, Mr. President and members. I think what you have put in place today is a historic piece of legislation. It creates a structure that we have needed in state government for a long time, if we're ever going to effectively serve children and families across the state, and if we're ever going to truly join in a partnership with communities across the state to address some of their problems. I don't need to go into a long dissertation on this floor with any of you about the array of problems that we see out there and the commitment of this Legislature to addressing those. I think by putting this structure in place and the process that we put in place is perhaps more important, in terms of getting to the bottom of some of the problems and really working with communities and perhaps anything else we can possibly do. It is a modestly priced piece of legislation, I think, for what we can expect to have happen. We can address Senator Schmit's concerns about a program that could grow, and grow, and grow, because if the thing doesn't work, frankly, then it's back to the drawing board. I'm not here to tell you that this is the final piece. We've been working on this issue now for almost three years. People have been working on these issues since 1974. I think this Legislature can feel good about taking one of the first steps towards addressing those issues. But I'll bet, given the nature of the number of agencies involved and the nature of well-meaning people on all sides of an issue who care about kids, that we will continue to see some points of disagreement.

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And the key to this, I think, is to keep the legislative branch, the executive branch, and the judicial branch working together to coordinate activities. We have now brought in a very important piece, and that is the community. And so, if we can move ahead on this front and make this structure work, I think we will finally have begun to bring about significant change in a system that all of us have felt has its place and has done some good things but sure ought to work a lot better than it has. And so, with that, I would ask you to advance the bill. Thank you.

PRESIDENT: Senator Scofield was closing. I have a request for a machine vote. The question is the advancement of the bill to E & R engrossing. All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 26 ayes, 1 nay, Mr. President, on the advancement of LB 662.

PRESIDENT: The bill is advanced. LB 662A.

CLERK: LB 662A, Mr. President, I have no E & R. I do have an amendment to the bill by Senator Scofield. (Scofield amendment AM2738 is on page 1059 of the Legislative Journal.)

PRESIDENT: Senator Scofield, please.

SENATOR SCOFIELD: Thank you, Mr. President. The only change in this funding bill is that we give a part-time staff person to the Office of Family Policy. I still have concerns about the ability of that office to carry out the tremendous task that is before them. But this is essentially the first step. She does need help. And the other thing is we move...operations is moved from the Department of Social Services to the Office of Family Policy. I think that empowers the new director, who I am convinced is going to work hard and is going to try to take on an almost super human task, gives her a little help and starts her down the road. In the original bill we had funding for staff at the level of 12,711 for '90-91, and 13,385 in '91-92, funding for operations is 22,330 in '90-91 and 19,287 in '91-92. We move all of this into a special program, program 112, in the budget of the Policy Research Office. That Policy Research budget also includes \$25,000 for operating expenses of the commission. I would refresh your memory as well, as you look at this A bill and you say, why is there so much money in here for

respectfully reports they have carefully examined and engrossed LB 520 and find the same correctly engrossed, LB 520A, LB 662 and LB 662A, all of those reported correctly engrossed. (see page 1180 of the Legislative Journal.) That is all that I have, Mr. President.

SPEAKER BARRETT: Thank you. To the next amendment, Mr. Clerk.

CLERK: Mr. President, Senator Hall would move to amend the bill. Senator, I have your AM2794. I believe copies have been distributed to the membership, Senator. (Hall amendment appears on pages 1181-82 of the Legislative Journal.)

SPEAKER BARRETT: Senator Hall, please.

SENATOR HALL: Thank you, Mr. President, members, this is an amendment that I would consider a technical amendment. It deals, if you...the amendment...I got in too late to have it printed so we did get it passed out to everyone, you have it sitting on your desk. It's three pages. If you would turn to the second page and if you would just take a look under item E, line 6 through 9, it takes and it just changes the way the income tax will be adjusted. When we passed LB 773 in 1987 the bill was originally introduced and passed with the percentages being rounded to the nearest tenth and what happened is, is that those percentages were rounded up so that if I was in the, say, for example, four one hundredths instead of eight one hundredths, that would be rounded up to the next tenth. No matter...it didn't make any difference if it was four or eight-hundredths, it would get rounded up. Folks at that time said that it didn't make that much of a difference. I tend to think that what it does is it doesn't allow us to accurately determine, through methods that we have available to us, the reflective income tax that is due and owed. So, with this amendment, all we do is require that it be rounded to hundredths of one percent. We have the ability to do it. It would reflect the most accurate assessment of what the tax would be, and you would have taxpayers that would be paying exactly what they owed. I think that under the current system it's very likely, even though we're not talking about any one taxpayer having to pay any great difference, but it isn't the most fair way to determine that we have it available to us. And my amendment simply uses the ability within the Department of Revenue to calculate, to the next hundredth of one percent, taxes that are due and owed. I would urge the adoption of the amendment.

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LB 662, 866, 1062, 1141

(LB 662); the second to Senator Coordsen (LB 1141). (See pages 1669-81 of the Legislative Journal.)

Mr. President, Senator Coordsen would like to add his name to LB 1062, and Senator Lamb to LB 866...Senator Haberman to LB 866, excuse me. That is all that I have, Mr. President.

SPEAKER BARRETT: Thank you, sir. The call is raised. The Chair recognizes Senator Morrissey.

SENATOR MORRISSEY: Yes, Mr. President, and members, thank you, and to again emphasize so there will be no confusion, I will do this like we do on the railroad, and we do it this way not because we are stupid or need the practice but because so there will be absolutely no misunderstanding. I move that we adjourn until eight, e-i-g-h-t, a.m., tomorrow, Thursday, March 29, 2-9.

SPEAKER BARRETT: Thank you. Those in favor of that motion say aye. Opposed no. The ayes have it. Motion carried. We are adjourned.

Proofed by:

La Vera Benischek
LaVera Benischek

March 29, 1990

LB 272A, 313, 313A, 488, 488A, 503, 503A
567, 567A, 662

sign and I do sign, LB 272A, LB 313, LB 313A, LB 488, LB 488A, LB 503, and LB 503A. LB 567, Mr. Clerk.

ASSISTANT CLERK: (Read LB 567 on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 567 become law? Those in favor vote aye, opposed nay. Have you all voted? Senator Withem.

SENATOR WITHEM: I would ask for everybody to check in and a roll call vote.

SPEAKER BARRETT: Thank you. Will members please record your presence. A roll call vote has been requested. Senator Hefner, Senator Lowell Johnson, Senator Byars. Senator Morrissey, would you check in, please. Senator Goodrich. A roll call vote has been requested and the question is, shall LB 567 pass?

CLERK: (Roll call vote taken. See page 1711-12 of the Legislative Journal.) 27 ayes, 20 nays, 2 excused and not voting, Mr. President, on adoption of or final passage of LB 567.

SPEAKER BARRETT: LB 567 passes. The A bill.

CLERK: (Read LB 567A on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 567A pass? All in favor vote aye, opposed nay. Record, please.

CLERK: (Read record vote. See pages 1712-13 of the Legislative Journal.) 27 ayes, 20 nays, 2 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 567A passes. LB 662.

CLERK: Mr. President, I have a motion on the desk. Senator Nelson would move to return the bill for a specific amendment.

SPEAKER BARRETT: The Chair recognizes Senator Nelson.

SENATOR NELSON: Mr. Speaker, and members of the body, I am not sure that all of you are aware or not, I had asked for an

Attorney General's Opinion on AM2294 that was applied on LB 662. LB 662, as most of you know is the Family Services Incentive Act, and there was an amend...this amendment had to do with wording for abortion and contraceptive counseling and referral and so on, and you will find it in your Journal, page 1671. This was issued yesterday so it is available. What that amendment says is in LB 662 on page 7, line 8, strike "include, but not"; and in line 17 after the period, insert "Prevention, early identification, and intervention services eligible for funding shall not include performance of or counseling or referral for abortion or distribution of or counseling or referral for contraceptives." I refer you to your Journal and my question was the constitutionality of this amendment. From probably would be about second paragraph on the legal opinions, "The effect of AM2294 is to deny (state) start-up funding for abortion and contraceptive counseling and referral, and for the performance of abortion and the distribution of contraceptives. Abortion and contraceptive counseling and referral are constitutionally protected speech. Clearly, the United States Constitution and the Nebraska Constitution prohibit unreasonable interference with the right of potential grantees under LB 662 to engage in these protected speeches." Nebraska does not have a court case referring to this amendment or to abortion and contraceptive counseling so, therefore, it does proceed to the United States Court for directive, and since the absence of the Nebraska law, we turn to the United States Supreme Court and other federal courts that have addressed this question under the First Amendment of the United States Constitution, which prohibits infringement of free speech, and is made applicable to the states through the Fourteenth Amendment. My question is Section (sic) LB 662 constitutionally suspects which provides the funding of public entities and private nonprofit agencies for family services shall not include performance of or counseling or referral for abortion or distribution of or counseling or referral for contraceptives. Conclusion, yes, the prohibition on counseling or referral would make the bill constitutionally suspect. I did not want to muddy up LB 662. We changed some of our germane rules and it was added on. In fact, I don't even remember how I voted on it, but I did have a question. LB 662 has incentives for grant programs, family advocate project, Nebraska Commission on families, training programs, and so on and so forth. It was introduced by a number of senators and seemed to me to be a very good bill. I did, as I said, I had this question. The Ninth Circuit Court speaks Planned Parenthood v. Arizona, and I shall just roughly go down,

I don't want to take a lot of time. "As to the first paragraph of the Arizona statute prohibiting state funds for abortion-related services, the court concluded that 'Arizona may not unreasonably interfere with the right of Planned Parenthood to engage in abortion or abortion-related speech activities, but the state needs not support, monetarily or otherwise, those activities.'" I shall move down. "It is not clear from AM2294 whether it would deny funding only for the excluded abortion or contraceptive services, or whether it would deny funding totally to applicants providing these services, but with other than state funds, within the prevention, early identifications and intervention services eligible for funding. If the amendment would require the state to deny funding to an applicant whose prevention, early identification, and intervention services include abortion or contraceptive services, even though the applicant is not requesting funding for the abortion and contraceptive services, the statute most likely will be found to be unconstitutionally overbroad as in the Arizona statutes." Many of you can read the Webster v. Reproductive Health Services back down again further, "AM2294 appears to be vulnerable to constitutional attack in several respects. It implicates both constitutionally protected speech rights, and the right of a state to adopt a policy favoring normal childbirth over abortion. Because the First Amendment is involved, the statute will be subject to a strict scrutiny analysis, requiring a compelling state interest to interfere with protected speech activities." Let's go down further, the Ninth Circuit, "However, the state would be allowed to show that withdrawal of all funds would be the only way to insure that no funds were being expended for the ineligible activities. Id. at 946. More troublesome with AM2294 is the ambiguity of the words counseling and refusal. This statute is unclear as to what 'counseling and referral for' means. Can abortion or contraceptive be mentioned at all? Can questions by a client about abortion or contraception be answered? Can no referral be made to any agency providing abortion or contraceptive counseling when the grantee program does not provide these services? The statute's failure to make clear the answer to these questions, in our opinion, causes the statute to be unconstitutionally vague as to its meaning and applications." That is simply what I am basing it on, and other than to muddy up 662, I thought it was best that we just remove this amendment, and I think it is very clear for the body. They can simply read what it does. LB 662 is intended to focus on prevention, address comprehensive needs, and allow for community input and decision-making, and the

amendment does go as a contradiction to that. In fact, actually when the amendment was put on, I really thought it was a harmless little amendment but I did find out different, and with that, I think there is a couple of others that want to speak on the amendment, and then I will use my closing.

SPEAKER BARRETT: Have you finished, Senator Nelson?

SENATOR NELSON: Yes.

SPEAKER BARRETT: Thank you. For discussion purposes, Senator Labedz, followed by Senators Chambers and Scofield.

SENATOR LABEDZ: Thank you, Mr. President. I must say I am not surprised by the Attorney General's Opinion. I do not think my amendment has constitutional problems and it has become obvious, though, that any bills regarding abortion that the Attorney General writes an opinion on will be deemed constitutionally suspect. If you turn to page 6 on your Final Reading copy, Section 5 says, "There is hereby created an incentive grant program to encourage and assist communities in the development and implementation of family-centered community-based services for children and families that promote the objectives specified in Section 3 of this act. It is the intent of the Legislature to phase in a statewide comprehensive family-centered array of services." That immediately brought a lot of concern to myself and several members of this Legislature. I prepared the amendment to be added that says, "Prevention, early identification, and intervention services eligible for funding shall be limited to..." No, that is not my amendment, that is where I added the amendment; "Home-based services; family services, including home-aid programs and parenting skills (programs); educational programs aimed at prevention; emergency services, including crisis prevention, crisis intervention and stabilization, and crisis hot lines." Now all of these things I am totally, 100 percent in support of, but my amendment was added immediately after that, "Prevention, early identification, and intervention services eligible for funding shall not include performance of or counseling or referral for abortion or distribution of or counseling or referral for contraceptives." My amendment, as I just read to you, could not be drafted more clearly. It amends a specific definition relating to services eligible for funding. The amendment simply says that those services eligible for funding shall not include abortion counseling or referral for abortion services. The United States

Supreme Court has held, and this is important, that a state has no constitutional obligation to fund or promote abortion or contraception and establish a policy in favor of normal childbirth. That was the policy decision that this body affirmed when it adopted my amendment and I have no doubt, especially now, that it was an appropriate decision. I offered this amendment because the supporters of this bill could not convince me that it would not be used for abortion-related services. Obviously, now it is a good thing that I did because this action today speaks louder than words. Senator Nelson's motion has made it now very clear to me, and I hope to the rest of you, that there are some organizations that intended to use LB 662 to gain access to public funds for the purposes of providing abortion-related services. I don't want to go on any further because I would like Senator John Lindsay to have the remainder of my time.

SPEAKER BARRETT: Senator Lindsay, about a minute and a half.

SENATOR LINDSAY: Thank you, Mr. President, thank you, Senator Labeledz. I read through the opinion and I think it forgets a very basic issue of constitutional law and that is that bills that are passed by the Legislature are presumed to be constitutional. If they can be read in a constitutional manner, that is the way they are to be read. About any bill that we pass here can be misconstrued to obtain an unconstitutional result if your intent is to obtain an unconstitutional result. I suggest that that is the case in this particular opinion. The bill, as I read it, the abortion neutral language appears in the definition of prevention.

SPEAKER BARRETT: One minute.

SENATOR LINDSAY: That just provides who is going to be allowed to obtain these funds. It doesn't provide any manner or method whatsoever of denying funds. That would be...the denial of funds would be done on the same basis as for any other issue. For example, if funds are being used to promote religion, if funds are being used to promote any other violation, unconstitutional violation, they would be handled as they normally are handled, with some sort of a...and I am not even sure how those are handled. But this is no different than any other issue. It simply says that that is not included in the definition. The intent is that the funds are not to be used for referral or counseling of abortion. I think that the opinion

really has to work to obtain an unconstitutional result. I simply think it is in error. I would urge that the motion to return be defeated. Thank you.

SPEAKER BARRETT: Thank you. Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman, and members of the Legislature, the reason I find language of the kind that Senator Nelson is trying to strike so abhorrent is that it doesn't just deal with abortion. It doesn't just deal with counseling relative to abortion. It deals with the issue of contraception, and that is a particular church's position. There is a guy named, I forget his name, but he is up in New York. He is an Archbishop or something. He has been talking lately about exorcisms that have been performed and has referred to various singing groups as satanic and they need to be exorcised, and he has been roundly criticized by officials in the church for being so loose with his lips in talking about exorcism and other matters, and he is one of those who says that regardless of how much teenage pregnancy and how much spread of AIDS there is, there should be no utilization of condoms and nobody should talk about that, and any program that talked about condoms or recommended their use should be condemned because they are immoral. I think that is Dark Ages stupidity. It shows a crass disregard for the welfare of children, young people, and others who need this information. And if these types of outfits feel that they can intimidate every public official into silence so that their backward policies will be imposed on everybody, then they have got another think coming if they feel that that applies to me. There are lobbyists paid to fight against the kind of information necessary to be given to young people being given, and they think, because they jump up and down and say we are going to play hardball and we control the Legislature, that they can do it? Well, they might control some people in here but they don't control me, and they can't control me. I think ignorance is one of the biggest diseases in this country. We can talk about AIDS. We can talk about cancer. But one of the greatest failings in this society is ignorance and those institutions that seek to foment ignorance and keep people mired in it so that they are more easily controlled. If you study history, the reason abortion has been condemned and objected to is because certain groups needed to increase their numbers for political and other reasons. Ceausescu in Romania had a target date for the population in Romania to reach a certain level and, therefore, he made abortion and anything related to it a crime.

And he didn't base it on religion or anything hypocritical like that. He said we need numbers. Other have to find a more acceptable facade and pretend that it relates to something else. If we are concerned about children at all levels, and some of these groups are going to say a fetus is a preborn child, then why after the child comes into the world do you want to keep the child ignorant. Subject to diseases, subject to pregnancy because they are kept ignorant of things related to sex and reproduction. It is a whole lot of smoke blowing, a whole lot of hypocrisy. We are talking about the creation and the increase of numbers for political purposes. The more numbers you have, the more political strength you have, and it boils down to that purely and simply, and if you study history, you will see it. This kind of language that says even when it comes to contraception nothing can be said about it, then you will get across the idea that there is no contraception because nobody talks about it. There is no such thing as abortion because nobody can mention the word.

SPEAKER BARRETT: One minute.

SENATOR CHAMBERS: Crazy, crazy. My goal is to push for whatever information and knowledge is available to be spread, broadcast throughout the land, made available to those who need it, and when people can cite the statistics on sexually transmitted diseases and the high rate of teenage pregnancy, and then be against information and means to counteract those problems, then I say they are not being straightforward and honest in their pretended concern about the welfare of young people. I think this language should be stricken and I don't think the bill should be encumbered by language that could jeopardize the bill, itself, from a constitutional standpoint. When people fear even discussion of issues, that establishes that their position is not very strong. You should be able to let your position stand up to any kind of scrutiny.

SPEAKER BARRETT: Time. Senator Scofield, followed by Senator Dierks and Wesely.

SENATOR SCOFIELD: Mr. President, and members, I, too, have had an opportunity to read this decision and, frankly, it raises exactly the kinds of concerns that I had when I asked Senator Labeledz or asked you to defeat Senator Labeledz's amendment when she first offered this. It is unclear to me. There are a number of ways this could be played out and I don't pretend to

be smart enough to predict how the courts might rule or even what the legal wrangling that might occur over this would be but I know what it does. I think it creates enough problems that it puts the entire bill at risk. If it is found to be an infringement on constitutionally protected speech, as is pointed out in page 2, that alone jeopardizes the bill. On the other hand, the question that's raised on page 2 is, in fact, is it an impermissible interference with a constitutionally protected speech activity, which hasn't been mentioned earlier, or whether is this state activity to control the use of its funds. Who knows? You look at the decision over here, or the opinion over here on page 4, again, the other question that it seems to raise is that it is not clear here whether the language that Senator Labeledz has amended onto this bill would deny funding only for the excluded abortion or contraceptive services or, and here is the important part, or whether it would deny funding totally to applicants providing services. And so I could envision a situation, for instance, with a public agency that provides a whole range of services who might want to come in and apply for money to do child abuse training or parental training or whatever, and their application could potentially be denied simply because they give contraception counseling as well. I don't know of a specific agency that fits that description, but I will bet they are out there, and it seems to me this limits even the entities that might possibly be able to come in and apply for the money. And so I guess that was my concern right off the bat when this language was raised as the one thing that we all agree upon, I think, here in this body is we want to get money out to communities to help kids. I had a meeting with people that I represent in Chadron before this session ever convened and we talked very seriously about the abortion battles that we expected to happen in this body. And the people that I talked to opposed generally the way I have voted on the abortion question, and yet they agreed that they didn't want to see a bill like 662 jeopardized by dragging this issue into it, and I believe they still would feel that way today and they would be very distressed to know that there is a chance that we wouldn't be able to get money out to the communities if this language is left in, and I went back just recently and read the arguments that were made when we first amended this language in. Senator Dierks spoke on it. I spoke on it, and a number of us expressed the opinion that we didn't think that either way that would jeopardize getting the money out there. Now I think this clouds the whole issue, and so I think it seriously threatens the opportunity to put money into communities to do a range of

services that would help children that was never envisioned to go this direction. And, in fact, as I pointed out the last time, the requirements, the hoops that communities have to go through to submit a grant on this, and if you refer to the bill, refer to the Final Reading copy of the bill on page 13, 12 and 13, in terms of what the grant proposals have to go through, there is a very important line in there that says, "The degree to which the proposed service shall be integrated into the community and coordinated with existing community resources and services and has to have the support of the community;" was the point I have been making all along. If there is a service offered that is controversial in the community as the services that Senator Labedz fears are controversial, I don't think any community is going to even allow that to pass the initial hurdle.

SPEAKER BARRETT: One minute.

SENATOR SCOFIELD: And so I think intentionally or unintentionally what the language that was adopted into this risks denying money to communities to go out there and address the problems that we all know that kids and families have. And, personally, I just don't think it is worth the risk to leave this language in there. It is not worth the risk to deny money to communities to do a whole range of worthwhile activities, and I think to leave the language in there may, in fact, lead to who knows. Look at the problems we had with LB 247 with the AG pursuing that, with one agency refusing to carry that out in the whole rule and reg making process. The bottom line here is we are about to avoid a great opportunity to put money out in the communities to do a whole range of worthwhile things here. I think we ought to not take risks with that money. I don't think Senator Labedz's fears are well-grounded here and I guess you are making a choice here. Do you want to try to do something right for kids or families...

SPEAKER BARRETT: Time.

SENATOR SCOFIELD: ...or do you want to deny communities opportunities to address their own problems by placing this whole bill at risk? Thank you.

SPEAKER BARRETT: Thank you. Senator Dierks.

SENATOR DIERKS: Mr. Speaker, and members of the body, I don't

believe it takes Senator Nelson's genius to figure out that an Attorney General's Opinion can't be anything but suspect whenever you ask it that way. There is a bill in the United States Supreme Court, a law, called Roe v. Wade, the Attorney General's Opinion couldn't be anything but suspect. So I don't think that is a fair conclusion. You are trying to make us believe that this is not constitutional. I just want you to understand that if this amendment comes off, the bill has lost my support. Thank you.

SPEAKER BARRETT: Senator Wesely, followed by Senators Lindsay, Nelson, and McFarland.

SENATOR WESELY: Question.

SPEAKER BARRETT: Senator Wesely moves the previous question. Do I see five hands? I do. Shall debate now cease? Those in favor vote aye, opposed nay. Have you all voted? Record, please.

CLERK: 25 ayes, 7 nays, Mr. President, to cease debate.

SPEAKER BARRETT: Debate ceases. Senator Nelson, would you care to close on your motion?

SENATOR NELSON: Mr. Speaker, and members of the body, when I brought this to the body's attention and this is Senator Scofield's bill, I guess that I am not sure whether it is the right thing to ask Senator Scofield how she feels on it or so on and so forth. I do have a survey came out in just today's paper, a poll Wednesday by the University of Iowa Social Science Institute shows only 7 percent of Midwesterners are pro-life in the abortion issue while 39 are pro-choice. I didn't intend to add this, 65 percent would prefer to leave state laws regulating abortion as they currently are or make it even easier for women to obtain an abortion. I did not intend to bring that up. My only concern was a matter of free speech. And, in fact, actually when I gave it to the Clerk, I mentioned that was the fact. I don't want to muddy up LB 662. I don't want to see LB 662 defeated. I did want to save maybe the court the amount of defending a case or there is a possibility of the severability clause. Any part of it that is unconstitutional would be taken out of the bill. I will give Senator Scofield a minute of my time, but at this time, I intend to pull the amendment. I think that we have had the discussion there. I

don't necessarily appreciate the threat from any senator that I am trying to snooker someone nor that I am trying to do something wrong or that. It is a matter of speech and it is a matter of concern and I didn't bring this to you with any hatred in my soul, hopefully not, but I did think the body needed to have their attention drawn to it, and I will give Senator Scofield a minute of my time, and I guess that she can make the decision whether to take it to a vote or withdraw the amendment.

SPEAKER BARRETT: Senator Scofield.

SENATOR SCOFIELD: Thank you, Senator Nelson. Frankly, my preference would be to take it to a vote. I think this is a serious question. I appreciate you...I believe that you acted in good faith here and with legitimate concern for this bill, and I have had these concerns all along. And I guess we might as well have our day of judgment right now. So I have no objections if you leave this on, Senator Nelson, and let's go to a vote. Thank you.

SPEAKER BARRETT: Senator Nelson, you have another minute. Do you want to take it or not?

SENATOR NELSON: I believe not. It is Senator Scofield's bill and I will leave her make the judgment whether or not to take it to the vote, or is it possible, I will ask the Clerk to add the severability clause if there is a problem with this portion of the bill that it would be removed from the bill.

SPEAKER BARRETT: I think the motion before the house is to return the bill right now.

SENATOR NELSON: All right, thank you.

SPEAKER BARRETT: Thank you. The question before the house is the return of LB 662. Those in favor of that motion please vote aye, opposed nay. Have you all voted? Senator Scofield.

SENATOR SCOFIELD: Mr. President, I would like to request that everybody check in and that we have a roll call vote, please.

SPEAKER BARRETT: Thank you. Members, please record your presence, return to your seats for a roll call vote. While we wait, let the record indicate that Senator Nelson had 55 fourth graders from Engleman Elementary in Grand Island with us this

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LB 163, 163A, 164, 164A, 187, 187A, 259
259A, 260, 260A, 272A, 313, 313A, 338
488, 488A, 503, 503A, 520, 520A, 536
567, 567A, 662, 898, 899, 1031, 1125
1126, 1170, 1220

morning visiting in the south balcony. While the Legislature is in session and capable of transacting business, I propose to sign and I do sign LB 520, LB 520A, LB 567, and LB 567A. Senator Lynch, please check in. Senator Byars. Senator Schimek, please. Senator Labedz. Members will return to your seats for a roll call vote. Mr. Clerk.

CLERK: (Roll call vote taken. See pages 1713-14 of the Legislative Journal.) 14 ayes, 33 nays, Mr. President, on the motion to return the bill.

SPEAKER BARRETT: Motion fails. Mr. Clerk, have you a priority motion?

CLERK: I do, Mr. President. May I read some items?

SPEAKER BARRETT: Proceed.

CLERK: Mr. President, amendments to be printed to LB 338 by the Health and Human Services Committee. (See pages 1714-17 of the Legislative Journal.)

Messages that bills read on Final Reading this morning have been presented to the Governor. (Re: LB 1031, LB 1125, LB 1170, LB 536, LB 1220, LB 1126, LB 898, LB 899, LB 163, LB 163A, LB 164, LB 164A, LB 187, LB 187A, LB 259, LB 259A, LB 260, LB 260A, LB 272A, LB 313, LB 313A, LB 488, LB 488A, LB 503, LB 503A. See page 1714 of the Legislative Journal.)

And LB 272A has been reported correctly enrolled, Mr. President. That is all that I have.

SPEAKER BARRETT: To the motion.

CLERK: Mr. President, the first motion, Senator Hall would move to recess until one-thirty, Mr. President.

SPEAKER BARRETT: You have heard the motion to recess until one-thirty. All in favor say aye. Opposed no. Carried. We are recessed.

RECESS

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: Welcome to the George W. Norris Legislative Chamber for this final working day in this week, the Second Session of the Ninety-first Legislature. Our chaplain of the day is a retired Presbyterian minister from Senator Lowell Johnson's District, Pastor Arvin Graff of Davey, Nebraska. Please rise for the prayer.

PASTOR GRAFF: (Prayer offered.)

SPEAKER BARRETT: (Gavel.) Thank you so much, Pastor Graff, we're pleased to have you with us. Roll call.

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

SPEAKER BARRETT: Thank you. With a quorum present, are there corrections to the Journal?

CLERK: I have no corrections this morning, Mr. President.

SPEAKER BARRETT: Are there announcements, reports or messages?

CLERK: Mr. President, I am pleased to report I have no messages, reports or announcements this morning.

SPEAKER BARRETT: Thank you. We will proceed then directly to Final Reading. Will members take their seats for Final Reading. Members will return to your seats for Final Reading. Mr. Clerk, have you a motion on the desk?

CLERK: Mr. President, I do. Senator Smith would move to return LB 662 to Select File for a specific amendment, that amendment being to add the severability clause.

SPEAKER BARRETT: The Chair recognizes Senator Smith.

SENATOR SMITH: Thank you, Mr. Speaker. As has already been stated by the Clerk, what I would like to do is offer the severability clause. I'm sure that all of you in here know that, along with Senator Scofield, I have been very concerned and very involved in the concern that we have for children, and as a member of that select committee, we worked really hard and particularly Senator Scofield has worked really hard and long trying to bring these pieces of legislation that we have before

us, 662, and the one that's following it, LB 663, to the floor and having a vote on the bill. I wouldn't want to do anything to jeopardize that bill because of an amendment that was attached to the bill. And I have...I mean, as far as I'm concerned, I don't have any feelings one way or the other as far as the amendment is concerned but the bottom line for me is I don't want to lose the bill if, in fact, we find that any part of that bill, including that amendment, makes it unconstitutional. And so I'm not going to talk about all the things we've already talked about. I will let Senator Scofield talk about the bill itself. I would just hope that you would agree with me that we ought to do this. I have had my staff working and looking, and from what they have come up with, they feel that the courts apply two kinds of tests in determining whether portions of an act which are declared unconstitutional can be severed from the valid portion of the act. And the first test they found is whether the portion to be severed is independent of the rest of the law and that is that the remaining law would make sense without the severed portion. And we feel that clearly in this case the section under discussion is independent of the act. The program could function fine without the section on abortion counseling. The second test is more difficult but we believe to be severable the section being severed cannot be a deciding inducement in the passage of the act and that is that would the act pass without the section? It's a harder issue to argue. We have to be honest about that. But I would argue that the inducement to pass this act is actually what it will do for communities and who will receive the grants under the act. And that's why this act will be or won't be passed as far as I'm concerned. It has nothing to do with the amendment that was attached to it originally. Courts have then allowed severability clauses to serve as statements of legislative intent. That is a court could see the severability clause on LB 662 and then they could decide that that means the abortion counseling section of the bill, by legislative intent, did not serve as a deciding inducement and, in fact, it could be severed then. In fact, that is one reason to adopt the severability clause as a statement of legislative intent. The courts can sever an act without the severability clause but by adopting the severability clause we will be indicating the Legislature's intent to the courts which might be even a better reason for us to attach the severability clause. So that's what we have come up with. We have a number of opinions that we went back in the files and in the statutes and the Journals, looked for, and we feel that those two issues that they were able to

find have been answered. And we believe that the severability clause would be helpful on this bill. I ask your support on returning to Select File and then to attach the severability clause. Thank you.

SPEAKER BARRETT: Discussion on the motion to return the bill, Senator Nelson, followed by Senator Scofield.

SENATOR NELSON: Mr. Speaker, I want to commend Senator Smith and her staff and I think I always find my good friend, Jacky, the interests of either the elderly or the children or whoever or whatever may be. That was my concern yesterday when I brought this to the attention of the body. I feel that LB 662 is a very good bill and it does pertain to many programs over and above...for the family and the family units and I didn't want to muddy up, I didn't want to do anything on that bill that would discourage passage or that the original intent of the bill and that is to help families and children. After adjournment yesterday noon, various people more knowledgeable than I, with Bar degrees and so on and so forth, in each and every case told me that this was a concern. And the severability clause was mentioned. There was not full agreement whether that would take care of it or not but I feel that it can't...certainly can't hurt anything in any way, and if it does help to clarify the bill, I certainly hope that you would support Senator Smith's efforts. And, after all, it is the families that we're thinking of and it is the kids and it's not one particular issue at this point that has been added to the bill. So, from the opinions that was given me and, as I say, I feel people more knowledgeable than I, that this certainly is a concern to the bill and the whole bill would then be subject, if it wasn't off of there, subject to court cases and many, many of them and I see no reason to put the states through that kind of money or that kind of problems if it's not necessary. Thank you.

SPEAKER BARRETT: Senator Scofield.

SENATOR SCOFIELD: Thank you, Mr. President. I appreciate Senator Smith's efforts in bringing this amendment. I think it does get us past what our potential problems if, in fact, they arise in terms of the interpretation of this amendment. I think it's consistent...I think the bill is still consistent with the intent of all of you who have supported the bill, and yet if we run into definitional problems and vague interpretations, I think this perhaps still allows the original intent of the bill

to go and that is let's get money out to those communities so that they can develop programs that serve children and families before they have problems. So I think I'm...I definitely am going to support this and recognize that again, given the vague nature of the amendment that was attached and the concerns that were raised in the Attorney General's Opinion with no definitions of any of these terms contained in the bill, that I think we better do this just to be on the safe side so that we're able to continue with the original intent of the bill and that was to allow communities to bring in their proposals for what they identify as their primary needs for children and families in the communities. It does require a complicated system of community consent, community approval. A cross-section of community people must be involved and simply put the money out there and let the community decide what their priority needs are in terms of their unique needs to serve their children and families. So I believe Senator Smith has probably offered an amendment here that will allow this to go forward regardless of whatever kinds of legal questions might be raised around that particular amendment. Thank you.

SPEAKER BARRETT: Senator Lindsay.

SENATOR LINDSAY: Thank you, Mr. President. I guess I have to stand in opposition to this and the reasoning behind it is this. I think there are many members in the body who would not vote for LB 662 if, in fact, there is a chance that money would be...that the funding would be used for abortion services. The intent of a severability clause, excuse me, is to evidence an intent of the Legislature that that clause is not an intrinsic part of the bill. It's not a part of the bill upon which support for that bill is gathered. I don't think, at least from talking to several people, I don't think that is indeed the case. I think there are those, including myself, who support the bill so long as the funding does not go to that...for that purpose. If by some...and I still subscribe to the notion that it's not unconstitutional in any manner but if by some fluke it became unconstitutional, or it was declared unconstitutional, then I would not be in support of the program, knowing that funds would be used in that manner. I think that's...we have to know what severability clausings...generally, I support the severability clauses but I think in this case the issues are so intertwined that without or if that clause is not a part of the bill, then I think the bill itself would lose some support. The better approach, I think, is...I guess that's not really an

option, but the question is we have to look back and if we adopt the severability clause, the question has got to be without that clause, without...excuse me, without the abortion neutral language, would you or would you not vote for the bill? And if you would not vote for the bill, then I think you have to vote for the...against the severability clause. If you would vote for the bill, then the severability clause should be included. I think my support for the bill has to be based on the inclusion of that provision and I think my support is tied in with that. So I think I'm going to have to vote against the severability.

SPEAKER BARRETT: Senator Morrissey.

SENATOR MORRISSEY: Mr. President and members, Mr. Speaker and members, thank you. I would support the return to Select File to add the severability clause. I think Senator Lindsay's argument is pretty confusing to me. I think...and we're not highlighting just simply on abortion, it's also the contraceptive methods also. It really bothers me because I have some people I know in my district that need to be counseled very badly on contraception. Now right or wrong, what you believe on that, the ultimate answer, in my mind, to abortion is to prevent unwanted pregnancies and I think it's very hypocritical to adopt or push against something that can help in that end, preventing unwanted pregnancies. And I've never bought this stereotypical argument but to oppose the severability clause on this bill brings it up and brings it up to me very clearly that the pro-life crowd cares only about the children when they're born, and after they're born completely abandon them. And I have never bought that argument but opposing the severability clause in this bill throws that argument right in my face and I really can't understand any opposition to adopting this clause.

SPEAKER BARRETT: Senator Scofield, followed by Senators Labedz, Bernard-Stevens and Nelson.

SENATOR SCOFIELD: Mr. President and members, I'm still trying to mull over the statements that Senator Lindsay made, and if I understand him correctly, he is almost saying that rather than get any services out to communities that he would prefer to leave questionable language in this bill and avoid directing funds to communities. He seems also to be saying that he does not trust communities to represent the views of the people in that community. And, again, I would urge people who have not read this bill to take a look at the complicated procedure that

a community needs to go through in order to qualify for these funds. This bill requires that a community put together a community team. It requires that that team show evidence of community support. We have a similar...we have a similar and smaller process that already went on in this state that was due to money that I and other members of the Appropriations Committee inserted in the budget bill last year on more or less a pilot basis. We had, I believe, some 70 applicants for that money at the time. On the last round of debate when this amendment was adopted, I read off the kinds of things that communities brought in to address and it had nothing to do with the issues of contraception and abortion. I don't know what all 70 of those particular proposals were. I have my staff calling to find those out right now but, quite frankly, I would suggest to you that the screening process that's already been developed is working in terms of putting the money out to communities to let communities address the problems that they see as priority. The projects that were funded out of the money that we put in last year dealt with severe emotional disturbance for family preservation for children and families. Saunders County did some work with Indian families. The Kearney area did...I don't have the note on that, parenting project. The Kearney area did a parenting project. The Grand Island Case Coordination Team did a parent and school and community partnership. A number of activities related to family preservation teams is going on out there, case coordination work in Cheyenne County for the development of family preservation teams. Mental health and substance abuse services are going on in Region 3. Red Willow County area probation for District 3 probation, working on juvenile justice issues. That's how the money has been spent. The communities are coming in and saying, these are our problems, these are the kinds of things that we think are priorities. Obviously, those are the ones that were picked out of 72 grant proposals. And so I think the screening process that's working there is helping communities identify what they think their number one priority is. And it would be a darn shame if we get in this kind of wrangle that we're in right now and refuse to take the proper precautions to deny these communities opportunities to address their concerns, because I don't know how...maybe Omaha is rich enough to solve their own problems. Apparently they're not. We put three hundred and some thousand in here last year to help them deal with juvenile crime and I was glad to do it. But I can tell you that smaller communities in this state simply don't have the bucks, simply don't have the opportunity to address their problems. They've

got a lot of resources out there, and if we can help them pull them together, it's going to make a big difference in the lives of children and families. And the only way I think...there isn't a soul in here that wouldn't argue that if you get to a kid and if you get to a family early enough, that you can make a difference. You can...you can prevent them from getting into criminal activity and, yes, you can probably prevent them from getting into activities that perhaps will lead to unwanted pregnancies. And that's probably the only way to really avoid some of these other more difficult and contentious issues that divide not only this body but apparently the whole nation right now. And so I would suggest to you that if your intention...

SPEAKER BARRETT: One minute.

SENATOR SCOFIELD: ...is to put money out to the communities and help them address these problems, rather than throw up our hands and say, gee, there's nothing we can do because we can't agree on an issue that apparently nobody can agree on, that you're really doing a disservice to the communities. You're really not trusting the people of the state to do the right thing. And I trust my communities to not bring in propos...they can't bring in a proposal that does not have community acceptance. And I would say, given the discussions we have had on this floor, that you might have the...you would have the same kinds of discussions in a community, because you have to go to the mayor and the city council and the service providers and get sign-offs on the kinds of activities you propose before you can even bring a grant in. And so I think we're making much ado about nothing here and we're just about to put a bill in jeopardy that, frankly, is a community's only hope of getting help out there and I just think that's the wrong thing to do. I think this whole issue has been allowed to sidetrack us from what really should be our goal and that is to help kids and to help families and to get money out to communities. And so I would urge you to...

SPEAKER BARRETT: Time.

SENATOR SCOFIELD: ...return this bill to Select File and put the severability clause on it and let's quit goofing around.

SPEAKER BARRETT: Senator Labedz.

SENATOR LABEDZ: Thank you, Mr. President. I rise also to

totally agree with Senator Lindsay in regard to this amendment. A long time ago, I believe it was last year, Senator Scofield assured me that LB 662 was not in any way related to school-based clinics or abortion and yesterday and now again today Senator Scofield is concerned about the amendment that I attached. So I oppose the amendment for the severability clause and I will also be opposing Senator Landis's amendment. Thank you.

SPEAKER BARRETT: Senator Bernard-Stevens.

SENATOR BERNARD-STEVENS: Thank you, Mr. Speaker, and members of the body, I was trying to discuss with Senator Scofield and a couple other people on the floor comments made by Senator Lindsay and I'm just going to try to mull over in my mind what I think was being said and it kind of not only confuses me, it's probably one of the most bizarre arguments I have ever heard. On the one side, we had when Senator Labedz offered her amendment, Senator Labedz even said herself that maybe she was paranoid on this particular issue, maybe it wasn't needed at all but she would feel better if it were...she could support the bill better if it were on there. And Senator Scofield, in good faith, said, I will do that. You know I don't particularly like that particular thing on there, it could cause some problems, but I will be accommodating because I think you are paranoid on the thing, I don't think it has really anything to do with what the bill does. And I would invite the membership to go through the handouts that have been given to you and I know we don't read our handouts very often. I know certainly I don't, we get inundated with them. But one of the things I would encourage you to do is look at some of the grants that have...and some of the things that have been asked for under the Policy Planning Act and under what 662 would do. Look at some of the things that we're talking about, emotional development, for example, of children; Indian training centers; and so there are a wide range of things that the bill covers. And there is some feeling by some people who have a little paranoia that there could be, in some circumstance, somewhere, something that might have a thing to do with an abortion. And so what they did is they attached an amendment, which I understand. But what Senator Lindsay, now we come up with this yesterday is there is a possibility...and I don't know, Senator Lindsay made an interesting argument, I think, on the floor, maybe it wasn't Senator Lindsay, I'm not sure, someone made an argument on the floor to Senator Nelson that the way you word a question to the Attorney General to get

an opinion will dictate sometimes what the answer would be. And so the argument went that the Attorney General's Opinion on the Labeled amendment shouldn't really be counted because it was worded so slantedly that the opinion isn't worth anything on the real bill. But, on the other hand, I look and I see a bill that has an Attorney General's Opinion that might have an effect on the entire bill. What the body traditionally does on something like this is we're saying the following, hey, look, we attached an amendment to make some people feel good. The amendment could cause some problems to the bill and the bill covers a wide range of things that have nothing to do with abortions. The bill covers a thing that when you apply to the grant that the community must show acceptance and I would think if the community application had something to do with abortion for some reason, which I doubt it would, the community would be involved in that decision-making process. Senator Lindsay then comes with us and says, you know, we could have a severability clause which the body could say, listen, if, in fact, there is a problem, what we have all professed to support, the concept of 662, if there is a problem, it could jeopardize that concept which all of us say that we support. So Senator Smith would simply put an amendment on that says if there is a problem, we dare not sacrifice all of the positive things because of a little bit of paranoia, and that's exactly what would happen. We're possibly jeopardizing the entire concept with children, based on a small amount of paranoia. Senator Lindsay then comes up before us and says...

SPEAKER BARRETT: One minute.

SENATOR BERNARD-STEVENS: ...I don't think we should do that because some of us are so paranoid on that side that we might vote against passage of the bill and sacrifice all the things that it could do for children because of that small area we have a concern. I have never heard such narrow-mindedness in a long time. What Senator Smith is asking the body to do, whether you're pro-life or pro-choice or in the middle, is reasonable. Senator Smith is saying we have an amendment attached that makes Senator Labeled and others feel very good. Senator Lindsay argued and other people argued yesterday that they felt the Attorney General Opinion had no constitutional problems. If that's the case, then they should have no problems with the severability clause, none whatsoever. They argued on the floor that there is no problem, in their opinion, on the Attorney General's Opinion...

SPEAKER BARRETT: Time.

SENATOR BERNARD-STEVENS: ...so let's go ahead and put the severability clause and nothing will be harmed. I urge adoption of the Smith motion.

SPEAKER BARRETT: Senator Nelson, followed by Senators Schimek, Dierks, Peterson, Scofield and Lindsay. Senator Nelson.

SENATOR NELSON: Mr. Speaker, I...when I brought this to the body yesterday, I didn't intend for this to...I thought the body really was for the good of everybody, everything and when we took our oath as a Legislature that we tried to defend that and not have our own necessarily personal or biased interests brought into our...maybe our decisions but that's each and every one of our own privileges on what to do. I didn't think that the amendment meant that much. I can remember when Senator Labedz put it on and Senator Scofield, again, her comment, I don't see any big problem with it. As I say, there are other people more knowledgeable than I that have been through law school and that do know. And, again, it is a matter of free speech and that's about exactly where we're at on the bill. I don't think the abortion issue is the issue. The Attorney General's Opinion is that each and everyone is entitled to free speech and so on and I think that's part of the issue right now. It almost blows my mind though how a senator can stand on the floor and have such disregard for those little kids that are here and on...that are born and that are need of help, could either be caused from alcohol syndrome. It could be mental retardation. It could be that the poor mother doesn't have enough money to raise that family. It also is that high school girl that needs counseling, pregnancy. I'm with Senator Morrissey that...my high school kids, I took a survey, they're asking for more education and more help. And how we can turn our backs on these kids and these little kids that we have to stand and look ourselves in the face day after day for one very narrow particular portion of...or one issue in society. I know it means a lot to other people. Someone else may mean something with an agriculture issue or Senator Dierks, his medical issues, or whatever, but I think, as a body, we have to try to do what's right. And Senator Lindsay's...and he has a Bar degree, he knows far more than I do on this, but I think his argument is very, very false. And to inject that at this time, sure, maybe a few votes will fall off the other way but I hope to goodness the body tries to do for the good of everyone and the whole

state concerned and not our own particular individual interests.

SPEAKER BARRETT: Senator Schimek.

SENATOR SCHIMEK: Thank you, Mr. President, and members of the body, I'm sitting here really confused, trying to figure out what this bill is trying to do and what's the best way to vote on the severability clause and I guess I would like to ask Senator Scofield first a couple of questions and then I would also like to ask Senator Smith and Senator Lindsay a question. Senator Scofield, if I recall correctly, the discussion that ensued when Senator Labedz added her amendment onto this bill, filed her amendment, the discussion was, as I recall from you, that you would rather not have it on the bill but, since the intent of the bill was not to provide abortion counseling services and so on, that you really wouldn't fight it. Is that correct?

SENATOR SCOFIELD: I objected to the amendment, Senator Schimek. I made the point that I thought the kinds of things that communities would bring in would more than likely deal with people at the younger age of the spectrum, given the experience we have had, but Senator Labedz and I did on the floor discuss it. Obviously, there was a possibility of the teenage population being involved in some of the services here.

SENATOR SCHIMEK: So, in fact, in fact then Senator Labedz's amendment did change the purpose of this bill?

SENATOR SCOFIELD: I don't think the amendment in particular had as much to do with the purposes of the bill one way or the other. My concern was that I wasn't sure what the impact of the proposed language would have on the implementation of the bill. I, frankly, had not thought about the constitutional ramifications that Senator Nelson's opinion has raised. But my concern was that just because of the nature of this abortion debate that we have been in, I anticipated this floor and this body getting into exactly this kind of wrangle which I don't think really has anything to do and I have stated before and I will state again that the process outlined in this bill I think makes it pretty certain that no community is going to bring in a proposal that's going to be controversial right in their own community. And so I just...I objected to the language just for fear of what we're doing right now would, in fact, ensue.

SENATOR SCHIMEK: Okay, then one more question, Senator Scofield, and this is the same question that I would like to ask Senator Smith and Senator Lindsay to respond to, and that is what happens if we don't add the severability clause, in your opinion? And I'm asking that because I'm seeing this discussion deteriorate and people starting to take sides and the whole bill may be lost. So I would like to know the answers. What if we don't do this, then what happens to the bill?

SPEAKER BARRETT: To whom is the question directed, Senator Schimek?

SENATOR SCHIMEK: The question is directed to Senator Scofield first, and then...

SPEAKER BARRETT: Senator Scofield.

SENATOR SCHIMEK: ...Senator Lindsay and Smith.

SPEAKER BARRETT: Thank you. Senator Scofield.

SENATOR SCOFIELD: The answer to your question, Senator Schmit (sic) is I don't know. Did I call you Senator Schmit?

SENATOR SCHIMEK: That's okay.

SENATOR SCOFIELD: I'm sorry, Senator Schimek. There are a number of scenarios that I have tried to play out in my own mind and I have consulted with other people about what might result. And because of the questions that relate here, if you read the Attorney General's opinion, it would depend on whether somebody questioned, as a potential applicant, does the broad umbrella that they operate under, does that mean that if they offer any service that would be prohibited by this amended language, even if their proposal does not envision doing any of these kinds of services, does that completely rule out that applicant? It might also apply to people on the other side of that who would...it could even effect, I think, applicants who take the opposite stance on this issue and advocate a different position.

SPEAKER BARRETT: One minute.

SENATOR SCOFIELD: Depending on the rule and reg making process, if the agency were to refuse to carry it out, then I presume the Attorney General could go directly to court not too much

different than what happened with the higher ed situation or if, on the other hand, the agency carried out, developed rules and regs that were not consistent with the language, I suppose then the AG might have to come in on the other side. I don't think you can predict what's going to happen until the actual court case ensues. And I guess my suggestion is it's expensive to go to court. It's expensive to drag this sort of thing out. And, again, I would go back once again to the safeguards that are in this process requiring community consent. It seems to me that we are creating needless court wranglings and employment opportunities for lawyers, frankly, that don't need to be there.

SENATOR SCHIMEK: Thank you, Senator Scofield, and I imagine I'm about out of time, Mr. President, so I would hope that maybe Senator Lindsay and Senator Smith would have some time of their own maybe to answer this question. Thank you.

SPEAKER BARRETT: Thank you. Senator Dierks. Senator Dierks moves the previous question. Do I see five hands? I do. Shall debate now close? All in favor vote aye, opposed nay. Record.

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

SPEAKER BARRETT: Debate ceases. Senator Smith, would you like to close?

SENATOR SMITH: I...thank you, Mr. Chairman. I...I would just in the closing here say to you that I want to make it very clear, you all know in here what my stand on abortion is, I am opposed to abortion. But I also am for children. And, you know, I get really, really tired of applying one issue to everything we look at in here and being suspicious of the possibility...I mean, you have to weigh what you do in here, people, the way you vote for something. Sometimes are you going to be willing to scuttle everything for all those little children that are living, that are already here with us because you think that there is a possibility that someone is going to have a contraceptive, because someone is going to counsel someone in a way that you don't agree with? The idea of this bill and the other bill that follows it and other work that we have done and that we should all have been worried about as a group in this body was to try to assist children and the family, trying to keep what we're doing for those children as close to the family and to the community as possible, intervention kinds of activity which we hope will cut down on the kinds of things

that we see. I don't know how many of you watched television last night, on the ETV program that I watched for an hour, it was sickening. I watched the story about welfare and the fallacy of the welfare system and what it's done to people and particularly children. It was absolutely disgusting how children are living now. Those of us that say children should not be aborted then should do everything we can to help those kids when they get here. Don't always just look at what your little bottom line is, look at those that are here, that because of your belief are here, in many cases. Now that doesn't address the wrongness or what's going on on the other side or why they're here or the fact that they're not taken care of by the people that are their parents. But they're here, people, they're here and this bill helps us to help them. It also helps us...you heard me when I talked before about how angry I am about the money that we're willing to dump into a penitentiary development system, expanding the system, putting money in there for criminals. These kids are going to become the future criminals and that's the idea of this bill. That's why I worked with this bill with Senator Scofield and the other members of the committee. That's why we brought it to you. It had nothing in my mind to do with, oh, my gosh, there's a possibility that some person, some young person is going to be told, hey, there are contraceptive pills out there that you could be taking so that you don't have a child. I wish that we could open our minds a little bit, get past our own personal...that little tiny fine opinion that we have and look at the big picture. With that, I withdraw my amendment because I don't want to lose this bill.

SPEAKER BARRETT: You've heard the closing. I'm sorry. The motion is withdrawn. The next item.

CLERK: Mr. President, Senator Landis would move to return the bill for a specific amendment. (The Landis amendment appears on page 1744 of the Legislative Journal.)

SPEAKER BARRETT: Senator Landis, please.

SENATOR LANDIS: Mr. Speaker and members of the Legislature, I haven't been speaking about this measure and I have been voting for it and I share the concern that Senator Smith has. Yesterday, as I was listening to the debate, I was listening to the argument, it seemed to me that the two sides are saying things that are not directly contradictory but they just haven't

found a way of trying to put it in writing. You will find on your desk a handwritten amendment. This handwritten amendment says what I think, as a listener, both sides say. Let's take a look at it. Take this piece of paper out, if you would, and take a look at it. I was here and I heard Senator Labedz's argument when she attached her amendment and she basically asked Senator Scofield if, in fact, this bill was a bill to allow and support for abortion and contraceptive counseling. And Senator Scofield said, no, it's about a lot of other things but that's not our intention. Senator Labedz said, well, fine, basically let's put that in the bill. You're telling me your intention is to do something else, we'll build in this statement that says you can't use it for abortion and contraceptive counseling. Senator Scofield and Senator Nelson, because of the Attorney General's Opinion, said, now wait a second, wait second, Senator Labedz, is it your intention to kill this bill? Is it your intention to put in here a kicker that does something more than what you say and make it run afoul to the Constitution? And Senator Labedz said, no, that's not my intention. Now, I want what it is that I got on General File which is that this is not to pay for abortion and contraceptive counseling and the difference is this. The difference, by the way, revolves on the constitutional issue. If the...if the language in 662 that Senator Labedz put in says that grantees, people who receive this money, can't spend it for abortion and contraceptive counseling, then it's constitutional. But if, on the other hand, the language is interpreted to mean that somebody who does abortion and contraceptive counseling can't be an eligible service provider even if that's not the service that they provide, then the bill is unconstitutional. Why? Because the money that's out there is trying to coerce them out of talking about something that's legitimate to talk about. So this language says two things. It says service providers may not use grant money to pay for abortion or contraceptive counseling or referral service costs. That's what Senator Labedz argued should be in this bill. Right? Second sentence, service providers who provide such services are eligible for grants, for costs, for prevention, early identification and intervention services only as defined in this section. That section enumerates a number of things, none of which include abortion or contraceptive counseling. Senator Labedz, would you yield to a question?

SPEAKER BARRETT: Senator Labedz.

SENATOR LABEDZ: Yes.

SENATOR LANDIS: Let's take Planned Parenthood because this is one that's oftentimes on the floor and we're familiar with it. An institution that provides contraceptive counseling, depending on which location, it might provide abortion referral, and let's say they make an application under 662 for a grant for parenting classes which do not have a portion of as their curriculum contraceptive counseling or abortion referral. Okay, the service provider does provide these kinds of services but they make a request for a grant and that grant is for a service that does not involve either of those two things. Is it your intention, with the amendment that you have on the bill, that they be permitted to get that grant or, in the alternative, that they be denied to get that grant, based on the fact that in other circumstances they might have an abortion referral service or contraceptive counseling?

SENATOR LABEDZ: Do you want me to answer now?

SENATOR LANDIS: You bet.

SENATOR LABEDZ: Senator Landis, you and I both know that any organization that provides not only referral services but abortion clinics they can shift their funds from the family planning that you're talking about to the grant application and then use their other funds for the abortion clinics and the referral service. So we're not doing anything there. And on my own time, I have my light on, I will read you what Senator Scofield said in answer to a question I gave her.

SENATOR LANDIS: Thank you. Let me ask again, let me characterize, let me see if I heard you right.

SENATOR LABEDZ: Yeah.

SENATOR LANDIS: What you said was, in fact, a service provider who provides these abortion and contraceptive counseling is in a position to move money around from one pocket to another and because of that what, that they should not be eligible for the grants. Is that a fair characterization?

SENATOR LABEDZ: Yes. And Senator Scofield also said in her answer to my question that they would not be able to apply for a grant if they provide abortion services. She says that in her

answer to my question.

SENATOR LANDIS: Now, Senator Lindsay...

SENATOR LABEDZ: I just want that on the record.

SENATOR LANDIS: Thank you. Senator Lindsay, would you yield to a question?

SENATOR LINDSAY: Yeah.

SPEAKER BARRETT: Senator Lindsay.

SENATOR LINDSAY: Yes.

SPEAKER LANDIS: Because this is pretty critical. We're now getting to the issue that you were raising on the constitutionality. Senator Labedz has just said that it's her intention for her language to say that a service provider who provides contraceptive services and abortion referrals, since they could move money around from one pocket to another, actually shouldn't be eligible to make a grant. In the event that is, in fact, the way a court would decide it, does that not run afoul to the Constitution?

SENATOR LINDSAY: That reading, I believe, is unconstitutional.

SENATOR LANDIS: Yeah.

SENATOR LINDSAY: I don't believe that is the way that the courts would read it. I think that the...that the way it would be read and should be read and we can establish this legislative intent is that to read it constitutionally what the courts have decided is that you...we cannot restrict an organization from its freedom of speech rights broadly like that. What we can do is prohibit state funds from being used, not just for this purpose but for any purposes that we do not deem...

SENATOR LANDIS: Exactly.

SENATOR LINDSAY: ...are acceptable public policy.

SENATOR LANDIS: And, by the way, that was a very clear and very careful analysis of what the constitutional principle is here. I think Senator Lindsay has quite correctly stated it. You

can't...you can't deny a grant to a service provider because they happen to provide this service as an array and say, well, you don't bring us an application even if the application is on a different topic, because to do so is to punish the organization and basically to teach them not to do those things. That, you can't do. That's constitutionally afoul. What is constitutional is you can say to any organization out there who comes to you, whether they provide these services or not, we're not going to pay for those services, we'll pay for another set of services but not those. What you can't do is discriminate against those grant applications who happen, as a part of other parts of their business, to do these things. Now Senator Labedz has just said that that's the intent of her language is, in fact, to do that unconstitutional act. And, unfortunately, since she is the chief introducer of the language that's in her amendment and is now in the bill, Senator Lindsay and I can't vindicate the record and make that intention constitutional. Now, Senator Lindsay is correct, you base it on the wording that's in the bill but what you can't do is this, what you can't do is say, Planned Parenthood, don't ever bring me an application, we don't want to see you. Don't darken our door. You can't come over and get one of our grants because you, in another part of your business, happen to refer people for abortions. That then is a chilling effect on that organization's freedom of speech and that's where there is a clear constitutional doctrine at hand. Now, what my language says is this, it says service providers may not use grant money to pay for abortion or contraception counseling or referral service costs. In other words, public funds don't go towards this end. But, on the second hand, it saves us from the unconstitutionality that Senator Lindsay just acknowledged was there in Senator Labedz's reading of her own amendment.

SPEAKER BARRETT: One minute.

SENATOR LANDIS: Service providers who provide such services are eligible for grants for costs, for prevention, early identification and intervention services only as defined in this section. Take a look at the definition section, you will see that there is no place where contraception or abortion referral are mentioned. The definition does not include them and you specifically exempted that. I would urge the adoption of my amendment.

SPEAKER BARRETT: Thank you. Discussion of the Landis motion,

Senator Ashford, followed by Senator's Labeledz and Scofield.

SENATOR ASHFORD: I'm sorry, Mr. Speaker, I was conferring with Senator Lindsay. We're trying to come up with some language that fits the problem and I think, again, if we could separate the...now I think we are discussing a drafting problem now that we have the legislative intent I think fairly clear from Senator Lindsay that it is not the intention to disqualify a program because it does as part of its program provide services, contraception and abortion services, that does not necessarily disqualify them from receiving funding for other programs. Senator Lindsay and I have just been putting together some language that I think may get there and we felt and I...that the amendment should be in the eligibility portion of the language or of the bill rather than in the...more in the substantive paragraph where the Landis amendment is in Section 6. And our language would provide...and we're looking at this and I'm sorry to belabor it but I think we're trying to come up with some language to get the intent, would say that service providers who provide abortion or contraception services are not ineligible for the program by reason of providing these services. And I will talk about that but I think what we're getting at and I think what Senator Lindsay is getting at is an eligibility problem. We are not affecting the eligibility of these providers because they provide these other services but the funding itself cannot be utilized for those particular...for those particular programs. So trying to come up with language that...since we are on Final Reading, it's fairly imperative that we come up with language which fits the intent. I've got this amendment here and I don't know...Senator Lindsay, have you had a chance now to...may I ask you a question, briefly?

SPEAKER BARRETT: Senator Lindsay, would you respond?

SENATOR LINDSAY: Yes.

SENATOR ASHFORD: We sort of hurriedly wrote up this language, does that somewhat satisfy you or is that close to satisfying you?

SENATOR LINDSAY: It's real close and I...when you're done talking I would like to get together with you and Senator Landis and run by some ideas.

SENATOR ASHFORD: Okay. All right. Well, with that, I

think...I think that the issue is one probably of eligibility for the programs themselves, the funding, and we don't want, as a body, to lop off or out of the program those providers which do, in fact, provide those types of services as well as other services which are called for under the bill. So possibly Senator Lindsay and I will work on that language in the next few minutes and come up with something. Thank you.

SPEAKER BARRETT: Thank you. Senator Labedz.

SENATOR LABEDZ: Thank you, Mr. President. I spoke to Senator Landis a moment ago and assured him that the way I read the bill, with the amendment, the...any organization now is eligible to apply for the grant. One of the questions that I asked Senator Scofield, and I have a transcript of the debate, and I said, Senator Scofield, would you be willing to amend the bill so that it is clear that a school district would not use one of the start-up grants to start a school-based clinic? And I'm sorry, I don't want to be paranoid about a subject like this but I certainly don't want to be naive so I would like to ask...would like you to answer the question. Senator Scofield said, Senator Labedz, and I want to say I appreciate your sport on this particular issue, and I want to add here that I have always supported 662, but I am at a point now where I doubt whether I can support the bill if these amendments keep coming up and will be attached to 662. After all, we're spending a million and a half dollars on this issue and I want to make sure that if I support anything, that I am correct in what I'm trying to do. She went on to say, a school would not probably even be eligible to do that because if you will notice the way this is directed, it has to have the entire community's support to even apply for a grant. No individual entity would come in and say, this is our own little idea and we want to do this. It would have to be based on a community consensus. In Omaha, I guess you would divide that into even smaller communities in the whole city. But I will use a community that is smaller, namely Chadron. Now any entity, not the school, not the community action agency, not a single church, not anybody would come in and say, I want to do this and apply. They have to show that they have people sign off communitywide that are in agreement with, one, the needs assessment that the community has conducted, saying this is what our need is and, two, this is what we're going to do. And I would expect you to see a lot more kinds of things rather than a school-based clinic which I don't think you would have enough money here even if you wanted

to. But it would never pass the muster of the public community's scrutiny and, secondly, the state level scrutiny. So that might be a better example. And, no, I do not anticipate the building of a school-based clinic out of this kind of activity. At this very...and, Senator Landis, you know and I know that any organization, including Planned Parenthood, even with my amendment, have the right to come in and apply for a grant. Whether or not it would be approved, I don't know. Thank you.

SPEAKER BARRETT: Thank you. The Chair is pleased to note that Senator Frank Korshoj would like to recognize our doctor of the day, Ronald P. Morris of Tekamah who is serving as doctor of the day on behalf of the Nebraska Academy of Family Physicians. Please welcome Dr. Ron Morris. Dr. Morris. Thank you. We are pleased to have you with us. Also, a very quick announcement, for those of you who are wondering, we will work through the noonhour today. We will work through the lunch hour and into the afternoon. The Chair recognizes Senator Scofield, followed by Senators Peterson, Smith, Nelson, Dierks, Elmer, Bernard-Stevens, Ashford, Abboud. Senator Scofield.

SENATOR SCOFIELD: Mr. President and members, I appreciate Senator Landis trying to resolve a dilemma here on the floor but I'm not sure that he has done so. I have not spoken with him about this language. But just quickly glancing at this language that he is proposing, and maybe I should ask Senator Landis. Senator Landis, on your language here where you talk about "or referral service costs", isn't it possible, as I read that, that, for instance, that that could relate to referral services having absolutely nothing to do with abortion or contraception counseling, that, for instance, if a...let's say a community like Beatrice who has done a good job with pulling family services under one roof and you come in and you're an unemployed parent with a kid that's in need of medical care and you need food and housing and so on, as I read this, the way you have drafted this, unless we insert something that says, "or related referral service costs", it seems to me that a service provider might not be able to do any referrals at all. Am I missing something here?

SENATOR LANDIS: No. I was trying to parallel the language we already have. The use of the referral is in...is not to be a disjunctive but a conjunctive with abortion and contraceptive counseling, meaning abortion and contraceptive counseling or

abortion and contraceptive referral. That's how I mean to read...that's how I mean that to read. In other words, there are two and only two reasons why the provi...there are only two things under the basis of this language that are out of bounds for the service provider as...for reimbursement, for receiving grants. Those two things that are out of bounds are abortion counseling or referral and contraception counseling and referral. If I understand it, that really isn't the thrust of the bill anyway and so I don't think there is any difficulty in declaring that which is so, so long as we don't throw at the same time in those institutions which may provide those services but we knock them out of the bill because of the interpretation Senator Labedz stated on the floor a moment ago.

SENATOR SCOFIELD: Thank you. I'm not...I don't really think your amendment says that but I know that's your intent and that would certainly be my intent too. The other point that I want to make, and I think I'm going to oppose this language because I think it's...again, I think it's vague language and I don't think it, unfortunately, I don't think it helps. The other thing that I'm hearing people on this floor say, the abortion issue is the issue that people are concerned about, it isn't the contraception issue, that people recognize the need for contraception in this country and to prevent unwanted pregnancies and this...that was not raised on the last round and perhaps I should have raised that or somebody should have, but probably should have been me, I'm the sponsor of the bill but, I guess, again, I just didn't envision this area being dragged in to this whole discussion. I have, since the last time I spoke, gotten information back and, Senator Labedz, pay attention, please, and others, we called Social Services. We called the review team on the last round of grants, remember, I said we had 72 applicants, 72 applicants from across the state. Communities are anxious, dying to get this money. They want to use it. None, absolutely none, zero of those communities applied for any grant that had anything to do with abortion or contraception counseling. So I think we're making much ado about nothing here. The communities are smart enough to know not to get embroiled in this kind of controversy and it seems to me that not only are we not giving communities credit for having good judgment, but we are wasting, in the last few hours of this Legislature, tremendous amounts of time arguing about what is a nonissue. These communities haven't exhibited any interest at all in coming in and applying for grants to do this and so I'm just dismayed that we have gotten so sidetracked. I would also

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agree with or at least reiterate the point, Senator Labeledz explained my explana...or read my explanation to her how the process works and that's helpful, I think, in terms of understanding the bill.

SPEAKER BARRETT: One minute.

SENATOR SCOFIELD: She is, in fact, correct that any organization could apply for the grant but then the next steps that kick in, first is that community consent process, given the experience of these communities and, let's face it, some of us have worked very closely with communities, we know that when you go through that whole process of getting the sign-offs that you sometimes have a lot of trouble getting other groups to sign off on things if there is any sign of controversy at all. So that's your first safeguard, Senator Labeledz. And then your second safeguard would be the state level screening process and so I don't think we've got a problem here other than what we are...we're creating monsters before our eyes here today that simply aren't out there. And I know we get a little paranoid toward the end of the session. I just asked the doctor of the day over here if he was a psychiatrist because maybe that's what we need instead of a family practice person in here. So I think we ought to reject the Landis amendment. I think we ought to get on about business and read this bill. Yes, there is some risk attached, I think, given the language that Senator Labeledz amended in.

SPEAKER BARRETT: Time.

SENATOR SCOFIELD: But if she wants to take that risk with losing the money to the communities, she has won and I'm willing to say let's read it.

SPEAKER BARRETT: Senator Peterson. Senator Peterson. Senator...Senator Landis, for what purpose do you rise?

SENATOR LANDIS: I would rise for the purpose of withdrawing my amendment since both Senator Labeledz and Senator Scofield are in opposition to it, and if it's within the Chair's prerogative to permit me to make that request at this time, I would withdraw my motion.

SPEAKER BARRETT: Thank you. So ordered. Mr. Clerk.

CLERK: Mr. President, Senator Lindsay would move to return the bill for a specific amendment. (The Lindsay amendment appears on page 1744 of the Legislative Journal.)

SPEAKER BARRETT: Senator Lindsay. Senator Lindsay, please.

SENATOR LINDSAY: Thank you, Mr. President. Members, I've talked with Senator Scofield about this amendment. She wants to go ahead and read the bill. What I will do is I would like to reiterate so...I am going to withdraw the amendment, but I would like to reiterate for purposes of creating a legislative history the discussion that took place between Senator Landis and myself, Senator Labedz and myself, referring to the intent of the legislation and that be that it does be read constitutionally, that it be read as Senator Landis has described that the provider is not disqualified simply by reason of performance of or counseling or referral for abortion or distribution of or counseling or referral for contraceptives using other funds and not simply for that reason. I did want to create that legislative history to make sure that it's clear in the record. I would, at this point, give to Senator Scofield the remainder of my time.

SENATOR SCOFIELD: Thank you, Senator Lindsay, I appreciate that. I would urge us to go ahead and read the bill and I appreciate Senator Lindsay pulling his amendment. As I said, we've got some questions here. Senator Lindsay has tried to insert some language into the record here. It appears to me, given the current language that the bill carries without definitions that, yeah, we might have a problem but it's...it's unclear what the...there aren't definitions in this bill that relate to these areas. We will hope we don't end up in court and fight over it. But I think the potential here for this bill to do some good in communities is great and I hope that we don't...I think there are adequate safeguards in the bill to really head this off at the pass before it even becomes an issue. We have perhaps let it get further than necessary in this body. I will tell you that other states are watching this bill with interest and see it as a real breakthrough in terms of being able to provide meaningful services to children and families. And so I think...I hope we can lay the contentiousness aside that we have felt this morning and go ahead and pass the bill and I hope it gets out to communities and does some good. Thank you.

SPEAKER BARRETT: Senator Lindsay, did you withdraw your motion?

SENATOR LINDSAY: Yes, I did.

SPEAKER BARRETT: Thank you. It is withdrawn.

SENATOR LABEDZ: Mr. Speaker, point of personal privilege.

SPEAKER BARRETT: State your point.

SENATOR LABEDZ: The Pages just passed out a Nebraska Voters For Choice Report Card on the...report card on the senators' voting record and I passed that out but at the top of the page you can barely see my initials and people are asking me if it came from me and it did. So I just wanted to pass this out to show the senators how they are graded by the Nebraska Voters For Choice Lobby List.

SPEAKER BARRETT: Thank you.

SENATOR LABEDZ: But it is my initials at the top.

SPEAKER BARRETT: Thank you, Senator Labedz.

SENATOR SMITH: A point of personal privilege.

SPEAKER BARRETT: Senator Smith.

SENATOR SMITH: I would like to rise to make a statement about this handout that was passed out. And I guess it's a continuation of the way I felt earlier and I think it just makes the point that I was trying to make in making that speech, when I sat down and I see this laying there. If this is the only way we're going to vote is by what someone passes out on the floor that somebody else has put together, I think it's a sad day. But I would also want to tell you that also for informational purposes that I take issue with the way these people, Nebraska Voters For Choice, have put together their percentage on us. And I would tell them that there are a lot of other things go into the way you vote on the floor; number one, maybe the way you think the fairness of the issue should go; the rules that we abide by, etcetera, make a difference about the way I vote. And so I would like to, for the record, say that I would prefer if those people who are outside the glass put mine down as most objectionable, give me a zero if you want to. Thank you.

SPEAKER BARRETT: Mr. Clerk, have you any other items on the desk?

CLERK: Mr. President, Senator Bernard-Stevens would move to return the bill.

SPEAKER BARRETT: The Chair recognizes Senator Bernard-Stevens.

SENATOR BERNARD-STEVENS: Thank you, Mr. President, and I will withdraw this very, very quickly. I didn't want to do a point of personal privilege, I wasn't sure that was actually in order. But, I, too, wanted to comment on the...on the Voters For Choice material that was handed out by Senator Labedz. And, believe it or not, I totally agree with Senator Smith. I, personally, believe that documents such as this are absurd and particularly when you look at what we're being graded on, and I say, we, everyone in the body. We're...y...re being graded on this one on whether you contributed to LB 769. I suppose that's like if you're in school and the teacher gives you a participation grade. If you participate in speech, you're going to get a good mark. If you sit back and think and analyze and feel you don't need to say anything, you get a poor mark, and that's absurd. As most of you know, we haven't even voted on LB 769, obviously, so it's very difficult to get a reading on that particular thing. But I suppose we're going to do it on whether or not we're going to vote to cease debate and I know there are many members in the body who will never vote to cease debate. I will be one of those and I have been consistently all year. I know others won't. And so they're being graded on a philosophical thing on whether they think people have the right to speak or not. That's absurd. A sponsor of a bill, you're also being graded on? You're going to be graded on whether you actually sponsored a bill? Who cares? Why don't we go ahead and put if you co-sponsor a bill? That's a litmus test as well. That's absurd, absolutely absurd. The point Senator Smith made is so valid and I think a majority of the members of this body, deep down, believe it to be true. The absurdity on both sides of this issue is something that we, in this body, have got to have the guts and the intelligence to plow through that. The absurdity of bringing up on 662 the possibility of some school district is going to put in a clinic is absurd. In my 15 years of being in education and checking with people that have been in there longer, I have never heard of a school district wanting even to propose a school-based clinic. Why would a school

district want to put themselves into that situation? That is absurd. That is ridiculous on the one side, this Voters For Choice is equally as ridiculous. And I think we, in the Legislature, and Nebraskans have to be more intelligent than the absurdities of both sides and we have to do what's right and lead in this state. I think all of us are concerned about abortions. I think all of us want the numbers reduced. We disagree on what the role of government is and what the choice is for individual people. But, as people, I think we have to lead and this type of garbage has no place anywhere. With that, I withdraw my motion.

SPEAKER BARRETT: It is withdrawn. Mr. Clerk, have you anything further on the bill?

CLERK: Nothing further, Mr. President.

SPEAKER BARRETT: Members will return to their seats for Final Reading. While we are waiting for people to return to their seats, the Chair is pleased to announce that Senator Wesely has another birthday today, his 36th, and his mother has, for the 12th time, baked kolaches for Senator Wesely's birthday. Happy birthday. (Gavel.) Members are asked to be in their seats for Final Reading. Will the Sergeant-at-Arms please cooperate. Mr. Clerk, will you proceed with Final Reading. (Gavel.) Proceed.

CLERK: (Read LB 662 on Final Reading.)

SPEAKER BARRETT: (Microphone not activated) relative to procedure having been complied with, the question is, shall LB 662 pass? Those in favor vote aye, opposed nay. Have you all voted? Please record.

CLERK: (Record vote read. See page 1745 of the Legislative Journal.) 41 ayes, 1 nay, 1 present and not voting, 6 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 662 passes. Members will return to their seats in order to read the A bill. Proceed, Mr. Clerk.

CLERK: (Read LB 662A on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 662A pass?

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LB 662, 662A, 663, 663A, 678, 678A, 688

SENATOR CHAMBERS: ...bitter exchanges, we're going to have some discussion of issues in a very serious, solemn and even gloomy fashion but there will be other times when because human nature is not static, it is not uniform in its manifestations over a long period of time, there will be some lightheartedness, there will be some frivolity but we know that underlying all of that is a deadly, serious and bitterly fought issue which has been before us the past session of the Legislature, earlier this session and obviously is going to be with us until the end which also will be bitter. I propose in the same way that those who are offering their amendment, to use the rules to get their amendment onto a bill and jump from General File to Final Reading and I applaud them for their cleverness. They have learned.

SPEAKER BARRETT: Time.

SENATOR CHAMBERS: I'm going to use the rules to defeat them if that is possible.

SPEAKER BARRETT: While the Legislature is in session and capable of transacting business, I propose to sign and I do sign LB 662, LB 662A, LB 663 and LB 663A, LB 678 and LB 678A. (See page 1751 of the Legislative Journal.) Additional discussion on the motion to return the bill, Senator Wesely.

SENATOR WESELY: Thank you, Mr. Speaker, members, I know we're discussing an amendment but I think what we're really talking about is a process and a procedure. We're trying to amend LB 688 and LB 688 is Senator Lindsay's bill, but I've spent an awful lot of time and my staff have spent an awful lot of time trying to work out this piece of legislation. Senator Byars is talking to Senator Lindsay right now because Senator Byars has a certain interest in this measure as well. We have got a problem that we're trying to address with LB 688. It's a problem that is acute. We've got lawsuits filed, we've got to deal with this. It's statewide. It's a concern that have many people up in arms. What is symbolizes though beyond that specific problem is how our time spent on this whole abortion debate and the filibustering that has been going on directly or indirectly have lost opportunities to address real issues affecting real people, and every time we lose a minute or an hour or a day or days, we lose opportunities to help solve problems that people have in this state and we've got literally hundreds of bills pending on

SENATOR LANDIS: Did you call time? Thank you.

PRESIDENT: Yes, thank you. Senator Morrissey, please, followed by Senator Schimek and Senator Bernard-Stevens.

SENATOR MORRISSEY: Thank you, Mr. President, and members. I voted on the overruling the Chair last time and I guarantee you I will have some people coming up a little later or talking to me at home who will have a list that says, you didn't vote to cease debate here; you voted to overrule the Chair here. So on that handout earlier, let's not be hypocritical and just pull out the handouts when it is advantageous. We all know everybody keeps track. It is good business to keep track. How do you know what is going on if you don't keep track. I had a group of ladies from my district that came up here one day and kept me out in the lobby for about forty-five minutes and just continued to stick that list in my face. You didn't vote here; you didn't vote to cease here, there, and on and on and on. So let's not just pull these lists out whenever we feel comfortable with it because we all know it happens all the time, and I am at the bottom of some of those lists. I am in the middle of some of those lists, and it just doesn't bother me, and it shouldn't bother anyone here on the floor because you probably do what you think is right, I hope. And I haven't been participating in any debate to delay anything, and I was just to the point where I was going to consider voting to cease debate and let the majority have their way, and then we had LB 662 come up this morning. And it seems like every time I get to that point, something happens that steels me against doing it. The vote, the comments on the severability on LB 662 this morning just left me flabbergasted. I couldn't believe it. I simply couldn't believe it. There is pro-choice, pro-life, and there is proactive. Proactive is acting to prevent things, do things in advance instead of acting after the problem crops up. That is what LB 662 was all about, being proactive, prevention, preventing crime, preventing unwanted pregnancies, preventing violence in the family. But because of one minor concern on that, we couldn't even consider the severability clause, couldn't even consider it, contraception and abortion might be discussed, and I didn't want to bring religion into the issue, but it has been forced on me. Those ladies had me in the lobby for forty-five minutes. I have no idea...well, I have a fair idea of what their religion was, but I never asked and they never told me, but they did ask me what my religion was. They

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LB 54, 662, 662A, 663, 663A, 678, 678A
688, 1247
LR 406, 414, 415

remains constant. Oh, my time is up?

SPEAKER BARRETT: Time, yes. The question is the reconsideration motion. All in favor of that motion please vote aye, opposed nay. A record vote has been requested. Have you all voted? Record, please.

CLERK: (Record vote read. See page 1754 of the Legislative Journal.) 5 ayes, 25 nays, Mr. President, on the motion to reconsider the vote on overruling the Chair.

SPEAKER BARRETT: Motion fails. Next item.

CLERK: Mr. President, I believe that puts us back to the vote on the motion to cease debate on Senator Chambers motion to reconsider the motion to return. So the question I believe before the body is the motion to cease debate.

SPEAKER BARRETT: The question is, shall debate cease? We are technically under call. May we check in. Senator Byars, Senator Lynch, Senator Chizek. Senators Abboud, Schellpeper, Haberman. Senator Scofield. Senator Haberman. Senator Schellpeper. Senator Abboud. Mr. Clerk, any items to read in?

CLERK: Mr. President, I do, a Reference Report referring LR 406 and LB 1247. Senator Abboud has amendments to LB 54 to be printed. Bills read on Final Reading have been presented to the Governor. (Re: LB 662, LB 662A, LB 663, LB 663A, LB 678, LB 678A. See page 1755 of the Legislative Journal.)

New resolutions, LR 414 by Senator Withem, and LR 415 by Senator Langford. Both will be laid over and considered at another time, Mr. President. That is all that I have. (See pages 1756-57 of the Legislative Journal.)

SPEAKER BARRETT: Only one remaining, do you want to...thank you. Senator Chambers, members, return to your seats. The question is, shall debate cease and a roll call vote has been requested? Mr. Clerk.

CLERK: (Roll call vote taken. See pages 1757-58 of the Legislative Journal.) 32 ayes, 8 nays to cease debate, Mr. President.

SPEAKER BARRETT: Debate ceases. On the motion to reconsider,

a bill having to do with low income housing that we're never even going to get to talk about. And we won't even raise the ADC rate to help the mothers who have the little ones already and we don't address a lot of those problems. I am pleased at least that LB 662 got through today and LB 678. I hope they survive. There is a lot of variables and inconsistencies, ambiguities, whatever word you want to use when you start talking about birth and abortion, because all of us have different feelings about the idea of it. We all have different feelings about what Roe v. Wade allows, and so on. In fact, I know a lawyer in Maryland who is a Presbyterian and he is so pro-life and he got involved in it because a doctor in the Washington area came to him and said, I have women coming to me now who want abortions because now they know the child is going to be a girl and they want a boy. Now you see how far we have come to that point that we are allowing abortions simply because we don't like the gender. It seems to me way back in ancient times the Chinese drowned the little girls and we thought that was terrible. So I think that we have to...and this man started...this lawyer started reading Roe v. Wade and he hadn't paid any attention and so that's how he got involved in the movement. And he is the one who got Dr. Lejeune to come and testify in that case in Tennessee. I think we use a lot of words. We call the baby a fetus. We say terminate the pregnancy instead of having an abortion. All these things are smoke screens so we don't have to focus on what really happens. If you haven't read the article that I passed out from the Lutheran paper, please, just read it. Face up to it...

SPEAKER BARRETT: One minute.

SENATOR CROSBY: ...and read it because that young woman says some things that I think we all need to realize. So I will stop there and thank you for listening to me, and give you one more little line from Isaiah. If a mother forgets her baby in the womb, I will not forget her. Thank you.

SPEAKER BARRETT: Thank you. Senator Schimek.

SENATOR SCHIMEK: Mr. President and members of the body, I would like to follow up on a few things that have been said here on the floor this morning and this afternoon and I guess I would like to thank Senator Crosby for her remarks. She and I have talked about this issue many times and we have found common ground and we found many areas of agreement. And I wish that we

SENATOR NELSON: Well, all right...

SENATOR LINDSAY: I am familiar with it now from you having just talked about it, but, no,...

SENATOR NELSON: Would you be willing to compromise in that sort of a fashion?

SENATOR LINDSAY: That sort of an amendment with some working on it, yeah, but that is not what we have...when you start... (interruption).

SENATOR NELSON: That is not what you were told to do, right?

SENATOR LINDSAY: No, when the amendments start coming in, those aren't the amendments that we see, and who knows how many questions that can be divided into.

SENATOR NELSON: Thank you. That is all I have to answer.

SPEAKER BARRETT: Thank you. Senator Morrissey, followed by Senator Rogers.

SENATOR MORRISSEY: Thank you, Mr. Speaker, and members. When I was talking earlier, I mentioned last year, if you remember last year. Senator Ashford offered some good amendments that would have helped the bill. Rejected. Very few positive votes. There is someone offered an amendment for child care so, hopefully, the teenage mother would be able to finish school before her child, if, indeed, that child had the opportunity to finish school. Rejected, out of hand, and that was the one that really bothered me. Cost too much money was the answer. It cost too much money, and that didn't set very well with me at all, and I got in just kind of on the end of Senator Lindsay's asking people about being up front about this issue and I, the first time I stood up today, I said I was on the verge of letting the majority rule until we talked about LB 662, and then that old attitude of we will do nothing, we won't give an inch, when the word abortion, or in this case, abortion contraception comes up, and it turned me right around again. And if you could make the parental notification bill, if you could amend it, so it would not discriminate, so everyone has free access to the judicial system and is used to access and has the true belief that that judicial system is set up for their own good, if you

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LB 163, 163A, 164, 164A, 187, 187A, 503
503A, 520A, 536, 662, 662A, 678, 678A
898, 1031, 1126, 1170, 1220

PRESIDENT NICHOL PRESIDING

PRESIDENT: Ladies and gentlemen, welcome to the George W. Norris Legislative Chamber. We have with us this morning as our Chaplain of the day, Pastor Jim McGaffin of the Victory Outreach in Omaha. You might be interested to know that his father was the Chairman of the Board of Nebraska Education TV at one time and he was also News Director of WOW-TV. Would you please rise for the invocation by Pastor McGaffin.

PASTOR MCGAFFIN: (Prayer offered.)

PRESIDENT: (Gavel.) Thank you, Pastor McGaffin. We appreciate your being here. Roll call, please. Mr. Clerk, please.

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

PRESIDENT: Thank you. Do we have any corrections to the Journal today?

CLERK: No corrections, Mr. President.

PRESIDENT: Do we have any messages, reports, or announcements?

CLERK: Mr. President, I have received a series of veto messages from the Governor, specifically a veto message on LB 163 and LB 163A, LB 164 and LB 164A, LB 187, LB 187A, LB 503, LB 503A, LB 520A, LB 536, LB 662, LB 662A, LB 678, LB 678A, LB 898, LB 1031, LB 1126, LB 1170, LB 1220. All of those messages will be placed in the Journal, Mr. President. (See pages 1912-25.) That is all that I have.

PRESIDENT: Thank you. How about the confirmation report, Transportation Committee.

CLERK: Mr. President, confirmation report offered by Senator Lamb is found on page 1852 of the Journal.

PRESIDENT: Senator Lamb, please.

SENATOR LAMB: Mr. President and members, the Committee on Transportation reports favorably on a number of appointments. We have three for the Board of Public Roads Classifications and Standards. They are Marvin Athey, William Lindholm, and Robert Stutzman. There were no negative votes for those appointments.

SENATOR WESELY: Thank you, Mr. President, members. LB 678 is the omnibus child care bill, which I want to extend my appreciation to this body for passing last week. It was a major initiative to try and do a number of things to improve child care in the State of Nebraska and this Legislature took the action of passing it and sending it to the Governor. Unfortunately the Governor decided to veto the bill. As you know, we worked long and hard on that issue. And in general the issue of children in this state and different matters that concern children have been of high priority to this Legislature this session. We did pass LB 567, dealing with an early childhood training support center, and that was passed, and I thank the Governor for signing that bill. LB 662 was a bill that would have provided for different family support services across the state and the Legislature passed but had that bill vetoed by the Governor. That will be coming up later perhaps. LB 663 was passed in the Juvenile Services Act, that did get signed by the Governor. Again, appreciate it. And LB 720, a bill that increased caseloads for those caseworkers working with children in foster care and also for child abuse, was passed by this Legislature and signed by the Governor. Again, I extend my appreciation to this Legislature and the Governor for taking that action. So we did do some things and the Governor did sign some bills. So I feel good about that. Unfortunately one of the biggest pieces of the issue is the child care issue. There we have not seen the support of the Governor in signing the bill that we had hoped for. The Governor talked about, in her veto message, that the Lamb amendment, which I didn't particularly care for but did get adopted and provided an exclusion for those counties with 15,000 or fewer residents, was one of the concerns she had and raised constitutional questions with the bill. I agree, it raised constitutional questions. We have a severability clause. We could have dealt with that matter, and I had accepted that despite my reservations about it. So I think that's unfortunate. The other concern she expressed in her veto message, talked about coordination in the Department of Education. Clearly, that could have been done and done quite easily, and we expected it to be done. The Title XX day care rate increase, which is the big portion of the cost of the bill, the 1.2 million dollars, is a big ticket item, but we are talking about low income trying to move off of welfare, trying to get into the job...into jobs and trying to get training. These are the kind of folks we want to help. We want to provide them adequate child care to help them do that. But that costs money, and we need to do that. Unfortunately, this bill being

three, and I am going to withdraw the middle one. I would like an opportunity to talk about that but we are, quite frankly, at the point where we can't afford all three of them, and so I am going to go ahead and run this one, and then I will talk about the other one later. But just for your information, this one contains two items, it is the Trailside Museum planning money, and the Mead Center planning money. The item that I intend to withdraw is the next one, which is LB 662, which has nearly a half a million dollar fiscal note. There simply isn't the money here to do it. I will get into that later, but I want you to know what you are voting on next, and there is a third bill, LB 1170, which is the tuition credits for National Guard members coming up, number three. You will have a chance to deal with those later, but I just want you to know my rationale of what I am doing here. But I am withdrawing the item here that I think that we must withdraw in order to stay within a responsible level of spending. I would ask your support on 898. It is, as I said, the Trailside Museum planning money, and the Mead money. I will give the rest of my time to Senator Schmit.

SPEAKER BARRETT: Senator Schmit.

SENATOR SCHMIT: Mr. President, I will be very brief, also. I appreciate the fact that the money was placed in the budget earlier on. I understand the concern, I understand the concern expressed on this floor many times here tonight. I want to just emphasize the reason I supported the inclusion of the money for the headquarters at Mead. I firmly believe, that notwithstanding some of the purveyors of gloom and doom, that if we are going to pay the bills for this state government of ours, it is going to come from agriculture. It is going to come from agriculture whether you like it or not. It isn't only true that we are going to pay the taxes to support it, as has been evidenced by the passage of a number of other bills on this floor during this session, but if you are going to keep up technically, if you are going to be able to maintain the research, if you are going to be able to do those things that give agriculture in Nebraska and the United States the edge that has made us the producers of record and of envy the world around, then you ought to be able to produce the kind of research that is necessary to back it up. To do that, you ought to have decent working facilities. We have built a multitude of buildings in Nebraska in the last few years, and I am not at all embarrassed to stand here and ask for the \$190,000 for planning money for the building at Mead. It is overdue. It has been

reduced twice in its scope of the direction in which we took it at first and it is today a very modest proposal and I believe we need it, and we ought to do it this time. Thank you very much.

SPEAKER BARRETT: Any other discussion? Senator Scofield, anything further? Would you like to close? Thank you. The question is, shall the gubernatorial veto of LB 898 be overridden? All in favor vote aye, opposed nay. Have you all voted? Senator Scofield.

SENATOR SCOFIELD: Roll call. That will move us on and out of here as quickly as possible.

SPEAKER BARRETT: Roll call vote has been requested. Members, return to your seats. The question is, shall LB 898 become law notwithstanding the Governor's veto? Proceed. Senator Scofield.

SENATOR SCOFIELD: Check in, please.

SPEAKER BARRETT: Members, record your presence. Senator Lamb, Senator Moore. Mr. Clerk, proceed with the roll call.

CLERK: (Roll call vote taken. See pages 2051-52 of the Legislative Journal.) 18 ayes, 21 nays, Mr. President.

SPEAKER BARRETT: Motion fails. Next item.

CLERK: Mr. President, Senator Scofield, on LB 1170, Senator.

SENATOR SCOFIELD: I wanted to make a couple of comments about LB 662 before I withdrew it, if that is possible.

SPEAKER BARRETT: Proceed.

SENATOR SCOFIELD: As I indicated, I intend to withdraw LB 662. The fiscal not is simply too high to absorb it at this state of the game, and I think we have done some good things, particularly with the Foster Care Review Board money. So we have done some good things for children this year, and I want to emphasize that, and I want to commend this body on your leadership on children's issues. I would also like to say that we passed another bill, LB 663, which is good for juvenile justice, and so I believe this Legislature deserves some credit for trying to champion children and family issues this year.

This particular bill, if you read the veto message, it is clear that our objective from the onset was to have a cooperative effort between the three branches of government, executive branch, legislative branch, and the judicial branch, and it is clear from the Governor's veto message that she simply doesn't see eye to eye with the way the Legislature has been proceeding on this issue, and I think it would be unwise, frankly, to pass a bill that she apparently feels doesn't work for her because I don't think it would be administered in a way that any of us, that we would want it to happen. I would wish her Director of Children and Families well, and I hope she can carry off what I believe is a practically insurmountable task without additional resources and additional help, but I hope she can be successful. But in the meantime, I think it is appropriate that LB 662 be raised also in terms of the appreciation that ought to go to the staff here in this Legislature that worked on this bill for a long time, to the child advocates who worked on this bill, and to the communities. As I said, there are big challenges facing the Governor and her director to carry through on their intentions of how they intend to address children and family needs. There is a tremendous need for prevention services out in the communities and, unfortunately, this bill isn't going to be there to help communities do that. But I would hope that that effort and that thrust will go ahead, and with that, I would withdraw LB 662.

SPEAKER BARRETT: Thank you. It is withdrawn. Senator Scofield, would you like to address LB 1170.

SENATOR SCOFIELD: Yes, Mr. President, in keeping with the philosophy that we have tried to pursue all year, I think this is one of those issues that you can characterize as a legitimate deficit. You will recall that we found out, shortly after this session convened this year, that we had some problems in terms of tuition monies for National Guard members, and we had, frankly, a number of students who simply were going to come up short and still will come up short if this veto isn't overridden. The amount is 269,000 this year and 121,000 the following year. Some of the institutions, I think some of the students have chosen to go ahead and stay in school in hopes that this is forthcoming, and I think that this is an obligation that we have to those students given the way this bill has moved through the process. I would ask for your support.

SPEAKER BARRETT: Thank you. Any discussion? Senator Scofield,