

January 19, 1989

LB 94, 247, 570, 576, 683-808

as yet, please contact Joanne immediately. If you don't have the bill that you are expecting, please contact the Bill Drafters Office immediately. Mr. Clerk.

CLERK: Mr. President, for the record, I have received a reference report referring LBs 496-599 including resolutions 8-12, all of which are constitutional amendments.

Mr. President, your Committee on Banking, Commerce and Insurance to whom we referred LB 94 instructs me to report the same back to the Legislature with the recommendation that it be advanced to General File with amendments attached. (See pages 320-21 of the Legislative Journal.)

Mr. President, I have hearing notices from the Judiciary Committee signed by Senator Chizek as Chair, and a second hearing notice from Judiciary as well as a third hearing notice from Judiciary, all signed by Senator Chizek.

Mr. President, new bills. (Read LBs 683-726 by title for the first time. See pages 321-30 of the Legislative Journal.)

Mr. President, a request to add names, Senator Korshoj to LB 570, Senator Smith to LB 576, Senator Baack to 570 and Senator Barrett to LB 247.

SPEAKER BARRETT: Stand at ease.

EASE

SPEAKER BARRETT: More bills, Mr. Clerk.

ASSISTANT CLERK: Thank you, Mr. President. (Read LBs 727-776 by title for the first time. See pages 331-42 of the Legislative Journal.)

EASE

SPEAKER BARRETT: More bill introductions.

ASSISTANT CLERK: Thank you, Mr. President. (Read LBs 777-808 by title for the first time. See pages 343-50 of the Legislative Journal.)

CLERK: Mr. President, I have reports. Your Committee on

I have a hearing notice or cancellation of hearing notice by General Affairs. Senator Landis would like to print amendments to LB 361. (See page 884 of the Legislative Journal.)

Senator Rod Johnson would like to withdraw LB 748. That will be laid over. And two gubernatorial appointee confirmation hearing reports offered by Natural Resources. Those, as well, will be laid over, Mr. President. That is all that I have.

SPEAKER BARRETT: Thank you. Moving to General File, LB 744.

CLERK: Mr. President, LB 744 was a bill that was introduced by Senator Withem. (Read title.) The bill was introduced on January 19, referred to the Education Committee, advanced to General File. I have no amendments to the bill, Mr. President.

SPEAKER BARRETT: The Chair recognizes the Chair of the Education Committee, Senator Withem.

SENATOR WITHEM: Thank you, Mr. Speaker, members of the body. LB 744 is a bill concerning which I have passed out a couple of handouts, that you haven't been inundated with handouts yet this morning, so you probably ought to be able to find them. What the bill deals with is, in a general sense, it is one of several bills that have come from the Education Committee this year dealing with the rather fuzzy issue, difficult issue to grab a hold of, but incredibly important issue, that of quality education, and helping us as public policy makers both at the state level and at the local level get a handle on how well our schools are doing. Before I get into specifics of the bill, I would like to share just some general views on this question of quality of education in Nebraska. One of the problems I think we have as a Legislature, as a state, policy makers in the area of education, is we tend to have an overly smug view, I think, of the quality of education that we offer our young people in this state. We look at some very isolated, very, in many cases, misleading statistics, such as, college entrance examinations, graduation rates, things along that line, to prove to us that we have quality education. When you get deeper into what is quality education, what indicators do we have that point to quality, they really aren't there. If you will look at some of the quotes you have on your sheet, your sheet here, it will indicate that any number of people that have taken a look at quality education in Nebraska have drawn the conclusion that we just don't have enough data available about our schools to make

SENATOR SCHMIT: Mr. President and members, the Natural Resources Committee last week heard the appointment of Mr. Mark Anthony of Omaha to an appointment on the Game and Parks Commission. Mr. Anthony has a long history of participation in activities associated with outdoor game and park work and has a good history of background in working with the Game and Parks already. We were very impressed with his qualifications and recommended unanimously that the Legislature confirm his appointment as a member of the Game and Parks Commission.

SPEAKER BARRETT: Any discussion? If not, those in favor of the adoption of the confirmation report as explained by Senator Schmit please vote aye, opposed nay. Please record.

CLERK: 25 ayes, 0 nays, Mr. President, on the adoption of the first confirmation report offered by Natural Resources.

SPEAKER BARRETT: The motion prevails.

CLERK: Mr. President, Senator Schmit, as Chair of Natural Resources, would offer a report on the appointment of Mr. Mark Hunsinger to the Power Review Board.

SPEAKER BARRETT: Senator Schmit.

SENATOR SCHMIT: Mr. President and members, the Natural Resources Committee, on the same day, heard Mr. Mark Hunsinger who has been appointed as a member of the Power Review Board. Mr. Hunsinger is an attorney and has a background in this type of work. The committee was favorably impressed with him and we recommend that he be confirmed for appointment to that very important position.

SPEAKER BARRETT: Any discussion? Seeing none, those in favor of the adoption of the report please vote aye, opposed nay. Record, please.

CLERK: 27 ayes, 0 nays, Mr. President, on the adoption of Senator Schmit's report.

SPEAKER BARRETT: The confirmation report is adopted. Mr. Clerk, the next item.

CLERK: Mr. President, Senator Rod Johnson would move to withdraw LB 748. Senator Rod Johnson offered his motion

yesterday, Mr. President. It's on page 884 of the Journal.

SPEAKER BARRETT: The Chair of the Ag Committee, Senator Rod Johnson.

SENATOR R. JOHNSON: Mr. President and members, I introduced two bills on state investments. It appears, after checking with the State Investment Officer, that that which we called for in LB 748 is something that's already permissible and that the State Investment Officer can proceed with now. So there was no need for the bill. As I said, there is another bill that I have introduced that will be heard later in the year by the appropriate committee and we may well get an opportunity to talk more about this issue of state investment in agricultural commodities. But, at this particular time, this bill appears to be unnecessary and I would ask the body's unanimous consent to withdraw the bill.

SPEAKER BARRETT: Any discussion? Seeing none, those in favor of the motion offered by Senator Rod Johnson to withdraw LB 748 vote aye, those opposed vote nay. Please record.

CLERK: 29 ayes, 0 nays, Mr. President, on the adoption of Senator Rod Johnson's motion.

SPEAKER BARRETT: The motion carries. The next item, Mr. Clerk.

CLERK: Mr. President, Senator Warner, as Chair of the Appropriations Committee, offers a motion found on page 857 of the Journal. It asks the Legislature to make recommendations as provided for in the Appropriations Committee report on the predisbursement plan for use of the Nebraska Energy Settlement Fund. That report, Mr. President, is printed in the Journal. It can be found on page 855 of the Journal.

SPEAKER BARRETT: Senator Warner, please.

SENATOR WARNER: Mr. President and members of the Legislature, I would make the motion that we move that the motion be adopted. You will recall a couple years ago legislation was enacted which provided legislative oversight and, in fact, more than just oversight of the oil overcharge monies which are coming back to the state in a variety of sources but, essentially, from two prime lawsuits. And at the time that that bill was enacted it was not signed by the Governor but subsequently an Attorney

General's Opinion questioned the constitutionality of that statute so, as a result, a year ago we then enacted 764 which seemed to be in compliance with what the court order is as well as what the Constitution limited the legislative role in this whole process. Under the provisions of that act, the office of Governor was to submit to the Legislature what was referred to as a predisbursement plan which does not identify individual projects as such but rather is a broad guideline of which will be used for the disbursement of those funds. So the basis of the legislative review is really to provide a public forum for public reaction to that plan and determine whether the...the impact of these disbursements on the use of other appropriated state funds and that on that basis a hearing was held. A number of individuals appeared, which is included and we are submitting six broad guidelines for the...as suggestions or guidelines to the office of Governor in the distribution of these funds. They included projects that were funded from the Nebraska Energy Settlement Fund, should be complete with themselves and that they should not result in the necessity of future General Fund support during the period which the project is in operation, nor should they assume a General Fund pickup at some future date; secondly, that the projects include the demonstration loan programs should be directed toward individuals and institutions that do not have the resources otherwise to undertake needed conservation projects. And one of the criteria which several of these recommendations would have reference to that are conditions...the disbursement of these funds is that there can be some need based criteria as far as individual's ability to provide energy saving type of installations or the use of funds as well as the reduction of the consumption of energy in itself. The third was that the funds allocated to the general public should be allocated on a need basis again, as I indicated. Four, the projects should be designed to recognize the fact that some political subdivisions may fiscally be unable to provide either matching funds or the necessary subsequent financing, so the projects should be designed to minimize fiscal impact upon political subdivisions while maximizing the potential benefit to the political subdivision. And, five, this one gets a little specific and perhaps a little more specific than what the statute would call for but the wording is such that it is not that specific. But of the various projects that were discussed at the hearing, the committee would encourage that consideration by the Energy Office be given to the project at Peru State College and at Chadron State College in gasification projects as being feasible and desirable uses for a portion of the reserve

funds or any funds received in the future. And then the last item was information regarding funded projects should be disseminated so as to ensure an adequate notice of the availability of funds to all potential target areas, particularly those potential recipients without routine access to media information sources. That one came about primarily because at least one of the programs is somewhat of a loan assistance type of program for people that do weatherization or other conservation type of improvements on homes and it was a concern that the manner in which that was done would ensure that people widely dispersed across the state and who, in fact, would be qualified under a need basis had information as to the availability or the potential availability of these funds for projects. That's the basis of it. You had submitted to you, I believe, some time ago the plan itself which goes into more detail and I could or other members of the committee could respond to some of those specifically if you have questions beyond what I have outlined.

SPEAKER BARRETT: Thank you. Before recognizing Senator Wesely for discussion purposes, I am pleased to announce that the good Senator from the 26th District has some special guests in the north balcony. We have 15 juniors and seniors from Northeast High here in Lincoln with their teacher. Would you people please stand and be recognized. Thank you. We're glad to have you with us. Senator Wesely, followed by Senator Schmit.

SENATOR WESELY: Thank you, Mr. President, and members, I would like to really call the body's attention to the issue before us today because you're deciding how you're...well, actually you're not deciding anything, frankly, which is why probably most of you aren't paying attention, but for some of us we thought that maybe we would have a little more say-so over how we would allocate \$20 million in overcharged monies to deal with the energy problems of this state. If you recall, we debated this issue last year and we did pass a piece of legislation that took from the Legislature the ability to determine how that money was disbursed and gave that authority to the Governor. So, at this point, our discussion today in this resolution are perfunctory. They don't really end up meaning very much whatsoever. I'm sure perhaps the Governor will listen to some degree to what we have to say in the next few minutes but it's likely that whatever she wants to do or her agency wants to do they will be able to do and will do. And so we should immediately recognize that situation. But let me start by first saying I think the

Appropriations Committee did a good job in identifying problems and I want to commend Senator Warner and the members. I think your report and your recommendations are good as far as they go and target where some of the problems I see with this proposal are. One of those which you emphasize in this recommendation is looking more at need, what are the needs of the individuals involved. The big bulk of the twenty some million dollars involved here goes to a demonstration loan program. At this point, we don't know very much about where that money goes to other than 60 percent of it goes to residential, that's \$6 million; 1.5 million to small business; 1.5 million to local government, and then farmers and ranchers get \$1 million. And the real question is exactly how are we going to allocate, how is it going to be distributed? Senator Schmit and I kind of had a conversation about the ranking and I'm just recalling that conversation. But, in any event, where does the money go? Who gets the money? Obviously, there is much more need out there than the money is available and I think trying to base some need factor into is important. I would also suggest there are other considerations on this loan program. The concept is this. You have 10 million bucks out there and local lenders come back and they can get into the pool and they say, we're going to loan \$100,000 to Senator Schmit and his farm for some sort of...let's say \$10,000 is more likely, to put in some sort of energy efficiency project. They go to the state and the state buys \$5,000 of that loan. If the loan is at 12 percent or whatever they might be loaning at, then essentially you cut the loan rate down in half because half of the loan is bought by the state. So you're trying to cut the loan rate down in half, so it's a lower interest loan. But the questions I have, for instance, is where do you set that original level and figure? For instance, what if that bank says, well, I know the state will pick up half of this so I'm going to charge you 14 percent, not 12 like we normally would, and so we'll end up getting a little better deal out of it but you'll end up still only paying 7 percent. It seems to me there has got to be some consideration of how this is handled, the mechanics of the interest rate charged, how the money is disbursed, where it goes to, the targeting involved. I think it's a wonderful effort, frankly, in many ways and could serve a very useful purpose. But, just for the record, I raise the concern of how it's going to be disbursed, how we're going to be sure we're getting our money's worth and not having some manipulation occur, and, in addition, you know, just how we set priorities and where that money goes. Again, that's the bulk of the money, \$10 million out of the twenty some million goes to

that effort. But I have concerns. I don't know what more we can do about it. You have expressed in the committee report some concerns and I guess that's the way it is. One of the things I would raise though in that \$10 million...another thing that we need to think about, I know it's elsewhere in this proposal, I thought originally we were going to go more toward public building weatherization across the state. There is some money in here for public building weatherization. There's \$150,000 for the State Building Energy Team. There's that 1.5 million for the loan for local government weatherization...

SPEAKER BARRETT: One minute.

SENATOR WESELY: ...and there's 400,000 for Local Government Energy Manager Circuit Rider and then there are some university and state college money in here. But, really, one of the things I think we're going to do more of that we should probably do more of is getting out to our public buildings and weatherizing them. We're doing it with our schools. I think we're doing pretty well with our schools and have done that pretty well. There are counties and cities and other public buildings, state buildings across the State of Nebraska that need energy assistance and I had hoped that we would see more out of this proposal in that direction because there...all the taxpayers benefit from that effort. Those are just some initial concerns and I do welcome a chance to discuss this although, again, I'm not sure if it makes any difference.

SPEAKER BARRETT: Senator Schmit, please.

SENATOR SCHMIT: Well, Mr. President and members, again I, as Senator Wesely has indicated, appreciate the work the of the Appropriations Committee in this area because although we do not really have any jurisdiction about what is being done here, it's kind of nice to at least have a report that we can look at and recognizing, of course, that we have absolutely no input whatsoever. My concern is much along the lines that have already been expressed here, that is that the funds came from all of the people of the State of Nebraska. The overcharge funds came from all of the people, therefore, it would seem to me that it would be in the interest of the Governor and the Legislature to try as much as possible to return those funds since they were overcharge funds to as broad a general portion of the population as possible and to that extent then I would hope that those funds could have been used to greater extent to

benefit the public by utilization in public buildings and public institutions. Any time that we become specific, no matter how well intentioned those fund uses are, we find ourselves in a situation where the redistribution, in my opinion, is less than equitable. I was just called out by Reba White Shirt, the Director of the Indian Commission, who explained to me that the \$50,000 allocated to the native American people in Nebraska does not take into account all of the native Americans that live in the state but only about one-third of them and that she felt very strongly that that allocation was not satisfactory, it should have been three times that much. I'm sure that there are other instances where we could find inequities that are similar to that. My principal concern is this, that this is more than \$20 million, it is distributed in a manner which we have no control over. I think the Governor has tried hard to make it equitable but I am concerned by the fact that it was unjustly taken from the people in the first place, now it is probably not being distributed back as equitably as it could be. I would hope that in the future that...and there will be similar instances in the future because we know of other cases already that are on record that the funds would be used as much as possible to weatherize and winterize and improve public buildings in which all of the public can benefit. If money goes to a certain school district, then that school district benefits and the other nine hundred and some districts do not benefit. It's pretty difficult to handle it that way. Many of the other programs, well intended, probably have limited value. Senator Wesely mentioned the amount allocated to the farmers and ranchers for their loan programs. I don't think that's going to be very significant, really, and, as far as equity is concerned, I'm not going to argue about it but I think we all know where the equity percentage is in that situation. Again, as has been pointed out here, we have no control over it. It's an amazing situation that we can stand up here and argue and fight and I don't see Senator Arlene Nelson on the floor this morning, but we can argue over a few thousand bucks here or a million bucks there and spend a lot of time on it, but here are twenty some million dollars which were unjustly removed from the pockets of Nebraskans and now they're trying to send them back and this Legislature, which is most responsible to the people because we are that entity which is most directly related to the individuals, has absolutely no input as to how the money ought to be distributed and I guess, for that reason, I'm strongly inclined to vote against the report.

SPEAKER BARRETT: Thank you. Senator Hall, please, Senator Wesely next. (Gavel.)

SENATOR HALL: Thank you, Mr. President, and members, Senator Warner, I apologize for not being here for all of your opening but I did catch some of it downstairs. Would you respond to a question just with regard to the...?

SENATOR WARNER: If I can.

SENATOR HALL: Jerry, this is the report and it...my question is, I notice that Mr. Verret was there and he testified before the committee and I'm guessing that some of his testimony dealt with the issue of having these funds available for the removal of asbestos in both public and private schools. Is that...first of all, is that something that he did testify to?

SENATOR WARNER: No, there was...I did not...asbestos does not qualify under this, as I (interruption).

SENATOR HALL: That was going to be my question. Is that something that these...removal or abatement, is that something that would qualify under these...under the provisions of the...listed as a project that would qualify, I guess.

SENATOR WARNER: No.

SENATOR HALL: Is there any way that we could make those changes that would allow for something like that to qualify for the loan fund or is that not doable?

SENATOR WARNER: I don't believe that's doable under the court restrictions and the...well, under the court dictate of what the uses can be made, I can read those to you. The Exxon funds are limited to the State Energy Conservation Program, the Energy Extension Service, Institutional Conservation and Weatherization Assistance, Low Income Home Energy Assistance Program, the stripper funds, has the same five but also programs approved, can include energy audit of government buildings as well as residential energy assistance and in the Chevron order there is..well, it's such kind of restitution programs that are approved by the district court...

SENATOR HALL: Would these...

SENATOR WARNER: ...but none of them relate to asbestos. I don't recall that Mr. Verret appeared on this.

SENATOR HALL: Excuse me, Mr. Verret, I mean, he's listed down there as...it would have been George Verret.

SENATOR WARNER: Oh, the one from Omaha.

SENATOR HALL: Right.

SENATOR WARNER: He was proposing the use of fans, as I recall.

SENATOR HALL: Well, you never know what George is going to propose. I just...I have run into George a couple different times but he's a good fellow.

SENATOR WARNER: Right. He made an interesting presentation on the basis that fans in public rooms, such as schools, help, in essence, with conservation and movement of the air, and so forth. Yes, he made a very interesting presentation.

SENATOR HALL: Well, Senator Warner, the institutional...the program that was institution conservation, would...what does that entail? You ran through the listing and that was one that...I guess my point is even though the removal of asbestos, if it was incorporated into an energy conservation program because asbestos was used for insulation and some other purposes of that nature, would it qualify at that point under this program or would it not?

SENATOR WARNER: Well, I can't...my impression is that it does not. The description I have here is help schools for the Institutional Conservation Program, help schools and hospitals implement energy conservation procedures.

SENATOR HALL: Okay.

SENATOR WARNER: There is...now, I suppose, you know, number one, if there was a specific project that involved in the process of installing some insulation and in that process something was removed that has asbestos and if it was approved by DOT, you know, I assume it's possible but the emphasis, I'm sure, would not be the...

SPEAKER BARRETT: Thirty seconds.

SENATOR WARNER: ...asbestos. That would have to be some sort of a by-product.

SENATOR HALL: Okay, thank you very much. Thank you, Mr. President.

SPEAKER BARRETT: Senator Wesely, please, Senator Hannibal on deck.

SENATOR WESELY: Thank you, Mr. Speaker. Again, I appreciate the work of the Appropriations Committee and I, for one, will plan on voting for this resolution because I think it does highlight in some areas improvements that could be made to that plan. I would again raise issue on the distribution of these monies, particularly I really think that some attention needed to be paid to state building weatherization. We're trying to get some figures right now, we don't have them right now, but there is like 900 buildings that we have that are state buildings, the university and state colleges, I mean, hard to believe that we would have that many. But if you want to find a way that we could meet a need that everybody would benefit from, the taxpayers across the state, would be to improve our public buildings' weatherization. There you don't have the distribution problems. You know, everybody wins when you get state buildings that are weatherized and efficient. And I really had thought that this plan that was coming out was going to do more in that direction and so I'm expressing disappointment. It's not that I don't see virtue in some of the other proposals in here. The low income weatherization obviously needs to be done and some of the other proposals, but the bulk of the money, again, that 10 million in that one loan program without any targeting and real identity as to where we're going with that, I wonder if we wouldn't be better served by reconsidering that and looking at putting that money into state building. You know, we put money into a school weatherization program in this state and across the state we have improved school building efficiency and this has paid for itself within a few years and has been used as a revolving fund. The way we set it up now, it used to be grant and now it's a loan program, the money saved replenishes the loan and goes back out to another school so we constantly are winning on that one, everybody wins. And something like that could be set up for the state. You could take 5 million or 10 million dollars, go out and weatherize state buildings and the money saved could go back

out and go to local governments and then from there come back and go out through the private sector. I mean, there's a way to do this in such a way that you start off and save money, bring the money that you save back in and send it out again, save money, bring the money back in, send it out again, save money, bring the money back in and then send it out again, and across the state over a period of time you could have a tremendous impact with \$20 million. I don't see that with this. You buy down the loans and you don't get any of the savings back. I think you spend the money, it's gone. I think there's a way that this could have been set up that would have been far better in terms of a revolving fund returning savings back in and sending them back out and disbursing them across the state and I just simply am disappointed that we aren't able to do more. Now I could and I should get up and offer an amendment to this effect but what difference does it make? In essence, all we're here to do is be a sounding board and then you're hearing me and some others sound off but in the end whatever is decided is decided. So rather than try and make a big deal out of this, I'm just raising my concerns and suggesting maybe some better ideas are there that aren't being pursued and hope that at least somebody might be listening. Oh, okay, I just got the figures. In 1983, the 309 Task Force For Building Renewal had requests from state agencies for energy improvement activities totaling \$17 million, \$17 million. And I just got this so I haven't had a chance to look through it. But it tells you right there, we're sitting on... I don't know where we're at right now, six years later, but I'm sure we haven't made much progress on that, maybe a little bit, but at 17 million in '83, I don't know what that would be today and what we have accomplished since that time, but we're sitting on a lot of buildings that obviously have a great need for energy improvement and it sure seems to me that that should have been looked at perhaps more seriously than it has been looked at. The \$17 million gap that we could have filled...

SPEAKER BARRETT: One minute.

SENATOR WESELY: ...brought the savings back in and send it out again to everybody else in this sort of style that we're talking about here. I just think we're missing an opportunity.

SPEAKER BARRETT: Senator Hannibal, please, followed by Senators Rod Johnson and Hefner.

SENATOR HANNIBAL: Thank you, Mr. Speaker, and members, I rise just to offer a couple of comments to...comments raised by Senator Wesely and Senator Schmit on this report, and I thought it would be fair to point out that both senators do raise some good points. These points I think were addressed by the committee and these points were, as a matter of fact, addressed by the Governor's Task Force and the allocation that she finally came out with. I do have a tendency to agree with both Senator Schmit and Senator Wesely and I think some of those comments are pointed out in our report and that is that we wanted to try to see if we could get as broad a base distribution as we possibly could and we wanted to try to see...try to encourage to make sure these distributions were based somewhat on need. With regards to the loan program that Senator Wesely has expressed some concerns about reinvestment, I think...I think the way the program has been set up, however, there may be problems with it and, however, there may be some questions with it as far as interest rates and such, two things I think are worth pointing out, one, yes, it would be a revolving type of a program. The buy-down or the buying back of half the loan, that doesn't mean the loan wouldn't be paid off. The loan would be paid off. The principal would be paid off. It would be interest free as far as the state is concerned. However, the principal would return back into the fund and be used for redistribution again. You would be losing the interest on that but the principal would be repaid so you would have a revolving loan of sorts going on, it would be a no interest revolving loan. Also, Senator Wesely pointed out that maybe Senator Schmit might be asking for a 100,000 and then realizing the credit restrictions said maybe more like 10,000 as far as the loan. The energy office did describe to us their "envisionment" of this program and, while it does not state in the actual presentation, the intention was that they would have a cap on this program to be later determined, but the intention was somewhere around a \$3,000 mark as far as these loans. So their efforts to try to keep the cap down low for weatherization programs on an individual basis and loan basis would be to spread that \$10 million over a very broad base of people. So we wouldn't have large amounts of money being asked for with that weatherization program. The interest rate, I assume that they would have some way of trying to see that we're dealing with market rates and competitive rates and not allow for, obviously, some possible abuses there but that would be in the hands of the administration to see to it that that didn't happen. With regards to tribal Indian agreement, we did discuss that in committee. We had presentations from the

native Americans' organization. The committee felt, again, remembering that we have very little control on this, but the committee did feel that the energy office and the administration did take into consideration the concerns of the native Americans and feel that the distribution that they have set out would qualify as being an equitable distribution under the terms of the overcharge agreements for redistribution. I might point out that while we do have an undercount, maybe, of native Americans in the state as represented in their presentation, the undercount on the reservation and the redistribution formula that was used might be argued by some as being maybe more generous than necessary. The point only is not to get into an argument about it but the point is I felt like the...

SPEAKER BARRETT: One minute.

SENATOR HANNIBAL: ...I think the committee felt like the energy office and the administration, in proposing this redistribution formula, did take into consideration the concerns of the native Americans and felt like they were dealing with them very equitably. I understand the frustration of some of the members on the floor. It was felt in the committee as to what actual input we have with regards to these funds, we feel that the report that we submitted has gone a long ways towards expressing our concerns and encouragements and recommendations to the administration. We hope that they will be looked at, recognized, and, hopefully, have some impact. And I would hope that we could have a unanimous acceptance of at least the report.

SPEAKER BARRETT: Thank you. Senator Rod Johnson.

SENATOR R. JOHNSON: Mr. Speaker and members, I tried to pay attention to what Senator Hannibal was saying in relationship to the native American fund, the \$50,000 fee or fund that was going to be given back and I concur with Senator Schmit's arguments that we're concerned about that level of funding. I think it's, as I said, I guess I'm curious as to how the fee or the amount was reached and Senator Hannibal covered much of that. But I guess I still am concerned that the level might be lower than the need that is out there for the native Americans living in our state. I just raise that point. I think that Senator Schmit and Senator Wesely have raised similar points so I won't repeat, only to say that I have some concerns with that level and how that was reached.

SPEAKER BARRETT: Thank you. Before recognizing Senator Hefner, Senator Korshoj is announcing some guests who are visiting the Legislature today. Under the north balcony, Karen Ruwee of Arlington, Nebraska, and a very special guest from Japan, Ryoko Kawai. Would you people please stand and be recognized. Thank you. We're glad you're here. Senator Hefner.

SENATOR HEFNER: Mr. President and members of the body, first of all I want to commend the Appropriations Committee for the work that they have done on this issue. I know that it's a very complicated issue and we certainly want to see that everybody is taken care of. I, too, have some concerns on loans, whether they be low interest loans or no interest loans, but I think we need to get started someplace. Also, at this time I would like to ask Senator Warner a question if he will yield.

SPEAKER BARRETT: Would you respond, Senator Warner.

SENATOR WARNER: If I can.

SENATOR HEFNER: Senator Warner, this Capitol building is a beautiful building, but we do have a problem. I know sometimes in the office that I have if we have a snow storm, well, I'll be getting some snow in my room. Also, many times the rooms in the Capitol are real warm, in fact, they're hot and it's very hard to adjust the temperature in these rooms. Are we going to use any of these funds to try to correct that in this beautiful building?

SENATOR WARNER: No, there are no funds specifically allocated to this...to this structure. But let me just...you know, as I've been listening to the discussion, you know, we're talking about 19.9 million is the total amount, and I assume that any one of these areas whether it was state buildings or local governmental subdivisions or all low income housing, I assume that you can identify need for any one of them that would exceed the amount of the oil overcharge money and I suspect if all the money would have gone to public institutions, we would have been critical that some of it should have gone to low income or some other facet. It does represent a distribution of a variety of areas that are authorized under the court dictates and, you know, whether it could be 1 million more in one area and a million less somewhere else, I can't argue that because, obviously, that's true. But I do think that the kinds of things

that are being addressed are consistent with what the court ordered and it does provide a distribution in a variety of areas, obviously, not totally satisfying any one because there wouldn't be sufficient funds to do that.

SENATOR HEFNER: Okay, thank you for the answer.

SPEAKER BARRETT: Senator Schmit, followed by Senator Wesely.

SENATOR SCHMIT: Mr. President and members, I, again, want to say this that I'm not trying to be critical of the committee. I think the Appropriations Committee, we recognize that we had to pass a bill because the Attorney General said that this money was distributed by court order and, therefore, the executive had the right to distribute the money and it was not a part of the legislative prerogative. So, although we can look at it and we can tussle with it and we can argue with it and we can discuss whether or not it is equitable, we really have nothing to say about it. That is my principal concern about the situation and it may be after the fact and it may be too late to do anything about it. But I think it is very unfortunate that this money, in plain language, was stolen from the people. It was stolen from the people by one of our major corporations, the Exxon Corporation. Now, normally when people commit theft they go to jail for it. I don't know what the situation was here. I doubt if anyone did any time for this theft of hundreds of millions of dollars. If Nebraska's share is twenty some million bucks, that's a substantial amount of money. My concern is this also, it probably only represents a small portion of the money that was actually stolen from the people. Let's say what it is, it's theft, plain, ordinary theft. One of the reasons why I think very strongly and feel very strongly that the money should be spent as much as possible for the benefit of the public is because it is impossible to redistribute the money in the same proportion that it was taken. Therefore, the second best alternative would be to try to send it back to the people on a general basis. Now, there is, I think, an even better alternative and that's been discussed some. I know the committee tried to address this when they talked about trying to send it back on the basis of need. It's bad enough to steal from anyone but it is reprehensible, ladies and gentlemen, to steal from the poor and those who can least afford it. If they steal from those of us who are more affluent, we can...it's not going to affect our lifestyle, it's not going to affect the manner in which we live or the clothing we wear or the food that

we eat. But when you steal money from the poor and the underprivileged, that, to me, is about as low a form of theft as you can find. Therefore, I think it behooves us to at least try to commit to the Governor the recommendation that the underprivileged, the low income, perhaps the elderly, certainly, I think that the minority members of the State of Nebraska, be they black, red, Hispanic, yellow, whatever they are who might have greater needs and less income ought to be treated with a little bit more consideration than we have in the past. I want to just say this insofar as the court ordered allocation to the native Americans, if we are going to hand out money based upon a population basis and if, at the same time, we are supposed to give some credence to low income, it would seem to me, on that basis alone, the native American people would be entitled to more than just a proportionate per capital distribution amount of money. And I would suggest and hope that maybe, although we cannot do anything about it officially, that perhaps the Governor would take a second look at that and try to make that a bit more equitable kind of distribution. I know that she is concerned about the low income people. She has done some things in the past that indicate she tries to make things equitable and I would encourage her to take a look at it again. I guess, most of all,...

SPEAKER BARRETT: One minute.

SENATOR SCHMIT: ...we recognize that this is the kind of an aberration which should not have occurred in the first place. I am concerned that it did occur. I am concerned that it is probably occurring today and I am doubly concerned that there does not seem to be any widespread public denunciation of this kind of theft. I think that...I want to state once again that theft of any kind is bad but theft from the poor and those who can't help themselves is extremely despicable and I would hope that inasmuch as the Governor can rectify the situation that she would do so. I would hope and encourage the low income people, wherever they are and whoever they are, to make available to themselves some of the resources that are available for distribution. I would hope that the energy office and the Governor's staff would apprise the low income people...

SPEAKER BARRETT: Time.

SENATOR SCHMIT: ...of the availability of those funds and try to perhaps make them available to them. Thank you very much.

SPEAKER BARRETT: Senator Wesely. Senator Wesely, please.

SENATOR WESELY: Thank you. Speaker Barrett, I am again sorry to raise so much concern here. Senator Warner, could I ask just one quick question? If we approve this resolution, does that pretty well give our stamp of approval on the plan or is it our suggestions on approving the plan? Exactly, kind of, what are we doing here?

SENATOR WARNER: Senator Wesely, as I understand the statute that it now exists, we can make, in a very broad sense, recommendations on the predisbursement plan which would not be and is not a project specific and if we fail to take any action, why, of course, then under that statute if it's not reacted to within 30 days, why it automatically goes ahead. So...

SENATOR WESELY: Okay, for instance, I guess in follow-up to that, if we adopt this resolution, is it still possible, for instance, for Senator Conway, as Chairman of the Building and Maintenance Task Force which did do this 309 study and to go in to the Governor and say, maybe you ought to look at making some changes and putting some money in this direction? Or would that, I mean, are we done in terms of any discussion on this?

SENATOR WARNER: I would assume that potential is there. I would imagine it would have to be within the broad guidelines at least...well, they certainly could change but I would be inclined to believe that it would have to be within the broad guidelines of their predisbursement plan. I also would suggest that if we are going to recommend that some area be increased, that we, at the same time, indicate what area we think should be decreased. You, obviously, cannot spend 40 million out of 19.9 million, which, by the way, is the same truth as the budget, but that's not the subject.

SENATOR WESELY: Okay, thank you, Senator Warner. I have had a chance to look further on this 309 Task Force Report and what it calls for is...and one element that is in this proposal is \$150,000 for an energy team to work on this matter but it also calls for a \$5.5 million revolving loan fund to go out and work on state buildings and it would save, in 10 years, \$13.7 million. And that gets back to my concern about one way to do this would be to have a revolving loan fund, fix up some state buildings, save the tax dollars that would have gone to

that expenditure, bring the money back in and send the money back out again with another loan to another public building. And it seems as though again you save your money very quickly, you get back your investment rather quickly and I just don't see that in this disbursement plan. So I'm going to rise in objection to the disbursement plan and yet, at the same time, I'm not sure whether I should oppose this resolution because it does make suggestions for improvement. But, nevertheless, I would hope that Senator Conway and this Legislature would have the option to ask further questions on it whether this is adopted or not.

SPEAKER BARRETT: Senator Bernard-Stevens.

SENATOR BERNARD-STEVENS: Question.

SPEAKER BARRETT: The question has been called. Do I see five hands? I do. Those in favor of ceasing debate, please vote aye, opposed nay. Shall debate cease? Record, please.

CLERK: 26 ayes, 0 nays, Mr. President, to cease debate.

SPEAKER BARRETT: Debate ceases. Senator Warner, would you care to close.

SENATOR WARNER: Mr. President, I just would make a couple of comments relative to the 309 discussion. There was in the Governor's budget \$5 million in her proposal for 309, 2 million of which was indicated for asbestos removal and 3 million for the...applied toward deferred maintenance. I believe, in the preliminary committee report, there is 6 million in without a designation at this time as to the purpose. I only mention that to indicate that there is funding continuing. The...I think I may also indicate on the native American count, what was used, as was indicated at the hearing, was the census data. It was a later census information that was provided that also had a provision where people, during the process of the census, could indicate their ethnic background, their forebears, and which was voluntarily done by people who...by the public as they were doing the census, and then you had a higher count from that of native Americans but as to what percent or portion of their forebears were native American as opposed to other backgrounds was not known. In any event, the other more important reason for that discussion of the committee was the fact that it was presumed and it was, in fact, true of some of the distribution

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that's already been made that some of the programs based on need, no doubt, would also be addressed to the needs of native Americans and that the actual dollars distributed would be something in excess of that amount that was specifically designated to go to the tribal areas. In any event, I would move that the report be advanced. Obviously, there's been many suggestions that other areas could be addressed. As I have indicated earlier, I know of no way that all of the needs that could be suggested could be addressed. Half the funds are contemplated to be a revolving fund, in nature they go back to the low income or needs primarily low in the way of loans which would be repaid and so there is, from that viewpoint, at least, the opportunity for reuse of these funds by many people over a period of time, which, incidentally, was a change from a couple of years ago. You may recall, we then were operating under the impression that these funds had to all be used, gone within a specified period of time, but that restriction seems to have been lifted somewhat and the revolving fund concept, which is being used in the one program, in fact, can exist and is being implemented. So I would move that the report be adopted as written. As several have indicated, it does point out broad areas which are consistent with the predisbursement plan that we would hope the Governor's office would take into account in the distribution of these funds' two specific projects.

SPEAKER BARRETT: Thank you. You have heard the closing. The question is the adoption of the Appropriations Committee report. Those in favor vote aye, opposed nay. Have you all voted? Record, please.

CLERK: 27 ayes, 3 nays, Mr. President, on adoption of the motion as offered by Senator Warner.

SPEAKER BARRETT: The committee report is adopted. For the record.

CLERK: Mr. President, your Committee on Revenue, whose Chairman is Senator Hall, to whom was referred LB 564, instructs me to report the same back to the Legislature with the recommendation that it be indefinitely postponed. That's signed by Senator Hall.

Education Committee reports LB 247 to General File; LB 392, General File; LB 395, General File; LB 531, indefinitely postponed; LB 694, indefinitely postponed; LB 760, indefinitely