

any of it has been repaid but Nebraska got into a bind and we had to substantially increase our contributions. Now at that time Mr. Chizek who was then Commissioner of Labor instituted an accelerated check for fraud in the State of Nebraska and if I remember the numbers correctly they were finding 33% of the claims to be fraudulent, 40% of the claims to be fraudulent in various communities that they had selected to audit. Now you are saying that we are going to fund in a program that has been established as having considerable amount of fraud in it, that people who, let's say it was inadvertent fraud, if they don't much feel like paying it back and knowing what kind hearted people the judges are, David, I would wonder if we are not making it more attractive, easier and more expensive for this state if we do not require that money improperly received for whatever reason should be returned to the state. I don't think our state treasury, particularly our compensation fund, needs to be depleted simply because I accepted \$400, when really I shouldn't have.

SENATOR JOHNSON: I guess you asked me a question, Senator Murphy, though in the end it was mostly a comment. For a semanticist as good as you are I am surprised that you could even speak of inadvertent fraud. Fraud obviously is deliberate willful conduct. Inadvertency has very little to do with deliberate and willful conduct. The truth of the matter is, what Commissioner Chizek found was that there were a number of persons who were receiving incorrect payments. Whether or not their conduct was willful and deliberate is still up for debate. Without question there will be people who will be improperly paid and the only real issue in the end is which of those persons should be required to repay. Now I could tell you more about that but it is your time and I don't want to do it at this juncture.

SENATOR MURPHY: Then I would recommend to the Legislature that we not adopt this amendment. We are in effect saying that if the state sent you money that you should not have received, that you do not have to replace it and I think that is in error and I would oppose the Johnson amendment.

SPEAKER MARVEL: Senator Kahle, do you wish to speak to the Johnson amendment to the committee amendments?

SENATOR KAHLE: Mr. Speaker, members, very briefly, I think from time to time we in the Legislature are asked