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LB 1, 2, 3, 4, 5, 6,
7, 8

PRESIDENT: The committee will escort the Governor out of the chamber. We are ready then for agenda item #8, introduction of new bills, Mr. Clerk.

CLERK: Mr. President, new bills. LB 1 offered by Senator David Newell. (Read title to LB 1 as found on page 19 of the Legislative Journal.) LB 2 offered by Senators Newell, Landis, Wiitala, Burrows and Fowler. (Read title to LB 2 as found on page 19 of the Legislative Journal.) LB 3 by Senator Fowler. (Read title.) LB 4 offered by Senator Fowler. (Read title.) LB 5 offered by Senator Fowler. (Read title.) LB 6 offered by Senator Fowler. (Read title.) LB 7 offered by the Speaker at the request of the Governor. (Read title.) And finally, Mr. President, LB 8 offered by the Speaker at the request of the Governor. (Read title.) (See pages 19 and 20 of the Legislative Journal.)

PRESIDENT: These bills...the two bills that have been read for introduction and all bills that are introduced that have been read into the record are going to the Reference Committee. And the Reference Committee and Senator Howard Lamb, Chairman of the Legislative Council Exec Board, has asked me to announce that the committee will meet in Room 1517, 1517, immediately. So, Senator Lamb, you are ready to take off for Room 1517. All members of the Executive Board will meet with Senator Lamb. And, Speaker Marvel, I guess you want the Legislature to be at Ease at this point. I will call upon the Speaker for his comments.

SPEAKER MARVEL: Until the Reference Committee brings back the report, the Legislature will be at Ease.

PRESIDENT: All right. So the Legislature is at Ease until the committee returns.

EASE

PRESIDENT: The Legislature will come back to order. We would like to announce that any committees that would like to hold hearings on gubernatorial appointments would please set the date for those hearings and if possible get them on the desk yet before we adjourn this afternoon. As I understand it, those are all out on the desk, are they not, Mr. Clerk, they are on....they have been advised. So if we could get any of them as soon as possible set for hearings, the gubernatorial appointments, the chairpersons should do that. All right, Mr. Clerk, do you have some matters to read in and then we will proceed with the report of the committee.

CLERK: Mr. President, some items that have accumulated over

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the interim period. I have appointment letters from the Governor....a series of appointment letters from the Governor appointing certain officials to certain state agencies. Those, of course, will be referred to the Reference Committee. (See pages 21 through 30 of the Legislative Journal.)

Mr. President, in addition to that I have several Attorney General's Opinions. One addressed to Senator Beutler, one to Senator Wagner regarding 204, one to Senator Warner regarding LB 412, one to Senator Beyer and one to Senator Wagner, and another to Senator Hefner. (See pages 30 through 39 of the Legislative Journal.)

Mr. President, I have a Reference Report referring certain gubernatorial appointments to the appropriate standing committees. I have a Reference Report referring LBs 7 and 8. (See page 41 of the Legislative Journal.)

Mr. President, I have a statement from the Appropriations Committee regarding their scheduling of public hearings for Monday and Tuesday of next week in Room 1517 of the State Capitol Building. (See pages 40 and 41 of the Legislative Journal.)

Mr. President, I have a notice of hearing from Public Health and Welfare Committee on a gubernatorial appointment. (See page 42 of the Legislative Journal.)

PRESIDENT: All right, there is a motion on the desk.

CLERK: Mr. President, Senator Wesely has moved to rerefer LB 7 from the Judiciary Committee to the Public Health and Welfare Committee.

PRESIDENT: The Chair recognizes Senator Wesely.

SENATOR WESELY: Thank you. Mr. President and members of the Legislature, LB 7, although none of us have had a chance to look at it, deals with the question of the expansion on the call for a special session dealing with ADC and with the other welfare changes that we have to make to comply with federal statutes. Now we have been dealing in the Public Health and Welfare Committee with this issue now for as long as that committee has been in existence and we have been working closely on the block grants question and we have been involved in this area, yet the Reference Committee has taken it upon themselves to refer this bill to the Judiciary Committee which makes no sense at all in my mind. I don't understand why there was any reason to do that. I don't

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want to appear too bold at this point except to say that the Chairman of the Public Health and Welfare Committee has just come here and I hope he will help me out on this. I am Vice Chairman of the committee and I feel it is our responsibility to speak out. It is clear to me that we have dealt with the area. It is our responsibility. We are planning a hearing on this, and to refer this bill to the Judiciary Committee makes absolutely no sense. I would ask your support for rereferring the bill back to the Public Health and Welfare Committee where it should be in the first place, where we have dealt with the issue and that we will go ahead with the public hearing and proceed on that issue. I ask for your support of this motion to rerefer.

PRESIDENT: The Chair recognizes Senator Cullan.

SENATOR CULLAN: Mr. President and members of the Legislature, I respectfully urge the proper reference of this measure to the Public Health and Welfare Committee which has always had jurisdiction of the Aid to Dependent Children program. It is an area for which we have had responsibility for many years. It is an area in which our staff has had expertise. We have handled this legislation in regular sessions. I think it is very inappropriate for the Reference Committee to send this bill to the Judiciary Committee and I would urge you to support I guess Senator Wesely's motion to rerefer this bill to the Public Health and Welfare Committee.

PRESIDENT: Any further discussion? Senator Lamb.

SENATOR LAMB: Mr. President and members of the Legislature, there was considerable discussion in the committee about which committee this should be referred to, and Dr. Rodgers pointed out that there are parts of it which traditionally the Judiciary Committee has handled. There are parts of it which the Public Health Committee has handled. And on the balance it seemed that the Judiciary part of the bill was a bigger part of the bill and so it was the opinion of the committee that it be sent to the Judiciary Committee. There is room for question, I admit, but I feel confident that this was the correct place to put it.

PRESIDENT: Any further discussion? Senator Cullan, did you wish to speak again?

SENATOR CULLAN: Yes, I would like to ask Senator Lamb a few questions if I could. Senator Lamb, you indicated that you believe the major part...most of the bill related

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to subject matter that is traditionally the scope of jurisdiction of the Judiciary Committee. It is my understanding that that is not accurate. Maybe you could explain what the bill does, to us, and perhaps tell us what sections are more appropriately within the jurisdiction of the Judiciary Committee.

SENATOR LAMB: I would like to refer you to....I wish Senator Nichol were here, he would be in a better position to explain that to you, Senator Cullan. I would ask that someone find....see if they can find Senator Nichol.

PRESIDENT: Senator Carsten, would you care to speak?

SENATOR CARSTEN: Mr. President and members of the Legislature, I don't want to speak on behalf of Senator Nichol but as I recall Mr. Rodgers' explanation to it, past history has shown us the sections that are referred to in the bill, and there are two sections, as I understand, the past history has shown that one of those sections twice has gone to Judiciary. The other section once has gone to Public Health and Welfare. Now that was the explanation that Dr. Rodgers gave to the committee and I believe was the basis upon which the committee made their judgment, Senator Cullan. And if I am wrong, I will stand corrected, but that was my understanding, at least. Thank you.

PRESIDENT: Senator Cullan.

SENATOR CULLAN: Mr. President and members of the Legislature, it is my understanding, and correct me if I am wrong, Senator Lamb, but the initial recommendation by Dr. Rodgers was that this bill should go to the Public Health and Welfare Committee, and for what reason it was referred to the Judiciary Committee and why that was changed, I guess I don't quite understand, but again I would urge the Legislature to reverse the position of the Executive Board.

PRESIDENT: The Chair recognizes Senator Carsten.

SENATOR CARSTEN: Mr. President, Senator Rodgers (sic) did appear....and members of the Legislature, Senator (sic) Rodgers did appear before the committee the second time upon the request of a second question, and the answer that I gave you was his second answer. You are correct, his first answer was Public Health and Welfare, but the second time around with more discussion was the answer that I gave to you, I believe, and Senator Nichol is here, and I would defer to him if I may now, Mr. President.

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PRESIDENT: Senator Nichol, did you hear the question of Senator Cullan?

SENATOR NICHOL: I heard it while I was running up but I don't know exactly what it was. It was the question why was this particular bill referred to Judiciary rather than Health?

PRESIDENT: Yes.

SENATOR NICHOL: The reason was that certainly when you collect payments for child support, it is a health problem, or a child problem, or a welfare problem, but really the mechanics of it in getting that collected is more of a legal problem than it is a health and welfare problem. So without speaking for each individual member of the Executive Board, I would say that that was probably the reason. As far as I am personally concerned, I would be glad to have you have it.

PRESIDENT: Any further discussion? Senator Wesely, you may close.

SENATOR WESELY: Mr. President and members of the Legislature, the reason I moved so hastily to try and rerefer is that our committee has been counting on getting the bill. We have been aware of the situation and we are ready to proceed and to now have that bill referred over to Judiciary just didn't make a lot of sense. And I think although maybe one section does relate to what the Judiciary Committee has dealt with in the past, more than what is in the section of that bill deals with what the Public Health and Welfare has dealt with in the past and it would be the logical committee to handle it. So it seems to me that it would be wise to rerefer to Public Health Committee and we will proceed with the hearing. We have already talked about it and scheduled, and deal with the bill. I think that is where it ought to be. So I ask your support in the motion to rerefer.

PRESIDENT: All right, the motion then is to rerefer to the Health and Welfare Committee rather than to the Judiciary Committee LB 7. Is that correct, Mr. Clerk? That is the motion. All those in favor vote aye, opposed nay. Can we use the machine, or do you want to try the machine? Try the machine. It requires 25 votes. Have you all voted? Do you want to have a Call of the House, Senator? We still have some missing.

SENATOR WESELY: Okay. Do you know how many are excused?

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PRESIDENT: How many are excused? Two excused.

SENATOR WESELY: Well, why don't we have a Call of the House and call in votes would be appropriate.

PRESIDENT: And then have call in votes?

SENATOR WESELY: Yes, a Call of the House and call in votes would be all right.

PRESIDENT: All right, the motion is, shall the House go under Call? The board will be cleared. All those in favor of the House going under Call vote aye, opposed nay. All right, record the vote.

CLERK: 24 ayes, 7 nays to go under Call, Mr. President.

PRESIDENT: The motion carries. The House is under Call. The Sergeant at Arms will see that all members return. All nonauthorized persons will leave the floor of the Legislature. The House is under Call. We would have to have a Call of the House or it wouldn't be the first day of a Special Session. Let's try and see if the board works for showing of your presence. Everyone register your presence and let's see how the board is correctly showing presence. Beyer, Burrows, Chronister...who? Chronister is here. Senator Fenger is here. Senator Goll....Goll is here. Haberman, Higgins, Johnson...Vard Johnson. Senator Pirsch, Senator Sieck. Here we come, Beyer, Sieck. Here comes Sieck and Beyer. Do you want to take call ins? Let's take call ins. Do you want to tell...okay.

CLERK: Senator Fowler voting yes. Senator Vard Johnson voting yes. Senator Chronister and Goodrich voting no. Senator Kilgarin voting no. Senator Sieck voting no. Senator Pirsch voting no.

PRESIDENT: Record the vote.

CLERK: 25 ayes, 16 nays, Mr. President, on the rereferral.

PRESIDENT: All right, motion carries. LB 7 is rereferred then to the Health and Welfare Committee. Anything further, Mr. Clerk?

CLERK: Yes, Mr. President, I do. I have a couple of items to read in now if I may. Mr. President, your committee on Public Health and Welfare gives notice of public hearing for November 3.

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LB 8, 7

Public Health and Welfare Committee reporting on a confirmation hearing.

Your committee on Public Health whose Chairman is Senator Cullan reports LB 7 to General File with committee amendments attached, Mr. President.

PRESIDENT: Senator Lamb.

SENATOR LAMB: Recess until one-thirty this afternoon.

PRESIDENT: It is almost twelve-thirty now.

SENATOR LAMB: Two o'clock.

PRESIDENT: Motion to recess until two o'clock. All those in favor signify by saying aye, opposed nay. We are recessed until 2:00 p.m. today.

Edited by Arleen McCrory.
Arleen McCrory

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RECESS

SPEAKER MARVEL PRESIDING

SPEAKER MARVEL: Does anyone else wish to check in? We need one more. Record.

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

SPEAKER MARVEL: The Clerk has some items on the desk.

CLERK: Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 8 and recommend that same be placed on Select File with the E & R amendments attached.

SPEAKER MARVEL: Okay, the next order of business is LB 7. The Clerk will first of all read the title.

CLERK: Mr. President, if I may right before that, I have received a report from the Business and Labor Committee regarding a confirmation hearing. That will be inserted in the Journal. (See page 77 of the Legislative Journal.)

Mr. President, LB 7 was introduced by Senator Richard Marvel at the request of the Governor. (Read title.) The bill was first read on October 30 of this year, Mr. President, and referred to the Public Health and Welfare Committee. They conducted a public hearing. The bill was advanced to General File this morning. Copies of the committee amendments have been distributed and I believe are on all the members' desks.

SPEAKER MARVEL: Senator Cullan.

SENATOR CULLAN: Mr. President, members of the Legislature, we have distributed to you copies of the committee amendments to LB 7 as well as the committee statement. To understand the committee amendments it is necessary to have a brief overview of what LB 7 does. LB 7 is a bill which was introduced because of change in the omnibus Reconciliation Act, a budget bill that was recently passed in Washington, D.C., and if we fail to pass some version of LB 7 then we do jeopardize federal funds in the area of Aid to Dependent Children Programs and also federal funding for enforcement of collection fees in the area of child support. The basic provisions of LB 7 as it was introduced are as follows: ADC benefits would be terminated at age eighteen unless the recipient was attending a secondary school or receiving vocational or technical training if not in high school and the recipient is expected to finish the schooling before reaching

the age of nineteen. Currently under Medicaid law an individual is covered up to age twenty-one so long as they are attending either high school, a vocational school or college. so that this first change would significantly reduce the benefits of those individuals who are attending educational institutions. Medicaid benefits are deleted for persons age eighteen to twenty-one who were former ADC recipients but who are currently not eligible for an ADC grant because of age or because they are not in school. Further, pregnant women would no longer be eligible for ADC as soon as the pregnancy is medically verified. Payments to the mother would be made only in the third trimester and the unborn child would not be part of the ADC unit until the child was born. Dependent children over ages sixteen who are not attending school will be required to register for work. ADC benefits will not be available to persons who are on strike and then, finally, the last section, a 10% collection fee would be imposed against any nonADC parent who is delinquent in child support payments. Those are the provisions of the bill as introduced. The bill was introduced exactly to meet the requirements of the federal government as mandated by federal law. The committee proposed and adopted and recommends for the approval of the Legislature a number of changes in this bill. It is not the intent of the Public Health and Welfare Committee to in any way jeopardize federal funds. The changes that the committee suggests will do several things. First of all, benefits would be available to pregnant women as soon as the pregnancy is medically verified and, too, unborn children will be eligible for ADC benefits as well from the time that the pregnancy is verified. State funds would pay for those persons who do not meet federal qualifications. Medical assistance would be available to women who meet ADC standards as soon as the pregnancy is medically verified and then we make some technical changes in the 10% collection fee but the major change that we make is the 10% collection fee would be assessed against all persons with delinquent child support payments. We felt there were some technical problems with the way that section of the bill was originally drafted and I also felt there were some equal protection problems and that we were making an unreasonable classification of individuals who were delinquent in meeting child support payments whether they were...the same law should apply to individuals whether their spouse is receiving ADC benefits or not receiving ADC benefits so we tried to eliminate or did eliminate at least the equal protection argument so far as the child support payments collection fee is concerned. The bill does have a fiscal impact. I don't recall the exact figures off the top of my head at this point in time. It is two hundred and I believe twenty thousand dollars for this session of the Legislature to

cover the additional Aid to Dependent Children coverage which we are suggesting that the Legislature adopt. The annualized fiscal impact of this change is about \$385,000. To give you a little bit of perspective, this is in a total ADC budget in the State of Nebraska of \$58 million so you can see that we are spending a very small percentage of the total ADC budget to establish the viewpoint, at least to the Health and Welfare Committee and I would suspect of the entire Legislature that pregnancy should be covered. A woman and the unborn child should be covered from the date that a pregnancy is medically verified rather than accepting the federal government's point of view as far as third trimester is concerned. I would urge you to adopt it. I would also indicate to the members of the Legislature that I will be sending the Governor and the Director of the Department of Welfare a letter shortly and would invite anyone who would like to sign it to sign it in suggesting that these changes in the ADC program be funded by a \$5 per month reduction in Aid to Dependent Children base. That would generate about three hundred and twenty some thousand dollars a year which will almost pay for the changes that we are suggesting. So that letter will be available if anyone else would be interested in signing it. My own personal viewpoint is that that is the best way for us to fund this particular change. The current base funding for ADC recipients throughout the State of Nebraska is \$210 per month and the administration does have the authority to lower that to \$205 per month if they desire. With that I guess I would be happy to try and attempt to respond to any questions which you might have. I urge the adoption of the committee amendments.

SPEAKER MARVEL: Senator Wesely, your light was on. Do you wish to speak to the committee amendments?

SENATOR WESELY: Yes, Mr. Speaker. I stand in support of the committee amendments. We did hear this bill yesterday and did act this morning to amend the bill and I think that Senator Cullan has in very quick fashion and I think very well explained what exactly we are trying to do. Now let's talk dollars and cents. I think that clearly there is a lot of support within the committee and I hope on the floor to try and pick up the cost of the program which is being cut by the federal government to not allow for ADC benefits to go to a pregnant mother prior to the three months before they are to give birth. I think it is clear that they are benefits that are derived from providing assistance at the point at which pregnancy is discovered to make sure that that child is cared for properly, that the mother is well fed and that any effort to do otherwise is not looked to as a reasonable alternative because we have done some

research and it is clear that developmental disabilities and handicaps, retardation result from the fact that a pregnant woman does not take care of herself and you can really cause a great deal of problems if that woman does not have the financial resources to care for that unborn child. So I think in that respect it is very clearly to the benefit of the state to make sure that that woman is, when their financial condition does not allow it, to personally care for that child so that we will help and make sure that that child is cared for. But I think there is also some other points that Senator Cullan made that I am not sure that I like. First off, we are talking about a cost here of over two hundred thousand dollars, about a quarter of a million dollars. It is hard to tell exactly but that is about what the cost will be for the rest of this fiscal year. That is at a time that we are discussing \$25 million worth of budget cuts. We are talking about an increase in expense of a quarter of a million dollars which seems to be a bit ironic. Nevertheless, I think as I said the program is a good one and I am not sure why the federal government decided to cut it because I think it is something of value to the state but if we are going to cut that amount of money then we have to decide, you know, the priorities of this state. Is that cut justified or is that increase in spending justified in terms of the budget cuts we are making? Is that increase in spending justified in terms of the other block grant cuts that are coming down the road which will be similarly questionable which will also be facing the state and which we will have to decide whether to pick up as we are in this case that lost federal support. This is a very complicated issue. This is the first of many complicated issues we are going to be facing in terms of federal cutbacks and programs that make sense to us for the State of Nebraska and those programs that we are going to consider as important and in need of funding are all going to be worthwhile and expensive and are we going to be able to afford to do the job that needs to be done? I don't think we can pick up anywhere near as much as will be lost by federal funding cuts. Nevertheless, in some instances we will want to pick up those programs. This is one of those instances I believe but I want you to be aware of the fact that this is one in a long line of budget cuts we are going to be facing the hard choice of. Do we pick it up or not? And several of the other items in the bill we do not pick up the cuts. We do allow the passthrough and the federal funding cuts are then implemented at the state level but in this instance of the ADC mother with the pregnant child, we are deciding that that is important enough that the state fund. Now I think as far as trading off, though, with the ADC benefits for everybody else that would

be cut by \$5 a month, I'm not sure that is really a fair step to take at this time. First off, I think it ought to be deliberated on the floor and should be a legislative action, not a unilateral executive action as is being contemplated at this time. And I think secondly, it puts the poor fighting the poor essentially, that the ADC pregnant mother is going to lose her benefits unless the ADC mother with the child already born gets a \$5 cut in their monthly payments. We are having a tradeoff here between poor and poor and I'm not sure that is really a fair circumstance to put people in. Perhaps at this time if this program and this funding is important enough we should just decide that it has got a priority in the state and fund it and then talk about reductions in ADC benefits next summer when we have a little more time or next spring, I should say.

SPEAKER MARVEL: You have one minute.

SENATOR WESELY: Thank you, Mr. Speaker. Have time to really consider that action because I think at this time that that really would not be an appropriate executive action. It would be much more appropriate if the Legislature would set that priority rather than the Governor himself. So what I am saying is that the committee amendments are good. They are valuable. They should be adopted. They will bring a cost to this state but you have to decide individually if that is a priority that the state ought to pick up and then we should talk about the funding questions in light of the other cuts and I think you should trade this off with other cuts we are making and trade this off also with other budget cuts coming down the road from the federal government. It is not an isolated issue is what I am saying. It is part of a bigger issue that we are all going to be facing in the coming months.

SPEAKER MARVEL: Senator Fenger.

SENATOR FENGER: Mr. Speaker, I, too, rise in support of the committee amendments as proposed. The fiscal impact of this committee amendment is approximately \$225,000 and I realize at first glance that is not in line with the reason for this special session called to consider a \$25 million shortfall. The practical realities, however, in my opinion, are they won't cost us anything. The federal regulation that creates the need for LB 7 says that it must take effect within thirty days after we adjourn. That is the reason you find the E clause in Section 5. Now if this bill were enacted but without 33 votes, we would sustain a penalty for two months that would create

a loss equal to or perhaps even exceeding the additional cost created by the amendment and I support this committee amendment because I don't believe that there would be 33 affirmative votes on the floor without it. I thank you.

SPEAKER MARVEL: Senator Rumery.

SENATOR RUMERY: Thank you, Mr. President. I would like to ask Senator Cullan a question if I might.

SENATOR CULLAN: Yes, Senator Rumery.

SENATOR RUMERY: Senator Cullan, will you explain again how we are going to raise this extra money? I didn't quite understand that when you were explaining it.

SENATOR CULLAN: Well we have not made any changes in the Governor's bill nor have we introduced an A bill on LB 7. In other words, we are simply going to recommend to the Governor that he make up the additional increase of three hundred and some thousand dollars required by this bill by cuts in the basic grant for Aid to Dependent Children programs. Now that would be my recommendation. If the Legislature wants us to handle it differently then I suppose an appropriations bill would have to be introduced or we would have to amend LB 8 but my own viewpoint would be that we just cut the basic ADC grant from \$210 a month to \$205 a month.

SENATOR RUMERY: Thank you.

SPEAKER MARVEL: Senator Vard Johnson and then Senator Lowell Johnson. No, I'm sorry, then Senator Kahle and then Senator Lowell Johnson. Senator Johnson.

SENATOR V. JOHNSON: Mr. Speaker, members of the body, I support the amendment. I thought I would chart a little history of this amendment because I had a hand in it back in 1973 when I represented a pregnant mother who had no resources whatsoever and who applied for ADC benefits but they were then denied to her because at that time the state policy simply was we would not pay ADC benefits until the child was born. So in behalf of this pregnant mother I filed an action in the United States District Court in the District of Nebraska in Lincoln before Honorable Warren Urbom and the action was certified as a class action and Judge Urbom held that Nebraska's policies did not conform to his interpretation of federal policies and, therefore, benefits not only had to be provided to this pregnant mother but to every other pregnant mother who was poor. And so as a result of that litigation

the Nebraska Department of Public Welfare changed its regulations to make certain that benefits would be provided to pregnant women when the condition was first diagnosed. In 1975 an identical case, called *Acala vs. Burns* reached the United States Supreme Court and in that case the United States Supreme Court held that Judge Urbom, in effect, was wrong. The United States Supreme Court held that as a matter of its interpretation of the statutory law and the regulatory law, states were not required to pay benefits to unborn children. Well the moment that decision came down, our Department of Public Welfare decided they would rescind its regulations because obviously the earlier decision was one that no longer obtained. The Legislature was then in session when that happened and the Legislature responded almost unanimously by amending our statutes to make certain that the Nebraska Department of Public Welfare could not change those regulations. Our Legislature decided very simply that we were going to go on record as making certain that benefits were available to the mother and the unborn child and that is an absolutely right and correct decision and it is important for us to continue that policy today and forever if we genuinely care about the well-being of pregnant mothers and the fetuses that they are carrying and I know that we all do. So I support the amendment. By the same token I want to call your attention to the fact that we really need to affect no tradeoffs. There need be no tradeoffs in terms of funds. There have been many changes that have taken place right now in Congress to the ADC program. Our Department of Public Welfare has been implementing those changes effective the first of November. This particular change it could not implement without a statutory change but most of the other changes it could implement by changing its regulations. The regulations have been changed and the changes are now in place. Some 10% of existing ADC recipients are now off the ADC rolls. Some 25% of ADC recipients have had their grants reduced. There will undoubtedly be a savings in general funds over the remainder of this fiscal year alone to the Nebraska Department of Public Welfare of two and a half million dollars. The Department of Public Welfare is having a hard time coming up with a statement to that effect but I can guarantee you there will be a massive savings in funds by virtue of those federal changes that have already been implemented. So the fact that this may cost us a quarter of a million dollars to make this little amendment is far more than offset by those changes that now are in place. So that you know whereof I speak, take a look at your fiscal note to LB 7 and note LB 7 covers more than the unborn. It covers for example the provision of ADC benefits to youngsters between the ages of nineteen and

and twenty-one. The fiscal note points out that that change alone will save the state in general funds something like a hundred and forty thousand dollars and then it also notes that the Medicaid change which is a concomitant part of that will save the state probably a hundred and one thousand dollars. That is almost a quarter of a million right there which will clearly be offset by this amendment. So in my opinion Senator Cullan need not go through with his letter, it would be wrong for him to go through with his letter incidentally, because the money will be more than available through other kinds of changes that are now being affected and are now in place to cover this very small cost to ensure that we do right by our pregnant women and the fetuses that they carry.

SPEAKER MARVEL: Senator Kahle.

SENATOR KAHLE: Mr. Speaker and members, I think I will have a question of Senator Cullan as we go along. Am I right then in looking at this, that an expectant mother will receive benefits only in the last three months of her pregnancy?

SENATOR CULLAN: The way the bill was originally drafted that would be correct.

SENATOR KAHLE: What does it say now then?

SENATOR CULLAN: With the committee amendments a pregnant mother would receive \$210 per month from the time that her pregnancy was medically verified and also \$70 per month for the unborn child.

SENATOR KAHLE: So this could be an eight month process.

SENATOR CULLAN: That is the most that it could be, probably yes.

SENATOR KAHLE: Who pays the doctor for the first call?

SENATOR CULLAN: I'm not sure. I don't have the answer to that, Senator, but I will find out.

SENATOR KAHLE: I guess what I am driving at is that if you have an eight month period and that mother loses her child somewhere along the way, do we have any safeguards to see that she will not be collecting that fund over that period of time? I guess I have a leery mind about some of these cases that we have had in the past and I know it only takes one rotten apple to spoil the barrel and I wondered if we shouldn't build in some protection there to make sure that

we are not taken on occasion by those who receive these benefits. Do we have any safeguard that you see?

SENATOR CULLAN: According to the regulations, as soon as the pregnancy is terminated, if the woman is not eligible for ADC otherwise, then of course she would lose everything but if the woman were eligible for Aid to Dependent Children for some other reason, for another child before the pregnancy, then her own payment would continue but the payment for the child which had died would no longer of course, would no longer be made. So if there were a miscarriage or some problem then the state would not pay the \$70.

SENATOR KAHLE: How would they find out?

SENATOR CULLAN: I am not sure of the mechanical process for finding out that information.

SENATOR KAHLE: I guess what I am driving at is that if this expectant mother, let's say, would visit the doctor every month or every other month, let's say, or even every six weeks the cost would be terrific. I happen to know that today in real life where you are not on any kind of a government health, the cost for prenatal care and the birth of a child is about \$4,000 and I wondered if the federal costs were anywhere near that or whether there was a different cost and I don't know whether you can answer this but I think we are perhaps getting ourselves into a lot more expense than we realize and I don't know how to avoid it really. I know we need to take care of these people and I'm not in favor of an abortion so I guess I will have to go along with the plan but I think it is going to cost more than you think.

SENATOR CULLAN: Well at any rate, Senator, the Department of Health by rules and regulations require or would make an individual woman eligible for the actual medical coverage for the term of her pregnancy anyway so this bill really doesn't deal with that part of it which is...and you are correct, that is the expensive part of it but it is also the most important part because failure to receive competent medical and nutritional coverage during that period of time can result in severe problems with the birth of the child perhaps, deformities and mental retardation and other things, so it is awfully important I think that the state and probably economical that the state actually provide that coverage but that coverage is already called for under the rules and regulations of the Department of Public Welfare and they indicated at the public hearing that irrespective of the outcome of LB 7, they do plan to

continue that medical coverage for pregnant women.

SENATOR KAHLE: Okay, thank you.

SPEAKER MARVEL: Senator Schmit.

SENATOR SCHMIT: Mr. President and members of the Legislature, I rise to speak to the committee amendments. I recognize the problem which faces the committee on Public Health and Welfare and I recognize their attempt to deal with the problem of the pregnant mother and I do not find any serious fault with that portion of the amendment. My objection to the amendment as it stands today, and I will not ask to amend the committee amendment until the bill comes on Select File because I want to visit with Senator Cullan and members of the committee and members of the Omaha delegation who have a deep interest in this proposal so that we do not have any problem and do not cause any additional problems for Douglas County. As you know, since 1975 I have written and rewritten the laws on child support many times. I have placed upon your desk a variety of material that will tell you some of the facts relative to the issue as it stands now. I guess one of the things that bothers me more deeply than anything else is the lack of our ability as legislators to secure the necessary, the accurate and the complete information as it pertains to child support. We are being told now that unless first of all, we pass this bill, that the state will lose certain ADC funds because the federal government passed a bill which said that first of all there was going to be a 10% collection fee charged to the custodial parent. If we don't provide for that we are in trouble with the feds. Well let me tell you this. As I told the members of the committee yesterday the federal government is embarrassed with that bill and if you will read the material I have given you you will know why. They now propose to amend that bill as soon as they possibly can to shift the 10% collection fee of the custodial parent to a 6% fee on the, pardon me, from a 10% of the noncustodial to a 6% fee of the custodial parent. Now as the Chief Justice pointed out yesterday the people they expect to assess this fee against are not paying anyway. So if I owe \$10,000 child support what do I care if they charge me another 10%? I haven't paid the first \$10,000. Senator Higgins has pointed out that the figures that show that Douglas County is \$90 million in arrearages on the collection of child support go way back until 1957 whereas the Lancaster County figures would show arrearages only go back to 1975. Now again, it should not be the responsibility of the Legislature to be assured that each and every single county uses

the same set of figures. We ought to be able to compare between Douglas County, Lancaster County and Butler County without having to go through statistics to do it. The point I want to make is this, that Douglas County is way, way behind in the collection of their child support. If you assess this fee as has been suggested by the Public Health Committee and as I believe the Chief Justice understood it, it is assumed that the bill is unconstitutional. That was the first time that I ever sat in the committee hearing and heard the Chief Justice say, we think it is unconstitutional but go ahead and pass it anyway. Usually it is the other way around. The point I want to make here is this, that the people who are most directly involved, number one, the children and the wife, the spouse, are left holding the bag. Now someone says that Douglas County is going to lose \$180,000 if we don't pass this piece of trash as suggested by the federal government this legislative session.

SPEAKER MARVEL: You have one minute, Senator Schmit.

SENATOR SCHMIT: Let me tell you that five years ago we refused to pass a similar piece of garbage mandated by the federal government in the area of pesticide control and we have saved the federal government \$2 million by not having passed it and we have a superior bill. The Nebraska child support collection laws are the most efficient and effective in the nation if they are enforced. The facts are that at the present time it takes a combination of the clerk of the court, the county attorney and the district judge to enforce them. If you have a single weak link enforcement does not take place. We are not requiring the law to be enforced. We should look at that first before we pass any more laws which will not be enforced, Senator Cullan, which have not been enforced in the past and which will be completely ignored once this Legislature packs up and goes back home. So I will offer an amendment on Select File after discussing this at greater length with members of the committee. But I ask you if you will read the material I have given you, ask Douglas County, Lancaster County and your own home county how they handle the situation and come back better prepared to vote on LB 7 than you are today.

SPEAKER MARVEL: Senator DeCamp. Senator VonMinden.

SENATOR VONMINDEN: Mr. Chairman, members of the body, I rise to oppose this amendment. I don't know how many senators in here know that there is no uniformity in our state law pertaining to ADC across with the states. I don't know how many senators know that in the State of Iowa

that you cannot draw ADC for any child that is not born, so consequently what is happening in two of my counties in my districts the mothers in Iowa are coming across in Nebraska and making residence. That has no bearing on the ADC but it does on the medical. As most of you folks know most of the ADC people there isn't just one child, there is three and four and five and why these people keep getting this way sometimes we don't know but those same kind of people don't take care of their kids very well and consequently they need a lot of medical care and they do get the medical care. In the counties we had to take up the 14% out of the counties and in Dakota County the burden is getting almost unbearable. I also want you senators to know in the State of Iowa they can't draw ADC if they have a husband living in the home and in Nebraska we do so we are being burdened there again. Again I wish to oppose the amendment.

SPEAKER MARVEL: Senator Labedz.

SENATOR LABEDZ: Thank you, Mr. President. First I want to say that I appreciate the members of the Public Health Committee for advancing my amendment unanimously from the committee but I also want to say that I object very strongly the fact that Senator Cullan mentioned that he would be writing a letter to the Governor recommending that we decrease the ADC recipients \$5 in order to pay for this. And to Senator Kahle I might mention the fact that you said that it might be a lot more expensive than we actually realize now today but let me remind him that we have been paying the pregnant women since 1975 so the figure that we got from the fiscal office of \$225,000 for the balance of this year, I am assuming is correct, and I can't see where there would be additional expense if we have been doing it since 1975. In 1975 after the Supreme Court decision held that it was a state option whether the unborn children for the determination of ADC payments should be made, the State Welfare Department chose to drop the unborn children and at that time Senator Steve Fowler successfully amended LB 397 so that Nebraska continued to recognize the unborn children as dependents for ADC payments and I would like to give just one quote because I believe Senator Fowler did such a splendid job when I read the past debate where he said that he would like to make it clear, "that an unborn child would be counted as a dependent child so that a pregnant woman who is eligible for ADC would receive payments to meet those costs of the pregnancy." I believe that statement in itself proves, and I thank, Senator Fowler, I wasn't here in 1975, but I certainly would have agreed with him that a pregnant woman, if she

meets the requirements of low income should be paid the amount specified by the Department of Health and Welfare. I think there is a strong legislative policy in the State of Nebraska recognizing the rights of the unborn child especially as far as ADC payments are concerned. I really appreciate and strongly support Senator Johnson's facts that he brought forward, that there is going to be a savings. We have already, with the federal cuts, are hurting the ADC recipients. I don't think we should go further and reduce their payments by an additional \$5 and I think he quoted you some figures and I thank Senator Johnson because I had not thought of all of that this morning and there is going to be a saving and I don't think you should penalize the pregnant women and I know the ones that received the payments since 1975 certainly appreciated the help they got from the state and they were able to carry their child to a full term with the help of the state and I oppose writing any letters of recommendation to the Governor or to the Public Health and Welfare. I would prefer to go with an A bill as Senator Cullan suggested we may have to do. Thank you.

SENATOR HIGGINS: Mr. Speaker and Senators, I am reading this article that Senator Schmit put out and I want to go through it a little bit more in detail with you because it gives a little bit more of the facts about Douglas County and I think it is important that you understand that if we don't comply with the federal law, which I am in full agreement with Senator Schmit and Norman Krivosha, the Chief Justice, that this 10% fee is ridiculous and the Chief Justice said yesterday in the hearing that he fully expects the federal government to probably do away with that 10% fee because they have already begun to realize how ridiculous it was. But for the time being, right now, we have got to go with the federal government or this is what is going to happen in Douglas County and if it happens in Douglas County, eventually the state is going to be picking up welfare. Douglas County's office of Child Support Enforcement which collected over \$3 million in delinquent payments from parents last year could be disbanded if we don't go along with the federal regulations. Now this year they took this new office of Child Support Enforcement and where the Department of Public Welfare in Douglas County used to work on it, they split it and the Department of Welfare only goes after child support for women on ADC. But this special Child Support Enforcement that is 75% funded by the federal government, a year ago 800 cases were turned over to this office. Now the case load is 3,200 cases. We are talking about nonADC child support that the Child Support Endorsement (sic.) office takes care of and they are getting around 150 new cases a month.

This is the part that I think is important. Collections increase. Since they split these two offices in Douglas County collections have risen from around \$48,000 a month last year to more than \$400,000 collected in October this year. Now this is taken, I presume, from the World Herald that Senator Schmit put out. So what we are saying to you is, if we don't pass this bill we are not going to be able to keep that staff and we are not going to have the child support enforcement law and there is going to be millions of dollars a year that we are not going to collect in child support, just for spouses who have children that are not on ADC. So if we don't collect it the next step is they are going to go on ADC and if you just want to talk about this past year let me ask you this. If I told you I would give you \$3,103,700 if you would give me a \$180,000, would you take it? Well that is what it was last year. But this year alone or in October alone they collected \$400,000 in child support payment on children who are not on ADC and next year if the federal government or next month decides that they have ended up with egg on their face with this stupid 10% fee, if they wipe it out, we can wipe it out too because the way the amendment is written is it is going to conform to federal regulations. If the federal regulation does away with the 10% fee then it is automatically done away with the Nebraska. And I admit, I said it at the hearing yesterday, if a man or woman isn't going to pay child support how are you going to get the 10% fee so it doesn't even make sense and I think the federal government has realized now that it doesn't make sense. Let's at least for the time being, conform to the federal government regulations and keep that money coming in here so that we don't have those people going on ADC who are now paying child support thanks to this federal program that is 75% funded.

SPEAKER MARVEL: Your time is up.

SENATOR HIGGINS: Thank you, Mr. Speaker, and thank you, Senators.

SPEAKER MARVEL: Senator Haberman.

SENATOR HABERMAN: I call the question.

SPEAKER MARVEL: The question has been called for. I'm sorry there is already some...in order that we have to take up before we take up your motion. So I will recognize first of all, Senator Schmit. Senator Haberman, we will get back to you. Senator Schmit, you have the floor.

SENATOR SCHMIT: Mr. President and members of the Legislature,

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LB 7

I would move to divide the question to vote on the committee amendments in two portions, to vote first on the portion that has to do with the ADC payment to the pregnant mother, lines 1 through 23 on page 1 of the committee amendment; secondly, to vote on page 2, lines 23, I believe, through 27 and lines 1 through 12 on page 2.

SPEAKER MARVEL: Are you through, Senator Schmit?

SENATOR SCHMIT: Mr. President, members of the Legislature,

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I would like to give my reason if I could for asking for a division of the question. May I proceed? Very well. As I said earlier and as I testified before the Public Health and Welfare Committee, I have no objection. I support Senator Labedz's motion entirely. I think it is in line with good common sense. It is in line with good dollars and cents reasoning if nothing else if you want to forget all sense of social responsibility. I support that amendment. I think it should pass. Number two, I oppose the second amendment. Now Senator Higgins has said that we should not take the risk of losing that hundred and eighty thousand dollars of federal money. If necessary we need to pass a bad law because the federal government passed a stupid law but, ladies and gentlemen, we do enough foolish things legislatively anyway unknowingly. Again, I do not condemn the Congress for having acted in haste in an attempt to satisfy the President to provide for a 10% collection fee but I will tell you right now and if you will pick up the material I gave you I can assure you that they will never ever enforce that portion of the law. It is being suggested, it is being recommended that they ignore it. So the Nebraska Legislature will be, since we are in special session, have the dubious honor of having taken an action which is absolutely, totally on the face of it, unconstitutional, and which cannot be enforced and will not be enforced and which the Chief Justice said they would not enforce. Now we have been told that the reason Douglas County is so far behind in the collection of their child support is because they are overworked and do not have enough manpower. Well this provision requires the clerks of the court to begin to record that 10% collection fee each month. That provides additional work for the clerks of the court. They already can't take care of the work they have got. Why add another responsibility to it when they are not taking care of the ones they have? And we can argue here all day about how much money is outstanding. The \$3 million that was collected in Douglas County last year represents a portion of a little over seven and a half million dollars of delinquency child support collected statewide. Now we all know that the vast majority of that, because of the population of Douglas County, is collected in Douglas County or should be. But Douglas County does not collect the majority of that. It is collected statewide. The point I have been trying to make since 1975 B.H., before Higgins, is that we are not getting this job done. We are not getting it done so we add another stupid piece of legislation because somebody else was foolish. Now I am saying, I don't claim to be an expert on any area of the law but if there is anything that I know a little bit about it is the child

support process.

SPEAKER MARVEL: Senator Schmit, can we go back now to dividing the question?

SENATOR SCHMIT: And I am asking you at this point in time then to divide the question to give us the opportunity to more fully explore with the members, and I don't challenge anyone's sincerity, but to give them a chance to more fully explore the problem as it faces us today and if in the discussion that ensues, I can't convince you, then I will surrender it but I do not want to vote on the two together. Thank you very much.

SPEAKER MARVEL: Okay, we have looked this over and have discussed the matter with Senator Cullan and it is my understanding he is in agreement, so the Chair rules that the question can be divided. Items one and two are considered as one and item three and four are considered as the second part. Okay, we are ready for item number one and the Chair has got one, two, three, four, there are at least...there are about six or seven lights. Excuse me? Number one. Okay, Senator Haberman, do you wish to speak to the division, either on the first one or the second one?

SENATOR HABERMAN: No, thank you. I will just wait and call the question on either one of them.

SPEAKER MARVEL: Senator Chambers, do you wish to be recognized? You are on the list.

SENATOR CHAMBERS: What is available for us to discuss at this point? Can we discuss the amendment itself or is this only on the issue of dividing the question?

SPEAKER MARVEL: Mr. Clerk, do you want to respond.

CLERK: Senator, the question has been divided. The Chair has ruled that way. So the body is now considering committee amendments one and two as a package, okay, on the hand-out that you have on your desk and I believe that that is the portion dealing with ADC, the funding mechanism... (inaudible)...trimester...

SENATOR CHAMBERS: So that can be discussed now separately from the other half?

CLERK: ...child support collection.

SPEAKER MARVEL: Yes, they are separated.

SENATOR CHAMBERS: And I meant I can discuss that now?

SPEAKER MARVEL: Yes. We are on the first one.

SENATOR CHAMBERS: And I will be brief, Mr. Chairman, because those people who don't have enough feeling to accept this amendment based on what has already been said will not be persuaded by anything I would say but there is some matters that I have to get into the record. That is why on a lot of these issues I speak, it is the only reason in this body that I will speak on some issues. I hope that what I heard about Senator Cullan trying to get the Health and Welfare Committee to write a letter to the Governor is untrue so since I believe in going directly to the source, I would like to ask Senator Cullan a question. Senator Cullan, briefly, if it is true, and I know that it is not, you intend to write such a letter, could you tell me what you would put in that letter if you were going to write one?

SENATOR CULLAN: Senator Chambers, at this point in time I am going to get some additional information from the Department of Welfare to see if what Senator Johnson has said is accurate, whether or not the cuts that have already been made in ADC are sufficient to fund the expanded coverage that we are talking about here. If that is the case, then perhaps it is not necessary to lower ADC funds but if there were going to be a fiscal impact and it were not possible to obtain funding otherwise, I would recommend a cut in the basic ADC program in order to fund this part of the program because I think this part of the program is important.

SENATOR CHAMBERS: Thank you. Mr. Chairman, I can't believe this session. I sat up in my office and listened to Senator Cullan talk about a friend of his who died of cancer and I thought Senator Cullan was pretty sensitive but in view of this I am beginning to wonder if that is not a ploy to play on people's sympathy. I have seen hungry children, Senator Cullan, and when we can pretend to be so sensitive and concerned about those who don't even live in this world yet, that we will take the little from those who actually live here, I say that principles are distorted and we are not looking at human beings in children but some abstract notion of some particular religious persuasion. I think it is cruelty par excellence to say you are going to pit one group of poor hungry people against another group, an inchoate group at that. I am flabbergasted. Do you know what I wish today? I wish today that I were a Christian who believed in everything that the Christians claim Jesus taught in the Bible stands for because then I could call fire and brimstone down on the head of everybody in this place who would accept what Senator Cullan is talking about. These are the kind of heartless practices that made Jesus say the day will come when not one stone of the temple will-

remain on the other because there was hypocrisy. There was the pretense of being concerned about people but the plight of one group was played off against the plight of another group who were similarly situated, all for the benefit of certain people...

SENATOR CLARK PRESIDING

SENATOR CLARK: You have one minute left.

SENATOR CHAMBERS: ...who were in positions to exploit those people. I am sorry that I voted for that amendment this morning talking about the cancer because I see we are just trading in livestock today. I thought we were talking about human principles. If I get a chance on Select File I will try to strike that amendment and I am going to play the game according to the rules now and the only rule of this game is that there are no rules. So if you are in a game where people are not gambling but everybody is cheating and you don't play that way too, you are not a gambler, you are a fool. I was suckered, I was snookered this morning and I allowed my sympathies to be played upon but since those for whom I care receive no consideration from this body, those for whom others care will receive no consideration from me.

SENATOR CLARK: Senator Kilgarin. Senator Higgins. Not here? Senator Koch.

SENATOR KOCH: Mr. Chairman, I move the previous question.

SENATOR CLARK: The question has been called for. Do I see five hands? I do. The question is, shall debate now cease? All those in favor vote aye. All those opposed vote nay. Record the vote.

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

SENATOR CLARK: Debate has now ceased. Senator Cullan, do you wish to close?

SENATOR CULLAN: Just to make it clear what the amendment is about. All the amendment does is to ensure that benefits are available to pregnant women as soon as the pregnancy is medically verified and unborn children shall be eligible for ADC benefits. State funds will be used to pay for those persons who do not meet federal qualifications. In other words, the federal government will pay for benefits for the mother in the third trimester and the state will pick up coverage for the child through the entire term of

the pregnancy and for the mother in the first and second trimesters after the pregnancy has been medically verified. Medical assistance will be available to women who meet ADC standards as soon as the pregnancy is medically verified. Again, the \$5 per month reduction is not a part of this package. That is simply an idea of my own that, Senator Chambers, will probably meet with about as much success with the Department of Welfare as it has met with you but that is not a part of this package. This package is for expanded coverage in those particular areas. I have also...in response to the question that Senator VonMinden raised and I think it is only fair to tell the body something that I learned just a few minutes ago. The State of South Dakota, Iowa and Kansas **are moving** in just the opposite direction of the State of Nebraska is moving in this particular regard. In other words, it is my understanding from information I have just received from the Department of Welfare, that, in fact, they are not providing coverage for pregnant women or unborn children at all and so the problem that Senator VonMinden referred to earlier is one that will probably increase rather than decrease in the future both as the result of this bill and certainly as a result of the changes in federal legislation at any rate. So I just thought it was good to bring that additional piece of information to the Legislature. Again, to reiterate the \$5 per month thing is simply an idea of mine and is not a piece of this legislation.

SENATOR CLARK: Just so everyone will know, we are on the first part of the divided question on the support of the pregnant women. All those in favor of the motion vote aye. All those opposed vote nay.

CLERK: Senator Clark voting no.

SENATOR CLARK: A record vote has been requested. Have you all voted? Senator Labedz, for what purpose do you rise?

SENATOR LABEDZ: I would like to have a...just a minute...that's it.

SENATOR CLARK: Have you all voted? Record the vote.

CLERK: Mr. President, Senator Johnson requests a record vote. (Read record vote as found on page 78 of the Legislative Journal.) 26 ayes, 15 nays, Mr. President, on adoption of the first committee amendment.

SENATOR CLARK: The motion passed. We are now on the

second half of the division. Senator Cullan.

SENATOR CULLAN: Mr. President, members of the Legislature, just to reiterate what this particular division...what this particular part of the amendment does, the federal government requires in the same bill that the next time the Legislature convene, they change the loss as far as collection fees for individuals who have delinquent child support payments are concerned. The amendments which we make, make a couple of changes in the proposal as it was submitted from the Department of Welfare. First of all, in the initial draft, a 10% fee was assessed only against those non...only against the parent who did not, who was delinquent in the child support and if the family was a nonADC family. We made, the amendment changes that so that the collection fee, the 10% collection fee is applied irrespective of the fact that there is an ADC family involved so the 10% collection fee would apply across the board. That was done because we could see no logical reason the collection fee to be assessed in one situation and not in the other situation. The other change that we made was simply to change the word, ensure that they were delinquent child support payments that we were talking about rather than just child support payments that were due. That is just a minor wording change that I think clarified it. I would agree with Senator Schmit that what the federal government is telling us is simple. They are telling us that we will lose \$1.6 million dollars in this program if we fail to pass this bill. Admittedly this language is constitutionally suspect and probably is unconstitutional on due process grounds. Senator Schmit I think is absolutely correct. The federal government is trying to tell us to pass an unconstitutional bill or to lose \$1.6 million in federal funds and I agree with Senator Schmit that that is a ludicrous proposal but I also agree with the point made very eloquently by Chief Justice Krivosha yesterday that the \$1.6 million will probably be lost and if you don't believe what the federal government is telling us, just visit with a few of the 12,000 PATCO people who decided that the federal government wasn't serious when they talked to them. So I personally would urge you to adopt the amendment.

SENATOR CLARK: I would like to recognize Laura Olson from St. Paul as a guest of Senator Wagner. I think she is under the South balcony. Would you stand and be recognized, please. She's right back there in his seat. Also we have Ann Hardy Stratton sitting there with Senator Haberman. Welcome to the Legislature. Senator Haberman, for what purpose do you stand up? Because you don't have a place to sit down?

SENATOR HABERMAN: May I have a point of order, please?

The last vote was on dividing the question. Is that right?

SENATOR CLARK: No, the last vote was the acceptance of the first half of the division.

SENATOR HABERMAN: I believe then, Senator Johnson, didn't he have a request up there?

SENATOR CLARK: No.

SENATOR HABERMAN: Didn't he have a request up there? For a record vote, a roll call vote?

SENATOR CLARK: I don't know. Pat, did he have a request up here? He wanted a record vote. He got that. It will be recorded in the Journal. Is that what you wanted? Fine.

SENATOR HABERMAN: Thank you.

SENATOR CLARK: The next speaker is...the Chair recognizes Senator Schmit.

SENATOR SCHMIT: Members of the Legislature, it may very well be that in the attempts of the committee to be reasonable and that is what they are trying to be, and to be as close to being constitutional which makes good sense, and also in order to be as close to good law as they can be, that they have thrown themselves out of compliance with the federal law. Because according to the federal government at the present time, the federal regulations of the law have not yet been published. So we are being asked to enact legislation here on legislation for which the regulations have not yet been published. Number two, the federal authorities do not know yet, and we have contacted them repeatedly, they do not know yet whether the law applies to all child support delinquencies or only... rather to all child support collections or only to those that are delinquent. The federal authorities do not know at what time a payment becomes delinquent. They had not decided yet. When does a payment become delinquent? There is uncertainty as to whether state law should include all collections or only the ADC children. That uncertainty still has not been resolved on the part of the federal government. The office of the Child Support Enforcement in Washington has indicated to the APWA that they are not enthusiastic about enforcing this law and are seeking a moratorium until this law can be clarified. Again, I agree with Senator Cullan in all fairness. I warn you that if Mr. Stockman looks for an excuse to cut federal funds, he may very well cut federal funds to Nebraska if

we fail to pass a piece of foolish legislation to correspond with the foolish legislation passed by the federal government. I pointed out also that in the past Nebraska has defied the federal government and we have had a better law. We have had a lower cost law and we have had a better program. And I predict that the day will come when the federal government will attempt to get out of some of this monkey business. As Senator Chambers pointed out yesterday in his testimony, the Reagan administration has argued long and eloquently about getting off our back. They are coming to Nebraska and telling us what kind of a law we need to pass when if you will check with any state in the nation, any federal government regulator, any federal government official responsible for the collection of child support, he will tell you that the Nebraska statutes are superior to any. In all fairness to the Chief Justice, instead of bemoaning the fact that he is going to lose a million, six hundred thousand bucks he ought to direct his District Court judges to get off their horse and on the bench and collect the child support. A truck driver friend of mine last week, I got a call from his boss. He said, "Get down to the City-County Building and bail him out of jail. He has got to have a \$50 cash bond because he had an overweight problem with his truck." He ignored the...

SENATOR CLARK: You have one minute left.

SENATOR SCHMIT: ...He ignored paying the fine and he very foolishly came out to ADM and they dragged him out of the truck and took him down to jail and firmly deposited him there until someone made the \$50 bond. Now if you follow that kind of procedure with this other situation you wouldn't need to worry. According to Nebraska law, if the law is followed you cannot possibly be more than thirty days behind on the payment of child support. I am going to ask you again, I would hope you would hold up this amendment because at the present time it makes no sense. The Nebraska Legislature will be embarrassed. It is not going to be the first time but I am warning you in advance, you just as well spare yourself the embarrassment of enacting a law because an eloquent Chief Justice said we are going to lose a million, six. Mr. President, members of the Legislature, I ask you not to advance this portion of the committee amendment.

SENATOR CLARK: The Chair recognizes Senator Wesely. We have only heard one person on this. I don't think you would want to cut it off yet. Senator Higgins.

SENATOR HIGGINS: Senator Schmit and I both agree on child support, right, Senator Schmit? We discussed this the other night in your office and we both agreed that we have

got to get more money in on child support and thereby get more people off of welfare and we also discussed farmers and the rain coming down and the crop being good and then the prices going down and I said to Senator Schmit then, I said, "Loran, I think you farmers are the biggest crap shooters in the world. You have to worry about the weather, you have to worry about the price of corn." I said, "Why don't you just take your money and go to Vegas and end your misery quick?" Now this is November 4 and incidentally, my fellow freshmen senators, this is the anniversary of our election to this august body one year ago today. November 4 until the next time we convene January 5, 6 or 7 we are talking about two months. Senator Cullan agrees with Senator Schmit. I agree with Senator Schmit. The Chief Justice agrees with Senator Schmit that the federal government doesn't know whether they are on foot or on horseback but hopefully within two months they will know which way is up or down. Now if you want to shoot craps, Senator Schmit, with one million six hundred thousand dollars coming into the State of Nebraska, rather than wait just sixty days, that is your prerogative. You are saying we are all going to be embarrassed. For one million six hundred thousand dollars I will turn red anytime. I am just asking you, senators, bear with us, go along with these federal regulations for two months. Come January when the federal government really comes down and says, "What is a delinquent child support payment and what isn't," Senator Schmit can introduce a bill regarding this 10% and I will support it but right now don't let's shoot craps with one million six hundred thousand dollars of the taxpayers money. We are going to get this from the federal government and like I said, just last month Douglas County collected \$400,000 in child support and that wasn't the ones on ADC. So if we are doing that well, like our good friend Senator Warner says, "if it ain't broke, don't fix it." So I am urging you, please go ahead and vote yes on this. Thank you, Senators.

SENATOR CLARK: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman, I am with Senator Schmit on this all the way. There was a king who said, "My kingdom for a horse." There is a Chief Justice who has said, "My principles for a million dollars," so as has been said before, you know what some people are, you establish the price. From his own mouth he stated that although this law would fly in the face of every principle that a judge ought to hold dear for one million dollars, you sell it. Well maybe if I get a hard enough case before the judge then maybe I can raise a little money and influence the outcome of the case because at least I would only be asking for something to

impact in my individual situation, not on the entire citizenry and the integrity of the Legislature itself. I never thought the day would come when I would see a Chief Justice before a legislative committee say, "Enact a law that is unconstitutional for money." There was another bill some years ago that Congress wanted to compel the states to enact. It had to do with putting a helmet on people's heads when they ride motorcycles and I successfully fought to get rid of that telling the members of the Legislature that there are other states who don't want helmet laws. Among them were California, Illinois and the big states, so if it were a matter involving only Nebraska then you could see the federal government popping a little pointy head state like this aside the head with a ruler and saying, "Get in line." But as long as the big states and a number of them did not want to be encumbered in that fashion, Nebraska was safe hiding under their coattails so I was able to shepherd Nebraska legislators under the coattails of the other states. The helmet law was not enacted or if it was, we repealed it and no funds were withheld. This provision is even worse than that because you could have discussions about personal rights on the helmet bill but this one is patently unconstitutional. So I can see no justification for the Legislature enacting it. One other point, I have heard Senator Hefner, I wish I could imitate him, say, "We've got to get the government off the backs of the people," and everybody around here when Reagan got elected were saying that and I tried to make the point before the committee yesterday. Well if you want the government off your back, don't let the man who said he is going to take the government off your back put more of the government on it and if he tries, then all you have to do is tell him that he persuaded you during his campaign and his honeymoon that the government ought to be off the state's back and based on his persuasiveness, you are not going to knuckle under this time. Since we have an unconstitutional measure I don't see any reason in the world for this Legislature to enact it. So, let us take a chance. Let us salvage the integrity of the Nebraska judiciary. Let us save the judge from himself. Let us save the Legislature from falling into a pit which may be difficult to extricate itself from. I am opposed to this measure and I am very much in favor of people paying child support. I pay child support. The children are mine. They are my obligation and responsibility. If I don't pay, I should go to jail. That is what jails are for, human beings. And I would hold the key to my cell. I don't pay child support to stay out of jail. I pay because I am concerned for my children but if I weren't concerned enough for them, there ought

to be an incentive which is very real in its consequences and there is nothing like jail to persuade somebody that you are serious. The jails are there and I know of instances where individuals were put in jail and allowed to get out and work and a portion of their money was turned in to pay the child support. Had the judge only said...

SENATOR CLARK: You have one minute.

SENATOR CHAMBERS: ...we are going to tack 10% on, that would have meant nothing. You have got to have a system which has an enforcement procedure that is effective. The only procedure which is effective is that which accomplishes its intended goal. The goal is to have money paid in by the parent who is charged with these payments so that the children will be taken care of. I think this unconstitutional provision will not lead to enforcement but it can lead to what I consider to be a shameful position for this Legislature to take. So uphold the tenth amendment which reserves certain rights to the state and tell Mr. Reagan...

SENATOR CLARK: Your time is up, Senator Chambers.

SENATOR CHAMBERS: ...that you are going to be a better practitioner of what he preaches than he is himself.

SENATOR CLARK: Senator DeCamp.

SENATOR DeCAMP: Well, Mr. President, Mr. President...

SENATOR CLARK: We have an amendment to the amendment here.

SENATOR DeCAMP: Now, Marge, don't get all pouty.

CLERK: Mr. President, Senator DeCamp would move to amend the committee amendment by inserting that Section 3 shall become operative on February 15, 1982.

SENATOR DeCAMP: Mr. President, as I understand one of the big problems is, we have no rules and regulations to know what we are going to try to comply with and it just occurs to me we have to pass the bill with the emergency clause as I read the federal law and we can do that. You'd pass 99% of the bill or 90% and you would just have this one portion where there is doubt because we don't have any rules and regs. You would have it become operative on just that one section, operative on February 15, 1982. You are going to be back in session then. You would not be risking, I would not think, any loss of funds. At the same time you would be in a position to make corrections

when you learn what the rules and regs are that they are going to be issuing. I suspect a lot of things are going to be happening between now and January on this federal legislation and I hate to say it, but this is just kind of that middle of the road course where everybody could be happy and you could still pass the bill and so on. It would just take the one part in controversy where by Senator Schmit's statements, by Senator Chambers' statements, there is some constitutional questions, particularly where we don't even know what the rules are and it would say, "this little piece becomes effective on February 15, 1982." Just a thought as a potential solution to the problem.

SENATOR CLARK: Senator Cullan.

SENATOR CULLAN: Senator DeCamp, you really try to be helpful sometimes and we really sometimes don't appreciate your efforts to be as helpful as you would like to be. What you are doing is exactly the opposite of the approach that would probably be helpful and that is to make the effect, is to put an automatic repealer on this particular section. That is something that would accomplish the objective but what you are doing would make sure that we lose the federal funds and then make the bill effective after we no longer want it to be effective. So I think Senator DeCamp, his attitude is wonderful. It is that his approach is just a reverse of what would be appropriate.

SENATOR CLARK: Senator DeCamp, what was....?

SENATOR DeCAMP: Mr. President, I am never one to want to cause trouble. I thought I offered you a solution. I will withdraw the amendment and make a public bet that you are wrong. Schmit is right, Ernie is right. It is blatantly unconstitutional and you will get it shoved down your throat eventually but I will withdraw the amendment. We will see who is right.

SENATOR CLARK: Senator Higgins, did you want to talk?

SENATOR HIGGINS: Senator DeCamp, I appreciate your withdrawing the amendment. I just want to add one thing. If we pass this amendment it isn't going to be the first time the Legislature of Nebraska ever passed something that was later found to be unconstitutional and I don't see why this special session should be any different from previous sessions.

SENATOR CLARK: Is there any further discussion?

SENATOR HIGGINS: No.

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SENATOR CLARK: If not, the question before the House is the adoption of the second half of the divided question. Senator Cullan, did you want to close?

SENATOR CULLAN: Mr. President, Senator DeCamp I think had an approach that may be workable, just the reverse of that, and that would be to enact Section 3 but amend it so that it has an effect...it would be repealed perhaps at the end of next legislative session so that we wouldn't have something we believe is unconstitutional in the books for an unnecessary period of time. So I will work on that for Select File but for the meantime I would urge you to adopt this language which does make some technical corrections in the amendments and then, hopefully, we can retain the \$1.6 million that we would lose if we took Senator Schmit's proposal so I would urge you to adopt the amendment.

SENATOR CLARK: The question is the adoption of the second half of the divided question. All those in favor vote aye. All those opposed vote nay. Have you all voted? Once more, have you all voted? Record the vote.

CLERK: 25 ayes, 14 nays, Mr. President, on adoption of the second committee amendment.

SENATOR CLARK: The motion carried. It is passed. The Clerk wants to read some things in.

CLERK: Mr. President, your committee on Judiciary gives a report regarding confirmation hearing held. (See page 79 of the Legislative Journal.)

Mr. President, Senator Schmit would like to print amendments to LB 7. (See page 80 of the Legislative Journal.)

Mr. President, Senator DeCamp would like to print an amendment to LR 4. (See page 80 of the Legislative Journal.)

Mr. President, Senator Haberman offers explanation of vote.

Mr. President, a new resolution. (Read LR 5 as found on pages 80-81 of the Legislative Journal.) Pursuant to our rules, Mr. President, that will be laid over.

SENATOR CLARK: Next amendment.

CLERK: Mr. President, Senator Chambers now moves to amend the bill. (Read Chambers amendment as found on page 81 of the Legislative Journal.)

SENATOR CLARK: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature,

this is a proposition which I think requires some tightening up and the Legislature should define what participation in a strike means. If you are going to say that children will be denied assistance because the parent is participating in a strike you should define the conduct that the parent should be participating in which would result in the loss of assistance to the children. On a strike the individual has no choice many times as to whether he or she goes out. If a vote is taken and a strike is called everybody has to go out on strike. A picket line is set up and sometimes it is at great peril that a person tries to break through that picket line. I do not think we should require a woman or even a man to risk physical injury or in some cases, destruction of property and even loss of life simply to remain eligible for assistance. Were that person interested only in trying to stay on the public dole, he or she would not be working. So the person first of all is working a job to try to better his or her situation so that public assistance can be dispensed with. So if we are going to say that participation in a strike can cause a person to lose this assistance, for the children remember, then we ought to define the conduct that this person is engaged in so that he or she is punished or penalized only for those things that he or she is responsible for. Since a determination cannot be made by that individual whether or not there will be a strike, we should hold the person accountable only for their active participation in it. So what this amendment does is not to change what the federal government is requiring. We are simply defining what that participation consists of. So I hope you will look at the amendment and adopt it.

SENATOR CLARK: Is there any discussion? If not, the question is the adoption of the Chambers amendment. All those in favor vote aye. All those opposed vote nay. Have you all voted? The excitement doesn't seem to be too great on this. I hope you will call in a vote. Senator Chambers. Do you want a Call of the House? A Call of the House has been requested. All those in favor of a Call of the House will vote aye, opposed vote nay. Record the vote.

CLERK: 14 ayes, 0 nays to go under Call, Mr. President.

SENATOR CLARK: The House is under Call. All unauthorized personnel will leave the floor. All senators will return to their seats and check in please. Did you want a roll call vote? Senator Kremer. He is excused. How many are excused? Senator Haberman, would you check in please. Senator Landis. Senator Chambers, do you wish to go ahead? He wants a roll call. Call the roll.

CLERK: (Read roll call vote as found on pages 81-82 of the Legislative Journal.) 18 ayes, 23 nays, Mr. President.

SENATOR CLARK: The motion failed. The next amendment please.

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

SENATOR CLARK: Senator Cullan.

SENATOR CULLAN: Mr. President, I move the bill be advanced.

SENATOR CLARK: Senator Wesely.

SENATOR WESELY: Before we take a final vote I would like to give you one last bit of information that we talked about earlier about the increased costs by taking care of the ADC mother when she is first pregnant. That will cost about \$225,000. Now I have had the fiscal office working on this. They will have a memo ready any time now which will show that we will save from other parts of this bill about \$245,000 so that will be about as much as we are going to need to pick up this extra cost of providing through state funds for the pregnant mother so we should be able to, through this bill, to come out about \$20,000 ahead at this point with the amendments we have now adopted and to pay for the increased funds on one hand and do that through the savings we make on the other hand so that the nineteen and twenty year olds who are not going to be receiving benefits through another amendment on the bill are going to save that amount of money that we are going to now spend for the pregnant mothers to cover their costs. So what I am saying is, there may be no need at all for any sort of discussion on a \$5 decrease on ADC benefits. We may be able to within the bill itself cover the costs of the increased support.

SENATOR CLARK: Senator Chambers, on the advancement of the bill.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I am going to try that amendment again with some new language on Select File because there is already a similar provision with reference to unemployment compensation. You are disqualified for benefits in the case of a strike but only if you are participating by financing or actively pushing the strike forward. So if you are not going to accept that kind of definition for these ADC people who are trying to help themselves, you ought to strike that provision from the unemployment compensation law too, but what I would rather have you do instead of striking it there is make it consistent across the board where whenever you deal with a

strike and the effect it is going to have on a person, it should be the same and the same conditions should exist for everybody. So when it comes to unemployment you are saying that a person is not going to be penalized for something over which he or she has no control but if it comes to a person who is working hard to try and get off public aid, you are saying the mere fact that others will go on strike will disqualify this person. It does not compute and I think by, between now and Select File I will be able to talk to enough of you to change your mind.

SENATOR CLARK: Senator Schmit, on the advancement of the bill.

SENATOR SCHMIT: Mr. President and members of the Legislature, you know sometimes I believe we are like chickens in the barnyard. We take pride in picking on the weakest chicken in the barnyard until it bleeds itself to death and then it eventually dies and we pick on the next weakest one. I guess I would just like to tell the story that my dad used to tell about the farmer who was going to train his horse to....or his mule to get along without eating and he said he was almost successful and he had him down to one quart of oats a day and the stubborn mule died. And I think we are taking a look at something else that is kind of interesting here. We are willing to punish by word and deed the ADC mother. We are willing to punish the children of the divorced parents. We are willing to make them bear any kind of burden. We are willing to tell the ADC person who is on strike that they cannot participate in the strike unless they lose their benefits but it is all right for a district judge, it is all right for a clerk of the court or it is all right for a county attorney to ignore the law passed by this Legislature. It is kind of interesting you see that the higher up the totem pole you get, the more freedom you have to ignore the law and the more freedom you have for selective enforcement. It is a little bit like that truck driver friend of mine that got dragged out of his truck and taken down to the slammer for not paying a fine. Oh, yes, he paid up quickly but if you were to take every single instance of judicial impropriety because of failure to follow the laws passed by this Legislature, we would have to wipe most of the bench clean and start over. But in those instances where the judicial system has functioned they have worked with amazing efficiency. I am afraid, ladies and gentlemen, that if you advance the bill with the section that I oppose in it, you are again sending the wrong kind of a signal to the judiciary and you are not going to get better law enforcement but poorer law enforcement. The Department of Public Welfare was out to Butler County where we have fifteen child support cases, and they were telling the county board that they should participate in this program where federal

funds would come in and help them pick up those five cases where the father was delinquent. If they have extra money or extra personnel they ought to hike them up to Omaha and let John Tomek and Dan Hook and Judge Norton worry about rounding up those five ex-husbands in Butler County. I am going to ask you again to review this carefully. As one of my colleagues told me, "Schmit, if we don't adopt this bill and you are wrong you are going to be the million and six hundred thousand dollar man and have egg all over your face." Well I would rather be in that position than to continually bow to the federal government who is wrong in this instance. They are dead wrong. It is an amazing situation I find myself in where the introducer of the bill, the committee, almost without exception, everyone who supports the bill says it is a pack of foolishness but we have got to buy it anyway. Ladies and gentlemen, I ask you to consider carefully what you are doing. I hope that on Select File maybe we can have something better that will be a little bit more...will make sense. At the present time what we are doing makes absolutely no sense.

SENATOR CLARK: The question before the House is the advancement of LB 7 to Select File. All those in favor vote aye. All those opposed vote nay.

CLERK: Senator Clark voting aye.

SENATOR CLARK: Record the vote. Have you all voted? Record the vote.

CLERK: 30 ayes, 10 nays, Mr. President, on the motion to advance the bill.

SENATOR CLARK: The bill is advanced. Senator Marvel, do you wish to adjourn? Do you have anything to read in, Pat?

CLERK: Mr. President, I have an explanation of vote and Senator Lamb would like to remind the Executive Board that there is a meeting tomorrow at eight o'clock in Room 1520, Executive Board at eight o'clock in 1520.

SPEAKER MARVEL: We plan on adjourning today but you need to understand that there are some amendments to one or two of these bills floating around and, therefore, it is almost impossible to complete the work that would help us maybe get out Saturday. Now somehow or other, we are going to have to break the logjam if you want to move out sometime Saturday. Otherwise it will be the first of next week. Now the agenda at the moment...the schedule for tomorrow is Select File on the two bills. We need your cooperation to get those bills across because there are many of you

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have at this point, it's the plan that we have for the next 12 or 15 months and it is the plan that hopefully will solve the problem. You can only have one leader at a time, that leader at this time is the Governor. We have his plan. I urge you to try it out.

PRESIDENT: The motion then is the advance of LB 8 to E & R for Engrossment. All those in favor vote aye, opposed nay. Have you all voted? We'll give everybody a chance to be on record. Record the vote.

CLERK: 41 ayes, 4 nays, Mr. President, on the motion to advance the bill.

PRESIDENT: The motion carries and LB 8 is advanced to E & R for Engrossment. The Clerk may read some matters into the record.

CLERK: Mr. President, new resolution, LR 6, offered by Senators Schmit, Cullan, Johnson, Chambers, Wesely and Labeledz. (Read LR 6 as found on page 91 of the Legislative Journal.) Mr. President, that will be laid over pursuant to our rules. Also, Mr. President, I have explanation of vote from Senator Haberman. (See page 91 of the Legislative Journal.)

PRESIDENT: I guess we are ready then for LB 7 on Select File. Are there some E & R amendments?

CLERK: Yes, Mr. President, LB 7 was reported to Select File this morning. There are E & R amendments pending.

PRESIDENT: Senator Cullan, will you handle the E & R amendments?

SENATOR CULLAN: Mr. President and members of the Legislature, I move that the E & R amendments to LB 7 be adopted.

PRESIDENT: All right, motion is to adopt the E & R amendments on LB 7. Any discussion? All those in favor of adopting the E & R amendments on LB 7 signify by saying aye. Opposed nay. The E & R amendments to LB 7 are adopted.

CLERK: Mr. President, Senator Schmit now moves to amend the bill and his amendment is found on page 79 of the Journal.

PRESIDENT: The Chair recognizes Senator Schmit.

SENATOR SCHMIT: Mr. President, will you read the amendment, please?

CLERK: Senator, it's the one that says, "strike original Section 3, page 6, strike line 22, renumber the remaining sections".

SENATOR SCHMIT: Is that applicable now based upon the adoption of the committee amendments? I am not sure that that is a correct amendment now, Mr. Clerk. Well, Mr. President, I will speak to the amendment. I will check it out later. I think that....I just want to say this, I have asked to introduce this amendment, and I have introduced this amendment because I believe it is important. It is extremely important that we call attention to what we have done with LB 7. I would have to say that I am terribly disappointed upon the reading the press reports of that action on that bill yesterday. If you would read the paper, you would think that the \$200,000 we are talking about in the area of aid to children was a dominant portion of the bill. The dominant portion of the bill by far is the 10 percent collection fee which is being assessed by the federal government against the child support collection. Mr. Tesar, the Clerk of the court in Douglas County, was here this morning along with a gentleman from the County Attorney's office. We discussed at great length the amount of child support that is outstanding and that has been collected in Douglas County. It is an extremely serious problem for Douglas County. They have collected in the last month I believe about a million dollars. Now they did that with the help of \$180,000 of federal funds, but at the present time, as I pointed out yesterday, no one knows in the federal government whether this 10 percent collection fee is applicable against all child support collected, against the ADC cases or against only those portions which have been under a special category where the ex-wife signs a request for assistance. Now let's just assume for the record that the federal government decides they are going to collect the 10 percent from the total amount. And Mr. Tesar collected about a million dollars last month. That means that a \$100,000 of that might go back to the federal government. It means that if \$12 million is collected, I believe he said last year, Douglas County could well end up paying back to the state and eventually to the federal government \$1,200,000 to maintain that \$180,000 which you have collected in assistance from Legal Services. Now if they really get on the ball and collect \$30 or \$40 or \$50 million, as much as \$5 million may go back to the federal government out of the coffers of Douglas County away from the children who are entitled to it. Now there is an interesting concept in the child support law. I think that very few people here understand that child support is assessed not upon the needs of the children, it is assessed upon the ability of the ex-husband to pay. If you reduce the amount of money that is paid to the mother by 10 percent, does that mean that we have said that the ex-husband is unable to pay the greater amount?

Or do we have to come back and increase the total amount by 10 percent? I don't think there is any way in the world that you can assess, if an ex-husband is supposed to pay a hundred dollars a month child support, that we can tack on retroactively another 10 percent. It is unconstitutional. It won't work. The first time it was tried someone will go to court and you will foul up the entire procedure. Now I understand what you are trying to do, but it cannot be done this way. And I have said many times on this floor the area of child support is complicated at the very best and at the worst it is a total mess. But Nebraska has the best child support collection laws on the books of any state in the nation, bar none. And the federal government has, based upon some of the worst instances, enacted a statute which applies to all of the states and in Nebraska it is going to make a mess of the existing statutes. I am saying that you should drop the portion that has to do with the assessment of the 10 percent collection fee. I am trying to tell you... I am begging you to read the law. I know darn well most of you have not. You have mostly for the most part decided to proceed blindly full throttle over the cliff and when you hit the bottom of the chasm, you are going to wonder what the hell happened to you, and it is going to be too late. I would suggest perhaps as Senator Cullan suggested yesterday that if you don't adopt this amendment, that the very least you do is to put a termination date upon this bill as of next January or February to wipe the mess off the books and then you can take another look at it...if you are really afraid you are going to lose some money. I don't think you are going to lose any money. You are adopting an unconstitutional bill. You are going to create havoc where you already have chaos. You are going to add mess upon mess. The public does not know what you have got. You don't know what you have got, and the press has not told anyone what you have got. I would have to almost say that deliberately we have covered up the major portion of LB 7 from the public eye. When you read a two-column headline that refers time and again to the \$200,000 of money that is being spent on ADC and you ignore, totally ignore the millions of uncollected child support, it is deceptive and deliberately so. Well, ladies and gentlemen, when the chickens come home to roost, you will no longer be able to hide from the facts, the record is going to be clear, the transcript is here for all to read, and I would hope that next January or February when you read the transcript, you are not any more embarrassed than I am forecasting you will be. I am suggesting that we do not pass the bill with the 10 percent collection fee involved in it, and I think that you will agree with me in time to come. Mr. President, I rest.

PRESIDENT: The Chair recognizes Senator Cullan.

SENATOR CULLAN: Mr. President and members of the Legislature, I agree with Senator Schmit to a large extent. I think that this is probably not a wise provision of one which the State of Nebraska would enact were this an area that we had complete discretion in. There are probably many other areas where the State of Nebraska unfortunately follows the mandates of the federal government or faces the loss of federal funds. One that comes quickly to mind I think is Certificate of Need. I doubt that the State of Nebraska would have ever passed that kind of a program but for the requirements of the federal government. But we did it then and I think this is a case where we are going to have to do it again. I agree with Senator Schmit again that the child support laws of the State of Nebraska which were adopted under his leadership should be enforced with all the vigor and all the even-handedness that we can possibly muster in the State of Nebraska, and I would hope that we would have much more aggressive enforcement of the laws which this Legislature passes and means and intends to be enforced. And so I hope that that is something that will be accomplished much more aggressively. From a practical standpoint, I believe that those laws can be enforced better if the State of Nebraska has \$1.6 million from the federal government to subsidize the operation of the county attorneys' offices throughout the State of Nebraska to work on child support, to ensure the kind of enforcement of the laws that Senator Schmit is requesting today. And I agree that if these laws had been enforced as they should be, we probably wouldn't have the problem that we do have. But, again, I would urge you to vote against Senator Schmit's request to strike this amendment. I think that the alternative is to lose the \$1.6 million in aid to the counties...the county attorneys' offices that we do believe we need. So I would urge you to reject Senator Schmit's amendment.

PRESIDENT: Mr. Clerk, do I understand....Senator Schmit, you are going to withdraw and substitute....Senator Schmit.

SENATOR SCHMIT: Yes, Mr. President, I have asked permission to withdraw the first amendment and substitute the correct amendment which is the one the Clerk now has.

PRESIDENT: All right, you are....

SENATOR SCHMIT: The arguments are the same, Mr. President.

PRESIDENT:requesting withdrawal of the original amendment

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that we have been addressing. That is agreed to. The amendment is withdrawn and, Mr. Clerk, will you read the substitute amendment.

CLERK: Mr. President, Senator Schmit would move to strike original Section 3 in the bill, strike committee amendment number 3, and strike line 22 on page 6.

PRESIDENT: Now, Senator Cullan, did you wish to speak to that? You have already in effect spoken to that, so Senator Higgins, you are next. Did you understand the change or the corrected amendment?

SENATOR HIGGINS: No, sir, I don't.

PRESIDENT: Do you wish to have it read again to you?

SENATOR HIGGINS: I would just like to ask Senator Schmit, what is the new amendment going to do?

PRESIDENT: Senator Schmit, would you respond to Senator Higgins as to what this amendment specifically does?

SENATOR SCHMIT: This amendment, Senator Higgins, strikes the portion of the committee amendment which provides for the collection of the 10 percent fee. It is a portion which is in the Journal, 4th day, says strike original Section 3 and insert section as follows. If you have the Journal, I want to strike that portion of the committee amendment.

SENATOR HIGGINS: In other words, you want us to do away with the 10 percent collection fee....

SENATOR SCHMIT: That's right.

SENATOR HIGGINS:that the federal government mandates that we have to have?

SENATOR SCHMIT: That's it, that's exactly right.

SENATOR HIGGINS: If you want to continue to get the money.

SENATOR SCHMIT: That's right.

SENATOR HIGGINS: Okay, thank you, Senator. Mr. President and Senators, I can only reiterate what I said yesterday that we are shooting craps for \$1,600,000 and I know that Senator Schmit does that every time he plants a crop. But this will affect all Nebraskans and I wouldn't want to be in the position of waiting to see what the federal government

does only to find out they do mean business and they will cut us off. Now the figures were erroneous yesterday that we got on how much money Douglas County has collected, and what they have collected they wouldn't have been able to were it not for the child enforcement law that the federal government enacted. And the money is coming, Senator Schmit, 75 percent from the federal government and 25 percent Douglas County puts in. The state is not putting anything into this, but we are going to lose it all if we don't put that lousy little 10 percent in, as Justice Krivosha says is going to end up being thrown out anyway. And just for right now I have the latest figures from Douglas County. From 1974 to 1980 we had 143 percent increase in the collection of child support payments. January through October of this year we have collected \$9,673,694. Now if the federal government is giving us 75 percent of the cost to collect that, even if they ask for 10 percent back, they are still giving us 65 percent. So either way we can't lose. I just have to urge the body to accept this amendment and the next time you look at a pair of dice, think of Senator Schmit, the high roller. Thank you, Senators.

PRESIDENT: The Chair recognizes Senator Wagner.

SENATOR WAGNER: I have a question of Senator Cullan if he is around.

PRESIDENT: Senator Cullan, would you respond to Senator Wagner? Senator Cullan, where are you? Here he is.

SENATOR WAGNER: Senator Cullan, I have....in the amendment that has been adopted that is in the Journal in relation to that 10 percent, can you tell me how the federal government determined that 10 percent was the figure? Do you have any idea?

SENATOR CULLAN: Excuse me, I guess I don't quite comprehend your question.

SENATOR WAGNER: There is a 10 percent collection fee in the amendment that is presently adopted, and Senator Schmit has an amendment there to do away with it. My question is, how was the 10 percent determined? Do you have any idea?

SENATOR CULLAN: The 10 percent is the fee required by the Omnibus Reconciliation Act recently enacted by Congress. Without that language we will not meet the requirements of that act and we will not receive \$1.6 million in funds. So that is required by Congress.

SENATOR WAGNER: Yes, that's not really my question, Sam. Do you have any idea like it could have been 6 percent, 2 percent, 15 to 20 percent.

SENATOR CULLAN: It had to be 10 percent.

SENATOR WAGNER: But you don't have any idea just how they determined that 10 percent? The reason I ask you this is because I think it is kind of an unfair figure to have put in there because if somebody is paying a very minor amount, 10 percent is a little bit. If a person is paying like \$100,000, 10 percent of that is a pretty good sized sum. I have really trouble with the 10 percent. That's kind of why...one of the reasons why I would oppose that amendment.

PRESIDENT: Any further discussion? Senator Schmit, you may close on your amendment.

SENATOR SCHMIT: Well, first of all, Mr. President, I want to say, and I would ask Senator Cullan this question, but I know the answer and I don't want to waste any time asking him, but first of all, I want to call attention to the fact that the committee language does not have federal government approval. In their attempt to make it reasonable and sensible which I commend the committee for, they have drafted language which I believe does not meet the federal requirements. It may very well result in the loss of funds. The reason we do not know if it meets the federal requirements is because at the present time the state does not know what we mean by a delinquent child support. The state has not identified that language. The federal government has not identified at what point support becomes delinquent. The rules and regs are not there. Now this place has a number of intelligent people in it, 48 at least, present company excepted. I would hope...I would hope that you would recognize what you are doing. You are adopting something to meet a federal regulation, the regulations for which have not yet been prescribed. Now with all due respect to the committee, you know, it is an impossibility. The feds have asked you to do something. The feds did not know the Nebraska Legislature was going to be called into special session, as we are. And so here we are attempting to resolve an issue which has not been identified. I want to say also as I said earlier, there is no way in my mind and again I am not an attorney and I cannot speak from the standpoint of having been legally trained, but when a court order issues an order for child support and they set up a hundred dollars per month for a child, for example, there is no way that I believe that a federal law or any other law

can increase that amount by 10 percent without going through the court, the judicial process. Nor can they decrease the amount by 10 percent that goes to the child without going through the court process. If that be true, God help us. The absolute foolishness of what we are doing is so bad, is absolutely so bad that it defies belief. If I were standing up here on this floor trying to argue for an appropriation with that same kind of an argument, I would be laughed out of the room. The Speaker would not even entertain the motion. He would call the guys in the white jackets and haul me away, and maybe I should because I am talking this for 10 years. But I think I am to child support what others in this body think they are to water or to prison reform or something else. And I know a little bit about what I speak. And I just....Senator Warner said, don't use the argument that time will prove me right because he said that hasn't gone over very well this session. I wish he would have told me that ahead of time. Senator Higgins said because of the federal law, we are beginning to collect this money. Now my good friend, Senator Higgins, Mr. Tesar also mentioned because of the statutes enacted by this Legislature we are getting some compliance because the Judiciary has all of a sudden said, we are going to get our knuckles rapped, especially in some areas like...that are critical like salaries if we continue to ignore the collection of child support. The federal government has tried to address the problem wholesale again as always for the 50 states....

PRESIDENT: One minute, Senator.

SENATOR SCHMIT:when Nebraska is leaps and bounds ahead of the other 49. This Legislature is so far ahead of the feds that there is no comparison. So what you are doing if you reject this amendment is you are saying we will go along with the federal government, we have been bamboozled and buffaloes and we are going to buy it. If by the grace of God and the federal government you collect \$30 million, the feds are entitled to \$3 million of it, and you are going to be concerned about that. Ladies and gentlemen, I am giving you the opportunity to do the reasonable thing, the correct thing, and I hope you will. I ask you to support the amendment.

PRESIDENT: Senator Johnson, Senator Schmit was closing. The question then before the House is the adoption of the Schmit amendment to LB 7. All those in favor vote aye, opposed nay. Have you all voted? Only two are excused, Senator Schmit. Senator Schmit, do you wish to Call the.... let it go? All right, record the vote.

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CLERK: 19 ayes, 15 nays, Mr. President, on adoption of the amendment.

PRESIDENT: The motion failed. The next amendment.

CLERK: Mr. President, the next amendment is offered by Senator DeCamp. Senator DeCamp would move to amend by repealing the effective date of 1 March 1981. Yes, sir.

PRESIDENT: The Chair recognizes Senator DeCamp.

SENATOR DeCAMP: Mr. President, I offer this only if there is no objection from the chairman of the committee. I think it is a solution to the problem that Senator Schmit has raised. I happen to believe 100 percent that Senator Schmit is going to be right, but I do not want to play craps with 1.6 million as Senator Higgins says, so I am saying, okay, we humor them until March 1st and then we automatically repeal that particular section. Then we are in compliance now and come January 1 suspect this whole thing will have shaken out, or by February. If we need to do something further, we can. If Schmit's right, it is automatically repealed as of March 1st, just that section. I think it is a reasonable solution.

PRESIDENT: The Chair recognizes Senator Cullan.

SENATOR CULLAN: Mr. President and members of the Legislature, I accede to Senator DeCamp's suggestion in this area. I think it is a good approach. I would remind the body that in order to succeed and not be penalized in this area, this bill needs to be effective, passed with the emergency clause and be effective. I think that this approach is a good one. If we need to deal with the subject again in the next session of the Legislature, we can do that. Just to remind or point out to the Legislature some additional information we have obtained, the California Legislature met in special session, did not consider one of these proposals. It is my understanding that the federal government has decided to take some sort of sanctions against them. So I don't think if we are playing craps as Senator Higgins and Schmit have suggested, we are playing with loaded dice and they are loaded in favor of the federal government. So I think that this approach is a good one and hopefully Senator DeCamp has effectively conveyed his message, or excuse me, Senator Schmit and DeCamp have effectively conveyed their message to the Judiciary, to the Clerks of the District Court of the State of Nebraska and to the County Attorneys of the State of Nebraska, that they want the law enforced, and I agree with that and I hope

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that that message has been adequately conveyed today. Again I urge you to support Senator DeCamp's amendment and then I would urge us to advance this bill and adopt it with the required 33 votes.

PRESIDENT: The Chair recognizes Senator Newell.

SENATOR NEWELL: Mr. President and members of the Legislature, I have a question of Senator Cullan, maybe Senator DeCamp, but first Senator Cullan.

PRESIDENT: Senator Cullan, will you respond?

SENATOR NEWELL: I know there is some magic and some logic in the March 1st effective date of the repeal. I suppose that is to allow us to move the bill quickly through the Legislature if we need, if the federal government is playing hardball. Is that basically the purpose and is March 1st the appropriate time? Should it be a little later because we don't traditionally move bills all that rapidly, etcetera? I want to hear the arguments for the logic in the March 1st deadline.

SENATOR CULLAN: The March 1st deadline was selected by Senator DeCamp, but I think that would give us the opportunity to reenact the statute if that is, in fact, required and if no action has been taken on the federal level. But I think it is a reasonable compromise. If you want to change the date, you know, I have no serious objection to that.

SENATOR NEWELL: Johnny, just quickly...(interruption).

PRESIDENT: Senator DeCamp, will you respond?

SENATOR NEWELL:how secure do you feel about the March 1st....(interruption).

SENATOR DeCAMP: I don't care about deadlines or dates. I thought that was a reasonable date. You would have two months of the legislative session and we do have the short session. I thought it would give enough time. It also was better than April 1st.

SENATOR NEWELL: Yes, looking at Congress' workload and so forth, is that a reasonable time to expect them to make some changes in this law?

SENATOR DeCAMP: I think you are going to see....you are going to see the rules and regs by then. You will know a

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lot of things. You will know whether an injunction has been granted. I think you will know a lot.

SENATOR NEWELL: Okay, very good. Thank you.

PRESIDENT: The Chair recognizes Senator Higgins.

SENATOR HIGGINS: Mr. President, Senators, Senator DeCamp, would you yield to one little question?

PRESIDENT: Senator DeCamp, will you respond to Senator Higgins.

SENATOR DeCAMP: Well, I suppose. Getting between Marge and Schmit is not the happiest place. Go ahead.

SENATOR HIGGINS: Being a freshman and not as astute as you are in legislative procedures....

SENATOR DeCAMP: Not true.

SENATOR HIGGINS: Very true. Why can't we just introduce the bill next January to do what you are suggesting now?

SENATOR DeCAMP: Well, there is a variety of reasons. Theoretically you could. Theoretically you could and then you start from scratch. You don't probably maybe even know by January where you exactly are, so you have to make your decision that first couple days of the Legislature. This gives you flexibility way up until March 1st and additionally you don't have to go through another process in the short session, and additionally you are basically doing what absolutely needs to be done but you are acknowledging you think it has constitutional problems which will be discovered by March 1st. Additionally, it makes more sense than some other things I guess. Those are not very good arguments but it really does make sense. It sunsets one specific provision. That is all it is, it's just sunsetting that one piece.

SENATOR HIGGINS: Could the federal government interpret it as us playing games?

SENATOR DeCAMP: No, I don't see how.

SENATOR HIGGINS: You don't think....(interruption).

SENATOR DeCAMP: We are passing the law.

SENATOR HIGGINS: It won't cost us our \$1,600,000 for Nebraska?

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SENATOR DeCAMP: I don't see any reason it should.

SENATOR HIGGINS: Okay, Johnny, I trust you. If you say that is the way it is, I'm putting my \$1,600,000 on you. Thank you.

SENATOR DeCAMP: Now you are putting it in a different light.

PRESIDENT: The Chair recognizes Senator Schmit.

SENATOR SCHMIT: Mr. President and members of the Legislature, I am not a cook, you know, but if you begin with bad ingredients to bake a cake, it doesn't make any difference how many other ingredients you add, you invariably wind up with a bad cake. Visiting with Senator Vard Johnson last night about some of the things we do in this Legislature, sometimes we work so hard to effect a compromise that we wind up with nothing but mush, and I've lost many battles on this floor. I never liked to lose them when I lost them. But I would lot rather lose a battle than to compromise the blooming thing away until you get nothing that means....until you get something that means absolutely nothing. And as Senator DeCamp has said, he doesn't like to be between Schmit and Higgins, for a man who doesn't like to be in those positions he certainly puts himself in that position frequently, but I would have to suggest that maybe, Senator DeCamp, we don't need your amendment. As Senator Cullan has pointed out and Senator Higgins has pointed out, probably we could come back next January and repeal the bill if we don't need it. Maybe by that time we will have a lot more information and hopefully Senator Higgins will have her \$1,600,000 and will be in a much more congenial mood than she is at the present time, and if she isn't, we will be used to that anyway. So I would have to say I can't support Senator DeCamp. I think just let the thing go as it is. We have got a piece of trash as it is now, putting a sunset day on it...I think there will be plenty of us who want to sunset that next January if we are back here. So I would just suggest let the blooming thing go as is and not try to improve what is really a poor bill.

PRESIDENT: The Chair recognizes Senator Beutler. All right, he passes. All right, Senator DeCamp, you may close.

SENATOR DeCAMP: Hey, I am not going to live or die on this, you know. I see a legal problem in the bill. I see a relatively simple solution. I suggest it is reasonable, but I don't care that much either way, you know. It isn't

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going to matter to me. I am just suggesting this is a simple solution.

PRESIDENT: The question is the adoption of the DeCamp amendment to LB 7. All those in favor vote aye, opposed nay. Record the vote.

CLERK: 34 ayes, 3 nays, Mr. President, on adoption of the DeCamp amendment.

PRESIDENT: Motion carries, the amendment is adopted. The next amendment, Mr. Clerk.

CLERK: Mr. President, Senator Chambers would now move to amend.

PRESIDENT: The Chair recognizes Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, this is the amendment in lawyerlike and statutory language which I tried to have attached to the bill yesterday that deals with a section of this bill on page 5 related to a person who is receiving aid but may participate in a strike. What I have done with the assistance of Senator Johnson is to go to the provisions in the statute that deal with unemployment compensation and we have taken the language from the unemployment compensation to put some type of definition so that we know what participation in a strike means. Where unemployment compensation is concerned, the mere fact that you work for a company which is on strike does not disqualify you from receiving benefits. Your disqualification would be based on something active that you do to participate in or facilitate the strike. So this amendment is the language found in Section 48-628(d) of the statutes as they exist now. And I will read the language of the amendment. "An individual should not be deemed to be participating in a strike if it is shown to the satisfaction of the Director of Public Welfare that, (1). He or she is not taking part in financing or directly interested in the labor dispute which led to the strike. And (2). He or she does not belong to a grade or class of workers of which immediately before the commencement of the strike there were members employed at the premises at which the strike occurs any of whom are participating, financing or directly interested in the dispute". What that language says is that you must be doing something volitional or voluntary which can be interpreted as participating in the strike. With the way the bill is drafted now and the Welfare Department said so at the committee hearing, if the group of which this person is a member goes on strike, the mere fact of the strike would cause this person to be

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disqualified. Even if that person tried to cross the picket line to go to work and was seriously injured in so doing, even this would not be enough to show that the person is not participating in the strike. So the purpose of this language is to do what the unemployment compensation law has done, that is determine in the law what participation in the strike means for the purpose of disqualification. I hope that you will adopt this amendment.

SENATOR CLARK PRESIDING

SENATOR CLARK: The Chair recognizes Senator DeCamp.

SENATOR DeCAMP: Mr. President and members of the Legislature, I did not vote when Senator Chambers offered this proposal yesterday, and the reason I didn't vote was because I thought the language he had simply was not workable or understandable. However, I think it is necessary and proper that some language be inserted in the bill that describes what participating in a strike is. If you say somebody is punished for participating, you have got to define participating. We already have it in the statutes, in the laws, and so as I understand Senator Chambers...Ernesto, you have used the exact identical language we have in the law, haven't you?

SENATOR CHAMBERS: Yes.

SENATOR DeCAMP: So, all he is doing is clarifying, as I understand it, what participating in a strike means.

SENATOR CHAMBERS: Yes, and, Senator De Camp....(interruption).

SENATOR DeCAMP: In accord with existing Nebraska law, right?

SENATOR CHAMBERS: The language can be found in 48-628(d), so if anybody wants to read it, they can see that it is there.

SENATOR DeCAMP: Okay, I guess I think the amendment definitely should be adopted. I guess I would say if it isn't, I think it is probably what the law is anyway. They refer to those sections anyway, but I do believe you probably should put it in so you can get the clarification.

SENATOR CLARK: The Chair recognizes Senator Cullan.

SENATOR CULLAN: Mr. President and members of the Legislature, as I have had to do several times in this federally

mandated bill, I rise to oppose something that I again concur with. The Department of Public Welfare tells us they believe that this language will put us out of compliance with the federal requirements and we would again risk losing the 400 and some thousand dollars in this area. So I concur with Senator Chambers that we should use...that his definition is the best one, but it I think creates a significant risk that we would be out of compliance with federal regulations, and I urge you to reject Senator Chambers' amendment.

SENATOR CLARK: Senator Vard Johnson.

SENATOR V. JOHNSON: Mr. Speaker and members of the body, I rise to support Senator Chambers' amendment. When Senator Chambers offered the amendment yesterday, I recognized fairly quickly that what he was doing was something we ought to consider doing and that simply is to try to define with a certain degree of specificity what is a strike or what is not a strike, because as I had looked at the federal statute in the area, the word that was used was "strike". That's all that was said that it was just a strike, and it certainly seemed well within the prerogative of the state that has to live with that federal "U" case to ascertain precisely what is a strike the participation in which will cause a family to lose ADC benefits. I happen to realize that the Nebraska Unemployment Compensation law has defined for purposes of unemployment compensation when men and women will be disqualified from benefits by virtue of their participating in...and the language there is "labor dispute", when they participate in the labor dispute. And inasmuch as we have had that on our books for a long period of time, it seems to me that and obviously there has been case law developed around that kind of a language and those kinds of interpretations that would be very beneficial for our state to in effect borrow from our unemployment compensation statute and just put them right on our ADC statutes so that we in effect are working under the same language. Now there is one language change which I think is a beneficial change. As I said, the unemployment compensation statutes use the words "labor dispute" which results in a work stoppage. We have substituted the word "strike" for labor dispute. If you think about it, a labor dispute is broader than a strike because you can be locked out. The employer can decide to force the hand of the employees by effecting a lockout. And a lockout is something different from a strike. It genuinely is. And a lockout would not be a protected activity under the employment compensation act. But Congress only dealt with the word "strike" in the ADC program. So

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what we are doing is we are saying that a strike, that if you are going to be penalized because you have participated in a strike, then participation will be such as is defined by the State of Nebraska in its unemployment compensation program. I don't necessarily think, incidentally, that the unemployment compensation language effectively narrows the numbers of persons who can be disqualified from benefits. I think all it does is it provides a very reasonable and responsible interpretation as to when an individual who is involved in a work stoppage which is the product of a strike will or will not be disqualified from ADC benefits. This is a very sound public policy that we are engaged in and I would wholeheartedly commend the adoption of this amendment to the body. By the same token, I can't believe that we are likely to be out of compliance and to lose whatever number of federal dollars are now at issue on this one. Why? Because again as I read the statute, the federal government only used the word "participate in a strike". That is what it used, and all we are doing is defining that definition. We are just defining that term, and our definition is not designed to narrow the base or anything else. It is designed to clarify it. So surely, surely the state has enough independence left in this federal system to at least be engaged... to at least be able to engage in some definitional activities without losing federal dollars. I again commend the amendment to you.

SENATOR CLARK: Senator Nichol.

SENATOR NICHOL: Mr. President and members of the Legislature, in looking at this that I just borrowed from Senator Chambers and listening to Dr. Johnson...Senator Vard Johnson, I was wondering, Senator Chambers, if we need all of this latter part of the amendment especially where it goes into immediately before the commencement of the strike, and so forth, and if there would be a problem with the word "immediately" contained in it.

SENATOR CHAMBERS: Senator Nichol, what I tried to do was to take the existing language from the statute. That particular language is already there and if it troubles you, I don't mind that being eliminated. But I wanted to take what already is there because it has been, as Senator Johnson pointed out, reviewed by courts. It is a part of the case law of the state. There is meaning in the courts to the language of this particular statute. So that is why it was taken as it exists in the law books now.

SENATOR NICHOL: Okay, thank you, Senator Chambers. I don't

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object to the amendment but I think that if Senator Vard Johnson believes it, perhaps some of this could be alleviated. To make it simpler, maybe it ought to be done, not that I want to hamper your amendment, Senator Chambers, but sometime when you add words describing things you add problems too and that immediately kind of bothered me but I don't mean to make a big deal of it.

SENATOR CLARK: Senator Wagner.

SENATOR WAGNER: Mr. Speaker and members, last night I was going over this bill and the one thing that really bothered me was the wording in there "participation in a strike", and it really kind of like some of the questions I was going to have this morning was define it and who determines it and so forth. But I think this amendment pretty well addresses my concerns that I had in relation to it. It does give the responsibility to somebody, who determines, you know, who is taking part in a strike. Therefore, I would go ahead and support this amendment. Thank you.

SENATOR CLARK: Senator Chambers, do you wish to close?

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, Senator Cullan and I would like to get a couple of things into the record. Senator Cullan, first of all is this opinion that you stated to the body your opinion or that of somebody at the Department of Welfare?

SENATOR CULLAN: The opinion was related to me from the Department of Welfare and I have not examined the legal issues and I do not necessarily agree that the opinion of the Department of Welfare is correct. Your analysis and Senator Johnson's sounds very legitimate.

SENATOR CHAMBERS: Thank you. And, members of the Legislature, I will say for the record what I said to Senator Nichol and may not have expressed clearly enough. When you have existing language in a statute which has been the subject of judicial determinations, the court has already construed that language and given it a definite meaning. If we change words in that existing language, then the existing court interpretations may alter also. Since it is clear from court decisions what this language means already, there is no need to change it. The reason the word "strike" was put into this amendment was because the new language of this act uses the word "strike", so we had to make it parallel the provision in LB 7 that we are dealing with. But remember this, the courts have often struck

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down legislation as unconstitutional when it is too vague and does not notify people of what conduct is prohibited. So the mere word "participation" in connection with a strike without a definition is too vague and indefinite to let anybody know what conduct is prohibited. All this language does is to define a word. We are not saying that people who participate in a strike as defined already in the statutes would continue to get benefits. We are simply taking the existing definition from the unemployment provisions of the law and attaching them here, so that we have a definition of the term and who will make the determination. So I hope that you will take the amendment and I think Senator Cullan as he pointed out to you realizes that what the Department of Welfare said may not be accurate. I will say categorically that it is not accurate.

SENATOR CLARK: The question before the House is the adoption of the Chambers amendment. All those in favor vote aye. All those opposed vote nay. Have you all voted? Record the vote.

CLERK: 31 ayes, 9 nays, Mr. President, on adoption of the Chambers amendment.

SENATOR CLARK: The amendment is adopted. Any other amendments?

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

SENATOR CLARK: Senator Warner.

SENATOR WARNER: Mr. President, the amendment I have up there is an appropriation for '82-'83, \$385,000. I understand the argument that is being made if this doesn't cost anything because some of the other reduced costs will be used to fund it, and I don't guess I quite agree that that means it doesn't cost anything. I believe the original request on the fiscal note from the agency indicated a substantial cost by virtue of the fact that they were not tending the requested amount equal to what is proposed here in next year's budget. So it does have that cost impact. Since having filed that with the Clerk, however, and all the things that have happened on the bill and the number of comments on loaded dice that it might be, or whatever they were described as, I think I will temporarily hold the amendment and inform you that I did submit a letter to the Attorney General's office, two things, one to make sure that as the bill is now amended that it is within the call. As I read the call it limits the consideration

here as to what is required by the federal government only. I have...I think we ought to knowingly recognize that we are picking up a precedent...or picking up with state funds the cost for programs that the federal government no longer are participating in. We will have many of those approaches. Whether this is the most important one or not, I don't know. But I think the crucial problem of what we may be doing in this bill that could jeopardize federal funds should be very plain and assured by the Attorney General's office for us before the bill reaches Final Reading. And I hope that he can respond fairly quickly so that we do not end up with adding another day just for this clarification. But I've done that one other time in a special session, requested an opinion before we leave, and I think it is essential we do it today also, and I may reoffer that amendment pending somewhat on what response I get from the Attorney General, so I will temporarily withdraw it but I may well come back.

SENATOR CLARK: The amendment is withdrawn. Any other amendments?

CLERK: Mr. President, Senator Pirsch would now move to amend the bill. Senator Pirsch would move to strike committee amendments number 1 and 2, lines 1 to 23 that were adopted yesterday.

SENATOR CLARK: Senator Pirsch.

SENATOR PIRSCH: Thank you, Senator Clark. Members of the body, I should have spoken on this yesterday and I apologize for that. I also had several calls last night from indignant constituents who were upset at the amendment to the original LB 7. I also noticed in the Journal that Senator Haberman had voted in error to support this amendment, and I wondered if many of you others who had been disconcerted yesterday would perhaps want the opportunity to rethink what that amendment said. We are paying from the first moment that a pregnancy can be determined and this has been made a pro-life issue. Now I want to tell you right away that I am pro-life supporter, have always been, and I am absolutely convinced that from conception that the fetus is a human life. And as a mother having had nine pregnancies and six live births, I can guarantee you that from that first month through the ninth month of delivery that those children were each different. They behaved differently, they reacted differently and they progressed at completely different rates and some did not at all. But at that same time while I was extremely conscious and sensitive to the new life within me, also I was behaving in a manner, I lived as

usual, my activities were as usual, my work was as usual and my eating habits were as usual. Again I state, I don't think this is a pro-life issue and I don't think we should make it one. And I think it is ridiculous that we pay more for a child who is completely dependent on the mother when, in fact, that support comes when the child is independent or should be. I urge you to consider this. I think it is something that we should rethink and I definitely do not think it is a pro-life issue, that it is simply an issue of paying for an individual when they become independent. Thank you.

PRESIDENT LUEDTKE PRESIDING

PRESIDENT: The Chair recognizes Senator Fowler.

SENATOR FOWLER: Mr. President and members of the Legislature, I think that it is an abortion question as well as a welfare question that we are addressing here. The language that is being struck is an amendment, as Senator Labeledz pointed out, that I had added to our state statute in 1975 after a court decision. This is the language that the Reagan administration welfare rule says states should not have, that Governor Thone has introduced a bill saying the state should not have. It is language that says that at least in this section of law that at the point of conception we have a child. In this case at the point of conception we have a child for ADC. And my position on abortion is I guess what some call pro-choice, and the pro-life forces have worked to defeat me. I have been at the top of their hit list and yet I agree completely with the pro-life position on this issue. Why? Because although I strongly believe that a woman, a family, should have the right to select whether or not to have an abortion, I do not believe that we should structure our society so that abortion is the choice that is dictated by economics, that abortion is a choice that is dictated by our laws, that abortion is the choice that this Legislature encourages people to follow. And I believe that Senator Pirsch's amendment, that Governor Thone's bill, that President Reagan's welfare regulations, encourage women in very difficult situations to elect to have an abortion when they would rather bring a child into the world. What is a woman, not maybe in the same circumstances as Senator Pirsch, a woman who has been abandoned by her husband, who does not have job skills, who is not employed, finds herself pregnant, perhaps doesn't even know she is pregnant until after she is abandoned, what is she to do? Let's say she is not on welfare now. She has no other children. She could go to employers, ask for a job when she is pregnant. Are employers in this

state going to hire women who are pregnant knowing that in six months, five months, seven months, they will have to take a leave and perhaps choose to quit? I think not. The odds of that woman getting a job in that situation so that she can have the income to support herself are very, very slim. So what is the choice we dictate to that woman? No opportunity for economic support for herself, or for the child that has been conceived. The choice in the bluntest terms is starve that unborn child, or have an abortion. Not an easy situation, not an easy choice. What of a woman who is with an alcoholic and abusive husband, and we certainly know that they exist, we put \$600,000 back in the budget because we know that alcoholism is a major problem in our state, and we cared yesterday about the alcoholics. Let's talk today about the alcoholic's family. What is a woman who finds herself pregnant in that situation to do? She has to change her life in some way. She doesn't have the luxury that Senator Pirsch talks about about continuing life in the same way. Is she going to be able to leave and find another job if she is pregnant? Or is she to stay in that environment, be abused, run the risk of not just harm to herself, but harm again to this child that may yet be born?

PRESIDENT: One minute, Senator.

SENATOR FOWLER: Again, we are dictating with Senator Pirsch's amendment a situation that encourages abortion as an alternative. Now the pro-life movement is concerned on this issue because this is the only place in our state law that the human life amendment that this Legislature so proudly endorses is written into state law and it is written in for a specific situation and I support it in this situation because I do not believe that our state law should encourage women in these types of difficult situations to have abortions. When I got this language adopted in 1975, it was with the support, and I welcomed the support of sincere pro-life legislators, those who honestly believe that life begins at conception as a fundamental religious value, not those who say they are pro-life for political expediency, not those that are pro-life except when we suddenly talk about welfare mothers and begin to think, well, maybe their children are not so important, those who are sincerely, like Senator Labeledz and Senator Dworak, sincerely pro-life. I am interested today to see how many sincere pro-life people they have in this Legislature and how many people have no problem with encouraging abortions through Senator Pirsch's amendment.

PRESIDENT: The Chair recognizes Senator Cullan.

SENATOR CULLAN: Mr. President and members of the Legislature, I rise as has Senator Fowler to vigorously oppose Senator Pirsch's amendment. The other day when Senator Chambers spoke on this issue, he chastised me for supporting, pitying one welfare parent or one welfare individual versus another, and he said something that I think is appropriate. He said, the Legislature seems to have a great deal of concern for the children before they arrive, but after they are here it is their own problem. And that I think is a very important philosophical statement. If we really believe the positions that we take collectively, and this Legislature has many times stated as strong as it possibly could its pro-life position, then I think it is incumbent upon us to do everything we can to protect the life of that child before and after it is born. I do recognize the argument that Senator Pirsch made with respect to the respect that she didn't have to change her own lifestyle in the first several months of her pregnancy, but Senator Pirsch was an individual who didn't have nutritional problems at that point in time. Senator Pirsch was an individual, as fortunately most expectant mothers are, who had plenty of food on her table, who was taking care of herself before she had the additional responsibility of taking care for another human being. I think Senator Fowler takes a very good point on this issue. I think it would be unwise of us to attract from the strong stand that we made yesterday, one of supporting this concept in the laws of the State of Nebraska where we recognize not only with words, not only with rhetoric, but we recognize with the commitment of our own tax dollars that we believe life begins at this stage, and so I urge you to reject the Pirsch amendment.

PRESIDENT: The Chair recognizes Senator Labedz.

SENATOR LABEDZ: Thank you, Mr. President. I don't know whether many of you know that...of course this came out as the committee amendment, but it was the amendment that I presented to the committee at the committee hearing. I first, when I talked about it yesterday and asked for the passage of the committee amendments, I asked you at that time to pass it on the merits of the pregnancy. I did not go into the abortion issue and I fully intend not to do it right now because I think Senator Fowler did an excellent job of explaining why this is not only essential to the mother or to the unwed mother who decides to bear her child to a full term, and I personally and on behalf of the unborn children would like to thank Senator Fowler for his excellent presentation. Senator Pirsch also mentioned her pregnancies and Senator Cullan again gave her an explanation that she probably didn't have the problems that a lot of women today have. It seems ironic though or a little bit

confusing to me that Senator Pirsch voted against the amendment yesterday to fund pregnant women on ADC during their term of pregnancy, but at the same time she voted for the strikers to receive ADC benefits. And I hate to think that any woman would put an ADC benefit for a striker ahead of a pregnant woman. Yesterday also...or it is in the daily Journal today, Senator Haberman said that due to...and it is in your Journal, due to my having a constituent from my district at my desk during the vote on the first part of LB 7, I voted yes and wish to have that record show that I would have voted no had I not been distracted. Senator Pirsch also mentioned that there may be many others the same as Senator Haberman. I would like to think on an issue as important as a pregnant woman and the points that I brought up on abortion but was very small yesterday that everybody was listening, and I do have another record here in the Daily Record where Senator Bill Barrett said, had I been present during the first part of the divided question on LB 7, I would have voted in the affirmative. So I am asking the 25 Senators that voted yesterday confirm their support of that amendment even though Senator Haberman has changed his mind. I will not go into the abortion issue. I know you have heard that from me for five years now, but I hope and sincerely pray that you will go ahead and do what you did yesterday and approve the amendment as presented by the committee.

PRESIDENT: The Chair recognizes Senator Haberman.

SENATOR HABERMAN: Mr. President and members of the Legislature, Senator Bernice, I did not change my mind. I would have voted no yesterday. So I...yes you did. Well, anyway, Senator Fowler said and Senator Fowler insinuated that a woman who is pregnant is saying, if I can't have the money, I am going to get an abortion. That is what he said. He said that if we don't pay them, they are going to be inclined to have an abortion. Now I can't believe this. We could turn it around and say it the other way. The woman could say, I am going to get pregnant and then I can get more money. There is two sides to every coin, so look at it any way that you want to. But I am standing up here and supporting Senator Pirsch because I voted in error yesterday, and I don't think I am going to have any constituents come down to my desk any more when we are on serious debate. Thanks to you, Senator Labedz. But I wish to support Senator Pirsch and I have had my little say and I ask those people, you Senators, to support her also.

PRESIDENT: The Chair recognizes Senator Wesely.

SENATOR WESELY: Mr. President and members of the Legislature, I would like to discuss the fiscal aspects of this issue. I think we have discussed some of the other social and political implications of the problem that we have. I would like to talk about the fiscal problems. What we are talking about essentially in ADC recipients is that 86 percent of ADC payments in Nebraska go to single parent families, 86 percent of the payments go to single parent families. The times we are talking about in this issue are, for instance let's give an example of a sixteen year old or a seventeen year old girl who unfortunately should become pregnant, they would then be in a situation their first child, they would need some assistance. They would go down to the welfare office. They would check their parents' income. They would determine though first if that child was living at home or whether that child was what could be called an emancipated child and thus not really under their parents any further. And after they would make that determination they would look if that child was a member of the family still living at home and consider it a part of that family. They would check the parents' income and determine whether or not they could afford or meet the guidelines at hand. If the child lived in a poor family, at that point she would begin to receive some assistance. I think it is also clear that if she wasn't living at home or the parents were not providing assistance, she would again be able to possibly qualify for help. So what we are talking about here are not people that are able to financially really care for themselves or they wouldn't be receiving the assistance that is provided under ADC. These are people in need. There really is a determination that there is a substantial and significant need there before they will provide that assistance. I am pretty convinced that they do try to check that. So upon that determination, I guess my feeling is that if they are in need of assistance and they cannot properly care for themselves and thus their unborn child without this assistance, it is awfully important that we provide that help. Whether the federal government is going to be there or not, the state ought to have that responsibility. So I do support what the committee did to the bill in the form of a committee amendment, and would oppose the Pirsch amendment. Now let's talk further about some of the fiscal implications here. I have handed out a memo which you all got earlier this morning which explains I think as well as anything exactly where we are at on the fiscal matters during this year and next fiscal year. We would essentially break even and come out slightly ahead this year in terms of the savings from cutting out 19 and 20 and 21 year olds from ADC payments and adding the significant payments for the

pregnant mother, because we have already got in the budget \$162,000 to meet that need. So because of that budget item and because of the offsetting cuts and then additions that we make in that bill, we break out about even, and really don't need to worry about an appropriation for this year. The problem comes when we start talking about next year. And if you will look at that memo, and you should all have one on your desk, if you don't, I have some extra copies, you will see that next year the cost to the State of Nebraska will be \$664,000. \$278,000 will be what we would normally have paid anyway if the federal government had not backed out. \$386,000 would be what would be picked up because of this amendment. That would be additional money. But because the feds have pulled out, I guess the original \$278,000 would be extra cost as well. So that \$664,000 that we are going to pick up, the feds and we had shared in the past, we will save about \$420,000 so that next year the net impact will be about \$243,000 to the state that we will have to pay in additional appropriation. That is using all these different figures. Now if we would adopt the Pirsch amendment, that would be next year a cut of about \$664,000. Now the question you have got to ask yourself is whether that cut and that savings is worth the price of not helping poor mothers who are having a child who are now pregnant and cannot care for that child to meet the need qualifications.

PRESIDENT: One minute, Senator Wesely.

SENATOR WESELY: Thank you, Mr. President. Or whether it is more important that we cut that amount of money. My personal feeling is that it is so important that we care for the unborn because of the nutritional needs that they have, because of the impacts of not caring for that child, that result in retardation and developmental disabilities when it is born, is that the price we pay to care for that child during pregnancy will be much offset by the savings we make in the long run by not having the possible complications that would result from lack of nutritional care. So it seems to me that we really do win in the long run by opposing the Pirsch amendment and extending the state support for this program. And I think the figures that you have can help you to make your own individual judgment. My judgment is to oppose the Pirsch amendment.

PRESIDENT: Senator Schmit....no, Senator Kahle, excuse me. Senator Kahle, you are next.

SENATOR KAHLE: Mr. President and members, I am going to

support Senator Pirsch. I think that it is utterly ridiculous to start ADC payments at the beginning of pregnancy. In real life women have very little retardation from pregnancy in the first months, and I had a gal work in my office this summer who worked up until about two weeks before she had her baby. It may even have been closer than that. I understand she is back at work now. These are the people that pay the taxes, provide the funding for those that you are talking about. Now I think we need to provide service to those that really are down and out and need help, but to start in the early stages of pregnancy to start doling out money just because they are pregnant doesn't sound very reasonable to me. Some countries back at least during the World War II days were paying women to have children so that they would have soldiers, I suppose, and I don't know whether there is any of that going on today. But we have surrogate mothers today who are providing babies for families that do not....are not able to have children. I wonder if we are going to find out if we mothers that we help are going to get let's say up to \$10,000 for their baby when it finally is born. So I think we need to look at this thing very carefully. I am certainly for helping bring those children into the world because I am not pro-abortion. I am strictly against abortion. But to start from day one or day two or at least a month later when the pregnancy occurred, I think is going way too far. Thank you.

PRESIDENT: The Chair recognizes Senator Schmit.

SENATOR SCHMIT: Mr. President and members of the Legislature, I rise to vigorously oppose the Pirsch amendment. I have not had the personal type of experience that Senator Pirsch can relate, but I just wanted to point out to you that most of us in this body are not in a position to know the situation that many of these young ladies find themselves in. I would just like to say that first of all it must, of course, meet the low income requirements. If there are resources within a family, those resources must be used and be made available. Now the problem has occurred and I am sure that most of us have seen it happen where a pregnancy has occurred in a very young girl and the family has thrown her out in all of their righteous indignation, and I ask you then where is that child supposed to go? I would point out, as Senator Fowler has pointed out, last year there were five pregnancies of 13 year old girls in this state. There were 27 girls 14 years of age. There were 116 young ladies 15 years of age. There were 285 girls that were 16. There was an initial 3308 pregnancies of women between 17 and 20 years of age. Now the point I

want to make is this that we are talking about young ladies who are at the very tender age in their life, who are required to make decisions that will profoundly affect them the rest of their life and affect the life of an unborn child. Now it is easy for us to stand on this floor at middle age or over the hill in some cases as perhaps some of us are and attempt to determine all of the various aspects of what might take place in that young lady's mind, but the one thing that I do not want to be responsible for is, as Senator Fowler has pointed out, that young lady saying that she...thinking to herself that she has no alternative but an abortion because of the financial problems that she would face. I find it unbelievable that on this floor we will stand here and we will bleed day after day after day about the impossibility of collecting the support for the child from the father. The religion that I happen to believe in proclaims that there is only one virgin birth and no conception takes place by only one person. But we have not found any of these people who have spoken against this kind of assistance who has called out for the father of the child to make any contribution. We have not found them who have said that the father has the responsibility. I sincerely believe that that responsibility exists and that that resource should be exhausted whenever possible, that we should not place that young child at the tender age of 13, 17, 18, 19, in the untenable position of having to make a decision that will affect its life, the life of its own....

PRESIDENT: Senator Schmit, one minute.

SENATOR SCHMIT:child at a time when most of us could not make that decision if we were called upon to do so. Remember also that most of these children do not have the luxury of uncles and aunts and mothers and fathers, brothers and sisters, to lean upon. They have to make those decisions alone and they are a very lonely decision. And so I call upon you to oppose the Pirsch amendment, retain the Labeled language. I support the Labeled language vigorously and I support it notwithstanding the fact that I think that the cost of the program has been totally blown out of proportion. If we can ignore the millions and millions of dollars of unpaid child support, certainly we have a right and responsibility and an obligation to assist those people who find themselves in a position where they have no other resources. Thank you, Mr. President.

PRESIDENT: Senator Higgins.

SENATOR HIGGINS: Mr. President and Senators, Senator Labeled is trying very desperately right now to find a letter

that she shared with me yesterday from our former City Councilwoman, Mary K. Green, who as you probably all know was a very, very strong pro-choice leader, and in the letter she told Senator Labeledz that those whom she worked with that were pro-choice, pro-abortion, approved of Senator Labeledz's amendment that was voted on yesterday. Now when you have got a former President of the Mayor's Commission on the....or Chairman of the Mayor's Commission on the Status of Women in Omaha and I believe she might have been President of the National Organization of Women at one time in Omaha, when she writes a letter and says, Senator Labeledz, I support your amendment and I thank you for offering it, and most of the women that I have talked to that have been pro-choice feel the same way...if Senator Labeledz could find the letter, I would read it to you now. So I want to make the point whether they are pro-choice or pro-life, both sides seem to be for Senator Labeledz's amendment. If anybody wants to see that letter, as soon as Bernice, who is so disorganized, finds the letter we will make you a copy of it. Thank you, Senators.

PRESIDENT: The Chair recognizes Senator Koch.

SENATOR KOCH: Mr. Speaker, I move the previous question.

PRESIDENT: The question has been called for. Do I see five hands? I do. The question is, shall debate cease? All those in favor vote aye, opposed nay. Record the vote.

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

PRESIDENT: The motion carries, debate ceases. Senator Pirsch, you may close.

SENATOR PIRSCH: Thank you, Mr. President. You know, it is the very fact that we have so many pro-choice people on this that it kind of makes me wonder. Pro-choice approves of Senator Labeledz's....could we turn that around that Senator Fowler says that abortion...this would encourage abortion? I doubt that it would. If you don't pay for it until three months before the child is born, you sure as heck are not going to have an abortion, I will tell you, because the money starts coming in those last three months. Now, let me tell you, what you are voting on is to return the original language as it was given in LB 7, which says: "In awarding aid to dependent childrens' payments a pregnant woman may be eligible but only if it has been medically verified that the child is expected to be born in the month such payments are made or expected to be born within the three month period following such month of payment, and if such

child had been born and was living with her in the month of payment, she would be eligible for aid to families with dependent children. That is up to a three month period. Now why should we pay more money to a 13 and 14 year old who has gotten pregnant? Another...more money is not the kind of help that that child needs and the kind of help that they need it's probably too late for but there are other ways to help that child. Wouldn't you rather have the money for those children when they are independent? And I keep stressing that. They are children. But we have said that we are going to help individuals who through no fault of their own need and require help. A child in the womb is not independent and do we know that that extra money is going to go for vitamin pills and calcium pills and milk and more food for the mother? No, we don't know that. It might go for alcohol. It might go for cigarettes which is tremendously detrimental to the health of that unborn child. Also I would like to clear up that, Senator Fowler, it is illegal by federal law to ask a woman if she is pregnant when she applies for a job. When you say that we have concern before arrival and not when they are here, as Senator Chambers accuses us, I don't think that is true. I think we all have a concern for him after children are here. And before they are born, before they are out and independent in the world, and I might add there is even a three month period before they are because of the uncertainty of that time that child will have that aid.

PRESIDENT: One minute, Senator Pirsch.

SENATOR PIRSCH: Again I encourage you to look at the amendment as it was, which if we vote for my amendment will eliminate that altered amendment and put it back in the original LB 7 which such payments to be made within the three month period following such month of payment.

PRESIDENT: The question is the adoption of the Pirsch amendment to LB 7. All those in favor vote aye, opposed nay. How many are excused? One excused, Senator Pirsch.

SENATOR PIRSCH: Mr. Chairman, I think that the taxpayers of Nebraska would like to have a recorded vote of this and have all members present. Could I have a Call of the House?

PRESIDENT: Call of the House. All right, we will record what is on the board and the question before the House is, shall the House go under Call? All those in favor vote aye, opposed nay. Record the vote.

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CLERK: 21 ayes, 2 nays to go under Call, Mr. President.

PRESIDENT: The House is under Call. All legislators will return to their desks and the Sergeant at Arms will proceed to obtain the presence of all those that are not here, and please register your presence at this time. Is Senator Chambers the only one not here? Senator Chambers....Senator Pirsch, do you wish to wait for Senator Chambers?

SENATOR PIRSCH: No point. Thank you, Mr. President.

PRESIDENT: All right, so we will proceed with the roll call vote. Proceed, Mr. Clerk.

CLERK: (Read the roll call vote as found on page 93 of the Legislative Journal.) 19 ayes, 27 nays, Mr. President.

PRESIDENT: The motion fails. Any further amendments?

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

PRESIDENT: Seeing no further lights on, Senator Cullan, would you close?

SENATOR CULLAN: Yes. I move the bill be advanced.

PRESIDENT: The motion is to advance LB 7 to E & R for Engrossment. We will go to the board on this vote so we have a record. All those in favor vote aye, opposed nay. Record the vote.

CLERK: 40 ayes, 4 nays, Mr. President, on the motion to advance the bill.

PRESIDENT: The motion carries and LB 7 is advanced to E & R for Engrossment. The Chair recognizes Speaker Marvel.

SPEAKER MARVEL: Mr. Chairman and members of the Legislature, can I have your attention just a minute? You each have expressed from time to time that we ought to adjourn on Monday and again on Saturday. I am sorry, Pat. So at the present time what is your sentiment? If you are in favor of Monday vote green. If you are in favor of Saturday vote red. All right, I will do it once more. Vote on Monday....if you want Monday vote green. If you want Saturday vote red.

PRESIDENT: All right, open the board. This is just a tally. Senator Newell, for what purpose do you arise?

SENATOR NEWELL: I have a question.

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PRESIDENT: Question. Go ahead, ask the question.

SENATOR NEWELL: Mr. Speaker, how long do you expect we will be in session on whichever day we decide to vote for? I think that has a bearing on the issue itself.

SPEAKER MARVEL: I can't guarantee how long it will be because you see now that we are at 12:09.

SENATOR NEWELL: Guarantees I don't want, guidelines I need desperately.

SPEAKER MARVEL: Well, if you want....I am voting red.

SENATOR NEWELL: No...no...no.

SPEAKER MARVEL: You don't like that kind of guide.

SENATOR NEWELL: Mr. Speaker, I was hoping to find out how long we would be in session. Do you have any idea how long we would be in session? If we would only be in session for a short time on Saturday, then I....or Monday, that would be helpful.

SPEAKER MARVEL: Mr. Clerk, do you want to help out? I have used up my time so it is your turn.

CLERK: Senator, we have approximately two hours of Final Reading.

SENATOR NEWELL: Will we also be dealing with resolutions on the final day?

CLERK: That is a decision the Speaker will make in setting his agenda. I don't know.

SENATOR NEWELL: Well, that adds, two hours always means three hours, and if we do resolutions that means four hours and that means the football game. I am just kind of curious what we are....this decision, I am not really sure of whether I am....is that the decision? Is that the decision?

PRESIDENT: Senator Warner, did you have a question? Senator Warner.

SENATOR WARNER: The question is, are we coming back after lunch?

PRESIDENT: Today?

SENATOR WARNER: Of the Speaker.

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PRESIDENT: We have to, as I understand it we have to because to move the bill along.

SENATOR WARNER: There is no question then.

PRESIDENT: To move the bill along.

SENATOR WARNER: I merely want to comment that I would hope we will remain in session today until we have had some indication from the Attorney General in the event there is a need to change in the bill, I don't know that there will be, but if there is, we would be forcing ourselves into another additional day. So, it may....

PRESIDENT: I understand that we will not get these bills back until about three o'clock so that has been the indication that we have got that we should meet at least by three o'clock this afternoon. Senator Haberman and Nichol.

SENATOR HABERMAN: Would the Speaker care to tell us what time we are going to start Saturday?

PRESIDENT: Speaker Marvel, will you tell them what time you want to start Saturday?

SPEAKER MARVEL: We have done all we can do to get this far, Senator Haberman, and I will report to you after lunch and I move that we.....

PRESIDENT: Wait a minute, Senator Nichol has a question yet.

SPEAKER MARVEL: Oh, I'm sorry.

SENATOR NICHOL: Mr. President, in response to Senator Warner's question, I requested the information from the Attorney General a couple days ago and as I understood from them this morning that they intend to have that to us some time this afternoon.

PRESIDENT: Yes. All right. Senator Koch, do you have a question then? Senator Koch.

SENATOR KOCH: I have a question of the Speaker if he would yield.

PRESIDENT: Yes.

SENATOR KOCH: The question is if we are going to meet Saturday morning, some of us have made considerable plans and I always realize that when the Governor calls you should always kneel and bow. But for me to make plans for Saturday

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beyond a certain point, I suggest we meet at six o'clock and take care of any business we have to so that some of us can go ahead with the plans we had before. I think that there is no reason for us to meet on Saturday when we could do it on Monday. I realize it would be inconvenient to certain people, but we all have inconveniences, and I can't see the haste that Saturday is such a great time we have to convene this special session to help bail somebody out of trouble when it comes to bad tax policies.

SPEAKER MARVEL: Senator Koch, you asked....

SENATOR KOCH: Yes, sir.

PRESIDENT: Speaker Marvel, do you want to answer?

SPEAKER MARVEL: You asked me a question. We will take your suggestions under advisement and let you know.

SENATOR KOCH: That would be unusual. Thank you.

SPEAKER MARVEL: Well, I have been called a lot of things, but "unusual" no.

PRESIDENT: Senator Barrett, you had a question?

SENATOR BARRETT: Mr. President, I move we recess until three.....

PRESIDENT: Well we have a matter of....in just a moment, we have a matter in that's. . . .that's to be read in.

CLERK: Mr. President, I have a report, a confirmation report from the Business and Labor Committee.

Mr. President, Senator Lamb would like to have the Executive Board meet at 1:30 p.m. today in room 1520. Executive Board in room 1520 at 1:30 p.m.

PRESIDENT: Now, Speaker Marvel did you have anything further before we recess?

SPEAKER MARVEL: I think that we can get together, after you have come back from lunch, during the lunch period we have at least some idea of your feelings, those will be incorporated in the suggestions in that we in effect will try to perfect whatever the adjournment problems are either this afternoon or early tomorrow. So we are not going to leave you hanging out or hanging on a limb.

PRESIDENT: Do you want to make a motion then for recess?

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SPEAKER MARVEL: Are we ready now for that?

PRESIDENT: Yes, we are ready. Ag Committee session right now, the Clerk says right over here under the north balcony. Okay, Speaker Marvel, go ahead.

SPEAKER MARVEL: Okay, the motion is that we recess until three o'clock.

PRESIDENT: All right, motion to recess until three o'clock. All those in favor signify by saying aye. Opposed nay. We are recessed until 3:00 p.m.

Edited by:

Marilyn Zank
Marilyn Zank

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RECESS

PRESIDENT LUEDTKE PRESIDING

PRESIDENT: The Legislature will come to order. Indicate your presence please. Will everyone register your presence? Record the presence, Mr. Clerk.

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

PRESIDENT: A quorum being present, do you want to read some matters in?

CLERK: Yes, Mr. President, if I may, your committee on Enrollment and Review respectfully reports that they have carefully examined and engrossed LB 7 and find the same correctly engrossed and LB 8 correctly engrossed. Both signed by Senator Kilgarin as Chair.

PRESIDENT: Mr. Speaker, do you have any instructions for the next matter to be taken up?

SPEAKER MARVEL: It is my understanding that there is general agreement that the next item of business has to do with resolutions and you will have to make the decision as to which are laid over and which are not and I have discussed this with as many people as I can find, and since we are getting down to the end of a very difficult session, I think there will be cooperation so that the resolutions will be discussed but only discussed and not in great detail. So with those remarks, Mr. President, I guess you would start with LR 1.

PRESIDENT: Senator Beutler, for what purpose do you arise?

SENATOR BEUTLER: Mr. President, I move to adjourn until 9:00 a.m. tomorrow morning.

PRESIDENT: The motion to adjourn takes...there is no debate other than the Speaker may debate the propriety of it at this point if he wants to.

SENATOR BEUTLER: A point of order, Mr. Speaker.

PRESIDENT: Yes, sir.

SENATOR BEUTLER: Has all the business with E & R been finished?

PRESIDENT: Yes.

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SENATOR BEUTLER: Is there no further business with regard to LR 7 and LR 8?

PRESIDENT: LB 7 and LB 8, everything as I understand has been taken care of. Is that right, Mr. Clerk?

SENATOR BEUTLER: All business being finished on LB 8 and LB 7, Mr. President, I renew my motion to adjourn until 9:00 a.m. tomorrow morning.

PRESIDENT: All right, Mr. Speaker, you are the only one that can address yourself to this. There is no other debate. There is no debate, gentlemen. Ladies and gentlemen, there is no debate. Senator Dworak, for what purpose do you...

SENATOR DWORAK: A point of inquiry.

PRESIDENT: Yes.

SENATOR DWORAK: Has the letter Senator Warner has been waiting for come across?

PRESIDENT: That is a proper question. Senator Warner, did you hear the question?

SENATOR DWORAK: The Attorney General's letter that he indicated was coming, has Senator Warner received that letter?

PRESIDENT: Senator Warner, did you want to answer that?

SENATOR WARNER: I have not received a response. I do understand that two or three other legislators had written something previously and mine specifically was on the bill as it was amended including this morning's. I don't know if the other ones...or not. Senator Nichol, did you...?

PRESIDENT: Senator Nichol, this is all about matter of answering this question of Senator Dworak's. Senator Nichol.

SENATOR NICHOL: Yes, I am answering to Senator Dworak's question. I contacted the Attorney General's Office about five minutes ago and they have completed their report back to us on the rules as to what the Governor can veto and our override veto and so forth. And the Attorney General is ill today and at home but they have taken copies home and he is going to act on it shortly and they thought it would be back in a little while, like a half an hour or so, and as soon as they get them back, they will call the office

we have done in the last hour and a half is go back into the Nebraska case law and look at the decisions of the Nebraska Supreme Court to see as best we can in that period of time what they have had to say about special sessions, about proclamations and about what you can and cannot consider that may be related to the specific language in a call and the most authoritative case we could come up with...(interruption.)

PRESIDENT: Senator Beutler, I wonder...I am a little bit disturbed by the fact that we are just doing this on a report and that we don't have a motion. We now have some motions that we could put before the House that you could be addressing yourself to which I think we would be in better shape for, actually, from the standpoint of parliamentary procedure.

SENATOR BEUTLER: That is fine.

PRESIDENT: So why don't we just read the motion in so that we are at least debating on a motion to do something. All right, Mr. Clerk, will you read that and then we will proceed. I apologize for cutting you off in the middle of a statement but we will proceed with your time.

CLERK: Mr. President, the first motion I have is from Senator Warner. Senator Warner would move to return LB 7 to Select File for a specific amendment. (Read Warner amendment found on page 104 of the Legislative Journal.)

PRESIDENT: And, Senator Warner, I guess it is self-explanatory. You don't...unless you want to say something. All right, so now we will call upon Senator Beutler to continue with his remarks as to why or why not we must do this.

SENATOR BEUTLER: The case that each of you has before you, Arrow Club, Inc. vs. Nebraska Liquor Control Commission, that is, in my opinion, the most authoritative case or the best word that the Supreme Court has given out on this particular problem. Now if you will turn back in that case, and this is very helpful for you to look at I think, on page 689 in the upper right-hand corner one page back, and then if you look down at the very bottom, the third line from the bottom, and if you start reading there, "the court then sets out what are the guiding principles with regard to what matters should be considered in special sessions where you have specific language and a call." And it says, "the guiding principle in sustaining legislation of a special session is that it be germane to or within the apparent scope of the subjects which have been designated as the proper fields for legislation. In construing a call the words of any portion thereof must

be interpreted not only as commonly and universally understood, but also as applicable to the subject intended to be affected by legislation." If you read one sentence down it says, "within the special business or designated subjects submitted the Legislature cannot be restricted or dictated to by the Governor. It is a free agent and the Governor, under the guise of definition, cannot direct or control its action." Reading on, "The Legislature, while in special session may enact legislation relating to, germane to or having a natural connection with the purpose for which it was convened." And then if you skip a few sentences down, one more important sentence I wanted to read to you. "The presumption is always in favor of the constitutionality of legislation and an act should be held to be within the call if it can be done by any reasonable construction." And I submit to you that any man and any judge on any court would say that a switch in funding pursuant to a federal dictate that we can no longer fund in normal manner or in our customary manner is certainly related to, germane to and would be constructed and be constitutional by any reasonable construction. So what I am saying in conclusion is that I think the Attorney General's opinion is dead wrong and that if you want to go back and argue the substance of the Warner amendment one more time, that is your business, but there is no legal or constitutional requirement for you to go back and rehash that again. Thank you.

PRESIDENT: Senator Hoagland, did you wish to follow up on that?

SENATOR HOAGLAND: Mr. President and colleagues, I have some other comments of a legal nature to add to Senator Beutler's comments but they are really also of an argumentative nature, of an argumentative nature that they would oppose the enactment of the adoption of the Warner amendment so I think I should turn my light on and refrain from presenting those comments now and present them later in the ordinary course of the debate on Senator Warner's amendment so I will do that, Mr. President.

PRESIDENT: Allright, the Chair recognizes then, Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I am so glad that Senator Beutler brought that case law to the body. Some of us are intelligent enough to use logic and if we are not intelligent enough to use logic, we are intelligent enough to read and to take advantage of other people's logic and understand the nature of a legislative assembly. As I have said, I was insulted by what

the Governor has done and I am infuriated by what the Legislature is doing. This Legislature is being talked to and whipped around like people, if they did to their children, would be convicted of child abuse. I can't understand it. The Governor cracks his whip and here are all these people running, stumbling over each other, pretending to be discussing principles when in reality, we are engaged in crass political maneuvering. I have said that the words A.G. really stand for actual governor, not Attorney General. Well there is a great English writer who said, "the law is a ass." He didn't say "an" ass, he said, "it is a ass," and I think that first word, that first letter in A.G. stands for ass. And if the body is going to be moved by the braying of a jackass from whatever quarter of the building, that is your prerogative. But I think it is not something that I will do. Senator Haberman, I use my own method of talking and I will continue to do so. A jackass is an animal. He is indigenous to this state and I am sure you can find him on certain people's farms.

PRESIDENT: Senator Haberman, for what purpose do you arise?

SENATOR HABERMAN: Point of order. I would like to ask you to ask Senator Chambers to clean his language up, please.

PRESIDENT: Well, I think...

SENATOR CHAMBERS: Senator Haberman...

PRESIDENT: I think we ought to be temperate in our language about all people so...and animals too.

SENATOR CHAMBERS: Senator Luedtke, I have seen the word "jackass" in the works of Shakespeare and I did allude to an English writer.

PRESIDENT: That is fine. Go right ahead.

SENATOR CHAMBERS: Now there are other words that use God for the last name or first name which I don't use but that is used on the floor of the Legislature. So I think cleanliness, like a lot of other things, are in the mind and the ear of the beholder, but I will tell you this furthermore. This Attorney General has said that a lot of provisions that the Legislature enacts are unconstitutional because he or his cohort, the Governor, don't like it. He had a tuition bill which he didn't like so he said it is unconstitutional. A unanimous State Supreme Court a few days ago told the Attorney General in much more temperate language, Senator Haberman, than I am using now, to go study his law books and learn something because he was totally wrong. I persuaded the

Legislature to enact a provision related to speed limits on the interstate that is beneficial to every member who lives any distance from this Capitol and the Attorney General and the Governor said, "It is unconstitutional," and they took it to court. And again, the court said, "No, go back and study your law books. It is not unconstitutional." So now the Attorney General comes, not even the Attorney General, some individual named Rolls Royce, sends a piece of paper over here saying that the Legislature must enact what the Governor tells them to enact. He misperceives the nature of this body. It is precisely what Senator Beutler read from that Supreme Court opinion, a deliberative body. Although that decision said that the Governor cannot dictate to the Legislature, what it should have said is that he ought not dictate or that the Legislature ought not to allow itself to be dictated to. The Legislature, in essence and by law and the Constitution, is an independent agency but it does not behave itself in that fashion until somebody can come along and say you have my permission to do what the Constitution imposes on you as a duty to do. What I think ought to happen...

PRESIDENT: One minute, Senator Chambers.

SENATOR CHAMBERS: ...is to just stop all of this nonsense and go on home. The first abject surrender on the first day of this session of legislative prerogatives did result in a domino type effect. Everything began to fall and I will tell you one thing about the Attorney General's types opinions and then I will be through. There was a guy riding through a forest one night and there was a heavy storm and he was riding one of those animals whose name I will not give but the initials are "J.A." and he could only move during the flashes of lightening, and then there would be tremendous rolls of thunder and the thunder frightened him. So he raised his eyes to heaven and said, "Whoever is up there, I would appreciate it if you give me a little less noise and a little more light". So the Attorney General and all of these pieces of paper he has sent over here signed by Rolls Royce has given us a hogshead of noise without a thimbleful of light. Senator Beutler, thank you for letting the light of intelligence and wisdom shine on this body and I hope we will walk in the light that you have brought to us, and in a few minutes I am going to make a motion.

PRESIDENT: The Chair recognizes Senator Cullan.

SENATOR CULLAN: Mr. President, members of the Legislature, Senator Chambers, I think you sometimes see more there than is there. I don't think that there is any conspiracy or any

probably even any...I doubt that the Governor or probably many members of the Attorney General's Office are even aware that this opinion has been requested so perhaps I am very naive but I don't think that that is a factor. I have listened to Senator Beutler's arguments and I read the case that Senator Beutler and Senator Hoagland dug up for us and I think they did a very good job in a short period of time researching this particular issue and I think they are to be complimented for that. I do agree with the approach that the Legislature has already taken. If we cannot amend a statute to provide a state alternative to this area, an area which we were called in session to deal with, then I guess there is not much sense for us to do anything but automatically do what the federal government asks us to do. I would also point out, and I think this is important for the record, that the Public Health and Welfare Committee of the Legislature is not in LB 7 initiating any new state program. They are not initiating any new state action. They are simply providing that the philosophy and the programs of the State of Nebraska should continue as is, and we are going to make up this change, this slack in federal revenue that results from the changes in the federal government's program. So I do believe that our language certainly or that our action certainly falls within the scope of the Supreme Court decisions which Senator Hoagland and Beutler have presented to us. It is unfortunate the Attorney General's Office evidently did not find those same cases and I feel very comfortable in seeing that this bill is enacted as it sets now on Select File. The other point that I would make is that I would support at this point in time Senator Schmit's amendments that he will offer later so I don't have to get up and spend more time here this evening. I will support Senator Schmit's amendment to eliminate Section 7 so long as we lay an adequate record as to why the Legislature feels it should not enact that unconstitutional provision. I would urge you to act prudently, to reject the Warner amendments and to enact LB 7 to continue the policies of the State of Nebraska as they have been in effect since 1975.

PRESIDENT: The Chair recognizes Senator Vard Johnson.

SENATOR V. JOHNSON: Mr. Speaker, members of the body, I continue to be amazed at the power of lawyers. We got a letter from a lawyer about four-thirty this afternoon. As a result of that letter, we had to come back at seven o'clock so that we can talk about what the letter said. Now the thing that was so interesting to me as I read the letter is that it reminded me of Martin Luther. To some extent I think I have religion on my mind, and maybe because of the rotunda and Legislative Resolution #4 and some other things, but Martin Luther, as you know, one of his

great cries was "Have every man a priest", and he meant very simply that every person was perfectly capable of interpreting the Bible, didn't have to work through any intercessor in interpreting the Bible. Well, I can guarantee you when you read the letter sent out under the signature of Royce Harper for the Attorney General, Paul Douglas, it is easy for every member in this body to be a lawyer. His letter does not cite one case, which incidentally can be found in approximately five minutes, because when the letter came in I went to my Constitution and I found without any question, Article IV, Section 8 dealing with special sessions, and underneath Article IV, Section 8 dealing with special sessions are the four cases that have been before the Nebraska Supreme Court dealing with germaneness and going beyond the call. The only problem was I didn't have access to the Law Library being at that time five-fifteen so I couldn't come up and quick like get those cases but the Attorney General could have gotten those cases and could have given us the benefit of those cases in his letter. But that didn't happen. Instead all that happened is the Attorney General says here is the Constitution, which each of us are perfectly capable of reading and interpreting for ourselves, just as with the Bible, and here is my...and here is the call, which each of us are perfectly capable of reading ourselves and interpreting, and here is my interpretation. And I can guarantee you in the absence of any legal analysis, in the absence of any kind of critical discussion of existing case law, this opinion is meaningless. You and I are as capable as lawyers, as legislators and as laymen of interpreting our Constitution and our call and our actions as is Mr. Royce Harper and as is the Attorney General. Now what is the correct interpretation? If we only read the Constitution, what does the Constitution say? The Constitution says very simply that when it comes to a special session the Legislature effectively is limited to the thrust of the call. And what was the thrust of the call? It was to deal with spending, but more importantly, it was to amend, it was to amend the federal ADC, was to amend the ADC statutes as required by federal law. Now it didn't say it was to amend the ADC statutes in the manner required by federal law. It didn't say it was to amend the ADC statutes as the federal government says the amendment should take effect. It merely said it was to amend the ADC statutes, and it happens to be required by federal law. As you may recall, the federal law says whenever the Legislature next convenes it has got to go back and amend its statutes. That is simply a timing point and so we came and we looked at the ADC statutes and we have amended those ADC statutes and we have amended those statutes in a way which is totally

and absolutely germane to the purpose of the call. We were looking at ADC. We were looking at the needs of the unborn child. We were looking at the needs of the mother and we made an amendment. The Attorney General's opinion says...it talks about spending.

PRESIDENT: One minute, Senator.

SENATOR V. JOHNSON: It says simply that an act such as the one we have just passed which authorizes additional benefits is clearly beyond the purpose of the Governor's call. Now as you may remember, Senator Hoagland, I believe it was, pointed out or was it Senator Beutler that pointed out that in fact you and I haven't increased benefits one iota. You and I haven't added any new benefits to the existing system. All you and I have taken the steps to do is in effect to preserve an existing system to allow benefits to continue as they have in the past. So not only is the opinion itself supported by no case law, supported by no reasoning, it is premised on a faulty factual basis, and this truly is one of those times when in the words of David Harum, that my mother used to like to read, you can say, "This is basic bunkum".

PRESIDENT: The Chair recognizes Senator Haberman.

SENATOR HABERMAN: Mr. President, I believe I will wait until the attorneys are through and then I will have a layperson's comment.

PRESIDENT: Defer to Senator DeCamp, Senator DeCamp, you are next.

SENATOR DeCAMP: Mr. President, of course, I kind of felt this way about five-thirty as you kind of maybe recall but I would like to maybe try to clarify the issue just a trifle. I think there are two separate issues and the one is the Attorney General's opinion that says our action is outside the call of the session, and I don't think there is the slightest, I mean not even a scintilla as they say in legal terms, of a chance that our action is outside the call, and there is a separate question and you debated that for almost a week in the committee, the amendments, the Senator Pirsch amendment, the Senator Labedz amendment, so on and so forth, and that issue is whether what we are doing ultimately is in compliance with the federal law, whatever that may be, whether it is the best policy, the dumbest policy, or whatever. So question number one, which was the reason we really came back, has to do with whether this is outside the call. It is not outside the call what you have done. You would never

lose on that grounds. I would bet my legislative seat which I will probably lose anyway, but anyway I will bet that and just about anything you want that you will never lose on the basis of this being "outside the call". In fact, I doubt it would ever be challenged on that basis. Try to think for a minute, who is going to spend the time and money challenging it on that basis. Is Paul Douglas going to challenge it to jeopardize \$1.6 million? Come on, not even Paul is going to do that. So who is going...okay, so somebody does challenge it though on a different basis and says, well, you didn't comply with the federal law. Now that is a whole separate question and that is what you have argued for on a week here and that is what you have decided in vote after vote to go along with the particular formula here, the particular version, the particular system, and I think you are pretty safe on that, if for no other reason than nobody can tell you what the federal law is in a whole number of areas, and that is why, as you recall, we put the special amendment on that you all went along with and agreed on that says come March 1st we are going to repeal this one little piece unless we learn something more to change our minds between now and then. Now Senator Schmit has an amendment and I have no particular feelings on it. I just guess I think it is unnecessary. I think we can go ahead and do what I was suggesting we do about two, three hours ago and that is go home, pass the law Saturday morning and go to the football game.

PRESIDENT: The Chair recognizes Senator Newell.

SENATOR NEWELL: Mr. President, I call the question.

PRESIDENT: All right, do I see five hands? Well, Senator Warner is going to close. Senator Newell.

SENATOR NEWELL: I can speak on the other side, if that is absolutely necessary.

PRESIDENT: All right, go ahead and speak.

SENATOR NEWELL: And I won't take very much time either. How am I going to speak on the other side? Well, I have been convinced by all the arguments but I just don't believe them.

PRESIDENT: All right, now, Senator Nichol, do you wish to speak?

SENATOR NICHOL: Yes, Mr. President, members of the Legislature, isn't it funny and I have done it myself, it is only one man's opinion, they don't know what they are

talking about. Attorneys get up on the floor and say it is all wrong, don't have any fears. Let me tell you of a little incident that happened about the last day of the 1980 session. Had a little bill up, Senator DeCamp called on one attorney after the other and said, "Do you think this is constitutionally sound?" Absolutely not. It is terrible. It will never stand up." It has stood up now and it is clear to the Supreme Court of the United States. So this is an old song that we have seen many times. Now I suppose we employ the Attorney General's Office for nothing to give us bum opinions. How many times are they wrong? Not too many times. What I think we should do, as a layman's opinion, is take the bill as it was written. If you think you are a better attorney than the Attorney General's Office, then go ahead and change it. Take the chance. If you don't think you are, then vote on it up and if you don't like it vote it down. That is the way to go. Then it is not on your head whether it is right or wrong. I don't think those of us that are laymen are particularly qualified to say but thank you, Mr. Speaker, for letting me talk.

PRESIDENT: The Chair recognizes Senator Hoagland.

SENATOR HOAGLAND: Mr. President, colleagues, what I would like to do is to add to Senator Beutler's comments about the results of our research during the dinner hour. Senator Beutler, I think, covered very well the holding of the Nebraska Supreme Court opinion in Arrowhead and made the first of three I think important points that we concur about in respect to the legal issues involved here, and let me just state those briefly because I know that we want to vote on the matter and get on to the next item if, indeed, Senator Schmit intends to introduce his amendment. All right, those points are the following two in addition to Senator Beutler's points. Now first of all what the Attorney General's opinion says basically is that we have to strictly construe the Governor's call. Now the Governor's call consists of two parts. The first call and the amended call and they are found on pages two and three of the Journal and the Attorney General's opinion says that we have to read the purposes for which we were called and then place the strictest possible construction on those. Now I have underlined these and could read the Governor's language for you but I won't do that because it will take too much time, but suffice it to say that if you read that language and place the strictest possible construction on it, there is really very, very little we can deal with in these bills. Now the important point is the following; that there are two provisions in LB 7 as introduced by the Governor which go beyond the strict

construction of his call and those two provisions are contained in the early pages of the bill. So if we are to follow the Attorney General's opinion literally and the strict construction of the call literally, there are two provisions that the Governor himself asked us to introduce in that bill that we could not introduce, that we could not deal with legislatively. Now another fallacy, I think, with the Attorney General's opinion, and Senator Johnson pointed this out as well, and Senator Fowler has been pointing this out all afternoon, is that in the last page, the last paragraph, why the Assistant Attorney General indicates that it is wrong for us to permit ADC benefits to be paid for the first and second trimester of a pregnancy because that constitutes, and I am quoting the opinion, "an act authorizing additional benefits". Now there are no additional benefits authorized by LB 7. LB 7 simply funds the same benefits, first and second trimester pregnancy benefits that have been in state law for several years now. It doesn't authorize any additional benefits. It simply changes the mechanism for funding those benefits. Now again going back to the Arrow Club opinion that Senator Beutler quoted from, I think that our authority to amend and to change the ADC law in that area clearly falls within the language of Judge Boslaugh in the opinion that Senator Beutler read. So I would concur with the other people that have spoken on this issue that there really is no constitutional prohibition whatsoever to our doing this if we want to do it. So when you vote on Senator Warner's amendment, what you really ought to be voting on are the merits of the issue as we voted on them earlier today and yesterday, that is, do you think that we ought to give benefits to first or second trimester pregnancies and that again gets back to the issues that Senator Labedz and others have talked about in previous debate. Thank you, Mr. President.

PRESIDENT: Senator Warner, you will close then.

SENATOR WARNER: Am I closing?

PRESIDENT: Yes, Senator Warner, you are closing. No further lights are on so you may proceed to close on your motion.

SENATOR WARNER: Okay, Mr. President, members of the Legislature, I am going to recite to you the chronological order of things that occurred for me today, and I am not going to argue whether the Attorney General's opinion is correct or incorrect. That, as has already been stated, is each of your own judgments. I hadn't become particularly interested in this bill in this kind of depth until this morning when I begin to look at the fiscal notes a little more closely,

and it wasn't so much...and understand whether or not there was a cost or not. As I looked at the fiscal notes, obviously at some point may have a cost, and as you read the fiscal notes, it is obvious based on the Department of Welfare that they was, at least for '83-'83, and that was the amendment I had there, that they had not intended to ask for general fund appropriations, so to that extent it looked to me next time there would be an increased cost and A bills or fiscal notes are designed to show current, future and second year costs. So I asked to have an amendment drawn for the second year costs. Then being a lay person I looked at the call and my concern was one that perhaps is in error but I tied the two calls together, the amended call together with the original one, and I presumed just reading it it was possible that to reduce appropriations because of the fiscal notes and the way it worked could result in possibly being outside of the call. You will recall that I withdrew the amendment and I withdrew it because I thought that if that amendment was adopted then it might even give greater credibility to increasing appropriations, and hence out of the call, and it was not my purpose in offering that amendment to have the bill messed up. I became thoroughly convinced during these two days that we needed to act, that there was a very real problem of jeopardizing a substantial amount of federal funds, that I did not want to see. I certainly didn't want to have to come back again before January if that was going to be the case. As I have done once or twice in the past in special session, I have asked for Attorney General's opinions because I didn't want this body to get tripped up two days after we adjourn on some technicality. I thought we deserved to know any of those possible conflicts while we still have a chance to make an adjustment in it. And as I have said and everyone else has said, you will have to decide for yourself whether or not you feel you are creating a problem. There are those who articulately pointed out that we have not or they feel we do not. I do not know. You have to follow whoever you want. I would also tell you that the motivation, if anyone is suspicious, for the letter came from no one, from me and no one else asked me to or talked to me nor have I talked to anyone on it. It was pure and simple concern that we did not inadvertently have something occur that would look bad for the Legislature procedurally and that was the reason for doing it. Now it is also true I did not support the amendment that was put on but I have never cared for the tactic of trying to defeat something with opinions alone, if that is what you are going to do. If you lose, you lose, but I think the issue is significant enough that the absolutely safe thing to do is to adopt the amendment that is offered. Because then without question we do not run the probability...the possibility of jeopardizing federal funding

and the same people will be here in January essentially at least as is here now. If the action you took was right, it can be done then, it can be done again, and there would be I assume it can be argued a couple of months of problems for some individuals and I understand that but, nevertheless, I would assume the action could be done without any cloud of possible incorrect action because of the nature of the call. So I would suggest you use your own judgment, adopt the amendment if you want to be absolutely sure. If you are absolutely sure by leaving the bill as it is, then vote no.

PRESIDENT: The question is the adoption of the Warner motion to return LB 7 for the specific amendment. All those in favor of the motion to return vote aye, opposed nay. Nine are excused. Senator Warner.

SENATOR WARNER: I just want to make a record vote out of this so that (interruption).

PRESIDENT: Yes, sir, a record vote has been requested. Record the vote.

CLERK: (Record vote read. See page 104, Legislative Journal.) 15 ayes, 24 nays, Mr. President.

PRESIDENT: Motion fails. Another matter, do you have another motion?

CLERK: Mr. President, Senator Warner would now move to return LB 7 to Select File for specific amendment. That amendment would be to add the severability clause.

PRESIDENT: The Chair recognizes Senator Warner.

SENATOR WARNER: Mr. President, under the circumstances, I originally intended to offer that. I still do. Were it not for the fact that I gather that Senator Schmit is going to be offering amendments to the bill...will not be coming back. Well, if it is not coming back again, I would even more encourage the acceptance of the severability clause, because many have spoken of the problems with one or the other, and if one is...a portion of the bill has a problem, I would hope that the whole thing wouldn't go down. I would move the bill be returned for the adoption.

PRESIDENT: The Chair recognizes Senator DeCamp.

SENATOR DeCAMP: Mr. President, members of the Legislature, I respectfully oppose it, not because it might not be good language, but because it would delay quite a bit. But above

and beyond that, and if I am wrong on this, any lawyer in the room stand up and say, "By golly, De Camp, you are wrong", in my next statement. The severability clause is an automatic thing the courts automatically always apply and imply to every law or thing they take before them. It doesn't have to be written on there at all. It is automatic and we always add it on. It is not necessary. It is just as automatic as when you get 25 senators and register in, you are in session whether the other 24 are here or not. So I would urge us, since you made the decision on the one portion, not to worry about this. We know it is in there. The legislative record shows it here today right now in the last two minutes that it is there, but above and beyond that, it is as automatic as anything by the courts.

PRESIDENT: The Chair recognizes Senator Vard Johnson.

SENATOR V. JOHNSON: Mr. Speaker, members of the body, I basically concur with exactly what Senator DeCamp said which means very simply that when a court looks at a piece of legislation and it concludes that a particular portion of a piece of legislation is unconstitutional, the first question it asks itself is whether or not that entire piece of legislation fails because it has found one portion to be constitutional. Generally speaking courts have held that unless that unconstitutional portion is such an integral part of the overall legislation that only the unconstitutional portions fails but the entire piece of legislation does not. So general speaking, a severability clause is not necessary. Now you know in the legal profession there are a number of folk that are known as flyspeckers and flyspeckers are those lawyers that make certain that every conceivable "t" is crossed and every possible "i" is dotted, not just one time but two to three times to make certain, to make certain that other lawyers know exactly what is meant, and for that reason a lot of legal drafters have decided that they wanted to place severability clauses on lots and lots of legislation so that the whole world will really know what we already know anyhow and that is that courts do look at legislation very carefully, and if they find one part unconstitutional, they are to ask themselves whether that part is such an integral part of the entire woof and weave of the legislation, woof and woof of the legislation I guess, as to cause the whole thing to be unconstitutional. I think it is a needless act but I want to make one more point. I guess I have been a little exercised about the Attorney General's opinion. I probably shouldn't be so quite so exercised about the opinion, but because I felt so strongly the opinion was totally wrong in this case, it seemed to me that it is conceivable that once

we pass this legislation the Attorney General himself might state to the Nebraska Department of Public Welfare not to implement the legislation. Why? Because it is clearly unconstitutional. Now if we give that Attorney General the severability clause, he might even say, "Well, we could even afford to risk not implementing this legislation because in the end should our point of view be sustained under the severability clause why the whole piece of legislation is not in any way, shape or form in jeopardy. I, frankly, at this point don't want to give the Attorney General that, even that little possibility of directing the Nebraska Department of Public Welfare not to implement the legislation. I could guarantee you what would happen, incidentally, if the legislation were not implemented. Somewhere along the line some pregnant woman would go in and apply for ADC benefits which we would have provided for by statute, she would be denied those benefits because the legislation was not being implemented, and she would bring an action for herself and probably for all other unborn children then in utero, and then with poor women, it would be a class action nature designed to get the benefits to which they are entitled by virtue of our statutes. Now I don't think any poor woman should be put to the trouble of having to litigate the issue. The issue once we have passed upon it very simply it ought to be the law and that ought to be it. To me putting the severability clause in (a) is not necessary and (b) if it is put in might even provide some little additional incentive for our Attorney General to direct our Nebraska Department of Public Welfare not to implement legislation which you and it, as a collective body, thinks should be implemented. So for that reason I would hope that the Warner amendment is defeated.

PRESIDENT: The Chair recognizes Senator Schmit.

SENATOR SCHMIT: Mr. President and members of the Legislature, I have guess we have come about a full three hundred and sixty degrees now. I have heard all the various reasons on the severability clause. I am glad I stuck around this evening. I think that there is some reason, at least, to support the Warner motion for the severability clause because it does indicate to the federal government and to the Attorney General that there is deep concern about whether or not Section 3 of the bill is in fact enforceable. We do not believe it is. I do not believe it is. I have emphasized that point time and time again. I also want to point out that I agree again with Senator Warner that it is impossible to sit here in a few hours or an hour and a half and draft legislation which is letter perfect. We have been told in effect under Section 3 to build a house and we have not been told what materials to use; well, we have been told to a degree how long we had to

build it; and we have been told it must comply with certain specifications but we have not been given those specifications. We have been warned that unless we build a house to federal government specifications, and those specifications are not available, we shall be penalized. I have been sitting here debating just how far I want to crawl out on that limb and hand the saw to a number of other persons outside of this Legislature to saw it off on me. I think I made the point unmistakably clear that we have been told to do something which cannot be done but I believe that we are at the point now where it is better to allow Section 3 to remain in the bill since if we take it out we are doing what has been told us many times that we will be out of compliance and we will be the whipping boy of the body under the entire state. I think that I will not vote for LB 7 because I told you it will not work but the Attorney General's letter gives us absolutely no guidelines as to what we should do. There is nothing in there, and as Senator Johnson has said, it points out the things that are wrong, why we think it won't work, it might not work, but there are no guidelines, no case law. Without those guidelines I will not, for one, attempt to amend the bill any further. Therefore, Mr. President, I would support the Warner motion of the severability clause because I want to call attention of the government, both the Attorney General's Office, the Executive, and the federal administration that I find fault with the program but I do not believe it is within my ability to correct those faults within the space of time allotted to me. So I would support the Warner motion and I would doubt very much that anyone is going to challenge that bill, that we are going to lose any money because of its inclusion in the act.

PRESIDENT: The Chair recognizes Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, because of various interests I have had, it has been necessary for me to read a lot of Nebraska Supreme Court opinions and I can't give you the cites right now but I could find some by tomorrow if you needed them where the court has said repeatedly that the severability clause is not necessary. As was stated in the case that Senator Beutler read, the presumption of constitutionality is accorded to any act of the Legislature and the only time an entire act will be struck down as unconstitutional is if the portion that is unconstitutional was the reason for enacting that piece of legislation. If the reason for its enactment is unconstitutional and that is struck down, then the whole act falls. But it is clear from everything that has been said about both of these bills that the only reason they are being offered and acted on at all is because of federal

mandates, LB 7 anyway. So that being the reason for it and the court willing to excise out the portions of the law that are unconstitutional, I don't think that the severability clause is necessary. And now that things are cooled down somewhat, I did make some statements before that were, Senator Haberman, somewhat intemperate. I made a comparison between a jackass and a lawyer and that was not the right thing to do. I gave you one cite from the New Testament where Jesus rode on an ass so that shows that it is a noble animal. I can go back to the Old Testament, because some people consider that as authoritative as the New Testament. There was a prophet named Balaam who was given a mandate by God to go to a certain place and deliver a message and this man wanted to go a different direction. He was riding a jackass. So he was going to drive through this doorway, ride the jackass through it, and the jackass would not go because the jackass had more perception than the prophet and saw an angel standing there with a sword, and had the jackass proceeded, the angel was going to take the sword and do grave damage, probably kill the prophet. So the jackass crushed the prophet's foot against the side of the door and the prophet began to kick the jackass. Now this is in the Bible. It could be called the wit and humor of the Bible. But the jackass turned around and said to the prophet, "Why have you kicked me like this? I have served you faithfully all these years. Now you do this to me." And so the prophet as though the jackass' talking is not unusual at all, just said, "Well, why don't you go where I want you to go?" So the jackass said, "Fool! There is an angel there with a sword. If I go there he will cut your head off." So then the prophet's eyes were opened and he became as perceptive as the jackass and he saw the angel, too, so he thanked the jackass. So, Senator Haberman, an apology is due. I ought not to have compared a noble beast like a jackass to a lawyer.

PRESIDENT: And I now take pleasure in recognizing Senator Haberman.

SENATOR HABERMAN: Mr. President, members of the Legislature, I would like to ask a question of Senator Hoagland.

PRESIDENT: Senator Hoagland, will you respond?

SENATOR HABERMAN: Senator Hoagland, as an attorney, do you feel the severability clause should be added to this or needs to be added?

SENATOR HOAGLAND: Senator Haberman, I concur with Senator DeCamp and Senator Johnson.

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SENATOR HABERMAN: Thank you. Senator Johnson, do you believe that the severability clause has to be added to this?

SENATOR JOHNSON: Senator Haberman, I did speak once.

SENATOR HABERMAN: Would you give me a yes or no please?

SENATOR JOHNSON: You might have been in a Biblical discussion with Senator Chambers at the time. I do not believe the severability clause needs to be added.

SENATOR HABERMAN: Thank you. Senator Beutler. Senator Beutler, do you believe the severability clause has to be added to this?

SENATOR BEUTLER: I don't think it is necessary at this time because I think the legislative history is now very clear with regard to both the problem we discussed earlier and Senator Schmit's problem everybody here intends it to be severable.

SENATOR HABERMAN: Senator Chambers has already given his opinion and he is 99.99% an attorney. I leave off 1% because he hasn't joined the bar. Senator Cullan, beings as you are 98% through law school, do you feel that the severability clause should be added to this?

SENATOR CULLAN: I never give out free advice, Senator Haberman.

SENATOR HABERMAN: Fine, thank you. Now, okay, now, if you stop to think about two things. I would like to ask you to think about two things. Number one, if you add this, we are going to be here another three or four hours. Number two, anytime you can get six and a half attorneys to agree on something, it must be all right. So I am going to say let's go along with the attorneys because they all agree and defeat the Warner amendment and then we can conduct our business and quit and go home. Thank you, Mr. President.

PRESIDENT: The Chair recognizes Senator Labedz.

SENATOR LABEDZ: I call the question.

PRESIDENT: It won't be necessary because you were the last speaker. Senator Warner, you may close on your motion.

SENATOR WARNER: Mr. President, members of the Legislature, for eighteen years I have been told that we did not need to add the severability clause. Time and time again I have used the same argument, I have heard everytime the courts do that,

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and yet when I ask others, they always say, "Well, if you want to be sure, put it in. It won't hurt and then it is clear." I was interested when Senator Beutler said that it was clear from the floor discussion that the Legislature intended it to be that way. I used to also be told by my attorney friends that what the Legislature intends unless it is in the language of the law doesn't count. Now maybe we have a new set of rules that our intentions are what is most important and not what is written, that I do not know. As to the delay, I think we ought to have talked about long enough that the necessary amendment is prepared. I am going to say, because it annoys me no end, and had we not used some language issue here a little bit ago, I would have used much stronger language, but there was absolutely no reason that E & R did not have the necessary preparation of amendments in the inevitability of any of these things being adopted. They have done that to me before down there and to the body and I don't know what they were doing over those two hours but that was part of the purpose of the delay, for the staff to prepare what ought to have been done. It didn't dawn on me, unfortunately, that I had to go down and tell them to prepare the work to accommodate the Legislature that takes a half an hour and they had two hours to do while we were in recess. I am going to again move that the severability clause be attached to show that what you intend, as Senator Beutler has indicated, is in fact what you do.

PRESIDENT: Okay, the question before the House is the adoption of the Warner amendment. Motion to return, I should say to add the severability clause. All those in favor vote aye, opposed nay. It is the motion to return. You have to have a motion to return first. The other one failed so we have got another motion to return now. Have you all voted? How many are excused? Nine, nine are excused. Senator Warner, do you wish to...

SENATOR WARNER: Are there...

PRESIDENT: Nine people are excused.

SENATOR WARNER: Just let me say it this way, if you are hesitant to do because of delay, then your problem isn't with me, it is with bill drafting. If you believe it is not necessary, then vote it down, that is fine.

PRESIDENT: All right, record the vote.

CLERK: 25 ayes, 10 nays on the motion to return the bill, Mr. President.

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PRESIDENT: Motion carries. The bill is returned. Now on the motion to adopt the severability clause. Senator Warner.

SENATOR WARNER: Mr. President, I will just move its adoption. I think everyone understands the issue.

PRESIDENT: All right, any further discussion? Seeing none, the question then is...Senator DeCamp, did you wish to speak? No. The motion then is the adoption of the motion to adopt the severability clause on LB 7. All those in favor vote aye, opposed nay. Record the vote.

CLERK: 27 ayes, 11 nays, Mr. President, on adoption of the Warner amendment.

PRESIDENT: Motion carries. The amendment is adopted. Senator Warner, do you want to move the bill back? Motion to readvance LB 7 to E & R for engrossment. Any discussion? All those in favor of readvancing to engrossment signify by saying aye, opposed nay. LB 7 is advanced to E & R for engrossment. All right, then as I understand it, the Clerk advises the Chair that it would be about a half hour to get the bill back. Senator Beyer, for what purpose do you arise?

SENATOR BEYER: Mr. President and colleagues, I move we recess until 11:45 p.m., come back in, reconvene, adjourn, and then wait until after midnight, reconvene and adjourn and that will save all of us an extra trip going home.

PRESIDENT: That is a multiple motion, to recess...you can't recess and adjourn at the same time. So I will rule you can only have one motion at a time. So the first motion, Senator Beyer, would be to recess until 11:45 p.m. I guess, is that right? Okay. Speaker Marvel, where are you? Do you want to talk about that. Did you hear what he suggested? He suggested to go to 11:45 p.m. and then come back and complete Saturday's work right after midnight. Senator Warner, did you have a question on this procedure?

SENATOR WARNER: Just a point of information, Mr. President.

PRESIDENT: Yes.

SENATOR WARNER: Do I understand it is now a half hour more or was the half hour as of about twenty minutes ago that I asked that it was a half hour?

PRESIDENT: I don't know. Mr. Clerk, what's the...fifteen minutes ago he said he talked to him so it is not even a half

an hour, that is right. It will be fifteen or twenty minutes about.

SENATOR WARNER: I would suggest in the future that the staff be instructed under these circumstances to have all the anticipated necessary work done in the event the Legislature wants to act.

PRESIDENT: A point well taken. Now, back to the Beyer motion which is on recess. Again, this is why I asked the Speaker to comment, there really isn't any debate on any of these. I am just asking...question, Senator Clark, and then Senator Koch had a question. Senator Clark and then Senator Koch.

SENATOR CLARK: For clarification, that bill has to come back from the E & R now and put on in order for us to get out of here Saturday, is that right?

PRESIDENT: That is correct.

SENATOR CLARK: And if we would recess until eleven-thirty is kind of stupid, I think. You know, it may save you a trip but the rest of us are going to pay our twenty dollars for a motel whether we are here or not so it doesn't make a heck of a lot of difference to us but I think we ought to stay and get that bill back up here and then we can go eat.

PRESIDENT: Senator Koch, a question from you. Pose these in form of questions because there is no debate?

SENATOR KOCH: Mr. President, I was asking for a point of clarification. I guess I misinterpreted Senator Beyer and I was going to object. Now Senator Clark I think has clarified it. My suggestion would be that we meet tomorrow and consider resolutions in good faith, whether you like them or not, and then tomorrow night we would come back at 12:01 a.m. and read the bills on Final Reading and then we would be able to take off and watch Tom Osborne do a great job. He does a much better job than we do but he has to only put up with striped shirts and whistles.

PRESIDENT: The motion is to recess until 11:45 p.m. Ready to vote. All in favor of recessing until 11:45 p.m. vote aye, opposed nay. Have you all voted? Record the vote.

CLERK: 8 ayes, 12 nays, Mr. President, on the motion to recess.

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PRESIDENT: Motion fails. Now what do you want to do? Why don't we stand at ease and see if we can stand it for fifteen minutes. Maybe that is all it will take, we hope. The Legislature will be at ease until the bill returns. It won't be but a few minutes.

EASE

PRESIDENT: The Legislature will come back to order. The Clerk has a report.

CLERK: Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 7 and find the same correctly reengrossed. (Signed) Senator Kilgarin, Chair.

PRESIDENT: Okay, Mr. Speaker, all matters have been taken care of that have to be taken care of so do you want to make a motion? The Chair recognizes Speaker Marvel.

SPEAKER MARVEL: The motion is that we adjourn until ten o'clock tomorrow morning.

PRESIDENT: Motion to adjourn until ten o'clock, Friday morning. All those in favor signify by saying aye, opposed nay. We are adjourned until 10:00 a.m., Friday morning.

Edited by Arleen McCrory.
Arleen McCrory

SPEAKER MARVEL: State your point to the Chair please.

SENATOR CARSTEN: I think this thing has gone far enough. We are almost at the completion of our work. I would suggest to the Chair that you disregard any further lights and that we proceed with our business. Thank you, sir.

SPEAKER MARVEL: Mr. Clerk, do you want to proceed now with Final Reading.

CLERK: Reads LB 8 on Final Reading.

SPEAKER MARVEL: I think since we will be on Final Reading for some time that you should be allowed to move around as long as you don't move too far. Because, remember we need a certain number to legitimize what we are doing. So the Chair would indicate that you could move around within the room, but please, be quiet enough so we can hear what the Clerk has to say.

CLERK: Continues to read LB 8 on Final Reading.

SPEAKER MARVEL: We will be voting in about five minutes.

CLERK: Continues to read LB 8 on Final Reading.

SPEAKER MARVEL: All provisions of law relative to procedure having been complied with, the question is, shall LB 8 pass with the emergency clause attached. Those in favor vote aye, opposed vote no. It takes 33 votes. Voting aye, Mr. Clerk.

CLERK: Senator Marvel voting aye.

SPEAKER MARVEL: Have you all voted? Clerk will record the vote.

CLERK: 40 ayes, 5 nays, 1 present and not voting, 3 excused and not voting. Vote appears on pages 119 and 120 of the Legislative Journal.

SPEAKER MARVEL: LB 8 is passed with the emergency clause attached. Next bill is LB 7.

CLERK: Read LB 7 on Final Reading.

SENATOR CLARK: All provisions of law relative to procedure having been complied with, the question is, shall the bill pass with the emergency clause attached. All in favor vote aye, opposed vote nay. Voting aye.

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CLERK: Senator Clark voting yes.

SENATOR CLARK: Have you all voted? Record the vote.

CLERK: 37 ayes, 8 nays, 1 present and not voting, 3 excused and not voting. Vote appears on pages 120-121 of the Legislative Journal.

SPEAKER MARVEL: LB 7 is declared passed with the emergency clause attached. While the Legislature is in session and capable of transacting business, I am about to sign and do sign LB 8 and LB 7. Senator Beutler your light is on for what purpose do you rise?

SENATOR BEUTLER: A point of information.

SPEAKER MARVEL: State your point.

SENATOR BEUTLER: If I understand the process that we are going through, it will now be, the Governor will now have the prerogative to line item veto LB 8. Because of the unique circumstances of special session it will be his prerogative not only to accept the reductions that we made but because of the physical set up of the bill it will be conceivable that the Governor could further reduce expenditures by interlineation and line item vetoes on LB 8. In that context I think that it would be irresponsible for this group to adjourn sine die without leaving ourselves the alternative of an override unless there is some kind of commitment from the Governor to this body that there will not be line item vetoes of LB 8. I would like to ask yourself, Mr. Speaker, or whoever speaks for the Governor in this body, apparently a lot of people have been recently, if in fact the Governor is committed to signing the bill in the form that has come to him as indicated in the newspaper reports because I think there should be discussion on that point if in fact he is not so committed.

SPEAKER MARVEL: The Legislature will stand at ease for a few minutes. The Legislature will come to order please. Before we go through the necessary procedure of adjournment I would like to make, may I have the attention of the Legislature please? I have before me two bills which have just been signed by the Governor, LB 7, LB 8 and I now propose to proceed with the motions that will lead up to adjournment. Chair recognizes Senator Nichol.

SENATOR NICHOL: Mr. President, I move that a committee of