

the authority to make those determinations. If Senator Schmit and Senator DeCamp want different mechanisms within their area then let them go to their natural resources districts and make that plea to them. It's the same as I should have the right to do with my NRD but you're taking that right away from me and I think that is wrong. I think that is fundamentally wrong. Why don't we just do away with the NRDs and make all the decisions right here? We'll draw the lines, we'll do the whole works. We'll be the Natural Resources Board for the whole state. That is really what we are doing. Is that what we want to do?

SENATOR CLARK: The question before the House is the adoption of the Vickers amendment to the Kremer amendment on Section two. All those in favor vote aye, opposed vote nay. This also takes a simple majority. A record vote has been requested. Once again, have you all voted? Record the vote.

CLERK: (Read record vote as found on page 353 of the Legislative Journal.) 12 ayes, 21 nays, Mr. President, on adoption of the amendment.

SENATOR CLARK: The motion lost. Senator DeCamp, would you like to adjourn us until nine o'clock tomorrow morning after the Clerk reads in the rest of the bills.

SENATOR DeCAMP: Marvel was saying something about coming back at four-thirty or something. Is that out?

SENATOR CLARK: No, I don't think we need to.

SENATOR DeCAMP: Okay, we're going until nine o'clock tomorrow then.

SENATOR CLARK: No, let's wait until he reads the bills in.

SENATOR DeCAMP: Oh, okay.

SENATOR CLARK: He still has some bills to read in.

CLERK: Mr. President, new bills. (Read by title for the first time, LBs 915-955 as found on pages 354-366 of the Legislative Journal.)

Mr. President, Senator Marsh would like to print amendments to LB 69 in the Legislative Journal. (See page 369 of the Legislative Journal.)

Banking gives notice of cancellation and rescheduling of a hearing. (See page 369.)

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LB 458, 756, 761, 807, 933, 942
LB 816A, 966, 970, 971,

A bill to hold this thing up. Thank you.

SENATOR CLARK: Senator Beutler. The question has been called for. Do I see five hands? All those that wish to cease debate vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

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

CLERK: 27 ayes, 2 nays to cease debate, Mr. President.

SENATOR CLARK: Debate is ceased. Senator Carsten.

SENATOR CARSTEN: My only comment is to renew my motion to advance 816A and to Senator Kahle, as a member of the Revenue Committee, if you've got any suggestions or help to make it better or to make the whole thing better, you know that you are perfectly welcome and we welcome you with open arms to give those suggestions to us. You've been aware of that all session and I renew again to you, that pledge to work with you if you've got the answers. Thank you.

SENATOR CLARK: The question before the House is the advancement of 816A. All those in favor vote aye, opposed vote nay. Have you all voted? Record the vote.

CLERK: 25 ayes, 15 nays on advancement of the A bill, Mr. President.

SENATOR CLARK: The bill is advanced. Senator Nichol. Oh, do you have anything to read in? Go ahead.

CLERK: Very quickly, Mr. President, Miscellaneous Subjects still would like to meet underneath the North balcony.

An announcement from Senator Lamb of moving LB 458 from pass-over to General File.

Your committee on Appropriations whose chairman is Senator Warner reports LB 756 advance to General File with committee amendments attached; 942 General File with committee amendment attached; 933 General File with committee amendments attached; 761 General File with committee amendments attached; 966 General File with committee amendments attached; 971 indefinitely postponed; 970 advance to General File. (See pages 1271-1274 of the Legislative Journal.)

Your committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 807 and find the same correctly engrossed.

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LR 262, 263, 264, 265
LB 933, 942, 208, 568,
898,

SENATOR CLARK: The committee amendments are adopted. Now, on the bill, Senator Warner.

SENATOR WARNER: Mr. President, I move that LB 933 be advanced. As I pointed out it will repeal the necessity for an expenditure that we have not yet made.

SENATOR CLARK: Question before the House is the advancement of the bill. All those in favor vote aye, opposed nay.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Record the vote.

CLERK: 28 ayes, 0 nays Mr. President on the motion to advance the bill as amended.

SENATOR CLARK: 933 is advanced. We go to 942. (Read some things in.)

CLERK: Mr. President, a series of resolutions, LR 262 by Senators Wagner and Sieck. (Read LR 262.)

Mr. President, Senator Labedz would like to print amendments to LB 942. Senator Haberman, Hoagland and Nichol to 568.

A study resolution LR 263 by the Miscellaneous Subjects Committee. (Read title of LR 263.) LR 264 by the Miscellaneous Subjects calls for a review of the Political Accountability Disclosure Act and conducting of an examination of the statutes regulating political action committees. LR 265, by the Miscellaneous Subjects Committee. (Read title of LR 265.) Attorney General's opinion addressed to Senator DeCamp regarding LB 898. (Letter appears on pages 1355-56 of the Legislative Journal).

Mr. President, Senator Koch would like to print amendments to LB 208.

Mr. President, with respect to 942, it was a bill introduced by the Appropriations Committee. (Read title.) The bill was read on January 19th of this year. It was referred to the Appropriations Committee for hearing. The bill was advanced to General File, Mr. President, there are committee amendments by the budget committee pending.

SENATOR CLARK: Senator Warner, on the committee amendments.

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SENATOR WARNER: Mr. President to facilitate, because there are a number of things included in the amendments, I think I will ask for a division of the question on the committee amendments and they are showing it up there. The first or the first one I would propose is the deletion of Sections 11, 13, 14 and 25 and 19 through 22 and 28. These are deletions from existing bills. I will just cite what those are. Sections 11 and 13 and 14 all dealt with reimbursement for transportation and would have, as the bill was introduced would have applied the 90% reimbursement that we have for other special ed and we are striking that from the bill. The second thing we would be striking are those provisions that affected the county match for community based mental health, mental retardation and alcoholism. There would be no change in existing law. Strike that. The third area that we are striking would have been a change in the reimbursement for words of the court which would. . .there would be no change to existing laws, strike any possible change. The final thing that we would be striking was from the bill so there would be no change in the law was the provision of law that does now permit some General Funds for premium payments for 4-H at the state fair. I would move that that portion of the committee amendment be adopted, striking those sections from the bill so that the law would remain as it is now. No change in those areas.

SENATOR CLARK: Senator Warner, what you want to do is take number one, as you have number one there and strike the first two lines or use the first two lines for a separate division?

SENATOR WARNER: Yes, the first two lines would be right.

SENATOR CLARK: That will be the first thing we are voting on.

SENATOR WARNER: Striking original sections 11, 13, 22 and 24.

SENATOR CLARK: All right, everyone understands that. Senator Kahle.

SENATOR KAHLE: I'm having an awful time keeping up I guess, but what sections is that again now?

SENATOR WARNER: 11, 13 to 22 and 24.

SENATOR KAHLE: This doesn't pertain to the. . .these are different sections then than pertains to the grain checkoff?

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SENATOR WARNER: No, it has nothing to do with that. Nothing to do with any of that.

SENATOR KAHLE: Okay, thank you.

SENATOR CLARK: Senator Nichol, do you want to talk on the first. . . all right, what we are doing now is on the division of the question. Do you all have your book out on 1272. The first two sentences on 1272 of the Journal. If you have a white copy, it would be the same. You strike the first two sentences are the ones that we are voting on. Senator Nichol.

SENATOR NICHOL: Are we now striking Sections 11 and 13? From the white copy?

SENATOR CLARK: What we are striking is 11, 13, 22 and 24. It is the first two, the first section of the amendment. The first two lines. Senator Warner.

SENATOR WARNER: We are striking the Sections 11 plus 13 to . . .

SENATOR CLARK: To 22.

SENATOR WARNER: . . . to 24.

SENATOR CLARK: 13 to 22 and then 24. But not 23.

SENATOR WARNER: Yes, 11, 13 to 22 and then section 24.

SENATOR CLARK: Yes. Senator Nichol.

SENATOR NICHOL: Can we have a second to look to see what those sections are all about? Senator Warner do you want to explain what those sections do.

SENATOR WARNER: Sections 11 and 13 and 14 all deal with transportation expenditures for special ed and it would have required 90% reimbursement as other special ed but we are leaving the law as it is. No change in the law. Sections 15, 18 and 24 all dealt with revising health county match for mental health retardation, mental health and alcoholism. We are striking those. Leaving the law as it is. Sections 19 through 22 dealt with wards to the court, we are striking that from the bill, leaving the law as it is. Yes, those are items that are being stricken. That subject matter will be stricken entirely from the bill.

SENATOR CLARK: All right, it is ready for the debate. If not we are voting on the first division of the question. Senator Haberman.

SENATOR HABERMAN: Can you read it.

SENATOR CLARK: Read it? You haven't got it there? Strike original Sections 11, 13 to 22, and Section 24 and insert the following new sections. All those in favor will vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Record the vote.

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

SENATOR CLARK: Motion carries. The first part of the division is adopted. Now the second part. It goes from Section 12 over to Section 13. Is that right? All right, Senator Warner.

SENATOR WARNER: In essence, this is LB 932 that was heard in the Public Health and Welfare Committee, I believe it is still there. What this section does is it affects Medicaid and it would put state law for mandated programs to be in conformance with the same as mandated federal programs and would leave all other programs optional with the state depending upon the level of funding. I would suggest that essentially the level of funding contained in the Appropriation bill would reflect even if the programs were mandated but by removing them it would provide the department with greater flexibility in the event the funds are not adequate to cover all of the programs over the next twelve months.

SENATOR CLARK: We have an amendment for the second part Senator Warner.

CLERK: Mr. President, Senator Chronister would move to amend this portion of the committee amendments. (Read Chronister amendment).

SENATOR CHRONISTER: Mr. President, Senator Cullan has an amendment and with your permission, Mr. President, and the permission of the body, I will defer to Senator Cullan's amendment first.

SENATOR CLARK: Senator Cullan. Do you have an amendment for Senator Cullan there, Mr. Clerk? Do you have an amendment from Senator Cullan?

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CLERK: Mr. President, Senator Cullan would move to amend the committee amendments, Request 2852, page 1272 of the Journal. (Read Cullan amendment).

SENATOR CLARK: Senator Cullan.

SENATOR CULLAN: Mr. President, a question of the Clerk. Are we also voting on Section 13? Or are we voting simply on Section 12?

SENATOR CLARK: You are on Section 12.

CLEFK: Section 12 only, Senator.

SENATOR CULLAN: Mr. President, the reason I am approaching it this way is if my amendment is unsuccessful, then I would support Senator Chronister's amendment. So I would proceed... I would like to proceed with this amendment which is in effect rejecting Senator Warner's, this phase of Senator Warner's committee amendments. Mr. President, members of the Legislature, the reason that I oppose or that I ask you to adopt my amendment which does eliminate Section 12 of Senator Warner's proposed Section 12 of Request #2852 are as follows: Senator Warner brought, and the Appropriations Committee brought LB 932 to the Public Health and Welfare Committee for a public hearing. The Health and Welfare Committee did not advance LB 932, nor did they advance a competing proposal or a different proposal which would have specifically eliminated a large number of services which exist in the Medicaid program today. The philosophy of the Health and Welfare Committee and my philosophy in this regard is simply this. We should not delegate this type of authority to the Director of the Department of Welfare. If the Legislature wants to eliminate services in the area of Medicaid then the Legislature should specifically eliminate those services rather than delegate that authority. If we want to eliminate optometrists from Medicaid then we should do it here rather than delegate that authority to the Department of Welfare. That really I think is the key to this issue. The second point I would make is that the Health and Welfare Committee will be taking a look this summer at other ways to curb Medicaid costs and other areas of the Medicaid program which can be cut down and eliminated. I think it is very unwise of us at this point and time to merely delegate that authority, which I think is a legislative prerogative, to the executive branch of government. I guess that is all that I would say now except when you look at this and you have been lobbied by the chiropractors and others, you can see why we are concerned

very much about the scope of practice of many of these professions because they are automatically covered under Medicaid. So, whenever we expand the scope of practice of a group like the chiropractor's in LB 924, we are also making them, impacting directly the state's budget by the way it impacts Medicaid. I urge you to think of that when we examine LB 924 later on in the session as well. At this point and time I urge you to support my amendment and reject the Appropriations Committee's approach in this regard.

SENATOR CLARK: Senator Kilgarin, on the Cullan amendment.

SENATOR KILGARIN: Thank you Mr. President and members of the body. I would just rise to support Senator Cullan's amendment. I think that we are delegating an enormous amount of discretion to the Director of the Department of Public Welfare, I think way too much power and authority. I do believe that it belongs in the Legislature. I know that sometimes people look at these decisions as political "hot potatoes" but I don't think it is fair for us as legislators to advocate our responsibility to the people of the state by handing that "hot potato" to someone who really doesn't care if their hands get burned or not, that being a bureaucrat running a department. So I would urge you to support Senator Cullan's motion to strike this section. Thank you.

SENATOR CLARK: Senator Warner.

SENATOR WARNER: Well Mr. President, the effect of Senator Cullan's amendment is to strike the committee amendment. I would rise to oppose it and support the committee amendment as it is introduced. Somewhere up to two million dollars would be the cost over and above what we have in the budget if you adopt Senator Cullan's budget amendment. Now I can not identify exactly which programs out of the eleven or twelve that would no longer be mandated or what portion of them, but I can assure you that a significant increase in the general fund portion budget would be necessary. While I might concur in the general sentiment that we ought to have done this selectively, the Health Committee did not do it selectively. As far as I know they still have the bills in committee and if we are going to get through this next fiscal year it seems to me that a minimum we have to do is adopt the committee amendments so that there is some flexibility available to the department on these reimbursements, on these costs that can be reimbursed. I would hope that you will reject Senator Cullan's amendment and allow the

Department of Welfare to have the flexibility that the committee amendment will provide so that there is some possibility of staying within the level or appropriation that will be recommended.

SENATOR CLARK: I would like to introduce to the Legislature, Mark Frederick, Warren Negley, Janet Madsen, Joann Hagerty, Vern Williams, and Lou D'Ercole. Will you stand and be recognized please. They are members of the Ralston Chamber of Commerce. Thank you for attending the Legislature. We will see you about six o'clock. Senator Haberman.

SENATOR HABERMAN: Mr. President, members of the Legislature, may I question Senator Warner please.

SENATOR CLARK: Senator Warner.

SENATOR WARNER: Yes.

SENATOR HABERMAN: Senator Warner, now that everyone is thoroughly confused between the amendment and between what the committee wanted, I would like to ask just one question. Does the Cullan amendment increase or decrease what the committee proposed?

SENATOR WARNER: It would increase the cost.

SENATOR HABERMAN: It would increase the cost?

SENATOR WARNER: Yes.

SENATOR HABERMAN: That is good enough for me, then I will oppose the amendment. Thank you Mr. . .Senator Warner.

SENATOR CLARK: Senator Wesely.

SENATOR WESELY: Mr. President, members of the Legislature, that may be good enough for Senator Haberman, but I hope that it is not good enough for you. The question before you is one that came before the Public Health and Welfare Committee that Senator Cullan referred to. There were two bills, 932 and LB 883, which we looked at. What is essentially embodied by this amendment, that Senator Warner is proposing that Senator Cullan and I would like to strike, is LB 932 which was one of those two bills. Now we had those bills presented to the Public Health Committee, we had the hearings on those bills. We looked at the matter and found it to be a very complex question and we were not ready to deal with this session so we did not advance either bill.

Senator Cullan did propose LB 883, that was his bill, even though he supports the concept and probably in a general term of what we are trying to accomplish here with the Warner amendment or the committee amendment, I should say, nevertheless the committee hearing I thought was quite illuminating into the problems that are involved when trying to do what is being proposed by Senator Warner's amendment. What we are talking about here is the committee amendment to the bill. What they would have you believe is the Welfare Department could sit down and decide to cut back this or that benefit that is now optional under the federal Medicaid program. It would save us a lot of money. What we found in a lot of different cases was that these people would have to go to a doctor which would be more expensive perhaps to get the same sort of services that they could now get from a practitioner under the present statutes. So, in fact, it may not have the savings that are contended to be the case. In fact, it may cost more money. So, unless you properly approach the matter you can end up not saving money but rather costing money. So, it makes a lot of sense in my mind not to adopt on this floor an amendment to a bill that essentially bodies legislation that is being held by committee because it is too complex and too questionable to advance at this time. So, I would ask you please, don't under the guise of an appropriation effort to keep costs down, which I think we all want to do, adopt something that may not in fact accomplish that. But will in fact reduce services to people that may need it and for those that are still able to receive some of those services may cost the tax payer more money. It is a question of process at this point. No matter how you may feel about the issue, the process is this. Two bills were introduced. They went to Public Health Committee, we had hearings, there were problems with those bills, we held those bills and now an amendment is being offered to this. . . to the committee to this bill that would essentially accomplish what those bills we held were trying to do. So what Senator Cullan and I are trying to do is not allow that amendment to this bill and not allow that action to be taken on the floor. We think it is better to have the committee deal with that and come back next year. That is the concept. Do you want to have a process that we follow through the committee or do you want to use the appropriation bill here to accomplish something in a round-about fashion. I do think that there are real questionable arguments in favor of the amendment in the first place. As I said there may be more cost than savings in some cases, and I think that we have to look at that very carefully. So I would ask you to please support the Cullan amendment and not adopt the committee amendment in this regard.

SENATOR CLARK: Senator Chronister.

SENATOR CHRONISTER: Mr. Speaker, members, I rise in support of the Cullan amendment for the same reasons as advanced by the previous senators before me, Senator Wesely, Senator Kilgarin and Senator Cullan. I feel that if we make this change, the changes will have too far reaching effects to be really effective and cost effective at this time. I support the Cullan amendment.

SENATOR CLARK: Senator Higgins.

SENATOR HIGGINS: Mr. President, I also am a member of the Public Health and Welfare Committee and I was present when we heard both of those bills. One question that I asked of everyone that testified was given a choice between those two bills, which one would they prefer and the answer came back, the majority of them said, LB 883, which was Senator Cullan's bill which we held along with the other bill. Now Senator Sam will tell you that he and I don't often agree on anything but in this case I have to say I support Senator Cullan's amendment because the majority of the people at that hearing supported the Cullan bill. Thank you.

SENATOR CLARK: Senator Cope.

SENATOR COPE: Mr. President, members, up until now the changes that have been made by amendments have been somewhat minor. A thousand dollars here, ten thousand there, a hundred thousand somewhere else. But now we are up in big money. We are up in the neighborhood of two million dollars as Senator Warner just told you. The whole thing is based on this alone. Medicare payments in Nebraska are very, very generous. As I remember there are six points of federal that are required. We have something like 23. We have a choice. Everyone complains about payments of Medicare, Medicaid, whichever it is. You have got to think it over because two million dollars on a tight budget is a lot of money. Maybe this isn't the right approach but I think it is a must approach. If we want to study during the summer and come in and weed them out, that is fine. But, I don't think we can stand this two million additional to the budget unless it is cut somewhere else.

SENATOR CLARK: Senator Kilgarin, do you want to speak for the second time?

SENATOR KILGARIN: I would just like to respond briefly to Senator Cope's remarks. Yes, it is a high cost item.

We are talking about some necessities here, necessities for good health for people in this state. If you look closely at the amendment on page 1273 of the Journal, it says that the Director of Public Welfare may also provide for such additional services and eligibility as are optional under Title XIX of Social Security Act. Part of the language that is struck includes drugs, appliances, health aids as may be prescribed by health practitioners. Now are we going to say that we are not going to pay for a prescription that someone needs to maintain their health? Yes, it is a high cost item but we are talking about something that is very, very important to peoples' health in this state. I think one clean sweep by handing all of this authority and power over to the Director is not the way to handle this. It is true that the Public Health and Welfare Committee probably should have sat down and gone through and laid out exactly what we were going to fund and what we were not. But as they said it is a very difficult area to deal with. It was a short session and they felt that they needed more time to delineate which services and appliances and drugs and prescriptions, which areas of health care they wanted the state to fund under the Social Security Title XIX. So, I think by taking this one fell swoop approach and just doing away with it and just letting the Director of the Department of Welfare handle it is really, really not practicing good legislative policy. I don't think it is being responsible to the public and I don't think it is being responsible to ourselves by just letting a bureaucrat handle or do what should be our job. So I would urge you to support Senator Cullan's amendment. Thank you.

SENATOR CLARK: We are going to have to rule your amendment out of order. The reason we will is because you can do the same thing by voting no on the amendment, on this section. Senator Warner.

CLERK: I have another amendment.

SENATOR CLARK: Oh, another amendment to it.

CLERK: Mr. President, in that case Senator Chronister would move to amend that portion of the committee amendments. (Read Chronister amendment).

SENATOR CLARK: Senator Chronister, is Senator Chronister here?

SENATOR CHRONISTER: Yes.

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SENATOR CLARK: We are taking your amendment. Senator Cullan's amendment was out of order.

SENATOR CHRONISTER: It was? Okay, Mr. President and members, my amendment is very simple. It requires a change of only one word for another word. But as simple as this exercise is, it can have far reaching effects. Because, if we do not make this change that I am suggesting, we are deleting the services of optometrists, chiropractors, podiatrists, speech therapists, and physical therapists. Now these are practices and services that have been accepted since 1965. If we do not make this change, it means that in one fell swoop that we are deleting these services that will work a hardship not only on the people that are receiving these services, but also on the vendors that are supplying them. For that reason I urge your support in adopting my amendment in which we delete the word "physicians" and insert "practitioners". Thank you.

SENATOR CLARK: Senator Warner.

SENATOR WARNER: Mr. President, members of the Legislature, I again rise to oppose Senator Chronister's amendment on the same basis. What we are attempting to do is only have the mandated services that are required by state law and leave some flexibility for this current year with the Department to try to manage the increase in cost in this whole area. Now the effect of Senator Chronister's amendment I believe would probably mandate something in the vicinity of a million-one or a million-two of expenditures which are not necessarily prohibited now, but then it would mandate that additional cost. It seems to me that the only logical thing we can do is adopt the kind of amendment that the committee has proposed which leaves all services optional other than those that are mandated the level of funding will cover most all of that, will not cover it all, but if we start inserting them back one at a time we will have them all in before we get done and then we are up, somewhere upwards two million dollars short in the budget. Now I'm not all comfortable about doing this either, but I hope that all of you realize the kind of economic bind the state is in. Unless we are willing to give some flexibility to some of these departments to manage as best they can, we are merely compounding the problems which are already serious. There is funding for most of the things and they will probably have to prorate more than they perhaps we would like. But, I would hope that you would not start putting things

back into the mandated programs one at a time because once you start there is no place to stop. I would hope that you would vote against Senator Chronister's amendment.

SENATOR CLARK: Senator Kilgarin.

SENATOR KILGARIN: Again I rise to support Senator Chronister's amendment to the committee amendment. I think at the very least, at the very least we need to say "practitioners" instead of "physicians". Even if the committee amendment is adopted I think again that the least we can do is to say practitioners and not just limit that to doctors because we train medical doctors to be podiatrists we have chiropractors, we have opticians, we have different health care specialists and they are there for a reason. That is their speciality, that is what they do right and best. I think it is important that we recognize that and not leave it optional. Again, leave it to some bureaucrat to decide. It is not his job to decide. It is our job. We are the Legislators, we need to make those decisions. So, I would urge your support, at the very least, of Senator Chronister's amendment. Thank you.

SENATOR CLARK: Senator Cope.

SENATOR COPE: (no response).

SENATOR CLARK: Senator Cullan.

SENATOR CULLAN: Mr. President, members of the Legislature, I'm going to rise and support Senator Chronister's motion because I think it is only appropriate at this point and time that optional service not be eliminated, at least the discretion not be left with the Director of the Department of Welfare. I'm not saying when I opposed Senator Warner's amendment that I would oppose a series of amendments specifically targeted at reducing the cost of Medicaid in the State of Nebraska. But I will oppose Senator Warner's amendments and will ask you to do the same because they simply delegate what I think is a policy matter, which should be decided in this body after debate and discussion on the scope of the Medicaid program rather than simply pass the buck to the Director of the Department of Welfare. So I'm going to urge you to support Senator Chronister at this time and then I would urge you to reject Senator Warner's amendment when it comes up.

SENATOR CLARK: Senator Higgins.

SENATOR HIGGINS: Mr. President, I don't know what this urban senator is doing up here again fighting for you rural people. This is my second time this year to get up and fight for a bill that is going to help you more than it will the people that live in the big cities. We have all the medical doctors we need in Omaha and Lincoln. It is my understanding that a lot of people in the rural areas don't have the benefit of a physician. The closest they come to it is a chiropractor, very often. I'm rising in support of Senator Chronister's amendment simply because those people that don't live that close to a physician and who at late hours of the night or because they are unable to travel great distances they would like a chiropractor, they go to a chiropractor, I think they should be allowed to. I think everybody should have the right to choose the type of medical assistance they are going to have. Now it isn't going to affect me or the people in Omaha "hootin' or hollerin'" if we take these other medical people out of this bill. But I just want you to know that as an urban senator I'm not always thinking just of the people in my district, in my city, but I also think of all the people in this state and their rights. For this reason I think you should go for the Chronister amendment, particularly you rural senators because I think you are going to be more affected by it than those of us in Lincoln and Omaha and cities like Grand Island. Thank you.

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

SENATOR CHRONISTER: Thank you, Mr. President, members I believe if we do not adopt my amendment we might be falling for a deception of false economy because by not adopting this amendment we eliminate the services of optometrists, podiatrists, chiropractors when perhaps their services are all that are required. It would not require the services of a medical doctor who by, in most instances would be more expensive. I think we would be cost conscious and save money in the long run by the adoption of this amendment. I urge your support. Thank you.

SENATOR CLARK: Question before the House is the adoption of the Chronister amendment. All in favor vote aye, opposed vote nay. Have you all voted? Record the vote.

CLERK: 20 ayes, 3 nays on adoption of Senator Chronister's amendment, Mr. President.

SENATOR CLARK: The amendment is adopted. The next division of the question is number three which is Section 13. Now the question before the House is the adoption of the second part of the amendment as amended. Is there any discussion? All those in favor vote aye, opposed vote nay. Senator Wesely did you want to talk? Senator Cullan? All right.

SENATOR CULLAN: Mr. President, I just want to make it clear what we are voting upon here. Now we are voting on Section 12 as it has been amended. I would like to liken this Senator Koch, the philosophy of this amendment is...what this amendment does, it says to the Director of the Department of Welfare, you decide where to cut optional services in the area of Medicaid. I think that is akin, Senator Koch, to telling the Director of Education, here are the education programs in the state, you decide where to cut those. To the Director of Agriculture, here are the agricultural programs in the state, you decide where to cut those. It is not a good philosophy, I may support and would support some cuts in the Medicaid program. The state of Nebraska has two comprehensive of a medicaid program, and it is expensive and it needs to be cut. But it shouldn't be cut by just handling the decision making of someone else. So, I urge you to reject the Appropriations Committee amendments to LB 942.

SENATOR CLARK: Senator Wesely.

SENATOR WESELY: Thank you, I'll be very brief. Mr. President, I echo Senator Cullan's comments that we are delegating authority that we probably should not be at this point. The committee is looking at the matter further. I think that I would ask you very much to oppose this amendment to the bill. I would add one thing though that as we talk about this effort what we are dealing with is health care costs, their increases are outrageous, we can't afford this sort of health care costs that we are facing right now and there is a broader picture in mind that we are dealing with as a legislature speaking for the taxpayer but everybody is going to have to pay these same costs and we have to deal with it in a broader context as well. The way that we are dealing with it at this time is to cut out services, feeling that that is the way to keep health care costs down. We are talking about services in terms of eye care and dental care and other sorts of care that people have to have in order to function in our society. We had the hearings on these

two bills and person after person came up and clearly there was support for the idea of providing these services. I really didn't find from the hearing anyplace that I could say looks like it was obviously an unneeded service that we were providing. So by cutting out these services to people that need these sort of assistance proposals we are not really cutting down health care costs in the way we ought to be. There are other approaches that should be taken. All we are doing here is denying very poor people necessary services and that is really not the approach we should take. I think there are other approaches and we can talk about them at another time. I would ask you very much to oppose this amendment.

SENATOR CLARK: Senator Landis.

SENATOR LANDIS: Mr. Speaker, members of the body, I intend to vote for the retention of this amendment, having voted now to add practitioners to the language simply because at this point in time the committee makes an invalid complaint of not having enough time to come to decisions. Everyone apparently agrees that the Medicaid program offers the possibility of really getting out of hand. We have had the admission at least from some committee members here on the floor that attempts to cut the list of optional services have been ineffectual to this point, although they are willing to do that. I am hoping that by adopting this amendment at the general file stage will put the burden on the health committee to come in on Select File and name those services that they are willing to see cut. That way we can retain control in the legislative body, an argument that I am sensitive to and appreciate on behalf of the Health Committee but that authority can only stay here so long as it is exercised and exercised on behalf of the fiscal restraint. If that authority is not going to be exercised, then I guess I am going to have to go along with the Appropriations Committee and this amendment. I simply indicate that I am one of those who is willing to look at the list of services the Health Committee thinks is reasonable to place limitations on but absent any direction from them, I'm going to have to by default go with the language in 942. Perhaps between now and Select File the Health Committee will meet in executive sessions and provide us with an alternative that cuts some services in the optional area of Medicaid which we can plug into 942 on Select File. If not, by default, I'm going to have to go with the Appropriations Committee and that is why I'll be voting to support this committee amendment.

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SENATOR CLARK: Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, a couple of questions of Senator Warner, if I may.

SENATOR CLARK: Senator Warner, will you yield?

SENATOR BEUTLER: Senator Warner, I'm sorry, you probably have already answered these questions but the debate has been long on this and I want to refresh my memory before I vote because it is somewhat important to me. This Section 12, did your committee make an estimate on how much this would save the state? This Section 12?

SENATOR WARNER: Section 12, let me put it this way. I can not give you an exact figure, depending upon, because it is discretionary with the Director as to how it would be implemented. We have estimated up to two million dollars could be saved in the cost of Medicaid. But, it does not mandate, you understand, one penny to be. . .

SENATOR BEUTLER: I understand. If I understand you correctly you are saying that if the Director exercises his discretion to the extent allowable that there may be a savings of up to two million dollars, is that a fair statement of what you are indicating?

SENATOR WARNER: Yes, and that is not anticipated in any one of the what, 13 mandated programs that would be eliminated, 12 I guess, would necessarily be eliminated as much as perhaps prorated.

SENATOR BEUTLER: Okay and the second question is, you have presented to us on the green sheets and on the blue sheets the Revenue Committee's or the Appropriation Committee's and the Revenue Committee's calculations of anticipated revenues and anticipated expenditures based upon a number of assumptions. Do those assumptions include the passage of Section 12, that we are talking about right at this moment?

SENATOR WARNER: Yes.

SENATOR BEUTLER: They do, so our projections are going to be. . .how much did you build into those assumptions? Two million dollars?

SENATOR WARNER: In this particular area up to two million.

SENATOR BEUTLER: Let me refrain the question because I'm not sure if I understood. When you did the blue sheet how much money was put in there as an estimate for the savings based upon Section 12?

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SENATOR WARNER: You have got this blue book, on page 51 the estimated. . .which includes the next amendment also by the way, but it is \$2,078,224.

SENATOR BEUTLER: Okay, that's between Section 12 and Section 13.

SENATOR WARNER: Yes...with both of those.

SENATOR BEUTLER: Okay, thank you Senator Warner.

SENATOR CLARK: Senator Higgins.

SENATOR HIGGINS: Mr. President, would Senator Warner yield to a question?

SENATOR CLARK: Senator Warner.

SENATOR HIGGINS: Two questions. Senator Warner, in this bill the word "vendor" means what? Those people who provides the services such as hospitals, nursing homes etc.? Those people who do business with the Department of Welfare.

SENATOR WARNER: I think you are talking on the proposed Section 13.

SENATOR HIGGINS: Yes.

SENATOR WARNER: We are only on 12.

SENATOR HIGGINS: Oh, excuse me I thought we were on. . .

SENATOR WARNER: In Section 13 that is. . .

SENATOR HIGGINS: I'll wait then until we get to 13. I'm sorry.

SENATOR CLARK: Senator Warner, do you wish to close on the adoption of Section 12.

SENATOR WARNER: Mr. President, I would again ask for the adoption of the amendments. Senator Landis put the question exceedingly well that the body is faced with. I appreciate... it is not an easy, it is not an easy solution. I would have preferred and still would prefer that the Health Committee would recommend specifics but in order to curb some of these costs, to some extent, it seems reasonable that that responsibility be placed on the Director of the Department and I would hope that the Legislature would adopt the amendment.

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SENATOR CLARK: Senator Beutler, he was closing. The question before the House is the adoption of Section 12. All those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Have you all voted? Have you all voted on it? Senator Warner, I'm going to call the vote on it.

SENATOR WARNER: Mr. President, I would ask for a Call of the House. And, a roll call vote.

SENATOR CLARK: There are ten excused. All right, a Call of the House has been requested. All those in favor of a Call of the House vote aye, opposed vote no. Record the vote.

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

SENATOR CLARK: The House is under Call. Everyone will register in please. (GAVEL) Will everyone face this way please for just a moment. Now poke your green button if you are here. Let's see if that works. Oh, it is working fine. Could you find Senator Haberman please. Senator Warner, we are short Senator Chambers and Senator Newell. Do you want to wait until they get here? Do you want a roll call vote? All right, call the roll on the adoption of Section 12.

CLERK: Roll call vote. 19 ayes, 20 nays, 10 excused and not voting. Vote appears on page 1360 of the Legislative Journal.

SENATOR CLARK: The Section 12 is not adopted. We go to Section 13. Section 13, Senator Warner.

SENATOR WARNER: Mr. President, Section 13 is an effort at some cost containment in the whole area of Medicaid. The policy back of it is, and this probably is too high now based upon, if we keep adding to the budget, it is not hard to guess where it is going to come out of. But, the purpose in this amendment is that where the department does calculations for vendor payments that in effect it is a cap on those payments involving services, wouldn't include drugs, but services, such as personal services, would not be increased more than 3.75% over the current year. It's a direction or guide to the department in establishing those vendor payments and the 3.75

would reflect the same adjustment state employees would receive prior to the vote on the last amendment...and... but at least it puts a cap, which I think, will be beneficial to helping curb these expenses. What you are talking about is the reimbursement to the doctors, the chiropractors, the optometrists, that we are all concerned with in that their personal service reimbursement will only go up 3.75 for the next year in the reimbursement of those costs. I move the adoption of the amendment.

SENATOR CLARK: Senator Higgins.

SENATOR HIGGINS: Mr. President, I think this is an excellent idea of Senator Warner's but I think it should be carried a few steps further. What we are actually talking about here is price control. That is for those people who do business with the Department of Welfare. I submit if we are going to tell those people that they can not increase their prices more than 3.75% from last year's, that the state ought to adopt the policy that anybody that does business with the Department of Corrections or the Department of Health or our state colleges or the State Patrol. In other words if we are going to buy cars for the State Patrol, we aren't going to buy any cars if the price is up 3.75% over last year. All the food that we buy for all of our institutions, anybody wants to raise the price of food and the Department of Institutions or the Corrections Department that buys food for all of these different people, they should be notified too that we are going to put a price freeze on them. I think if it is good for one type of business, we should take it up with all businesses. I realize this is being brought about because of the recent idea of freezing state employees' salaries to 3.75 till October first, so I think it is a good idea Senator Warner. I think though what is good for the goose is good for the gander and perhaps we ought to amend the bill and have everybody come under this same limitation, not just those that are providing health care services but those that provide anything to the State of Nebraska. Then we would really tell everybody that we mean business about inflation and about cutting state costs. Maybe some of you would like to think about that. Thank you.

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SENATOR CLARK: Senator Kahle.

SENATOR KAHLE: Mr. President and members, a question of Senator Warner.

SENATOR CLARK: Senator Warner, would you yield?

SENATOR KAHLE: In Section 13 you mentioned, or somebody did that doctors, chiropractors and those that provide the service, what about the care homes, are they included in that also?

SENATOR WARNER: For the...any services that are provided, the services refer to personal services, not the purchase of hard goods that the vendor payments be increased only by the...an annualized basis of 3.75 where there is a, you know, a predetermined basis for the reimbursement. It doesn't require that those providing the services, no, they make whatever salary adjustments is appropriate, but as far as the reimbursement from the Department of Welfare, it would be a cap on, it would only 3.75.

SENATOR KAHLE: Well, the problem that we have anyway in my area outstate Nebraska and I think it is all over Nebraska, is that by reducing the Medicare payments I guess last fall in not giving any kind of an increase, appreciable increase this year, we have caused some of the care homes to be in a real problem because they have to take a number of patients that can pay, are able to pay, in order to cover those that the state pays for, and I guess on one hand we have bills before us that would increase the care or improve the care for the Medicare people, the patients in the care homes, and then here we are not cutting it any more, thank goodness, but how are we going to keep our care homes open and how are we going to satisfy those people that can pay when they are paying several hundred dollars per bed more than those that can't pay? How are we going to do that? Do you have any solution to that, Senator Warner?

SENATOR WARNER: Well, Senator Kahle, I rather suspect that health care providers as well as a whole lot of other citizens are going to find that increases just aren't there anywhere, and this suggestion merely puts a cap on the reimbursement of the services, doesn't restrict what they may decide to do locally. I would agree that if they insist on making their costs significantly higher that somebody picks it up, that is obviously true, but by the same token I rather suspect everybody better understand

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in this state and this country that we are in a time of pulling back on a lot of expenditures and this is one place the same as a whole lot of others.

SENATOR KAHLE: Well, I just wonder how we expect those facilities to operate. Is there anything in our statutes that says they have to take indigent patients? Who can answer that? I think they do have to take them, a certain percentage of them. And I just don't understand....

SENATOR CLARK: Senator Warner, I think can answer that.

SENATOR KAHLE: Okay, Senator Warner.

SENATOR WARNER: As I recall, Senator Kahle, there are provisions where they built facilities with federal funds. As I recall there were certain conditions of accepting so many. It seems to me that if it was an institution built probably with private funds, then there are no restrictions that I recall. That is off the top of my head again.

SENATOR KAHLE: Well, one of the big objections I am receiving in my area is that those who can pay for their care are paying as much as \$200 a month....

SENATOR CLARK: You have one minute left.

SENATOR KAHLE:as much as \$200 per month more than those who are being funded by Welfare, and I know a few years back we did audit those places to find out if they were making any money, and I don't know what we found out. I don't think they are making any money, and what we are going to do, we are going to either make the person that can pay, pay twice what he is supposed to or we are going to run them out of business.

SENATOR CLARK: Senator Warner, do you want to close on Section 13?

SENATOR WARNER: Mr. President, I would just urge its adoption. It's...at least it is an approach of cost containment to the state for these services, and it will have some savings to the taxpayer, and I would hope you would be willing to adopt it.

SENATOR CLARK: The question before the House is the adoption of Section 13. All those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

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

CLERK: 27 ayes, 2 nays Mr. President on the adoption of the committee amendment number 3.

SENATOR CLARK: Section 13 is adopted. Section 14 is next. Senator Warner.

SENATOR WARNER: Mr. President, I would like to withdraw committee amendment, the new amendment, Section 14, that is one that deals with checkoff funds being appropriated for a portion of the export programs, the Department of Agriculture. I have been contacted by at least some members of some checkoffs, some I know at least one board is adamantly opposed under any circumstances. But, a couple of members of other boards indicated that they thought, they opposed mandated the requirement but they thought there were some activities that they thought out to work cooperatively and that is what the intent of this is and they wanted a week or so to come up with some ideas. So I would withdraw that amendment at this time pending what they come up with.

SENATOR CLARK: You want to withdraw Section 14 then?

SENATOR WARNER: Yes.

SENATOR CLARK: All right, it is withdrawn. We go to Section 15. Senator Warner.

SENATOR WARNER: Mr. President, members of the Legislature, Section 15 is proposed by the committee as an alternative to the proposal of diverting highway user revenue for the support of the State Patrol. What the amendment would do is continue the current \$3.75 which is charged for motor vehicle inspections. Apparently it is going to be phased out July 1, and it would be continued as in effect the sur tax on the registration with the collection being dedicated to the protection of people and property program within the state patrol, has the effect of raising about 4.9 million dollars over a course of the year. It would be collected at the time that registrations are renewed. I think that it can be truly stated that it would not really be an increase in what Nebraska citizens or motor vehicle owners are paying now for motor vehicle inspections, not counting the parts inasmuch as patrol . . . if the vehicle inspection is not renewed, inasmuch as the patrol is the only agency left to make those kind of checks, it seems reasonable that the funding for those be continued but the

money be utilized to operate the state patrol. I would hope that it would be adopted.

SENATOR CLARK: Mr. Clerk, do you have an amendment?

CLERK: Mr. President, Senator Koch would move to amend this provision. (Read Koch amendment).

SENATOR CLARK: Senator Koch.

SENATOR KOCH: Mr. Chairman, members of the body, as I read this section I thought Senator Vickers introduced, and this body passed, the fact that motor vehicle inspection law was going to be repealed and would be a sunset as of July. Now, suddenly the people out here, and I have received a lot of letters because you know I carried the bill to reinstate the motor vehicle inspection law. My mail hasn't been particularly complimentary, particularly since I wanted to increase the fee to \$6.75 for the purpose of inspection. Now here we are, we repeal the law but we are going to keep \$3.75 in place, particularly for certain kinds of vehicles. This money is going to go to support the State Patrol. Well I have a great deal of respect for the State Patrol but personally I believe they should be funded out of the general fund from our own sources of revenue through sales and income and corporate tax. I can not allow this section to go by without at least taking school buses out of there. Because school buses, as you know are paid for from property taxes, so one more time, we are indirectly going to take from property tax to support the state tax or support the state. I believe that this violates the Duis amendment and some day I hope there is a court case on it. Because in too many cases the schools are indirectly supporting the institutions of the state through the property taxes they levy which is very high. If I remember the Duis amendment passed in 1954 was that there shall be no property taxes used for the purpose of supporting state agencies if we ever pass a law that allowed sales and income and corporate tax and that has been in place since 1967. So what my amendment does is strikes the fact that school buses inspection, the schools will not pay \$3.75 to the General Fund for that privilege. If we are going to sunset the motor vehicle inspection law, let's sunset it and do away with \$3.75 as well. I ask for adoption of the amendment to the committee amendment.

SENATOR CLARK: Senator Warner.

SENATOR WARNER: Mr. President, the elimination of this particular item of school buses was discussed in the committee. There were a number that thought that would be appropriate. I have no particular problem with it. I think it is only about \$1,300 in revenue. However, if we would continue to expand that to all governmental subdivisions then we could begin to have a depletion in revenue that would be significant. But, just this one item and the reason that it is in there is that all vehicles that were subject to motor vehicle inspection under the current law was included here. That is the reason it is in here because school buses were required to be inspected. As I recall the patrol does some work with those anyway and will probably continue to. I don't have a strong objection to Senator Koch's amendment as long again it doesn't become seed to exempt a whole lot of vehicles and as a result have significant reduction in available receipts.

SENATOR CLARK: Senator Newell.

SENATOR NEWELL: Mr. President, members of the body, this is kind of one of those tough positions to be in. Nobody wants to see the gas tax raised to accommodate the state patrol's expenses, which the Governor suggested was necessary. Nobody wants to see the gas tax depleted because we need those monies for roads and especially if we are going to do the studded snow tire repeal...take off the repeal...the ban on studded snow tires, we need more money for highways and so forth. At the same time nobody wants to raise the fee. That is kind of, that is what I call being between a rock and a hard place. It is a tough decision to make. You know Nebraska has one of the highest fees of most states in the Union plus we are one of those states that still hasn't taken personal property off. . . .

SENATOR CLARK: Senator Haberman, for what purpose do you rise?

SENATOR HABERMAN: Are we on the amendment?

SENATOR CLARK: Yes, we are on the Koch amendment.

SENATOR HABERMAN: The Koch amendment that has the school buses?

SENATOR CLARK: That is right.

SENATOR HABERMAN: Whether they pay \$3.75 or not?

SENATOR CLARK: Yes.

SENATOR HABERMAN: Are you addressing that?

SENATOR CLARK: Yes, he is addressing that.

SENATOR NEWELL: If you will just listen instead of talk you will find out whether I am addressing it.

SENATOR HABERMAN: I have been listening to you . . .

SENATOR CLARK: I don't think that remark is necessary. Go ahead.

SENATOR NEWELL: Well, do I get my full five minutes, that is the question I. . .

SENATOR CLARK: You bet, go ahead.

SENATOR NEWELL: So we are really between that proverbial rock and a hard place whether we want to raise the \$3.75. Nebraska has some of the highest fees of any state in the Union. Plus, we also still are one of those states that still has the personal property tax on the automobile. To add \$3.75 to the \$16.50 along with whatever your personal property taxes are. . .

SENATOR CLARK: Senator Newell, we are on the amendment of Senator Koch's, it takes just the school buses out. The rest of it is not debatable yet. If you just refine your remarks to that please.

SENATOR NEWELL: I can do that. I was talking simply on both. But I don't think anybody ought to be out because I don't think this proposal ought to go. I do not favor the \$3.75, do not favor adding this tax. I think if we're going to try to finance state government we ought find some other ways to do that. We ought to be up front about this instead of hiding and adding additional costs to the average person who owns and operates an automobile. I don't think the school buses should be exempted. I don't think anybody should be exempted and I think the full \$3.75 ought to be defeated.

SENATOR CLARK: Senator Burrows, we are on the Koch amendment to take out the school buses.

SENATOR BURROWS: Mr. Speaker, I oppose the Koch amendment, purely because I oppose the amendment itself, so

strongly, and I don't want to see it softened up and make a bad amendment pass by not being quite so bad when you put the Koch amendment on it. I think it is totally unreasonable, any portion of it, to put the school buses on that \$3.75 tax, which is a brand new tax. The \$3.75 was a fee for an inspection. The state was not receiving only a small portion, was receiving only a small portion of that \$3.75 and it is turning an inspection fee into a direct tax. A regressive move in our area of taxation. So, I oppose the Koch amendment which would soften, soften the impact of the very bad amendment to move to a regressive per vehicle tax to replace general revenue. The whole thing belongs on the general revenue system, the State Highway Patrol has always been financed through general revenue source. I think it is totally unfair to move from a progressive income tax to a regressive per vehicle tax to finance the State Patrol. I urge the opposition to the Koch amendment and to the amendment to the Warner amendment or the Appropriations Committee amendment which would shift to vehicle tax. Thank you.

SENATOR CLARK: Senator Haberman. We are on the Koch amendment.

SENATOR HABERMAN: Mr. President and members of the Legislature, I support the Koch amendment, because if you don't take out school buses you are going to have a tax on a tax. I don't think that is fair because they are already paying taxes for the school buses and you come along and tax them another \$3.75 for something that they are not going to get. I don't think that is right. I am going to support the Koch amendment and then I would like to speak on the bill.

SENATOR CLARK: Senator Vickers.

SENATOR VICKERS: Mr. President, members, in light of Senator Burrows' comments a little bit ago I don't know whether I should support the Koch amendment or not. It is a decision I guess we all have to make whether to make a bad thing better in case it passes, or leave it bad so it won't pass. All I can say is a year ago I stood on this floor and fought to eliminate the motor vehicles inspection law. I indicated to you then that part of the reasons for doing it was the cost to the public, the driving public of the State of Nebraska that program. I am finding out that you can eliminate programs but you can't eliminate the cost because it is still here. It is going to resurface in another form. Senator Warner is absolutely right, this isn't a new cost to the driving public because

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as of yet we have not eliminated the program. It won't be eliminated until July 1st. It's the idea of, you can start a program or you can eliminate a program but taxes go on forever. I think the Koch amendment has some merit, however, it seems to me that causing that \$3.75 to be paid by the driving public or paid by the schools of the state are really two different things. Even though I obviously oppose the whole thing, I also oppose the fact that property taxes are going to have to pay this \$3.75 inspection on the school buses. So once again it is the same idea, rather than raise the dollars straight up front from the sales and income tax to support the state patrol for the state we are going to try to get some dollars from the property tax payers instead. I would also like to point out that this \$3.75 is going to be used to deposit into the protection of people and property cash fund which is hereby created. I think that is rather amusing, protection of people and property cash fund. If this is a user tax imposed on vehicles because of the state patrol out there keeping us speeders from speeding then why do we call it a protection of people and property tax or fund? Why isn't it a protection of vehicle funds? Or, protection of highways or something of that nature? I guess we each have to make that determination of whether we make a bad amendment better, in case it passes, or leave it bad. But in my, for my position I think we should accept the Koch amendment and at least get the burden off the property tax payer and then perhaps we can defeat the whole thing later on. Thank you Mr. President.

SENATOR CLARK: Senator Cope.

SENATOR COPE. Mr. President and members, like a voice crying in the wilderness, I didn't support Senator Vickers bill last year. I thought we should continue to have inspections. But you know what? The big hue and cry was, we get a lousy job of inspection that does no good. The patrol do a fine job, let's let them do like they have been doing. Well this is exactly what it is. This \$3.75 is going to the patrol. They can broaden their scope and they will do it and I don't see why, or I would hope that school buses would be inspected the same as other cars. So, I see no reason not to include them with cars. I certainly reject Senator Koch's amendment and support the bill as is, or the committee amendment.

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

SENATOR KOCH: Thank you Mr. Chairman, members of the body, as I stated in my opening remarks if we are going to sunset motor vehicle inspection, I was with Senator Cope, I didn't vote to sunset it in the first place. We introduced legislation to maintain it. I think this is a very indirect way of saying to the public, you won't have motor vehicle inspections anymore but you are going to pay \$3.75 for the privilege of funding the highway patrol. As I said before the highway patrol is a very noble body and I support them. But, I'm not too sure this body is willing to strike Section 15. I suggest to you if you don't want my amendment then what you ought to do is vote no when we go to adopt Section 15 and do away with it completely and let us fund the state patrol out of the General Fund as we always have and not try to do it indirectly. I think this is not very fair to the public. In fact I think it is deceitful. The public should know that if we need money, we have one source to go to and that is income, corporate and sales tax and possibly it is time we go there instead of trying to do these things we are trying to do through appropriation bills and I don't cast disparaging remarks to the committee. I know how difficult it has been for them to try to meet the test. But, this is not the proper way to do it. I ask for the adoption of the amendment. If you don't adopt it, then we ought to strike 15 totally when we go to adopt that committee amendment.

SENATOR CLARK: Question before the House is the adoption of the Koch amendment. All those in favor vote aye, opposed vote nay. Have you all voted? Have you all voted?

CLERK: Senator Clark voting no.

SENATOR CLARK: Once more, have you all voted? Record the vote.

CLERK: 16 ayes, 14 nays, Mr. President, on the adoption of Senator Koch's amendment.

SENATOR CLARK: Senator Koch's amendment is adopted. Now on the Section 15. Senator Burrows, do you want to talk on Section 15?

SENATOR BURROWS: Yes. Mr. President, members of the body, I oppose Section 15 on the basis it is merely a shift to regressive taxation to take what was normally funded out of General Funds in the State of Nebraska and shift it to a per vehicle \$3.75 a vehicle additional tax. The state patrol has been historically funded out of the General Fund system of the state, which is not as regressive a form

of taxation as this move, but I do want to compliment the Appropriations Committee on one facet of this move. It is not as bad as the original Governor's request to shift eight million dollars of the highway trust fund to fund the state patrol. I see no rationale, no reason whatsoever that we have to make little moves like this looking for \$4,875,000 on regressive tax to try to put together a funding package when the general revenue system is adequate to take care of it. There just isn't a good reason except for the Governor's commitment to holding line on the income tax, which of course would be a nice idea if it was practical to do it. But, to go to that measure of shifting this tax, again and again we have it in the appropriations bill and revenue measures from a generally progressive system to regressive forms of taxation to make the little people pay a bigger part of the package. From July 1, 1982 to July 1, 1983 the one million dollar tax payer is getting over a \$190,000 relief package by the federal income tax cut. Now instead of tapping for the wealthiest of this state pay according to their ability to pay, we are making moves to make every citizen, regardless of their ability to pay \$3.75 more if they own and license a vehicle. I think it is disgusting to see these moves go to regressive taxation. I think this body ought to look at it seriously. Are we going to bail out the million dollar tax payer from taking an increase and maybe getting back a little bit of that \$190,000 relief that they get out of the federal reduction and then turn it over to a regressive tax. I urge this body to look at this in the general terminology and let's go up front and put it back on the general revenue system like it has historically been and keep it there. Thank you.

SENATOR CLARK: Senator Haberman.

SENATOR HABERMAN: Mr. President, members of the Legislature, if you vote for this I want to say in advance, congratulations, you are doing exactly what the public expects us to do. They expect us to gouge them when we can. If we keep this \$3.75 on that is what we are going to do. We are going to give them something for nothing and it is going to cost them \$3.75 and they are going to say, that is what we expected from the Legislature. I can not go along with charging them an extra \$3.75 for nothing. Now I have to agree that if you are going to raise the tax, you need 4 point million or five million dollars, let's do it by raising it or by cutting the budget. Let's don't hoodwink or try to hoodwink

we are not going to get away with it, the citizens. Every time somebody walks into the County Clerk and Treasurer's office to buy and register their automobile and it is going to be \$3.75 more and boy you know what the County Clerk and Treasurer is going to say, and I don't blame them. They are going to say, talk to those people down there in Lincoln. They are the ones that did it. They are the ones that did it. Let's be up front, introduce the bill to raise the motor vehicle \$3.75. Let's don't say, well you have been paying \$3.75 and now you don't have to pay it any more, but you are still going to keep on paying it and you are going to get nothing for it. I can't play ball that way. I really can't. I ask you not to do that, even though the economy and the budget and everything else might say you should do this there is still principle, and the principle is that you don't do it this way. I rise to oppose leaving the \$3.75 on the tax on the people for nothing. Thank you Mr. President.

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

SENATOR WARNER: Well, Mr. President and members of the Legislature, I take no pleasure in standing up here again advocating some tax adjustment. I get a little amused by those who are stoutly defending that this ought to come from the sales and income tax, at least some of them, I wonder where they were when that could have been done. But, to pretend that there is no cost by transferring this to the General Fund, I don't know how you figure that. We keep this up and we are talking about an 18 and 3½% sales and income tax rates and I know as well as everybody in this body knows that you are not going to do that. So if you don't want to fund this program in this fashion, then we are going to eliminate something someplace else. I don't know where you all want to do it but that is our choices. Now the option here is not unreasonable. It is not unreasonable because the cost for safety inspection is a program that will only be carried out by the patrol, no one else. It is not in effect a new cost, I will not argue that it is not a new tax, but it is not a new cost to the motor vehicle user. Obviously it will be a lesser cost than motor vehicle inspection because that also included repairs after you paid the \$3.75 or you paid the \$3.75 twice if you didn't pass and had to go somewhere else. In any event it seems to me it is a reasonable solution for difficult times. I would hope that the body would be willing to adopt this proposal for trying to get through our difficult times and provide the funding that is necessary for the patrol to operate because I don't think you are going to get it from the General Funds.

SENATOR CLARK: The question before the House is the adoption of the committee amendment, Section number 15. All those in favor vote aye, opposed vote nay. This takes 25 votes.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Record the vote.

CLERK: 26 ayes, 8 nays, Mr. President on the adoption of that portion of the committee amendments.

SENATOR CLARK: Section 15 is adopted. Do you still have one more section to go? Senator Lamb said to quit at 4:30 and we can start tomorrow morning on the bill. Leave it right where it is. Senator Warner.

SENATOR WARNER: Are there other amendments pending besides this one?

CLERK: Senator, I have one to the bill.

SENATOR WARNER: Other than the committee amendments?

CLERK: Yes sir.

SENATOR WARNER: What is left on the committee I don't think the balance is controversial. I may be in error.

SENATOR CLARK: Go ahead and take it if it is noncontroversial. I can't imagine anything being noncontroversial.

SENATOR WARNER: I may be wrong. There are four things that are left. One of them amended the current law that had the ten cent ride. The amendment that is proposed is one that was offered by the City of Lincoln which struck the ten cent and put a maximum of. . . which is one half of the rates generally applicable to persons...to other persons at peak hours, which at least they offered and said they would support. The next amendment strikes language which I assume all of you would be in support of. It strikes language that would have included food stamps and housing subsidy for ADC. It strikes that so that is the way the law now is. No change. There is some clarifying language on the crime victims which was proposed by the agency and then finally it strikes the provision that would have repealed funds for 4-H programs. It leaves that law as it is. I...to my knowledge, none of those sections are controversial. I move adoption of all of them.

SENATOR CLARK: Is there any debate? We have an amendment to the last section. If it turns out to be controversial we will hold it over.

CLERK: Mr. President, Senator Beutler would move to amend the last portion of the committee amendments. (Read Beutler amendment).

SENATOR CLARK: Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, the portion of the amendment that I am dealing with has to do with the Crime Victims Reparation Board. The amendment, as I understand it Senator Warner, would limit somewhat the scope of the payments by the Board, is that not correct? It limits the scope of the payments by the Board.

SENATOR WARNER: Yes, to some extent, it limits it as they propose. For example, someone could not qualify who had aided or abetted the offender in the commission of an unlawful act. It is a clarification that they would not be reimbursed.

SENATOR BEUTLER: What my amendment does basically is strike Article 18, from Chapter 81 and repeals the Crime Victims Reparation Board in its entirety. Now, this is something that I have been wanting to discuss for some time. A very popular item, Crime Victims Reparation Board. But I want you to think about it for a minute and see if it is not an area where we can save \$120,000. Why do we have a Crime Victims Reparation Board? Why did in 1976 or 1977 a hundred years after the existence of this state began did we feel a need to do this? How do we help crime victims? In the first place we have our welfare system. We have our basic social safety network, our basic safety system for all people who for one reason or another are unfortunate enough to need the help of the state. That welfare system applies to victims of crime as well as to all other kinds of victims. Then secondly we gone ahead and created this Crimes Victims Reparation Board. Now my question to you is, why do they need extra help? We sympathize. Sure we sympathize but we also sympathize do we not for those who are struck by lightning, with those who are struck with muscular dystrophy, or any one of a number of horrible diseases. Why is it that this state has adopted the philosophy that suddenly this particular type of misfortune is different from all others and the state should especially fund it, not just protect them with the welfare system, but protect them with some additional form of social service. I suggest to you that there is no underlying rationale for that distinction. The state is not at fault. It is not the state's fault that there is crime. We are doing everything possible every day in this Legislature to try to stop crime. We

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LB 942, 816A, 568, 591

have passed a number of measures this year to fight crime. Crime can never be stopped completely, but that is not the state's fault no more than it is the fault if lightning comes out of the sky and strikes one of our citizens and disables them permanently. I suggest to you that if we are looking at places to cut, and if we are looking at philosophies that are false philosophies and that perhaps we shouldn't be following, that despite the political appeal of a Crime Victims Reparation Board that it is not a proper function of government. Secondly, if you look at the money we are spending, they are asking us to spend \$120,000 to distribute about \$60,000 worth of money. I suggest to you that if any charity in this state had that kind of administrative costs that you would never give another penny to it. I suggest to you that the administrative cost is much, much too high. The function is wrong in the first place and that the whole Board should be stricken. Thank you.

SENATOR CLARK: Well this is controversial. I have other lights on, so we will just stop it right here and continue on tomorrow because they told me not to go past 4:30. In Room 1019 they are going to have a budget hearing to explain the budget to you. You also have a meeting at 6:00. Senator Haberman, would you like to adjourn us until tomorrow morning, right after he reads something in.

CLERK: Mr. President, Senator Koch asks unanimous consent to add his name as co-introducer to LR 261.

Senator Carsten would like to print amendments to LB 816A. Senator Nichol to print amendments to LB 568. Senator Chambers to print amendments to 591. That is all that I have.

SENATOR CLARK: Senator Haberman, will you adjourn us until 9:00 tomorrow morning.

SENATOR HABERMAN: Mr. President, I move we adjourn until 9:00 tomorrow morning.

SENATOR CLARK: You heard the motion. All in favor say aye, opposed no. We are adjourned until 9:00 tomorrow morning.

Edited by Arleen McCrory
Arleen McCrory

9366

March 23, 1982

LB 404A, 488A, 609A, 714A,
LB 522A, 755, 756, 933, 942

SENATOR LAMB: The motion is to have a Call of the House. Those in support vote aye, those opposed vote no. Record.

CLERK: 17 ayes, 0 nays, to go under Call, Mr. President.

SENATOR LAMB: The House is under Call. All unauthorized personnel please leave the floor. All senators will be in their seats. Please record your presence. Call in votes will be accepted.

CLERK: Senator Fowler voting yes. Senator Vickers voting yes.

SENATOR LAMB: Senator Wiitala, Senator Koch, Senator DeCamp, Senator Schmit, Senator Labedz, Senator Wagner, please record your presence.

CLERK: Senator Labedz voting yes.

SENATOR LAMB: We're looking for Senator Chambers, Senator DeCamp and Senator Koch.

CLERK: Senator Fenger voting no.

SENATOR LAMB: Senator Johnson, we are missing only three people. Are you ready for the roll call?

SENATOR V. JOHNSON: Roll call then, yes, please.

SENATOR LAMB: Will you please call the roll, Mr. Clerk?

CLERK: (Read roll call vote as found on pages 1376-1377 of the Legislative Journal.) 27 ayes, 17 nays, Mr. President, on the motion to advance the bill.

SENATOR LAMB: The bill is advanced. LB 942, Mr. Clerk.

CLERK: Mr. President, if I may right before that, your committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 404A and recommend that same be placed on Select File with E & R amendments; 488A, 714A, 609A, 755, 756 and 933 with E & R amendments attached. (See pages 1377-1378 of the Legislative Journal.)

Mr. President, LB 942 was last considered by the Legislature yesterday. (Read title.) The bill was first read on January 19. It was referred to the Budget Committee for a hearing. The bill was advanced to General File with committee amendments attached, Mr. President. Yesterday the Legislature adopted portions of the committee amendments. I believe

we had pending that portion of the committee amendments, Mr. President, the last committee amendment that would involve basically Sections 2, 3, 4, 5, 6, 7 and 8 and when we left the bill, Mr. President, there was pending a motion from Senator Beutler and that motion is on page 1362 of the Journal. I believe it had something to do with Crime Victims Reparations Board.

SENATOR LAMB: Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, let me refresh your memory as to where we were on this particular amendment. Senator Warner, in the committee amendments, had a provision whereby income guidelines and standards were now to be applied to the Crime Victims Reparations Board, that is not only would they have to qualify as to types of crimes and all the other criteria that exists in the statute but they would also have to qualify and meet the income standard. My amendment eliminates Senator Warner's amendment and essentially eliminates altogether the Crime Victims Reparations Board and you may recall that yesterday I pointed out to you that for example, last year their budget was just over a \$102 thousand and that they paid out to actual crime victims around \$50 thousand, which means that the administrative cost of administering that program is up around 50%, \$50 thousand to give out \$50 thousand. This year they are planning \$120 thousand which means \$60 thousand to give out \$60 thousand. They have an executive director as I understand it and a couple of investigators. Now, think for a moment what happens if you add income standards and income criteria to all the other criteria that exists. That means they have to have yet another investigator or a portion of another investigator which means that their administrative costs are going to go up some, maybe \$5,000, maybe more so that instead of having a 50% administrative cost you are going to have a 55% or a 60% administrative cost. Now to me that is just absolutely ridiculous. I asked Senator Johnson earlier, what about this Medicaid? What are the administrative costs on that particular program and he said he thought somewhere around 6% or 7%, you know, at the outside no more than 10% and yet we're allowing to exist a program that is incredibly expensive and not justified. Not only, you may recall, that I discussed yesterday that it was not only not justified economically but it is not justified philosophically. The crime victims, if they need it, can be benefitted by the Department of Welfare. If they don't need it, then it is my philosophy that they should be treated the same as somebody who is stricken by lightning or somebody who suffers a bad disease. We need to help them but we don't need to treat them any differently than people with those misfortunes are

treated. There is no justification in my mind for government treating them differently. The government is not at fault for crime. The government does the best they can to stop crime so there is no fault justification. So in short, I think that the creation of the Crime Victims Reparations Board was a political fashion of the late 1970s that had no solid foundation and philosophy or philosophy of government and that it is time now when we're serious about the dollars to take a serious look at some of the things we did when money was easy and I think that in every respect all common sense indicates that the whole board should be stricken and we should do without this function. Thank you.

SENATOR LAMB: Senator Marsh, on the Beutler amendment to the committee amendment.

SENATOR MARSH: Thank you, Mr. Chairman. Members of the Legislature, I feel very strongly that this is the kind of amendment that Senator Beutler does a disservice to this body for this is something that he should bring in as a legislative bill, not with twelve days remaining in the legislative action bring in a piece of legislation of this capacity. It has not had a public hearing. He has a strong personal feeling but he did not have a strong enough feeling when there is not a limit on the number of bills which could have been introduced. It could have been a legislative bill. He can bring this in at another time for I am assuming that he will be continuing to serve. I do not support his amendment and I would urge the body not to support this amendment. Let's get the Appropriations Committee bills moved across so that the twelve remaining days can be of value to all of us and the State of Nebraska.

SENATOR LAMB: Senator Sieck. Senator Sieck, on the Beutler amendment to the committee amendment.

SENATOR SIECK: Yes, Mr. President, members of the body, I have the same concerns as Senator Marsh has. I feel this is a very serious issue. We have been recognizing the victims with this type of legislation. We are paying a lot, a lot of money to criminals, to house them, to try to correct them but we let that victim go on his own and we say that victim should go to welfare. I am entirely opposed to putting these type of people to that type of program. Yes, the Reparation Board has not spent much money but I do feel that it has served a good purpose and it will continue to serve and as far as the additional new language in the 942 bill, there is an amendment up there to delete that portion of it because I feel that everyone who is a victim of crime should be recognized. And I also feel that the Reparation Board is able to designate those who need it and really deserve it and those that

do not. So I feel definitely that this is a poor time to take the Reparation Board off and discontinue its services. It has served a good need and I wish to have it continue serving and I think we should build upon it instead of trying to take it away. So I oppose the amendment.

SENATOR LAMB: Senator Nichol, on the Beutler amendment to the committee amendment.

SENATOR NICHOL: Mr. Chairman, members of the Legislature, the reason this philosophically is on the book is that several years ago the public was saying, "You're doing everything for the criminal, Legislature, why don't you do something for us the victims?" And at that time and at this time the principle is that the government of the State of Nebraska of any city in which you live or in any county in which you live promises you safety and by hiring police and sheriffs and so forth they promise you that they will protect you at all times. This is impossible as we all know so when government fails to protect you and you are harmed or damaged or injured, then the theory and philosophy of it is that they owe you protection and they owe you whatever your injuries are, your hospital bills and so forth, so that's the philosophy. Now if you want to go away from that philosophy and say, "Victims of crime, we don't give a darn about you," then follow this principle as projected by Senator Beutler. But until such time I would think that this is not a situation that should be handled in an Appropriations bill. The Judiciary has had many hearings over the past eight years that I know of and it didn't come about quickly, it didn't come out haphazardly and this body, of course, passed the situation which provided the funds to take care of these kind of losses. I think probably, Senator Beutler, the problem as it is now is that they are not finding all the victims of crime. Many victims of crime do not know about the Reparation Act or the fund that is available and part of the problem of the people projecting this program is to find victims of crime and let the information be known across the state that these funds are available. So I really think that this is not an amendment that should be on an appropriation bill in the first place and shouldn't be amended in the second place.

SENATOR LAMB: The Chair recognizes Senator Pirsch on the Beutler amendment.

SENATOR PIRSCH: Thank you, Senator Lamb. Now let's review the Crime Reparations Board. It started in 1978. That is when it was voted in. I know my first year down here was when it really got started and then there was a great deal of expense put in the startup cost and the organization of the office. What we did last year was put the Crime Reparations Board under the Crime Commission. This was to

allow them the staff without having to pay greater expenses, without...they would have a staff person in the Crime Commission which could assist in cutting the administration costs for the Reparations Board and this is working but it takes time and they are using the Crime Commission to its fullest extent and I fully expect that they will become more and more efficient as they work out this administration capabilities under the Crime Commission. Now let me just tell you who you will be excluding if you adopt either the amendment which is in the appropriations bill or if you do away with the Reparations Board completely. We have in Lincoln, Lancaster County Rose Wolfe, who is retired, age 77 and she was an assault-robbery victim injured during purse snatching at 13th and L Streets. She was awarded \$112.91 because Medicare paid the rest. Now that is \$112 that Rose Wolfe, age 77, retired, can use very much I would assume. Another one is a gentleman age 74, retired, and his wife. They were assault-felony victims in Omaha, Douglas County, shot and died the following month of other causes. When we've talked about victims we are told that victims of violent assaults oftentimes die shortly after because of the trauma and of the "just don't care attitude" that they are treated with by many people. I could go on and on. There are others, various ages, and to do away with even those small amounts of money would be devastating to some of these victims. Now you talk about, Senator Beutler, you talk about why do we have a responsibility to the victim, why does the state take on the victims. Traditionally in our criminal justice system, when we have a crime, who takes over the responsibility? The prosecuting attorney takes over. From our very earliest days from our English law a crime against a victim is a crime against the state and because of that we have our prosecuting attorney take over completely. In fact, many times to the detriment of the victim, and they carry the ball for the state for the victim, we have an inherent long-time responsibility to the victim which because we have become concerned about the rights of the criminal, were ignored and lost. Well we're starting to think again about the victim and thank God for that because they have been overlooked too long and to do this...

SENATOR LAMB: One minute, Senator.

SENATOR PIRSCH: ...would be a shame, a step backward and I urge you to not put into this appropriations bill, such a major, major setback to the victims of Nebraska. Thank you.

SENATOR LAMB: Senator Beutler to close.

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, I hope you will sit back and think about this and do what makes sense. Senator Marsh offered no substantive argument as to why it should not be done, simply offered that it should have a public hearing. But we are being forced today to deal with the bill that deals with it. That is why my amendment is to that bill. Senator Sieck said there is a need, yet at the same time he is telling you there is a need he tells you that the next minute we're going to eliminate the amendment in the Warner amendments which distinguishes between those who need it and those who do not need it. Senator Nichol indicates that maybe we're showing that we don't care about these victims. I care about them. Everybody in here cares about them. It is political rhetoric to suggest that we don't care about them. I think my votes on this floor has been as sensitive as anybody else's but the point is, how do you treat people fairly? Why do you give compensation to someone who is a victim of crime and not someone who is a victim of a streak of lightning? Do they hurt less? Is there less pain? Or someone who is stricken by disease? Do they hurt less? Are they any more or less a victim of whatever? I think not. I think it is a question of equitable treatment and, secondly, it is a question of efficient help and the Crime Victims Reparations Board with administrative costs of 50% is not efficient help. They should be helped by the existing welfare system which is more efficient and in which is more equitable in treating people of different...who have been the victims of different causes, from different causes, treating them the same. I really see no justification for this board whatsoever. Thank you.

SENATOR LAMB: The motion is to adopt the Beutler amendment to the committee amendment. Those in support vote aye, opposed nay. It takes a majority of those voting.

CLERK: Senator Lamb voting no.

SENATOR LAMB: Have you all voted? Have you all voted? Record, Mr. Clerk.

CLERK: 6 ayes, 19 nays, Mr. President, on the motion to adopt the Beutler amendment.

SENATOR LAMB: The motion lost. Another amendment.

CLERK: Mr. President, Senator Vickers would now move to amend the committee amendment that is pending by removing lines 9 through 13 found on page...lines 9 through 13 of that particular portion of the committee amendments, Mr. President.

SENATOR LAMB: Senator Vickers.

SENATOR VICKERS: Mr. President, members, if you will turn to page #25, Section 23, of LB 942, what the committee amendments are doing that I am attempting to strike out, on line 11, page 25, it would strike the language, "and aided or abetted the offender in the commission of the unlawful act." On line 18 it would strike the language again, "and aided or abetted the offender in the commission of the unlawful act." Now if we take that language out then what it says is that if you're a relative of the offender, no matter what, whether you aided or abetted or not, you're not going to be eligible to be awarded any compensation, period. Also it says, on the next subsection, that if at the time of the injury which results in the death of the victim, the victim is living with the offender as a member of the same family or household or maintaining a sexual relationship with the offender or with a member of the offender's family, whether or not you aided or abetted you're not going to be eligible for any assistance. Now what that means as I read it is that if an individual happens to be going with a cousin of some other individual and perhaps might be having sexual relationships with this cousin, then if this other cousin and maybe you may or may not have ever even met, does some drastic deed, you're not going to get anything even though you've never met them, you never aided them, you never abetted them or anything and I think that is quite a drastic step to take it seems to me. When you'll notice that the next committee amendment which I think is a good amendment adds another subsection 5 that says, "aided or abetted the offender in the commission of the unlawful act." In other words, if we do not accept this portion of the committee amendments and then do accept the next, then we're saying that if you're a relative of the offender or whether or not you're a relative of the offender, if you aided or abetted, you're not going to get any help, whether or not you're a relative, whether or not you lived in the same household, whether or not you had a sexual relationship with the offender or any member of his family and I think that is the way it should be. But I suggest to you that striking the language on page 25, lines 11 through 13 and again, on lines 18 through 19 is quite a drastic policy decision that we're making, simply saying that because you might be a relative or happen to be having a relationship with the person who might be a relative, and then do not qualify for this, is a step that I think this Legislature should not be taking in this type of legislation. I urge the body's adoption of my amendment to strike lines 9 through 13 of the committee amendments on page 4.

SENATOR LAMB: Senator Warner, on the Vickers amendment to the committee amendment.

SENATOR WARNER: In this case, what the committee amendment did, maybe this is what you said, Senator Vickers, but the existing law the aid and abetted requirement only applied if it was a, as I read it, was a relative to the offender and the purpose of the committee amendment was to separate those two so that if it carried on the current requirement of the relative of the offender who did the... who was hurt but also that aided and abetted would be a separate criteria and not tied to being a relative. We merely were trying to split the two conditions rather than tying them together as they are now.

SENATOR LAMB: Is there...Senator Warner, have you finished, Senator Warner? Is there further discussion on the Vickers amendment? Senator Pirsch.

SENATOR PIRSCH: Senator Vickers, a question to you. I'm sorry I have not seen this before. You are striking, and I can't tell by the page numbers, you are striking the entire new language on 5? No?

SENATOR VICKERS: No. Senator Pirsch, what I am striking is on page 25 of the bill.

SENATOR PIRSCH: Of the bill, okay.

SENATOR VICKERS: The committee amendments would strike the language on lines 11, 12 and 13 that says, "and aided or abetted the offender in the commission of the unlawful act." I'm suggesting that if you take that language out then the statute would say, "no compensation shall be awarded if the victim is a relative of the offender." Period. My suggestion is that if we take that language out, then whether or not the victim aided or abetted, if they are a relative they wouldn't qualify.

SENATOR PIRSCH: Okay, now I understand, yes, and I concur that...and then you are adding the aiding and abetting for everyone in a new Section 5 and eliminating the Section 5 of the bill?

SENATOR VICKERS: No, the Section 5 of the committee amendments or subsection 5 under Section 5 of the committee amendments would add a new subsection 5 that says, "aided or abetted the offender in the commission of the unlawful act," which would apply to everybody, whether or not they were a relative.

SENATOR PIRSCH: Right.

SENATOR VICKERS: And I think that is appropriate and would certainly accept the committee amendments in that regard.

SENATOR PIRSCH: But the Section 5 that is on page 26 presently, would that be out then?

SENATOR VICKERS: No, I'm not doing anything with that.

SENATOR PIRSCH: Okay, that would be renumbered then as 6 or...?

SENATOR VICKERS: I think that is with the committee amendments as a matter of fact.

SENATOR PIRSCH: Okay, you're not speaking to that then?

SENATOR VICKERS: No, I'm not speaking to that.

SENATOR PIRSCH: Okay, thank you, Senator Vickers. I would concur with Senator Vickers because I think it makes sense. The fear is of course that you should not be able to collect from the state if you are a relative of the offender and to make it separate that if you aid or abet the offender in the commission of a crime that very definitely you should not be eligible for the state payment. And I think, Senator Sieck, do you not have an amendment up there to eliminate the bill Section 5 and I'll speak against or I'll speak for his amendment to eliminate the present Section 5 in the law but I do concur with Senator Vickers that this makes sense, makes it clear and does prevent any abuse of our intention in aiding true victims. Thank you.

SENATOR LAMB: Senator Warner, did you wish to speak on the Vickers amendment?

SENATOR WARNER: Mr. President, now that I've saw what it was doing, the suggestion where we uncoupled, we were looking at the green book, the provision of being a relative and aided and abetted, it would, as a result of public hearing, the agency made the suggestion and I think probably they were really interested in making sure that...and Senator Vickers' amendment does this, making sure that if the offender or the victim rather aided and abetted the offender that they wouldn't qualify and that remains as a separate... that's what I was having trouble with. That remains as a separate item. I don't have a strong feeling of opposition to the amendment at all.

SENATOR LAMB: Senator Vickers, to close.

SENATOR VICKERS: Mr. President, members, I appreciate the comments of Senator Warner. I consider this as a friendly amendment and I hope he does too, but I point out once again that I don't believe that we should put in statutes that simply because you are a relative, you know the old saying is that you can pick your friends but your relatives are wished off on you and I think we need to recognize that. And simply because you might have somebody that is a relative of somebody you are close to that does some drastic deed, I don't think that is a reason necessarily for you to not qualify for any awarding of any compensation. On the other hand, if you aided and abetted, whether or not you're a relative, then certainly you should not be qualified for any compensation and that is what I am trying to clarify with this amendment is that no matter whether you're a relative or whether you're close to any relative or not, if you aided and abetted you don't qualify. On the other hand, if you, simply because you're a relative, does not automatically disqualify you and that is the full thrust of this amendment, Mr. President.

SENATOR LAMB: The motion is to adopt the Vickers amendment to the committee amendment. Those in support vote aye, those opposed vote no. It takes a simple majority.

CLERK: Senator Lamb voting yes.

SENATOR LAMB: Have you all voted? Record.

CLERK: 29 ayes, 0 nays, Mr. President, on adoption of Senator Vickers amendment to that portion of the committee amendments.

SENATOR LAMB: The motion is adopted.

CLERK: I have nothing further to the committee amendment, Mr. President.

SENATOR LAMB: Is there any further discussion on the committee amendments? If not, Senator Warner, do you care to close on the committee amendments? There is no close. The motion is to adopt the committee amendments. Those in support vote yes, those opposed vote no.

CLERK: Senator Lamb voting yes.

SENATOR LAMB: Have you all voted? Record.

CLERK: 29 ayes, 0 nays, Mr. President, on adoption of that portion of the committee amendments.

SENATOR LAMB: The committee amendments have been adopted. Do you have anything to read in, Mr. Clerk?

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LB 942

RECESS

SENATOR LAMB PRESIDING

SENATOR LAMB: Roll call. Have you all recorded your presence? Record.

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

SENATOR LAMB: The motion is to advance LB 942. Senator Warner, do you have any further comments on the bill before we take up some more amendments? Senator Warner.

SENATOR WARNER: Not if there is more amendments, no. Take the amendments.

SENATOR LAMB: Please read the amendment, Mr. Clerk.

CLERK: Mr. President, the first amendment I have is from Senator Schmit. I believe he is excused until he arrives. I had one from Senator Labeledz that she wanted to offer on Select, another from Senator Schmit. Mr. President, Senator Vickers would move to amend the bill. Senator Vickers amendment would amend the bill by striking the new matter that is found on page 11, line 5 and reinstating the old language found on lines 5 and 6, Mr. President.

SENATOR LAMB: Senator Vickers.

SENATOR VICKERS: Mr. President, and members, Mr. Clerk, that amendment would have to be changed somewhat. I notice there is more language on the other page. Probably that amendment should be to just strike Section 10 from the bill...

CLERK: Section what, Senator?

SENATOR VICKERS: Section 10.

CLERK: All right, however you want to word it.

SENATOR VICKERS: Could we do it in that fashion?

CLERK: Yes, sir.

SENATOR VICKERS: Mr. President, members, Section 10 under LB 942, if I am looking at and reading it correctly, I think all the new language in Section 10 would change the rate that a parent or guardian transporting handicapped children to school are paid right now with a bill that we had I think just a year ago, we added those people to the section with, I think it was Senator Lamb had a bill dealing with it, and

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I think Senator Wagner had a bill putting all of the statutes dealing with reimbursement for mileage into the same area so that it was provided for in Section 84-306.2003 for state employees which is 21¢ a mile. The Section 10 of LB 942 would lower that rate to 18¢ and I believe if I read the A bill correctly and the budget booklet correctly and I think Senator Warner could comment on this and he probably will, I think it was about \$80,000 or something of that nature if I remember correctly. Now I recognize the Appropriations difficult struggle trying to come up with some funds and I appreciate the fact that they were having to look every place and that \$80,000 are \$80,000 but I also point out to the body that parents of handicapped children have to pay the same price for gas for cars, for licenses, including the \$3.75 additional to fund the State Patrol on their registration, insurance and various other things that any of the rest of us do plus the fact that obviously parents of handicapped children have other unique experiences or expenses that it would seem to me that it would be rather unfortunate for us to in order to get more dollars in the general fund, some \$80,000, would lower the transportation allowance to these parents and guardians of these handicapped children. So all I am saying is that we should strike Section 10 of 942 and allow that \$80,000 to be funded through the sales and income tax which if we do not do these types of things would be, in my opinion that the Board of Equalization would have little choice following this session but to raise those funds as I think they should be raised right straight up front from the taxpayers. So with that, Mr. Chairman, I just would move for the adoption of my amendment to strike Section 10 of LB 942.

SENATOR LAMB: Senator Sieck.

SENATOR SIECK: Mr. President, members of the body, I support Senator Vickers in this move. Now this section proposes to reduce the mileage reimbursement for parents who transport their children to special education programs from the rate paid state employees currently 21¢ a mile to a flat rate of 18¢ a mile. Now parents are only reimbursed when they are transporting their children to a school other than their normal neighborhood school. In other words, if they have classes within their own school, they are not paid reimbursement but if they have to go to another school because the school that they are attending or are part of cannot give them the education that is needed and they have to go to a different school, then the state has to pick the mileage up. Now the most recent figures that I have seen on the cost of driving a car is in the excess of 30¢ per mile so both state employees and parents are already contributing one-third

of the cost of the driving. Now if parents do not drive their children to these schools, then the school district is required by law to bus the children. Busing to school costs the school district by reimbursing the state much more than the 21¢ per mile. In other words, the bus transportation which this parent could demand could cost more than the 21¢ per mile that the parent is getting. Just last year we passed LB 204 which increased the rate of parent reimbursement from 17¢ per mile to the same rate state employees are now paid. In other words, the mileage is all the same across every jurisdiction of state government and I know Senator Wagner worked hard on this bill and he wanted to equalize the rates throughout the state and now we are starting to have inroads upon it and I think this is wrong. I am told that this section taken at face value would save the state \$80,000 but the Department of Education is not able to project how many parents would stop driving because of the reduced reimbursement rate and thus would force the school district to bus their children at a much higher busing cost. In other words this section could very easily result in much higher transportation costs and a loss to the state. I think those facts make it clear that we are moving in the right direction. It reverses what we did this last year. It treats parents who have to take their children to other than the normal neighborhood school as second class citizens. Parents are already contributing one-third of their driving costs. They are doing their share. This section also sets parents at a fixed rate which would not go up as the reimbursement rate for state employees goes up, and finally, this section could cost the state in bus transportation more than it will save. So I don't think we are really saving any money with this bill. I know that Senator Warner felt that this might, but if you really take a look at it and where the parent could demand bus transportation, it could cost a lot more. So I support Senator Vickers amendment.

SENATOR LAMB: Senator Warner, on the Vickers amendment.

SENATOR WARNER: Mr. President, and members of the Legislature, the concept the committee was proposing to you here is I guess is what is referred to as co-pay in other areas. The argument is not...I am not going to argue whether 21¢ or 30¢ is the cost because you can calculate that in a variety of ways but the majority of the committee felt that there was logic and merit in that the parents would contribute a portion of the cost and the state would be reimbursing them for a major portion of the cost. Senator Vickers has pointed out we reduced the appropriation by \$80,000 in order to do that. I guess the only other thing

I will add that as we add, or we aren't adding the money yet, by the way, you have got to put the money in the appropriation bill, but as we change the law that would reduce the impact on the general fund, I can appreciate that each \$40 or \$2700 or \$80,000 in itself is not all that big a deal except the cumulative consequences of all these adds are going to have a significant impact that you are going to have to reckon with. I will go one step further to suggest that we may well be making further rounds of reductions, at least based on what I notice in the receipts daily. We do not seem to be doing very well in the receipts side and they could deteriorate further I assume and it is almost...well, you are going to have the same frustration the Appropriations Committee has had since January where we numerous times have set a budget and then found we had to cut and I rather suspect you may find that again this year after we get it here on the floor, and if we do, it is not going to be nearly as hard if we do not keep adding all the time. So I would agree there is merit to the arguments that are offered by those who are proposing the amendment but unfortunately there is not the money. And I think it is not unreasonable that parents would have some portion of co-pay for that transportation.

SENATOR LAMB: Senator Dworak.

SENATOR DWORAK: Mr. President and colleagues, I just think Senator Warner needs a little moral support. The past three or four years I have been on the Appropriations Committee, it used to be a heck of a lot of fun, you know, as trying to decide what project we spent the money for and it was always exciting when you had one project you personally preferred over another project, whether that be a theater arts building or a chiller or a historical society or a gym in Chadron or whatever it is. Well, I want to tell you, Senator Sleck and Senator Vickers, that this year it has been a little different. It is how much can you take out of what program and I don't think any programs have been immuned from this shift. You know we came out of that committee with a pretty tight budget at \$763 million. I think at that point Fowler left and wouldn't even come back for the next round of cuts down to \$742 million but it was gruesome and the \$740 million level where we are right now is still contingent upon an increase in the personal income tax, a corporate increase, a cigarette tax being passed. That is to make the \$740 million. Now yesterday and now starting again today it seems to be pretty easy for this body to just crumble and put this stuff back in. Now, granted, there is nothing extremely significant with \$80,000 when you are talking \$740 million but they all add up and the package that was put together by the Appropriations

Committee forced the figure to add up and to balance out. Now whenever we start adding back, we are going to be faced sometime before this session ends with taking something else out to balance the figures or we are going to be faced with a real significant or much more significant tax change. So it was tough for the Committee, at least I can speak for myself, it was tough for me to cut and to vote and to accept the proposition like the one we are debating right now, and it was tough for me to vote against some of the people that were advocating some of the programs that were taken out yesterday. In fact, a few times I was one of the minority votes in the Committee, but in looking at the overall budget picture and looking at the revenues that are dismal to say the least today and the possibility or the probability exists they are going to be more dismal as time goes on, I think we are going to have to demonstrate some courage and try to hold to what this meager budget that is before us right now.

SENATOR LAMB: Senator Kahle.

SENATOR KAHLE: Mr. President, members, I am going to support Senator Warner on this. I think that you can drive for less than 21¢ a mile. I keep track of my mileage and what it costs to trade automobiles and the whole bit and I believe you can make money on 21¢ a mile so, therefore, I think that 18¢ is reasonable and with the economy the way it is I think we are all going to have to come down to reality. I can't support anything that is above what it actually costs. Thank you.

SENATOR LAMB: Senator Koch.

SENATOR KOCH: Thank you, Mr. Chairman, members of the body, I rise to support Senator Vickers. This argument we are going through the past couple of days about who is going to suffer cuts I think is prime time to talk about "New Federalism". Now we are going to take advantage of parents who have handicapped children and they are going to be the first one to get cut. That is the way the new federalism is going to work when it hits this state in its totality. We are going to cut people probably who can least afford to be cut and help people sometimes who don't need it nearly as much. A year ago on this floor we passed a uniform law as it relates to mileage figures. I can't believe in one year this body would turn around and rescind that action. If you read Triple A reports on the cost of operating an automobile on a mileage basis they will tell you it is around 30¢ a mile, present date. Senator Kahle may make money but, possibly, he has got a gasoline engine that gets 40 miles

to a gallon, who knows. The point is I drive quite a bit myself, in fact 73,000 miles in the last two and a half years, mainly between Ralston and Lincoln, and I know it costs me 21¢ a mile to drive my car when you figure the deterioration, tires, every other thing that goes into it. So if we are going to cut, let's cut everyone to 18¢. Don't pick on the parents of handicapped children who already are trying to help this state resolve a human resource and make him a better person, and the few cents we are going to save on this issue I think will tell something about the integrity of this legislative body. A year ago we saw fit to do it. Now we are saying we are going to look for a few cents. As I said yesterday, it is another deceitful way of saying to some people we have got to raise the taxes so we are going to do it in a hidden manner and some people are going to suffer more than others. I support the Vickers amendment.

SENATOR LAMB: Senator Vickers, to close on your amendment.

SENATOR VICKERS: Mr. Chairman and members...

SENATOR LAMB: Just a minute, I am sorry. Senator Higgins.

SENATOR HIGGINS: Thank you, Mr. President. We have been talking for the last two days about cutting the budget and everything we are doing is penny ante. \$3.75 we are going to put on automobiles. Now we are talking about 3¢ a mile on travel. Nobody will listen to me when I say we can in one fall sweep take in \$10 million and we won't hurt the handicapped and we won't hurt the elderly and we won't hurt the men and women that are working for a living. If this Legislature would quit paying businesses 3% to collect the sales tax and allow them to keep that sales tax for thirty and sixty days they now allow them, businesses will still make 5% on that money. They are making it. We are giving them an 8% profit on the sales tax but the Revenue Committee themselves did a study and they know if we just quit paying 3% to businessmen to collect the sales tax we bring back \$10 million in revenue to this state and we are not hurting the businessmen at all because the thirty to forty-five to sixty days they hold that sales tax in their chubby little hands or in their bank account their bank or savings and loan is giving them 5%, 5½% interest on it. So who gets hurt? Nobody. They are still making enough money to pay the cost of collecting it and I would like to ask you this. Why don't businesses get paid to collect state income tax? Why do we pay to collect sales tax and not state income tax? Those businesses that have people hired and fired every other day or quit or laid off, they have got some bookkeeping costs. We don't pay them that. What about the unemployment compensation

insurance that you have to withhold? You don't get paid for that but we don't dare quit paying businesses and giving them that extra 3% profit which actually amounts to eight or maybe nine by the time they invest it in the banks for thirty to sixty days. So I think it is time you realize this is penny ante penny pinching taking away 3¢ a mile from a handicapped person when you have got \$10 million sitting out there that there isn't a businessman who will suffer if you take it away from them. It just takes some guts to do it, and so far I haven't found 25 people yet that will agree with me. Thank you.

SENATOR LAMB: Senator Vickers, to close.

SENATOR VICKERS: Mr. Chairman and members, it might be penny ante to some people but I think to the people that are having to provide the transportation for a handicapped child I doubt if it is too penny ante to them. I doubt that they look at it in that respect, if we pick on them as a way to raise more funds for the state. Now Senator Higgins may be right but I suggest that you do that, try that also and see if you get the 25 votes out here. Senator Kahle mentioned that he thought we could make money at 18¢ or that we were making money at 21¢ and that maybe we shouldn't be doing that. If Senator Kahle really believes that, then I would expect an amendment forthcoming from him someplace in time in this debate in the next couple, three days that would cause that to happen so that we all suffer that same loss of what we are so-called making now. The point is if the parents of the handicapped children are only going to be paid 18¢ a mile, then I certainly agree with Senator Kahle. I think that I should only get paid 18¢ a mile driving back and forth also. Since I don't get paid anything right now, it would be quite an increase I guess. All state employees would be paid 18¢ a mile. Senator Wagner's bill of a year ago would simply be lowered back to 18¢. On the other hand if we don't want to do that, we want to pick on those few people that can fight back the least, now I don't happen to have any handicapped children. Thank God. But I don't think that this state should make a practice of picking on those people that do and I suggest to you that is exactly what we are doing. Now Senator Higgins may be right, maybe we don't have the intestinal fortitude or just plain old guts to pick on the big people in this state so we are going to pick on those little ones instead. Well, if that is the attitude that we are going to have as being bullies, count me out. Senator Warner also indicated that reductions in the amounts that the Appropriations Committee has worked very hard on and struggled very much on, and I assure you that I agree that that undoubtedly is true, and that we are making inroads in that, and I will surely admit that is

also true. I will remind Senator Warner I was one of the 13 last fall voting along with him to raise the sales or the income tax. I would suggest that in spite of what Senator Dworak and Senator Warner said about what the Budget Committee had decided that this budget needs to be funded by an increase in corporate tax, by an increase in cigarette tax, and also an increase in the income tax, that if this body adopts a budget of whatever the figure may be at the end, we decide on where we are going to spend the money and then appropriate the monies to do it. We have got the mechanism already set up in this state for the Board of Equalization to then set the tax rates accordingly. Whether or not we raise the cigarette tax, whether or not we raise the corporate tax or anything else, the income and sales tax will have to be raised to make up the difference. I personally am ready to do that. I am ready to do that instead of nit picking on individuals and causing them to have more expenses than we would impose on ourselves or some other people. If we are going to do this type of thing, then I want to do it across the board to everybody. If we are all going to suffer, then let's all, by gosh, let's all suffer together. But to pick on certain groups or certain individuals is fundamentally wrong and I cannot do anything except stand up and oppose it. Thank you, Mr. President.

SENATOR LAMB: The motion is the Vickers amendment to the bill. Those in support vote yes, those opposed vote no. Have you all voted? Have you all voted?

CLERK: Senator Lamb voting yes.

SENATOR LAMB: Record. A record vote is requested.

CLERK: (Record vote read. See pages 1379 and 1380, Legislative Journal.) 17 ayes, 17 nays, Mr. President, on the adoption of the amendment.

SENATOR LAMB: Motion fails. Anything else on the bill?

CLERK: Mr. President, I now have an amendment from Senator Schmit that I understand Senator Sieck will handle.

SENATOR LAMB: Senator Sieck.

SENATOR SIECK: Do you want to read the amendment?

CLERK: Senator Sieck would move to amend the bill: (Read Sieck amendment found on page 1380, Legislative Journal.)

SENATOR SIECK: Mr. President, members of the body, I am

not Senator Schmit but I know that he is strong on the reparation bill and I feel that what we are doing we are taking some individuals out of it and I feel that we just cannot do this. In the part 5 of Section 23, it has got a lot of ambiguity in it and I feel that I need to ask Senator Warner some questions here.

SENATOR LAMB: Senator Warner, would you respond?

SENATOR WARNER: Yes.

SENATOR SIECK: Will more or less people be eligible for the victim's compensation with this amendment?

SENATOR WARNER: With the amendment?

SENATOR SIECK: The amendment is part 5 in Section 23, to delete it, and of course, it has a few other deletions in that.

SENATOR WARNER: Well, Senator Sieck, the purpose of the amendment is to have some relation of need in terms of ability to pay for crime...for reimbursement because you have been the victim of crime, and so I assume to some extent it would reduce the potential based upon most of the payments that have been made to date. I don't know that anyone would not have been paid. At least the cases that have cited to usually were related to their ability to pay even though the law didn't specifically say that. The purpose of the amendment is comparable to what Kansas uses. The purpose was to try to put a cap on it for in the future.

SENATOR SIECK: Okay, has there been any abuse of this particular division where wealthy have taken the money where they were a victim and the Reparation Board had given that to them instead of people that really actually needed it, has there been abuse in this area?

SENATOR WARNER: I am not aware of abuse, Senator Sieck. I am aware that they do not approve of a fairly sizeable number of the requests that they have.

SENATOR SIECK: According to the report that I have got, they have got 17 claims were denied by the board and 5 were for financial reasons. So as far as I am concerned, the Reparation Board is doing a good job and what we could do, we are telling our society that now we will give...we won't let the criminal who victimized someone, if he is wealthy, he is going to have to stand it, and I feel that is wrong.

We send a signal out there and I just don't feel we should do that. We have to remember that we have to change our society from recognizing the criminals and instead recognizing the victim. I have a statement here that I just got today and it tells me what we are doing. In any civilization the basic question that should be asked of any offender is how do you intend to make amends for your injury you have caused your victim and/or society? A criminal act should not be paid for only through serving time and thus further injure tax society but through concrete restitutional acts. Such a perspective possesses a historical precedent in the code of the ancient Persian law, Roman law, Germanic law, and the Anglo-Saxon law. In the Anglo-Saxon law, for example, a monetary payment called a bond was made by the offender to the victim in an attempt to right the wrong. However, this restitution orientation began to erode in the 17th Century. Instead of the victim receiving the entire compensation, the king began receiving the part of payment as his role, as the state's share increased, and eventually the entire compensation went to the king, that is our state. Consequently crime became to be viewed as an offense against the state and corresponding to this change the victim's importance in role declined. As restitution declined in significance, the state increasingly and primary philosophy in the state's approach is the criminal offender while the victim became the forgotten party. Now is the time to reverse this trend, if for no other reason, the price of punishment is cost prohibitive. And that is the reason I am opposed to this amendment as Senator Schmit is. I mean I feel that we are beginning to recognize that society can pay and society cannot pay and we have to recognize it and I feel the Reparation Board is doing this but we are sending a message that society can pay and I feel that is wrong. So I would highly endorse this amendment.

SENATOR LAMB: Senator Warner, did you care to address the Schmit amendment?

SENATOR WARNER: Again, Mr. President, I would merely point out that the purpose of the amendment in essence is to put a cap on it. As a matter of fact as I recall, they do not reimburse those who apply now unless their insurance has been used up and their unemployment comp has been used up if that was available, whatever other assets that they had, that also it provided assistance because of the crime to offset the loss of the crime, the state did not come in in any event. The only difference that we are suggesting here is that there probably ought to be a need qualification as well. As a practical matter you are not going to probably submit tremendous or have approved tremendous request for

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reimbursement, tremendous amounts. I think the proposal is reasonable. I would hope you would reject the amendment.

SENATOR LAMB: Senator Sieck, did you wish to close on your amendment?

SENATOR SIECK: Yes, in response to Senator Warner, actually this could make it cost more because they would have to hire additional staff to investigate and I don't feel that we are going to cut the cost a bit with this particular amendment. They will have to hire additional people to do the research to see whether they own an automobile, whether they own two automobiles, how much property they have. There is a lot of things in there that it is very unclear. They are going to have to do some research to find out if that victim owns some land, for instance, owns a tremendous valued home, how many automobiles he owns and all this. Now I just feel that the cost isn't cost saving at all. I think it is going to cost extra money and I urge you to support this amendment.

SENATOR LAMB: The motion is to adopt the Schmit-Sieck amendment. Those in support vote yes, those opposed vote no.

CLERK: Senator Lamb voting no.

SENATOR LAMB: At this point I would like to introduce 22 kindergarten through sixth graders. They are guests of Senators Chronister and Senator Lowell Johnson. They are from Dodge County District #27 at Scribner, Nebraska. They are accompanied by teachers, Bonnie Vacha, Elgin Classen, Dorene Gustafson, and four sponsors in the North balcony. Please rise and be recognized. Welcome to your Legislature. Have you all voted? Record.

CLERK: A record vote, Mr. President. (Read record vote as found on page 1380 of the Legislative Journal.) 6 ayes, 16 nays, Mr. President, on adoption of Senator Sieck's amendment.

SENATOR LAMB: The motion fails. What else do we have on the bill, Mr. Clerk?

CLERK: Mr. President, Senator Sieck would now move to amend the bill. (Read Sieck amendment as found on page 1381, Legislative Journal.)

SENATOR LAMB: Senator Sieck.

SENATOR SIECK: Mr. President, members of the body, I put this

amendment up there in case this other one failed because I feel I have to protect those where a civil procedure done or civil-criminal action is done and the victim would be given his pecuniary loss and I feel this has to be in there because if we are going to give restitution I don't want this to impede upon anything that we could give to an individual that has lost in a pecuniary fashion. I did visit with the staff of Warner's office and they felt that this wouldn't hurt anything and it would protect and they didn't really want to get into this particular area. And I don't know whether Warner is going to say it is a friendly amendment but I felt it was and I ask the body to support this amendment.

SENATOR LAMB: Senator Beutler on the Sieck amendment.

SENATOR BEUTLER: Senator Sieck, if I could ask you to explain that again. I am sorry, I didn't understand it. What are you changing in the statute and what is it intended to do?

SENATOR SIECK: It actually is clarifying that language in there to be sure that the victim's actual pecuniary loss...

SENATOR BEUTLER: What is it you are changing? What exact language are you changing?

SENATOR SIECK: After line 12, insert the following: "Nothing in this section shall limit payments to a victim by an offender which are made as full or partial restitution of the victim's actual pecuniary loss."

SENATOR BEUTLER: You mean regardless of where the restitution is coming from, regardless of whether it is coming from the state or from the individual or from the criminal?

SENATOR SIECK: It was my feeling it would be coming from the criminal and it should not involve this. I mean actual loss from the offender to the victim would actually take place and I wanted to protect that so that this money that was coming from the offender would go to the victim.

SENATOR BEUTLER: All right, so you are in accord with the limitations as far as state money is concerned but you don't want it to limit reimbursement from the criminal himself, is that correct?

SENATOR SIECK: That is right. That is what I am trying to get across here.

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SENATOR BEUTLER: Okay, thank you.

SENATOR LAMB: Senator Warner.

SENATOR WARNER: I just would like one clarification, Senator Sieck, that I think some people in the Fiscal Office helped prepare the amendment as they would any Senator's request but they do not recommend anything other than they provide research information, and neither do they speak for me and I probably would be better off if they did but they do not. So that is understood. As I understand the amendment, it doesn't affect the cost any. I don't have any problem with it.

SENATOR LAMB: Senator Sieck, to close his amendment.

SENATOR SIECK: Yes, I will move that we adopt the amendment. It is just a protection for the restitution of the victim is all it is.

SENATOR LAMB: The motion is to adopt the amendment by Senator Sieck. All those in support vote yes, all opposed vote no.

CLERK: Senator Lamb voting yes.

SENATOR LAMB: Have you all voted? Record.

CLERK: 25 ayes, 0 nays on adoption of Senator Sieck's amendment, Mr. President.

SENATOR LAMB: Anything else on the bill?

CLERK: One last amendment, Mr. President. Senator Vickers would move to amend the bill: (Read Vickers amendment as found on page 1381, Legislative Journal.)

SENATOR LAMB: Senator Vickers.

SENATOR VICKERS: Mr. President, members, the new language at the top of page 29 in LB 942 is intended I think to clarify the language on page 20 or line 20 on page 28 where it says that the audits and related activities can be done on a contractual or other basis for reimbursement; and then over here on the top of page 29, it indicated that they can levy a fee for the audits and related activities; and then further it says on lines 5, 6, 7, and 8 that for audits of state agencies the fees shall be reduced by a percentage equal to the percentage of the total amount audited that was funded from General Fund sources. And

I assume that the feeling in the Appropriations Committee was that if the auditor's office is auditing General Fund sources of the state agencies, then you were spending state dollars to pay for a state function, and it was just kind of a round robin type thing and using the same dollars to pay for the same function. It seems to me that same philosophy should apply to the political subdivisions that get state funds. In other words if a political subdivision is going to be audited that does get some of that General Fund dollar, then the percentage should apply the same there if the philosophy is carried to its fullest extent. It seems to me that the philosophy that makes that exclusion for state agencies should also apply to local political subdivisions. If not, we are going to have a situation where the property taxes once more are going to be asked to pay all of the funds of auditing when in fact part of the audit procedures are General Fund sales and income tax dollars. Now that might be the wishes of this body. I don't know but it is not my wishes that we shift from sales and income tax to property taxes. Now I just want to clarify that that philosophy is going to be carried through to all political subdivisions and I will repeat what I am doing and I apologize for not having this in the Journal but maybe I am different than the rest of you but I didn't get a chance to read this bill that thoroughly until this morning. So on line 5 of page 29 after the word "agencies" I am simply inserting "or political subdivisions of this state", so that that sentence would read "Such fees shall be in an amount sufficient to pay the costs of the audit and related activities, except that for audits of state agencies or political subdivisions of this state the fees shall be reduced by a percentage equal to the percentage of the total amount audited that was funded from General Fund sources." Thank you, Mr. President.

SENATOR LAMB: Is there any other discussion on the Vickers amendment? Senator Warner.

SENATOR WARNER: Mr. President, I understood Senator Labeledz had an amendment on this section, too, and addressed to the explanation of the balance of the bill, but the bill does provide for some of the audits currently paid for by General Fund to be paid by local governmental subdivisions, but the reason we are suggesting that is again for uniformity, not for the reason for anything related to the General Fund portion of a county's budget. The facts are that municipalities, metropolitan park and water districts, parking authorities, sanitary improvement districts, public power districts, technical community colleges, a whole series of political subdivisions except educational service units and counties now do pay for those audits and our position

was that some sense of uniformity was reasonable, appropriate and proper. So the bill merely places these two governmental subdivisions in the same position of all others. Now I suppose you could go the other route for uniform treatment for the state to pick up the cost of all of them but unfortunately this is not a year those kind of options are available. So for equity we were proposing that these two governmental subdivisions be treated as all others which they pay for their own audits.

SENATOR LAMB: Senator Kahle.

SENATOR KAHLE: Mr. President, it is a little tough to keep up with this but I don't think that we should be changing our auditing program as far as the state is concerned in relation to the local governments and perhaps some of the other entities. It is to the advantage and it is the responsibility of the state to see that the audit is made and one of the problems we have under this situation is that the state mandates, and if we don't fund it through the state, the county pays. It is one of those old ring-around-the-rosy deals that we like to put upon the local taxpayers Senator Vickers has so ably warned us. I know that we have had a lot of problems with audits in other businesses, and especially with grain elevators, and it would just seem to me that the state's auditing of the county records especially has been a service that has been good I think generally. We haven't had any scandals so I think that that would be another or one of those issues where it is hard to tell who should fund it, but if we don't fund it, the state is going to certainly go back to the taxpayer again and if you think we have got trouble at the state level, wait until the taxpayers find out what the counties and school districts are going to have to do to them. So I certainly would support Senator Vickers. I understand there are some more amendments around that will do this same thing but I am willing to try this one.

SENATOR LAMB: Senator Warner, did you want to speak again?

SENATOR WARNER: I would just suggest that those of you who speak on the concern of the property tax impact of this, if you really want to have some help on the property tax increase, I have a little amendment here on my desk that I am very willing to offer and get a record vote and we will put all these local salary adjustments the same as state employees and we can save many millions of dollar I suspect and we can do it by statute, get it for public power districts, a few other governmental subdivisions, and we can have an

impact that the property taxpayer will appreciate untold end. Now the reason that we propose this amendment is solely one of equity which many of you advocate and the equity in this case is that a whole series of governmental subdivisions now pay and have always paid for their audits and we proposed in the sense of equity that the two governmental subdivisions whose audits are paid for by the state ought to be treated the same as others and that is all it does. But if there is interest in the other proposal to really have a beneficial impact of keeping that property tax down, you just stop over here any time. I have got the amendment.

SENATOR LAMB: Senator Haberman.

SENATOR HABERMAN: Mr. President, members of the Legislature, a question of Senator Warner please.

SENATOR LAMB: Senator Warner, would you respond?

SENATOR WARNER: Yes.

SENATOR HABERMAN: What are some of the entities that are not presently paying for their audits?

SENATOR WARNER: The state pays for educational service units and counties.

SENATOR HABERMAN: The state pays for the educational service units and the counties?

SENATOR WARNER: Audits. These following governmental subdivisions pay for their own audits: Metropolitan water districts, parking authorities, municipalities, natural resource districts, sanitary improvement districts, public power districts, reclamation districts, technical community colleges, they all pay for their own audits. In some cases they have a private auditor and they only have to file the audit and in other cases the state auditor would do it.

SENATOR HABERMAN: Why are those two excluded?

SENATOR WARNER: That is the way it has always been I guess.

SENATOR HABERMAN: The counties and the ESUs, right?

SENATOR WARNER: Yes.

SENATOR HABERMAN: Thank you.

SENATOR LAMB: Senator Kahle.

SENATOR KAHLE: Mr. President, just for clarification, actually those are a little bit different kind of entities that were mentioned but counties are creatures of the state, that are mandated by the state to do certain things. I guess about all we are mandating them to do now is to pay taxes but I think the state does have the responsibility because of the close relationship and the fact that funds are intermingled between the state and the counties so I do think it is the responsibility of the state to see that the audit is performed and to see that it is paid for.

SENATOR LAMB: Senator Vickers, to close on your amendment.

SENATOR VICKERS: Mr. President and members, I thought that all I was doing or trying to do with this amendment was to make it equal and equitable as far as this percentage of reduction was concerned as it applied to that portion of the fund that was funded from the General Fund sources, and as I read the new language in 942 it seemed to me that the philosophy was being espoused that if it was a state agency that the cost of the audit should be reduced by the percentage that the General Fund made up of the funding of that agency, and all I am saying is that that same philosophy, it would seem to me, should apply to any other political subdivisions that might fall under this act. Now whether it be just counties and ESUs or who all it might be, I really don't know, but it just seemed to me that the same philosophy, if the philosophy applies to state agencies that General Fund dollars shouldn't be turned right around and sent back to the State Auditor's Office for auditing that function, then I don't know why it should not apply the same philosophy to political subdivisions that fall under this provision. So that in a nut shell was all I was attempting to do. As Senator Warner used the word "equity" and I would agree with him that equity is I thought what I was trying to do and I still do. I urge adoption of this amendment.

SENATOR LAMB: The motion is the adoption of the Vickers amendment. All those in support vote yes, all those opposed vote no. We have students from Senator Carsten's District, 17 seventh and eighth grade students from St. Andrew's School in Tecumseh. The teacher is Sister Alyce. They are in the North balcony. Would you please stand and be recognized? Welcome to your Legislature. We also have some guests of Senator Apking under the South balcony, her sister, Dr. Colleen Dille of Fremont; her sister's houseguests, Mr. and Mrs. Fiske and daughters, Ingrid and Marita, and Mr. Larson, all of Kil, Sweden. Welcome to Nebraska. Welcome

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to the Legislature. Would you please stand and be recognized? Record the vote, please.

CLERK: 6 ayes, 11 nays, Mr. President, on the adoption of the amendment.

SENATOR LAMB: Are there more amendments on the bill?

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

SENATOR LAMB: Then is there any discussion on the bill? Clear the board.

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

SENATOR LAMB: Senator Labedz.

SENATOR LABEDZ: Thank you, Mr. President. My books are too heavy. I am so tiny.

SENATOR LAMB: Your time started way back when you started your fumbling.

SENATOR LABEDZ: Thank you. Members of the Legislature, I believe, Pat, you gave the page number of the amendment as printed in the Journal.

CLERK: Senator, it is 1355.

SENATOR LABEDZ: Thank you. What we are trying to do here is strike Section 25 which requires the counties to reimburse the state for the audits. Now the reason I wanted this done on Select File rather than now was because I was waiting for the figures but I did get some figures and the first year it would be \$127,563. The second year, \$530,000 for 83-84. The third year would be about \$745,000 for 84-85. Also striking Section 8 where it is required that the counties pay for the forms and the printing that has to be done for these audits. Now this would be a substantial amount of money for the counties to pay back to the state. I think that we will see it reflected in our property tax and I would like to see this stricken from 942. I believe that Senator Kahle alluded to it when we were talking on Senator Vickers' amendment. So I request that this amendment be adopted and Section 25 and Section 8, the new language, be stricken from LB 942.

SENATOR LAMB: Senator Nichol.

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SENATOR NICHOL: Mr. Chairman, members of the Legislature, without reiterating anything that Senator Labedz has said, I certainly would approve of her amendment. I think that we should do this in fairness to a cost that we have required and it should not be passed on to the counties and it is for our benefit. So I support Senator Labedz' amendment.

SENATOR LAMB: There are no more lights on except Senator Warner. Senator Warner, would you care to comment?

SENATOR WARNER: Mr. President, I would just repeat the same argument as I do with Senator Vickers. The basis for the amendment was pure and simple to treat counties and ESUs in the same fashion as other governmental subdivisions, and if you do not want to have that done on a charge basis as others, why, of course, the budget will have to have next year a couple of hundred, well, \$211,000 to be exact added of General Fund money and it is that simple.

SENATOR LAMB: Senator Kahle.

SENATOR KAHLE: Well, Mr. President, members, the speech that I made a bit ago would fit this bill much better or this amendment much better than the one that we talked about but the audits as we have had them over the years have been I think very satisfactory and, of course, the cost to the county is really hard to establish when we have a hit and miss audit for the counties over the state. A lot of the subdivisions do hire their own auditors. They do probably get a cheaper audit than maybe even the state could give us, I don't know, but in the times that I was in the county government we rather looked forward as county officials to the State Auditor coming and making his audit and he audited all of the offices in the court house as well as the county board and everything that happened in that county. It was a good feeling to know that the same policy was being used in every county in the state, and as we do work so closely with the state, especially with the intermingled funds, the comingled funds, that we have now, I think it is the duty of the State Auditor to audit both the state and the county and I see no reason why we should burden the taxpayers for a special part of that audit when they have to pay for the...when they pay for the state audit through, of course, the General Fund. So I would strongly urge you to leave the auditing procedure alone. You may make the state look good. You may save a few bucks out of the treasury but you are certainly not going to help the taxpayer any in the long run, and I guess the old adage "if it works don't fix it" is certainly true in this case. I think there are other places that I would much rather see the funding cut if we have to cut it than to have a scrambled up audit system in our State of Nebraska,

that counties could and would be encouraged to hire a separate auditor and the reports would not be the same, the way the audit is done would not be the same, so, therefore, I strongly urge that you support Senator Labedz in her effort to strike Section 25.

SENATOR LAMB: The Chair recognizes Senator Dworak on the Labedz' amendment.

SENATOR DWORAK: Well, Senator Lamb and colleagues, just a couple of comments that kind of bother me a little bit, Senator Nichol indicates it is for our benefit and I am not going to deny that certainly the State of Nebraska benefits but I certainly think local government benefits from knowing that their operations are proper, that their operations are correct. In fact I would suggest that or as Senator Koch would say I would submit to you that if we didn't require an audit that it would be only prudent of those counties, those educational service units, to audit themselves. In fact I think it would almost be something they would feel compelled to do to run a good shop. I certainly think the benefit is to the local taxpayers. I think the benefit is to the counties themselves, if not as much, probably greater than to state government. So if that is where the benefit is, then I think it stands to reason that that is where the cost is. Now you know we have been talking about getting government off of our backs, and we have been talking and we have been hearing many times from counties and educational service units and other local subdivisions of government, please, quit mandating these things upon us. Well, now we are going to have an opportunity to free this up. We are not going to tell them they have to use...they can use a different auditing service if they want to but I think it is only proper that this function which benefits them probably more than anyone else be paid directly by them. I really don't think we are being so selfish on this with all the state aid that we pass to local subdivisions of government through the homestead exemption, all the other transfers from state government to local governments, that we are shorting them that much and I think it is an opportunity for us to draw the lines clear and allow those functions to be paid for on a local level rather than have the state assume that financial responsibility which frees money for us to support legitimate state operations.

SENATOR LAMB: Senator Labedz, to close on your amendment.

SENATOR LABEDZ: Thank you very much, Mr. President. The figures that I received just a few minutes ago for 1983-84 would cost the counties at least \$750,000 to \$850,000. That

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is for the audit and then the Section 8 which includes the cost of the forms and the printing. So I urge you to strike these two sections in order to save the counties reimbursing the state. The audits we all know are performed at least once a year for the 93 counties for the year. They are done in a well, good fashion by the State Auditor's Office. I think they are necessary to have an audit performed each year, at least once for each county, but I don't see why the homeowners will eventually have to pay that because there no doubt would have to be an increase in the property tax. I believe it should come from state funds and I urge you to adopt the amendment to LB 942.

SENATOR LAMB: The motion is the adoption of the Labeledz amendment. All those in support vote yes, all those opposed vote no.

CLERK: Senator Lamb voting yes.

SENATOR LAMB: Have you all voted? Senator Labeledz.

SENATOR LABEDZ: I will have to have a Call of the House and we will take call in votes.

SENATOR LAMB: Those who support a Call of the House signify by voting yes, those opposed no. Record.

CLERK: 12 ayes, 1 nays, Mr. President, to go under Call.

SENATOR LAMB: The House is under Call. All Senators please go to your seats, record your presence. All unauthorized personnel please leave the floor. The Chair would like to introduce Mr. Frank Golden, former County Treasurer of Lancaster County, guest of Senator Wesely, under the South balcony. Please rise and be recognized. Welcome to your Legislature. Senator Wiitala, Senator Newell, would you all please register your presence? Senator Koch. The Clerk is authorized to take call in votes.

CLERK: Senator Duda voting yes. Senator Fowler voting no.

SENATOR LAMB: Senator Duda, would you record your presence, and Senator Chambers, we are looking for Senator Chambers. Senator Wagner, Senator Goll. I believe we are all accounted for. Six...five excused?

CLERK: Yes, sir.

SENATOR LAMB: Please call the roll.

CLERK: (Roll call vote taken. See page 1381, Legislative Journal.) 23 ayes, 21 nays, Mr. President, on the adoption of Senator Labedz' amendment.

SENATOR LAMB: Motion lost. What else do we have on the bill, Mr. Clerk?

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

SENATOR LAMB: Is there any discussion on the bill? Senator Warner.

SENATOR WARNER: Mr. President, I will move the bill be advanced and some of these items will be considered I expect again on Select File. There are I think only two other things in the bill that has not been discussed in the area of amendments. I withdrew an amendment yesterday that affected the Department of Agriculture and the checkoff boards. There is some language left in the bill but I think I indicated yesterday that some of the checkoff boards, I have had some conversation with, and by the time it gets over to Select File they may have a solution which they also would concur in or at least some of them, and the only other thing that we have not discussed was a noncontroversial item which would allow existing employees of the State Board of Agriculture, which is the State Fair, to participate in the state retirement system as they do now. But in the event that they were not funded from General Fund money as they are now in part sometime in the future, why they would not lose their retirement benefits that have been accrued to this point. Now other than that, I would move the bill be advanced. It obviously carries some important amendments as far as the budget is concerned. An additional fee for the support of the State Patrol is an intricate part of the revenue for the total budget which we included in the amendment. Some capping on some of the cost of medicaid are still there and I would hope the body would advance it. If you want further refinement, that, of course, can be done on Select File.

SENATOR LAMB: Senator Kahle, on the bill.

SENATOR KAHLE: Mr. President, we need to pass these bills on and I am not going to try to delay it but I suggest that some of you Senators from especially the rural areas, and I think the city areas as well, better get back to your county board between now and Select File to see what you have done with this Section 25, you put a terrific amount of cost on your county and I don't believe you realized it

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when you voted. Thank you.

SENATOR LAMB: Senator Warner, do you wish to close on the bill? Senator Warner waives closing. The motion is to advance LB 942. Those in support vote yes, those opposed vote no.

CLERK: Senator Lamb voting yes.

SENATOR LAMB: Have you all voted? Record.

CLERK: 31 ayes, 7 nays, Mr. President, on the motion to advance the bill.

SENATOR LAMB: The bill is advanced. Do you have anything to read in, Mr. Clerk?

CLERK: Mr. President, I don't.

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LB 522A, 605, 714, 753,
754, 760, 761, 942,
966, 967, 970, 970A

SENATOR CLARK PRESIDING

SENATOR CLARK: The Legislature will come to order. The prayer this morning by Father Edmund Placek of the Sacred Heart Catholic Church, Burwell.

FATHER PLACEK: (Prayer offered.)

SENATOR CLARK: The state officers of the Knights of Columbus are here for the occasion of the centennial of the Knights of Columbus. I think they are going to see the Governor and have him declare it that. We also have three visitors from Australia. They are under the South balcony. David McConnell, Helen McConnell, and Marilyn Handley. Would you stand and be recognized please. Senator Lamb has 7 students from Newport, Nebraska grade school, Pam Peterson, the teacher, and they are in the North balcony. Would you stand and be recognized please? Welcome to the Legislature, all of you. Roll call. Could we all check in, please. We have the Benson Republican Women's Club in the North balcony. Would you stand and be recognized please? Welcome to you to the Legislature. The Clerk will record.

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

SENATOR CLARK: Are there any corrections to the Journal?

CLERK: I have no corrections, Mr. President.

SENATOR CLARK: Do you have any messages, reports, or announcements?

CLERK: Yes, sir, I do, a series of things. Mr. President, your committee on Enrollment and Review respectfully reports they have examined and reviewed LB 754 and recommend that same be placed on Select File; 522A Select File; LB 942 Select File with amendments; LB 966 Select File with amendments; LB 970 Select File; LB 970A Select File with amendments; LB 761 Select File with amendments; LB 967 Select File; LB 760 Select File; LB 753 Select File. Those are all signed by Senator Kilgarin as Chair, Mr. President.

Mr. President, your committee on Public Health and Welfare offers a report on gubernatorial confirmation hearing.

Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 605 and find the same correctly engrossed; and LB 714 correctly engrossed.

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LB 428, 571, 942
LRs 272-275

SENATOR MARSH: Thank you Mr. President and members of the Legislature. I rise to support the proposed amendment. I rise because as Senator Beutler said the person who is going to have supposedly a guardian appointed receives notice, that is well and good if the individual is capable of comprehending what the notice means. It is well and good if its an adult who reads. It is well and good, but, what if it is not a person who reads? What if it not a person who comprehends what the written words mean? What if it is not an adult? It is important that the rights of each individual . . .

RECORDER MALFUNCTION - NO RECORDING

The motion to return lost with 13 ayes, 27 nays, 2 present and not voting, and 2 excused and not voting. See page 1473 of the Legislative Journal.

Senator Vickers asked unanimous consent to print an amendment to LB 942 in the Journal. (Page 1473 of the Legislative Journal).

Clerk read LRs 272, 273, 274, and 275. See pages 1473-76 of the Legislative Journal.

RECORDING RESUMES ON FINAL READING

ASSISTANT CLERK: . . . reading LB 428.

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 428 pass. All those in favor vote aye, opposed vote nay. Record the vote.

ASSISTANT CLERK: 41 ayes, 4 nays, 2 present and not voting, 2 excused and not voting. Vote appears on page 1477 of the Legislative Journal.

PRESIDENT: LB 428 passes. Next bill on Final Reading is LB 571.

CLERK: Mr. President, LB 571, I have a motion from Senator Schmit to return LB 571 to Select File for a specific amendment.

PRESIDENT: Chair recognizes Senator Schmit.

SENATOR SCHMIT: Mr. President, I move the bill be returned for a specific amendment. The specific amendment is basically

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LR 279

LB 408, 761, 942, 966, 757, 928

is. It isn't that complex. The question only is do you want to vote on it or do you want to spend another day on it and never get to nursing homes and studded tires and ADC bills of Von Minden and everybody else. All I am suggesting is in one minute we will be to the time we normally adjourn and I thought that is about all this bill should take today.

SENATOR LAMB: One minute, Senator.

SENATOR DeCAMP: So I put a motion up that when we got to the last minute we would have a vote or attempt it and that is all the motion is to suspend the rules and vote on it one way or the other.

SENATOR LAMB: The motion is to suspend the rules. Those in favor vote yes, those opposed vote no. It takes 30 votes.

CLERK: Senator Lamb voting yes.

SENATOR LAMB: Have you all voted? Have you all voted? Record. Senator DeCamp.

SENATOR DeCAMP: Beings we are here and this close I would like to have a Call of the House and take some call ins if anybody wants to call in.

SENATOR LAMB: The request is for a Call of the House. Those in support vote yes, those opposed vote no. Record.

CLERK: 22 ayes, 0 nays to go under Call, Mr. President.

SENATOR LAMB: The House is under Call. All unauthorized personnel please leave the floor. All Senators record your presence. We are looking for Senator Warner, Senator Goodrich, Vickers, Senator Marsh, Senator Hoagland, Senator Beutler, Senator Higgins. Begin the roll call on the motion to suspend the rules.

CLERK: (Roll call vote taken. See page 1496, Legislative Journal.) 27 ayes, 17 nays, Mr. President.

SENATOR LAMB: The rules are not suspended. The Call is raised. Please read in the material, Mr. Clerk.

CLERK: Mr. President, Senator Schmit would like to print amendments to LB 966; Senator Koch and Nichol to LB 761; Senator Kahle to LB 942.

Mr. President, a new resolution by Senator Wesely, LR 279, (read). That will be laid over, Mr. President.

Mr. President, Senator Warner would like to print amendments to LB 966, LB 757, LB 928.

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LB 408, 675, 743, 761, 942

SENATOR LAMB: The motion fails. Anything else on the bill?

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

SENATOR LAMB: Is there any further debate on LB 408?
Senator Nichol, on the bill.

SENATOR NICHOL: Are we about ready to close on the bill?
Good. Mr. Chairman, members of the Legislature, I just draw your attention to Senator Chambers' amendment again, not intending to do anything about it now. I think it weakens the bill but if that is the intention of it, that is fine with me. So with that, thank you.

SENATOR LAMB: Senator Howard Peterson.

SENATOR H. PETERSON: Mr. Chairman, I call the question.

SENATOR LAMB: That will be not necessary. We have no more lights on. Senator DeCamp, do you care to close on the bill.

SENATOR DeCAMP: I close.

SENATOR LAMB: The motion is the advancement of LB 408.
Those in support vote yes, those opposed vote no.

CLERK: Senator Lamb voting yes.

SENATOR LAMB: Have you all voted? Have you all voted?
Record.

CLERK: 25 ayes, 17 nays, Mr. President, on the motion to advance the bill. I'm sorry, Senator. Senator Wesely requests a record vote. (Read record vote as found on page 1504 of the Legislative Journal.) 26 ayes, 17 nays on the motion to advance the bill, Mr. President.

SENATOR LAMB: The bill is advanced. Do you have something to read in, Mr. Clerk?

CLERK: Mr. President, very quickly, your committee on Business and Labor, notice of scheduled hearing for next Wednesday regarding the state labor contracts. That is signed by Senator Barrett as Chair.

Senator Peterson would like to print amendments to LB 761; Senator Hoagland to LB 675; Senator Newell to LB 743; Senator Fenger to LB 942. (See pages 1505-1506 of the Legislative Journal.)

Mr. President, a study resolution offered by Senator Beyer

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LB 953, 428, 571, 754, 942
LR, 282, 283, 284,

SENATOR CLARK PRESIDING

RECORDER MALFUNCTION

The following information is taken from the Legislative Journal dated March 31, 1982.

LB 953 was advanced to E & R for Review with 38 ayes, 3 nays and 8 excused and not voting (Journal page 1543).

Legislative Resolutions 282, 283, 284 were all read and referred to the Executive Board.

The Enrolling Clerk presented the following bills to the Governor: 428 and 571.

LB 754 was advanced to E & R for Engrossment.

LB 942 the E & R amendments found in the Journal on page 1412 were adopted.

Senator Schmit offer an amendment to 942 (see page 1536 of the Journal). The Schmit amendment was adopted with 27 ayes, 0 nays, 18 present and not voting, and 4 excused and not voting.

RECORDING BEGINS:

SENATOR RUMERY . . . touching this highway fund. I hope you will go along with that idea.

SENATOR CLARK: Senator Vickers, did you wish to close?

SENATOR VICKERS: Very briefly, Mr. President. Mr. President and members, just so nobody is misunderstands what I am... where I am coming from and what my position is, as I indicated earlier I would have liked to have set the sunset date for this \$3.75 in 1981, which means I am not in favor of the \$3.75, in case anybody didn't catch that. I'm not in favor of keeping that tax on the registration. I would rather fund the state patrol from the sales and income tax as they have been funded. I was one of the thirteen, remember, back last November that voted to raise the income tax. All I'm saying with this amendment is that it would seem inevitable to me that we are going to, in fact, assess a \$3.75 charge to the registration of vehicles. All I'm saying is that we

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going to look at it one year sooner than we would have otherwise. This body, at that point and time, reassess their position and determine whether or not they wanted to continue doing it that way. So if you believe the \$3.75 is a good charge and a good way to go and you would like to keep it there for a longer period of time, I suppose you should vote no on my amendment. If on the other hand you think that perhaps you are not too much in love with the \$3.75 charge anyhow and you think maybe the Legislature should look at it a little sooner and assess whether or not they want to keep it there then I suggest you vote for my amendment. That is all the amendment is. Thank you, Mr. President.

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

CLERK: Senator Clark voting yes.

SENATOR CLARK: Record the vote.

CLERK: 27 ayes, 3 nays, Mr. President, on the adoption of Senator Vickers amendment.

SENATOR CLARK: The amendment is adopted. The next amendment.

CLERK: Mr. President, the next amendment is by Senator Kahle. It is on page 1497 of the Journal.

SENATOR CLARK: Senator Kahle.

SENATOR KAHLE: Mr. President, colleagues, we have had different things tried in the last few days, some have been successful, some haven't. Senators trying to attach their favorite bill on the bills that are likely to pass and we know what difficulties this leads too. Well, Senators, I want to tell you that this amendment is essentially my LB 635. I want to stress to you that it is entirely germane to this bill. LB 942 is Section 17, addressed the very same issue as my LB 675 by modifying the same statutory section. The issue involved here is the matching formula for funding regional mental health programs. In fact, senators, the approach taken in LB 942 is much more far reaching and in a sense, much more radical than the approach that I am advocating in this amendment. To understand what LB 942 did in regards to this issue I will direct

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your attention to the green copy of the bill and the Fiscal Analyst note on Section's 15, 18 and 24. You look at these you will see the Appropriations Committee attempted to create a uniform matching formula for all of the county based programs. Mental retardation, mental health and alcoholism and drug abuse programs. While this goal is reasonable as an ultimate objective LB 942 attempted to do it all at one time. This would have been very difficult particularly given the typical funding mix of the mental retardation program. Those programs the local tax share is much less than 60% of the total local share which should have been called for. The approach taken in 942 was also radical in that it allowed the Department of Institutions to dole out the state monies among the various services in the region regardless of the amount of local monies coming for that service. In other words gives the Department of Public Institutions greater control over the service mix that would be offered in any region. For these reasons the approach taken in generating opposition, I think the committee wisely removed these sections by committee amendment, my approach is much more limited and it affects only the mental health programs. It is really quite simple. It retains the basic three to one ratio of state to local funding. the only change it makes is it would allow fees, third party payments and private donations to be considered part of the local share in addition to the tax revenues. Under current law local and county tax funds can be used to make up the local share. The current law set out in Section 17 of LB 942. Under my amendment fees, third party payments and donations would constitute up to 60%, could, not would, could constitute up to 60% of the local share with local taxes making up the remainder. Basically I have two reasons for seeking this change. One is economic and the other is equitable. I'm very concerned in the future the counties might not be able to meet their 25% matching obligations, as it is currently defined. As it now stands any future increase in state funding will thrust upon the counties an obligation that can only be met with tax revenues. That could prove difficult or impossible given a 7% lid that they operate under. The only loser in that case would be the recipient of these services. My second reason for this change is to establish some equity in the funding of these local programs. Currently all of these programs, mental health, mental retardation, alcoholism and drug abuse are funded on a three to one state local ratio, but only in the case of mental health services is the local share required to be made up entirely of tax revenues. In alcoholism programs the local share can include fees, third party payments and donations. They can constitute

up to 60% of the local share. My amendment would create the same match formula for mental health services that now exist for alcoholism services. If any of you want to compare amendments to the alcoholism match, alcoholism match statute is 71-5027. In mental retardation services there are no restrictions on the make up of local share. There is no requirement that local taxes make up any part of it. I think it only fair and reasonable to allow the local share for mental health matching to include some of these other funds. I would point out to you that this approach met with no opposition at its hearing when it was LB 665. The question might arise as to whether changing this match formula will actually allow counties to decrease their tax participation in funding mental health programs. I stress it would not. The bill puts a floor under tax participation. Current year tax funding services that floor. Counties will not be able to decrease their tax funding of these programs. With that I think I will quit. I have some more information on this but I move for the adoption of my amendment.

SENATOR CLARK: Senator Cullan on the Kahle amendment.

SENATOR CULLAN: Mr. President, members of the Legislature, I certainly have to admire Senator Kahle for his persistence. He introduced this bill, it came before the Health and Welfare Committee, it was killed there. Senator Kahle decided he didn't like the committee's action so he made a motion to bring this same bill to the floor of the Legislature. He talked about it, brought it up again, the Legislature rejected his attempt to bring this bill from the Health and Welfare Committee. Failing that Senator Kahle comes in on the...with eight days left in the session and takes the same bill as an amendment to a budget bill. Ladies and gentlemen I think we should reject Senator Kahle's amendment for the same reasons the Health and Welfare Committee rejected them once, for the same reasons the Legislature rejected it earlier this year. What Senator Kahle is attempting to do I think is clear. He is trying to divert additional state revenues and if there are only a certain amount of dollars appropriated to mental health, if he changes the match formula, additional revenues are going to be diverted to those areas as a result of this formula. So Senator Kahle is attempting to change the way the pie is distributed. Now what is going on currently? If you recall the debate on this issue earlier in the session I indicated the particular regions that Senator Kahle is attempting to protect already contribute about, in fact, less than half as much money to support of mental health as other regions do. Senator Kahle is saying that the Legislature should move in

and bail those counties out and shift funds away from counties that have supported mental health strongly to these other counties. I don't think that is right. The funding formula's are complex. I see no reason for us to change them now, we didn't change them earlier. I would just point out, and I think Senator Kahle is in Region. . . I can't remember if it is Region III or Region IV. Region III they provide 60¢ per citizen, per capita local tax funds to support the community health programs. In Region IV it is 67¢. In Region I it is twice that \$1.39. In Region II it is a \$1.16. In Region V it is a \$1.03. In Region VII it is 70¢. So what you are really going to do is you are going to be redistributing those moneys to allow the communities that have not supported mental health in the past to take a larger share of the state pie, that is not a fair and equitable thing to do. If we are going to change the way mental health services are delivered and I believe that there should be some changes, and there probably could be less county money involved than there is, we should do that. But, we should not do it as a last minute amendment to LB 942. I think we should reject Senator Kahle's attempt to revive LB 635 again. Thank you very much. I urge you to reject the Kahle amendment.

SENATOR CLARK: Senator Warner.

SENATOR WARNER: Mr. President, members of the Legislature, I rise to oppose the proposal as well. Senator Kahle is quite correct the substance or the concept was included in the bill originally and we were looking at the match requirements for three of the programs, Community Mental Retardation...Retardation Community Mental Health and the Alcohol and Drug Abuse Program and I guess our conclusions were that while some change is probably appropriate and they all three ought to be worked somewhat together and whatever adjustment but attempt to make that change now was not time to do it because we were not satisfied at least with any of the proposals. So again I guess I would urge you not to adopt the amendment at this time. Although I would surely agree that some changes in all three of those areas are appropriate to consider but I think it is also more appropriately the subject matter for an in depth study by the appropriate standing committee in the interim.

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

SENATOR KAHLE: Mr. President and members, as Senator Cullan says I probably am pushing a little bit too hard this year. But, I would not be doing this if I hadn't had dozens of requests, not from the staff of my own region but from the people that receive the services and have worked with the

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program. As Senator Warner has said I think we are out of line with this program in connection with the other programs that we have. Of course, I would be very willing to work at that but we are going to lose another year. Senator Cullan argues that this change is somehow unfair or rewards backwards regions. I admit that if some regions were not presently making their match this amendment might allow them to put together a full local share by pulling in those other fund sources with that local share that would qualify for the full state allotment. In some cases I suppose that would be a windfall but that, and I state that is not the situation. All the regions are making their match now and they are doing it with tax funds. Thus, there would be no windfall to any region. In fact the state monies allocated to this program are not increasing so this change would have no immediate effect so I just can't see what the problem is. What we are saying is that counties right now could not lower the tax effort that they have, that if the state saw, did not see fit to increase any funding for the mental health program, there certainly would be no tax effort by the state. What I am asking you to do today, in reference to the bill 982, or 942, excuse me, is to merely put the mental health program on exactly the same basis as the mental retardation and the alcoholism program. I just can't see why that is so terrible. I hope you will support the amendment. Thank you.

SENATOR CLARK: The question before the House is the adoption of the Kahle amendment. All in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting no.

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

CLERK: 6 ayes, 20 nays, Mr. President, on the adoption of Senator Kahle's amendment.

SENATOR CLARK: Motion fails. Do you have another amendment?

CLERK: Yes, sir, I do. Mr. President, the next amendment I have is offered by Senator Fenger. Senator Fenger's amendment is on page 1506.

SENATOR CLARK: Senator Fenger.

SENATOR FENGER: Thank you, Mr. President, my apologies to the body for having the bill numbers wrong. This is the amendment I spoke of just a few minutes ago. This amendment would remove the \$3.75 fee proposed that will be assessed

annually at the county courthouse on each motor vehicle registered. None of that money is left at the county level and this back door approach kind of leaves county officials to take tax payer heat while they are acting only as a collection agency for state fund accumulation. You know that aside, in looking at the obvious reasoning behind this proposal, we have to go back to and Senator Koch suggested LB 35 of last year. This body decided the motor vehicle inspection program was one that should be terminated. Floor debate centered heavily on the allegation that many small businessmen were not giving our citizens value received. But, even the most ardent enthusiast of LB 35 would agree that vehicle owners were given something for that fee. Now comes the same legislature, one year later saying that although a program will be terminated, now the State of Nebraska will continue to relieve motor vehicle owners only of \$3.75 and we'll let you drop it off at the courthouse to be forwarded to Lincoln. To me there is something inherently immoral or at least unethical about this approach. Surely that revenue gained under this measure can be assessed more equitably and in a less underhanded manner. Thank you, Mr. President. I would urge the adoption of the amendment.

SENATOR CLARK: Senator DeCamp.

SENATOR DeCAMP: (no response)

SENATOR CLARK: Senator Burrows.

SENATOR BURROWS: Mr. Chairman, members of the Legislature, I wholeheartedly support Senator Fenger's attempt to stop a brand new \$3.75 a vehicle tax in the State of Nebraska. Now we had a program where we were paying \$3.75 for vehicle inspections, a small portion of that was covering the cost of the administration of the program. That program ends July 1st or June 30th of this year. To continue that \$3.75 with no program is not shifting a tax it is making a tax out of a fee that was a cost most of it paid to the station for a service performed in the inspection of that vehicle. This is used as a political ploy to think that we can grab that \$3.75 which is due back to the tax payer of the state, a regressive tax going at one per vehicle, regardless of the ability to pay of the individual that is buying those plates. I think it is up front to take the tax structures that has historically been a general revenue expenditure from the general revenue system of the state or the sales income tax system of the state. The issue right here is simply another ploy, another trick to try

to get away from adjusting the tax rates to meet the basic needs of the State of Nebraska. It doesn't bring in five million dollars. Creating a brand new tax that would produce between four and five million dollars to save a fifth of one percent income tax against the federal liability. I just can't believe the volume of measures that are coming before this legislature to turn our tax system into a regressive and more regressive system in state government. This is one of the small tricks in one of the packages that is coming out. I would urge the body to reject this because I don't think the public in the State of Nebraska will buy these many, many devisive measures to create revenues in small amounts in a regressive system to save doing what is up front and adjusting the general revenue system and I certainly, at this time, feel that it is imperative maybe this Legislature move with a resolution again to get the... and to force the State Board of Equalization to meet and do its job and adjust the general revenue tax system to where it will meet the needs of state government. We are getting into a very shaky situation. I do urge the body to reject or support this amendment which does reject this attempt to place that 375 additional tax on every automobile and vehicle in the state.

SENATOR CLARK: We have an amendment to the amendment.

CLERK: Mr. President, Senator Landis would move to amend the Fenger amendment.

SENATOR CLARK: Senator Landis.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, I too am sympathetic with Senator Fenger's attempt to take out of LB 942 the \$3.75 and its shift from the motor vehicle inspection program to a surcharge on motor vehicles. The difficulty I have with Senator Fenger's amendment is that it provides no relief, no mechanism with which to return the amount of money that is taken out of the budget in some other revenue raising form. That is what my amendment to his amendment seeks to do. It has been delivered to your desk and what it says is we go back to the Governor's suggestion. We go back to square one that went into the Appropriations Committee, that went into the meat grinder and rather than the sausage that we got out of the Appropriations Committee we go back in with the idea that the Governor originally proposed. That is, a one time tapping of the Highway Trust Fund for the amount of money necessary to generate the same amount of revenue that would have been produced with this \$3.75. I

called down to fiscal, fiscal says it is \$4,875,000 that would be raised with this \$3.75 charge. That is where that figure comes from. I should also tell you that if you are looking at the language those sections which are stricken are simply for the bill drafters sake because of some unconstitutional language that occurred in another decision. The language that you should look at is on the bottom of page one and the flip of page two. It says in essence we fund the state highway patrol operations cash fund \$4,875,000 out of the Highway Trust Fund on a one time basis in the coming budget. I thought that the Governor gave us a good suggestion when he brought this into the Legislature. I'm sorry that the Appropriations Committee decided to follow a different course of action and bring to us the \$3.75 surcharge. Those of you who are in contact with your constituencies, as I am since I live here in Lincoln, know the growing sentiment that this surcharge is a gimmick and an unfair gimmick. It is a way of obtaining \$3.75 with giving no value, with receiving no services and it essentially is keeping the inspection fee without having an inspection. I can not however support the Fenger amendment if it means that we leave a five million dollar hole in the budget, that all we do is rip out five million dollars of revenue with no intention of replacing it. That budget is tight, those dollars are needed, we should have some form of revenue. There is in the law the theory of the deep pocket. It comes to us from the tort law concepts that says when there are risks, when there is jeopardy you look to those most able to pay, most able to endure the hardship to help you over the calamity of a tort. In this case the deep pocket for Nebraska budgetary problems and cash flow problems happens to be the Highway Trust Fund. Now I know the purists object to using that. However, the use of reserves by any business, by any company means you go to the deep pocket in times of trouble. We have a number of short term decisions that we are going to arrive at to help us with cash flow. Most of this body is sympathetic to the inter-cash fund transfer idea. Most of this body is sympathetic with the change with respect to LB 895, to help us with the problems of state aid dispersements. This too is a short term need. It is the one that the Governor endorsed when he spoke to us the first part of this session and although it steps on the toes of some very powerful interests, ultimately I think this is the deep pocket that we need to go too to underwrite a legitimate state budget. It is a more reasonable alternative than the \$3.75 charge and for that reason I offer it as an amendment to the Fenger amendment and when you adopt these two as a package you are saying we reject the surcharge method but we don't take out that five million dollars, we find it from another creditable source, the Highway Trust Fund on a one shot basis, the deep pocket that

can get us through this hard year and fund the state patrol. For that reason I move the adoption of my amendment.

SENATOR CLARK: Senator Kahle.

SENATOR KAHLE: Mr. President and members, I oppose both the Landis amendment and the Fenger amendment. We talked an awful lot about \$3.75 and how that is going to just play havoc with our constituents out there. I think the car now fee for license is \$16.50. You add \$3.75 to that and what is it \$20.25? There isn't one of you unless you have got a small car and a small tank can fill the gas tank for that. I just will not go along with taking highway funds that we are intending to build highways and maintain our highways with to put in the patrol fund, especially when we expect the patrol to do the work, exact work that the inspection people have been doing, check vehicles on safe conditions. There is certainly a relationship between that \$3.75 and where we are going to put it. We have done a lot of things with the cigarette tax and perhaps alcohol tax and a few others that had no relationship at all to what we are trying to do. But, this does. I just can not, I don't know really why we leave it at \$3.75, we ought to even it out somehow, there is no use trying to kid somebody that we are not changing that fee for inspection to something else. But, it does go for the funding of our patrol and I would whole lot rather pay \$3.75 or even \$5.00 than to tap our highway fund when our roads are going to pieces much faster than we are rebuilding them. I just had a bill yesterday before you for minimum maintenance of county roads and I do remind you that the highway fund goes, I believe it is 23 $\frac{1}{2}$ % or a third percent to cities, 23 and a third percent to counties and the rest of it stays in the state highway fund. So you are not only hurting the state you are hurting your own community if you take money out of that fund. This is a one time shot? Don't kid me. Once you get your hand in the till you are not going to take it out again. You will pull other money out of that same fund for other things. So I certainly object and will not support this approach. Thank you.

SENATOR CLARK: Senator Burrows. We are on the Landis amendment.

SENATOR BURROWS: Mr. Chairman, members of the body, I oppose the Landis amendment as even a worse approach than the \$3.75 flat vehicle tax. I have felt for years when we have had gas tax increases and taken up discussions on the gas tax funds with constituents at meetings and one thing they rang home loud and clear, they didn't like an increase in the gas tax, but they didn't want to see it used for anything

but highways. That has been prevalent in meeting after meeting I have attended over the years, that they wanted to keep that gas tax for roads. The last few nights I have driven a lot of miles in this state and the roads are rough. If we move funds out of the highway trust fund what we are doing is making sure that we are going to be shorter of funds to repair and make the needed repairs on our state highway system. I think this would be the worst mistake we could do would be to adopt the Landis amendment and then adopt the other amendment. I support the other amendment, the Fenger amendment without the Landis amendment. I think it is simple. We talk about breaking the budget, not getting the money from anywhere, well it is the state boards responsibility and the governor's responsibility of this state to meet the state board under existing law and adjust the tax rates, the sales-income rate to meet the needs of state government. Now, this is a fifth of one percent that we are talking about of one percent of the federal liability on a persons income tax. It is peanuts for the average person in the state except for the fact that this body and the governor's office have made a big thing out of holding a 15% rate which was unattainable and obviously not going to work when this session started. I think it is time that we look at it in a responsible fashion that we appropriate the funds and if necessary, force by resolution, the governor to take the action that is needed and place the rates where they will meet the needs of state government. Four years ago when this administration started there was an 18% tax rate that would have had to been to produce the same revenues a 20 1/2% income tax rate. Nobody made an issue of it at that time and I had no complaints from taxpayers on that rate. The only problem we have today are the people and the governor that has made a 15% rate a major issue this year. If the leadership is outright and says we need the revenues and adjust the rates and explains honestly how insignificant it is to the average tax payer, we really don't have a problem to deal with. I urge the body to reject the Landis amendment and support the Fenger amendment and go to the general revenue system for our financing where it is a responsible thing to do.

SENATOR CLARK: Senator Sieck. Is Senator Sieck here? Senator Newell.

SENATOR NEWELL: Question.

SENATOR CLARK: The question has been called for. Do I see five hands? I do. Shall debate now cease? All those in favor vote aye, opposed vote nay. Voting on ceasing debate. Have you all voted? Record the vote.

CLERK: 15 ayes, 10 nays to cease debate, Mr. President.

SENATOR CLARK: Debate is not ceased. Senator Sieck, did you want to talk on the Landis amendment?

SENATOR SIECK: Yes. Mr. President, members of the body, I do not favor the amendment. I think we have got to keep that highway trust fund intact. As I drove through some of these roads, even in Lincoln, I tell you they are in need of repair. I almost had an accident this morning driving down 10th Street. I know that money is needed in that particular area. I differ with Senator Kahle, I feel that \$3.75 should come from the sales and income tax. I think it is ridiculous that we set up another fund here for the highway patrol. We have been using highway patrol funds from the General Fund, sales and income tax for years and now we think we are short of funds. We are not necessarily short of funds, all we have to do is increase the tax. We are hiding the tax and that bothers me. Why do we have to hide the tax? I don't feel we should support this amendment and I do feel that I should support Senator Fenger's bill. Thank you.

SENATOR CLARK: Senator Vard Johnson.

SENATOR V. JOHNSON: Mr. Speaker and members of the body, I rise in support of the Landis amendment to the Fenger amendment and I support the Fenger amendment as well. I was just looking over the fiscal analysis for the state patrol. We put 16 million dollars into the state patrol monies, of that \$7,400,000 goes for protection of people and property. It is my understanding based on previous information provided to us that approximately 80% of the highway patrol's function is traffic maintenance and enforcement of traffic laws, 80% of it. You know sometimes I think of a highway patrolman as major crime fighters, but the truth of the matter is our major crime fighters are our policemen and our sheriff. Our highway patrolmen maintain our traffic laws. Now for years now we have dedicated the gasoline tax to highway maintenance. Highway maintenance has become an extraordinarily sacred cow. It has become a sacred cow because a lot of people make a lot of money in building our roads, in maintaining our roads and in reconstructing our roads. Now so long as we are going to have a dedicated tax, why not allow that tax to be dedicated to all road functions and one of the principle functions of the highway patrol is enforcement of traffic laws on our roads. 80% of their current function goes simply into traffic enforcement. Now it isn't as though Senator Landis is out to lunch on this issue. It is not as though the Governor is out to lunch on this issue. Twenty six other states take highway trust fund money and put it into the operating budget

for the highway patrols. Twenty six other states recognize that the dedicated tax should be used for full road responsibilities, that includes the highway patrol. I think this happens to be a very sound policy change. I think it is an appropriate policy change and I think it is one we should support. But then when I tie this policy change to what the Appropriations Committee and what the Legislature on the first reading wants us to do with this bill, which is to take the \$3.75 that heretofore had been earmarked for the safety sticker and to require the citizens of this state to continue to pay for the safety sticker when there is no safety sticker program, I say very simply, that that is wrong. You know sometimes we lose democratic government because we just plain don't govern with any degree of finesse and skill. I am convinced in my own heart that we do a real disservice to our people when we take a program that everyone knows is going out of existence. There is not a citizen in this state that does not know that the safety inspection program is going out of existence. We discontinued the program but we deliberately will . . .

SENATOR CLARK: You have one minute left.

SENATOR V. JOHNSON: . . . willfully, conscientiously continue the cost and the assessment. I would much rather if push comes to shove have an increase in the income tax rate so we can fund the \$4,875,000 involved in this issue, than I would to require the people to continue to pay for a safety sticker when they know there is no safety sticker program. I think we really do a disservice to ourselves as a deliberative body and to the people in continuing to promote a cost when the program itself is gone. Now because I so wholeheartedly support the Fenger amendment I think it is also necessary to support the Landis amendment to assure the continued availability of funds to the State Highway Patrol and his amendment represents sound policy adhered to by 26 other states.

SENATOR CLARK: I would like to announce twenty fourth graders from Lincoln Christian School. Their teacher is Betty Peterson. They are in the north balcony. Would you stand and be recognized please. Welcome to the Unicameral. Senator Koch.

SENATOR KOCH: Thank you Mr. Chairman and members of the body I rise to support the Landis-Fenger amendment. The state knows by now that we do have fiscal problems. They also know as Senator Johnson indicated that the safety sticker and the motor vehicle inspection law is going to be repealed, probably.

I think those of us who want the safety to continue and those of you who did not last year have a moral obligation that if we need money to carry on the noble profession of the state patrol the most appropriate place to get it is from the gasoline tax in the highway trust fund. I agree with Senator Johnson totally that the gasoline monies, the tax that come from that comes from all different sources, people who drive across the state and uses the bridge, who buy gasoline, pay the tax. So they also help control to the business of highway, its patrolling and the safety that is provided by that state patrol. We all know that if we continue to charge a surtax for \$3.75, even though it may be sunset a year or so from now, the odds are that it will not sunset, we will become so dependent upon it that we will maintain it again and again and again, just like we have always wanted to wipe the tax out on food. But the reason we don't is because cities and the state make money on food tax. Once you have established something as a moment of comfort probably will not be repealed. I don't know how you feel but I am going to state this and I'm going to state it one more time. That \$3.75 ought to go with the motor vehicle inspection bill and it be repealed. If it isn't repealed then we ought to, we ought to keep the motor vehicle inspection law. Otherwise take it away and for one year or so take it out of the highway fund for the financing of the state patrol. I hope that this body will act in good faith, because if you don't act on this amendment in positive fashion, what you are saying is yes, we did away with the motor vehicle inspection law, but guess what. You are still going to pay \$3.75 because we now need dollars and we are going to take it from each of you, the rich, the poor, it doesn't make any difference, you are going to get there and you are going to help us. Gasoline tax as you know is paid mainly by those of us who can drive our cars great distances or use them a great deal. People who are older and live on fixed incomes naturally do not have that money and drive sparingly. So therefore, those of us who can afford it can support it, those who can't shouldn't be forced to pay a surtax when usually cars they drive within the villages or cities in which they live and that is no great distance. I support the Landis and Fenger amendment and I hope you do the same.

SENATOR CLARK: Senator Warner.

SENATOR WARNER: Mr. President, members of the Legislature, first I wonder if Senator Fenger would answer a question. Senator Fenger, I was wondering in order to clarify my own thinking on Senator Landis' amendment, did you have something in mind to provide the money if you were successful with your original amendment to be roughly 4.9 million that we would have to find someplace?

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SENATOR FENGER: I think, Senator Warner, I said that if the revenue is needed that that can be a more positive, honest and direct approach to getting it with the citizens. Now I think we have some variable mechanisms for general fund receipts in the State of Nebraska and I would presume if the replacement is necessary after we discuss the rest of the appropriation bills, that vehicle could be implemented to replace it.

SENATOR WARNER: Thank you for clearing that up. Mr. President, I'm going to oppose Senator Landis' amendment but I guess I'll tell you why. There isn't any question in my mind, quite frankly, from what I hear by rumors, that there are probably places where some would like to reduce the budget and I suppose we are primarily speaking of salaries of state personnel, that is the only one big place that I know of where you could find five million dollars. So we may as well say that that is maybe what is at issue here because I assume it is. Secondly I want to say that I don't want to use the word "offended" but I guess I get annoyed by some of the speeches that this ought to be done up front, which is the in word this session, I found out. Up front means that we would increase the sales and income tax and I kind of would like to know where some of those people were at a time that it counted in this body, or I have an amendment for example on 757 that increased the sales tax a half percent, I'm not wild about that either but I'll give. . . but we will have a chance to be up front on that one. If you want to raise revenue other places or if you want to cut the budget, I think the Legislature is in the position, or at least I would hope that you would understand that you are in the position that we are in the Appropriations Committee frequently toward the end of the session, which we have a list of adds and a list of cuts trying to balance it out. We by necessity have to deal with each of these one on one before the Legislature. If you are proposing a cut in a program or in this case proposing an increase in general fund by repealing the 33.75 why then you ought to be telling us where you want to get the money from, I think that is just fair to the body. I certainly would if I was going to propose an increase, I would suggest. Now to say that we can always have the Board of Equalization do it is not a realistic answer, very frankly unless you have got 30 votes, in my opinion. I think that realistically you should recognize that. I haven't made the talks yet this session about 83-84, but I would suggest that you start thinking about 83-84. We have had no talk about federal fund pick up, we did a lot of that last year and didn't get as bad, but next year you can believe it is going to be bad. You can believe that you are going to be looking

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for revenue with greater difficulty a year from now than we are today. We will have used every place that I know to increase fees and miscellaneous receipts. Yes, the \$3.75 is a miscellaneous receipt, it is an increase, it is a tax, the rationale for it was. . .

SENATOR CLARK: You have one minute.

SENATOR WARNER: . . . pure simple and I stated it several times, it was not an increase in spending on the public's point of view because because they were paying \$3.75 for that, the only one that will be doing inspections from now on will be the patrol, there was some rationale for doing it. But I wouldn't hide and I frankly was annoyed with those who call it a ploy or trickery or some of those adjectives. I'm in no better position than the rest of you in trying to find some way of trying to get us through a very difficult economic time. The one thing that is left and I understand that, is to really cut budgets and I suppose by next Monday we will be doing that too, even more than we have now. I would hope that you would reject Senator Landis' amendment and reject Senator Fenger's amendment. I'm not enthused about the proposal about \$3.75 but I don't know of any better alternative at this time that could be used. It is temporary. It is sunsetted. It does take 25 votes to reinstate it. It can help us get through these next two years, which I think are going to be exceedingly difficult times for the state as well as for the public and I hope that you would reject both amendments.

SENATOR CLARK: Senator Newell.

SENATOR NEWELL: Question.

SENATOR CLARK: The question has been called for. Do I see five hands? I do. All those in favor of ceasing debate will vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Record the vote.

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

SENATOR CLARK: Debate is ceased. Senator Landis, do you wish to close on your amendment?

SENATOR LANDIS: Mr. Speaker, members of the Legislature, there just aren't charming scenarios, there aren't happy

and prosperous and well intentioned and politically easy alternatives. We are in hard times. I suppose the easy thing perhaps is the other foot that drops in the event the Fenger amendment passes which is to stick it again to the state employees. But I am offering you what I think is a more palatable approach to a sensible budget than the use of the \$3.75 surcharge, which frankly I don't think your constituents nor my constituents support or believe to be essentially fair. I'm suggesting that I can agree with the deletion of that mechanism to the extent that we have an alternative. I find of the other alternatives the most satisfactory to be the language that I have given to you in this amendment, a replacement mechanism, that replacement being temporary and short term as many of our actions this session are proving to be. Now I understand that this takes a run at the sacred cow, the highway trust fund, however, I think the analogy to the deep pocket to the reserve of a company, to the ability to fund projects is reasonable and in this case I would suggest that we tap that deep pocket to get us over an aberration in the economic life of Nebraska and these very difficult times. I move the adoption of the amendment.

SENATOR CLARK: The question before the House is the adoption of one of seven amendments that we have up here, which is Senator Landis' at the present time. All those in favor vote aye, opposed vote nay. Have you all voted? Record the vote. Record vote has been requested.

CLERK: Mr. President, Senator Koch requests a record vote. Read record vote. 19 ayes, 25 nays, 4 present and not voting, 1 excused and not voting. Vote appears on page 1538 of the Legislative Journal.

SENATOR CLARK: Motion failed. Do you have another amendment to this amendment? All right, we are back on the Fenger amendment. Senator Fenger. Senator Newell, did you want to talk on the Fenger amendment?

SENATOR NEWELL: Call the question.

SENATOR CLARK: Well we only have one more on and we haven't had any discussion so we will have Senator Sieck on. Is Senator Sieck here? If not, then, Senator Fenger, do you wish to close?

SENATOR FENGER: Thank you, Mr. President. It is obvious that the state can't manufacture money. Senator Landis very aptly put it, these are hard times, but not justification for collecting funds from the citizens of the State of Nebraska in the manner proposed in 942. The issue is clear. In the interest of time I would merely move the adoption of my amendment.

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SENATOR CLARK: Question before the House is the Fenger amendment. He was closing. All those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting no.

SENATOR CLARK: Have you all voted? Once more, have you all voted? The Clerk will record. Senator Fenger.

SENATOR FENGER: Mr. President, I think this issue is important enough that we go on record. I would request a Call of the House and a roll call vote, if you please.

SENATOR CLARK: A Call of the House has been requested. All those in favor of a Call of the House will vote aye, opposed nay. Record the vote.

CLERK: 15 ayes, 0 nays to go under Call, Mr. President.

SENATOR CLARK: The House is under Call. He asked for a roll call vote. All Senators will check in please. We only have one excused so we ought to have 48 of them checked in. We are looking for Sieck, Schmit and Wiitala. Senator Sieck, will you check in please. The Clerk will call the roll. We are short only one person. Could we have it quiet please so the Clerk can hear the response. (GAVEL) Could we have it quiet please. Thank you. The Clerk will call the roll.

CLERK: Roll call vote taken 27 ayes, 20 nays, 1 excused and not voting, and 1 absent and not voting. Vote appears on pages 1538-39 of the Legislative Journal.

SENATOR CLARK: The motion carried, the amendment is adopted. Next amendment. The Call is raised.

CLERK: Mr. President, the next amendment I have is offered by Senator Labedz. Read Labedz amendment.

SENATOR CLARK: Senator Labedz.

SENATOR LABEDZ: Thank you, Mr. President. If you will recall on General File I introduced this amendment and at that time I think we got 24 votes to accept the amendment. I would like to explain it again because I'm sure that most of the members of the body have by now received either some correspondence or have been contacted by their county board. LB 942 will require in Section 8 that the county pay for all audit forms required by the State Auditors Office and in Section 25, that the county pay for all of the audits conducted

by the State Auditor's office. In the past this has always been done and performed by the state but the cost is paid by the state because the audits are mandated by state law. It is my feeling and the feeling of most county boards, in fact I think all of them, that as long as the audits are going to be mandated by the state that the cost should be borne by the State of Nebraska and not by county government. This amounts to a considerable amount of dollars. I talked to the fiscal office and this year, fiscal year, about 211 thousand for the counties to pay, and that is an estimated amount, and then of course in 83-84 it would amount to 879 thousand dollars. This should be a service by the state I believe and if it is mandated by the state it should be paid for by the state. I am concerned that if we have to start paying for state audits and even if it is done once a year it is going to be very costly to the counties and they in turn are going to have to turn around and increase the property tax. I believe that the property owners, especially in Douglas County, I don't know about the rest of the state, are very upset with the amount that they are having to pay in property tax. Therefore, on behalf of the county boards of the State of Nebraska, I ask that you strike Section 8 and 25 on LB 942. Thank you.

SENATOR CLARK: Senator Newell.

SENATOR NEWELL: Mr. President, I rise to support the Labeled amendment. I think that frankly the issue before us now is whether or not the state which is going to mandate programs should in fact provide, not mandate programs but mandate audits, to ensure that local subdivisions are accounting for money, etc., as they are supposed to be also going to provide those services. Now as I understand it that is a function of the auditors office. As a function of the auditors office I think those services ought to be provided because it is a constitutional function. The pay ought to be out of state sources as opposed to having the counties pay back those appropriate dollar amounts because frankly and honestly the issue is simply they are the ones that are going to have accountability. They are going to be able to charge for their fees, they are going to be able to determine what things are worth and they are going to have an incentive to build counties more than is appropriate in many cases. Now you are going to have a much closer watch and control over that if those are monies that are appropriated to the auditor by the state Legislature. He is going to make sure he does a better and more efficient job than if you can automatically bill the counties which then subsequently have to pay. So I urge this body to consider the precedent that

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we set by authorizing this in the first place. I know that funds are tight and it would be nice to do this to provide this additional revenues to the General Fund, but it is the wrong direction. We can not have the accountability if you do not have the responsibility centered in the auditors office. I urge support for the Labedz amendment.

SENATOR CLARK: Senator Warner. Senator Warner.

SENATOR WARNER: Mr. President, members of the Legislature, I rise to oppose Senator Labedz's amendment. As I explained before the basis for proposing this by the committee was to bring some uniformity. There was only two units of government that where the state paid the audit. In other cases they were required to pay their own audits. Those two cases was ESU's and county governments and there is one other possibility the county could ask the auditor, the state auditor to do an audit on a township but that is essentially a county audit. All other governmental subdivisions are required to pay for their own audit, sometimes an outside audit and sometimes it might be the state auditor, there is a variety of ways but it seems no logic that just these two units would be paid for with state funds and that a fee to be charged was not unreasonable, it certainly was consistent with all other governmental subdivisions and I think it is a reasonable approach. Again like the amendment we adopted just a little while ago it is true that the 761 will have to have some \$211,000 additional General Fund added and I don't believe that is the appropriate way to go so I would hope that you would reject Senator Labedz's amendment.

SENATOR CLARK: Senator Dworak.

SENATOR DWORAK: Mr. President and colleagues I oppose Senator Labedz's amendment. Just briefly and listening to the arguments on behalf of the amendment given by Senator Labedz and Senator Newell, who I wonder where his true interest is now that he has got other political aspirations, on another level of government, but it seems to me that their argument is that this audit is performed for the benefit of state government only. Now, I can't believe that it isn't in the best interest of counties to conduct this audit function. If the state didn't require it I would submit to you that the counties would have to audit anyway. It is just a proper and worthy and good way of doing business. So we are doing something for them that has to be done by them anyway. There is no reason

that I can see as to why we should pick up the cost of this as opposed to having the counties pay the cost themselves.

SENATOR CLARK: Senator Kahle.

SENATOR KAHLE: Mr. President and members I support Senator Labedz in this effort, being an old county board man I watched the auditors work a good many times in our county and as I said on one other occasion, I was very pleased when I saw them come and I was always pleased when I saw them leave when we found out our records were straight and we'd been given another year of grace. But the difference for Senator Warner's benefit between those other subdivisions, or whatever you want to call them, of government in the county is the county is a creature of state government. It is just an extension of state government. Another thing the state auditors have the expertise to audit those records. It would be much easier for an auditor to go from one county to another to do the same kind of an audit than it would be for a private auditor to come in and audit in one county and that is probably the only audit he would do or maybe one or two other counties. So for practical purposes they have the expertise. Another thing the audits would be the same when they are brought into the state and compiled, they would be consistent across the state. I'm sure that you are all aware that auditors don't always do things quite the same. The other thing about, if you think the state and the counties aren't connected I'm sure the Governor has told us on a number of occasions that over half of the money that comes into the state is doled back out to the counties for subdivisions of government. So I would certainly think that the state has the biggest interest in that audit of anybody out there. Therefore I certainly approve and support the Labedz amendment. On top of that you are adding just that much more to those good old property taxes. Thank you.

SENATOR CLARK: Senator Hefner.

SENATOR HEFNER: Call the question.

SENATOR CLARK: The question has been called for. Do I see five hands? I do. All those in favor of ceasing debate will vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

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

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CLERK: 26 ayes, 5 nays to cease debate, Mr. President.

SENATOR CLARK: Debate is ceased. Senator Labedz, do you want to close?

SENATOR LABEDZ: Thank you very much. I'll be very brief. As I said, just to make sure that we have got it straight, the next fiscal year 82-83, the counties would be assessed approximately, or billed \$211,000. In 83-84 it would be \$840,000 or so I believe it is. Anyway, this would be a hardship on the counties. The only way they can justify an increase of that sort, because they would have to pay for audits and the forms in Section 8 and Section 25. I'm sure that they would have to turn to the property tax. I object to it, the people in Douglas County object to it, they don't want to have to pay further increases in the property tax. I urge you to adopt the amendment to LB 942 and let the state continue to give the service to the counties of standing the cost and the expense of audits. Thank you.

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

SENATOR LABEDZ: . . . Call of the House.

SENATOR CLARK: A Call of the House and a roll call vote has been asked for. All those in favor of a Call of the House will vote aye, opposed vote nay. Record the vote.

CLERK: 9 ayes, 0 nays, to go under Call, Mr. President.

SENATOR CLARK: The House is under Call. All Senators will take their seats and everyone will check in please. Has everyone checked in?

SENATOR LABEDZ: . . . to take call in votes please.

SENATOR CLARK: You asked for a roll call.

SENATOR LABEDZ: I'm sorry. Can I have call in votes?

SENATOR CLARK: Sure. Call in votes will be received.

CLERK: Senator DeCamp voting yes. Senator Wesely voting no. Senator Higgins voted yes. Senator Schmit voting yes. Senator Kremer voting yes. Senator Remmers voting no. Senator R. Peterson voting yes.

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SENATOR CLARK: Clerk will record.

CLERK: 25 ayes, 18 nays, Mr. President on the adoption of the amendment.

SENATOR CLARK: The amendment is adopted. The next amendment. The Call is raised.

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CLERK: Mr. President, the next amendment I have is offered by Senator Cullan.

SENATOR CLARK: Senator Cullan.

SENATOR CULLAN: Mr. President and members of the Legislature, I previously circulated to you a copy of the amendment which I propose. As you recall on General File, Senator Warner...or as you recall, we objected to a section of the committee amendments which would have placed a bill that was before the Health and Welfare Committee into LB 942 and that bill was held by the committee and not advanced to the floor of the Legislature and the Legislature successfully rejected placing the provisions of that bill into this one. What the bill we rejected at that time did was allow the Director of the Department of Welfare the authority to decide which optional programs would be funded in Medicaid. The amendment which I have before you now is one which is designed to allow the Department of Welfare to handle the funding problem which they do have as far as Medicaid is concerned. The amendment retains mandatory services at full funding. Mandatory services in Nebraska are the following: Inpatient hospital and outpatient hospital services, laboratory and x-ray services, skilled nursing facility services for individuals 21 years and older, home health services, early periodic screening, diagnosis and treatment for individuals under the age of 21, family planning services and supplies and physicians services. There are several optional services, in fact 18 different optional services that we have in Medicaid. They are chiropractic, private duty nursing, personal care services, skilled nursing for ages 21 and under, dental services, hearing aids, speech therapy, physical therapy, podiatry, medical equipment and prosthetic devices, oxygen, clinics, psychologists, visual care, that is for optometric and eye glasses, intermediate mental care for 65 and over, intermediate mental care for 21 and under, ICFMR, drugs and ambulance services. What I am doing with the amendments that are before you is allowing the Department of Welfare to prorate reductions in Medicaid funding if there are not sufficient funds appropriated to cover the Medicaid programs that we have in the State of Nebraska. The amendments fund mandatory services first and then optional services are funded...can be cut up to 10 percent before you would trigger an across the board cut in all services with some exceptions and those exceptions are for services which are paid for by the State of Nebraska, that being services provided by the Department of Public Institutions, skilled nursing for ages 21 and under, intermediate mental care for 65 and over, intermediate

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mental care for 21 and under, and ICFMR are the ones which are exempted from that proration. So in other words you could have the following situation, you could cut those optional services 12 percent and then all the services would be cut 2 percent. So we are preferring mandatory services and services paid for by the State of Nebraska over other optional services. The reason that something like this is necessary is to ensure that there is statutory authority for proration, first of all, and secondly to ensure that there is a means to handle the deficit which would occur if we failed to provide for a reduction, an across the board reduction in Medicaid services. Last year \$132 million was appropriated for Medicaid. In this budget in this particular bill there is \$138 million. But the Department of Public Welfare tells us that they are going to have to spend some of this year's budget to take care of a deficit from last year and they are also going to fall considerably short under the amount for Medicaid services under the funding that we have authorized in LB 942. So it is important that we provide some proration. I think it is logical that we make a distinction between mandatory and optional services in this regard because mandatory services are, generally many of them are acute care services and the other ones are sometimes chronic care services. So I think that distinguishing between mandatory and optional services is indeed logical. The projected cost of optional services excluding the Department of Institutions or those which would be cut first are \$75 million and that would be \$23 million or almost \$24 million in general fund money. So again I would ask you to adopt this amendment. This is an approach which I think will allow for reasonable reductions in Medicaid and it will preserve the services which are most essential at a higher level of funding than those optional services. I would ask you to adopt the amendment.

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

CLERK: Mr. President, Senator Wesely would move to amend the Cullan amendment by inserting the following: "The above authorization will apply only for the 1982-83 fiscal year".

SENATOR CLARK: Senator Wesely.

SENATOR WESELY: Mr. President and members of the Legislature, I do support the Cullan amendment. I do think it makes sense, more sense than what may be otherwise proposed at this time. My concern is that perhaps we ought to look at it as a short term solution to the problem

and make sure that it only applies to the coming fiscal year when we are having the fiscal problems that we are now experiencing. What I am talking about is the fact that perhaps the idea that is embodied here we will want to review in one year's time. I will be having a study resolution talking about the concept of cost shifting which is what we are talking about here because we are basically reducing the payments that we are going to be providing but the costs, as we know health care costs are going up rapidly, are still going to be there so somebody is going to have to pay the bill and somebody is going to have to pick up that extra charge. I do think Senator Cullan is right in the sense of priorities that he has provided and the solution that he has provided for the time being, but I am concerned about ultimately having that situation perpetuated far into the future. So what I am saying is, go with the Cullan amendment but go with it for the next fiscal year. I will be requesting the Health and Welfare Committee to study the question of cost shifting and payments in Medicaid that are now...I think it is a problem already and then we can come back perhaps next year and look at this in a more broad sense than is now the case. That is the amendment just extended to apply only for this coming fiscal year.

SENATOR CLARK: The question before the House is the adoption of the Wesely amendment. Senator Cullan, do you want to talk? You have got to get your lights on if you want to talk. I have no lights on.

SENATOR CULLAN: Sorry.

SENATOR CLARK: Senator Higgins is next after Senator Cullan.

SENATOR CULLAN: Mr. President, I would just rise to oppose Senator Wesely's sunset. I think that if it is necessary to change this provision, it can be done without... in a special legislation that deals with Medicaid. So I guess that is all I have to say. I see no reason for the sunset.

SENATOR CLARK: Senator Higgins.

SENATOR HIGGINS: Mr. President, I would like to ask Senator Cullan a question or two. Senator Cullan, under your amendment....

SENATOR CLARK: We are on the Wesely amendment. That is the only thing we are on right now.

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SENATOR HIGGINS: All right then we will go back to the Cullan amendment?

SENATOR CLARK: Yes, we will after we take a vote on this.

SENATOR HIGGINS: All right, I will wait then.

SENATOR CLARK: Senator Wesely, did you want to close on your amendment? Senator Wesely, did you want to close on your amendment?

SENATOR WESELY: Again, all I am asking is that the Cullan amendment only apply for the coming fiscal year and not be a permanent policy for the state and then we can review it again next year.

SENATOR CLARK: The question before the House then is the adoption of the Wesely amendment. All those in favor vote aye, opposed vote nay. Have you all voted on the Wesely amendment? Record the vote. Senator Wesely, did you want....

SENATOR WESELY: Call. Call of the House.

SENATOR CLARK: Do you want a roll call vote then? All right, 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: 13 ayes, 0 nays to go under Call, Mr. President.

SENATOR CLARK: We are under Call. All unauthorized personnel will leave the floor. All Senators will return to your seats and stay in your seats, please. Will all Senators get into their seats, please. Can we get Senator Warner, Senator Kremer, Senator Lamb, Senator Landis, Senator Chronister, Senator Barrett, Senator Labedz, Senator Beutler, Senator Fenger. We are looking for five people. Senator Wesely.

SENATOR WESELY: Yes, Mr. President, I would just go ahead and ask for call ins. That would be fine. You might want to read the amendment I guess. Let them know what they are voting on.

SENATOR CLARK: The Clerk will read the amendment.

CLERK: Mr. President, Senator Wesely would move to amend the Cullan amendment by including the following language: "The above authorization will apply only for the 1982-83 fiscal year". Senator Koch, you did vote yes, Senator.

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Senator DeCamp changing from no to yes.

SENATOR CLARK: Roll call vote has been asked for. We must keep it quiet so the Clerk can hear up here. The Clerk will call the roll.

CLERK: (Read the roll call vote as found on page 1540 of the Legislative Journal.) 20 ayes, 24 nays, Mr. President, on adoption of Senator Wesely's amendment.

SENATOR CLARK: Motion lost. Senator Cullan.

SENATOR CULLAN: Mr. President, I would just renew the motion to adopt the amendment. As I indicated earlier it provides for a reduction initially in mandated services, I mean in optional services except those paid for by DPI up to the tune of 10 percent before you actually reduce mandated services.

SENATOR CLARK: Senator Warner.

SENATOR WARNER: Mr. President and members of the Legislature, so you know the two choices that you are going to have this afternoon on this issue, Senator Cullan's amendment is one which in essence prorates, I think as he has indicated, prorates the various programs initially as far as the funds will go. If I understand it correct, Senator Cullan, you fully fund the mandated programs, prorate the federally mandated programs and then prorate the balance and if there still is not adequate funds then you prorate everything from that point forward. The alternative that you will be offered will be the same amendment that was discussed the other day which in essence is LB 932 which permits the Department of Welfare to make vertical cuts that is elimination of programs rather than prorate. And the choice you need to consider is if you think that prorating, continuing lesser important programs at the expense of the more important ones being adequately funded, then the Cullan amendment is appropriate. The amendment we will offer which is the same one that the committee offered the other day is the one that would allow the Department of Welfare to fund some programs that are not mandated by the federal government and not fund some programs in order that they could use the money in the most life threatening type of medical care and give that the greatest priority. The objection that was given the other day to that was that we were delegating authority to the Department of Welfare to make those selections and I suppose the only response I would have that it's no different than the concept that

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the Public Health Committee put out in 602 which also provided the flexibility to the Department of Welfare to determine the eligibility for incidents so I guess in some cases they can have the authority, other cases they cannot. But I personally will support not across the board cuts but vertical cuts where programs are eliminated and you maintain adequate funding for those that are most important. So if this amendment is not adopted, we will be reoffering the amendment that gives the department vertical cut authority, or if you prefer to prorate funding of all programs less, some less than adequate that may be more important, then you should support Senator Cullan's.

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

SENATOR HIGGINS: Yes, I would like to ask Senator Cullan for some clarification.

SENATOR CLARK: All right, Senator Cullan.

SENATOR HIGGINS: Senator Cullan, I am not sure I understand this amendment as written, but it says the Public Welfare shall impose a prorata reduction of all allowable costs for optional services. What would the optional services be?

SENATOR CULLAN: Senator Higgins, there are several optional services that would be within the prorata reduction. They are chiropractic, private duty nursing, personal care services, dental services, hearing aids, speech therapy, physical therapy, podiatry, medical equipment, prosthetic devices, clinics, psychologists, visual care, drugs and ambulance services.

SENATOR HIGGINS: Under this amendment then it says costs which reflect manufacturer's actual cost of materials, skilled nursing care services for individuals 21 years of age and under, intermediate nursing care services for mentally retarded, intermediate care facility services for individuals 65 and older in institutions for mental disease, such reductions shall be a percentage designed... are you saying then that this amendment would exclude those people or it is going to include them?

SENATOR CULLAN: Those specific programs which you just mentioned would not receive the prorata reduction until all optional services had...the other optional services had been cut 10 percent. The reason is that those services

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are services provided by the Department of Institutions or they are services for which the federal government provides a hundred percent reimbursement.

SENATOR HIGGINS: Is there any reason why intermediate nursing care services and these specific individuals have been put in the bill? I am wondering if we are worried about Medicaid funds running out, why are not hospitals and doctors included?

SENATOR CULLAN: Well, Senator....

SENATOR HIGGINS: Are we going to pay them the full amount and just cut these?

SENATOR CULLAN: What I am suggesting is that the optional services be cut first to the tune of 10 percent and if 10 percent cut in those optional services which I have indicated is not enough to take care of the problem, then you cut all services including the mandatory services which are the ones you were referring to now.

SENATOR HIGGINS: But under this amendment anything in a hospital would be covered, right?

SENATOR CULLAN: No, not necessarily, there are a lot of services offered in hospitals like physical therapy, and a lot of the other services which would be optional services which would not be covered.

SENATOR HIGGINS: But hospitals are not specifically mentioned in the amendment.

SENATOR CULLAN: The hospitals...most of the hospital expenditures are inpatient hospital and outpatient hospital and, yes, I am preferring those mandatory services over optional services. As I said earlier, the rationale is that they are acute rather than chronic and I think the higher funding priority ought to be for acute services rather than chronic.

SENATOR HIGGINS: Well, a prosthetic device could be an artificial leg. Would you say that is acute to someone that has only one leg? Or would that be an optional?

SENATOR CULLAN: That is in optional services.

SENATOR HIGGINS: I think if I had only one leg I wouldn't consider it much of an optional service. Again, dentistry, if I didn't have any teeth, I don't think I would consider

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not being able to eat an optional service. So I would have to say that this amendment is designed to take care of some of the needs that people have and at the same time protect a certain class of the industries that provide health care at the expense of those who really need some of these alleged optional services. I think this is just a replay of what we had last week where they said they were going to pay only 3.75 percent or allow them to raise their prices 3.75 percent and yet all we keep hearing from the nursing homes is how broke they are going.

SENATOR CLARK: You have 30 seconds left.

SENATOR HIGGINS: I am going to oppose this amendment just on the basis that I don't think these are optional services. I think when you get to be at the age where you don't have any teeth anymore it is nice to have teeth so you can at least eat, or if you don't have glasses and you go blind, I don't consider glasses an optional service. I am wondering why we are picking on just the sick and the infirm, why we aren't looking at any other department in the state and saying, let's do away with some of the services that we pay for there. Medicaid seems to be the only thing that we pick on because it is for the people that don't have any real representation. I hope, Senators, that you will vote against this amendment.

SENATOR CLARK: Senator Vard Johnson.

SENATOR V. JOHNSON: Mr. Speaker and members of the body, I support Senator Cullan's amendment and I suspect that Senator Higgins will probably support it as well when she knows what the real alternatives are. She got it two minutes ago but she is going to learn the real alternatives because the story simply is this. Medicaid costs skyrocket, and skyrocket and skyrocket. They are difficult to control. Our revenues are remaining relatively constant if not outright declining. Now, the Appropriations Committee had a provision in one of its bills, I think it was 942, I think it was this very bill that would have authorized the Director of the Department of Public Welfare to opt out, to opt out of any of the optional coverages. Now I don't think it is so bad to opt out of the optional coverages but I can guarantee you that before we opt out of the optional coverages I think that is a legislative decision. It ought not to be a decision made administratively. The Cullan amendment simply permits as necessary the Director of the Department of Public Welfare to actually reduce the reimbursements for optional coverages by up to 10 percent. There can in effect be a per capita reduction. Now that is not

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a terribly good situation but it is far better, frankly, than permitting the Director of the Department to opt out of the optional services. And when you are caught in a tough time and you really do have to scale back some of the offerings, it is far better...it is far better to effect a reduction across the board, at least in this area, than it is to give an administrator the authority to pick and choose which poor people with which kind of ailments will have to bear all the medical costs of that ailment. So I think that in terms of our situation the Cullan amendment is by far the better amendment than the suggestion by the Appropriations Committee that the Director of the Public Welfare be permitted to opt out of any of the optional coverages.

SENATOR CLARK: Senator Higgins for the second time.

SENATOR HIGGINS: Yes, this is the second time I have been up on this.

SENATOR CLARK: Fine.

SENATOR HIGGINS: This is a rewrite of LB 932 is what it is, where it says the same thing, medical assistance or behalf of recipients shall be paid directly to vendors and they took out, on behalf of recipients over 65 years of age medical assistance shall include care in institutions, etcetera, etcetera. You are saying we have got an option only with Medicare or Medicaid. No other department, the Department of Roads we don't take an option there when the money runs out. We don't take the Department of Public Institutions and say, let's make an option of what we will pay for and what we won't pay for. I still come back to the same thing, we are hitting those that need the help the most and this is just a little chip starting to take a little bit away at a time till eventually they are not going to get anything. And I am just wondering again, hospitals, they aren't included in this, doctors aren't being told, hey, we are going to put a limit on what we can pay you. Last week it was, don't let them raise the rates over 3.75. That was dropped. I just have to stand here and defend those poor people that need this medical assistance and as far as a choice between the Appropriations Committee amendment and the Cullan amendments, I don't go for either one of them. I don't go for taxing medical assistance away those that have no where else to go. Take away their crutches and tell them you can crawl. I don't think I am making the point with anybody here. I think the votes have already been in and counted. Thank you, Senators.

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

SENATOR CULLAN: Mr. President and members of the Legislature, Senator Higgins, when you indicated that doctors and hospitals do not have a cap, if you read a couple sections down further in the current version of LB 942 you will see that in fact the Appropriations Committee has placed a cap on their increase of fees, a cap of 3.75 percent. I think we are going to be closer....I think we are going to be a lot farther...I think our cash flow problems and the amount of money we are going to be spending on Medicaid in the shortfall is going to be greater than any of us realize today, and so I don't think that any of those people are going to be worried about getting more money this year than they got last year. I think all of those health care providers are going to settle for less. My point is that the alternative to this solution is as Senator Warner said, giving the discretion to the Department of Welfare and then, Senator Higgins, they would have the authority to completely eliminate some of the services which you think are important rather than being forced upon them at 90 percent. I think that the people who provide hearing aids and the people who provide dental care and the people who provide these services as well as the recipients would rather have 90 percent of what we are funding than have the Department of Welfare eliminate those services entirely. So I think this is the logical choice that we have today, this version or the Appropriations Committee version. Now I think we are going to have to come in and do some other things. I think there should be copay required on glasses, on drugs and a lot of other areas, and the Department of Welfare already has statutory authority to require copay in a lot of areas and I think it is unfortunate that they haven't moved in that direction already. So there are a lot of other things that need to be done. Admittedly, this is not a long term solution to the Medicaid problem but it is a first step and I think that next year we are really going to have to come back and take a long hard look at nursing home reimbursement and at many, many other things. But at this stage I think this prorata reduction is the logical choice. I would urge the Legislature to adopt the amendment.

SENATOR CLARK: The question before the House is the adoption of the Cullan amendment. All those in favor vote aye, opposed vote nay. Record the vote.

CLERK: 26 ayes, 9 nays on adoption of Senator Cullan's amendment.

SENATOR CLARK: The amendment is adopted. The next amendment.

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CLERK: Mr. President, if I may, right before that I have a series of amendments to 757 to be printed in the Journal. Mr. President, the next amendment is offered by the Appropriations Committee.

SENATOR CLARK: Senator Warner.

SENATOR WARNER: Mr. President, we are taking these one at a time, Pat, right?

CLERK: However you want to handle it, Senator.

SENATOR WARNER: We had better take them one at a time.

CLERK: In that case, amendment number one, Senator.

SENATOR WARNER: Yes, amendment number one I think was passed out. This amendment is, I can say it is a technical adjustment, because that is what it is. You may want to argue the concept on another amendment to take it all out or something, but the amendment I am offering deals with the cap that was adopted the other day on the percentage increase that vendors or their services would have and the wording, I believe it was passed out, is wording which is the identical concept but the Department of Welfare felt would be more easily administered by them than the wording that we had specifically used and the principle difference rests in the fact that the adjustment would be based upon the fees that they had allowed for on April 1 of this year. It gives it a fixed point in time to make their calculations. So I would move its adoption. If you want to argue the whole concept that should be done on a motion either to take out or not, but this will make the concept more workable from the Department's standpoint. So I move its adoption.

SENATOR CLARK: Is there any discussion on the first part of the Warner amendment? If not, all those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Record the vote.

CLERK: 30 ayes, 1 nay, Mr. President, on the adoption of the first Appropriations Committee amendment.

SENATOR CLARK: The first part of the amendment is adopted. Now number two.

SENATOR WARNER: Mr. President, the second amendment is the one, same subject that you just argued through with on Senator Cullan's. As I indicated discussing that that you had an option to go one way or the other. You also had an option to do both, of course, to really provide some flexibility to the Department of Welfare in trying to handle the increased cost. So I will still go ahead and offer the amendment which gives the Department of Welfare the authority to discontinue some of the lesser important programs. The amendment is found on page 1272. It was Section 12 of the committee amendments to 942 at that time. But I think that one additional, in addition to the Cullan amendment this amendment would even provide greater flexibility for the department in order to have some kind of cost containment where they could also eliminate a few of the lesser important programs in order to provide adequate funding for those that are generally considered as more life saving programs. I think that for the medical services of those who need assistance from Medicaid in order to stay within the budgeted amounts that is in the appropriations bill at this point, that this amendment would further assist in that and would further ensure that at least the most important services the most life threatening services are adequately and fully funded.

SENATOR CLARK: Senator Cullan.

SENATOR CULLAN: Mr. President and members of the Legislature, again I rise to object to this amendment. I think again that we are delegating a decision to the Department of Welfare which is properly a legislative decision. Senator Landis and Senator Warner indicated that the Health and Welfare Committee had failed in its responsibility to bring an approach on Medicaid to the floor that would solve the problem for this year and I think now that we have adopted LB 942, a system that does ensure that we do not encounter a major problems in Medicaid, that this amendment is not necessary. Again I think we are going to have to take time and eliminate certain optional services in the area of Medicaid, but I don't think that is a decision properly left to the Director of the Department of Welfare. Just to remind the body, this also would eliminate, would give the Director. . . well the Department of Welfare the authority to eliminate chiropractic, dentistry, optometry and many of the other services and I think that would just be a cost shift rather than a cost savings because many of those services would be picked up by other health care providers. I think it is unnecessary for us to adopt this amendment at this time.

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SENATOR CLARK: Is there any further discussion on the amendment? If not, Senator Warner, do you wish to close? On the second amendment.

SENATOR WARNER: Mr. President, again as I have pointed out, the proposal does give greater flexibility to the department, that is opposed, I would only point out as I did earlier, if you looked at the committee amendment, Public Health and Welfare Committee 602, they suggest there the Department of Welfare would establish standard of need for medical services for indigent persons who are not eligible for medical assistance programs otherwise and I guess I see little difference or no difference between authorizing one kind of discretion...the Department of Welfare or another, granted 602 had a dollar cap on it but in essence so does the appropriation have a dollar cap unless you want to incur additional deficiencies next year. If you want to enable the state to stay within the appropriations for Medicaid and still more fully fund the most important medical services this amendment would permit the Welfare Department to make that decision.

SENATOR CLARK: I would like to announce that Wayne Meier is sitting in the north balcony. He happens to be the father of John Meier who is on my right and his sister Mollie Meier is back here with Senator Goodrich. Would you stand and be recognized please. Welcome to the Legislature. We will keep your son in line here, Wayne. The question before the House is the adoption of the second Warner amendment. All those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Senator Warner, do you want a Call of the House? Senator Warner.

SENATOR WARNER: Mr. President, I guess I will ask for a Call of the House, I hate to do that.

SENATOR CLARK: All right, a Call of the House has been requested. All those in favor vote aye, opposed nay. Record the vote.

CLERK: 7 ayes, 0 nays, Mr. President, to go under Call.

SENATOR CLARK: The House is under Call. All Senators will take your seats and check in please. All unauthorized personnel will leave the floor. Sergeant at Arms will you

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get everyone in their seats please and attempt to keep them there. Senator Warner.

SENATOR WARNER: Why don't we just call the roll and move on.

SENATOR CLARK: All right, the Clerk will announce what we are voting on please.

CLERK: Mr. President, we are voting on the Appropriations Committee amendment number two. It is Request Number 2896.

SENATOR CLARK: Clerk will call the roll.

CLERK: Roll call vote. 21 ayes, 22 nays, 3 present and not voting, 3 excused and not voting. Vote appears on page 1548 of the Legislative Journal.

SENATOR CLARK: Motion fails. Next amendment.

CLERK: Mr. President, the next amendment is by Senator Warner, I'm sorry by the Appropriations Committee, it is. . .withdraw it, Senator?

SENATOR WARNER: That was a corrective amendment for...

SENATOR CLARK: Number three you want to withdraw?

SENATOR WARNER:surcharge and registration, so withdraw it.

CLERK: Mr. President, the next amendment I have to the bill is offered by Senator Wagner.

SENATOR CLARK: Senator Wagner.

SENATOR WAGNER: Mr. Speaker and members, this is an amendment that has been passed out on your desks but essentially Senator Warner in the original bill talked about making 18¢ per mile, I'm not arguing with the 18¢ per mile, my purpose is to keep the concept we had in the mileage bill last year which was LB 204. So, essentially what this does, instead of having like 18¢ as a firm figure, we are using a percentage figure in there and it basically comes back to the very same thing. So, I would just encourage the adoption of the amendment.

SENATOR CLARK: Senator Warner.

SENATOR WARNER: I rose to concur...Senator Wagner doesn't

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change anything it does retain that relationship should the basic mileage rate be changed then it ends up the same as of now that the committee amendment was so I don't see any problem with it.

SENATOR CLARK: Senator Haberman.

SENATOR HABERMAN: (No response).

SENATOR CLARK: Any further discussion? If not, do you have any closing? Senator Wagner, do you have any closing? Senator Newell? All right, the question before the House is the adoption of the Wagner amendment. All those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting yes.

SENATOR CLARK: Record the vote.

CLERK: 29 ayes, 0 nays, Mr. President, on the adoption of Senator Wagner's amendment.

SENATOR CLARK: Senator Wagner's amendment is adopted. Next amendment.

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CLERK: Mr. President, Senators Higgins and Schmit would move to amend the bill.

SENATOR CLARK: Senator Higgins.

SENATOR HIGGINS: Mr. President, my amendment reads thus: 1. In the Committee Amendments, REQ 2852, on page 2, line 15, after the underscored period insert "No payments shall be made by the Department of Public Welfare to any vendor, under Title XIX of the Social Security Act, as a reimbursement for dues to any professional association or for fees or travel expenses to attend workshops or meetings conducted by such professional associations." We just adopted an amendment that says we are not going to pay for optional services such as prosthetic devices as I exemplified, an artificial leg or false teeth, but the Department of Welfare pays for these people who want to belong to a professional association. They pay their dues. They pay their travel expenses. And I want to read to you one of the things that the Department of Welfare has been funding for the Nebraska Health Care Association members. Now this is one of the meetings that they called. "Due to increased union activity in the long term care sector, Nebraska Health Care Association has revised our 'education calendar' to provide administrators with up to the minute information on how to create a work environment that will help prevent union activity and what can be legally done if a unionization attempt occurs. Note: This program will replace the hospice program originally scheduled for March 6 and 7th. The hospice program will be rescheduled at a later date." That means that the Department of Welfare gets to pay for another conference, seminar, education thing. I am reading from their own notice to the Nebraska Health Care Association members that the taxpayers have been paying for. "Increasing spectra of unionization makes attendance of this workshop essential. Where and When: March 7th at the Holiday Inn at Kearney. March 8th at the New Tower Motel in Omaha. Program: Registration and nine to twelve, How To Create A Work Environment That Will Make Unionization Unlikely. Then lunch and then a talk on Labor Laws And Case Histories." And get this, I am talking about nursing homes and how well educated their administrators are. "Educational credit. This program has been approved for six hours of continuing education credit for nursing home administrators." I think that is marvelous the taxpayers are paying for nursing home administrators to attend conventions to tell them not how to run a nursing home but how to fight a union. Now everybody knows that I am not in love with the unions and the unions aren't in love with me. This is just one example. God only knows what else the taxpayers have been paying for

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but all their professional fees and their association fees the Department of Welfare has been paying for. Not really, the people that are entitled to the Medicaid have been paying for it because all these travel expenses we have been paying for is just that much less money to pay for medications and medical care that the poor and the infirmed and the handicapped need so badly. They need it a lot more than a hospital administrator needs six hours of continuing education on how to beat a union. I could tell them in less than six hours. If there are any questions I will be happy to answer them.

SENATOR CLARK: Senator Newell.

SENATOR NEWELL: Senator Higgins.

SENATOR CLARK: Senator Higgins, will you respond to a question?

SENATOR NEWELL: I have a question. I regret that I did not hear the first part of your statement. I did, however...the topic and the whole issue perked my interest. Could you tell me how those programs are being supported out of Medicaid funds? Are they directly...

SENATOR HIGGINS: It is my understanding that the Public Welfare now reimburses them for travel expenses and for association fees and dues.

SENATOR NEWELL: Okay...associated with the continuing, the educational programs?

SENATOR HIGGINS: Yes, and you being a union organizer, you can appreciate this kind of a program, how to bust a union or keep a union from organizing, and they get six hours credit for taking that course, and the Department of Welfare or the taxpayers pay for their trips, meals, the whole shebang. It is very important I think for the hospital or the nursing home administrator to know.

SENATOR NEWELL: Okay, what other kinds of programs do they offer, Senator Higgins?

SENATOR HIGGINS: I don't have all the information before me but I will tell you one thing, Senator Newell, I don't think any programs they have got are as important as giving health care to the poor.

SENATOR NEWELL: Your amendment is on the desk. How does that...does the amendment strike those funds aimed at continuing education?

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SENATOR HIGGINS: The amendment just says that the Department of Public Health and Welfare will no longer pay their association dues and fees or their travel expenses. Let them pay them themselves.

SENATOR NEWELL: Okay.

SENATOR HIGGINS: We are trying to cut the budget.

SENATOR NEWELL: Thank you.

SENATOR CLARK: Senator Schmit.

SENATOR SCHMIT: Mr. President, I support the amendment and am pleased to be on it with Senator Higgins. I believe it reflects the thinking of this body and it reflects the thinking that is necessary if we are going to continue the effort to hold down health care costs and I would certainly encourage you to support that amendment vigorously. It is a very forthright step in the right direction and one which I am sure will be admired by everyone in a year or so as we look back and see what we have really done here.

SENATOR CLARK: Vard Johnson.

SENATOR V. JOHNSON: Mr. Speaker, members of the body, I support the Higgins amendment as well. In calculating Medicaid reimbursements, the Department of Public Welfare looks at those cost items that go into a reimbursable base and they obviously look at a lot of different items that make up the costs of any health care provider providing care. Well, I happened to see fairly recently, I think, I don't recall whether it was the Nebraska Hospital Association or whether it was a national health care association or what have you sent a newsletter out and I had an idle moment and I was looking through the newsletter and I noted where the Department of Health and Education and Welfare, I guess it is now Health and Human Services, in Washington, D.C., had specifically said, had specifically said that states could include in the reimbursement base whatever the costs were of any health care provider in resisting a labor union. So if the health care provider spent \$15,000 bringing in a management consultant, the sole purpose of which was to fight organization, that cost, that \$15,000 could be included in the overall cost of the health care provider for purposes of Medicaid reimbursement. And I looked at that and I genuinely was startled. I really was because I didn't think that had much to do with the delivery of health care services, and if Senator Higgins is attempting to get at that, she says she is, sounds like her

amendment is trying to do that, I support it because I don't think that activity has a whole lot to do with the delivery of health care services, and more importantly, I don't think the taxpayer, I don't think the taxpayer should in effect pay one side, and that is what it is all about. It pays the management side for fighting the union efforts. The taxpayer should be neutral on the issue. It is an issue between management and labor. There should not be any tax involvement, and for that reason I think it would be improper to include that type of activity in the reimbursement base.

SENATOR CLARK: Senator Newell.

SENATOR NEWELL: Mr. President, members of the Legislature, I rise to oppose the Higgins amendment. I finally figured out exactly what we are doing here and I think I have a little light to shed on this issue. First of all, Senator Johnson's arguments are really not all that applicable to this amendment. Senator Johnson's arguments deal with cost reimbursement as does Senator Higgins and his arguments are that the cost associated with fighting the union are not legitimate and, therefore, it should not be included into the cost reimbursement provisions. That may, in fact, be another issue and another way of dealing with this because that is, in fact, a separate issue from the issue that Senator Higgins is suggesting to us at this time. Senator Higgins' suggestion, and she uses one example of an educational program, and that is how to fight labor unions, but there are other programs that are also included; how to be better in management; how better to deal with care staff members; how better to deal with nursing aides; how better to deal with various other aspects of nursing home administration. Now I think the critical issue here is simply this, that the state requires, the state requires through its rules and regulations that each of these administrators must take so many hours of continuing education each and every year. The courses that are determined are determined by the associations and those associations have total control over those courses and so if you don't like the course that is the association's problem but it is a legitimate expense of a nursing home and a nursing home administrator to fund the educational programs that are mandatory, that they must attend, and for that reason to pay the cost of the dues of the association which is a legitimate expense of that nursing home, of that administrator, the same as the hospital association, the same as the school board's association, the same as any other kind of association, because we live in a changing world where government does have an influence. So I think that it is key and very critical to remember that we have two separate

issues here, one of them is whether or not we should be... if we are going to mandate programs, if we provide some reimbursement for those who have to attend those programs as a response to keep their degree or keep their license as a nursing home administrator. It is not the issue of unionization as Senator Johnson argues. That is an issue for federal regulations not this proposal. So I oppose the Higgins amendment even though there is some understanding that this may not be the highest priority that we have, and if we are cutting costs, you know maybe this is a lower priority, but if we are going to do that, Senator Higgins, the preferable way to do that is also eliminate the mandatory educational, continuing educational courses.

SENATOR CLARK: Senator Cullan.

SENATOR CULLAN: Mr. President, members of the Legislature, at first blush I think Senator Higgins' amendment sounds attractive but I am not sure that it is. What we are really saying is that it is not a part of medical costs, for continuing education for...I think what Senator Higgins' amendment does prevents physicians from attending seminars and courses on how to keep their skills up and I think that is just important to a patient who is receiving public assistance through the Medicaid program as it is to someone that is paying for it themselves and I think that is a legitimate expense. I think those seminars often brush up people's skills and prevent them from malpracticing on patients and I think that is important. So I guess I think Senator Higgins' approach is attractive initially but I don't think that it is otherwise. Secondly, I think you talk about the issue of unionization, we are going to see increased health care costs in the future, and one of the main reasons we are going to see them are not new facilities, not new expanded or programs, but I think the reason we are going to see it is because people who work in the health care industry, particularly nurses and other people, are going to start demanding more money and they are going to be more effective through unionization. So I think that the costs that Senator Higgins has talked about are costs that directly impact health care costs totally and maybe it pays to bring in those...to teach people how to treat their employees better and avoid unionization. So I guess I disagree with Senator Higgins' approach and think that you should as well.

SENATOR CLARK: Senator Higgins, do you wish to close on your amendment?

SENATOR HIGGINS: Yes, Mr. President. First of all, I have

to point out in all fairness that I would expect Senator Newell to oppose this inasmuch as he has in the past been a union organizer and I certainly don't blame him. The only example I have here in front of me of one of these beautiful seminars they have is on how to keep a union from organizing. Secondly, Senator Newell used to be a consultant for the nursing homes so I can see where again he has to support them. The point I am making is I don't give a hoot nor a holler about them going and learning how to break a union or keep people from organizing a union in a nursing home. What I am saying is if they are going to call that part of their continuing education allowing six credit hours I really think it is a waste of the taxpayers money. But what is worse is they are actually taking funds from the Department of Welfare that could be used for the needy. For those Senators that are listening, I would like to point this out. The dues go to the association and the dues are used to pay the health care association's lobbyist so the Department of Welfare is, in effect, using taxpayers dollars when they pay these dues to, in effect, pay the nursing homes who have paid lobbyists, give them the money to pay the lobbyists. So the taxpayers are paying doubly. They are paying somebody to come down here and defeat what they want and they are allowing these dues to be used any way they want. But if you think that it is important that the taxpayers pick up the tab for nursing home personnel to pay their dues to whatever association they want to belong to, that is fine. We do not mandate they belong to an association. As Senator Newell pointed out to me, we do mandate that they get so many hours of education every year but we never said that they had to join an association to do it but we pay their dues for that association membership, and with that, I will just close and ask you as long as you vote to do away with optional care services for the poor and the needy, I hope you will vote to do away with taxpayers paying the dues for health care industry to belong to whatever associations they choose to belong to and to do whatever activities they want to do. Thank you.

SENATOR CLARK: The question before the House is the adoption of the Higgins amendment. All those in favor vote aye, opposed vote nay.

ASSISTANT CLERK: Senator Clark voting yes.

SENATOR CLARK: Have you all voted on Senator Higgins' amendment? Once more, have you all voted before we get a Call of the House? A Call of the House?

SENATOR HIGGINS: I guess I am going to have to.

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SENATOR CLARK: All right, a Call of the House has been requested. All those in favor of a Call of the House will vote aye, opposed vote nay.

SENATOR HIGGINS: Mr. President, I will take call in votes, too.

SENATOR CLARK: All right. Record the vote.

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

SENATOR CLARK: The House is under Call. All Senators will take their seats please and check in. Call ins will also be permitted. We are on Senator Higgins amendment. Senator Koch, do you want to be recognized for something?

SENATOR KOCH: Yes, I would like to have a roll call vote and a record vote and get it over with.

SENATOR CLARK: A roll call vote and a record vote has been requested. We have 41 people checked in out of 48. Senator Burrows, Senator Lamb, Senator Von Minden, Senator Kahle. We are still waiting for Senator Lamb and Senator Kahle. We have got Senator Kahle. We will tell you what we are voting on before we vote. The Clerk will call the roll and tell the people what we are voting on here first, Mr. Clerk.

CLERK: Mr. President, the motion presently before the Legislature is the Higgins-Schmit amendment. Were copies distributed? Well, then I will read it. Mr. President, the Higgins-Schmit amendment would read as follows: (Read Higgins-Schmit amendment found on page 1549, Legislative Journal.)

SENATOR CLARK: The Clerk will call the roll.

CLERK: (Roll call vote taken. See page 1549, Legislative Journal.) 26 ayes, 16 nays, Mr. President, on adoption of the amendment.

SENATOR CLARK: The amendment is adopted. You are not going to believe what I am going to tell you. I won't tell you. I was going to say we had no more amendments. Senator Newell ruined my announcement.

CLERK: Mr. President, Senator Newell would move to amend the Higgins-Schmit amendment just adopted: (Read Newell amendment found on page 1550, Legislative Journal.)

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SENATOR CLARK: For what purpose do you rise, Senator Haberman?

SENATOR HABERMAN: A point of personal privilege. I move to adjourn until nine o'clock tomorrow morning.

SENATOR CLARK: It isn't a point of personal privilege but he has a right to adjourn and that is not debatable.

SENATOR HABERMAN: Nine o'clock tomorrow morning.

SENATOR CLARK: I will have to rule you out of order because I did not recognize you for a motion, only a point of personal privilege. That is not a point of personal privilege. Now what do you want?

SENATOR HABERMAN: Well, what about a point of order?

SENATOR CLARK: Why don't you sit down for a minute. We will get this thing done with. That would probably solve the whole problem.

SENATOR HABERMAN: Do you really think it would?

SENATOR CLARK: Well, I don't know but I would like to move the bill tonight if possible.

SENATOR HABERMAN: I will give you one more chance.

SENATOR CLARK: Senator Newell.

SENATOR NEWELL: Mr. President, members of the Legislature, the amendment that I am offering would I think...well, it will basically create a philosophical division in the Higgins-Schmit amendment, and the philosophical division is is that it will not reimburse...the intent of the amendment, and because of the hurried nature of drafting it (interruption)...

SENATOR CLARK: One moment. We are still under Call. Every Senator should be in his seat. Go ahead.

SENATOR NEWELL: Because of the intent of the amendment, there are two subject matters and I would have tried to divide them if I had been quick enough but again I wasn't quick enough. The amendment may not be as clear as I want it to be but the legislative intent and the desired effect of the amendment is not to reimburse the membership dues but instead to reimburse travel for those hours that the nursing home administrator must take for continuing education.

Now if there needs to be more clarifying amendments, Senator Higgins, if you want to deal with your question about which are appropriate subject matters, you might want to offer an amendment that would say that it would have to be directly related to the efficiency of the operation, those courses being authorized. But the purpose here is to say that where we mandate administrators in order to keep their license to take the additional credit hours that we reimburse them. The association fees would be separate and we would not be reimbursing those and that it is to create a philosophical cleanliness to the amendment that is adopted.

SENATOR CLARK: Senator Higgins.

SENATOR HIGGINS: Mr. President, it was my amendment, not the Legislature's. My intent was to have an amendment passed that would take money away from the Department of Welfare so that we would have more money for medicaid. That was my intent. Senator Cullan's amendment was to do away with optional services. I maintain that paying dues and travel expenses for health care institution members is something a lot less than an optional service. Now if we mandate they get credit hours, that is fine. We mandate teachers to get so many credit hours a year, too. We mandate that doctors do it. We mandate that a lot of organizations do but we don't pay all of their dues and we don't pay their motels and we don't pay their travel expenses and here we do. This is a poor example. I am sorry it is the only one I had was when they said they were going to have a meeting on how to fight a union. I am sure there would be more people for this amendment, even though we did get 26 votes, if this was just on the original program they planned to attend called "Hospice Program". Now the Department of Welfare doesn't do anything hardly to check on what goes on at these conventions and such that we are paying for, the taxpayers are paying for, and which is coming out of what would be more money for medicaid funds. So I appreciate Senator Newell's intention to clarify the point and for him to state what he thinks the Legislature's intent was but my intent was this, to show whether or not you think it is important that we pay travel and dues expenses for nursing home personnel or if we eliminate that and then medicaid funds will go further. And if you prefer to send somebody on a trip to take a seminar as opposed to using the money to buy more penicillin, or pay more health care expenses, then you will stay with my amendment and defeat the Newell amendment. Thank you.

SENATOR CLARK: Senator DeCamp. The question has been called for. Do I see five hands? I do. Shall debate now cease? All those in favor of ceasing debate will vote

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aye, opposed vote nay.

CLERK: Senator Clark voting yes.

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

CLERK: 25 ayes, 3 nays to cease debate, Mr. President.

SENATOR CLARK: Debate is ceased. Senator Newell, do you wish to close?

SENATOR NEWELL: Mr. President, I want to remind this Legislature that we mandate, that it is state policy through our rules and regulations requiring nursing home administrators to have a license, that we mandate hours of continuing education, and because we mandate that, we should reimburse them at least for their travel. We are not reimbursing them for the time that they take. They have to do that by law but we should reimburse them at least for their travel. Now if this Legislature is concerned, and I think that getting 26 votes for this amendment shows that they are concerned, that we want not to pay to reimburse for association dues, I think that is fine. That is a different issue but we do mandate the educational requirements and for that reason we should reimburse in that regard. So what I have done with this amendment and all I have done with this amendment is to say that the dues will be prohibited but we will continue to reimburse for educational hours. If there needs to be greater clarification on what kinds of courses, you can specify that later on with another amendment that says only those directly related. I have no problem with that either but I believe that if we are going to mandate these courses then we ought to reimburse at least for the travel.

SENATOR CLARK: The question before the House is the adoption of the Newell amendment. All those in favor vote aye, opposed vote nay.

CLERK: Senator Clark voting no.

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

CLERK: 25 ayes, 12 nays, Mr. President, on adoption of Senator Newell's amendment.

SENATOR CLARK: The motion is adopted. There is nothing further on the bill. The question is the advancement of the bill. All those in favor of advancing the bill...Senator Cullan.

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SENATOR CULLAN: I would simply like to inquire what the current state of the bill is as far as Senator Higgins' amendment is concerned in. What is prohibited and what isn't prohibited? Senator Newell, could you explain what remains on the Higgins amendment?

SENATOR CLARK: Turn it on.

SENATOR NEWELL: Yes, the Higgins amendment precludes the payment, the reimbursement for association dues and so you still may be reimbursed for required educational workshops but union dues...I mean association dues are prohibited.

SENATOR CULLAN: I think you were correct with the union dues probably, but at any rate, Senator Higgins, I wonder if you would respond to a question. How is this going to work mechanically? You are familiar with the reimbursement systems that we use for Medicaid. What kind of an accounting system is going to be used or how are you going to factor these costs out of the charges?

SENATOR HIGGINS: I think that question should be directed to Senator Newell since he is the one that has amended my amendment.

SENATOR CULLAN: Actually it is your amendment still remaining though. I just don't understand how your amendment is going to function mechanically.

SENATOR HIGGINS: Well, it should function the same way the Department of Welfare has been functioning all along except that now instead of the Department of Welfare, I mean as my amendment originally was, the Department of Welfare supposedly audited, checked to see if they were really paying for educational seminars or not. With my amendment it said that they would not have to reimburse them for dues to any professional association. Senator Newell is right when he says we mandate they take educational courses but we don't mandate they belong to any association but we do pay their dues to join those associations. So what I am saying is my amendment as written would say no longer will the Department of Welfare pay the dues for nursing home personnel to join any association they want to join. I think it is simple just to write "no" when they send in the voucher for it. I don't think that is a hard thing at all. But now since Senator Newell has amended it, I guess it is going to be more work for the Department of Welfare.

March 31, 1982

LB 942, 626, 753, 799

SENATOR CULLAN: Okay, thank you, Senator Higgins.

SENATOR HIGGINS: Okay, Senator.

SENATOR CLARK: The question before the House is the advancement of the bill. No further discussion? All those in favor vote aye, opposed vote nay. While you are voting on that, I would like to tell you what I have kept track of up here. You were fifteen minutes late coming in this noon. You had forty minutes on a Call of the House only which is one hour's time on Call of the House and being late. So if you are going to save time, that is a good way to do it. Record the vote.

CLERK: 26 ayes, 4 nays, Mr. President, on the motion to advance the bill.

SENATOR CLARK: The bill is advanced. Motion on the desk. Yes, read in first.

CLERK: Mr. President, Senator Wesely would like to print amendments to LB 753; Senators DeCamp, Haberman, and Schmit to LB 799.

And, Mr. President, Senator DeCamp, would like to withdraw a motion that he filed this morning on LB 626.

SENATOR CLARK: Motion on the desk.

CLERK: Mr. President, Senator Haberman would move to adjourn until 9:00 a.m.

SENATOR CLARK: Senator Nichol, for what purpose do you arise?

SENATOR NICHOL: Mr. Chairman, I was wondering if Senator Lamb had any instructions as to how long we are going to be going tomorrow night or the rest of the week so we can plan our (interruption) accordingly?

SENATOR CLARK: Senator Lamb, do you have any instructions on how late we are going to go tomorrow night?

SENATOR LAMB: I would suggest about four-thirty.

SENATOR CLARK: Four-thirty tomorrow night. All right. Senator Haberman, you motioned to adjourn? You heard the motion. All those in favor say aye, opposed. We are adjourned until tomorrow morning at nine o'clock.

Edited by:

Marilyn Zank
Marilyn Zank

April 1, 1982

LB 835, 709A, 928, 942

CLERK: Senator Wiitala would like to print amendments to LB 835.

A new A bill, 709A offered by Senator Beutler. (Read Title).

Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 928 and find the same be placed on Select File with E & R amendments attached.

SENATOR LAMB: Under the north balcony from Mullen, Nebraska we have Margaret Vinton friend of Ron and Carole Cope from my legislative district. Would you stand and be recognized please. Welcome to your Legislature.

We will proceed to item number five, Select File. LB 942.

CLERK: Mr. President, LB 942 was advanced yesterday. I do have a motion on the bill Mr. President from Senator Cullan. Read Cullan motion.

SENATOR CULLAN: Mr. President and members of the Legislature I would ask you to return the bill for this amendment. This is a bill drafting amendment and I apologize to the Legislature for the technical mistake in the bill yesterday. As I indicated on the floor yesterday one of the purposes of the amendment was to make sure the Department of Institutions was optional services which the Department of Institutions provides were funded at the full level with the mandatory services and not with the other optional services. I neglected to include in patient hospital and skilled facility services and included only intermediate care facilities. So I think it is necessary to bring this bill back for this technical amendment at this time and ask you to help assist me in making this technical correction to the amendments which I proposed yesterday.

SENATOR LAMB: Senator Newell your light is on but I assume you did not want to speak. We have no more lights on. The motion is to return the bill to Select File for a specific amendment. Those in support vote aye, those opposed vote no.

CLERK: Senator Lamb voting yes.

SENATOR LAMB: Have you all voted? Record.

CLERK: 26 ayes, 0 nays, Mr. President on the motion to return the bill.

April 1, 1982

LB 942

SENATOR LAMB: Motion passes, the bill is returned.
Senator Cullan on the amendment.

SNEATOR CULLAN: Mr. President, members of the Legislature, just to explain the amendment again. The amendment which we adopted on the floor of the Legislature yesterday provided that some optional services would be funded at a lower priority, that being a 10% cut in those optional services before mandatory services would be cut. We included with the mandatory services some optional services which are funded by the state. Those services funded at the Department of Public Institutions, the operation of Hastings, Norfolk and Lincoln Regional Centers. In that amendment there was a technical mistake, we failed to include in patient hospital services and skilled nursing facility services along with intermediate care. As a result of that bill drafting error we would not cover all of the Department of Institutions services with the mandatory ones and therefore they would have been subject to that 10% cut as well. So, this is simply a technical amendment to make sure we do not impact the general fund by prorating those optional services which are paid for by the state. They would not be cut until other optional services are cut. I think that explains it as best I can. I would urge you to adopt the technical amendment.

SENATOR LAMB: Senator Kahle.

SENATOR KAHLE: Mr. President and members, the way the philosophy of the Legislature has gone this morning I thought for awhile I would try to reintroduce LB 665 because Senator Cullan has brought this back, but having second thoughts on it and I hope this body can't be threatened by some that think they can threaten us by saying they can hold up the whole process, stall this legislature or that some of us are going to change our vote because we are threatened. So with that I'm going to go along with Senator Cullan's effort to bring the bill back and correct it. Thank you.

SENATOR LAMB: Senator Cullan, do you have any closing? The motion is to adopt the Cullan amendment. Those in support vote aye, those opposed vote no.

CLERK: Senator Lamb voting yes.

SENATOR LAMB: Have you all voted? Record.

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

April 1, 1982

LB 942

SENATOR LAMB: The amendment is adopted. Senator Cullan.

SENATOR CULLAN: Mr. President, I would move that the bill be readvanced.

April 1, 1982

LB 966, 942

SENATOR LAMB: The motion is to readvance LB 942. Those in support vote yes, those opposed vote no. Voice vote, those in support say aye, those opposed no. The bill is advanced. LB 966.

CLERK: Mr. President, the first thing I have on 966 are E & R amendments.

SENATOR LAMB: Senator Chambers, do you care to handle the amendments to LB 966, E & R amendments?

SENATOR CHAMBERS: Mr. Chairman, I move that the E & R amendments to 966 be adopted. Now you have to cooperate.

SENATOR LAMB: The motion is to adopt the E & R amendments. Those in support say aye, those opposed no. They are adopted.

CLERK: Mr. President, the next amendment I have to the bill is offered by Senator Cullan and that is found on page 1453 of the Journal.

SENATOR LAMB: Senator Cullan.

SENATOR CULLAN: Mr. President, members of the Legislature, this is my day for clean up amendments. This is another amendment to correct a mistake in another piece of legislation and I'm using LB 966 to accomplish that purpose. As you recall on General File, or excuse me, on Select File, I indicated that we would change the structure of the Certificate of Need Review Committee to ensure that the Review Committee would be composed of consumers and in the process of that amendment I failed to strike the requirement that a hospital administrator would be a member of the Certificate of Need Review Committee and so all this amendment does is makes that technical correction and requires that as was the intent of the Legislature at that time, requires that the Certificate of Need Review Committee be consumers. So I would ask you to adopt this amendment and help me correct that technical error as well.

SENATOR LAMB: The motion is the adoption of the Cullan amendment. Those in support vote aye, those opposed vote no.

CLERK: Senator Lamb voting yes.

SENATOR LAMB: Record.

CLERK: 27 ayes, 0 nays, Mr. President, on adoption of Senator Cullan's amendment.

April 6, 1982

LB 761, 942, 753

SENATOR CLARK: Senator Chambers, you had better look at me instead of him.

SENATOR CHAMBERS: I wasn't looking at anybody. I was trying to think but I will tell you what the amendment does, it attempts to restore the renovation money. I will close.

SENATOR CLARK: Is there any discussion? If not, the question before the House is the return of the bill. All those in favor vote aye, opposed vote nay. Have you all voted? Record the vote. Senator Chambers, I am going to record the vote. All right.

CLERK: 5 ayes, 14 nays, Mr. President.

SENATOR CLARK: Motion lost. Next motion.

CLERK: That is all that I have on this bill, Mr. President.

SENATOR CLARK: The bill is on E & R for engrossment. We will now go to LB 942.

CLERK: Mr. President, Senator Warner would move to return LB 942 to Select File for specific amendment.

SENATOR CLARK: Senator Warner.

SENATOR WARNER: Mr. President, I would ask unanimous consent to withdraw that. That was the amendment that Senator Koch had put on 933 this morning so it is not necessary now.

SENATOR CLARK: Is that all you have on the bill?

CLERK: Yes, sir, that is all I have on this bill.

SENATOR CLARK: All right. LB 928. Senator Warner.

SENATOR WARNER: Mr. President, LB 928 shouldn't be up there for a motion. It is down when you get to Select File.

SENATOR CLARK: He says that is a mistake on the agenda. LB 953. LB 753.

CLERK: I have a motion from Senator Carsten to return LB 753 to Select File for specific amendment, that amendment being to strike the Chambers amendment adopted yesterday.

April 8, 1982

LB 807, 942

you want to go ahead with the roll call? All right, the Clerk will call the roll.

CLERK: (Roll call vote taken. See page 1815, Legislative Journal.) 21 ayes, 23 nays, Mr. President.

SENATOR CLARK: The motion lost. Next amendment. Next motion.

CLERK: Senator Hoagland, I assume...Senator Koch, do you want to offer yours now? Okay. I have nothing further on the bill, Mr. President.

SENATOR CLARK: All right, the Clerk will read the bill.

CLERK: Mr. President, if I may, right before that.

SENATOR CLARK: Are you going to read something in?

CLERK: I have a report of Registered Lobbyists for the week of April 1 through April 7.

And an Attorney General's opinion addressed to Senator Lamb, Mr. President.

(Read LB 807 on Final Reading.)

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

CLERK: Senator Clark voting yes.

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

CLERK: (Record vote read. See pages 1817 and 1818, Legislative Journal.) 47 ayes, 0 nays, 1 excused and not voting, 1 present and not voting, Mr. President.

SENATOR CLARK: LB 807 is declared passed. The Clerk will now read LB 942 with the emergency clause.

ASSISTANT CLERK: (Read LB 942 on Final Reading.)

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

ASSISTANT CLERK: Senator Clark voting yes.

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LB 531, 212-212A, 520, 754
761, 807, 942, 970-970A

having been complied with, the question is, shall the bill pass? It takes 30 votes. All those in favor vote aye, opposed nay.

CLERK: Senator Clark voting no.

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

CLERK: (Record vote read. See page 1822, Legislative Journal.) 36 ayes, 11 nays, 1 present and not voting, 1 excused and not voting, Mr. President.

SENATOR CLARK: The bill is declared passed on Final Reading. We will now go to item #5.

CLERK: Mr. President, a few items to read in. The bills that were read on Final Reading this morning are now ready for your signature, Mr. President.

PRESIDENT LUEDTKE PRESIDING

PRESIDENT: While the Legislature is in session and capable of transacting business, I propose to sign and I do sign LB 531, 970A, 970, 942, 807, 754, and 761.

CLERK: Mr. President, I have an explanation of vote offered by Senator Higgins.

And Senator Cullan would like to print amendments to LB 212 and 212A. (See page 1823, Legislative Journal.)

PRESIDENT: Okay, anything else, Mr. Clerk?

CLERK: Nothing further, Mr. President.

PRESIDENT: We are ready then for as Senator Clark said agenda item #5, Select File, and I believe we start with LB 759, is that correct, Mr. Clerk? 520, is it? Okay, we will take up 520.

CLERK: Mr. President, LB 520 was considered yesterday by the Legislature. At that time the E & R amendments were adopted. Senator Howard Peterson then made a motion to indefinitely postpone the bill. That is presently before us, Mr. President.

PRESIDENT: The Chair recognizes Senator Peterson.

SENATOR HOWARD PETERSON: Mr. Chairman, last evening I handed out to this body a number of letters from a number

April 8, 1982

LB 726, 488, 816, 942

Senator Kilgarin, Senator Wesely, are you here? Yes. Senator Lowell Johnson, Senator Peterson. Senator Landis, I see him, he is here. Senator Pirsch, I know I see her. And Senator Schmit, I see him too. Senator Schmit, do you want to push that light and we are ready, I think that is it. All right, we have them all here now. Call in votes will be accepted or do you want to just go ahead and save time and have a roll call vote?

SENATOR VICKERS: Go ahead.

PRESIDENT: All right, we will have a roll call vote on the advance of LB 726 to E & R for Engrossment. Everybody is at their desk. Proceed, Mr. Clerk, with a roll call vote to advance.

CLERK: (Read the roll call vote as found on pages 1839 and 1840 of the Legislative Journal.) 22 ayes, 18 nays, Mr. President.

PRESIDENT: The motion fails. The bill does not advance. Okay, do you want to...the Clerk has some matters to read in at this time.

CLERK: Mr. President, just one item. Your Enrolling Clerk respectfully reports that she presented to the Governor at 4:30 LB 942.

PRESIDENT: Senator Lamb, what do you wish to do? Do you want to get started on 816? You know it will take...it could take the rest of the day I guess.

SENATOR LAMB: Mr. President, I will move we adjourn until nine o'clock Tuesday morning.

PRESIDENT: 9:30 or....

SENATOR LAMB: Nine o'clock.

PRESIDENT: Nine o'clock Tuesday morning. Motion to adjourn. What? (Microphone not on).....hear that. We are not....we are still under Call, are we not? So just check in, just everybody check in at this point. We will have everybody check in before we do anything.

CLERK: Mr. President, Senator Fowler would like to print amendments to LB 488 in the Journal. (See pages 1841 and 1842 of the Journal.)

PRESIDENT: The House is still under Call so let's all check in. Senator Cullan, do you want to put on your light.

right, we'll have a roll call vote if you asked for it. I didn't hear it, I'm sorry. The Clerk will call the roll. All senators will be in their seats. For what purpose do you arise, Senator Dworak? All right, for what purpose do you arise?

SENATOR DWORAK: Hasn't the vote been announced?

SENATOR CLARK: No, it was a mistake as far as I am concerned. You can blame it onto me. I didn't hear him ask for a roll call vote. Others must have heard it. It was not announced.

SENATOR DWORAK: Are we going to be able to call for a roll call after votes been announced then in the future?

SENATOR CLARK: No, it was not announced. It was not announced. The vote was not announced. The Clerk will call the roll.

CLERK: (Read roll call vote as found on pages 1859-1860 of the Legislative Journal.) 23 ayes, 23 nays, Mr. President.

SENATOR CLARK: The motion lost. The next amendment.

CLERK: Mr. President, the next amendment I have to the bill is offered by Senator DeCamp. It is on page 1368 of the Legislative Journal.

SENATOR CLARK: Senator DeCamp.

SENATOR DeCAMP: Mr. President, members of the Legislature, I will withdraw that amendment and any others I have.

SENATOR CLARK: The amendment is withdrawn. The next amendment.

CLERK: Mr. President, if I may right before that, I'd like to read some items in.

SENATOR CLARK: All right.

CLERK: Your Enrolling Clerk has presented to the Governor the bills that were read on Final Reading this morning. (Re: LB 378, 378A, 693, 760, and 967.)

An Attorney General's opinion addressed to Senator Chambers regarding LB 825. (See pages 1860-1861 of the Journal.)

Senator Higgins offers explanation of vote and I have two letters from the Governor. (Read. Re: LB 531 and LB 942. See pages 1861-1862 of the Legislative Journal.)

SENATOR CLARK: Mr. Clerk, I've got an announcement here, too. There are cookies and lemonade in the Rotunda to celebrate the Governor's proclamation today of Victim's