

APRIL 20, 2001

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April 20, 2001 LB 827A, 827

SPEAKER KRISTENSEN PRESIDING

SPEAKER KRISTENSEN: Good morning. Welcome to the George W. Norris Legislative Chamber. This morning our chaplain of the day is Pastor Bill Bowers from the Dundee Presbyterian Church which is Senator Suttle's district. Pastor.

PASTOR BOWERS: (Prayer given.)

SPEAKER KRISTENSEN: I call the sixth-eighth day of the Nebraska Unicameral Legislature to order. Senators, please record your presence. Roll call. Record.

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

SPEAKER KRISTENSEN: Thank you, Mr. Clerk. Corrections?

CLERK: I have no corrections, Mr. President.

SPEAKER KRISTENSEN: Any reports or announcements?

CLERK: Lobby report for this week, Mr. President, to be placed in the Legislative Journal, and I have a report from the Department of Health and Human Services. Will be on file in the Clerk's Office, available for member review. That's all that I have at this time, Mr. President. (Legislative Journal pages 1587-1588.)

SPEAKER KRISTENSEN: Thank you. We next move to General File Appropriations Bills, LB 827A.

CLERK: Mr. President, LB 827A by Senator Bromm. (Read title.)

SPEAKER KRISTENSEN: Senator Bromm, you're recognized to open on the bill.

SENATOR BROMM: Thank you, Mr. Speaker, and good morning, colleagues. This is an A bill for, as the Clerk said, LB 827, and it includes the concept that for the Nebraska Internet Enhancement Fund, we would have the...the option of receiving money from grants or donations or other sources, but we would

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also appropriate \$250,000 from the General Fund to the Nebraska Internet Enhancement Fund. If you recall, this is the fund that would receive a portion of the lease payments if dark fiber is leased, and then the fund would be available for grant applications to cities or counties, political subdivisions who wanted to access money to help increase or improve their infrastructure for telecommunications. That's what it does, and it is...it's a one-time \$250,000. It is not \$250,000 per...per year. It's simply one one-time appropriation. And so I'd be glad to answer questions, Mr. Speaker, if there are any, but that I think is an explanation of the A bill. Thank you.

SPEAKER KRISTENSEN: You've heard the opening. Debate on advancement? Senator Bromm, you're recognized to close. He waives closing. The question is the advancement of LB 827A. All those in favor vote aye; all those opposed vote nay. Members, would you please vote if you care to? Record.

CLERK: 25 ayes, 0 nays, Mr. President, on the advancement of LB 827A.

SPEAKER KRISTENSEN: LB 827A advances. We next move to General File Speaker Priority Bills. LB 242, Mr. Clerk.

CLERK: LB 242, Mr. President, by Senator Wickersham. (Read title.) The bill was referred to the Government Committee after introduction in January. The committee reported the bill to General File. It's been discussed on two separate occasions, April 4 and again on April 17. Senator Raikes and Senator Wickersham...Senator Raikes had an amendment adopted to the bill, Mr. President. When the Legislature left the bill on April 17, pending was Senator Wickersham's AM1429. (Legislative Journal page 1455.)

SPEAKER KRISTENSEN: Senator Wickersham, would you just give us a brief reminder of what this amendment is and does?

SENATOR WICKERSHAM: Thank you, Mr. Speaker. The amendment, AM1429, is an amendment that is cosponsored by myself and Senator Quandahl. It addresses an issue of what can be done with public resources on ballot issues and on candidate...in

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some cases, candidates or other kinds of information that members of the Legislature might be asked to comment on. The present law is what is both a bright line and a fuzzy line. The bright line is that no use can be made of public resources. But, of course, we all know that won't work because if somebody calls you up and you're sitting in your office, you're going to talk to them. And if they ask you about a ballot issue, you're going to respond. You're not going to say that I'm sitting in my office and I can't talk to you. And so this amendment that Senator Quandahl and I have drafted attempts to find a line that is analogous to what the Accountability and Disclosure Commission has produced in their rules, and that is essentially that just kind of those incidental kind of necessary to the process kind of comments don't offend the broader rule that you can't use public resources for support or opposition, particularly of a ballot issue but in potentially for candidates. We have attempted to draw the line and say that incidental use isn't prohibited but that when you get over to something that looks like mass mailings, mass communications, that that is prohibited. That's the line that we're attempting to draw. Senator Beutler had begun to question where the line should be drawn, and I think he has now filed, or at least I've seen it, haven't looked on my machine, but he has, I believe, filed an amendment to the amendment that would result in some additional discussion of where to draw that line.

SPEAKER KRISTENSEN: Thank you, Senator Wickersham. Mr. Clerk.

CLERK: Senator Beutler would move to amend the Wickersham-Quandahl amendment, Mr. President. (AM1599, Legislative Journal page 1588.)

SPEAKER KRISTENSEN: Senator Beutler, you're recognized to open on your amendment to the amendment.

SENATOR BEUTLER: Senator Kristensen, members of the Legislature, Senator Wickersham has succinctly described the point under discussion and has also described the general thrust of my amendment. What this section says now is that this section does not prohibit a member of the Legislature from expressing his or her opinion regarding a ballot question or

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from communicating that opinion to his or her constituents. And then the Wickersham amendment further narrows that to allowing us the incidental use, the incidental use of public resources; and then also narrows our communication to communication with individual senator...individual constituents as opposed to the mass of constituents. And it is those two narrowings of our prerogatives that I wish to change in the Wickersham amendment. So technically what the amendment does in the Wickersham amendment is to strike the word "incidental" and to strike the word "individual". The effect, the effect and thrust of the amendment, the effect of doing that is to say that we can use our resources to talk about ballot questions except we leave in the Wickersham amendment that we cannot do mass mailings. Okay? But anything else you clearly can do, so you don't have to sit there worrying about whatever it is you're doing, your press release or your press conference or whatever it is. You're not going to have to worry about whether you're violating the law. And in my philosophy, you shouldn't have to worry about whether you're violating the law because you should be able to speak out on these things. Likewise, the word...dropping the word "individual" means that you don't have to worry about whether you're violating the law because you put out a press release and that's a communication to all constituents as opposed to a communication to an individual constituent. I don't think we should have to worry about that distinction. So generally speaking, the thrust of the amendment is to give each one of us greater latitude and freedom of speech with regard to ballot questions, but it does...it leaves untouched in the Wickersham amendment the prohibition against using mass mailings. And I'll...personally I think we should be able to use mass mailings, too, although as each one of you know is we're severely limited in that regard anyway. But I don't mind excluding mass mailings because that's really definable and maybe is something that people would not want us to do. But otherwise, I think the public would be generally supportive of our speaking out. That's what they elected us to do. And on all matters of public policy, whether that policy is formulated within an initiative or a referendum or a statute, whether the initiative and referendum...I mean, a referendum has to refer to a statute, so they're all directly related to our work. And I think we would be remiss, and the public would think we were

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remiss, if we didn't speak out on ballot questions. So I appreciate what Senator Wickersham is doing with the bill generally, and in this regard the attempt by Senator Wickersham to further define matters. But I would simply argue that we ought to shift that line a little bit by dropping the word "incidental" and dropping the word "individual". Thank you.

SPEAKER KRISTENSEN: Debate on the Beutler amendment, Senator Janssen.

SENATOR JANSSEN: ...Legislature. Senator Beutler, I...just getting into this now, I think...I think I like what you're doing because I can see what would happen. I do a radio thing once a week and so many people, they will ask about our...a ballot question, you know, what's your opinion on that? And I have a preference, and if I didn't, you know, and if I made that, I would say that would be a mass communication with...within a certain area. I mean, it's...it's a small radio station but, nevertheless, constituents listen to that, and I think I would probably be prohibited from expressing my opinion about a ballot question if I used that radio. Now, Senator Wickersham, is that...could I engage with you just a little bit here on a conversation? Senator Wickersham, would I be...with the amendment, would I be violating the bill?

SPEAKER KRISTENSEN: Senator Wickersham.

SENATOR WICKERSHAM: No, I don't believe so unless you were on...unless the station was publicly owned, because the prohibition against mass mailings or mass communications are those mailings or communications at public expense.

SENATOR JANSSEN: I see, so if it is...if it was a public-owned radio station, being, say, University of Nebraska, something like that, television station and that, but if it was a private...I still think it. I still think I would...somewhere along the line someone would...would be able to come and say, hey, you're not doing this right. It sure...with this amendment, though, it takes all ad...you don't have to worry about it.

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SENATOR WICKERSHAM: What the amendment does is draw a line and says you cannot utilize mass mailings or other mass communications at public expense for the purpose of qualifying, supporting, or opposing a ballot question or campaigning for or against the nomination or election of a candidate, so you couldn't use public resources in that fashion for those purposes. Any private resources that you have, your campaign...your private...but in essence your campaign funds, anything, any mass communications that someone other than the public owns and wants to allow you or others to use is not prohibited.

SENATOR JANSSEN: And I could use my...my...say, I wanted to buy some time on a radio station?

SENATOR WICKERSHAM: That's correct.

SENATOR JANSSEN: And I could, as long as that was not a public-owned station, I could buy the time with my campaign monies...

SENATOR WICKERSHAM: Well, you could always...

SENATOR JANSSEN: ...or my own money and still come out in...

SENATOR WICKERSHAM: You could...yeah, you could always use your own money. I mean...

SENATOR JANSSEN: Uh-huh.

SENATOR WICKERSHAM: ...that's...that's clearly not an issue.

SENATOR JANSSEN: All right. What about campaign fund money?

SENATOR WICKERSHAM: Um...

SENATOR JANSSEN: Well, that's all right. I'll go back and ask Frank behind the glass, so...(laugh)

SENATOR WICKERSHAM: All right. (Laugh)

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SENATOR JANSSEN: Thank you, Mr. Speaker.

SPEAKER KRISTENSEN: Senator Chambers.

SENATOR CHAMBERS: Mr. President and members of the Legislature, although we are going to be limited, based on term limits, there are other people who are going to run for these...this office. I do not believe that we ought to put into statute something that can create a bogus campaign issue against a person in office. Let's say that a senator does send out some information and a person who is going to run against that per...that senator, or an organization, makes the allegation that that mailing was in violation of the statute, a misuse of public facilities or whatnot. The senator easily turns aside that allegation but it remains hanging in the air. That person has been accused of misusing public facilities or money or whatever, and that having been turned aside is not what will be remembered, but rather the allegation, the investigation, whatever it is, and there will be a cloud because had the senator not done something wrong, there would not been...have been a basis for all of the ruckus that will be raised. Since Senator Wickersham's amendment does prohibit mass mailings, we're not even in that area. We're talking about corresponding or talking on the phone or using any public instrumentality to communicate with constituents on the issues laid out in that amendment. I'm in favor of Senator Beutler's amendment. I don't make mass mailings, as I've stated the last time we were on this bill, but I have to be practical and look at how things translate from the words on the page of a statute book out into the real world of politics. This legislation that we're talking about is political and it deals with a political set of circumstances in the political world. I don't see where anything of value to the public, I see nothing of compelling state interests or public interests that requires us to enact Senator Wickersham's amendment in its present form. I do see a compelling argument for adopting Senator Beutler's amendment. I have been critical of the Legislature primarily on the basis of how sloppy we are when it comes to writing legislation, how cowardly and timid we are in rolling over for the big corporations, how lacking in concern for our children that we are, when we have to steamroll a bill through that the Governor

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wants for political purposes. But I don't know that I've condemned or criticized senators for the kind of stuff that they send out. Some of my colleagues would do better not sending some of the stuff out that they do, but they chose to make that decision and send it out. And whatever consequences flow from the inadvisability of the opinion they express, the poor grammar that they use, all of those are aside from what I'm talking about in supporting Senator Beutler's amendment. You all can try to say what the word "incidental" means. It opens the gates for anybody to make an allegation, no matter what you use...

SPEAKER KRISTENSEN: One minute.

SENATOR CHAMBERS: ...or how you use it. There is no definition of incidental. I don't know that a practical one could be formulated. This point of individual constituents, does that mean you have to contact each one individually, or can you write a form letter that addresses a number of constituents who have asked the same question? There's no need to have this language as restrictive as Senator Wickersham's language is, so I'm in support of Senator Beutler's offering.

SPEAKER KRISTENSEN: Senator Quandahl.

SENATOR QUANDAHL: Thank you, Mr. Speaker. Just...just to kind of bring us back around as to why the Wickersham amendment was brought, and I...I have to admit that I did have something to do with that. And the reason why that the amendment was brought in the first place, and let me tell you it was not to curtail routine correspondence, talking on phones to constituents and other...other people, or in any way to infringe on a member's First Amendment rights. Rather, what the idea behind the amendment was is to remove an inference that perhaps we as Legislatures...as legislators would have unlimited use of public funds and public resources to either actively campaign for or against a ballot initiative or a specific...a specific candidate. And so with that, I do believe that Senator Beutler's amendment does actually sharpen the language and it also does, I think, keep the general purpose behind the Wickersham amendment, and that's to remove the inference that unlimited use of public resources would not be allowed. So I

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think with that, I would support the Beutler amendment.

SPEAKER KRISTENSEN: Senator Wickersham.

SENATOR WICKERSHAM: I also will rise to support Senator Beutler's amendment. I think that, while the word "incidental" might be subject to...would be subject to interpretation, I suppose that many of us would think we knew what incidental was but the chance that somebody else thinks that incidental is something else in its practical application would put us somewhat at risk. The word "individual" in front of constituents, I'm not sure is necessary as a...as a simple language issue, so I would support Senator Beutler's amendment. I would suggest to you that I hope the discussion we've had is beneficial. If you would go back to the green copy of the bill, you would find that the rule expressed there is somewhat more open than the language in the amendment. This is one of those circumstances where we have been working back and forth across a line that I think necessarily we cannot define with a great deal of precision, but I hope that the discussion has made us sensitive to the issue and that we will follow what is ultimately the best rule with regard to these issues, and that is a good dose of common sense about how we use public resources and whether there can be a perception if not an actual abuse of the use of public resources for these kinds of purposes.

SPEAKER KRISTENSEN: Senator Hilgert. Further debate on the Beutler amendment? Senator Beutler, you're recognized to close.

SENATOR BEUTLER: Senator Kristensen and members of the Legislature, there seems to be agreement on moving the line just a little bit and I would like to thank Senator Wickersham and Senator Quandahl, not just for the accommodation but for the discussion, and I...I hope Senator Wickersham is right. These issues are certainly good for reminding us every once in a while of just where we are in the system and what we can and can't do. And so I hope that Senator Wickersham's suggestion that we all review this a little bit as we go along here is taken up. I think it would be well worth our time. Thank you very much.

SPEAKER KRISTENSEN: You've heard the closing. The question

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before the body is the adoption of the Beutler amendment to the Wickersham amendment? All those in favor vote aye; all those opposed vote nay. Record.

CLERK: 28 ayes, 0 nays, Mr. President, on the adoption of Senator Beutler's amendment.

SPEAKER KRISTENSEN: The Beutler amendment is adopted. We're now back debating the adoption of the Wickersham amendment as amended. Does anyone wish to debate? Senator Wickersham, you're recognized to close. He waives that opportunity. The question before the body is the adoption of the Wickersham amendment? All those in favor vote aye; all those opposed vote nay. Have you all voted? Record.

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

SPEAKER KRISTENSEN: That amendment is adopted.

CLERK: Mr. President, Senator Wickersham would move to amend with AM1430. (Legislative Journal page 1455.)

SPEAKER KRISTENSEN: Senator Wickersham, you're recognized to open.

SENATOR WICKERSHAM: Mr. Speaker, this is an amendment that affects the Raikes amendment that was adopted earlier having to do with membership in school boards, and it also had a provision that would have subjected all school board members to the financial disclosure rules and the conflict of interest rules that are applicable to other elected officials. Now I should make clear that the financial disclosure rules are not applicable to all elected officials and they are applicable to some officials who are not elected but are appointed. There was some concern that causing all school board members to be subject to the financial disclosure rules in particular would mean that we could not find candidates for those offices, particularly the very small school districts. As we reviewed the kinds of persons who were subject to the financial disclosure laws, it became clear that those were persons with much larger

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responsibilities in terms of the fiscal aspects than we would characteristically see in a large number of schools. So we discussed the issue with Senator Erdman, Senator Burling and Senator Baker. The amendment that is before you is jointly sponsored. What it would do is subject members of a Class III, IV or V school district having a General Fund budget greater than \$15 million for the current school year to the financial disclosure rules, and also make clear that they're subject to the general conflict rules. That's what the amendment does. We have drawn the line at those Class III, IV, and V school districts that have General Fund budgets of more than \$15 million for the current school year. That affects, if I recall correctly, 19...do you remember the number, Senator Baker? I think it's...16, that would affect 16 Class III school districts in the state. Those are going to be fairly large districts. Grand Island would be an example. I think South Sioux City is an example. These are obviously school districts with fairly large enrollment and, as I have indicated, a General Fund budget of over \$15 million. So we hope that you would agree with us that that's a place to draw the line, that persons who serve on boards with budgets of that size have a substantial public responsibility and that in that area they should be required to make the financial disclosure that other persons with similar responsibilities already are required to make.

SPEAKER KRISTENSEN: Debate on the Wickersham amendment?
Senator Burling.

SENATOR BURLING: Thank you, Mr. Speaker, members of the Legislature. I stand in support of the amendment. I want to thank Senator Wickersham for his cooperation on this. It became apparent to me that in the Class III school districts, quite a variation in size. There's some very small Class III districts and some quite large Class III districts, and I was of the opinion that in the smaller Class III districts people pretty much know everybody in the community and there would be some reluctance on the part of candidates for the school board to file for the school board if they had to go through this process. And so I just didn't think it was necessary for those small school districts to do that, and so I think the \$15 million threshold is a good place to put the line, and I

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thank Senator Wickersham for his cooperation in this, and I urge your support of the amendment. Thank you.

SPEAKER KRISTENSEN: Senator Hilgert.

SENATOR HILGERT: Thank you, Mr. Speaker, members. Senator Wickersham, if I may ask you a question, just of inquiry? Your bill applies to members of the executive branch of state government, agency heads and so forth. Would you be willing to say that this law only applies to those who are heading up agencies that are less than \$15 million? I mean, if...should this law only apply to those individuals in state law that deal with less than \$15 million? Isn't that your rationale for these school districts is that they have to have a \$15 million budget or else...

SENATOR WICKERSHAM: I...

SENATOR HILGERT: ...we exempt them?

SENATOR WICKERSHAM: I think if you look at the list of persons in state government...

SENATOR HILGERT: Yeah.

SENATOR WICKERSHAM: ...that it applies to, and you'll find that on page...

SENATOR HILGERT: Please.

SENATOR WICKERSHAM: ...what it applies to are constitutional officers, and it applies to persons who have responsibility for contracting. It applies to persons who have planning commission responsibilities. So it isn't only a fiscal issue, it is also an issue about whether you're...the kind of sensitivity that your position might have. I don't think we'd find a...so it...that...the financial responsibilities aren't the only consideration.

SENATOR HILGERT: Okay. Well, that...thank you very much, Senator Wickersham. I think that's something for the body to

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consider when voting on the amendment.

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Any further discussion on AM1430 to LB 242? Seeing none, Senator Wickersham. Senator Wickersham waives closing. The question before the body is, shall adoption of AM1430 be granted for the Wickersham amendment to LB 242? All in favor vote aye, opposed nay. Have you all voted who care to? Have you all voted who care to? We're voting on the Wickersham AM1430. Have you all voted? Senator Wickersham.

SENATOR WICKERSHAM: Mr. President, I would ask for a call of the house and I'll accept call-in votes.

SENATOR CUDABACK: There's been a request for a call of house. All in favor of the house going under call vote aye, opposed nay. Record, please, Mr. Clerk.

CLERK: 15 ayes, 0 nays, to place the house under call, Mr. President.

SENATOR CUDABACK: The house is under call. All unauthorized personnel please leave the floor. Unexcused senators, please report to the chamber. Senator Hilgert.

SENATOR HILGERT: I'd like to have a roll call vote, please.

SENATOR CUDABACK: A roll call vote has been requested. The house is under call. All unexcused senators please report to the chamber. Senator Bromm, will you check in, please. Thank you. Senator Bruning. Senator Kristensen. Senator Jensen, please check in, and Senator Jones. Senator Robak. Senator Stuhr. The house is under call. The house is under call. Senators, please check in. Senator Kristensen, Senator Robak and Senator Jones. Senator Robak. Senator Robak, the house is under call. Senator Hilgert, we may proceed. Call the roll, please, Mr. Clerk.

CLERK: (Roll call vote taken, Legislative Journal page 1589.)
32 ayes, 2 nays, Mr. President, on the amendment.

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SENATOR CUDABACK: The amendment is adopted. I do raise the call. Mr. Clerk, next item to the bill?

CLERK: Mr. President, the next amendment, Senator Beutler, AM1518.

SENATOR CUDABACK: Senator Beutler, open on AM1518.

SENATOR BEUTLER: Mr. Clerk, I would like to withdraw that amendment and all Beutler amendments down to Senator Chambers' FA181. (Re. AM1518, AM1520, AM1521, AM1519, AM1522.)

SENATOR CUDABACK: So ordered, no objection.

CLERK: Senator Chambers would move to amend with FA181. (Legislative Journal, page 1502.)

SENATOR CUDABACK: Senator Chambers, to open on your amendment, FA181.

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, we're working out of the green copy and my amendment is found on page 10. Senator Hilgert and I were talking about this amendment in relationship to how it may impact the head coach at the University of Nebraska, the head football coach. I had offered an amendment earlier to require this person who takes in hundreds of thousands of dollars in outside income to make a report so that the public is aware of those sources of income. The body felt that should not be done. I guess they are substituting their expertise in the realm of college athletics for mine. This amendment would do the following. On page 10 in line 24, after the word "employee", I would insert this language "except the head football coach at the University of Nebraska at Lincoln". Why is this language being offered? If it is not, the coach would be prohibited from receiving that kind of income which you all didn't think he ought to report. The pertinent language of Section 9, from which I am reading, says that a public official or public employee shall not use his or her office for personal financial gain other than compensation provided by law. The office

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involved is that of head coach. We are talking specifically and explicitly based on the language in LB 242, a public employee. Obviously the coach, being employed by the University which is a state agency, is a public employee. Obviously the coach receives compensation for the work or services he provides serving as coach. In subsection (a), we see the language, that person's public office and that office is the head coach position. The only way that I believe we could remove a question is to except out the coach. There can be no dispute that whoever is in that position is given extra money to do endorsements receives it only because he is the coach. When he is asked to appear on television programs to discuss the football program, it's clear he would not be put in that position and compensated were he not the head coach of the Nebraska football team. In addition to using his position as a public employee to get extra money, he is exploiting the name of the University for personal private financial gain. I handed out some materials to you all this morning. The first one that I would touch on is on legal-sized paper where the two young women had their scholarships returned because the coach of the gymnastics team took those scholarships due to their injury. If you look on the second page of that handout, you will see where a representative of the University testifying against my bill said it's not necessary because the University would never do that. I don't trust these people like you all trust them, so I insisted on the bill being enacted into law. It was enacted into law. A coach did what the University official said would not be done and, thanks to my law, these women got their scholarships returned. And it was necessary for me to intervene in the case because neither the Attorney General nor the counsel for the University of Nebraska was going to do what was necessary to protect the interests of these young women. I don't just talk about my regard for women. I act on it. And when I see them abused, I take action. I don't just sit back. So that takes care of that one situation. And the language of the law that was involved is found in 81-9110. It says, "No public postsecondary educational institution in the state of Nebraska shall prior to graduation reduce, cancel, or refuse to renew any athletic grant in aid to a student during his or her period of eligibility to compete in intercollegiate athletics solely because of an injury which prevents the student from

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participating in athletics. That was what was violated, and had I not taken action, the women would have been out in the cold. Their scholarships were restored. The second article related to a young woman who was injured and the University apparently did not want to compensate her and take care of the injury. And a bill that I got enacted into law in 1984 dealt with requiring the Board of Regents to establish an insurance program for all of those students who participate in athletic events. It dealt with compensation for the loss of a limb, a catastrophic injury, hospitalization. And here is the significant language that was used to require the University to make a settlement with this young UNL cheerleader who was injured. This is found in 85-106.05. "The Board of Regents of the University of Nebraska shall establish an insurance program which provides coverage to student athletes for personal injuries or accidental death while participating in University organized play or practice in an intercollegiate athletic event". And then it lists out all of the specifics. And you will see that in the settlement this language was included. "Because she was injured while participating in a University organized practice session, Jensen was eligible for and received the same benefits available to student athletes who are injured during University organized practice or play sessions". They took the language exactly verbatim out of the bill that I had enacted into law. I am very familiar with intercollegiate athletics. I am very familiar with the way coaches receive compensation from the institution and the extra gravy that they receive. Nobody is above the law, but since you all felt that the coach should not have to report that income, this amendment that I'm offering would protect him from being denied the opportunity to rake in that gravy that coaches at other football factories receive. The only coaches who are placed under contract by outside private commercial interests for the purpose of exploiting the name of the University, exploiting the success of a football program connected to that public university, to exploit the status of the coach as a public employee working at that university is a coach with a winning program. The coach of UNO is not going to be invited to do these types of things. The coach at Wayne State University is not. The coach...

SENATOR CUDABACK: One minute.

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SENATOR CHAMBERS: ...of Kearney, of UNL...of University of Nebraska at Kearney will not get this opportunity. I am dealing in truisms which you all know and understand. This amendment would except out the coach from the prohibition against using his or her position to get financial gain based on that position. If you have any questions, I will answer them.

SENATOR CUDABACK: Thank you, Senator Chambers. (Visitors introduced.) Senator Wickersham, on the Chambers amendment to LB 242.

SENATOR WICKERSHAM: Mr. President, I wish to be brief. I oppose Senator Chambers' amendment. Senator Chambers, in a kind of a paradoxical way, wishes to remove the head coach of the University of Nebraska school at Lincoln, the head football coach, from the burdens that all the rest of us would share. I understand he wishes to make a point with his amendment, and the discussion of the amendment. I'm not going to suggest that he doesn't have a point to make and that he shouldn't make it and that this amendment isn't an appropriate way to engage in the discussion to make his point, but I honestly don't think when it comes down to the vote that his amendment should be adopted.

SENATOR CUDABACK: Thank you, Senator Wickersham. Senator Foley on the Chambers amendment.

SENATOR FOLEY: Thank you, Mr. President. I wonder if Senator Chambers might yield to a question.

SENATOR CUDABACK: Would you yield, Senator Chambers.

SENATOR FOLEY: Thank you.

SENATOR CHAMBERS: Yes, I would.

SENATOR CHAMBERS: Senator Chambers, I was one of those who voted with you the other day when you offered that amendment. I don't know if you had noticed that or not, but I wanted to remind you of that. That does happen occasionally. I thought it was a good amendment, and I think there is a public interest

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in having further disclosure of the kinds of embellishments that the coach might earn as a result of his position. But on this in...on the amendment before us right now, I'm trying to see where you're going and I'm not sure I fully comprehend it. And I'm wondering...you know, there are certainly many professors down at the University, by virtue of their position, are able to earn extra income, if you will, consulting and so forth. And I'm wondering if there isn't some larger issue here that we should be talking about beyond just the football coach.

SENATOR CHAMBERS: Senator Foley, yes, there is a larger issue and what I'm calling attention to is the language that is in this bill. If you read the language of the bill, any public employee who makes use of his or her position to get financial gain other than the compensation, that employee is in violation of the law. So maybe what they ought to be looking at is whether they want to include the term "public employee" in the language. But you are right. There is a much broader issue here.

SENATOR FOLEY: Thank you. That does help to clarify it. I think that you're right. There is...there is a broader issue here and I'm not sure I'm comfortable with the language as it is, so will have to hear further what others have to say on this. Thank you.

SENATOR CUDABACK: Thank you, Senator Foley. Senator Chambers, your light is next.

SENATOR CHAMBERS: Mr. President and members of the Legislature, once again I want us to be aware of what it is we're putting into the statute books, and I want to have established on the record, if I can accomplish that, what it is that we intend when we adopt this language. Do you want to prohibit the coach from that outside income? I don't mind if you want to prohibit him from getting the outside income because he not only gets a handsome salary, but bonuses based on how well the serfs or the indentured servants under him perform. If they do well, he gets more money, they get nothing. If you don't think that public employees ought to be placed in a situation where they cannot, for financial gain, use their office, then strike "public

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employees" from this amendatory language. Is this, the thrust of this bill public officials or public employees? If it is felt that certain public employees exercise an amount of discretion, control over the expenditure of money or makes decisions that are of such magnitude that this kind of language is warranted, there should be a narrowing of the language so that you embrace those types of public employees. Otherwise, being unqualified as the language is, the coach, when this bill passes, cannot make any money based on his being the coach of the University of Nebraska football team, other than his compensation. So that needs to be thought about. Feeling that my colleagues are not going to think that deeply...Senator Foley surprised me. I was going to protect the employee that you all worship. You all worship the god of football. There is no god...I made a mistake, football is the god. There is no god but Big Red football and the coach is its prophet. The coach can do no wrong so what my language is designed to do is to exempt him out of the reach of this bill. You think he is so sacrosanct that when he's getting all of this amount of extra money, he need not account to anybody. And Senator Wickersham's naive statement that the NCAA oversees these things is demonstrated to be naive when you consider the fact that while putting terrible restrictions on what the athletes can do to gain something for themselves, they put in an extra football game outside the season to make these young indentured servants work additional time. And do you know what for? For the Coaches Association. They don't play an extra game to put something aside for scholarships for athletes. Had I not brought the law that I read to you, nobody in this state even cared if the athletes were injured and had no insurance coverage. They had no insurance coverage, so while people will run out there and cheer for them on the football field, it takes somebody like me who has never...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...attended a football game there in his life and never will, has never accepted a free football ticket and never will, will see those young men as human beings, a part of a subculture which has exploited mercilessly, unconscionably, and the ones doing the exploitation don't even have enough

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consideration to do for public consumption, public relations, the minimum such as protecting their grant-in-aid if they're injured and providing insurance should they be injured. It takes me to do it and I'm viewed by the NCAA and people in this state as the enemy of athletes. I am the enemy of those who would exploit these athletes. And as I say, I take action. But since my colleagues are of a mind to continue worshipping the coach...

SENATOR CUDABACK: Time, Senator.

SENATOR CHAMBERS: ...prostrating themselves before the coach...I will continue the next time. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Redfield, on the Chambers amendment to LB 242.

SENATOR REDFIELD: Thank you, Senator Cudaback, members of the body. I had pushed my light because I was wondering some of the same questions that Senator Foley had. Could Senator Chambers yield to a question, please?

SENATOR CUDABACK: Would you yield, Senator Chambers?

SENATOR CHAMBERS: Yes, I will.

SENATOR REDFIELD: In the broader perspective of the language in Section 9 of the bill, I'm interested in your interpretation for all public officials as well as public employees who, by virtue of the office that they hold or the information that they have in the...the course of their duty, that in fact many times they are asked to speak somewhere and they may be offered an honorarium or they may do a radio show on a regular basis. I probably don't expect that Senator Janssen is paid but it could happen that there was an offer, and so I am questioning. I know that many times the University officials and law enforcement officials are called to the witness stand as an expert witness, and there in fact is a fee that they do pay for that testimony just because they have to compensate for the time you're losing from your job and the expenses. So my question for you, Senator

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Chambers, is what implications do you see in Section 9 about the general course of life for public officials and public employees? Thank you.

SENATOR CHAMBERS: Thank you, Senator Redfield, and that is now focusing the question that Senator Foley asked broadly? I want to call attention of my colleagues to what language can actually mean when we apply it in the real world, and Senator Redfield gave some examples. I am invited to give speeches and I am paid. And I insist that people pay me unless it's a high school or a young people's group or something like that. But if they're going to make money off my appearing to speak, they're going to pay me. I've been invited by Chambers of Commerce and those kind of groups, and I ask them, do they serve liquor like these other groups do, and they say, well, yeah, they have a happy hour or whatever it's called. I said, and if you have a cash bar, what do they charge for a shot? And I don't know these things. Well, they might charge \$2 or whatever it is. I say, well, how many people are coming? They might say 100 to 200 people. I say, then, you're going to have to give me at least twice what they would pay for a shot of liquor. You're going to have multiply the number of people who are there by twice the shot of liquor. And if they don't want to pay that, I'm not coming, just to make a point. Usually they decide they'd rather not have me there, which is fine with me because I don't really want to go. But there are other groups, there are other institutions that I speak for. So I think it does have implications along the line of what Senator Redfield brought up and the language does not make exemptions or exceptions. The only qualifying language is found in part of subsection (b) where it says, "other than in accordance with prescribed constitutional statutory and regulatory procedures". I don't know that we have any statutory allowance of a senator to give speeches and be compensated, a senator to instruct at a university and be compensated for that time, to be given an honorarium for any speech. And I don't know whether, if this law applies, it would apply to institutions and groups outside the state which is where most of my lucrative speaking occurs, and I won't give you the amount that I'm paid, to which I apply the term lucrative. But let me ask Senator Wickersham a question if I may.

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SENATOR CUDABACK: Would you yield, Senator Wickersham?

SENATOR CHAMBERS: Senator Wickersham, would this apply if we take the language as it is to this activity taking place...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...outside the state of Nebraska?

SENATOR WICKERSHAM: The language...you would have to use...

SENATOR CHAMBERS: If I get invited to someplace because...

SENATOR WICKERSHAM: You...you...

SENATOR CHAMBERS: ...I'm a senator, I've offered legislation, and that's the specific reason I'm being invited and I'm to be paid?

SENATOR WICKERSHAM: Paid?

SENATOR CHAMBERS: Yes, for speaking, and I'm invited only because I'm a state senator. It's going to be personal financial gain.

SENATOR WICKERSHAM: If you use personnel, resources, property or funds under your care and control, then that would be prohibited.

SENATOR CUDABACK: Time.

SENATOR CHAMBERS: What about my public office?

SENATOR CUDABACK: Thank you, Senator Chambers. (Visitors introduced.) Senator Hilgert, on the Chambers amendment to LB 242.

SENATOR HILGERT: Thank you, Mr. President and members. I think Senator Chambers brings an amendment that we should seriously consider. For example, the coach as it now is couldn't even use

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the Nebraska play book because that's confidential information that is certainly state property. When he writes his memoirs, "How I won the 6th, 7th and 8th National Championships for the University of Nebraska", he will have to use state resources and property. So I think...I think the Chambers amendment is worth considering, especially when you consider that the men's football program, the budget for it is less than \$15 million which is now our new level for we don't to have so much scrutiny because it's less than \$15 million. So with...to try to make our policies consistent, I think we should probably adopt the Chambers amendment, and we should probably work more on this bill and put more exceptions in when we get to Select File. Thank you very much.

SENATOR CUDABACK: Thank you, Senator Hilgert. Senator Wickersham, on the Chambers amendment.

SENATOR WICKERSHAM: Well, this is an interesting discussion but if you will go to page 10 of the green copy of the bill and you will go to lines 9 through 18, you will see very familiar language. This has been the law for a long time, and I don't think that we will be well served by making itemized exceptions to what has been a general rule that has applied to public officials and public employees for years.

SENATOR CUDABACK: Are you through, Senator Wickersham?

SENATOR WICKERSHAM: Yes.

SENATOR CUDABACK: Thank you. Senator Schimek, on the Chambers amendment to the Wickersham LB 242.

SENATOR SCHIMEK: Yes, thank you, Mr. President and members. I...I've just sort of gotten focused in on this discussion and I'm not sure that I've heard it all. But, Senator Chambers, back to some of your original discussion about the head football coach. I don't believe that's what this...these statutes are referring to. I think the sit...kind of situation that you're talking about is perhaps a moonlighting situation where a head football coach might get some remuneration for going on a television show or a radio program or whatever, just because

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he's a head football coach. There's no prohibition in law for him doing that. What this particular bill is trying to govern is an employee or a...or an elected official who would be taking money, or...or having personal gain, I should say, from a public decision or from public knowledge. And I...I question the direction that this whole discussion is going because a lot of this bill, as Senator Wickersham just mentioned, is in existing statute and it's been there for, like, 20 years. And some of even the underlying sections that you see in this bill are not new. They are just rearranged from a different place in statute. So I think we're getting into some areas that really, if we want to have a discussion on them, then it should be a new discussion on a new day. I think that...I mean, I'd be happy to try...I'd be happy to give the rest of my time to you, Senator Chambers, and if you would like to continue discussion, that's fine, but I really think that...that some of this discussion is...is leading us totally away from the purpose of the bill. And I may be wrong about that and you may be able to point that out to me, but I'll give the rest of my time to you, Senator Chambers.

SENATOR CUDABACK: Senator Chambers, about two and a half minutes.

SENATOR CHAMBERS: Thank you, Senator Schimek. Thank you, Mr. President. Members of the Legislature, what happens with me in a lot of instances, and I'm ready to acknowledge it whenever it occurs, there will be existing law of which I was unaware. When it comes to my attention, I cannot ignore it. The fact that this is language that is already in the law does not take away from the validity of the discussion that we're having this morning. Now that it is on the scope and it has been brought to the public's attention, a question does arise as to the meaning of this language. I would like to ask Senator Schimek a question, the answer to which she may not know.

SENATOR CUDABACK: Senator Schimek, will you yield?

SENATOR SCHIMEK: You anticipate. (Laugh)

SENATOR CHAMBERS: No, just so you won't think I'm asking an

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unfair question.

SENATOR SCHIMEK: All right. Thank you.

SENATOR CHAMBERS: Senator Schimek, are you aware of this language relative to a public employee not using his or her office for personal financial gain has ever been the subject of a court case or a complaint before the commission where we have some kind of official interpretation of this language and its application?

SENATOR SCHIMEK: You're right. I do not know the answer to that, but I will go back and ask Frank Daley who is standing back behind the window and see if he has knowledge of such a court case.

SENATOR CHAMBERS: Thank you and I'll continue to use the little time that may be left. I believe...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...whenever an issue comes before us and it's within the context of what we're discussing and within the language of a bill that is before us, that is time it should be addressed. If we think by turning our eyes away from it we can make an issue go away, that is a mistake. I would be reassured by what Senator Wickersham and Senator Schimek may be suggesting that none of this that I'm saying has any validity based on this existing language, but I would want that assurance other than being based just on their opinion. I think the language does have implications of the kind that we've discussed this morning. Thank you, Mr. President.

SENATOR CUDABACK: Senator Chambers, your light in next. You may continue if you wish.

SENATOR CHAMBERS: Is this my third time?

SENATOR CUDABACK: It is, Senator.

SENATOR CHAMBERS: Okay. Members of the Legislature, read the

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underlined language. As Senator Schimek and Senator Wickersham have pointed out, if you look above it, you'll see very similar language stricken which means that language that was stricken is already law. It's been placed in a different position. I would like to ask Senator Wickersham a question, just on that aspect of this.

SENATOR CUDABACK: Senator Wickersham, would you respond?

SENATOR WICKERSHAM: Yes.

SENATOR CHAMBERS: Senator Wickersham, I have not been able to compare it word for word, but is this underlying language that we're talking about an exact mirroring of the language above?

SENATOR WICKERSHAM: There are minor differences. The...for example, the one it says...it starts off with no public official as opposed to the other line that starts out with a public official, so there's a slight change in the language. The reason that the section is restated is because we have a general rule that applies to public officials and public employees, and then contained in that subsection (4) there is also a specific rule that applies only to members of the Legislature. And it seemed to me that it would clarify our statutes if we simply divided out the rule that is specific to the Legislature that you now see a subsection (2) on page 11 from the general prohibition that applies to everybody else.

SENATOR CHAMBERS: Thank you, Senator Wickersham. And with his explanation, we know that there has been no substantive change at all in the language that has been stricken. What we see underlined that is being discussed is, in fact, language that in substance in every significant aspect is currently in the law. I'm going...while my time is running, I'm going to consult with my advisor for a second or two. Mr. President, I will ask Senator Schimek a question. Senator Wicker...I meant Senator Schimek, what were you able to determine when you...

SENATOR CUDABACK: Senator Schimek

SENATOR CHAMBERS: ...left?

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SENATOR SCHIMEK: Senator, Frank Daley says that he doesn't know of any court cases involving the question of honorariums. That's what we discussed. And in fact, there has been an advisory opinion issued regarding honorariums, and basically there aren't restrictions on honorariums for senators or other officials unless, for instance, you were asked by a group that is registered as a lobbyist with the Legislature and they asked you to come and speak at their annual event. If you asked for some exorbitant fee for that event and they didn't...and they didn't annually pay that kind of a fee for their speaker, then I think that would be very much subject to question. But generally speaking, you are free to do honorariums.

SENATOR CHAMBERS: But there was nothing that he had at this point with reference to the amounts of money that a public employee like the coach would receive as a result of using his office for that purpose.

SENATOR SCHIMEK: I didn't discuss that specifically with Mr. Daley.

SENATOR CHAMBERS: Okay. Thank you though, Senator Schimek, for that help. Here's again what I'm looking at. If the language says no public employee shall use his or her office...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...for financial gain other than compensation, what does it mean? If you can use your position for financial gain, why have this prohibition in the statute? If you cannot use it for gain, then it would prohibit the coach from doing what I'm talking about, so either the language means something or it doesn't. Since it's in the statute, I'm going to presume that it means something, and I haven't had an explanation of what it means other than what I think it means. And I think it means what I think it says.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Redfield, on the Chambers amendment to the Wickersham bill, LB 242.

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SENATOR REDFIELD: Thank you, Senator Cudaback, members of the body. I understand that this language does exist in the current statutes, and therefore I think it is extremely important that we discuss the issue and come to some conclusions as we are dealing with this bill. I would be concerned that we don't have statutory clarity on this issue because I think that as we look at national agendas, national discussions on campaign finance reform, this is something that the public is concerned about. They don't want public officials, they don't want public employees of using their office, and certainly the intent of this bill was to make sure that we were...we were even more closely aligning our statutes with that thought. And so, Senator Wickersham, I appreciate the bill, but my question, Senator Wickersham, is would you be willing to look at clarifying this language so that we know, not just by rule or by somebody's opinion, what in effect a public official or a public employee could do legally without any ethical question drawn to it? Senator Cudaback, could you ask Senator Wickersham to respond?

SENATOR CUDABACK: Senator Wickersham, will you yield to a question?

SENATOR WICKERSHAM: Yes. Well, Senator Redfield, I think that certainty benefits us all, but I doubt that we could draw statutory language that would meet all of the circumstances under which someone might be offered an honorarium or compensation or reimbursement or other remuneration for some activity. And then I think that there is also the issue of use of property. Can you sit in your office and use the state's computers to...excuse me, to keep track...let's see, what would you want to keep track of? Keep track of your checkbook. Could you load a program onto your state computer to keep track of your checkbook? No. Should we have a rule that says you can't do that? No. Should we have a broad prohibition against doing that? Yes.

SENATOR REDFIELD: I'm not supporting the amendment that we had before.

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SENATOR WICKERSHAM: Yeah. No, I understand. But I mean I don't think, Senator, that you can articulate and list a set of circumstances and say this one is in, that one is out. I'm far more comfortable with a broad prohibition that just says you can't use and you can't obtain remuneration other than the lawful compensation that your position calls for for doing...for doing your...for carrying out the responsibilities for whatever your position is.

SENATOR REDFIELD: I understand the difficulty when you start making a laundry list...

SENATOR WICKERSHAM: Sure.

SENATOR REDFIELD: ...that there always are some things that you leave out. But the language that appears here would be a blanket prohibition to me...

SENATOR WICKERSHAM: That's...that's correct.

SENATOR REDFIELD: ...as I have read it.

SENATOR WICKERSHAM: That's correct.

SENATOR REDFIELD: And therefore, in the way I would read this and the way I believe an average Nebraska citizen would read it would be to say that there would be no room whatsoever for any public employee or official to take any kind of moonlighting job.

SENATOR WICKERSHAM: Well, no. They can have a second job.
(Laugh)

SENATOR REDFIELD: If it is hinged upon the fact...

SENATOR WICKERSHAM: As long as it does not involve the use of any of the public resources that are under their supervision and charge.

SENATOR REDFIELD: Oh, I don't question the use. I think that the use language is just fine. The question is the office, the

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fact that you may be asked to testify in a court case because of the office you hold, or you may be asked to be a consultant in an issue as a University employee because of the knowledge you hold in your position at the University...

SENATOR CUDABACK: One minute.

SENATOR WICKERSHAM: Yeah.

SENATOR REDFIELD: ...or a state senator or elected official somewhere else.

SENATOR WICKERSHAM: Okay.

SENATOR REDFIELD: That...I'm just wondering if there's some way that we could clarify the language that wouldn't put it as a blanket prohibition for these people to ever use the knowledge that they have in a legal and ethical way. And I haven't sold my speeches for expensive drinks, but...go ahead.

SENATOR WICKERSHAM: If I attempted to do that, I don't think it would get very expensive. The prohibition is against use for other than compensation provided by law. For example, if I was a University professor and I was going to run grants and I...my contract with the University would probably say that you do such and such, you do such and such, and then I know that frequently there are provisions in their contracts that say, and in addition you can have one month, two months, one quarter of your time,...

SENATOR CUDABACK: Time.

SENATOR WICKERSHAM: ...something else for other purposes, so they...they take care of that issue.

SENATOR REDFIELD: What about public officials, they don't have con...

SENATOR CUDABACK: Senator Redfield, your time is up. I'm sorry.

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SENATOR REDFIELD: Thank you.

SENATOR CUDABACK: Senator Schimek, on the Chambers amendment. Senator Schimek waives. There are no further lights on at this time, Senator Chambers, if you wish to close on your amendment to LB 242.

SENATOR CHAMBERS: Mr. President and members of the Legislature, I in no way want to impede this bill. I was thinking we were on Select File with this bill. To be sure that nothing that I offer is going to stop the bill from moving forward if it can, I'm going to withdraw the amendment at this time. I will have discussions with Senators Wickersham, Schimek, Redfield and Senator Foley if he's interested, and anybody else who has an interest in this area. At that...because of that and these considerations, I want to withdraw my amendment.

SENATOR CUDABACK: So ordered. Mr. Clerk, items for the record?

CLERK: Mr. President, some items if I may. Your Committee on Appropriations to whom we referred LB 538 instructs me to report the same back to the Legislature with a recommendation to be advanced to General File with committee amendments attached; LB 539, General File with amendments attached, LB 540, General File; LB 541, General File with amendments; LB 542, General File with amendments; LB 543, General File with amendments. Mr. President, your Committee on Enrollment and Review reports LB 142, LB 620, LB 833, LB 641, LB 468, LB 659, LB 781 and LB 598 to Select File; some of those having Enrollment and Review amendments. And finally, Mr. President, Senator Schrock has an amendment to LB 329 to be printed. (Legislative Journal pages 1590-1600.)

SENATOR CUDABACK: Thank you, Mr. Clerk.

CLERK: Mr. President, the next amendment I have to LB 242, Senator Beutler, AM1601. (Legislative Journal page 1600.)

SENATOR CUDABACK: Senator Beutler, to open on your AM1601 to LB 242.

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SENATOR BEUTLER: Senator Cudaback, members of the Legislature, this amendment represents a series of minor amendments that are agreeable to Senator Wickersham. It starts out on page 6, which is the provision relating to officials of a political subdivision and their financial benefits, a section of law, which indicates that if they have a potential conflict, they need to file a written statement and they deliver a copy of that statement to the commission. Well, this little amendment just says that you deliver a copy of it, in addition to the commission, to your local political subdivision and the one who keeps the records, so that the people who really need to know about this are put on notice. That's the one amendment. The second amendment strikes the criminal penalty that applies to the provision related to political subdivisions for the reason that we don't have criminal penalty provisions pertaining to similar sections of law but rely upon civil penalties, so we make that like...like the other subdivisions. And then there's a clarification on line 25 of page 6 so that it's clear that that particular section of law, Section 5, applies to state government and not beyond state government. Actually it's kind of interesting to note when you say "An official or employee of the executive branch of state government shall not employ or recommend or supervise the employment of an immediate family member", would you intend that to apply to a recommendation to a private industry to a company or to private industry anywhere that your wife or brother or sister ought to be employed by them? I mean, should the Governor of the state be able to do that? Probably we would think not. But this provision isn't in any...in any event intended to apply to that kind of situation, and this amendment so says. And that, I think, is about all except for subdivision (3) of the amendment and that was a provision that was also simply intended for clarification but it involved the Exec Board and the prerogatives of the Exec Board and, frankly, I didn't get that...that language quite right and I think Senator Coordsen has an amendment to strike subsection (3) so I'm not even going to tell you about it because I think he's right. But that's the thrust of the amendment. Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. Mr. Clerk, item to the amendment?

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CLERK: Senator Coordsen would move to amend. (FA202, Legislative Journal page 1600.)

SENATOR CUDABACK: Senator Coordsen, to open on your amendment, FA202.

SENATOR COORDSEN: Thank you, Mr. President, members of the body. The amendment to the amendment simply strikes Section 3 of Senator Beutler's amendment. He and I have spoken about it. The language that is proposed, while not, as I understand Senator Beutler's intent, the language would prohibit the Exec Board from...the Legislature from adopting any policies that would prohibit any type of telecommunication device from being installed; that is, any member of the Legislature could put in place anything they wanted and the role of the Council would only be to say how it was done, to allow that. So I think at this time it would be appropriate to adopt this amendment to AM1601. I have no objection to the rest of Senator Beutler's amendment. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Coordsen. Open for discussion on the Coordsen amendment, Senator Wickersham.

SENATOR WICKERSHAM: Mr. President, I support the Coordsen amendment and then if the Coordsen amendment is adopted, I would support the Beutler amendment. I think Senator Beutler proposes a number of things that I think are desirable clarifications. I'm glad that he has taken the time to read through the material carefully and to make the suggestions that he is making, with the exception of the one that would change the rule with regard to fax machines and telephones and telephone lines that we can bring into our legislative offices. I did have a concern as I saw the original proposal by Senator Beutler that it altered the relationship of the Exec Board and its authority to make sure that any devices, for example, that were installed were compatible with the state systems that they'd have to run through because anything you put in there is going to have to run through state switches. You can't avoid that, at least I don't think you can avoid that, and we certainly want...wouldn't want anything that would cause problems with the state switching

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system that we all have to use, and other considerations. So I, when I saw the original language, I was apprehensive that it removed Exec Board authority, and Senator Beutler then made a subsequent effort to re...to meet that concern, but even after he did that, it still raises concerns from Senator Coordsen. And rather than worry about whether or not we've got the proper amount of authority residing in the Exec Board to manage what is literally the system that has to serve all of us, I would just prefer to leave the language the way it is.

SENATOR CUDABACK: Thank you, Senator Wickersham. Senator Coordsen, there are no further lights on. Senator Wickersham waives closing. The question before the body is the adoption of the Coordsen amendment, FA202 to AM1601. All in favor of the Coordsen amendment vote aye, opposed nay. We are voting on the Coordsen amendment to the Beutler amendment. Have you all voted who care to? Record, please, Mr. Clerk.

CLERK: 26 ayes, 0 nays, Mr. President, on the adoption of Senator Coordsen's amendment to Senator Beutler's amendment.

SENATOR CUDABACK: The Coordsen amendment is adopted. Senator Beutler, there are no further lights on. Senator Beutler waives closing. The question before the body is, shall AM1601 be adopted to LB 242? All in favor of that amendment vote aye, opposed nay. We are voting on the Beutler AM1601 to LB 242. Have you all voted who care to? Record, please, Mr. Clerk.

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

SENATOR CUDABACK: The Beutler amendment is adopted.

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

SENATOR CUDABACK: Back to discussion the advancement to E & R Initial? Senator Wickersham, there are no lights on. Did you wish to close on advancement of LB 242?

SENATOR WICKERSHAM: Mr. President, I want to be brief. I've...again this is one of those bills where I hope the

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discussion, the offering of the amendments and the discussion that happened around the amendments is beneficial to you and to those who might have been listening. These...the bill deals with areas in which people can make mistakes. And to avoid making mistakes, they need to know what the existing law is and what kind of changes that we're proposing to the law. So I hope in that context that we have brought a little bit of awareness about those issues and that those who were listening and aware of the discussion and our thoughts about the issues that were raised will not be as apt to make a mistake as they might have been before because even making a mistake does not insulate you from paying a penalty, let alone if you acted intentionally to violate state law. This, the bill I hope clarifies a number of instances in state law where persons might otherwise have made mistakes or, quite frankly, not been able to find a rule very easily that was applicable to them, so they might have done something out of ignorance. And it does clarify a couple of situations that I think needed clarifying, particularly with regard to contracting. It makes...and it adds through the amendment process I think some clarification for members of the Legislature about what we might or might not do in the course of our responsibilities as a member of the Legislature. And I hope that you will support the bill.

SENATOR CUDABACK: You've heard the closing on the advancement of LB 242. All in favor of LB 242 advancing to E & R Initial vote aye, opposed nay. We are voting on the advancement of LB 242. Have you all voted who care to? Record, please, Mr. Clerk.

CLERK: 31 ayes, 2 nays, Mr. President, on the advancement of LB 242.

SENATOR CUDABACK: LB 242 does advance. Next agenda items, General File, 2001 committee priority bills. Mr. Clerk.

CLERK: Mr. President, Senator Jensen offers LB 640. (Read title.) Bill was introduced on January 16 of this year, referred to the Health and Human Services Committee for public hearing, advanced to General File. I do have committee amendments, Mr. President. (AM1022, Legislative Journal

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page 1136.)

SENATOR CUDABACK: Senator Jensen, you're recognized to open on LB 640.

SENATOR JENSEN: Thank you, Mr. President, members of the body. There's a sheet coming around that will kind of put the essence of LB 640 in a bullet form and perhaps you can follow along with that. I am privileged to reintroduce LB 640 with Senator Thompson, Senator Dwite Pedersen, and Senator Brown, and I know that many more of you will also support the bill. This is a...really a property tax relief bill in that the state will be picking up some of the cost, in some cases a great deal of the cost, that counties have been doing up to this point in time, and it...it addresses concerns expressed by the county government regarding the rising costs of providing juvenile placements. As we've already heard, the state's juvenile services system is being faced with many challenges. The appropriate placement and rehabilitation of youth entering the system is, of course, critical. Youth entering the system suffer from significant problems of substance abuse, mental illness, or both, and community-based programming holds, really, the greatest potential for positive results, and our counties and communities are a necessary resource and an indispensable part of providing that help that is needed. LB 640 relates to the Juvenile Services Act, which was first enacted by the Legislature in 1990 under LB 663. The bill adds two sections to the act. Under the act, the Crime Commission currently administers competitive juvenile services grant program in cooperation with the Nebraska Coalition for Juvenile Justice. Under the program, communities and eligible service providers may apply for discretionary funding to implement and operate programs or services which have been identified in a comprehensive juvenile services plan. Development of such a plan is currently required for obtaining a Crime Commission grant. As you recall, the Legislature provided for comprehensive juvenile planning by counties in LB 1167 last year when it adopted the Nebraska County Juvenile Services Plan Act. The bill required each county to develop a juvenile services plan by January 1st of 2003. Many counties have already completed their plan or they are now in the progress...or

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process of that planning. LB 640 separately names the Commission Grant Program and creates a new aid program to counties under the act called the County Juvenile Services Aid Program. To be eligible to participate in either the Commission Grant Program or the County Juvenile Services Aid Program, counties must develop and adopt a comprehensive juvenile services plan and submit the plan to the Office of Juvenile Services, or OJS. The presiding judge of the juvenile court must concur with any part of the plan that deals with administration procedures or programs of the court. The bill limits annual General Fund appropriations for the County Juvenile Services Aid Program to \$4 million and sets aside \$500,000 of that amount for planning grants to counties to help with the development of their plans. OJS is required to develop or contract for the development of a statewide system to monitor and evaluate the effectiveness of the plans being funded under the Commission Grant Program and the County Juvenile Services Aid Program. Aid must be equitably apportioned to counties based on a formula adopted by OJS in rule and regulation, and must be used to help counties establish and provide community-based services for juvenile offenders. A 40 percent local match from "nonstate" funds is required. All funds must be used to assist counties...

SENATOR CUDABACK: One minute.

SENATOR JENSEN: ...in providing the funds identical in their comprehensive juvenile services plan, including programs for assessment and evaluation, prevention of delinquent behavior, diversion, detention, shelter care, intensive juvenile probational services, restitution, family support system, and family group counseling. Aid cannot be used for construction of secure detention facilities, secure youth treatment facilities, or secure youth confinement facilities. Aid cannot be used to replace or supplant existing juvenile services funded by the county. As an accountability measure or to ensure that the juveniles are given the least restrictive placement possible, the bill provides that aid to the county will be reduced by cost to the state of caring for juveniles who are assessed to be appropriate for a less restrictive level of placement, but who are committed to OJS for placement at a YRTC or a more

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restrictive placement. LB 640 provides legislation intent to appropriate \$1.67 million in General Funds for the Fiscal Year 2001-2002, and \$3.68 million in Fiscal Year 2002-2003 for County Juvenile Services Aid Program, a total of \$5.35 million. The bill has an operative date of July 1, 2001, and contains an emergency clause. Mr. President, that will conclude the opening and I would be prepared to introduce the committee amendment at this time.

SENATOR CUDABACK: Thank you, Senator Jensen. As Chairman of the Health and Human Services Committee, you're recognized to open on the committee amendments.

SENATOR JENSEN: Thank you, Mr. President and members of the Legislature. The committee amendment is the white copy version of the bill. It separates the aid program from the planning grant program and provides for administration of the planning grant program by the Crime Commission. Annual General Fund appropriation for such grants is limited to \$250,000. Annual General Fund appropriations for the County Juvenile Services Aid Program are limited to \$3,750,000. The committee also provides that counties may use any of their current local expenditures for community-based juvenile services to meet that 40 percent match requirement in the bill. This was a point that both Lancaster and Douglas County were very interested in because they also...they already have some programs underway. The amendment provides legislative intent to appropriate \$1.42 million of General Funds Fiscal Year 2001-2002, and \$3.43 million in Fiscal Years 2002-2003 for the Juvenile...the County Juvenile Services Aid Program; and \$250,000 in General Funds in FY 2001-2002, \$250,000 in 2002-2003 for planning grants. Again, the total is \$5.3 million. The committee amendment also includes provisions of LB 652 introduced by Senator Wehrbein, which has to do with the costs of juvenile evaluations and pre-evaluation detention costs. The bill was introduced in response to a recent decision of the Nebraska Supreme Court under LB 652, as amended into LB 640. The state is required to pay juvenile evaluation costs unless otherwise ordered by the court. The state is also required to pay...to pay pre-evaluation detention costs beyond the first ten days after the evaluation is ordered by the court. Counties are

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responsible for all other detention costs prior to disposition, the cost of delivering the juvenile to a facility or the institution for evaluation, and the costs of returning the juvenile to the court for disposition. I would like to yield a portion of the opening on the committee amendments to Senator Wehrbein for further discussion on that portion of the committee amendment if he would like. The committee amendment also contains the emergency clause and an operative date of July 1, 2001, for the juvenile services aid portions of this bill. Mr. President, I am aware that concerns have been expressed to the Legislature about the relationship of aid programs created in LB 640 with the grant program currently administered by the Crime Commission. LB 640 is seen as unnecessary duplication and as a less effective approach to the problem of funding juvenile services in our state. These concerns were also raised in letters submitted at the public hearing on the bill. The Legislature has been urged to incorporate the new aid program into existing commission grant programs. I believe that LB 640 needs to be understood as a noncompetitive aid program to counties which is separate and distinct from the competitive grant program currently being administered by the Crime Commission. Mr. President, I would...I would like, if the body so chooses, to advance LB 640 this morning. If there are questions or if there's something that needs to be worked on, I'll be glad to do that between now and Select File that we can address anything that you may have to ensure more appropriate and effective coordination with the Nebraska County Juvenile Services Plan Act and Juvenile Services Act, and the new County Juvenile Services Aid Program. With that, that will conclude the committee amendment, with exception. If Senator Wehrbein would like to make a few comments I'd be glad to relinquish some time to him.

SENATOR CUDABACK: Senator Wehrbein, there are about five minutes left on the opening.

SENATOR WEHRBEIN: Thank you, Mr. President. Members of the body, I'm going to speak. Particularly, this is LB 652 that I introduced and it's to clarify who is to pay the costs in the...in the...distinguishing between the state and the county, and I'm going to read: Otherwise...unless otherwise ordered by

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the court, the state is required to pay juvenile evaluation costs. The state is also required to pay pre-evaluation detention costs beyond the first ten days after the evaluation is ordered by the court. Counties are responsible for all other detention costs prior to disposition, the cost of delivering the juvenile to a facility or institution for an evaluation, and the cost of returning the juvenile to the court for disposition. I introduced this bill in response to a Supreme Court case that was interpreted back in Jan...in December of 2000 which ended up, in the absence of clarity in the law, determined that the state was responsible for some of these costs. The area I'm talking about in the bill is at the bottom of page 1 and the top of page 2 in the amendment, I should say, AM1022, and it states: Except as provided in subdivision (4)(b) of this section, the county in which the state (sic--case) is pending is responsible for all detention costs incurred before and after an evaluation period prior to disposition, the cost of delivering the juvenile to the facility or institution for an evaluation, and the cost of returning the juvenile to the cost (sic--court) for disposition; and (b) the state is responsible. That is, the state is responsible for the costs incurred during an evaluation, unless otherwise ordered by the court, and the pre-evaluation detention costs for any days over the first ten days from the date the evaluation is ordered. And I...this is put in the law to clarify because we lost the lawsuit, it was \$3.7 million, because the law was silent as to the clarity of who is responsible for this cost. We feel, and the committee put it in this committee amendment, that this ought to be clarified, that the counties have certain areas of cost, the state has certain areas of costs. This delineates and lays out exactly who (sic) those costs are. I think it's an issue of fairness. Juveniles end up in different custodies. This clarifies the order that that will be and who is to pay those costs accordingly. And so this part of the amendment, AM1022, I wanted to call your attention to. And I also support the...the amendment in its entirety. I just want to remark there is a significant A bill on this. It's one of the areas that we're going to have to discuss in terms of priority and what the costs to this state are. To me, you've heard me talk many times about societal costs. This is one of those areas--Office of Juvenile Services. We have some responsibility here. In fact, that

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responsibility has been increasing and we've had lots of discussion in the last few days on this. The bottom line is, it costs money and it's going to have to compete for the A bills. This...this is not...this particular part is not in the mainline bill that you have on your desks today and what we're...what we introduced today. This carries its own A bill and so will have to compete with the amount of money that was left for A bills. But it is societal costs, in my opinion, that are catching up to us and we are going to have to react. Senator Jensen brought this and I think that we ought to consider this strongly, knowing that it's probably going to be difficult to spend this much money. Thank you.

SENATOR CUDABACK: Thank you, Senator Wehrbein. Mr. Clerk, motion on the desk.

ASSISTANT CLERK: Mr. President, Senator Jensen would move to amend with AM1411. (Legislative Journal page 1464.)

SENATOR CUDABACK: Senator Jensen, you're recognized to open on your amendment to the amendment.

SENATOR JENSEN: Thank you, Mr. President. Members of the Legislature, LB 640 would introduce...contain language that prohibited aid from being used to replace or supplant current juvenile services by the county. AM1411 removes that restriction and, instead, requires annual reporting by the counties to OJS. Douglas County, like I said, have been expending large amounts of dollars and they would just like to have that contributed as part of that 40 percent match. And the lobbyist from the county was able to work with PRO and to receive approval to remove that particular language, and then the report then must have at least the following: the total number of juveniles served, the number of units of service provided, the annual service...the annual juvenile justice budgeted and actual expenditures by the county, and then county expenditures for detention, residential treatment and nonresidential treatment. Aid under LB 640 must be used to help counties establish and provide community-based services for juvenile offenders. AM1411 also requires and clarifies the intent of LB 640 that the aid funding must be used to increase

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capacity for community-based services to juveniles. The amendment is introduced because of the concerns raised with respect to the bill. I don't know of any opposition to the amendment and I do have a copy, by the way, a signed resolution by the Douglas County Board of Commissioners supporting the language to the amendment, and I'm grateful for their cooperation and support for this bill. With that, I will conclude the amendment. Just ask for adoption of AM1411.

SENATOR CUDABACK: Thank you, Senator Jensen. You heard the opening on the Jensen amendment to the committee amendments to LB 640. Open for discussion on that amendment. Senator Beutler, followed by Senators Wickersham, Wehrbein, and Janssen. Senator Beutler.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, Senator Jensen, this is a bill that's been complicated for me, speaking quite frankly, by the letter we've received from the Families and Children Coalition suggesting that there was a high degree of duplication and setting out in some detail the items of duplication, et cetera, et cetera. And so eventually I'd like to have more discussion about that, and more explicit discussion. Having been burned once by a larger reorganization that I didn't pay enough attention to, I'd like to pay a little more attention to even this one, which is obviously somewhat more minor. Having said that, let me ask you about the...about the amendment that you just filed. As I understand it, it strikes language from the bill, it in part strikes language from the bill that says: "Aid received by a county under this section shall not be used to replace or supplant any funds currently being used to support existing programs for juveniles." And perhaps I wasn't listening to you quite closely enough, but you were saying that Douglas County was saying that they would like to use the money they're putting into the existing programs in order to match...in order to provide the match for new money. Is that what I heard?

SENATOR CUDABACK: Would you yield, Senator Jensen?

SENATOR JENSEN: This requirement is in the committee amendment.

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SENATOR BEUTLER: Is in the committee amendment, okay.

SENATOR JENSEN: Right. And...but that...that is correct. They have, like I said, been expending a great deal of funds. This helps use some of those funds as part of that match.

SENATOR BEUTLER: Okay. Well, it seems to me that there's some distinction between the actual language of the bill and the question of whether you can use it as a match. Let me see if I can illustrate in my own mind by example what I think that difference might be. Let's say hypothetically, and this...I have no idea how much money they're spending. This may be way off the mark. But let's just say hypothetically they're spending a million dollars right now. That would provide enough match, if you were allowed then to use that existing money, would provide enough match for another one million-something thousand dollars. Right? That would...the million dollars could be your 40 percent match to get an additional, a hundred-plus million...yeah, a hundred...a million-plus dollars. Are...you follow so far?

SENATOR CUDABACK: Senator Jensen.

SENATOR JENSEN: Well, it...

SENATOR BEUTLER: Or am I accurate so far, I should say?

SENATOR JENSEN: Okay. You are accurate. It doesn't guarantee that they're going to get more, and their report must include some of the information that I...that I read.

SENATOR BEUTLER: Okay.

SENATOR JENSEN: But...but, yes, some of the things that they are already doing and expending and...and, like I said, we are talking about, in some cases, sizeable amounts of money, can be used to reduce or to be part of that match. The whole purpose of this...

SENATOR BEUTLER: Let me...

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SENATOR JENSEN: ...all right, go ahead.

SENATOR BEUTLER: ...let me follow through with this example, just so I get the facts straight though. All right, let's say that they do apply...they do apply the 40 percent that they're spending, that million dollars, to the match, and now they get another \$1,300,000 let's say. Can they then reduce the \$1 million that they're already spending down to almost no local funds at all being spent? In other words, replace...

SENATOR CUDABACK: One minute.

SENATOR BEUTLER: ...or can they reduce it down...can they replace it altogether, or can they reduce it down only to the 40 percent, that is, \$400,000?

SENATOR JENSEN: That's exactly where it is.

SENATOR BEUTLER: That's what you're...that's what's intended.

SENATOR JENSEN: Right.

SENATOR BEUTLER: Okay.

SENATOR JENSEN: The...the...

SENATOR BEUTLER: Go ahead.

SENATOR JENSEN: Well...

SENATOR BEUTLER: Then go ahead with what you were going to say so we...

SENATOR JENSEN: ...no, no, that is exactly what happens with this bill. They...whatever the state gives them, they must come up with 40 percent.

SENATOR BEUTLER: Okay. So then the following year again they could use their 40 percent to match. Okay, I think I understand it. Thank you very much.

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SENATOR JENSEN: Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. Senator Wickersham, on the Jensen amendment.

SENATOR WICKERSHAM: Mr. President, I'm...I don't want to engage Senator Jensen in a question and answer session here, but on first blush when I read this bill I thought that this was what I would characterize as the "son of Thompson and Will" and their efforts to provide state funding for existing programs in counties for juvenile services. That is, we would just simply use state money to supplant what was previously a local responsibility. We've had those kinds of bills before. Now I see that this bill requires a 40 percent local match from "nonstate" sources. Senator Beutler was starting to raise questions about that. I'm not sure whether that is new spending by the counties that might qualify for the grants; whether their existing programs qualify them automatically if they have the requisite level of expenditures; and I'm not sure why we should have a grant program that simply qualifies you because you have an existing program and we would know, for example, that you didn't have to make any extra effort to obtain the grant funds. It would seem to me that we would, if we're going to run a true grant program, usually the notion is that we are "incenting" some additional effort from...on the part of the grant recipients, other than we have a good idea to run an additional program and why don't you fund it? We've seldom, I think, thought that grant programs should work in that way. I'm also just, frankly, unfamiliar enough with this area to know whether or not what we are proposing is, in fact, new programs or new efforts by the counties to deliver juvenile services or whether we are simply going to be using state dollars to replace current expenditures, and I hope that some time during the debate Senator Jensen or others can address the concerns that I'm raising. I am...I listen carefully when Senator Wehrbein says that he...that this will have to go in line with the other needs that will be funded out of A bills; that we're going to have a tough set of decisions to make about A bills and which ones to advance and if we...if we work ourselves into the undesirable situation where we send the Governor a budget with A bills that is unbalanced, I would suggest to you that I know which one is

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going to survive. So we shouldn't advance this bill with its accompanying A bill unless we are really serious about expending the money, because if this goes over to the Governor's Office, it's going to get spent.

SENATOR CUDABACK: Thank you, Senator Wickersham. Senator Janssen, on the Jensen amendment. Senator Janssen. He's on his way.

SENATOR JANSSEN: Thank you, Senator Cudaback. Members of the Legislature, when I heard Senator Wehrbein talking about the A bill, you know, it just seems to me that...that this is an A bill no matter what way you look at it. Now we're either going to pay for it with property tax or we're going to pay for these services through sales and income tax. I, personally, believe that...that, you know, the more we can use sales and income tax, my own belief, the less we'll have to nail that property tax owner who is sitting there screaming about every dollar that they have to fish out of their pockets right now. But anyway, so the more we can do this way, in my opinion, is a fairer way of spreading the cost to provide these services to everyone in the state of Nebraska. So I'm supporting this bill, Senator Jensen. I think it's a great...it's too bad that we have to...we have all these problems, but in our society we live in I think you're going to see more of them. Sorry to say that, but it's an area that I believe is going to...going to grow, and we need to broaden the tax support as much as we can on all areas of tax dollars. With that, for what it's worth, I will be supporting the bill and the amendment.

SENATOR CUDABACK: Thank you, Senator Janssen. Senator Thompson, on the Jensen amendment.

SENATOR THOMPSON: Thank you, Mr. President and members of the body. I support the Jensen amendment to the committee amendments, and the committee amendment that becomes the bill, but I just would like to use this time to bring a little history to this discussion and support the course of action. In 1998, when I chaired the Nebraska Juvenile Justice Review, we did discuss the fact that there were two grant groups at the Crime Commission and we had the newly created, so to speak, in the

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history of the state, a few years old, Office of Juvenile Services. And those of you who were in the Legislature that year may also remember a discussion of the grant program for community corrections that, at that point in time, was also delivering...allowing people to apply for juvenile grants. One of the problems, and having been one of those people working with community groups, is that we talked about how many different places a community group could go or a community organization through a county or the county itself would go in state government to address their juvenile justice issues. Our group recommended that both the juvenile justice grant groups at the Crime Commission could be merged and moved to the Department of Health and Human Services. Over the last three years, that was just a little too much to accomplish and probably with so many issues that the department was addressing wasn't as feasible, but we did, as a Legislature, merge the two grant groups at the Crime Commission and create one juvenile justice grant program. So we're at a point where we can say this program should go to that group, or the Office of Juvenile Services should begin to develop these relationships that the Crime Commission has and begin the process of being more involved in working collaboratively with the counties on this issue. So I think this amendment is a reasonable compromise to both of those ideas and a step trying to move a little more cohesiveness to the processes that we have set up as a state to assist counties. The Crime Commission grants are state general-funded grants, but they're also federally-funded OJJDP grants, which is the Office of Juvenile Justice and Delinquency Prevention, and also there are some new grants that are coming from the federal government. The Crime Commission has had a longstanding relationship with the federal government for this...these grants and that grant process and I've come to the conclusion that they need to be clearly involved and have that aspect of it. This allows the Office of Juvenile Services to develop that same relationship with the counties collaboratively through the office or through the Crime Commission, with the Crime Commission still having authority over aspects of it and the department having authority over aspects of it. A lot of what we recommended in the 1998 report was long range and was trying to address things if we could have an all perfect world, but I don't think we are at a point where we can, either,

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transfer those grants solely out of the Crime Commission to the Office of Juvenile Services at this point in time. But this measure attempts to bridge that and create some new relationships between the office and the counties that could foster more planning. And I, I guess to answer the question that Senator Wickersham had, although I'm not on the committee anymore and I'm not the author of this bill nor was I involved with the committee's work on this bill, but I think it's...it's okay to go this direction. There...I have more comfort with it because the...the A bill and the fiscal note indicate that the department,...

SENATOR CUDABACK: One minute.

SENATOR THOMPSON: ...the Office of Juvenile Services will be given additional employees to be able to manage this and also some contracting authority to be able to manage this. This is a very large amount of money and we need to have oversight of that money and be able to help the counties with that distribution of the money. So, in terms of the process that's set up in this bill, it may not be the way some of the rest of us may have thought first on. Maybe the thought would have been to go with the...the Crime Commission for the entire grant, but I understand the administration's interest in...in fostering the Office of Juvenile Services' relationship with the counties and I think it's...I support the way the amendment is written that gives the...and actually the bill was written, to give this authority to the Office of...

SENATOR CUDABACK: Time.

SENATOR THOMPSON: ...Juvenile Services. Thank you.

SENATOR CUDABACK: Thank you, Senator Thompson. Senator Jensen, on the committee amendment amendment.

SENATOR JENSEN: I'd just reply, I think, Senator Beutler, you had a question still on the formula, or are you okay with that?

SENATOR CUDABACK: Senator Beutler.

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SENATOR BEUTLER: I wanted to clarify, because I'm not sure. I think it differs sometimes in different programs how the match works, and...and what I was trying to get to I think is this. Let's say you...you apply for or your aid distribution comes down, the formula comes down, and you get \$1 million. I...is...your match could be one of two things. It could be 40 percent of that \$1 million or it could be 40 percent of the total of \$1 million plus \$400,000.

SENATOR JENSEN: Okay, the aid comes down...

SENATOR BEUTLER: How does that work?

SENATOR JENSEN: ...the aid comes down through a formula by OJS to the counties, and whatever that dollar amount is that comes then, then the county must come back and match that with their 40 percent.

SENATOR BEUTLER: Okay.

SENATOR JENSEN: The whole process behind this really is to...is to get to some of these kids before they have to go to the YRTCs, where it's very expensive. And to involve the counties, local government is still the best government there is. They can address these issues I think even much better than the state. Each one of them know where their areas of...of problems are and so that they can address those. But...so there's a partnership between here and the state and the aid formula, like I said, comes down through the...through a formula through OJS and then the county, whatever that dollar amount is, the county must match 40 percent of that in order to get the state dollars that are available. I do believe it is a good partnership, one that's been missing in the past, and the counties have been picking up the entire costs of this. Certainly they're still going to pick up a large percentage but it does...does help in some of the property tax relief that will come from the counties and also it brings some dollars from the state in this very important area. With that, I'll return my time back to the Chair.

SENATOR CUDABACK: Thank you, Senator Jensen. Senator Beutler,

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your light is next.

SENATOR BEUTLER: Senator Jensen, to...to explore further how this is intended to work, let me...let me inquire with regard to the formula itself for the county...county services aid program. When, for example, we set up the public health system recently in LB 692...is that the right number, Jeff, LB 692...we were...we were pretty careful about the distribution of money and how that would work and we set forth in statute exactly what that distribution formula is. With regard to a variety of other state aid programs, I think you will find that almost all of them, including the basic school aid formula, set out the formula in statute that will be used. If I'm looking at this correctly, the statute here does not set out the distribution formula nor does it set out the standards by which such a formula would be calculated by OJS, and I would ask you, first of all, if that's correct and, secondly, I would say in advance or I would ask you why I should not be concerned that the formula will turn out to be something other than I would favor?

SENATOR JENSEN: That...you're right, it's not in statute. It would be established through rule and regulation. Again, I believe that that is what we've done with other areas of juvenile justice and so that, the rule and regulation, will follow this. And if you want to get more specific than that, perhaps we could address that.

SENATOR BEUTLER: Senator, I...I don't know if this can be done between now and Select File or whatever, but I am very uncomfortable...

SENATOR JENSEN: Okay.

SENATOR BEUTLER: ...with setting into place a state aid program and giving the bureaucracy, whom I have no idea what their philosophy may be on this particular issue, giving them leeway to do that which they want on such a major thing, especially if it's...I mean this is multimillion dollar ultimately and especially if it's envisioned that even more resources might go into this particular system and especially if it's envisioned that a significant infusion of federal money might go into this

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program. And let me then just ask you, in conjunction with that, always I think another thing that I think about is we continue to operate a whole number of programs through counties and that's been the traditional way we do things and that, in many ways, makes a lot of sense, of course. But as with the public health system in today's world, I don't think it makes any sense to allow each county the prerogative to establish certain kinds of programs all by themselves because I don't think that that can conceivably be dollar-efficient. And so my conjunctive question here would simply be these aid programs, this aid program, this formula that's going to be determined, is that going to go to every county? And is there anything in the bill that forces or even encourages counties to work together to form units that make economic sense?

SENATOR JENSEN: Yeah.

SENATOR CUDABACK: One minute.

SENATOR JENSEN: First of all,...

SENATOR BEUTLER: I...

SENATOR JENSEN: ...dollars...or the aid only goes to those counties who have a comprehensive plan, and there are some that will...there will be a multicounty...

SENATOR BEUTLER: How many of them have comprehensive plans right now?

SENATOR JENSEN: I'm not...I'm not sure. I can sure get that information to you. Senator Thompson says she knows.

SENATOR THOMPSON: (Microphone malfunction) I have it. I'll get it.

SENATOR JENSEN: Okay.

SENATOR BEUTLER: And I'd be interested also in how many of them, if any, have joined with other counties to make systems.

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SENATOR JENSEN: All right, and we can get that information, too.

SENATOR CUDABACK: There are no further lights on. Senator Jensen, did you wish to close on your amendment to the committee amendments to LB 640?

SENATOR JENSEN: Thank you. I'd just ask for adoption of the committee amendment and, like I said, we will continue to work through this and get more information to you.

SENATOR CUDABACK: Senator Jensen, we are on your amendment to the committee amendment.

SENATOR JENSEN: The amendment to the committee amendment. Thank you.

SENATOR CUDABACK: The question before the body is adoption of the Jensen amendment to the committee amendments to LB 640. All in favor vote aye, opposed nay. Voting on the Jensen amendment to the committee amendments. Have you all voted who wish to? Record, please, Mr. Clerk.

ASSISTANT CLERK: 25 ayes, 0 nays, Mr. President, on the adoption of Senator Jensen's amendment to the amendment.

SENATOR CUDABACK: The Jensen amendment to the committee amendments is adopted. We're now back to discussion on the committee amendments. Senator Jensen, as Chairman of the Health and Human Services Committee, there are no lights on. Excuse me, there is one now. Senator Beutler.

SENATOR BEUTLER: I just wanted to start talking about again and bring to your attention again the broader picture of things with respect to A bills and the relative amounts of money requested by A bills that are on the floor presently. I went ahead and distributed to you a priority bill list that shows everything on General File, Select File, and...and Final Reading so you could take a look at what it looks like today, and the reason that I wanted to pass it around to you today is because you are getting today and will be looking at this weekend, as I think Senator

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Wehrbein has indicated to you, I haven't been here for all the discussion, he may want to comment further to you, this blue book he's holding up. And as you look through there, one of the things that you're going to notice is that the final amount of money available for A bills that can be spent and still balance out with the proper reserves and without withdrawing further money from the Reserve Fund is essentially just short of \$11 million in each of the two biennium years. So take a look again at the bills on this list and how much money each one of them purports or would spend. If you're looking just at the bills on Final Reading, you have \$8 million in the first year and \$23 million in the second year. These are bills just on Final Reading, and you can see for the second year it's double the amount of money that we can spend on A bills. So you look back through that list and you got to start thinking about either what you're prepared to strike out or what you're prepared to send forth to the Governor that might be...that might be overage and then trying to think through what it is that the Governor is going to veto and what it is that he's not going to veto. And I think Senator Wickersham made the point, and it would be true of any Governor, that whatever A bills are at the request of the Governor he's not going to veto. So you might as well go through that list and identify each one that's at the request of the Governor and add up that total, then start subtracting that from the \$10.8 million that's available each year, then you can figure out how much money there is for all the rest of us to spend. This particular bill, of course, as has been pointed out, is in the category of a Governor's...request of the Governor bill and takes \$1.8 million in the first year and \$3.8 in the second year, so you can subtract those out. But I haven't even gone through here. I mean the \$8 million and the \$23 million in the second year of the biennium, that's just the bills on Final Reading. Now you add the bills on Select File. Add another \$2.5 million in the first year and \$6.6 million in the second year. Then you add the bills on General File and there's another \$18 million the first year and \$56 million the second year. Even if you dump teachers' salaries, that's only decreasing it by \$41 million.

SENATOR CUDABACK: One minute.

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SENATOR BEUTLER: And there are still some priority bills in committee which I suspect are probably dead at this point. But, nonetheless, the problem this year in whittling down A bills to the...to the proper size is enormous, and unless...and you have to think in terms of which bills you want to jeopardize and which bills you don't, and I think even on a bill like this you've got to be asking if all of this money is appropriate. So I just wanted to make that point and point that out to you as...as I will be, along with you, struggling to figure out which one of these things we really want to do. Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. Senator Thompson, on the committee amendments to LB 640.

SENATOR THOMPSON: Thank you, Mr. Speaker. Members of the body, the committee amendments, as you know, are the bill now and I would like to commend the Governor and the Health and Human Services Committee for working on developing a package that meets a very longstanding need and one that I think can have a very positive impact on the juvenile justice system itself and also on life in our communities and being able to intervene earlier to help youth and their families who may be having problems and may need some sanctions. And in the...in the end, when we make sure children don't penetrate the juvenile justice system, as far as the state level, we're better able to address these issues at the local level if there are resources available. In 1998, I chaired the juvenile justice system review on behalf of the Legislature with a team of people from around the state, and their recommendations I'd like to read to you because I believe this bill directly responds to the recommendations that we've been talking about implementing for several years. One of the recommendations is a meaningful subsidy should be provided for counties to develop and maintain an array of services for youth engaged in the juvenile justice system prior to disposition, and array of nonresidential services for youth on probation. At this time we recommended the Juvenile Services Act grant as one way to accomplish that. We have a different method, but it accomplishes the same thing as recommended in this bill. We also recommended that counties that receive new funding should be obligated to provide direct and/or in-kind matching funds to support a reasonable share of

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the costs of these services, and that's contained in this bill. We also recommended any conditions for funding of the Juvenile Services Act Grant Program, again this is slightly different grant program, and/or others which may be developed should focus on specified desired outcomes rather than the provision of particular programs or services. Before I finish this recommendation I would say that we, last year, required every county in Nebraska to have a juvenile services plan and this supplements not only their planning process but their ability to implement those processes, so we are going to outcomes and not just specific programs that seemed like a good idea at the time. Anything that this program funds will go toward the implementation of that comprehensive plan. Provisions should be built into...in to provide incentives for reduction of the number of youth placed in state custody and/or achieving certain other benchmarks, and we do have that as part of this bill, reducing the number of children at the YRITCs who were inappropriately placed there. We're encouraging the counties by "incenting" them with more money if they...their allotment will decrease based upon the number of kids that were inappropriately sent. So that's the incentive to the county to make sure they aren't sending kids to that level of treatment that don't need to be there. And we know from the research that's been done that that's happening, and we know that we need to beef up those local services. Some counties have been very active in trying to get there and they've stretched their budgets. They're under budget limits to do that, and those counties shouldn't be penalized because they have tried to put some things in place. And so that's the reason why some of those funds that they're already stretched to the max and want to be able to keep some of this good work going that supports their plan should also be able to be counted toward the match. But it also "incent" other counties that haven't taken any of these steps to be able to move forward by giving a substantial incentive from the state to do that.

SENATOR CUDABACK: One minute.

SENATOR THOMPSON: I understand Senator Beutler's concerns but, as you know, this has been an area that's been neglected for a long period of time. And even though some of the other aspects

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of the Governor's package haven't made it to the floor, this one, I think, of the four I felt was the most important and I really hope that it stays a priority, as it has with the Governor, with you, because we have neglected to be able to beef this up for a long time. Actually, the first effort by the Legislature came many years ago when Senator Scofield created a fund that was to enhance counties' efforts to get kids out of jails and also to get them into county-based programs. And the original intent of that legislation, because I testified in favor of it as a county commissioner, was that each year we were going to double...

SENATOR CUDABACK: Time.

SENATOR THOMPSON: ...the fund, and I will be back to tell the rest of it.

SENATOR CUDABACK: Thank you, Senator Thompson. Senator Beutler, on the committee amendments, followed by Senator Thompson.

SENATOR BEUTLER: Senator Jensen, if I might.

SENATOR CUDABACK: Senator Jensen, are you nearby? Will you yield to a question? Senator Beutler.

SENATOR BEUTLER: Senator Jensen, I'd like to explore a little bit the relationship between the current Crime Commission Grant Program and this new county aid assistance program. As I understand it, just kind of glancing through the statutes, there is a committee set up, the Juvenile Services Grant Committee, set up under the Nebraska Commission of Law Enforcement, and they award grants in accordance with the Juvenile Services Act and the stated purpose of the grants is to assist communities in the implementation and operation of programs or services identified in their comprehensive juvenile services plan, including, but not limited to programs for assessment and evaluation, the prevention of delinquent behavior, diversion, detention, shelter care, et cetera, et cetera. And then it goes on to describe in some detail the grant application program, and what has to exist in terms of plans in some detail, and then it describes the

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grant criteria in some detail, the availability of programs, a description of the plan for crime problems in the geographic area, that sort of thing, an analysis of how a local plan will address the needs, an analysis of overall commitment of the eligible applicant and other...the other participants in the plan, and an even longer list of additional items that need to be detailed with respect to the grant program and the plans. The grant programs don't seem to be funding items that are experimental in nature or the focus of the grant program seems to be developing and fleshing out a juvenile services plan for each county and then funding those plans. As I read this bill, it's not a...it's not...the county assistance portion, and let's leave aside the plan portion for the moment, but the county assistance portion is not a grant program. Apparently, there is going to be some kind of formula that says in the first instance how much money can be allocated to a particular county, and then they will be available, that money will be available to them if they put up the matching fund. Now in terms of the use of that money, it can be used for any purpose that relates to the implementation of the juvenile justice plan that they are required under both programs to have into...in existence. Now...

SENATOR CUDABACK: One minute.

SENATOR BEUTLER: ...let me stop there for a second and just ask you if I've been accurate so far in my description of the two programs?

SENATOR JENSEN: Yes. But, by the way, the statute you are reading out of, last year we passed LB 6...1167 that changed some of that.

SENATOR BEUTLER: Okay.

SENATOR JENSEN: I just wondered if you have an up-to-date statute book, and you probably do?

SENATOR BEUTLER: I probably don't.

SENATOR JENSEN: Well, that did change a little bit of that, but

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getting back to your...your formula process you were going through,...

SENATOR BEUTLER: But it...

SENATOR JENSEN: ...I believe you're...

SENATOR BEUTLER: ...but it didn't change any of the basic description that I gave you?

SENATOR JENSEN: No, every thing has to be done, of course, after you develop your comprehensive plan.

SENATOR BEUTLER: Okay.

SENATOR JENSEN: And then the state will ensure that that is followed before monies are dispensed.

SENATOR BEUTLER: Okay, how much money is currently being...how much state money is currently available to the Crime Commission...

SENATOR CUDABACK: Time. Thank you, Senator Beutler. Senator Thompson, on the committee amendments to LB 640.

SENATOR THOMPSON: Thank you, Mr. Speaker. Just to address, Senator Beutler, and I'd be happy to give you some of my time. Last year we passed LB 1167. It took most of the language that you read there out of statute and put in rules and regulations of the department. When that was written several years ago in an attempt to begin encouraging counties to develop plans, some of the language became somewhat dated and cumbersome and so forth, and this way, although most of that is still in rules and regulations, we gave that authority to the Crime Commission to develop those rules and regulations. So the language that you just read I believe, although I didn't have this in my hand when you started, has been stricken, and it says all plans shall comply with the rules and regulations adopted and promulgated by the commission pursuant to the Juvenile Services Act or the federal act. And part of the merging of that also was that there are requirements in the federal act that we had to meet

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and we wanted to streamline this as much as possible for the counties and...and give the flexibility that needed to be there but not be overly cumbersome in what was provided in the planning process. So I can get you a copy of the regulations to look at before Select File. I don't know if I can get them here before that, but I wanted to let you know that had been changed. And I'm also checking on the amount. But I was giving a little history of the fund and maybe that would explain to you where we are. When the fund was started, I believe it had either four or five hundred thousand dollars. This goes back probably 15 years, and the thought was the Legislature was going to start with the \$500,000 and double it each year, and then be in a position, you know, multiyears later where we would have a substantive fund that could impact what was needed in the counties. Well, it got the first year of funding and, since then, it's only gotten a couple of hundred thousand more of state general funds, and I'm think it is in the \$750,000 to \$800,000 range, and I can find that out for you too. I have one more time on the light. I'm looking at Roger but I don't know if he has got his big book up here yet. But he has no...I shouldn't say this but...I won't say what he said. We don't know, I don't know and he doesn't know. That's as much as we'll say, but we will get back to you with that amount, but it's been a small amount and it hasn't been able to do what we had hoped to do. The amount of applications is usually four or five times what we have in the fund, and so we can't get there with the fund being as limited as it is. So this...this way, they partner that fund up with their federal money now. As of last year, those two grant processes have been put together. They used to have both grant teams meet once a year and try to collaborate, and it was a difficult process and I really commend the Crime Commission for all the time they helped me on this bill to get...to get that all put together and hammer that out so we could blend both of those two funds. So it isn't very much and it's going for some other...especially the federal money comes down from the original law that got juveniles out of jails, and so...and some other aspects of who should be in a secure setting or a nonsecure sett...actually all secure settings. So without getting into all the details of that, the federal money is to...to have alternative...alternatives to detention, or detention, and this piece is dealing more with

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community services. So, and I know you had another question and...

SENATOR CUDABACK: One minute. One...Nancy...

SENATOR THOMPSON: I think what I will do is I'll just finish...

SENATOR CUDABACK: Excuse me, Senator Thompson.

SENATOR THOMPSON: ...I'll just make a couple more comments and then put my light on again for Senator Beutler. But this will be the first time with...with the passage of this act that we have put a substantial amount of money into what I call the front end of the process. You've heard me talk about the juvenile justice system as a swimming pool. We spend a lot of time talking about the deep end. This is putting us more from the shallow to the middle part of the pool, and that's where we can have a great impact on the deep end. We need to get to the issues sooner. We don't want to lock kids up. We don't want them staying 24 hours a day. And we need to do that collaboratively with the counties. These county teams that are formed to work on the juvenile plan look at the needs in their county, the specific issues in their county. In my county they work with law...

SENATOR CUDABACK: Time.

SENATOR THOMPSON: ...enforcement in the schools.

SENATOR CUDABACK: Thank you, Senator Thompson. Senator Beutler, and this will be your third time, Senator Beutler.

SENATOR BEUTLER: Senator Thompson, let me explore a little further with you the grant program. First of all, with respect to the rules and regulations, if it's possible to get a copy of those this afternoon, I would...I would appreciate it, and when I get a copy of those rules and regulations, am I going to see...what will I see? Will I see still a typical grant program where individual counties or groups of counties are coming in to apply for grants? Is that what I would see?

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SENATOR THOMPSON: Yes, you'll see...we're going to...I forgot, the Crime Commission has a really excellent web site and we're going to download that right now. But that is a grant program in the traditional sense, yes.

SENATOR BEUTLER: Okay. And would it be...would it be still true with the passage to authority to the bureaucracy to do this by rule and regulation? Would it still be true that the purpose of the grants is to help people progress with their juvenile services plans?

SENATOR THOMPSON: Yes.

SENATOR BEUTLER: Okay. If the purpose of the grant program is the same as the purpose of the county assistance program, why can we not immediately collapse that program into the juvenile services plan, transfer that \$700,000 or \$800,000, or whatever it is, put it into the new system and cut down on the fiscal note on this a little bit, or even if you don't cut down on the fiscal note, get this in one program because it does the same thing and you could have a better handle on the regulatory process, I would think, if you had one program instead of two. Why do we need two programs that are doing the same thing, that would be my question to you?

SENATOR CUDABACK: Senator Thompson, for a question.

SENATOR THOMPSON: The reason this has been developed in the form that it is is because the Crime Commission...Crime Commissions were formed and the Crime Commission is an agency appointed by the Governor with a lot of federal money that was sent to the states. We have to have that in some form, and the Governor decides where these grants come. The Governor could redirect them administratively to the Office of Juvenile Services. My understanding is, and I hope the Crime Commission folks are listening, so if I'm wrong, that in this state it's always been directed through the Crime Commission. We have people who have worked with the feds on lots of issues, developed additional grant funding for a lot of programs. The Crime Commission took on the juvenile justice issue about ten years ago. Before, it was primarily directed toward

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adult...adult crime, I guess would be a better way to put it, but because of the growth in juvenile crime in this state and the people, the administrations previous to this, they took that on as one of their areas. And I think it would be very difficult and wrong to, at this point in time, to transfer that from the Crime Commission to the Office of Juvenile Services because of those relationships that have been developed and because a lot of this federal money is coming through and they have the relationships with the counties. But you could, the answer to your question is you could, you could do that. Now whether you can collapse...you wouldn't be able to collapse the money because some of this is multiyear grants. Some of it is what is called a step-down grant because they never had enough money to be able to do things for everybody. They stepped them down.

SENATOR CUDABACK: One minute.

SENATOR THOMPSON: So the...the Juvenile Services Act money is already committed for a specific purpose. The new money would enhance that but I don't believe...I think we should go with the way that's been proposed, to enhance the collaboration between the Office of Juvenile Services and the counties at this point in time. It is not exactly the same. It's a lot...it's heading towards the same goals but collapsing that would be complicated, but if the body chose to, you could...I think the better way to go, in my opinion, would be to put this fund in the Crime Commission rather than take the Crime Commission's funds and put them with OJS.

SENATOR CUDABACK: Time. Thank you, Senator Beutler. Mr. Clerk, item on the desk.

ASSISTANT CLERK: Thank you, Mr. President. Senator Beutler would move to amend the committee amendments. (FA204, Legislative Journal page 1601.)

SENATOR CUDABACK: Senator Beutler, you're recognized to open on your amendment to the committee amendment.

SENATOR BEUTLER: The amendment to the committee amendments is

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basically a detail thing. I would like to take a little more time to discuss this. Senator Thompson, I...I appreciate your conclusion that it would be difficult to collapse the grant program into OJS right now, and I say I appreciate the conclusion because I know you do a lot of work in this area, and there would be a basis for such a conclusion. But the explanation was still vague to me. Something to do with the difficulty of administering a program of maybe the continuing federal funds, but if the federal funds are the problem, I don't see offhand why we just can't take whoever it is that is hired by the Crime Commission to deal with federal funds and switch them over to OJS, and it should flow right through. Tell me, again, if you would, Senator Thompson, why it is we should preserve this grant...this grant program separate, separate and apart? One of the things, you know being on the Appropriations Committee, there is so many things to keep track of.

SENATOR CUDABACK: Senator Thompson.

SENATOR BEUTLER: And duplicative kinds of functions are especially hard to keep track of and, generally speaking, may be wasteful. So I...I would like to hear again the explanation of why this grant program cannot be collapsed into the county assistance program?

SENATOR THOMPSON: Well, I don't think cannot is the...it could.

SENATOR BEUTLER: It should not.

SENATOR THOMPSON: It could have...it could have been done either way. It's...and I think maybe this would be a better question for Senator Jensen to handle than me because it's not my bill, but in my discussions with the administration, they felt that they needed to help foster, and I hesitate to speak for them. As you know, I was kind of not speaking with them for about 8 hours yesterday and so I...if this is wrong, I want them to help me with it, but my understanding of why they want to set it up the way they do is because at some point OJS has to get...get some legs and wings or whatever you want to say, and this way will foster a relationship between the Office of Juvenile Services and the counties so they can work

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collaboratively because what they are trying to do, OJS is the service area of the Department of Health and Human Services for the kids who are on the deep end of the pool. The Crime Commission works with prevention, detention, and predispositional services to some extent before they get to the state system. My understanding of this program is it's kind of a blend in the middle where we're trying to make sure the services and the counties' plans are implemented so kids don't penetrate the system who don't need to go farther. So the administration would like to foster that relationship between OJS and the counties and want the program to be with OJS rather than the Crime Commission for that reason. But your question being, does it have to be the way it's in the bill? To the extent that that's the bill's sponsors, and administration, this was introduced at the request of the Governor, that would be correct. I mean that's where...it's their bill and that's the way they want to do it. And you might ask Senator Jensen.

SENATOR BEUTLER: Yeah, thank you.

SENATOR CUDABACK: Senator Beutler, about six minutes left.

SENATOR BEUTLER: Six minutes, okay. Senator Jensen.

SENATOR CUDABACK: Senator Jensen, will you yield to a question?

SENATOR BEUTLER: I'm sure you're interested in responding to the same set of questions, and I apologize for switching over here but...

SENATOR JENSEN: Well,...

SENATOR BEUTLER: ...she...she was talking about a related question so I got into it. So I certainly want to give you the opportunity to respond, too.

SENATOR JENSEN: No, and thank you, I didn't hear all of the discussion between the two of you in your interchange. We do have both. But we have, an aid program and we have a grant program, and the bill describes where each one fits into this overall juvenile services bill. And I think that...that the

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counties certainly have, and I think we did get to you the number of counties and the number of participants that are in this program. There are 13 counties, 2 tribes. There are a couple of multicounty groups, one in the Panhandle with 12, one in Madison County with 9, and there's approximately \$600,000 in grants that are coming from the Crime Commission. And the formula is spelled out in the bill that the aid is in accordance with an equitable formula promulgated by the Office of Juvenile Services in rule and regulation, and then aid is provided to the county under this subsection and that shall be reduced by the cost to the state for juveniles...from such county. There is one other thing in this. This has been negotiated between the state and the counties. Certainly if we would have done LB 652 last year, the A bill would have been more. Hopefully, that with the counties' participation and with their local direction that we can prevent more expensive costs for the down the line, and so I think that makes certainly sense to me, and I think we can come up with a better system than what we presently have. Senator, I don't know whether I answered any of your questions whatsoever. Like I said, I did not get all of the conversation between you and Senator Thompson.

SENATOR BEUTLER: You know, it's unfortunate the way this process works, Senator, but at the same time you were answering my question, the lobby was wanting to know how I felt about this or that, and so I was listening to the emissary from the lobby while you were answering my question. Would you do me the favor of answering this question again, in case you didn't...in case, even if you did.

SENATOR JENSEN: Let's start all over.

SENATOR BEUTLER: And the question is this.

SENATOR JENSEN: Yes.

SENATOR BEUTLER: What is the justification for continuing a Crime Commission Grant Program when it's doing the very same thing as far as I can see as what the new county assistance program would do?

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SENATOR JENSEN: Well, and I think Senator Thompson explained that in that the role of each one, and there is some difference, they might overlap in others. The Crime Commission deals with detention and whereas the other one is more into programs itself.

SENATOR BEUTLER: But the other one can deal with detention.

SENATOR JENSEN: I need...let me see if I can find out exactly what the breakdown is in between the two, and get back to you on that on either your time or my time.

SENATOR BEUTLER: Let me, Senator Jensen, if I could, let me...let me ask you about the existing juvenile services plans across the state. Somebody was kind enough to pass out a map that looks like this. Did it get passed out to you also or did you pass it out?

SENATOR JENSEN: Yes. No, actually that was Senator Suttle's map that she had asked at the hearing. It described just where the...where plans are already in place. There are 13 separate counties, 2 tribes. There are 2 groups that are working, one in the Panhandle, the other one around, there are 9 counties. The one in the Panhandle actually is 12 counties.

SENATOR CUDABACK: One minute.

SENATOR JENSEN: Did you say time?

SENATOR CUDABACK: One minute.

SENATOR JENSEN: Okay, and then around...

SENATOR CUDABACK: It's Senator Beutler's time.

SENATOR JENSEN: ...Madison County there are 9 counties that have gone together and there is approximately \$600,000 in General Fund grants from the Crime Commission presently.

SENATOR BEUTLER: Okay.

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SENATOR CUDABACK: Senator Beutler, you have about forty-five seconds.

SENATOR BEUTLER: Did you want to continue? Go ahead if you'd like to, Senator.

SENATOR JENSEN: The...I think I will stop there and I'd sure be glad to review the...the difference between the two, the Crime Commission and this commission or that will be set up.

SENATOR BEUTLER: Okay. Senator, thank you. Senator Cudaback, I think I will wait until my next turn.

SENATOR CUDABACK: Thank you, Senator. You heard the opening on the Beutler amendment to the committee amendments to LB 640. Senator Thompson, your light was on prior to that, did you wish to...?

SENATOR THOMPSON: Thank you, Mr. President. The rules and regulations, which I promised, are still under...are still being developed because the agency has a year, and we just passed this bill last spring, so the new ones are not written. So I apologize, Senator Beutler. We aren't going to be able to get that to you. Again, I think at this point in time what would be in the best interest of the body would be to go ahead and pass this on General File, see if we can work some of these details out before Select File, and I'd be happy to assist Senator Jensen, and if he wants me to, and Senator Beutler in that. I don't think...I think it's going to be difficult to do that on the floor at this point in time, but I think we can resolve these issues, and I'm confident that with a little bit of time, Senator Beutler, I think we can be able to either through amendment or through discussion alleviate some of the concerns that you have, but I just wanted, for the record, to correct the record that the rules and regulations have not been completed because the bill passed last year and the agency has a year before they would be put into regulation. They aren't done...they aren't finished with that process yet. Thank you.

SENATOR CUDABACK: Thank you, Senator Thompson. Senator Beutler, on your amendment to the committee amendments.

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SENATOR BEUTLER: Senator Jensen, again exploring the structure of the existing program if I could, the Crime Commission Grant Program. With respect to the map that was passed out, it does show that a few small counties...the Panhandle seems to do well for a number of reasons in a number of areas. Maybe it's a community identification of sort, but I'm beginning to notice that...

SENATOR JENSEN: I would agree.

SENATOR BEUTLER: ...as I look at...do you agree with that?

SENATOR JENSEN: Whether it be mental health, or whatever it is, they've been working for a long time together and they have been working well.

SENATOR BEUTLER: Okay, and by virtue of their working together, communities, counties that are very small apparently are a part of a juvenile justice plan, would that be accurate?

SENATOR JENSEN: That is correct.

SENATOR BEUTLER: Okay. And it looks like up north in Brown and Rock and that neighborhood, they have a joint plan. That appears to be the only joint plans in the state, is that...is that accurate, roughly accurate?

SENATOR JENSEN: I believe there are those...those two joint plans, yes, that are there.

SENATOR BEUTLER: Okay.

SENATOR JENSEN: We have 13 other counties that have submitted plans.

SENATOR BEUTLER: All right, what is there in law that would allow a small county like Arthur or McPherson or Logan to be a part of a plan? That is, I assume, by and large, that a large number of counties are too small to have any sort of functional juvenile services comprehensive plan and that what ought to

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happen or needs to happen in certain areas of the state is...is for small counties to have the absolute opportunity to join in some sort of plan with larger counties or with a number of other smaller counties so that they, too, can participate in this system and contribute their 40 percent towards something that is meaningful in terms of a system. What is there in current law that either encourages this or requires this to happen?

SENATOR JENSEN: Well, I think LB 1167 last year addressed part of that and Senator Thompson said that she did have the answers to that. If you wouldn't mind, I'd just rather defer that to her.

SENATOR BEUTLER: You bet. I'd address the question, Mr. Speaker, to Senator Thompson.

SENATOR CUDABACK: Senator Thompson, do you yield?

SENATOR THOMPSON: Thank you very much. About three years ago the Nebraska Association of County Officials made juvenile justice and detention issues a priority issue. They hired Karen Chinn who developed a detention master plan for the state, and one of the recommendations from that plan was that every county would either have a juvenile services plan or merge with other counties to have juvenile services plans. There was a bill to do that and Senator Tyson and Senator Jensen and I worked on merging a number of bills and ideas that came forward. The counties had a plan, I had a plan, I can't remember who all. And LB 1167 is the product of sitting down with all those folks, including the Nebraska Association of County Officials, and they supported having every county be required, we gave them five years by law to do that, and I'm flipping through this frantically trying to find where that is, but it is the law. The counties must have a juvenile services plan or collaborate with another county in a juvenile services plan by, and I will just stall here for a minute while I try to find that.

SENATOR CUDABACK: One minute.

SENATOR THOMPSON: And the Nebraska Association of County Officials in testifying on the bill and the compromise said they

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would facilitate that with their counties and take the lead in helping counties to get that plan process done. That was supported by the county officials, and as the person who carried the final version of the bill had no...I had no objection from any county to doing that. That came from the counties. It was...it was a bottom-up process instead of a top-down process, and so I believe it is 2005 but I put my light on, no, I didn't, but I am putting my light on and I will come back to you with that exact language, and we did that last year as part of LB 1167. Now the...

SENATOR CUDABACK: Time. Thank you, Senator Thompson. Senator Brown on the Beutler amendment to the committee amendments, followed by Senators Wehrbein, Thompson and Beutler. Senator Brown.

SENATOR BROWN: Mr. President, members of the Legislature, I'll...I will just be brief. I agree with Senator Thompson. I think that this bill is critical. I think that we need to advance it and I think that we need to look at some of the details in discussion. I believe that there is a great deal of difference between a grant program that directly funds programs, even if those grants are forwarded by the county, and an aid program to the county for them to develop their programs and to develop their plans. And so that's...that's the difference that I see, but the critical piece about this is that this is...this is a bill that has been...we've been tinkering with for a long time, and it is...it is the version that everybody has been able to agree on from LB 562 from last year, which we were not able to do, and so the counties, Lancaster County and Douglas County and the county association, support this. The Governor's Office supports it and everybody has been able to come together and figure out a way that everyone can live with in terms of how this aid program would be managed. And I think it's...it's a fair system. It's a fair compromise and I think it is something that we need to do, not only for...for the youth in...that we need to be serving, which absolutely is critical, but also for the counties to be able to do what they need to do to make sure that they have the programs for youth and especially those community-based programs, which they are going to need increasingly. Thank you.

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SENATOR CUDABACK: Thank you, Senator Brown. Senator Wehrbein, on the Beutler amendment.

SENATOR WEHRBEIN: Mr. President, members of the body, I strongly oppose Senator Beutler's amendment. This is a \$2 million hit, if we strike Section 1. I just wanted the body to be aware of that. This is an area that we worked out with the counties on the cost and it speaks directly to the amendment that I talked about earlier coming from LB 652. And so I want the body to be aware that this would be a \$2 million mistake from my perspective. It's \$2 million additional General Funds if this amendment were to go, be taken out, because it does strike, mostly it does strike the very amendment that came out of LB 652. This has been worked out, the costs between the county and the state and there is no money in the budget for this time if we were to take this out. There's...we lost the lawsuit and we did pay for that in the deficit, but if we were to continue forward with this, we'll have to add \$2 million more to the A bill. So I strongly oppose Senator Beutler's amendment, in this case.

SENATOR CUDABACK: Thank you, Senator Wehrbein. Senator Thompson, on the Beutler amendment.

SENATOR THOMPSON: Thank you, Mr. Speaker. I have found the section, and just for the record I will read to you what we did pass last year, and it was my mistake, I think we gave them five years, and it turned out to be 2003. Well, anyway, each county shall develop a county juvenile services plan by January 1st, 2003. Two or more counties may establish a multicounty juvenile services plan. Such plan should include input from individuals, blah, "de" blah, "de" blah, and the plan is submitted to the Nebraska Commission on Law Enforcement and Criminal Justice. And I think Senator Beutler has a copy of this, but there are several provisions of what the plan should contain including identification of juvenile services within close proximity of the county or counties that may be utilized, if community-based programs are not available within the county or counties. So part of their planning is to assess what they have available and to see what the gaps are, what the needs are, what they need to

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beef up, and this particular bill would help enhance their ability to make sure those services are provided in the community. And that way we will divert some kids to some earlier interventions that may be successful in keeping them out of our...out of Kearney and Geneva, which, as you know, have been probably for some counties the only alternative, and those were the counties that prior to the assessment process as being put in place were crowding some of our facilities just because they had nothing else available in their area other than that to do. So this is to try to get to, I think, what you were saying we should get to, and that is an array of services across the state. I do take exception, I guess, only because I've been able to be part of a county that's developed a lot of programming in response to a collaborative effort that's gone on for about ten years of a group of people from law enforcement to the schools, to the probation officers, to social services, to the sheriff's office, and local businessperson was the chair, one year a psychiatrist was the chair. We've had different people involved who said, what is missing in Sarpy County, what do we need to have, what are the biggest problems we have out there? And have successfully worked over the years to get that...those gaps in services and those pieces in place. Sometimes it was really simple things that were just a matter of talking to each other, which I think having the juvenile service planning process can make happen. Others required them going out and trying to find the funding, whether it be from the county or social services agencies they worked with collaboratively to try to fill those gaps in services. And I think it's that process we're trying to enhance throughout the state. You know, I don't like to brag, and I am not bragging for myself, but I do think Sarpy County could serve as a model of people working together to try to address these...these issues and have for a long time, and I think once the counties come together and bring those same players together throughout the state, and develop these plans, and look at what the needs are and what they could be doing, if they have an incentive for some of the money to come from the state, we can be in a whole lot better position than we are today and we'd have fewer kids coming into the state system. So it's a win-win. It's a win for the counties, I hope, to be able to reach the goals that they are having difficulty doing because of funding limitations,

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and be able to have the goals of the state met in that we're building a part of the system that's been too bare and that we haven't been able to put in place and, therefore, we get kids who get into trouble and get back into trouble and we haven't really addressed some of those root problems for them at the community level, and we get them in the state system. We can't...

SENATOR CUDABACK: One minute.

SENATOR THOMPSON: ...keep everybody out but we can keep, I believe, a substantial portion of those by this incentive. And, once again, this isn't, as a lot of our legislation is, this isn't an original idea. Ohio did something similar to this, it is not exactly the same thing, probably about 20 years ago. And I think there's some other states that we can look at where the state worked as a partner with the local communities and were able to cut the numbers in their very expensive state placements. And so for that reason, I hope that we will advance the bill today, and if there are some glitches and details that need to be worked out, I think it can be done. This is...there are a lot of hard things to do when we are working on juvenile justice but I think this one won't be that hard to accomplish, and I think we can meet some of Senator Beutler's concerns and get it in shape on Select File that we can all agree to. Thank you.

SENATOR CUDABACK: Thank you, Senator Thompson. Senator Beutler. This will be your third time, Senator.

SENATOR BEUTLER: Senator Thompson, can we continue the conversation a little bit. Let me...there's four or five things that I'm really interested in.

SENATOR THOMPSON: Okay.

SENATOR BEUTLER: Let's start with this. Lancaster County and Douglas County and Sarpy County, do we need more juvenile services in those three counties?

SENATOR CUDABACK: Will you respond, Senator Thompson.

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SENATOR THOMPSON: Yes.

SENATOR BEUTLER: How much more do we need, I mean, are we...

SENATOR THOMPSON: Well, I can give you, this is...I'm going to have to speak kind of anecdotally about things, but some of the things that are happening in the counties that they would really like to expand deal with the juvenile drug courts that are being put in place. This is a way to...to, the youth is...still has consequences but we're attempting to directly be involved in setting up treatment in the community and addressing those needs and I think all three counties have drug courts that are fledgling at this point in time. They've all been started within the last year to two years, if that, and they struggle because for a number of reasons. But one of them is that they need to be able to get the kids into services and pay for the treatment, and this would give the counties some money that they can use to, how do I put it, match and bring those services through the drug courts. Drug courts have been around for quite awhile in other parts of the country. They've worked successfully and have very successful outcomes at the adult level, and the new research coming in on drug courts at the juvenile level is equally promising. In my county, it's gone very well, but it's very, very limited in terms of the number of kids that they can get in, and I know that...that finding treatment is one of the...and Senator Hilgert and Senator Dwite Pedersen and I sit on a task force that looks at these issues for both the juvenile and criminal justice system and this is an area that's very, very underfunded. And I think the counties would like to have the ability to get more kids into treatment and need some money that is flexible because a lot of it is...is difficult to get for juvenile offenders, I guess to make a short...I know that's a very long answer to a short question, but that would be an example that I know of, among others.

SENATOR BEUTLER: That was a very long answer and you used up all my time; push your light and give it back.

SENATOR CUDABACK: About two and a half minutes left, Senator Beutler.

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SENATOR BEUTLER: So it's two and a half minutes, but let me ask you this, Senator Thompson, and this would be the reason that I asked you the question that had the long answer. But we just struck from the bill a provision that said aid received by a county under this section shall not be used to replace or supplant any funds currently being used to support existing programs for juveniles. We struck that. So now we've given Lancaster, Sarpy, and Douglas the power, rather than to addressing unmet juvenile needs, we've given them the power to supplant funding. What...why did we do that?

SENATOR THOMPSON: I'm a big advocate of that because a lot of what's happened, particularly in drug courts, is grant money that's running out and, as you know,...

SENATOR BEUTLER: Wait a minute, this isn't grant money.

SENATOR THOMPSON: No, federal grant money, other grant money that set up the drug courts initially.

SENATOR BEUTLER: I see.

SENATOR THOMPSON: Oh, I'm sorry, not necessarily the state's grant money. A lot of the drug courts started with federal money. So when their...when their grant runs out, they...they have difficulty, because of the stresses to their juvenile budgets to start with, being able to sustain those programs. So,...

SENATOR CUDABACK: One minute.

SENATOR THOMPSON: ...that way if they...

SENATOR BEUTLER: Maybe...

SENATOR THOMPSON: ...take their current match money and match it to state money that used to be federal money, then they have a way to sustain those programs.

SENATOR BEUTLER: Well, isn't the question of what you can use

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for a match separate from the question of whether you can supplant local funds? I mean, for example, if Douglas and Sarpy need these monies so badly for expanded programs, shouldn't the language be altered so that you don't decrease local...local funds and simply replace them with state funds in areas where there is such a dire need? Why...why would we have such broad language just...

SENATOR THOMPSON: Because some counties are not able to, because of budget limits, be able to do this and so they should be able to use some of the funds...

SENATOR CUDABACK: Time.

SENATOR THOMPSON: ...that they are already expending that might just go away otherwise.

SENATOR CUDABACK: Time, Senator Beutler. Senator Schimek, you're recognized on the Beutler amendment to the committee amendments to LB 640.

SENATOR SCHIMEK: Yes, Mr. President, I would like to yield my time to Senator Beutler.

SENATOR CUDABACK: Senator Beutler, you've almost five minutes.

SENATOR BEUTLER: Senator Schimek, thank you very much. Senator Jensen, let me...let me follow up on that...on that question with you, perhaps.

SENATOR CUDABACK: Will you respond, Senator Jensen?

SENATOR BEUTLER: I can understand where if you had federal grants, you may want some language that says that you can replace the federal grants that you no longer can acquire, assuming you can no longer benefit from them, with these funds, but what is...what is the wisdom of allowing counties who badly need additional services to effectively partially replace their local funding with this funding? So, you know, I'm trying to get the question of whether this is a property tax relief bill or is this really intended, first and foremost, to increase

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juvenile services whenever and however and wherever we can.

SENATOR JENSEN: The Governor looks...the Governor looks at this bill as a capacity-building bill, to build more capacity from community providers and through that...that system, and that these be new capacities. Now, certainly, we've had certain counties that have been picking up a great deal of cost, cost that the state would ordinarily be providing, and other counties, of course, have not been doing anything. In this particular case, Douglas County wanted to be able to pick up some of the cost that they've already been expending but still they must provide additional capacity underneath this program. Like I said, we're trying to allow the counties some flexibility to partner with the state to come up with new programs, and many of the providers, as a matter of fact, in the children and family coalition will be those same individuals who may do some of this additional programming and which will allow them to do that. So these new dollars coming in will do that and I think Senator Thompson mentioned and it's been proven in other states that if you spend the dollars at the right time you are going to save dollars later on in more expensive care, for instance like the YRTC's. And so if we can get troubled kids and put them in programs, build capacity, and some of these programs might be a little innovative, but I can certainly see Uta Halee, Cooper Village coming up with some programs to address kids who have been abused, kids that have had anger problems, that will allow them to come up with new programs to treat these kids before they get to the problem of actually being incarcerated in a secure environment somewhere else. That is really the purpose of the bill, partnering between the counties and the state, encouraging that through an aid and in a grant program.

SENATOR BEUTLER: Senator, let me...let me ask you this. We struck that provision with regard to aid being used to replace or supplant funds, which in striking it completely, it seemed overly broad...

SENATOR CUDABACK: One minute.

SENATOR BEUTLER: ...to strike it completely given what you had stated to be the main reason for it, that is the clarifying the

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40 percent match abilities, and given the fact that this is supposed to be capacity-building. If you are...if you are simply replacing local funds with state funds, would you agree that it is not capacity-building?

SENATOR JENSEN: Well, it was an accommodation by the Governor to allow this language to be struck, but then he put in there, as in AM1411, the reporting that must be there; the total number of juveniles served, the total number of units of service provided, annual juvenile justice budgeted and actual expenditures by the county, and county expenditures for detention of residential treatment, and nonresidential...

SENATOR CUDABACK: Time.

SENATOR JENSEN: ...treatment. So we took out the language and then...

SENATOR CUDABACK: Time, Senator Beutler. Senator Thompson, on the Beutler amendment and this will be your third time, Senator Thompson.

SENATOR THOMPSON: Thank you. Senator Beutler, I was going to yield you my time, but while you're talking, I'm going to just comment a little bit about this whole issue of supplanting. One, and I will say it again why I think it's important that we take that language out. Some counties have started the processes and have worked and have gone to another level. Now when you look at what the counties are obligated to do in statute and what they are not obligated to do, what we're asking them to do with this bill is go beyond and expand government to do some other things. Some of them are already doing that. Should they be required to expand beyond what they are doing or should they be creating the best system using their plan? This is allowing the counties to have the flexibility to keep their plan going. I don't know that we want, as a government, to say drop what you're doing, which might happen, and create a whole bunch of new programs when some of the things they have going need support. And so we want to encourage them to do...take a look at the big picture and do the right types of things that have the best outcomes. And if those are existing programs that

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need help, either to serve more or to stay alive, then we should allow them to do that. We shouldn't say, go start a whole bunch of new stuff because of that. And also the bill does require a report from the counties to say how the funds are being used to meet their goals, and whether or not they are achieving their goals we can assess with the information. And so there is an accountability piece here that should get to some of the issues that Senator Beutler is concerned about. And now that he is I think...well, now someone else came over. Senator Beutler, did you want my time unless you'd rather use it to, so you can talk with people?

SENATOR CUDABACK: Senator Beutler, about two and a half minutes.

SENATOR BEUTLER: Senator Thompson, thank you. You know, I really, to be honest with you, I really don't see where a report that requires nothing other than certain categories of information replaces a prohibition not to supplant funds. And so I have to say honestly to you, I find that part of the answer, if that's part of the answer, you know, inadequate. But let me...let me go, let me ask you, Senator Thompson, another...

SENATOR CUDABACK: Senator Thompson, will you yield to a question?

SENATOR THOMPSON: Yes.

SENATOR BEUTLER: ...going back to another subject that we didn't do...we were not able to finish, and that was LB 1167, and the operative language with regard to the county juvenile services plan as you indicated was that each county would have one by January 1st, 2003. Two or more counties may establish a multicounty juvenile services plan and such plan should include input, dah-dah-dah-dah. It needs to include certain identified items of information, and then apparently you submit it to the Crime Commission. I haven't been all the way back through this bill again but tell me, from your memory, what is the sanction if a county does not by 2003 have a plan?

SENATOR THOMPSON: We talked about that and we didn't put a

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sanction in there because, first of all,...

SENATOR CUDABACK: One minute.

SENATOR THOMPSON: ...we felt we had a good cooperative method with the counties. There are a lot of things we put on the books and I suppose county boards do ignore, but in the Governor proposing this bill, we felt if the counties did choose to ignore that, we have an incentive for them to get it done, and there are funds in this bill provided to help them with planning. So they have funds they can use to hire a consultant or to bring someone together from their community to help facilitate and pay the expenses of folks who may come to help develop the plan, and that's now part of the new bill and that's to build on this bill and help enhance getting that planning process rolling and happening. I'd also mention that at the time that the bill passed the retiring NACO Director, Jack Mills, said he wanted to volunteer to help with the planning process and that was another...

SENATOR CUDABACK: Time.

SENATOR THOMPSON: ...thing on the table with that, but there is no penalty.

SENATOR CUDABACK: Thank you, Senator Thompson. Those wishing to speak to the Beutler amendment to the committee amendments are Senators Wickersham, Hilgert, Preister, Schimek, and Suttle. Senator Wickersham.

SENATOR WICKERSHAM: Mr. President, I hope my remarks aren't too disjointed with regard to this bill but I'm a little bit concerned about the provisions that simply provide the monies based on a local match when what you're doing now can constitute the match. And I...I think a better formulation, there might be better formulations of how we would find eligible counties. One of those formulations that comes readily to mind is whether or not you have per capita expenditures for these particular kinds of programs that are in excess of per capita expenditures in other counties. One of the other criteria might be whether or not you could, in fact, make some additional local effort in

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order to apply for assistance, not just the things that you have been doing before. And we've spoken about that in the context of a different bill. Usually, we require you to do something new, and if you are going to be eligible for a grant, and we require you to come up with additional money, and that it's a sensible kind of a policy for us to have because a new program shouldn't be important to you just because the state of Nebraska is going to pay for it. A new program ought to be important to you because you're willing to put resources into it, and as you put resources into it, that you're willing to partner with the state. Now if that's the kind of a principle that we're going to have when we use grant programs, I think that's far more rational than allowing somebody to simply qualify for new state money because they've been doing something in the past and we've decided we want to fund something new in the future. That isn't any partnership at all. Why don't we just frankly admit that what we're doing is having the state take over some locally managed and run programs, if that's what we want to do, and provide the... candidly provide the money without any illusion of a grant process. Because what we may have in this proposal is a bunch of folks who have to make no effort at all to qualify for our money, we may find that a bunch of other folks, if they could, would make the effort but can't because of levy limitations or other restrictions, and so they never qualify for our funding because they have limited resources or they have a variety of other needs that impinge upon their ability to meet this particular need. And I think that we ought to more carefully examine the criteria for awarding state funds, and I'm not comfortable with just the notion that there is a 40 percent local match as long as that local match is based... could be based on something that you're already spending. I think if you are going to have a 40 percent match, it ought to be new spending because that shows you think it's important at the local level to do, and I think that's a sensible criteria for us if we're going to put up state monies is we ought to be well assured that it's important at the local level as well as the state level.

SENATOR CUDABACK: Thank you, Senator Wickersham. Senator Hilgert.

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SENATOR HILGERT: Thank you, Mr. President. I'll yield my time to Senator Beutler.

SENATOR CUDABACK: Senator Beutler, about five minutes.

SENATOR BEUTLER: Senator Thompson, the last time we were talking, we were talking about penalty provisions, and you noted the lack of one with respect to the necessity of counties coming up with a juvenile services plan by 2003. Let me just tell you briefly what my experience was back in the late 1980s when everyone of the Natural Resources Districts was asked to come up with a ground water management plan by a date specific, and there was no penalty. Well, I think it was roughly two-thirds of them didn't have a plan. Not only that, but the date went by and since nobody was keeping an eye on them, I think...I think there'd been some transition in the Legislature, so whoever was there didn't follow up to see that it was done. And two years later when I asked them about this language in the statute, and where are you...would you send me a copy of their plans, they didn't have a plan. And why didn't they have a plan? Well, they just didn't get around to it. And why didn't they get around to it? Because there was no penalty. And I submit to you that if you're asking Arthur County to put money into a juvenile services plan, a comprehensive juvenile services plan, they don't have enough juveniles out there that they going to have the least bit of interest in that. And that's going to go for an awful lot of the small counties out there who have some interest but they are not going to start their own plan. They may not even have the energy to go see if they can join with somebody else, and most certainly, you are not going to get an intelligent grouping of counties to deal with this problem if we just namby-pamby throw the money out there and say, okay, whoever is interested, come in and get it, and you can form whatever configurations you want. I just strongly suggest it's not going to work. Senator Jensen, let me ask you this question.

SENATOR CUDABACK: Would you respond?

SENATOR JENSEN: Yes.

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SENATOR BEUTLER: Just recently in LB 692, as you know, with regard to the setting up of a public health system in Nebraska, it's not the same problem but there are a lot of similarities, and this Legislature, at least so far...did we ever pass LB 692 or is that still sitting on Final Reading?

SENATOR JENSEN: It's on Final Reading.

SENATOR BEUTLER: Okay. In that bill, we required with respect to setting up a public health system that...that we look at county size, and that every county had to be a part of some system, and we've manipulated it so that that would happen around the state in a at least somewhat coherent fashion. And we even had mechanisms by which, if some county were isolated but wanted to be a part of a group that they could go through a process and be a part of a multicounty group. Can we do something like that for this? I mean this seems disjointed to me in the same way that...in the same way that the bureaucracy there didn't want to come to grips with...with conflicting views and conflicting interests. So here it seems to me they want to do these little trade-offs where you get one part and we get the other part and neither part, in my opinion, are necessarily in the public interest. I would just ask for your comment in that regard.

SENATOR JENSEN: Senator, I would really be happy to look at that, and I can understand exactly what you're saying. And between now and Select, I think that would be something that we could do. Now...

SENATOR CUDABACK: One minute.

SENATOR JENSEN: ...certainly under LB 1167 there is a requirement that they must do this, but it is...it's tough for a small county out there who are limited resources, dollars, anyway, to comply, yes, with mandates that we put down there, but if they can join together, the Panhandle has been natural one. They've been doing it for years. They seem to every time we do one of these, they immediately come together. Other ones are...seem to stand on their own, but I would...I would certainly look at a situation between now and Select that we

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take a look at that and as to whether that would be advisable to require that a certain size, a certain number of citizens be involved. I don't want to put anything that is so burdensome that the administration, the bureaucracy...

SENATOR CUDABACK: Time.

SENATOR JENSEN: ...costs more than the services.

SENATOR CUDABACK: Thank you, Senator Beutler. Senator Preister, on the Beutler amendment to the committee amendments to LB 640.

SENATOR PREISTER: Thank you, Honorable President. I would like to yield my time to Senator Beutler.

SENATOR CUDABACK: Senator Beutler, you have about five minutes.

SENATOR BEUTLER: Senator Preister, thank you very much. Senator Jensen, if I might, I'm looking at this Children and Family Services Coalition of Nebraska handout which, as you know, went to some length to make a series of comparisons, and I must frankly say, not understanding this area as well as you and Senator Thompson, there are some items here that I don't quite understand, and I would ask you to comment upon. Do you have, by chance, that handout in front of you? Okay. The first five items I can at least understand. Number six becomes a little more difficult for me. Number six says under the current Juvenile Services Act does not restrict funds where judges disagree with OJS on treatment options and respects overriding philosophy of Nebraska's Juvenile Code, namely, to act in the best interest of the juvenile. And then it compares LB 640 in that item and it says, unfairly reduces any county's aid allocation where a judge in that county orders a juvenile to be placed in care contrary to the rules and regulations of OJS. The independence of the judiciary is thereby compromised in the overriding rule of Nebraska's Juvenile Code, namely, to act in the best interest of the juvenile is jeopardized. Can you...can you maybe tell me what that means. I am not exactly su...I mean I hear the words but I am not exactly sure what that means.

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SENATOR JENSEN: All right.

SENATOR BEUTLER: And tell me whether you think it's fair or unfair.

SENATOR JENSEN: Well, the provisions of LB 640 that reduces aid to counties if the state has to pay for a more restrictive level of care when a juvenile has been assessed to need a less restrictive placement level is intended I believe as an incentive to help ensure that less restrictive community-based placements are utilized by the counties whenever possible. Now I don't know how often it happens...it happens, but I know it does happen, I know it for a fact that a county might have a juvenile who has been a bad actor and it...the easiest thing for them to do is to get them out of there and send them to the YRTC at state expense when, actually, with perhaps a lesser restrictive level of care could be taken care of. And so we don't want counties constantly just to be moving kids to a...to YRTCs when perhaps treatment could be done cheaper, closer to home, and in many times perhaps even better. You know, we do have a recidivism with the YRTCs and we constantly work at that. They are doing a much better job than they used to, but when I tour the YRTCs, I see some young people out there, and I've even asked the director a couple of times, and they will say, well, this kid came from a district that they wanted him out of there, and if that same child would have been in another part of the state, probably would not be here. That's wrong, and so that's really what this...this addresses is that...

SENATOR CUDABACK: One minute.

SENATOR JENSEN: ...less restrictive level of care, more appropriate care for the juvenile. And so what we're saying is the state is not going to pay for that more restrictive level if a less restrictive level is more appropriate.

SENATOR BEUTLER: I'll wait my next opportunity, Senator Cudaback. Thank you.

SENATOR CUDABACK: Senator Schimek.

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SENATOR SCHIMEK: Yes, thank you, Mr. President. I would yield the time to Senator Beutler, if he wishes to have it.

SENATOR CUDABACK: Senator Beutler.

SENATOR BEUTLER: Thank you, Senator Schimek. Senator Jensen, if we could continue. Of the eleven comparison items on this piece from the Children and Family Coalition, number ten, it says trust the Crime Commission with authority to authorize the use of grant funds for capital construction, lease or acquisition of facilities. And then the comparison item is, strips...LB 640 strips the Crime Commission of its authority to authorize the use of grant funds for capital construction, lease or acquisition of facilities. Now to a certain extent, it seems to be doing, going in the direction that I suggested seemed to be the obvious direction and that was to shut down the Crime Commission and its program and consolidate it into one county aid program that we could oversee with some...with some additional measure of, hopefully, success. But if the Crime Commission, in fact, deals with different areas, and that's the justification for the Crime Commission, why are we shutting down their ability to authorize capital construction, lease and acquisition of facilities?

SENATOR JENSEN: Well, we have two different things here again. We've got...we got an aid program, and we have a grant program. I don't think that we really strip the Crime Commission from its authority. The Crime Commission is a grant program. We have now we are going to have aid to the counties from the state and we did not want to expend dollars to build buildings, to build more costly facilities that must be maintained. The thing that really surprises me about the Children and Families Coalition is in this statement, if anyone is to gain from this program, I would say the people in this will gain from there. Those are the community providers. Those are the ones that the counties are going to look to, and so for them to say that this program is duplicative, I just don't see that at all. And, as a matter of fact, I really, and I've worked with this organization for a long, long time, I'm...I'm really...take offense to this statement and, certainly, the counties have done the same. I think it's just incorrect and, certainly, they have a right

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to...to put out a piece of paper and to make statements, but if anyone is going to profit by this, I would think this organization would. I think it's incredulous what they've...what they've done.

SENATOR BEUTLER: Okay, that helps, Senator. Thank you very much. Senator Thompson, let me ask you this.

SENATOR CUDABACK: Senator Thompson.

SENATOR BEUTLER: On page 7 of the committee amendment with respect to the county aid program, it says that the annual General Fund appropriation to the county program shall be apportioned to the counties as aid in accordance with the...now here's the language I like, with the equitable formula promulgated by the Office of Juvenile Services in rule and regulation. Can you tell us how we know ahead of time that that will be an equitable formula?

SENATOR CUDABACK: One minute.

SENATOR THOMPSON: I guess it would be as the way any other formula is set up. We just leave that to the trust of the department and the people...

SENATOR BEUTLER: What is the department's idea of equitable?

SENATOR THOMPSON: I don't know. I haven't been a part of this piece, so to speak.

SENATOR BEUTLER: Okay, thank you.

SENATOR THOMPSON: However, I would say, Senator Beutler, that in other bills I have developed formulas for aid that were successful, that if you want to take a look at those I would be happy to give them to you if you want to look at an aid formula, specific.

SENATOR BEUTLER: Yeah, I'd be very interested in aid formulas. I know you have done some work in that area, and I certainly would be interested in looking at them, but I just wanted to

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point out that neither you nor anybody else has any idea what is meant by an equitable formula. In fact, it's almost, without setting out any criteria whatsoever to define equitable, it's almost...

SENATOR CUDABACK: Time.

SENATOR BEUTLER: ...ludicrous, wishful thinking.

SENATOR CUDABACK: Thank you, Senator Beutler. Senator Suttle, on the Beutler amendment.

SENATOR SUTTLE: I call the question.

SENATOR CUDABACK: The question has been called. Do I see five hands? I do see five hands? The question before the body is, shall debate cease on amendment, Beutler amendment to the committee amendments to LB 640? All in favor vote aye, opposed nay. We are voting on ceasing debate. We are voting on ceasing debate. Have you all voted who care to? Record, please, Mr. Clerk.

CLERK: 14 ayes, 0 nays to cease debate.

SENATOR CUDABACK: Debate does not cease. Senator Jensen, you're recognized on the Beutler amendment to the committee amendments. Senator Jensen waives. Senator Brown. Senator Brown waives. Senator Preister.

SENATOR PREISTER: Thank you, Mr. President. I'd yield my time to Senator Thompson.

SENATOR CUDABACK: Senator Thompson, you've almost five minutes.

SENATOR THOMPSON: Thank you, Mr. Speaker, members of the body. Senator Beutler, first if there are more questions that you have, I'd be happy to try to answer those. I didn't know if you were done asking questions.

SENATOR CUDABACK: Was that a question, Senator Thompson?

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SENATOR THOMPSON: Yes.

SENATOR BEUTLER: Senator, thank you, I appreciate that. I'd like for you to go on, or anybody else who is interested in the question, to go on hypothesizing here as to what might be meant by an equitable formula. It says here that they will put in place an equitable formula, and I guess I would proceed one step further and ask you, Senator Thompson, as a person who has considerable knowledge in this area, exactly what criteria you think they might use to construct an equitable formula and why they can't tell us what an equitable formula is?

SENATOR THOMPSON: Senator Beutler, one of the issues that's been pointed out to me on this is that this act has an operative date of July 1st, and if this is going to be done by rule and regulation, I'm not sure that could be accomplished, and I think that we probably need to, by Select File, address that issue because it's...it's got a quick gear-up and certainly the counties need...need some work done. It would be nice to get it going this year. I...when I've looked at this, I kind of came down to the juvenile population census based in the counties as the most equitable way. There are other ways to do it. You can do by court petitions filed. You can do juvenile arrest rates. You could put kids in the care of the adult system, you could...I mean in care of the Office of Juvenile Services proportionately. You could...there are dozens of ways you could do it and I would hope, if the bill goes through in its current form, that would be a collaborative process of the department in its regulation writing, but I think...I think we need to take a look at that. I guess over the years in all my unsuccessful bills trying to do the same thing in looking for to raise court costs and other things, we came down to the number of juveniles in a county between the ages of 13 through 18 as being the way to...a way to do it. And I...I guess I consider that equitable.

SENATOR BEUTLER: You know what strikes me about what you are describing as equitable, it also strikes me as equitable. It also strikes me in a greater degree as being very simple. Would you agree?

SENATOR THOMPSON: Yes.

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SENATOR BEUTLER: Well, if it's so simple and if it's so equitable, why don't we say what's equitable and put it in the statute? I mean I don't understand what the big hang-up is here with this bill that we have to leave it to a bureaucracy who I, frankly, don't trust. And not because they are not trying to do the right thing, but because they are dealing with political forces that I have no control over and I don't know who they are going to give into when in order to come up with what kind of a formula just to make the squeaky wheel run smoothly. And the experience with DHH and other agencies in recent years frankly has not been good. We've had federal penalties totalling millions of dollars. Federal money we thought we had through a contract with an agency in Washington, DC, which was supposed to be such a good deal, we are now paying back the federal government millions of dollars. I am not trustful that these people have this all figured out, and I want to see more for myself. Maybe nobody else does, but for the life of me, I can't see why they can't come up with an equitable formula and tell us what it is. Okay, I quit. I quit for today, but I'm telling you I'm looking for some structural changes in the bill and I'm prepared to argue for those structural changes. I haven't filibustered any bill ever since I've...

SENATOR CUDABACK: One minute.

SENATOR BEUTLER: ...been back in 1990, and I don't intend to on this one. But it would simply be a grave mistake to let a bunch of forces out there who really haven't got it all figured out to run this through simply because they are now at this temporary moment in time all in agreement.

SENATOR CUDABACK: Thank you, Senator Thompson.

SENATOR BEUTLER: I withdraw the amendment.

SENATOR CUDABACK: Thank you. The amendment is withdrawn. We are back on the committee amendments, on the committee amendments to LB 640. Seeing no lights on, Senator Jensen, as Chair of the Health and Human Services Committee, you are recognized to close if you wish to.

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SENATOR JENSEN: Thank you, Mr. President, members of the body. As I stated in my opening remarks that I would be glad to sit down with Senator Beutler and Senator Wickersham, anyone else, if we can be more descriptive in this program. This is not a new issue. As Senator Thompson said, this has been around, I don't know, five, six years, and I think we finally have the opportunity to address this. Counties have expended large amounts of dollars, some counties have, some have done nothing. You know, it's almost like the school aid formula or even the teachers salaries, we have certain districts who have done every thing they can to pay their teachers at a reasonable rate, and then we have others who have done nothing, other school boards who have done nothing. And so then we come back and we say, well, we need to give aid to the teachers, and does that go across the board, or do you have any credence for those who have expended large amount of dollars, and in this case, we have had some counties that have expended a large amount of dollars where others have not done anything. It's always difficult here in the state of Nebraska to, a state that is so diverse, and we have some very sparse areas, we have some very large metropolitan areas, and to come up with a bill that will satisfy all. There has been a tremendous amount of negotiation that has got us this far. I'm certainly willing to spend the time and negotiate in the future to bring this into fruition. With that, the committee amendments are the bill. I would just ask for passage of the amendments. Thank you.

SENATOR CUDABACK: Thank you, Senator Jensen. The question before the body is adoption of the committee amendments to LB 640. All in favor vote aye, opposed nay. We are voting on the adoption of the committee amendments to LB 640. Have you all voted who care to? Record, please, Mr. Clerk.

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

SENATOR CUDABACK: Committee amendments are adopted. Back on discussion of advancement to E & R Initial. Senator Coordsen, your light is on.

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SENATOR COORDSEN: I would like a point of personal privilege, Mr. President.

SENATOR CUDABACK: You may.

SENATOR COORDSEN: I would like to announce that while the reorganization committee is scheduled to meet upon adjournment today, I would like to delay that for about a half an hour so that the members can have a chance to get a little lunch and do whatever they need to do close up. So we'll be coming in to the...Redistricting Committee will be meeting one-half hour after we adjourn. Thank you, Mr. President.

SENATOR CUDABACK: On with discussion of advancement to E & R Initial. Seeing no lights on, Senator Jensen. Senator Jensen waives closing. The question before the body is, shall LB 640 be advanced to E & R Initial. All in favor vote aye, opposed nay. Have you all voted who care to? Record, please, Mr. Clerk.

CLERK: 29 ayes, 0 nays, Mr. President, on the advancement of LB 640.

SENATOR CUDABACK: LB 640 does advance. Mr. Clerk, next item.

CLERK: LB 640A is a bill by Senator Jensen. (Read title.)

SENATOR CUDABACK: Senator Jensen, you're recognized to open on LB 640A.

SENATOR JENSEN: Thank you, Mr. President. This is simply the A bill that follows the bill that you just passed. I would just ask for its approval. Thank you.

SENATOR CUDABACK: Open for discussion on advancement of the A bill to LB 640. There are no lights on. Senator Jensen, waives closing. The question before the body is, shall LB 640A be advanced to E & R Initial? All in favor vote aye, opposed nay. We are voting on advancement of LB 640A. Have you all voted who care to? Record, please, Mr. Clerk.

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CLERK: 25 ayes, 0 nays, Mr. President, on the advancement of LB 640A.

SENATOR CUDABACK: LB 640A does advance. Mr. Clerk, items for the record.

CLERK: Mr. President, an amendment to LB 242 by Senator Chambers to be printed. A new A bill, LB 541A by Senator Wehrbein. (Read by title for the first time.) Your Committee on Natural Resources reports LB 448 to General File with amendments. Senator Wickersham, an amendment to LB 335, Senator Kristensen, LB 335, Senator Raikes, LB 797. (Legislative Journal pages 1601-1614,)

Mr. President, I have a priority motion. Senator Coordsen would move to adjourn until Monday morning, April 23, at 9:00 a.m.

SENATOR CUDABACK: You've heard the motion to adjourn till Monday morning at nine o'clock. All in favor say aye. Opposed nay. We are adjourned.

Proofed by: Bernie Ward